



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, OCTOBER 15, 2025

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



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

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

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

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

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

COMMISSIONER ANNOUNCEMENTS

CONSENT AGENDA

- [1.](#) Approval of Board Order No. 2025-046 Appointing Health Services Director's Designees
- [2.](#) Authorizing an application for a Criminal Justice Commission Organized Retail Theft Grant
- [3.](#) Approval of a Notice of Intent to Award a contract for the S Century Dr / Huntington Rd Intersection Improvement Project
- [4.](#) Approval of a Notice of Intent to Award a contract for the Landfill Siting Consultant Services-Phase 2 Addendum
- [5.](#) Approval to relinquish water pipeline and lateral easements previously granted to Central Oregon Irrigation District which encumber County-owned property at 236 and 244 NW Kingwood in Redmond and approval of Board Order No. 2025-047 authorizing the Deschutes County Property Manager to execute the necessary documents
- [6.](#) Approval of Document No. 2025-981, a Purchase Agreement, and Document No. 2025-982, a Dedication Deed, to obtain Right of Way from Peter P. and Norma D. Post for the Tumalo Reservoir Road Improvement Project
- [7.](#) Approval of Document No. 2025-983, a Purchase Agreement, and Document No. 2025-984, a Dedication Deed, to obtain Right of Way from the David and Jane Tolve Living Trust for the Tumalo Reservoir Road Improvement Project

- [8.](#) Approval of Document No. 2025-985, a Purchase Agreement, and Document No. 2025-986, a Dedication Deed, to obtain Right of Way from the Tumalo Irrigation District for the Tumalo Reservoir Road Improvement Project
- [9.](#) Approval of Document No. 2025-987, a Purchase Agreement, and Document No. 2025-988, a Dedication Deed, to obtain Right of Way from KRMA Properties, LLC for the Tumalo Reservoir Road Improvement Project

ACTION ITEMS

- [10.](#) **9:10 AM** Acceptance of grant funds for Behavioral Health Deflection Program
- [11.](#) **9:15 AM** Allocation of funds to support homeless initiatives
- [12.](#) **9:35 AM** Notice of Intent to Award a contract to Taylor NW LLC to construct the Deschutes County East Redmond Managed Camp
- [13.](#) **9:45 AM** Second Reading: Farm and Forest Housekeeping Amendments
- [14.](#) **9:50 AM** Health Benefits Plan Renewal
- [15.](#) **10:05 AM** Deliberations: BCL LLC Plan Amendment and Zone Change for 240 acres located to the north and south of Highway 20, approximately one-quarter mile east of Bend's Urban Growth Boundary

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.

Convening as the Governing Body of the 9-1-1 Service District

16. Executive Session under ORS 192.660 (2) (d) Labor Negotiations

Reconvening as the Governing Body of Deschutes County

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of Board Order No. 2025-046 Appointing Health Services Director's Designees

RECOMMENDED MOTION:

Move approval of Board Order No. 2025-046 Appointing Health Services Director's Designees.

BACKGROUND AND POLICY IMPLICATIONS:

Oregon Revised Statute (ORS) 426.233 (3) provides that the Director may authorize a qualified individual to perform certain acts listed in ORS 426.233 (3) including, without limitation, accepting custody of a person from a peace officer, taking custody of a person, removing a person in custody to an approved hospital or nonhospital facility, transferring a person in custody to another individual authorized under this resolution or a peace officer, transferring a person in custody from a hospital or nonhospital facility to another hospital facility or nonhospital facility, and retaining a person in custody. The Director has confirmed that each of the individuals identified in Sections 2 and 3 of the attached Board Order are qualified mental health professionals as that term is defined under Oregon law and meet applicable standards established by the Oregon Health Authority.

Board Order 2025-033 was signed August 6, 2025. Since that time, one mental health professional has been removed from the list while five qualified mental health professionals who meet the applicable standards have been added. The authorization to provide custody and secure transportation services for allegedly mentally ill persons is being updated to reflect these staff changes through the attached Board Order.

BUDGET IMPACTS:

None

ATTENDANCE:

Nicole Keith, Program Manager

REVIEWED

LEGAL COUNSEL

10/15/2025 Item #1.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Repealing Order No. 2025-033 dated *
August 6, 2025; and Authorizing Designated * ORDER NO. 2025-046
Persons to Provide Custody and Secure *
Transportation Services for Allegedly Mentally Ill *
Persons

WHEREAS, on August 6, 2025, the Deschutes County Board of Commissioners signed Order No. 2025-033, “An Order Repealing Order No. 2025-012; and Authorizing Designated Persons to Provide Custody and Secure Transportation Services for Allegedly Mentally Ill Persons”; and

WHEREAS ORS 426.070 through 426.395 authorize or require the Community Mental Health Program Director (“Director”) to take certain actions in matters pertaining to the custody, transport and involuntary commitment of mentally ill persons; and

WHEREAS, OAR 309-033-0210 includes, within the definition of the term “community mental health director,” a person who has been authorized by the Director to act in the Director’s capacity for the purpose of this rule; and

WHEREAS, the Director has authorized each of those individuals identified in Section 2, below, to act as the Director’s designee and in the Director’s capacity for purposes of OAR 309-033-0210; and

WHEREAS, ORS 426.233(3) provides that the Director may authorize a qualified individual to perform certain acts listed in ORS 426.233(3) including, without limitation, accepting custody of a person from a peace officer, taking custody of a person, removing a person in custody to an approved hospital or nonhospital facility, transferring a person in custody to another individual authorized under this resolution or a peace officer, transferring a person in custody from a hospital or nonhospital facility to another hospital facility or nonhospital facility, and retaining a person in custody; and

WHEREAS, the Director has recommended to the Deschutes County governing body that each of those individuals identified in Section 3, below, be authorized to perform those acts listed in ORS 426.233(3); and

WHEREAS, the Director has confirmed that each of the individuals identified in Sections 2 and 3 below is a qualified mental health professional as that term is defined under Oregon law and meets applicable standards established by the Oregon Health Authority; now therefore,

Based upon the foregoing recitals and pursuant to ORS 426.233 and OAR 309-033-0210, THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. An Order Repealing Order No. 2025-033 dated August 6, 2025, “An Order Repealing Order No. 2025-012 and Authorizing Designated Persons to Provide Custody and Secure Transportation Services for Allegedly Mentally Ill Persons” is hereby repealed;

Section 2. The following persons, all of whom are part of the Deschutes County Health Services Department's Community Assessment Team/Mobile Crisis Team, and all of whom are Qualified Mental Health Professionals, are hereby recognized as designees of the Director and are authorized to act in the capacity of the Director with regard to any action permitted or required to be performed by the Director under ORS 426.070 through ORS 426.395:

Holly Harris, M.Ed., LPC
 Nicole Keith, MA, LPCi, Crisis Program Manager
 Rebecca Battleson, MSW, LCSW
 Susanna M. Gallagher, MSW, CSWA
 Adam Goggins, MA, LPC
 Meredith Haddan, MA, LPCi, CADC-R
 Hanako Kubori, MS, LPCi
 Taylor McGowan, MSW, LCSW
 Megan Weaver, MSW, CSWA
 Briana Schulte, LPC
 Martina Krupinski, M.Ed, LPC
 Anna Valencia, M.S., LPC-intern
 Darla Fletcher, LIC, BHS II
 Katie Nikkel, BHS II
 Maryssa Nohr MA
 Sierra Schlundt, MSW
 TJ Helou, QMHP
 Rebekah Bricker, LCSW
 Gregg Logan, MA
 Jesse Kratz, LPC
 Jessica Shoemaker, QMHP
 Joshua Gage, QMHP
 Adam Foley, QMHP
 Garrett Back, QMHP
 Andrea Hendrickson, QMHP
 Catilyn Powers, QMHP
 Lindsay Korstad, QMHP

Section 3. The following persons, all of whom are part of the Deschutes County Health Services Department's Community Assessment Team/Mobile Crisis Team, and all of whom are Qualified Mental Health Professionals, are hereby authorized to perform any act set forth in ORS 426.233(3):

Holly Harris, M.Ed., LPC
 Nicole Keith, MA, LPCi, Crisis Program Manager
 Rebecca Battleson, MSW, LCSW
 Susanna M. Gallagher, MSW, CSWA
 Adam Goggins, MA, LPC
 Meredith Haddan, MA, LPCi, CADC-R
 Hanako Kubori, MS, LPCi
 Taylor McGowan, MSW, LCSW
 Megan Weaver, MSW, CSWA
 Briana Schulte, LPC
 Martina Krupinski, M.Ed, LPC
 Anna Valencia, M.S., LPC-intern

Darla Fletcher, LIC, BHS II
 Katie Nikkel, BHS II
 Maryssa Nohr MA
 Sierra Schlundt, MSW
 TJ Helou, QMHP
 Rebekah Bricker, LCSW
 Gregg Logan, MA
 Jesse Kratz, LPC
 Jessica Shoemaker, QMHP
 Joshua Gage, QMHP
 Adam Foley, QMHP
 Garrett Back, QMHP
 Andrea Hendrickson, QMHP
 Catilyn Powers, QMHP
 Lindsay Korstad, QMHP

Section 4. Each individual identified herein in Sections 2 and 3 shall retain the authority granted by this order so long as he or she continuously meets applicable standards established by the Oregon Health Authority and is employed with the County in the Health Services Department except as may otherwise be ordered by the Board of County Commissioners.

Dated this _____ of _____, 20__

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Authorizing an application for a Criminal Justice Commission Organized Retail Theft Grant

RECOMMENDED MOTIONS:

Move to authorize the submittal of an application for a Criminal Justice Commission Organized Retail Theft Grant.

BACKGROUND AND POLICY IMPLICATIONS:

The District Attorney's Office seeks Board authorization to apply for a Criminal Justice Commission (CJC) Organized Retail Theft (ORT) grant for the purpose of continuing our collaborative ORT program. This partnership, between the District Attorney's Office, Bend Police Department, and Redmond Police Department, aims to reduce retail theft through improved relationships with regional retailers, increased enforcement, and enhanced prosecution.

The program began in Fall 2024 with a small ORT planning grant that resulted in a series of retailer listening sessions, and the formation of a Central Oregon chapter of the Organized Retail Crime Association, Oregon (ORCAOR).

If awarded a 2025-2027 ORT grant, the team plans to grow the Central Oregon ORCAOR membership, hire a crime analyst to identify fencing operations, conduct retail missions, purchase equipment to improve the identification and investigations of retail crime suspects, and continue community engagement activities. The grant cycle would be for 20 months – starting January 1, 2026, and ending August 31, 2027.

BUDGET IMPACTS:

This application was not accounted for in the FY26 budget.

If the full grant request is approved, the award would be approximately \$500,000. However, given the level of interest in this grant opportunity and the amount of funding available, we suspect an award will be less than the full request by as much as 45%. Our request is scalable to allow us to meet realistic program goals within the available funding.

There is no requirement for matching funds.

ATTENDANCE:

Kathleen Meehan Coop, Management Analyst



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of a Notice of Intent to Award a contract for the S Century Dr / Huntington Rd Intersection Improvement Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-028, a Notice of Intent to Award a contract for the S Century Dr / Huntington Rd Intersection Improvement Project

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Road Department prepared bid solicitation documents for the S Century Dr / Huntington Rd Intersection Improvement project. The project scope includes the construction of a new single-lane roundabout and other miscellaneous work. The project was advertised in the *Daily Journal of Commerce* and *The Bulletin* on September 10, 2025. The Department opened bids at 2:00 P.M. on October 1, 2025.

Nine (9) responsive bids were received for this project. The bid results are as follows:

JAL Construction, Inc.	\$ 1,393,996.10
Steele Earthworks	\$ 1,536,030.00
Marcum & Sons, LLC	\$ 1,572,002.10
Rickabaugh Construction	\$ 1,592,286.80
Taylor Northwest	\$ 1,609,964.20
K&E Excavating	\$ 1,794,856.00
Tapani, Inc.	\$ 1,826,111.00
Cascade Civil Corp.	\$ 1,848,854.00
Granite Construction	\$ 2,244,411.00
Engineer's Estimate	\$ 1,947,985.00

This action issues a Notice of Intent to Award the contract to the apparent low bidder, JAL Construction, Inc., and allows seven days for concerned parties to protest the award. If there is no protest within the seven-day period, the contract will be awarded to the

apparent low bidder. The bid tabulation, including the Engineer's estimate, is attached.

BUDGET IMPACTS:

The project is budgeted in the Road CIP (465) Fund for Fiscal Year 2026.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director



BOARD OF COUNTY COMMISSIONERS

October 15, 2025

****Posted on the Deschutes County, Oregon Bids and RFPs website at <http://www.deschutescounty.gov/rfps> prior to 5:00 PM on the date of this Notice.****

Subject: **Notice of Intent to Award Contract**
Contract for S Century Dr / Huntington Rd Intersection Improvements

To Whom It May Concern:

On October 15, 2025, the Board of County Commissioners of Deschutes County, Oregon considered proposals for the above-referenced project. The Board of County Commissioners determined that the successful bidder for the project was (JAL Construction Inc.), with a bid of One Million Three Hundred Ninety Three Thousand Nine Hundred Ninety Six and 10/100 Dollars (\$1,393,996.10).

This Notice of Intent to Award Contract is issued pursuant to Oregon Revised Statute (ORS) 279C.375. Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice may submit a written protest within seven (7) calendar days after the issuance of this Notice of Intent to Award Contract to the Board of County Commissioners of Deschutes County, Oregon, at Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703. **The seven (7) calendar day protest period will end at 5:00 PM on October 22, 2025.**

Any protest must be in writing and specify any grounds upon which the protest is based. Please refer to Oregon Administrative Rules (OAR) 137-047-0740. If a protest is filed within the protest period, a hearing will be held at a regularly-scheduled business meeting of the Board of County Commissioners of Deschutes County Oregon, acting as the Contract Review Board, in the Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703 within two (2) weeks of the end of the protest period.

If no protest is filed within the protest period, this Notice of Intent to Award Contract becomes an Award of Contract without further action by the County unless the Board of County Commissioners, for good cause, rescinds this Notice before the expiration of the protest period.

If you have any questions regarding this Notice of Intent to Award Contract or the procedures under which the County is proceeding, please contact Deschutes County Legal Counsel: telephone (541) 388-6625; FAX (541) 383-0496; or e-mail to david.doyle@deschutescounty.gov.

Be advised that if no protest is received within the stated time period, the County is authorized to process the contract administratively.

Sincerely,

Anthony DeBone, Chair

S CENTURY DR / HUNTINGTON RD
INTERSECTION IMPROVEMENTS
DESCHUTES COUNTY, OREGON
PROJECT # W66145A

BID RESULTS

BID OPENING : 2:00 PM 10/1/2025

PROJECT # W661454						JAL CONSTRUCTION INC		STEELE EARTHWORKS		MARCUM & SONS LLC	
BID RESULTS				ENGINEER'S ESTIMATE		PO BOX 6269 BEND, OR 97708		250 NW FRANKLIN, STE 401 BEND, OR 97703		336 SW BLACK BUTTE BLVD REDMOND, OR 97756	
BID OPENING : 2:00 PM 10/1/2025											
ITEM		UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization	LS	1	\$139,500.00	\$139,500.00	\$130,000.00	\$130,000.00	\$163,582.66	\$163,582.66	\$90,000.00	\$90,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$133,000.00	\$133,000.00	\$80,000.00	\$80,000.00	\$93,895.00	\$93,895.00	\$88,580.00	\$88,580.00
3	Automated Flagger Assistance Device	EACH	2	\$30,000.00	\$60,000.00	\$2,500.00	\$5,000.00	\$2,000.00	\$4,000.00	\$3,000.00	\$6,000.00
4	Construct and Remove Temporary Roadbed and Subgrade	LS	1	\$43,300.00	\$43,300.00	\$42,000.00	\$42,000.00	\$56,620.00	\$56,620.00	\$35,984.00	\$35,984.00
5	Erosion Control	LS	1	\$34,900.00	\$34,900.00	\$2,500.00	\$2,500.00	\$7,850.00	\$7,850.00	\$4,500.00	\$4,500.00
6	Sediment Fence	FOOT	1,870	\$6.00	\$11,220.00	\$4.50	\$8,415.00	\$3.30	\$6,171.00	\$3.50	\$6,545.00
7	Concrete Washout Facility	EACH	2	\$2,500.00	\$5,000.00	\$500.00	\$1,000.00	\$1,800.00	\$3,600.00	\$350.00	\$700.00
8	Pollution Control Plan	LS	1	\$2,000.00	\$2,000.00	\$250.00	\$250.00	\$500.00	\$500.00	\$500.00	\$500.00
9	Construction Survey Work	LS	1	\$34,900.00	\$34,900.00	\$25,000.00	\$25,000.00	\$15,300.00	\$15,300.00	\$36,000.00	\$36,000.00
10	Removal of Surfacings	SQYD	1,780	\$6.00	\$10,680.00	\$3.00	\$5,340.00	\$4.00	\$7,120.00	\$5.00	\$8,900.00
11	Asphalt Pavement Sawcutting	FOOT	110	\$7.00	\$770.00	\$2.00	\$220.00	\$5.00	\$550.00	\$6.00	\$660.00
12	Removal of Structures and Obstructions	LS	1	\$10,100.00	\$10,100.00	\$5,000.00	\$5,000.00	\$6,360.00	\$6,360.00	\$5,000.00	\$5,000.00
13	Clearing and Grubbing	LS	1	\$49,600.00	\$49,600.00	\$15,000.00	\$15,000.00	\$5,290.00	\$5,290.00	\$17,350.00	\$17,350.00
14	General Excavation	CUYD	3,250	\$36.00	\$117,000.00	\$28.50	\$92,625.00	\$34.00	\$110,500.00	\$36.05	\$117,162.50
15	12 Inch Subgrade Stabilization	SQYD	150	\$80.00	\$12,000.00	\$47.50	\$7,125.00	\$47.00	\$7,050.00	\$65.00	\$9,750.00
16	Subgrade Geotextile	SQYD	5,500	\$2.00	\$11,000.00	\$1.50	\$8,250.00	\$1.60	\$8,800.00	\$1.10	\$6,050.00
17	Subgrade Reinforcement Geogrid	SQYD	5,500	\$7.00	\$38,500.00	\$5.50	\$30,250.00	\$6.00	\$33,000.00	\$5.90	\$32,450.00
18	Loose Rip Rap, Class 50	CUYD	15	\$190.00	\$2,850.00	\$100.00	\$1,500.00	\$135.00	\$2,025.00	\$150.00	\$2,250.00
19	12 Inch Storm Sewer Pipe C900 PVC, 5 FT Depth	FOOT	157	\$125.00	\$19,625.00	\$90.00	\$14,130.00	\$85.00	\$13,345.00	\$76.50	\$12,010.50
20	Concrete Inlets, Type G-2	EACH	4	\$3,500.00	\$14,000.00	\$2,650.00	\$10,600.00	\$4,100.00	\$16,400.00	\$2,500.00	\$10,000.00
21	Aggregate Base	TON	4,620	\$40.00	\$184,800.00	\$27.25	\$125,895.00	\$30.00	\$138,600.00	\$40.06	\$185,077.20
22	Aggregate Shoulders	TON	550	\$40.00	\$22,000.00	\$27.25	\$14,987.50	\$30.00	\$16,500.00	\$40.06	\$22,033.00
23	Level 3, 1/2" ACP Mixture	TON	2,620	\$110.00	\$288,200.00	\$96.50	\$252,830.00	\$119.00	\$311,780.00	\$104.50	\$273,790.00
24	Extra for Asphalt Approaches	EACH	1	\$2,500.00	\$2,500.00	\$500.00	\$500.00	\$1,500.00	\$1,500.00	\$500.00	\$500.00
25	Concrete Curbs, High Strength Wide Modified	FOOT	240	\$50.00	\$12,000.00	\$35.00	\$8,400.00	\$33.84	\$8,121.60	\$37.00	\$8,880.00
26	Concrete Curbs, High Strength Low Profile Mountable	FOOT	340	\$30.00	\$10,200.00	\$30.00	\$10,200.00	\$27.70	\$9,418.00	\$31.00	\$10,540.00
27	Concrete Curbs, High Strength Low Profile Mountable	FOOT	2,730	\$30.00	\$81,900.00	\$25.00	\$68,250.00	\$22.32	\$60,933.60	\$27.00	\$73,710.00
28	Concrete Walks	SQFT	545	\$18.00	\$9,810.00	\$15.00	\$8,175.00	\$13.71	\$7,471.95	\$18.00	\$9,810.00
29	Extra for New Curb Ramps	EACH	12	\$1,000.00	\$12,000.00	\$1,500.00	\$18,000.00	\$1,308.00	\$15,696.00	\$1,950.00	\$23,400.00
30	Truncated Domes on New Surfaces	SQFT	230	\$40.00	\$9,200.00	\$60.00	\$13,800.00	\$58.71	\$13,503.30	\$58.71	\$13,503.30
31	6 Inch Concrete Surfacing	SQFT	34	\$18.00	\$612.00	\$20.00	\$680.00	\$18.41	\$625.94	\$22.00	\$748.00
32	6 Inch Concrete Surfacing, Colored	SQFT	7,600	\$20.00	\$152,000.00	\$12.50	\$95,000.00	\$12.04	\$91,504.00	\$15.50	\$117,800.00
33	8 Inch Concrete Surfacing, Colored	SQFT	3,980	\$22.00	\$87,560.00	\$14.50	\$57,710.00	\$14.17	\$56,396.60	\$17.17	\$68,336.60
34	12 Inch Concrete Surfacing, Colored	SQFT	60	\$40.00	\$2,400.00	\$30.00	\$1,800.00	\$28.37	\$1,702.20	\$36.00	\$2,160.00
35	Concrete Drainage Apron	EACH	2	\$700.00	\$1,400.00	\$650.00	\$1,300.00	\$581.80	\$1,163.60	\$602.00	\$1,204.00
36	Delineators, Type 1	EACH	26	\$200.00	\$5,200.00	\$90.00	\$2,340.00	\$90.00	\$2,340.00	\$90.00	\$2,340.00
37	Bi-Directional Yellow Type IAR Markers, Recessed	EACH	50	\$70.00	\$3,500.00	\$38.00	\$1,900.00	\$28.00	\$1,400.00	\$28.00	\$1,400.00
38	Permanent Surface Mounted Tubular Markers	EACH	41	\$180.00	\$7,380.00	\$180.00	\$7,380.00	\$280.00	\$11,480.00	\$280.00	\$11,480.00
39	Thermoplastic, Extruded or Sprayed, Surface, Non-Skid	FOOT	5,824	\$2.00	\$11,648.00	\$2.90	\$16,889.60	\$2.25	\$13,104.00	\$2.25	\$13,104.00
40	Pavement Legend, Type B-HS: Bicycle Lane Stencil	EACH	3	\$400.00	\$1,200.00	\$300.00	\$900.00	\$400.00	\$1,200.00	\$400.00	\$1,200.00
41	Pavement Bar, Type, B-HS	EACH	432	\$15.00	\$6,480.00	\$17.00	\$7,344.00	\$18.50	\$7,992.00	\$18.50	\$7,992.00
42	Pavement Legend, Type, B-HS: Yield Line Triangle	EACH	18	\$100.00	\$1,800.00	\$95.00	\$1,710.00	\$85.00	\$1,530.00	\$85.00	\$1,530.00
43	Pavement Legend, Type B-HS: Transverse Speed Reduction	EACH	70	\$35.00	\$2,450.00	\$90.00	\$6,300.00	\$50.00	\$3,500.00	\$50.00	\$3,500.00
44	Remove Existing Signs	LS	1	\$1,500.00	\$1,500.00	\$1,100.00	\$1,100.00	\$1,100.00	\$1,100.00	\$1,100.00	\$1,100.00
45	Remove and Reinstall Existing Signs	LS	1	\$3,400.00	\$3,400.00	\$1,800.00	\$1,800.00	\$1,800.00	\$1,800.00	\$1,800.00	\$1,800.00
46	Sign Support Footings	LS	1	\$15,600.00	\$15,600.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00
47	Perforated Steel Square Tube Slip Base Sign Support	LS	1	\$20,800.00	\$20,800.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00
48	Signs, Standard Sheeting, Sheet Aluminum	SQFT	200	\$45.00	\$9,000.00	\$33.00	\$6,600.00	\$33.00	\$6,600.00	\$33.00	\$6,600.00
49	Pole Foundations	LS	1	\$32,000.00	\$32,000.00	\$15,000.00	\$15,000.00	\$20,800.00	\$20,800.00	\$40,244.00	\$40,244.00
50	Conduit, Pull Ropes and Junction Boxes	LS	1	\$79,500.00	\$79,500.00	\$34,000.00	\$34,000.00	\$67,500.00	\$67,500.00	\$49,953.00	\$49,953.00
51	Water Quality Mixture	CUYD	520	\$55.00	\$28,600.00	\$105.00	\$54,600.00	\$64.50	\$33,540.00	\$105.00	\$54,600.00
52	Permanent Seeding	ACRE	2	\$33,000.00	\$59,400.00	\$2,500.00	\$4,500.00	\$6,325.00	\$11,385.00	\$2,500.00	\$4,500.00
53	Conifer Trees, 5-6 ft height	EA	7	\$700.00	\$4,900.00	\$1,000.00	\$7,000.00	\$765.00	\$5,355.00	\$1,000.00	\$7,000.00
54	Topsoil	CY	7	\$65.00	\$455.00	\$125.00	\$875.00	\$76.15	\$533.05	\$125.00	\$875.00
55	Rock Mulch	CY	250	\$65.00	\$16,250.00	\$120.00	\$30,000.00	\$65.75	\$16,437.50	\$120.00	\$30,000.00
56	Three Man Boulders	EA	9	\$155.00	\$1,395.00	\$375.00	\$3,375.00	\$312.00	\$2,808.00	\$250.00	\$2,250.00
57	Single Mailbox Support	EA	1	\$1,000.00	\$1,000.00	\$650.00	\$650.00	\$750.00	\$750.00	\$650.00	\$650.00
				TOTAL =	\$1,939,985.00	TOTAL =	\$1,393,996.10	TOTAL =	\$1,536,030.00	TOTAL =	\$1,572,002.10

S CENTURY DR / HUNTINGTON RD
INTERSECTION IMPROVEMENTS
DESCHUTES COUNTY, OREGON
PROJECT # W66145A

BID RESULTS

BID OPENING : 2:00 PM 10/1/2025

ITEM	UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	
1	Mobilization	LS	1	\$139,500.00	\$139,500.00	\$140,000.00	\$140,000.00	\$121,640.00	\$121,640.00	\$170,000.00	\$170,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$133,000.00	\$133,000.00	\$105,000.00	\$105,000.00	\$112,250.00	\$112,250.00	\$87,000.00	\$87,000.00
3	Automated Flagger Assistance Device	EACH	2	\$30,000.00	\$60,000.00	\$11,500.00	\$23,000.00	\$7,475.00	\$14,950.00	\$3,000.00	\$6,000.00
4	Construct and Remove Temporary Roadbed and Surface	LS	1	\$43,300.00	\$43,300.00	\$52,750.00	\$52,750.00	\$36,060.00	\$36,060.00	\$68,800.00	\$68,800.00
5	Erosion Control	LS	1	\$34,900.00	\$34,900.00	\$8,350.00	\$8,350.00	\$4,615.00	\$4,615.00	\$3,000.00	\$3,000.00
6	Sediment Fence	FOOT	1,870	\$6.00	\$11,220.00	\$2.86	\$5,348.20	\$2.70	\$5,049.00	\$3.20	\$5,984.00
7	Concrete Washout Facility	EACH	2	\$2,500.00	\$5,000.00	\$400.00	\$800.00	\$1,460.00	\$2,920.00	\$1,000.00	\$2,000.00
8	Pollution Control Plan	LS	1	\$2,000.00	\$2,000.00	\$1,400.00	\$1,400.00	\$670.00	\$670.00	\$850.00	\$850.00
9	Construction Survey Work	LS	1	\$34,900.00	\$34,900.00	\$15,000.00	\$15,000.00	\$17,990.00	\$17,990.00	\$30,000.00	\$30,000.00
10	Removal of Surfacings	SQYD	1,780	\$6.00	\$10,680.00	\$5.15	\$9,167.00	\$8.00	\$14,240.00	\$7.00	\$12,460.00
11	Asphalt Pavement Sawcutting	FOOT	110	\$7.00	\$770.00	\$8.00	\$880.00	\$5.00	\$550.00	\$3.50	\$385.00
12	Removal of Structures and Obstructions	LS	1	\$10,100.00	\$10,100.00	\$2,100.00	\$2,100.00	\$1,750.00	\$1,750.00	\$2,000.00	\$2,000.00
13	Clearing and Grubbing	LS	1	\$49,600.00	\$49,600.00	\$5,800.00	\$5,800.00	\$6,700.00	\$6,700.00	\$12,000.00	\$12,000.00
14	General Excavation	CUYD	3,250	\$36.00	\$117,000.00	\$19.00	\$61,750.00	\$20.65	\$67,112.50	\$40.00	\$130,000.00
15	12 Inch Subgrade Stabilization	SQYD	150	\$80.00	\$12,000.00	\$31.00	\$4,650.00	\$14.40	\$2,160.00	\$30.00	\$4,500.00
16	Subgrade Geotextile	SQYD	5,500	\$2.00	\$11,000.00	\$1.00	\$5,500.00	\$1.20	\$6,600.00	\$1.20	\$6,600.00
17	Subgrade Reinforcement Geogrid	SQYD	5,500	\$7.00	\$38,500.00	\$6.50	\$35,750.00	\$7.25	\$39,875.00	\$7.25	\$39,875.00
18	Loose Rip Rap, Class 50	CUYD	15	\$190.00	\$2,850.00	\$125.00	\$1,875.00	\$110.00	\$1,650.00	\$145.00	\$2,175.00
19	12 Inch Storm Sewer Pipe C900 PVC, 5 FT Depth	FOOT	157	\$125.00	\$19,625.00	\$122.00	\$19,154.00	\$120.00	\$18,840.00	\$140.00	\$21,980.00
20	Concrete Inlets, Type G-2	EACH	4	\$3,500.00	\$14,000.00	\$3,050.00	\$12,200.00	\$3,265.00	\$13,060.00	\$3,500.00	\$14,000.00
21	Aggregate Base	TON	4,620	\$40.00	\$184,800.00	\$31.85	\$147,147.00	\$34.75	\$160,545.00	\$39.00	\$180,180.00
22	Aggregate Shoulders	TON	550	\$40.00	\$22,000.00	\$35.00	\$19,250.00	\$39.55	\$21,752.50	\$37.00	\$20,350.00
23	Level 3, 1/2" ACP Mixture	TON	2,620	\$110.00	\$288,200.00	\$138.00	\$361,560.00	\$133.00	\$348,460.00	\$135.00	\$353,700.00
24	Extra for Asphalt Approaches	EACH	1	\$2,500.00	\$2,500.00	\$3,450.00	\$3,450.00	\$2,000.00	\$2,000.00	\$1,700.00	\$1,700.00
25	Concrete Curbs, High Strength Wide Modified	FOOT	240	\$50.00	\$12,000.00	\$44.35	\$10,644.00	\$38.50	\$9,240.00	\$58.00	\$13,920.00
26	Concrete Curbs, High Strength Low Profile Mountable	FOOT	340	\$30.00	\$10,200.00	\$37.25	\$12,665.00	\$31.50	\$10,710.00	\$46.00	\$15,640.00
27	Concrete Curbs, High Strength Low Profile Mountable	FOOT	2,730	\$30.00	\$81,900.00	\$31.00	\$84,630.00	\$25.40	\$69,342.00	\$33.00	\$90,090.00
28	Concrete Walks	SQFT	545	\$18.00	\$9,810.00	\$18.50	\$10,082.50	\$15.60	\$8,502.00	\$10.00	\$5,450.00
29	Extra for New Curb Ramps	EACH	12	\$1,000.00	\$12,000.00	\$1,520.00	\$18,240.00	\$1,490.00	\$17,880.00	\$2,675.00	\$32,100.00
30	Truncated Domes on New Surfaces	SQFT	230	\$40.00	\$9,200.00	\$68.75	\$15,812.50	\$66.75	\$15,352.50	\$40.00	\$9,200.00
31	6 Inch Concrete Surfacing	SQFT	34	\$18.00	\$612.00	\$33.80	\$1,149.20	\$20.90	\$710.60	\$39.00	\$1,326.00
32	6 Inch Concrete Surfacing, Colored	SQFT	7,600	\$20.00	\$152,000.00	\$15.90	\$120,840.00	\$13.70	\$104,120.00	\$17.75	\$134,900.00
33	8 Inch Concrete Surfacing, Colored	SQFT	3,980	\$22.00	\$87,560.00	\$18.40	\$73,232.00	\$16.10	\$64,078.00	\$18.75	\$74,625.00
34	12 Inch Concrete Surfacing, Colored	SQFT	60	\$40.00	\$2,400.00	\$39.65	\$2,379.00	\$32.25	\$1,935.00	\$48.00	\$2,880.00
35	Concrete Drainage Apron	EACH	2	\$700.00	\$1,400.00	\$675.50	\$1,351.00	\$660.00	\$1,320.00	\$1,000.00	\$2,000.00
36	Delineators, Type 1	EACH	26	\$200.00	\$5,200.00	\$116.00	\$3,016.00	\$100.00	\$2,600.00	\$105.00	\$2,730.00
37	Bi-Directional Yellow Type IAR Markers, Recessed	EACH	50	\$70.00	\$3,500.00	\$116.00	\$5,800.00	\$113.00	\$5,650.00	\$115.00	\$5,750.00
38	Permanent Surface Mounted Tubular Markers	EACH	41	\$180.00	\$7,380.00	\$116.00	\$4,756.00	\$320.00	\$13,120.00	\$115.00	\$4,715.00
39	Thermoplastic, Extruded or Sprayed, Surface, Non-Slip	FOOT	5,824	\$2.00	\$11,648.00	\$3.20	\$18,636.80	\$3.15	\$18,345.60	\$3.00	\$17,472.00
40	Pavement Legend, Type B-HS: Bicycle Lane Stencil	EACH	3	\$400.00	\$1,200.00	\$635.00	\$1,905.00	\$625.00	\$1,875.00	\$625.00	\$1,875.00
41	Pavement Bar, Type, B-HS	EACH	432	\$15.00	\$6,480.00	\$17.40	\$7,516.80	\$17.00	\$7,344.00	\$17.00	\$7,344.00
42	Pavement Legend, Type, B-HS: Yield Line Triangle	EACH	18	\$100.00	\$1,800.00	\$87.00	\$1,566.00	\$85.00	\$1,530.00	\$85.00	\$1,530.00
43	Pavement Legend, Type B-HS: Transverse Speed Reduction	EACH	70	\$35.00	\$2,450.00	\$23.00	\$1,610.00	\$22.50	\$1,575.00	\$23.00	\$1,610.00
44	Remove Existing Signs	LS	1	\$1,500.00	\$1,500.00	\$1,050.00	\$1,050.00	\$1,250.00	\$1,250.00	\$1,250.00	\$1,250.00
45	Remove and Reinstall Existing Signs	LS	1	\$3,400.00	\$3,400.00	\$3,650.00	\$3,650.00	\$2,050.00	\$2,050.00	\$2,050.00	\$2,050.00
46	Sign Support Footings	LS	1	\$15,600.00	\$15,600.00	\$4,500.00	\$4,500.00	\$14,750.00	\$14,750.00	\$14,800.00	\$14,800.00
47	Perforated Steel Square Tube Slip Base Sign Support	LS	1	\$20,800.00	\$20,800.00	\$16,500.00	\$16,500.00	\$17,050.00	\$17,050.00	\$17,000.00	\$17,000.00
48	Signs, Standard Sheeting, Sheet Aluminum	SQFT	200	\$45.00	\$9,000.00	\$48.50	\$9,700.00	\$37.50	\$7,500.00	\$38.00	\$7,600.00
49	Pole Foundations	LS	1	\$32,000.00	\$32,000.00	\$21,650.00	\$21,650.00	\$42,500.00	\$42,500.00	\$19,000.00	\$19,000.00
50	Conduit, Pull Ropes and Junction Boxes	LS	1	\$79,500.00	\$79,500.00	\$15,500.00	\$15,500.00	\$68,500.00	\$68,500.00	\$55,250.00	\$55,250.00
51	Water Quality Mixture	CUYD	520	\$55.00	\$28,600.00	\$74.50	\$38,740.00	\$73.00	\$37,960.00	\$72.00	\$37,440.00
52	Permanent Seeding	ACRE	2	\$33,000.00	\$66,000.00	\$7,270.00	\$13,086.00	\$7,000.00	\$12,600.00	\$5,700.00	\$10,260.00
53	Conifer Trees, 5-6 ft height	EA	7	\$700.00	\$4,900.00	\$878.00	\$6,146.00	\$860.00	\$6,020.00	\$680.00	\$4,760.00
54	Topsoil	CY	7	\$65.00	\$455.00	\$88.40	\$618.80	\$86.50	\$605.50	\$170.00	\$1,190.00
55	Rock Mulch	CY	250	\$65.00	\$16,250.00	\$76.30	\$19,075.00	\$74.50	\$18,625.00	\$80.00	\$20,000.00
56	Three Man Boulders	EA	9	\$155.00	\$1,395.00	\$362.00	\$3,258.00	\$350.00	\$3,150.00	\$340.00	\$3,060.00
57	Single Mailbox Support	EA	1	\$1,000.00	\$1,000.00	\$1,100.00	\$1,100.00	\$735.00	\$735.00	\$500.00	\$500.00
				TOTAL =	\$1,939,985.00	TOTAL =	\$1,592,286.80	TOTAL =	\$1,609,964.20	TOTAL =	\$1,794,856.00

S CENTURY DR / HUNTINGTON RD
INTERSECTION IMPROVEMENTS
DESCHUTES COUNTY, OREGON
PROJECT # W66145A

BID RESULTS**BID OPENING : 2:00 PM 10/1/2025**

ITEM	UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	
1	Mobilization	LS	1	\$139,500.00	\$139,500.00	\$180,000.00	\$180,000.00	\$184,000.00	\$184,000.00	\$176,000.00	\$176,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$133,000.00	\$133,000.00	\$35,000.00	\$35,000.00	\$130,000.00	\$130,000.00	\$165,000.00	\$165,000.00
3	Automated Flagger Assistance Device	EACH	2	\$30,000.00	\$60,000.00	\$2,500.00	\$5,000.00	\$2,000.00	\$4,000.00	\$7,500.00	\$15,000.00
4	Construct and Remove Temporary Roadbed and Surface	LS	1	\$43,300.00	\$43,300.00	\$50,000.00	\$50,000.00	\$45,000.00	\$45,000.00	\$40,000.00	\$40,000.00
5	Erosion Control	LS	1	\$34,900.00	\$34,900.00	\$18,700.00	\$18,700.00	\$8,000.00	\$8,000.00	\$35,000.00	\$35,000.00
6	Sediment Fence	FOOT	1,870	\$6.00	\$11,220.00	\$7.50	\$14,025.00	\$2.50	\$4,675.00	\$5.00	\$9,350.00
7	Concrete Washout Facility	EACH	2	\$2,500.00	\$5,000.00	\$3,125.00	\$6,250.00	\$75.00	\$150.00	\$3,500.00	\$7,000.00
8	Pollution Control Plan	LS	1	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00	\$50.00	\$50.00	\$1,000.00	\$1,000.00
9	Construction Survey Work	LS	1	\$34,900.00	\$34,900.00	\$54,000.00	\$54,000.00	\$26,000.00	\$26,000.00	\$25,000.00	\$25,000.00
10	Removal of Surfacings	SQYD	1,780	\$6.00	\$10,680.00	\$9.00	\$16,020.00	\$9.00	\$16,020.00	\$10.00	\$17,800.00
11	Asphalt Pavement Sawcutting	FOOT	110	\$7.00	\$770.00	\$2.00	\$220.00	\$7.00	\$770.00	\$5.00	\$550.00
12	Removal of Structures and Obstructions	LS	1	\$10,100.00	\$10,100.00	\$5,100.00	\$5,100.00	\$20,000.00	\$20,000.00	\$50,000.00	\$50,000.00
13	Clearing and Grubbing	LS	1	\$49,600.00	\$49,600.00	\$45,000.00	\$45,000.00	\$50,000.00	\$50,000.00	\$25,000.00	\$25,000.00
14	General Excavation	CUYD	3,250	\$36.00	\$117,000.00	\$28.00	\$91,000.00	\$55.00	\$178,750.00	\$90.00	\$292,500.00
15	12 Inch Subgrade Stabilization	SQYD	150	\$80.00	\$12,000.00	\$50.00	\$7,500.00	\$37.00	\$5,550.00	\$50.00	\$7,500.00
16	Subgrade Geotextile	SQYD	5,500	\$2.00	\$11,000.00	\$2.25	\$12,375.00	\$1.50	\$8,250.00	\$2.00	\$11,000.00
17	Subgrade Reinforcement Geogrid	SQYD	5,500	\$7.00	\$38,500.00	\$8.30	\$45,650.00	\$6.00	\$33,000.00	\$6.00	\$33,000.00
18	Loose Rip Rap, Class 50	CUYD	15	\$190.00	\$2,850.00	\$70.00	\$1,050.00	\$105.00	\$1,575.00	\$125.00	\$1,875.00
19	12 Inch Storm Sewer Pipe C900 PVC, 5 FT Depth	FOOT	157	\$125.00	\$19,625.00	\$117.00	\$18,369.00	\$110.00	\$17,270.00	\$125.00	\$19,625.00
20	Concrete Inlets, Type G-2	EACH	4	\$3,500.00	\$14,000.00	\$4,800.00	\$19,200.00	\$4,050.00	\$16,200.00	\$4,500.00	\$18,000.00
21	Aggregate Base	TON	4,620	\$40.00	\$184,800.00	\$44.00	\$203,280.00	\$45.00	\$207,900.00	\$35.00	\$161,700.00
22	Aggregate Shoulders	TON	550	\$40.00	\$22,000.00	\$49.00	\$26,950.00	\$45.00	\$24,750.00	\$70.00	\$38,500.00
23	Level 3, 1/2" ACP Mixture	TON	2,620	\$110.00	\$288,200.00	\$123.00	\$322,260.00	\$118.00	\$309,160.00	\$175.00	\$458,500.00
24	Extra for Asphalt Approaches	EACH	1	\$2,500.00	\$2,500.00	\$3,600.00	\$3,600.00	\$1,800.00	\$1,800.00	\$1,000.00	\$1,000.00
25	Concrete Curbs, High Strength Wide Modified	FOOT	240	\$50.00	\$12,000.00	\$40.00	\$9,600.00	\$54.00	\$12,960.00	\$38.00	\$9,120.00
26	Concrete Curbs, High Strength Low Profile Mountable	FOOT	340	\$30.00	\$10,200.00	\$36.00	\$12,240.00	\$51.00	\$17,340.00	\$32.00	\$10,880.00
27	Concrete Curbs, High Strength Low Profile Mountable	FOOT	2,730	\$30.00	\$81,900.00	\$28.00	\$76,440.00	\$23.00	\$62,790.00	\$26.00	\$70,980.00
28	Concrete Walks	SQFT	545	\$18.00	\$9,810.00	\$17.00	\$9,265.00	\$20.00	\$10,900.00	\$16.00	\$8,720.00
29	Extra for New Curb Ramps	EACH	12	\$1,000.00	\$12,000.00	\$1,500.00	\$18,000.00	\$535.00	\$6,420.00	\$3,800.00	\$45,600.00
30	Truncated Domes on New Surfaces	SQFT	230	\$40.00	\$9,200.00	\$60.00	\$13,800.00	\$45.00	\$10,350.00	\$60.00	\$13,800.00
31	6 Inch Concrete Surfacing	SQFT	34	\$18.00	\$612.00	\$49.00	\$1,666.00	\$11.00	\$374.00	\$20.00	\$680.00
32	6 Inch Concrete Surfacing, Colored	SQFT	7,600	\$20.00	\$152,000.00	\$17.00	\$129,200.00	\$12.00	\$91,200.00	\$14.00	\$106,400.00
33	8 Inch Concrete Surfacing, Colored	SQFT	3,980	\$22.00	\$87,560.00	\$18.00	\$71,640.00	\$11.00	\$43,780.00	\$16.00	\$63,680.00
34	12 Inch Concrete Surfacing, Colored	SQFT	60	\$40.00	\$2,400.00	\$39.00	\$2,340.00	\$13.00	\$780.00	\$30.00	\$1,800.00
35	Concrete Drainage Apron	EACH	2	\$700.00	\$1,400.00	\$760.00	\$1,520.00	\$126.00	\$252.00	\$600.00	\$1,200.00
36	Delineators, Type 1	EACH	26	\$200.00	\$5,200.00	\$210.00	\$5,460.00	\$90.00	\$2,340.00	\$200.00	\$5,200.00
37	Bi-Directional Yellow Type IAR Markers, Recessed	EACH	50	\$70.00	\$3,500.00	\$29.00	\$1,450.00	\$28.00	\$1,400.00	\$28.00	\$1,400.00
38	Permanent Surface Mounted Tubular Markers	EACH	41	\$180.00	\$7,380.00	\$410.00	\$16,810.00	\$400.00	\$16,400.00	\$400.00	\$16,400.00
39	Thermoplastic, Extruded or Sprayed, Surface, Non-Skid	FOOT	5,824	\$2.00	\$11,648.00	\$2.50	\$14,560.00	\$2.25	\$13,104.00	\$2.25	\$13,104.00
40	Pavement Legend, Type B-HS: Bicycle Lane Stencil	EACH	3	\$400.00	\$1,200.00	\$410.00	\$1,230.00	\$400.00	\$1,200.00	\$400.00	\$1,200.00
41	Pavement Bar, Type, B-HS	EACH	432	\$15.00	\$6,480.00	\$19.00	\$8,208.00	\$20.00	\$8,640.00	\$18.50	\$7,992.00
42	Pavement Legend, Type, B-HS: Yield Line Triangle	EACH	18	\$100.00	\$1,800.00	\$88.00	\$1,584.00	\$85.00	\$1,530.00	\$85.00	\$1,530.00
43	Pavement Legend, Type B-HS: Transverse Speed Reduction	EACH	70	\$35.00	\$2,450.00	\$52.00	\$3,640.00	\$50.00	\$3,500.00	\$50.00	\$3,500.00
44	Remove Existing Signs	LS	1	\$1,500.00	\$1,500.00	\$500.00	\$500.00	\$1,100.00	\$1,100.00	\$450.00	\$450.00
45	Remove and Reinstall Existing Signs	LS	1	\$3,400.00	\$3,400.00	\$900.00	\$900.00	\$1,800.00	\$1,800.00	\$600.00	\$600.00
46	Sign Support Footings	LS	1	\$15,600.00	\$15,600.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00	\$13,000.00
47	Perforated Steel Square Tube Slip Base Sign Support	LS	1	\$20,800.00	\$20,800.00	\$17,000.00	\$17,000.00	\$15,000.00	\$15,000.00	\$18,000.00	\$18,000.00
48	Signs, Standard Sheeting, Sheet Aluminum	SQFT	200	\$45.00	\$9,000.00	\$17.00	\$3,400.00	\$33.00	\$6,600.00	\$26.00	\$5,200.00
49	Pole Foundations	LS	1	\$32,000.00	\$32,000.00	\$32,000.00	\$32,000.00	\$22,500.00	\$22,500.00	\$25,000.00	\$25,000.00
50	Conduit, Pull Ropes and Junction Boxes	LS	1	\$79,500.00	\$79,500.00	\$80,000.00	\$80,000.00	\$90,000.00	\$90,000.00	\$90,000.00	\$90,000.00
51	Water Quality Mixture	CUYD	520	\$55.00	\$28,600.00	\$100.00	\$52,000.00	\$105.00	\$54,600.00	\$105.00	\$54,600.00
52	Permanent Seeding	ACRE	2	\$33,000.00	\$59,400.00	\$2,600.00	\$4,680.00	\$2,430.00	\$4,374.00	\$2,500.00	\$4,500.00
53	Conifer Trees, 5-6 ft height	EA	7	\$700.00	\$4,900.00	\$1,050.00	\$7,350.00	\$1,000.00	\$7,000.00	\$1,000.00	\$7,000.00
54	Topsoil	CY	7	\$65.00	\$455.00	\$132.00	\$924.00	\$125.00	\$875.00	\$125.00	\$875.00
55	Rock Mulch	CY	250	\$65.00	\$16,250.00	\$120.00	\$30,000.00	\$120.00	\$30,000.00	\$120.00	\$30,000.00
56	Three Man Boulders	EA	9	\$155.00	\$1,395.00	\$395.00	\$3,555.00	\$375.00	\$3,375.00	\$150.00	\$1,350.00
57	Single Mailbox Support	EA	1	\$1,000.00	\$1,000.00	\$600.00	\$600.00	\$500.00	\$500.00	\$750.00	\$750.00
				TOTAL =	\$1,939,985.00	TOTAL =	\$1,826,111.00	TOTAL =	\$1,848,854.00	TOTAL =	\$2,244,411.00



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of a Notice of Intent to Award a contract for the Landfill Siting Consultant Services-Phase 2 Addendum

RECOMMENDED MOTION:

Move approval of Document No. 2025-925, a Notice of Intent to Award the Landfill Siting Consultant Services- Phase 2 Addendum to Parametrix, Inc.

BACKGROUND AND POLICY IMPLICATIONS:

On October 3, 2025, the Deschutes County Department of Solid Waste received one proposal in response to Request for Proposals (RFP 2025-924) for Landfill Siting Consultant Services – Phase 2 Addendum. The RFP was issued on September 15, 2025, and sought consultant services to support the final site evaluation of the Horse Ridge site as a potential location for the County's next municipal solid waste landfill. The scope of work outlined in the RFP includes conceptual site planning, cost estimation, permitting and infrastructure assessments, environmental and cultural resource reviews, and public engagement activities.

The proposal was submitted by Parametrix, a firm that has provided technical support to the County throughout Phases 1 and 2 of the landfill siting process. The firm's proposal includes a multidisciplinary team of subconsultants—Delve Underground, Siemens & Associates, G. Friesen Associates, Kittelson & Associates, and Apex Companies—many of whom have previously supported the County on this project. The proposed project manager is based in Bend, Oregon, and has been involved in earlier phases of the siting effort.

The Phase 2 Addendum is intended to complete a Final Site Evaluation of the Horse Ridge site using the same methodology applied to the Moon Pit and Roth East sites. This approach is intended to ensure consistency in evaluation criteria and comparability of findings. The Horse Ridge site was identified for further study following the County's decision to discontinue pursuit of the Moon Pit site due to unsuccessful property negotiations. The Solid Waste Advisory Committee (SWAC) met between May and August 2025 to review additional candidate sites and recommended that the Horse Ridge site undergo a full evaluation.

The proposed work is scheduled to begin in November 2025, with technical studies and stakeholder engagement continuing through spring 2026. The timeline is structured to support a final site selection decision by June 2026.

BUDGET IMPACTS:

The total proposed cost for the Phase 2 Addendum is \$349,831, which includes labor, subconsultant services, and reimbursable expenses allocated in FY26 Fund 610 Planning.

ATTENDANCE:

Tim Brownell, Director of Solid Waste



BOARD OF COMMISSIONERS

October 15, 2025

Sent via email (dmiller@parametrix.com) & First Class Mail

RE: Project - Contract for Landfill Siting Consultant Services - Phase 2 Addendum

NOTICE OF INTENT TO AWARD CONTRACT

On October 15, 2025 the Board of County Commissioners of Deschutes County, Oregon, considered proposals for the above-referenced project. The Board of County Commissioners determined that the successful proposer for the project was Parametrix Inc. of Bremerton, Washington.

This Notice of Intent to Award Contract is issued pursuant to Oregon Revised Statute (ORS) 279B.135. A copy of this Notice is being provided to each firm or person that submitted a bid or proposal for the project. Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice may submit a written protest within seven (7) calendar days after the issuance of this Notice of Intent to Award Contract to the Board of County Commissioners of Deschutes County, Oregon, at Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703. **The seven (7) calendar day protest period will expire at 5:00 PM on Wednesday, October 22, 2025.**

Parametrix
October 8, 2025
Page 2

Any protest must be in writing and specify any grounds upon which the protest is based. Please refer to Oregon Administrative Rules (OAR) OAR - 137-047-0740. If a protest is filed within the protest period, a hearing will be held at a regularly scheduled business meeting of the Board of County Commissioners of Deschutes County Oregon, acting as the Contract Review Board, in the Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703 within two (2) weeks of the end of the protest period.

If no protest is filed within the protest period, this Notice of Intent to Award Contract becomes an Award of Contract without further action by the County unless the Board of County Commissioners, for good cause, rescinds this Notice before the expiration of the protest period.

If you have any questions regarding this Notice of Intent to Award Contract, or the procedures under which the County is proceeding, please contact Deschutes County Legal Counsel: telephone (541) 388-6625; fax (541) 383-0496; or email to david.doyle@deschutes.org.

Be advised that if no protest is received within the stated time period, the County is authorized to process the contract administratively.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
DESCHUTES COUNTY, OREGON

Anthony DeBone, Chair

cc w/enc: Transmitted by email and First Class Mail on October 15, 2025 to proposer (3 pages)
See attached List

Contract for Landfill Siting Consultant Services Phase 2 Addendum

Parametrix
719 2nd Ave. STE 200
Seattle, WA 98104
206-394-3644



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval to relinquish water pipeline and lateral easements previously granted to Central Oregon Irrigation District which encumber County-owned property at 236 and 244 NW Kingwood in Redmond and approval of Boad Order No. 2025-047 authorizing the Deschutes County Property Manager to execute the necessary documents

RECOMMENDED MOTIONS:

1. Move to authorize relinquishing, by quitclaim deed (Document No. 2025-976), water pipeline and lateral easements previously granted to Central Oregon Irrigation District that currently encumber County-owned property at 236 and 244 NW Kingwood and an adjacent 0.03-acre property known as Map and Tax Lot 151309AB00500, Redmond;
2. Move approval of Boad Order No. 2025-047 authorizing the Deschutes County Property Manager to execute the necessary documents to relinquish these easements.

BACKGROUND AND POLICY IMPLICATIONS:

In 2021, Deschutes County acquired property at 236 and 244 NW Kingwood, Redmond. The property acquisition also included a small 0.03-acre “sliver” known as Map and Tax Lot 151309AD00500, which is adjacent to the southeast corner of 244 NW Kingwood.

When the Kingwood properties were under prior ownership, Central Oregon Irrigation District (COID) relocated its canal outside of the Kingwood property footprint, but the easements were not relinquished at that time. As a housekeeping measure, the quitclaim deed will be recorded to remove the easement encumbrance from property title.

BUDGET IMPACTS:

Staff has requested COID to waive the approximate fees of \$1,000, but if COID is unable to waive the fees, the expense will be paid from the Project Development Fund (Fund 090).

ATTENDANCE:

Kristie Bollinger – County Property Manager

REVIEWED

LEGAL COUNSEL

10/15/2025 Item #5.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Designating the Deschutes County
Property Manager, Kristie Bollinger as the
Deschutes County Representative to sign
documents associated with relinquishing water
pipeline and lateral easements previously granted
to Central Oregon Irrigation District

*
*
*
*

ORDER NO. 2025-047

WHEREAS, the Board of County Commissioners of Deschutes County has authorized relinquishing water pipeline and lateral easements previously granted to Central Oregon Irrigation District (COID) that currently encumber County-owned property at 236 and 244 NW Kingwood and an adjacent 0.03-acre property known as Map and Tax Lot 151309AB00500; and

WHEREAS, in 2021, Deschutes County acquired property at 236 and 244 NW Kingwood and an adjacent 0.03-acre property known as Map and Tax Lot 151309AB00500; and

WHEREAS, when the Kingwood properties were under prior ownership, COID was granted water pipeline and lateral easements; and

WHEREAS, prior to the County acquiring the Kingwood properties, COID relocated its canal from the Kingwood property footprint; and

WHEREAS, said easements are no longer required by COID and a quitclaim deed will be recorded in the Deschutes County Official Records to remove the encumbrance from property title; now, THEREFORE,

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

Section 1. The Deschutes County Property Manager, Kristie Bollinger is the designated Deschutes County representative to sign the necessary documents associated with relinquishing water pipeline and lateral easements previously granted to Central Oregon Irrigation District (COID) that currently encumber County-owned property at 236 and 244 NW Kingwood and an adjacent 0.03-acre property known as Map and Tax Lot 151309AB00500.

SIGNATURES ON FOLLOWING PAGE

Dated this _____ of _____, 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of Document No. 2025-981, a Purchase Agreement, and Document No. 2025-982, a Dedication Deed, to obtain Right of Way from Peter P. and Norma D. Post for the Tumalo Reservoir Road Improvement Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-981, a Purchase Agreement, and Document No. 2025-982, a Dedication Deed, to obtain Right of Way from Peter P. and Norma D. Post for the Tumalo Reservoir Road Improvement Project

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners authorized the Road Department to negotiate with owners of properties impacted by the Tumalo Reservoir Road Improvement project for the acquisition of right of way by Resolution No. 2025-035. During preliminary design of the project, it was determined that a portion of Tax Lot No. 161136D001701, owned by Peter P. and Norma D. Post, would be impacted by the Project. The Road Department has negotiated with the property owner for right of way acquisition. The property owner has agreed to the following:

Instrument:	Dedication Deed
Area:	±1,793 sq. ft. (±0.04 acre)
Compensation:	\$10,100.00
Other Consideration:	None

BUDGET IMPACTS:

The County will make payment to the property owner in the amount of \$10,100.00, which is budgeted in the Department's Fiscal Year 2026 Road Capital Improvement Plan (Fund 465) budget.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

<p style="text-align: center;">REVIEWED</p> <hr/> <p style="text-align: center;">LEGAL COUNSEL</p>	<p>For Recording Stamp Only</p>
<p>After recording return to: Deschutes County Road Dept. 61150 S.E. 27th Street Bend, Oregon 97701</p>	

PURCHASE AGREEMENT
Tumalo Reservoir Road Improvement Project
Peter P. Post and Norma D. Post, as tenants by the entirety
File No.: 02

THIS AGREEMENT is made and entered into by and between **DESCHUTES COUNTY, OREGON**, a political subdivision of the State of Oregon, ("County"); and **Peter P. Post and Norma D. Post**, ("Grantor"), on the following terms and conditions:

RECITALS

1. Tumalo Reservoir Road is part of the County road system under the jurisdiction and control of County.
2. County is constructing the Tumalo Reservoir Road Improvement project on Tumalo Reservoir Road. County has identified that the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** is necessary for the Project.
3. Grantor is the owner of the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B**.

NOW THEREFORE, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Grantor shall convey to County the real property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** by dedication deed for the total purchase price of **Ten Thousand One Hundred and No/100 Dollars (\$10,100.00)**.
2. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project or three (3) calendar years following the date all required signatures are obtained, whichever is sooner.

GRANTOR OBLIGATIONS

1. Grantor shall provide County with fully signed and executed dedication deed for subject property with this Agreement. Upon receipt of purchase payment, Grantor shall immediately deliver possession of property to County.
2. Grantor makes the following representations:
 - a. Grantor has no notice from any government agency of any violation of law relating to the property.
 - b. The property has never been used for the storage or disposal of hazardous waste materials.
 - c. Grantor is not a "foreign person" as that term is defined in IRS Code Section 1445.
3. If the subject property is subject to any mortgage, deed of trust, land sales contract, or other similar encumbrance, Grantor should review that document to determine whether that document contains any provision under which default may be triggered by the Grantor's signing of this Agreement or any conveyance instrument.
4. Grantor understands that all fences and other improvements that are constructed or reconstructed on real property retained by Grantor pursuant to this Agreement will be the property of Grantor and will be maintained and repaired by the Grantor after completion of the project.

5. Grantor understands that any construction lying outside of the traveled portion and shoulders but within the right of way of the county road which is made for the use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices.
6. Upon Grantor's execution of dedication deed, Grantor shall remove from the property all personal property, fixtures, and improvements retained by Grantor under the terms of this Agreement. If personal property, fixtures, or improvements are required to be moved, Grantor may be entitled to relocation benefits and assistance which will be provided outside of this Agreement in accordance with the Uniform Relocation Act requirements in conformance with the ODOT Right-of-Way Manual.
7. Grantor understands that this Agreement does not convey any water rights appurtenant to the subject property. If water rights are appurtenant to the subject property, Grantor shall make the necessary arrangements with the applicable irrigation district to transfer water rights to another portion of Grantors property or quit claim water rights back to the appropriate irrigation district prior to Grantor's execution of dedication deed.
8. Grantor acknowledges that performance of County's obligations under this Agreement constitute just and full compensation for the property and any damage to property retained by Grantor.

COUNTY OBLIGATIONS

1. Within thirty (30) calendar days of execution of this Agreement and receipt of fully signed and executed warranty deed, County will deliver payment to Grantor in the amount of **Ten Thousand One Hundred and No/100 Dollars (\$10,100.00)**. County will take immediate possession of property upon delivery of payment.
2. County will be responsible for payment of all recording fees or other costs required for recording conveyance instruments.

GENERAL PROVISIONS

1. This Agreement supersedes any prior oral and written Agreements or understandings. This Agreement may be modified only by written amendments.
2. The conditions of this Agreement are binding upon and will inure to the benefit of the successors and legal representatives of Grantor and County and will survive conveyance of the property.
3. Time is of the essence of this Agreement. References to Grantor in this Agreement include all persons who hold title to the property.

(Signature Page to Follow)

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it and agree to be bound by its terms and conditions.

GRANTOR

DATED this 3 day of September, 2025.

P.P.P.
Peter P. Post

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Peter P. Post, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

GRANTOR

DATED this 3 day of September, 2025.

Norma D. Post
Norma D. Post

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Norma D. Post, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

DESCHUTES COUNTY, acting by and through its Board of County Commissioners

DATED this ____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE-CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this ____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 – www.sflands.com

PROJECT NO.: 2023-059-34

DATE: 4/11/2025

INITIALS: BRR

EXHIBIT 'A'

TAX LOT 161136D001701

PARCEL A: RIGHT-OF-WAY DEDICATION

THAT PORTION OF THE LAND DESCRIBED IN THAT CERTAIN WARRANTY DEED RECORDED MAY 15, 1986, BOOK 123, PAGE 1 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 16 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, SAID PORTION BEING SOUTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 3-1/4 INCH ALUMINUM CAP MARKING THE SOUTHEAST CORNER OF SAID SECTION 36 BEARS SOUTH 23°19'56" WEST A DISTANCE OF 32.69 FEET; THENCE SOUTH 89°55'35" WEST A DISTANCE OF 245.00 FEET TO A POINT FROM WHICH A 3 INCH BRASS CAP MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 36 BEARS SOUTH 89°26'32" WEST A DISTANCE OF 2427.29 FEET, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY OF TUMALO RESERVOIR MARKET ROAD NO. 11A AS ESTABLISHED ON NOVEMBER 5, 1926 BY DESCHUTES COUNTY COMMISSIONER'S JOURNAL 2, PAGE 119 AND AS SHOWN ON THAT MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A BY ROBERT B. GOULD DATED 1926, SAID POINT ALSO BEING 30.00 FEET RIGHT OF CENTERLINE P.T. STATION 56+93.5 PER SAID 1926 MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF BAILEY ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 1,793 SQUARE FEET, MORE OR LESS.

SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

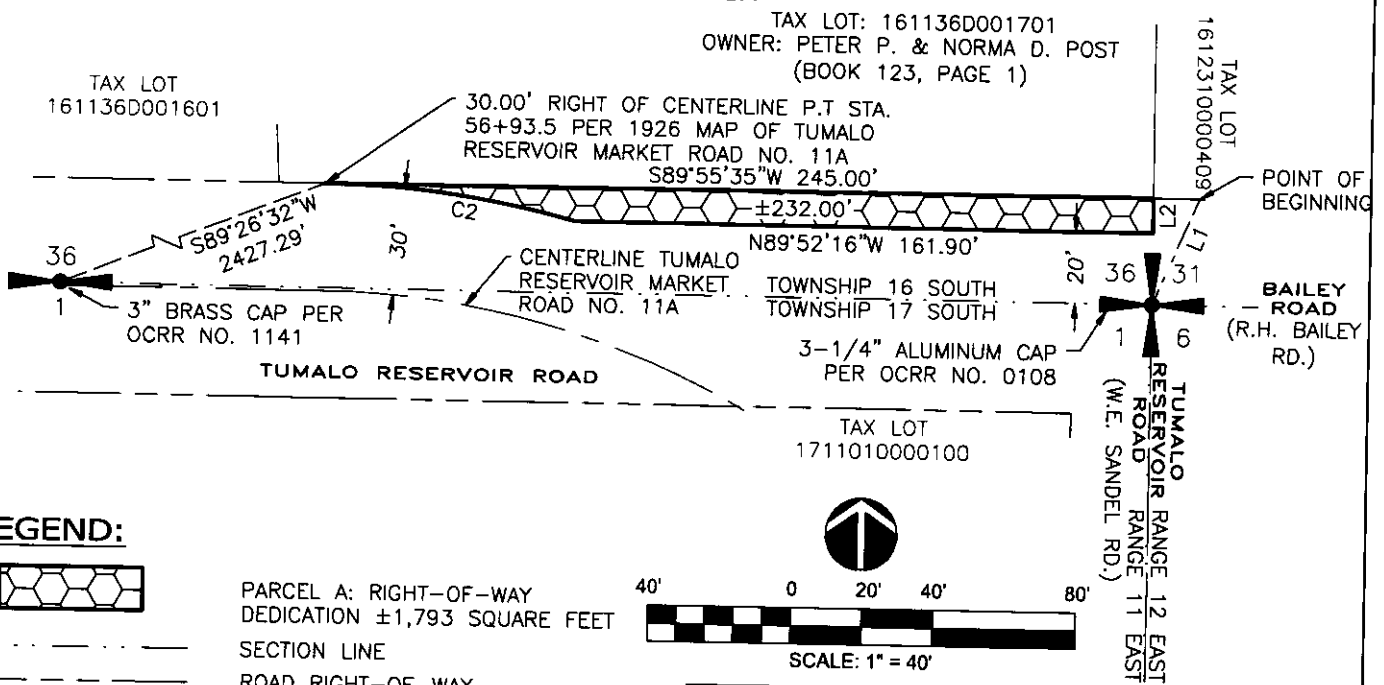
BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).



RENEWS: 12/31/2026

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EXHIBIT B SKETCH



CURVE TABLE					
CURVE NO.	DELTA	RADIUS	LENGTH	CHORD	CHORD LEN
C2	15°01'38"	270.49'	70.94'	N82°25'05"W	70.74'

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S23°19'56"W	32.69'
L2	S0°05'22"E	10.00'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

DIGITALLY SIGNED

BRAD R. RHOADES
91917PLS

RENEWS: 12/31/2026

Date: 4/11/2025

Proj No: 23-059-34 WWW.SFLANDS.COM

S&F Land Services

Land Surveying & Remote Sensing

901 NW CARLON AVE, SUITE 3

BEND, OR 97703

(541) 797-0954

EMAIL: INFO@SFLANDS.COM

REVIEWED

LEGAL COUNSEL

10/15/2025 Item #6.

For Recording Stamp Only

After recording return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon 97701

DEED OF DEDICATION

Peter P. Post and Norma D. Post, as tenants by the entirety, Grantor, does hereby dedicate to the public for roadway and utility purposes that parcel of land described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is One Thousand Six Hundred and No/100 Dollars (\$10,100.00).

DATED this 3 day of September, 2025.

P.P.P.
Peter P. Post

Norma D. Post
Norma D. Post

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Peter P. Post and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

Before me, a Notary Public, personally appeared Norma D. Post and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-20

ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Deed of Dedication as a public road pursuant to ORS 93.808.

DATED this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST: _____
PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 – www.sflands.com

PROJECT NO.: 2023-059-34
DATE: 4/11/2025
INITIALS: BRR

EXHIBIT 'A'

TAX LOT 161136D001701

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EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF BAILEY ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 1,793 SQUARE FEET, MORE OR LESS.

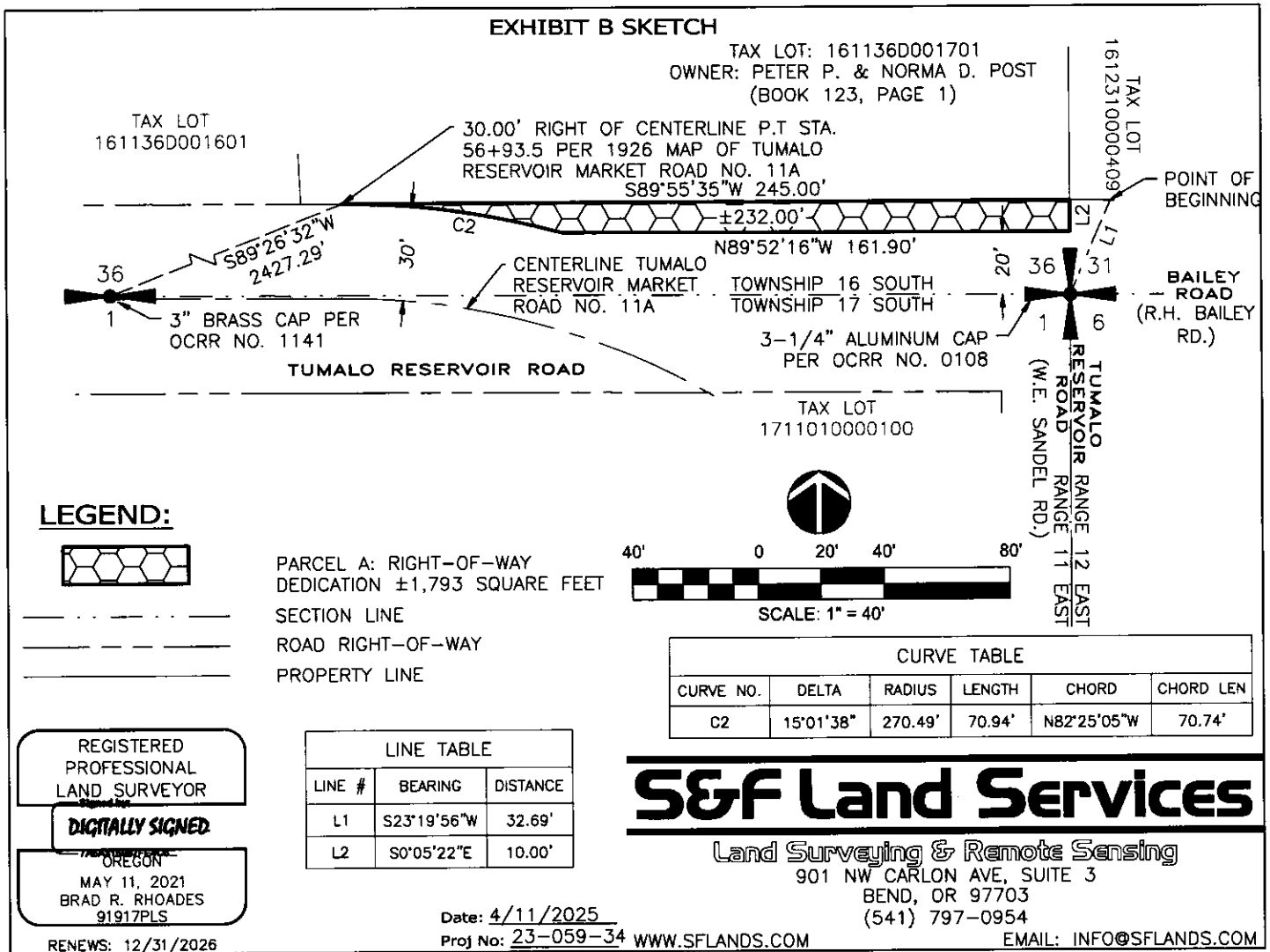
SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).



RENEWS: 12/31/2026

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BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of Document No. 2025-983, a Purchase Agreement, and Document No. 2025-984, a Dedication Deed, to obtain Right of Way from the David and Jane Tolve Living Trust for the Tumalo Reservoir Road Improvement Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-983, a Purchase Agreement, and Document No. 2025-984, a Dedication Deed, to obtain Right of Way from the David and Jane Tolve Living Trust for the Tumalo Reservoir Road Improvement Project.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners authorized the Road Department to negotiate with owners of properties impacted by the Tumalo Reservoir Road Improvement project for the acquisition of right of way by Resolution No. 2025-035. During preliminary design of the project, it was determined that a portion of Tax Lot No. 171206B000301, owned by the David and Jane Tolve Living Trust, would be impacted by the Project. The Road Department has negotiated with the property owner for right of way acquisition. The property owner has agreed to the following:

Instrument:	Dedication Deed
Area:	±3,293 sq. ft. (±0.08 acre)
Compensation:	\$19,800.00
Other Consideration:	None

BUDGET IMPACTS:

The County will make payment to the property owner in the amount of \$19,800.00, which is budgeted in the Department's Fiscal Year 2026 Road Capital Improvement Plan (Fund 465) budget.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

<div>REVIEWED</div> <div>LEGAL COUNSEL</div> <p>After recording return to: Deschutes County Road Dept. 61150 S.E. 27th Street Bend, Oregon 97701</p>	For Recording Stamp Only
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PURCHASE AGREEMENT
Tumalo Reservoir Road Improvement Project
David L. Tolve and Jane A. Tolve,
Co-Trustees of the David and Jane Tolve Living Trust dated March 11, 2014
File No.: 03

THIS AGREEMENT is made and entered into by and between **DESCHUTES COUNTY, OREGON**, a political subdivision of the State of Oregon, ("County"); and **David L. Tolve and Jane A. Tolve, Co-Trustees of the David and Jane Tolve Living Trust dated March 11, 2014**, ("Grantor"), on the following terms and conditions:

RECITALS

1. Tumalo Reservoir Road is part of the County road system under the jurisdiction and control of County.
2. County is constructing the Tumalo Reservoir Road Improvement project on Tumalo Reservoir Road. County has identified that the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** is necessary for the Project.
3. Grantor is the owner of the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B**.

NOW THEREFORE, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Grantor shall convey to County the real property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** by dedication deed for the total purchase price of **Nineteen Thousand Eight Hundred and No/100 Dollars (\$19,800.00)**.
2. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project or three (3) calendar years following the date all required signatures are obtained, whichever is sooner.

GRANTOR OBLIGATIONS

1. Grantor shall provide County with fully signed and executed dedication deed for subject property with this Agreement. Upon receipt of purchase payment, Grantor shall immediately deliver possession of property to County.
2. Grantor makes the following representations:
 - a. Grantor has no notice from any government agency of any violation of law relating to the property.
 - b. The property has never been used for the storage or disposal of hazardous waste materials.
 - c. Grantor is not a "foreign person" as that term is defined in IRS Code Section 1445.
3. If the subject property is subject to any mortgage, deed of trust, land sales contract, or other similar encumbrance, Grantor should review that document to determine whether that document contains any provision under which default may be triggered by the Grantor's signing of this Agreement or any conveyance instrument.
4. Grantor understands that all fences and other improvements that are constructed or reconstructed on real property retained by Grantor pursuant to this Agreement will be the property of Grantor and will be maintained and repaired by the Grantor after completion of the project.

5. Grantor understands that any construction lying outside of the traveled portion and shoulders but within the right of way of the county road which is made for the use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices.
6. Upon Grantor's execution of dedication deed, Grantor shall remove from the property all personal property, fixtures, and improvements retained by Grantor under the terms of this Agreement. If personal property, fixtures, or improvements are required to be moved, Grantor may be entitled to relocation benefits and assistance which will be provided outside of this Agreement in accordance with the Uniform Relocation Act requirements in conformance with the ODOT Right-of-Way Manual.
7. Grantor understands that this Agreement does not convey any water rights appurtenant to the subject property. If water rights are appurtenant to the subject property, Grantor shall make the necessary arrangements with the applicable irrigation district to transfer water rights to another portion of Grantors property or quit claim water rights back to the appropriate irrigation district prior to Grantor's execution of dedication deed.
8. Grantor acknowledges that performance of County's obligations under this Agreement constitute just and full compensation for the property and any damage to property retained by Grantor.

COUNTY OBLIGATIONS

1. Within thirty (30) calendar days of execution of this Agreement and receipt of fully signed and executed warranty deed, County will deliver payment to Grantor in the amount of **Nineteen Thousand Eight Hundred and No/100 Dollars (\$19,800.00)**. County will take immediate possession of property upon delivery of payment.
2. County will be responsible for payment of all recording fees or other costs required for recording conveyance instruments.
3. County will construct, modify, or repair the following improvements:
 - a. Fence – Upon completion of the project, County, State, or their contractor shall reconstruct fence at right of way line, to match existing material/style.

4. County will require that the work listed in Section 3 be done in a reasonable workmanship manner, but County cannot guarantee or warrant the work or goods provided to Grantor. County disclaims all warranties of merchantability and fitness for any particular purpose, express or implied.

GENERAL PROVISIONS

1. This Agreement supersedes any prior oral and written Agreements or understandings. This Agreement may be modified only by written amendments.
2. The conditions of this Agreement are binding upon and will inure to the benefit of the successors and legal representatives of Grantor and County and will survive conveyance of the property.
3. Time is of the essence of this Agreement. References to Grantor in this Agreement include all persons who hold title to the property.

(Signature Page to Follow)

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it and agree to be bound by its terms and conditions.

GRANTOR

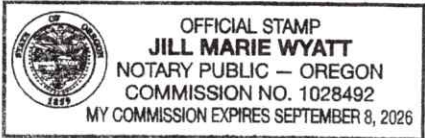
DATED this 3 day of September, 2025.

David L. Tolve
David L. Tolve, Co-Trustee

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared David L. Tolve, Co-Trustee of the David and Jane Tolve Living Trust dated March 11 2014, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

GRANTOR

DATED this 3 day of September, 2025.

Jane A. Tolve
Jane A. Tolve, Co-Trustee

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Jane A. Tolve, Co-Trustee of the David and Jane Tolve Living Trust dated March 11 2014, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

DESCHUTES COUNTY, acting by and through its Board of County Commissioners

DATED this ____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE-CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this ____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 – www.sflands.com

PROJECT NO.: 2023-059-34
DATE: 3/3/2025
INITIALS: BRR

EXHIBIT 'A'

TAX LOT 171206B000301

PARCEL A: RIGHT-OF-WAY DEDICATION

THAT PORTION OF THE LAND DESCRIBED IN THAT CERTAIN STATUTORY BARGAIN AND SALE DEED RECORDED MARCH 10, 2015, INSTRUMENT NUMBER 2015-008032 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, SAID PORTION BEING WEST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 3-1/4 INCH ALUMINUM CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 6 BEARS NORTH 76°54'11" WEST A DISTANCE OF 74.98 FEET; THENCE SOUTH 44°33'45" WEST A DISTANCE OF 50.00 FEET; THENCE SOUTH 00°03'12" EAST A DISTANCE OF 188.00 FEET TO A POINT FROM WHICH A 5/8 INCH IRON ROD MARKING THE NORTH 1/16 CORNER BEARS SOUTH 02°06'44" WEST A DISTANCE OF 1080.11 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF TUMALO RESERVOIR MARKET ROAD NO. 11A AS ESTABLISHED ON NOVEMBER 5, 1926 BY DESCHUTES COUNTY COMMISSIONER'S JOURNAL 2, PAGE 119 AND AS SHOWN ON THAT MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A BY ROBERT B. GOULD DATED 1926, SAID POINT ALSO BEING 30.00 FEET RIGHT OF CENTERLINE P.C. STATION 53+19.2 PER SAID 1926 SAID MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF BAILEY ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 3,293 SQUARE FEET, MORE OR LESS.

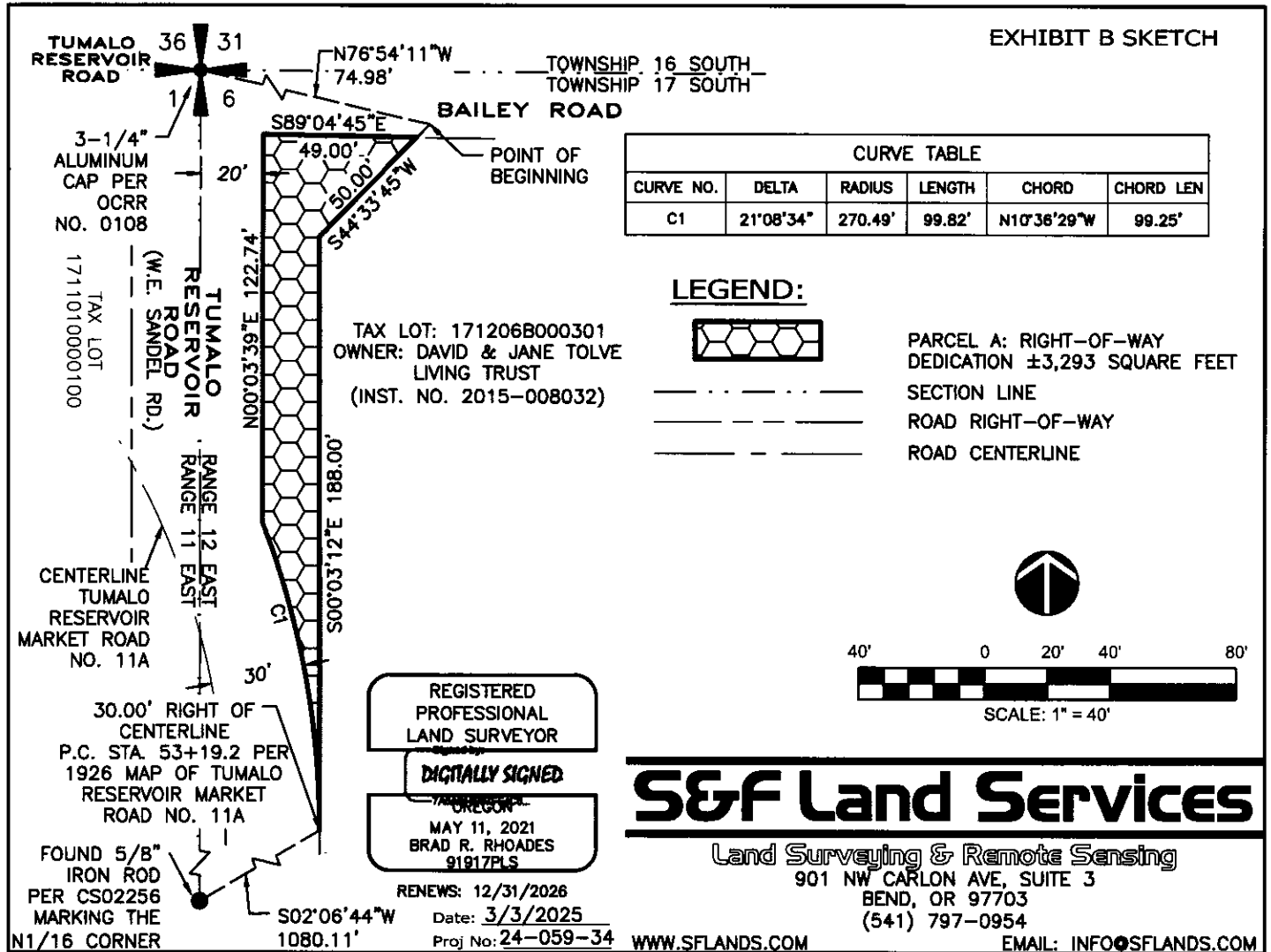
SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).



RENEWS: 12/31/2026

DocuSign Envelope ID: D8443670-F443-4BB7-A507-70B364958673



REVIEWED

LEGAL COUNSEL

10/15/2025 Item #7.

For Recording Stamp Only

After recording return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon 97701

DEED OF DEDICATION

David L. Tolve and Jane A. Tolve, Co-Trustees of the David and Jane Tolve Living Trust dated March 11, 2014, Grantor, does hereby dedicate to the public for roadway and utility purposes that parcel of land described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is Nineteen Thousand Eight Hundred and No/100 Dollars (\$19,800.00).

DATED this 3 day of September, 2025.

David L. Tolve
David L. Tolve, Co-Trustee

Jane A. Tolve
Jane A. Tolve, Co-Trustee

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared David L. Tolve, Co-Trustee of the David and Jane Tolve Living Trust dated March 11, 2014, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025.



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-2026

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Jane A. Tolve, Co-Trustee of the David and Jane Tolve Living Trust dated March 11, 2014, and acknowledged the foregoing instrument.

Dated this 3 day of September, 2025



Jill Marie Wyatt
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-8-26

ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Deed of Dedication as a public road pursuant to ORS 93.808.

DATED this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 – www.sflands.com

PROJECT NO.: 2023-059-34
DATE: 3/3/2025
INITIALS: BRR

EXHIBIT 'A'

TAX LOT 171206B000301

PARCEL A: RIGHT-OF-WAY DEDICATION

THAT PORTION OF THE LAND DESCRIBED IN THAT CERTAIN STATUTORY BARGAIN AND SALE DEED RECORDED MARCH 10, 2015, INSTRUMENT NUMBER 2015-008032 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, SAID PORTION BEING WEST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 3-1/4 INCH ALUMINUM CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 6 BEARS NORTH 76°54'11" WEST A DISTANCE OF 74.98 FEET; THENCE SOUTH 44°33'45" WEST A DISTANCE OF 50.00 FEET; THENCE SOUTH 00°03'12" EAST A DISTANCE OF 188.00 FEET TO A POINT FROM WHICH A 5/8 INCH IRON ROD MARKING THE NORTH 1/16 CORNER BEARS SOUTH 02°06'44" WEST A DISTANCE OF 1080.11 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF TUMALO RESERVOIR MARKET ROAD NO. 11A AS ESTABLISHED ON NOVEMBER 5, 1926 BY DESCHUTES COUNTY COMMISSIONER'S JOURNAL 2, PAGE 119 AND AS SHOWN ON THAT MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A BY ROBERT B. GOULD DATED 1926, SAID POINT ALSO BEING 30.00 FEET RIGHT OF CENTERLINE P.C. STATION 53+19.2 PER SAID 1926 SAID MAP OF TUMALO RESERVOIR MARKET ROAD NO. 11A.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF BAILEY ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 3,293 SQUARE FEET, MORE OR LESS.

SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

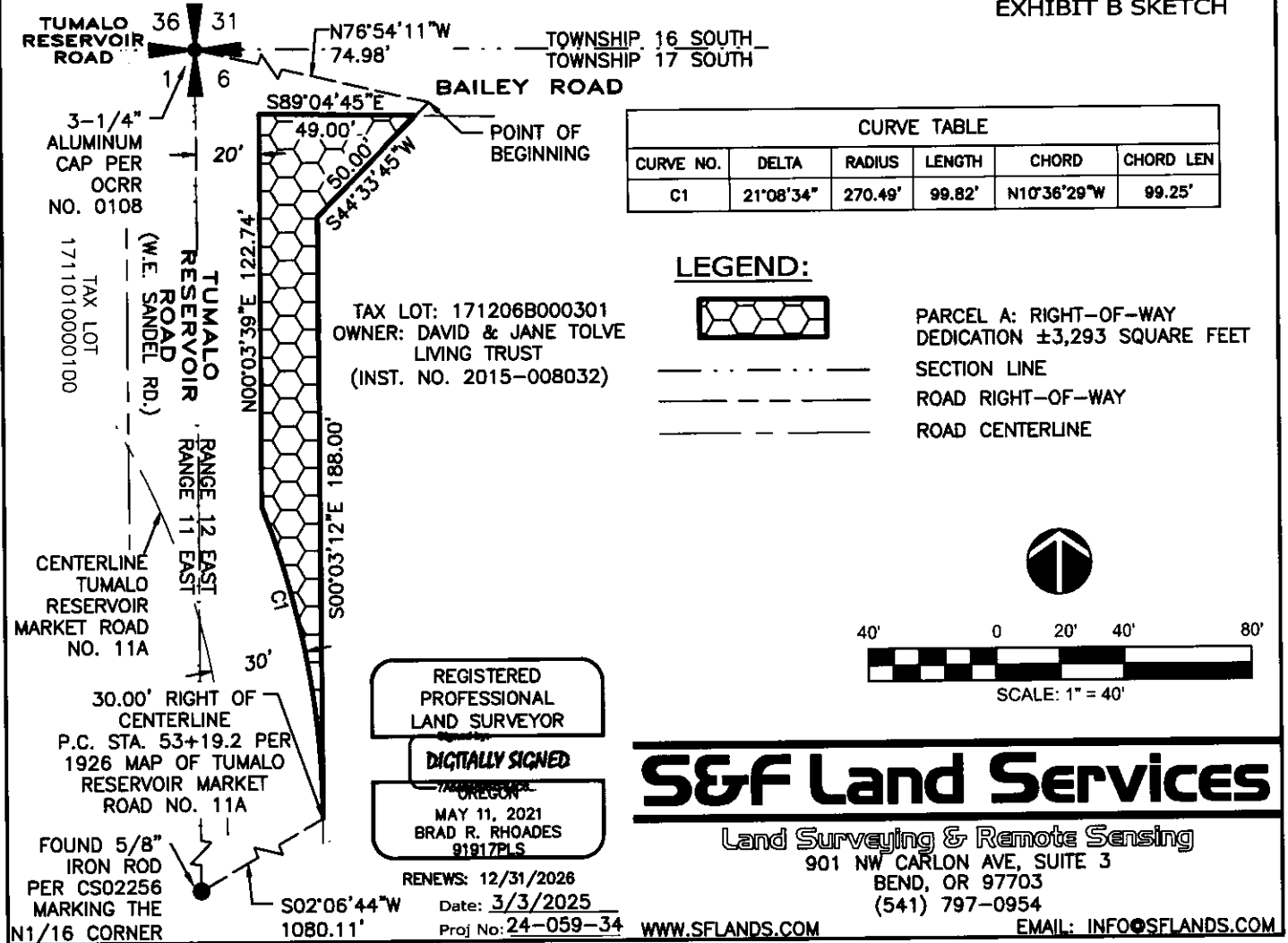
BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).



RENEWS: 12/31/2026

DocuSign Envelope ID: D8443670-F443-4BB7-A507-70B364958673

EXHIBIT B SKETCH





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of Document No. 2025-985, a Purchase Agreement, and Document No. 2025-986, a Dedication Deed, to obtain Right of Way from the Tumalo Irrigation District for the Tumalo Reservoir Road Improvement Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-985, a Purchase Agreement, and Document No. 2025-986, a Dedication Deed, to obtain Right of Way from the Tumalo Irrigation District for the Tumalo Reservoir Road Improvement Project

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners authorized the Road Department to negotiate with owners of properties impacted by the Tumalo Reservoir Road Improvement project for the acquisition of right of way by Resolution No. 2025-035. During preliminary design of the project, it was determined that a portion of Tax Lot No. 1611000010400, owned by Tumalo Irrigation District, would be impacted by the Project. The Road Department has negotiated with the property owner for right of way acquisition. The property owner has agreed to the following:

Instrument:	Dedication Deed
Area:	±250 sq. ft. (±0.01 acre)
Compensation:	\$1,500.00
Other Consideration:	None

BUDGET IMPACTS:

The County will make payment to the property owner in the amount of \$1,500.00, which is budgeted in the Department's Fiscal Year 2026 Road Capital Improvement Plan (Fund 465) budget.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

<div>REVIEWED</div> <div>LEGAL COUNSEL</div> <p>After recording return to: Deschutes County Road Dept. 61150 S.E. 27th Street Bend, Oregon 97701</p>	For Recording Stamp Only
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PURCHASE AGREEMENT
Tumalo Reservoir Road Improvement Project
Tumalo Irrigation District
File No.: 04

THIS AGREEMENT is made and entered into by and between **DESCHUTES COUNTY, OREGON**, a political subdivision of the State of Oregon, ("County"); and **Tumalo Irrigation District**, ("Grantor"), on the following terms and conditions:

RECITALS

1. Tumalo Reservoir Road is part of the County road system under the jurisdiction and control of County.
2. County is constructing the Tumalo Reservoir Road Improvement project on Tumalo Reservoir Road. County has identified that the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** is necessary for the Project.
3. Grantor is the owner of the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B**.

NOW THEREFORE, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Grantor shall convey to County the real property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** by dedication deed for the total purchase price of **One Thousand Five Hundred and No/100 Dollars (\$1,500.00)**.
2. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project or three (3) calendar years following the date all required signatures are obtained, whichever is sooner.

GRANTOR OBLIGATIONS

1. Grantor shall provide County with fully signed and executed dedication deed for subject property with this Agreement. Upon receipt of purchase payment, Grantor shall immediately deliver possession of property to County.
2. Grantor makes the following representations:
 - a. Grantor has no notice from any government agency of any violation of law relating to the property.
 - b. The property has never been used for the storage or disposal of hazardous waste materials.
 - c. Grantor is not a "foreign person" as that term is defined in IRS Code Section 1445.
3. If the subject property is subject to any mortgage, deed of trust, land sales contract, or other similar encumbrance, Grantor should review that document to determine whether that document contains any provision under which default may be triggered by the Grantor's signing of this Agreement or any conveyance instrument.
4. Grantor understands that all fences and other improvements that are constructed or reconstructed on real property retained by Grantor pursuant to this Agreement will be the property of Grantor and will be maintained and repaired by the Grantor after completion of the project.

5. Grantor understands that any construction lying outside of the traveled portion and shoulders but within the right of way of the county road which is made for the use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices.
6. Upon Grantor's execution of dedication deed, Grantor shall remove from the property all personal property, fixtures, and improvements retained by Grantor under the terms of this Agreement. If personal property, fixtures, or improvements are required to be moved, Grantor may be entitled to relocation benefits and assistance which will be provided outside of this Agreement in accordance with the Uniform Relocation Act requirements in conformance with the ODOT Right-of-Way Manual.
7. Grantor understands that this Agreement does not convey any water rights appurtenant to the subject property. If water rights are appurtenant to the subject property, Grantor shall make the necessary arrangements with the applicable irrigation district to transfer water rights to another portion of Grantors property or quit claim water rights back to the appropriate irrigation district prior to Grantor's execution of dedication deed.
8. Grantor acknowledges that performance of County's obligations under this Agreement constitute just and full compensation for the property and any damage to property retained by Grantor.

COUNTY OBLIGATIONS

1. Within thirty (30) calendar days of execution of this Agreement and receipt of fully signed and executed warranty deed, County will deliver payment to Grantor in the amount of **One Thousand Five Hundred and No/100 Dollars (\$1,500.00)**. County will take immediate possession of property upon delivery of payment.
2. County will be responsible for payment of all recording fees or other costs required for recording conveyance instruments.

GENERAL PROVISIONS

1. This Agreement supersedes any prior oral and written Agreements or understandings. This Agreement may be modified only by written amendments.
2. The conditions of this Agreement are binding upon and will inure to the benefit of the successors and legal representatives of Grantor and County and will survive conveyance of the property.
3. Time is of the essence of this Agreement. References to Grantor in this Agreement include all persons who hold title to the property.

(Signature Page to Follow)

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it and agree to be bound by its terms and conditions.

GRANTOR

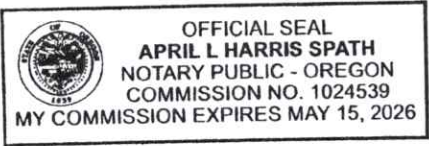
DATED this 30TH day of SEPTEMBER, 2025.

By: *Chris Schull*
Tumalo Irrigation District

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared *Chris Schull*,
and acknowledged the foregoing instrument.

Dated this 30 day of September, 2025.



April L Harris Spath
NOTARY PUBLIC FOR OREGON
My Commission Expires: *May 15, 2026*

DESCHUTES COUNTY, acting by and through its Board of County Commissioners

DATED this ____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE-CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this ____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703

(541) 797-0954

-

www.sflands.com

PROJECT NO.: 2023-059-34

DATE: 3/3/2025

INITIALS: BRR

EXHIBIT 'A'

TAX LOT 1611000010400

PARCEL A: RIGHT-OF-WAY DEDICATION

THAT PORTION OF THE LAND DESCRIBED IN THAT SHERIFF'S DEED TO COUNTY PROPERTY RECORDED APRIL 12, 1932, VOLUME 51, PAGE 122 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 16 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, SAID PORTION BEING SOUTHWEST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 5/8" IRON ROD MARKING THE NORTHEAST CORNER LOT 5, HIGH MOWING FARMS BEARS SOUTH 67°34'00" EAST A DISTANCE OF 59.85 FEET; THENCE NORTH 38°40'49" WEST A DISTANCE OF 46.00 FEET TO A POINT FROM WHICH A 3-1/4" BRASS CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 36 BEARS SOUTH 15°08'15" WEST A DISTANCE OF 60.61 FEET.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF MOCK ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 250 SQUARE FEET, MORE OR LESS.

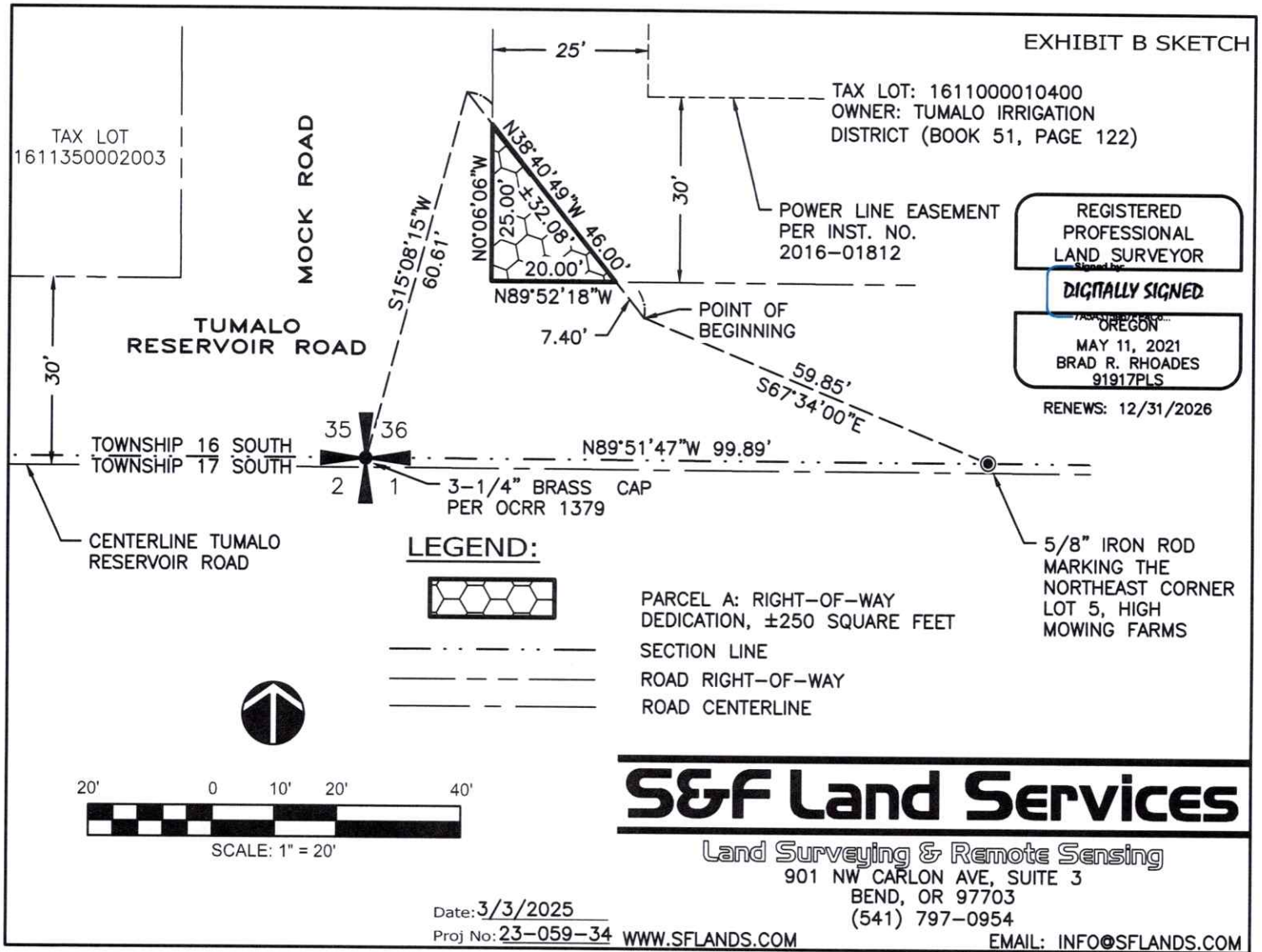
SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).



RENEWES: 12/31/2026

DocuSign Envelope ID: BB2BC535-3848-4EA1-A986-ACEBC756D3D6



REVIEWED

LEGAL COUNSEL

10/15/2025 Item #8.

After recording return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon 97701

For Recording Stamp Only

DEED OF DEDICATION

Tumalo Irrigation District, Grantor, does hereby dedicate to the public for roadway and utility purposes that parcel of land described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is One Thousand Five Hundred and No/100 Dollars (\$1,500.00).

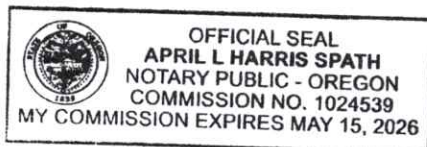
DATED this 30TH day of SEPTEMBER, 2025.

By: Chris Schull
Tumalo Irrigation District

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Chris Schull, and acknowledged the foregoing instrument.

Dated this 30 day of September, 2025.



April L Harris Spath
NOTARY PUBLIC FOR OREGON
My Commission Expires: May 15, 2026

ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Deed of Dedication as a public road pursuant to ORS 93.808.

DATED this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703

(541) 797-0954

–

www.sflands.com

PROJECT NO.: 2023-059-34

DATE: 3/3/2025

INITIALS: BRR

EXHIBIT 'A'

TAX LOT 1611000010400

PARCEL A: RIGHT-OF-WAY DEDICATION

THAT PORTION OF THE LAND DESCRIBED IN THAT SHERIFF'S DEED TO COUNTY PROPERTY RECORDED APRIL 12, 1932, VOLUME 51, PAGE 122 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 16 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, SAID PORTION BEING SOUTHWEST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 5/8" IRON ROD MARKING THE NORTHEAST CORNER LOT 5, HIGH MOWING FARMS BEARS SOUTH 67°34'00" EAST A DISTANCE OF 59.85 FEET; THENCE NORTH 38°40'49" WEST A DISTANCE OF 46.00 FEET TO A POINT FROM WHICH A 3-1/4" BRASS CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 36 BEARS SOUTH 15°08'15" WEST A DISTANCE OF 60.61 FEET.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF MOCK ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN ON EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 250 SQUARE FEET, MORE OR LESS.

SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.

BEARINGS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS).

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Signed by:

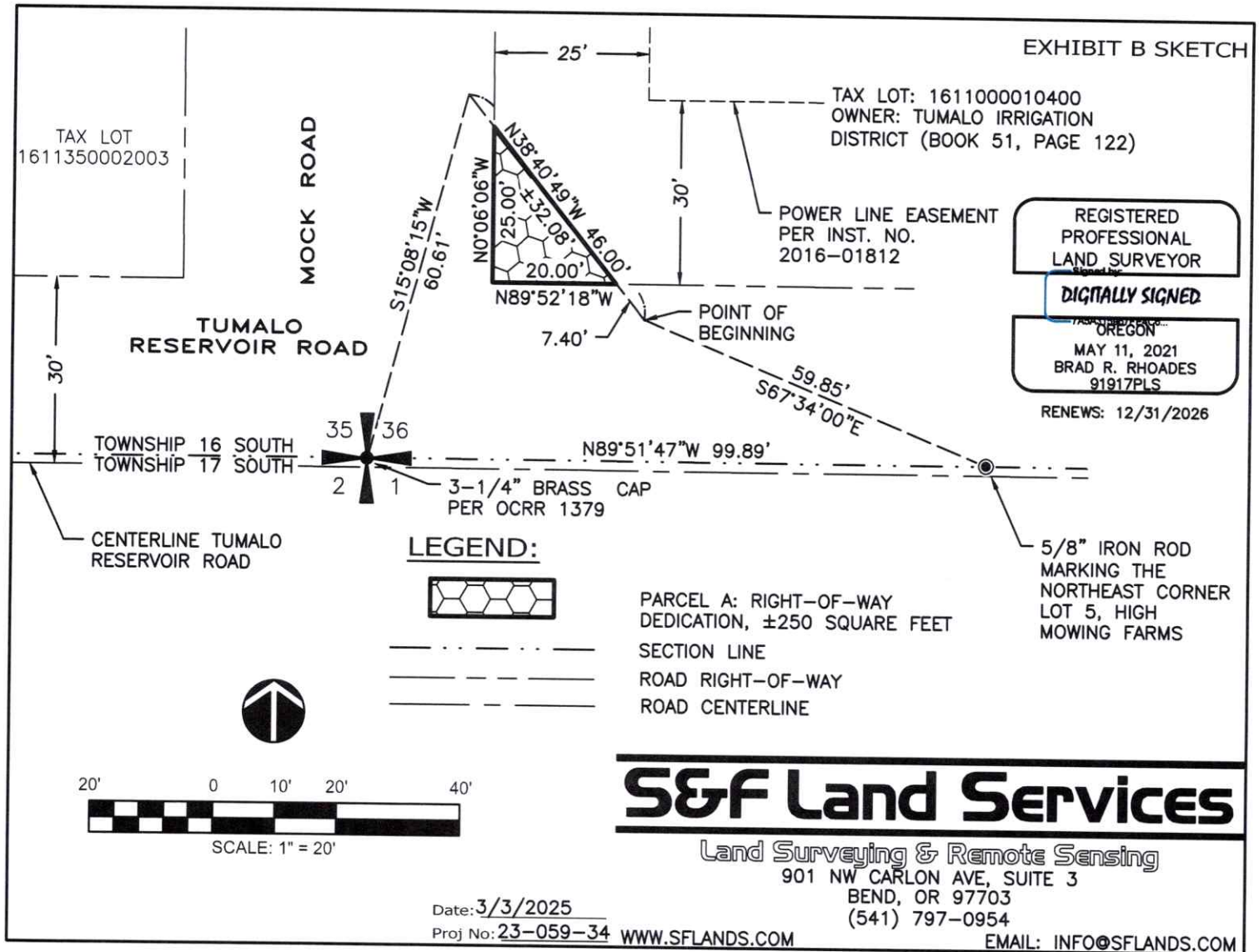
DIGITALLY SIGNED

7A5A315967FE4C6...
OREGON

MAY 11, 2021
BRAD R. RHOADES
91917PLS

RENEWS: 12/31/2026

DocuSign Envelope ID: BB2BC535-3848-4EA1-A986-ACEBC756D3D6





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Approval of Document No. 2025-987, a Purchase Agreement, and Document No. 2025-988, a Dedication Deed, to obtain Right of Way from KRMA Properties, LLC for the Tumalo Reservoir Road Improvement Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-987, a Purchase Agreement, and Document No. 2025-988, a Dedication Deed, to obtain Right of Way from KRMA Properties, LLC for the Tumalo Reservoir Road Improvement Project.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners authorized the Road Department to negotiate with owners of properties impacted by the Tumalo Reservoir Road Improvement project for the acquisition of right of way by Resolution No. 2025-035. During preliminary design of the project, it was determined that a portion of Tax Lot No. 1611340001405, owned by KRMA Properties, LLC, would be impacted by the Project. The Road Department has negotiated with the property owner for right of way acquisition. The property owner has agreed to the following:

Instrument:	Dedication Deed
Area:	±228 sq. ft. (±0.01 acre)
Compensation:	\$750.00
Other Consideration:	None

BUDGET IMPACTS:

The County will make payment to the property owner in the amount of \$750.00, which is budgeted in the Department's Fiscal Year 2026 Road Capital Improvement Plan (Fund 465) budget.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

<div>REVIEWED</div> <div>LEGAL COUNSEL</div> <p>After recording return to: Deschutes County Road Dept. 61150 S.E. 27th Street Bend, Oregon 97701</p>	For Recording Stamp Only
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PURCHASE AGREEMENT
KRMA Properties, LLC an Oregon limited liability company
File No.: 05

THIS AGREEMENT is made and entered into by and between **DESCHUTES COUNTY, OREGON**, a political subdivision of the State of Oregon, ("County"); and **KRMA Properties, LLC an Oregon limited liability company**, ("Grantor"), on the following terms and conditions:

RECITALS

- 1. Tumalo Reservoir Road is part of the County road system under the jurisdiction and control of County.
- 2. County is constructing the Tumalo Reservoir Road Improvement project on Tumalo Reservoir Road. County has identified that the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** is necessary for the Project.
- 3. Grantor is the owner of the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B**.

NOW THEREFORE, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Grantor shall convey to County the real property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** by dedication deed for the total purchase price of **Seven Hundred Fifty and No/100 Dollars (\$750.00)**.
2. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project or three (3) calendar years following the date all required signatures are obtained, whichever is sooner.

GRANTOR OBLIGATIONS

1. Grantor shall provide County with fully signed and executed dedication deed for subject property with this Agreement. Upon receipt of purchase payment, Grantor shall immediately deliver possession of property to County.
2. Grantor makes the following representations:
 - a. Grantor has no notice from any government agency of any violation of law relating to the property.
 - b. The property has never been used for the storage or disposal of hazardous waste materials.
 - c. Grantor is not a "foreign person" as that term is defined in IRS Code Section 1445.
3. If the subject property is subject to any mortgage, deed of trust, land sales contract, or other similar encumbrance, Grantor should review that document to determine whether that document contains any provision under which default may be triggered by the Grantor's signing of this Agreement or any conveyance instrument.
4. Grantor understands that all fences and other improvements that are constructed or reconstructed on real property retained by Grantor pursuant to this Agreement will be the property of Grantor and will be maintained and repaired by the Grantor after completion of the project.
5. Grantor understands that any construction lying outside of the traveled portion and shoulders but within the right of way of the county road which is made for the

use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices.

6. Upon Grantor's execution of dedication deed, Grantor shall remove from the property all personal property, fixtures, and improvements retained by Grantor under the terms of this Agreement. If personal property, fixtures, or improvements are required to be moved, Grantor may be entitled to relocation benefits and assistance which will be provided outside of this Agreement in accordance with the Uniform Relocation Act requirements in conformance with the ODOT Right-of-Way Manual.
7. Grantor understands that this Agreement does not convey any water rights appurtenant to the subject property. If water rights are appurtenant to the subject property, Grantor shall make the necessary arrangements with the applicable irrigation district to transfer water rights to another portion of Grantors property or quit claim water rights back to the appropriate irrigation district prior to Grantor's execution of dedication deed.
8. Grantor acknowledges that performance of County's obligations under this Agreement constitute just and full compensation for the property and any damage to property retained by Grantor.

COUNTY OBLIGATIONS

1. Within thirty (30) calendar days of execution of this Agreement and receipt of fully signed and executed warranty deed, County will deliver payment to Grantor in the amount of **Seven Hundred Fifty and No/100 Dollars (\$750.00)**. County will take immediate possession of property upon delivery of payment.
2. County will be responsible for payment of all recording fees or other costs required for recording conveyance instruments.
3. County will construct, modify, or repair the following improvements:
 - a. Fence – Upon completion of the project, County, State, or their contractor shall reconstruct fence at right of way line, to match existing material/style.
4. County will require that the work listed in Section 3 be done in a reasonable workmanship manner, but County cannot guarantee or warrant the work or

goods provided to Grantor. County disclaims all warranties of merchantability and fitness for any particular purpose, express or implied.

GENERAL PROVISIONS

1. This Agreement supersedes any prior oral and written Agreements or understandings. This Agreement may be modified only by written amendments.
2. The conditions of this Agreement are binding upon and will inure to the benefit of the successors and legal representatives of Grantor and County and will survive conveyance of the property.
3. Time is of the essence of this Agreement. References to Grantor in this Agreement include all persons who hold title to the property.

(Signature Page to Follow)

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it and agree to be bound by its terms and conditions.

GRANTOR

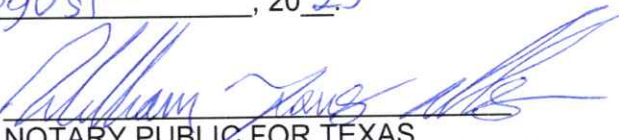
DATED this 27 day of August, 2025.

By: 
KRMA Properties, LLC

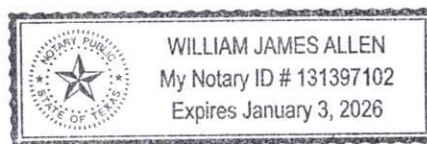
STATE OF TEXAS)
) SS.
County of Travis)

Before me, a Notary Public, personally appeared Jeniece Sanders
who state that (s)he is the owner of KRMA Properties, LLC, an Oregon
limited liability company and acknowledged the foregoing instrument.

Dated this 27th day of August, 2025


NOTARY PUBLIC FOR TEXAS

My Commission Expires: 01/03/2026



DESCHUTES COUNTY, acting by and through its Board of County Commissioners

DATED this ____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE-CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this ____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 - www.sflands.com

PROJECT NO.: 2023-059-34
DATE: 8/14/2025
INITIALS: BRR

EXHIBIT 'A'

TAX LOT 1611340001405

PARCEL A: RIGHT-OF-WAY DEDICATION:

A PORTION OF PARCEL 3, MINOR LAND PARTITION NO. MP-79-62 BEING THAT PROPERTY DESCRIBED IN THAT CERTAIN STATUTORY WARRANTY DEED RECORDED FEBRUARY 18, 2025, INSTRUMENT NUMBER 2025-03630 DESCHUTES COUNTY OFFICIAL RECORDS, SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 16 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, BEING EASTERLY AND PERPENDICULAR TO THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT FROM WHICH A 3-1/4 INCH ALUMINUM CAP SET PER ORGEON CORNER RESTORATION RECORD NO. 0890, DATED NOVEMBER 14, 1988 BEARS SOUTH 62°03'13" EAST A DISTANCE OF 47.74 FEET; THENCE NORTH 00°26'04" WEST, 25.00 FEET

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF PINEHURST ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN IN EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 228 SQUARE FEET, MORE OR LESS.

SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.



RENEWS: 12/31/2026

EXHIBIT B SKETCH

TAX LOT: 1611340001405
OWNER: KRMA PROPERTIES LLC
(INST. NO. 2025-03630)

PARCEL 3
MINOR LAND
PARTITION
MP-79-62

N00°26'04"W
25.00'

±12.00'

6.00'

POINT OF
BEGINNING

S62°03'13"E 47.74'

TUMALO RESERVOIR ROAD

TOWNSHIP 16 SOUTH
TOWNSHIP 17 SOUTH

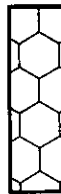
34

3



SCALE: 1" = 20'

LEGEND:



PARCEL A: RIGHT-OF-WAY
DEDICATION ±228 SQUARE FEET

ROAD CENTERLINE

ROAD RIGHT-OF-WAY

SECTION LINE

PINEHURST ROAD

3-1/4" ALUMINUM
CAP PER OCRR
NO. 0890

CENTERLINE TUMALO
RESERVOIR ROAD

S&F Land Services

Land Surveying & Remote Sensing

901 NW CARLON AVE, SUITE 3
BEND, OR 97703
(541) 797-0954

EMAIL: INFO@SFLANDS.COM

Date: 8/14/2025

Proj No: 23-059-24 WWW.SFLANDS.COM

REVIEWED
LEGAL COUNSEL

After recording return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon 97701

For Recording Stamp Only

DEED OF DEDICATION

KRMA Properties, LLC, an Oregon limited liability company, Grantor, does hereby dedicate to the public for roadway and utility purposes that parcel of land described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is Seven Hundred Fifty and No/100 Dollars (\$750.00).

DATED this 27 day of August, 2025

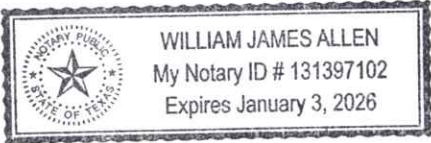
By: [Signature]
KRMA Properties, LLC, an Oregon limited liability company

STATE OF TEXAS)
) SS.
County of Travis)

Before me, a Notary Public, personally appeared Jeniece Sanders who state that (s)he is the owner of KRMA Properties, LLC, an Oregon limited liability company and acknowledged the foregoing instrument.

Dated this 27th day of August, 2025

[Signature]
NOTARY PUBLIC FOR TEXAS
My Commission Expires: 01/03/2026



ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Deed of Dedication as a public road pursuant to ORS 93.808.

DATED this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 20__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

S&F Land Services

901 NW CARLON AVE, OR 97703
(541) 797-0954 - www.sflands.com

PROJECT NO.: 2023-059-34
DATE: 8/14/2025
INITIALS: BRR

EXHIBIT 'A'

TAX LOT 1611340001405

PARCEL A: RIGHT-OF-WAY DEDICATION:

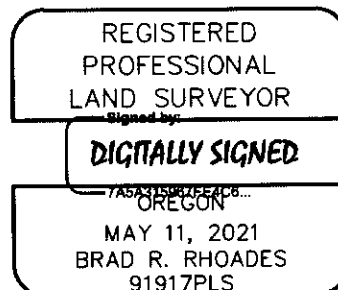
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BEGINNING AT A POINT FROM WHICH A 3-1/4 INCH ALUMINUM CAP SET PER ORGEON CORNER RESTORATION RECORD NO. 0890, DATED NOVEMBER 14, 1988 BEARS SOUTH 62°03'13" EAST A DISTANCE OF 47.74 FEET; THENCE NORTH 00°26'04" WEST, 25.00 FEET

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE RIGHTS-OF-WAY OF PINEHURST ROAD AND TUMALO RESERVOIR ROAD, AS SHOWN IN EXHIBIT B.

HEREIN DESCRIPTION CONTAINS 228 SQUARE FEET, MORE OR LESS.

SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT TO THE LAND.



RENEWS: 12/31/2026

EXHIBIT B SKETCH

TAX LOT: 1611340001405
OWNER: KRMA PROPERTIES LLC
(INST. NO. 2025-03630)

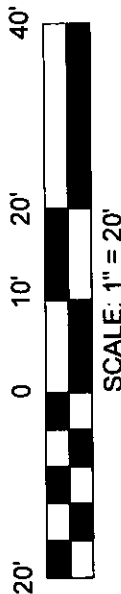
PARCEL 3
MINOR LAND
PARTITION
MP-79-62

REGISTERED
PROFESSIONAL
LAND SURVEYOR

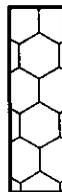
DIGITALLY SIGNED

BRAD R. RHOADES
MAY 11, 2021
91917PLS

RENEWS: 12/31/2026



LEGEND:



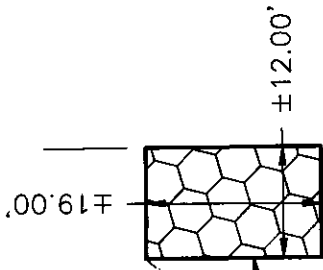
PARCEL A: RIGHT-OF-WAY
DEDICATION ±228 SQUARE FEET

ROAD CENTERLINE

ROAD RIGHT-OF-WAY

SECTION LINE

PINEHURST ROAD



POINT OF
BEGINNING

TUMALO RESERVOIR ROAD

TOWNSHIP 16 SOUTH
TOWNSHIP 17 SOUTH

34
3

3-1/4" ALUMINUM
CAP PER OCRR
NO. 0890

CENTERLINE TUMALO
RESERVOIR ROAD

S&F Land Services

Land Surveying & Remote Sensing

901 NW CARLON AVE, SUITE 3
BEND, OR 97703
(541) 797-0954

EMAIL: INFO@SFLANDS.COM

Date: 8/14/2025

Proj No: 23-059-24

WWW.SFLANDS.COM



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Acceptance of grant funds for Behavioral Health Deflection Program

RECOMMENDED MOTIONS:

Move approval of Document No. 2025-989 accepting \$311,908 in grant funds awarded by the Oregon Criminal Justice Commission for the Behavioral Health Deflection Program.

BACKGROUND AND POLICY IMPLICATIONS:

State of Oregon House Bill (HB) 4002 created a new misdemeanor for possession of a controlled substance. HB 4002 offers pathways to expungement, dismissal, or no charges filed, and encourages district attorneys and law enforcement to divert a person, in lieu of arrest or prosecution, to a deflection program. A deflection program is a collaborative effort between law enforcement agencies and behavioral health systems that strives to aid individuals in receiving treatment, recovery support services, housing, case management, and/or other services.

Collaborating with community partners, Deschutes County Sheriff's Office started the deflection program in September of 2024. This program is being fully supported by BHD grant funding. On August 13, 2025 the Board of County Commissioners gave approval to apply for both phase 1 and 2 of the BHD grant. This is acceptance of phase 1 funding. The application for phase 2 has not been finalized yet. Phase 2 application process will begin in October with the expectation of an award in December.

BUDGET IMPACTS:

The \$311,908 in revenue is included in the FY26 adopted budget.

ATTENDANCE:

Captain Michael Shults, DCSO

Jeff Price, DCSO Business Manager

BHD-27-06 GRANT AGREEMENT
CRIMINAL JUSTICE COMMISSION
BEHAVIORAL HEALTH DEFLECTION PROGRAM

Agreement Number: BHD-27-06

This grant agreement (“Agreement”), dated as of the date the Agreement is fully executed, is between the State of Oregon, acting through its Oregon Criminal Justice Commission (“CJC” or “State”), and **Deschutes County** (“Recipient”). This Agreement becomes effective only when fully signed and approved as required by applicable law (“Effective Date”). Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire **November 30, 2027**.

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: Contact Information, Project Description and Reporting Requirements

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedent shall control. The precedence each of the following documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits; Exhibit A.

SECTION 1: KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Grant Amount: \$311,908.00

Completion Deadline: August 31, 2027

SECTION 2: FINANCIAL ASSISTANCE

CJC shall provide Recipient, and Recipient shall accept from CJC, a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount.

CJC’s obligations are subject to the receipt of the following items, in form and substance satisfactory to CJC and its Counsel:

- (1) This Agreement duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, and information as CJC may reasonably require.

SECTION 3: DISBURSEMENT

A. Disbursement. Upon execution of this Agreement and satisfaction of all conditions precedent, CJC shall disburse Grant funds to Recipient in installments as listed:

- (1) \$311,908.00 by October 31, 2025.

B. Conditions to Disbursements.

- (1) CJC has no obligation to disburse Grant funds unless:

- i. CJC has sufficient funds currently available for this Agreement;
 - ii. CJC has received appropriations, limitations, allotments or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to make payment. Notwithstanding any other provision of this Agreement, CJC's determination not to disburse funds due to lack of appropriations, allotments, or expenditure authority will not constitute an Event of Default; and
 - iii. Recipient is in compliance with the terms of this Agreement.
- (2) CJC may amend this Agreement to remove the final disbursement of Grant funds in subsection A of this section if Recipient has not expended at least 60 percent of the Grant Amount by December 31, 2026. Notwithstanding any other provision of this Agreement, CJC's determination not to disburse funds under this subsection will not constitute an Event of Default.

SECTION 4: USE OF GRANT

As more particularly described in Exhibit A, Recipient will use the Grant to fund Behavioral Health Deflection programs (the "Project"). Recipient may only use Grant funds to cover reasonable and necessary Project costs incurred by Recipient during the period beginning July 1, 2025, and ending on the Completion Deadline, and that are allocable thereto and that are not excluded by CJC as set forth in the *Grant Administration Guide* published by CJC ("Eligible Costs"). Recipient must expend the entire Grant Amount on Eligible Costs. Such expenditure must occur no later than the Completion Deadline.

SECTION 5: REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to CJC as follows:

A. Organization and Authority.

- (1) Recipient is validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to execute and deliver this Agreement and incur and perform its obligations under this Agreement.
- (3) This Agreement has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.
- (4) This Agreement has been duly executed by Recipient, and when executed by CJC, is legal, valid and binding, and enforceable in accordance with this Agreement's terms.

B. Full Disclosure. Recipient has disclosed in writing to CJC all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Agreement. Recipient has made no false statements of fact, nor omitted information necessary to prevent any statements from being misleading. The information contained in this Agreement, including Exhibit A, is true and accurate in all respects.

C. Pending Litigation. Recipient has disclosed in writing to CJC all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would

materially adversely affect the Grant or the ability of Recipient to perform all obligations required by this Agreement.

SECTION 6: COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify CJC of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Agreement.
- B. Compliance with Laws.
 - (1) Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.
 - (2) Recipient is responsible for all federal or state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant.
- C. Worker's Compensation Insurance. All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subcontractors and subrecipients complies with these requirements.
- D. Return of Unexpended Grant Funds. Any Grant funds disbursed to Recipient under this Agreement that remain unexpended on the earlier of termination of this Agreement, completion of the Project, or the Completion Deadline, must be returned to CJC. Recipient shall return all unexpended Grant funds to CJC within 30 days after the earlier of termination of this Agreement, completion of the Project, or the Completion Deadline.
- E. Financial Records. Recipient will cooperate with CJC to provide all necessary financial information and records to comply with reporting required in Exhibit A. Recipient will keep proper books of account and records on all activities associated with the Grant, including, but not limited to, invoices, cancelled checks, payroll records, instruments, agreements and other supporting financial records documenting the use of the Grant. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles. Recipient will retain these books of account and records until six years after the Completion Deadline or the date that all disputes, if any, arising under this Agreement have been resolved, whichever is later.
- F. Inspection. Recipient shall permit CJC, and any party designated by CJC, the Oregon Secretary of State's Office, and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the administration of this Agreement. Recipient shall supply any Agreement-related information as CJC may reasonably require, with the exception of materials protected by attorney-client privilege or the attorney work product doctrine. Further, Recipient shall neither supply, nor permit inspection of, (1) any information protected by HIPAA, ORS 192.553, or related regulations or rules, or (2) the

personnel files of Recipient's employees, absent appropriate confidentiality protections, including exemption from disclosure under the Public Records Law, ORS ch. 192.

G. Notice of Event of Default. Recipient shall give CJC prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.

H. Recipient Subagreements, Insurance and Procurements.

(1) Subagreements. Recipient may enter into agreements with subcontractors and subrecipients ("Subagreements") for implementation of portions of the Project. Recipient shall notify CJC of each Subagreement and provide CJC with a copy of a Subagreement upon request by CJC. Any material breach of a term or condition of a Subagreement relating to Grant funds provided under this Agreement must be reported by Recipient to CJC within ten (10) days of its discovery.

(2) Subagreement indemnity.

Each Recipient Subagreement shall require each other party to such Subagreement, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to indemnify, defend, save and hold harmless the CJC and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to the Subagreement or any of such party's officers, agents, employees or contractors ("Claims"). It is the specific intention of the Parties that CJC shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CJC, be indemnified by the other party to the Subagreement from and against any and all Claims.

Any such indemnification shall also provide that neither the other party to such Subagreement nor any attorney engaged by such party shall defend a Claim in the name of the State of Oregon or an agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that the other party to such Subagreement is prohibited from defending State or that such other party is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against the other party to such Subagreement if State elects to assume its own defense.

(3) Insurance.

Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by similar entities engaged in similar activities. Upon request, Recipient shall provide to CJC a Certificate(s) of Insurance required under this Agreement

or, as applicable, require each subrecipient to, upon request, provide to CJC a Certificate(s) of Insurance required under this Agreement. Nothing in this provision precludes Recipient from exerting a defense against any party other than CJC, including a defense of immunity.

(4) Procurements.

Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.

SECTION 7: DEFAULT

A. Recipient Default. Any of the following constitutes an “Event of Default” of Recipient:

- (1) Misleading Statement. Any materially false or misleading representation is made by Recipient or a person authorized to speak on its behalf, in this Agreement or in any document provided by Recipient related to this Grant.
- (2) Failure to Perform. Recipient fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement, other than those referred to in subsection (1) of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by CJC. CJC may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action. Acts or omissions of subgrantees shall not constitute an Event of Default unless ratified or knowingly induced by Recipient.

B. CJC Default. CJC will be in default under this Agreement if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 8: REMEDIES

A. CJC Remedies. Upon the occurrence of an Event of Default, CJC may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of CJC’s obligations to provide Grant funds or further disbursements, return of all or a portion of the Grant Amount, payment of interest earned on the Grant Amount, and declaration of ineligibility for the receipt of future awards from CJC. If, because of an Event of Default, CJC demands return of all or a portion of the Grant Amount or payment of interest earned on the Grant Amount, Recipient shall pay the amount upon CJC’s demand.

CJC may also recover all or a portion of any amount due from Recipient by deducting that amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law.

CJC reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.

B. Recipient Remedies. In the event of default by CJC, Recipient’s sole remedy will be for disbursement of Grant funds for Eligible Costs of the Project, not to exceed the total Grant Amount, less any claims CJC has against Recipient.

SECTION 9: TERMINATION

- A. Mutual Termination. This Agreement may be terminated at any time by mutual written consent of the parties.
- B. Termination by CJC. In addition to terminating this Agreement upon an Event of Default as provided in Section 8, CJC may terminate this Agreement with notice to Recipient under any of the following circumstances:
- (1) If CJC anticipates a shortfall in applicable revenues or CJC fails to receive sufficient funding, appropriations or other expenditure authorizations to allow CJC, in its reasonable discretion, to continue making payments under this Agreement.
 - (2) There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.
- C. Termination by Recipient. Recipient may terminate this Agreement with notice to CJC under any of the following circumstances:
- (1) After conferring with CJC, Recipient has determined that the requisite local funding to continue the Project is unavailable to Recipient or Recipient is unable to continue implementation of the Project as a result of circumstances not reasonably anticipated by Recipient at the time it executed this Agreement and that are beyond Recipient's reasonable control.
 - (2) There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.

SECTION 10: MISCELLANEOUS

- A. Contribution.
- (1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against CJC or Recipient relating to this Agreement or the Project and with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's contribution obligation with respect to the Third Party Claim.
 - (2) With respect to a Third Party Claim for which CJC is jointly liable with Recipient (or would be if joined in the Third Party Claim), CJC shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the CJC on the one hand and of Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative

fault of CJC on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. CJC's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if CJC had sole liability in the proceeding.

- (3) With respect to a Third Party Claim for which Recipient is jointly liable with CJC (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by CJC in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of CJC on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of CJC on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- B. No Implied Waiver. No failure or delay on the part of CJC to exercise any right, power, or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- C. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- D. Notices and Communication. Except as otherwise expressly provided in this Agreement, any communication between the parties or notices required or permitted must be given in writing

by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or CJC at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

- E. Amendments. This Agreement may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- F. Work Product. To the extent it has the necessary rights, Recipient hereby grants to CJC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Recipient shall deliver copies of Work Product to CJC upon request. In addition, if applicable law requires that CJC own such intellectual property, then Recipient shall execute such further documents and instruments as CJC may reasonably request in order to assign ownership in the intellectual property to CJC.
- G. Independent Contractor. Recipient shall implement the Project as an independent contractor and not as an agent or employee of CJC. Recipient has no right or authority to incur or create any obligation for or legally bind CJC in any way. CJC cannot and will not control the means or manner by which Recipient implements the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of implementing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of CJC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- H. Severability. If any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- I. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of CJC, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of CJC.
- J. Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- K. Integration. This Agreement (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Agreement.
- L. No Third-Party Beneficiaries. CJC and Recipient are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such

third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. Notwithstanding the foregoing, CJC acknowledges, agrees, and intends that Recipient will expend the Grant consistent with the Project.

- M. Survival. The following provisions, including this one, survive expiration or termination of this Agreement: Sections 6.D through 6.F, 7, 8, 10.A, 10.C, 10.D, and 10.O.
- N. Time is of the Essence. The parties agree that time is of the essence under this Agreement.
- O. Public Records. CJC's obligations under this Agreement are subject to the Oregon Public Records Laws.

The signatures of the parties follow on the next page.

Recipient, by its signature below, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Criminal Justice Commission

DESCHUTES COUNTY

By: Ryan Keck
Ryan Keck, Interim Executive Director

By: _____

Date: 9/30/2025

Date: _____

Approved as to Legal Sufficiency in accordance with ORS 291.047:

Approved by email dated 9/25/2025

Nina Englander, Senior Assistant Attorney General

EXHIBIT A: CONTACT INFORMATION, PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Contact Information:

CJC

State of Oregon, acting by and through
its Criminal Justice Commission

Grant Administrator: Kaysea Beck

Telephone: (503) 602-0640

Email: kaysea.beck@cj.c.oregon.gov

Recipient

Deschutes County
63333 West Hwy 20
Bend, OR 97703

Contact: Michael Shults

Telephone: (541) 617-3387

Email: michael.shults@deschutes.org

Project Description:

Pursuant to House Bill 3069 (2025), the Oregon Behavioral Health Deflection Program supports Oregon's federally recognized tribal governments and counties in the operation of "deflection programs," defined as **a collaborative program between law enforcement agencies and behavioral health entities or community-based social services organizations** that assist individuals who may have substance use disorder, another behavioral health disorder or co-occurring disorders, and who often have other service needs, **to create community-based pathways to treatment, recovery support services, housing, case management or other services.**

The purposes of CJC's Behavioral Health Deflection Program include:

- Addressing the need for more deflection programs to assist individuals whose behavioral health conditions, including substance use disorder, and other service needs lead to a heightened likelihood of interactions with law enforcement, incarceration, conviction and other engagement with the criminal justice system; and
- Tracking and reporting data concerning deflection program outcomes in order to determine the best practices for deflection programs in Oregon.

The Grant requires the Recipient to:

- Have a program coordinator responsible for the duties outlined in HB 3069 (2025), Section 8(5)(b);
- Involve the partners described in HB 3069 (2025), Section 8(4)(c); and
- Comply with the CJC's data tracking and reporting requirements.

Recipient shall use Grant funds to create community-based pathways to treatment or other services, adhere to the requirements set forth in HB 3069, and work toward the purposes stated above. Specifically, Recipient shall use Grant funds to operate the following deflection referral pathways to client assessment and case management: Self-Referral, Active Outreach, Naloxone Plus, Officer Prevention, Officer Intervention, and Community Response.

Project Period:

Start Date: July 1, 2025

End Date: August 31, 2027

Reporting Requirements:Schedule

Recipient must submit to CJC quarterly expenditure reports beginning January 25, 2026, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Deadline.

Recipient must submit to CJC semi-annual progress reports on January 25 and July 25 of each year of the Project Period.

Recipient must submit to CJC's research partners data reports on a monthly, rolling basis, beginning July 1, 2025, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Deadline.

Recipient must receive prior approval from CJC to submit any required report after its due date.

Report Contents

Required reports must be submitted through CJC's grant administration system and the Research Electronic Data Capture (REDCap) data collection portal, respectively, and contain all the requested information.

1. CJC Quarterly Expenditure Report (<https://cjc-grants.smapply.io>)
 - a. Grant Funds spent during the prior calendar quarter, with brief description; and
 - b. Any quarterly information on the Project as CJC may reasonably request.
2. CJC Semi-Annual Progress Report (<https://cjc-grants.smapply.io>)
 - a. In a narrative fashion, Recipient's progress in meeting the Project's objectives during the six-month period preceding the report date, and remedial actions necessary if those objectives have not been met in any respect.
3. REDCap Monthly Data Report
 - a. Deidentified data on program participants enrolled, engaged, or served during the prior calendar month; and
 - b. Any monthly information on the Project as CJC may reasonably request.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Allocate funds to support homeless initiatives

RECOMMENDED MOTION:

Move approval of allocating funds for homeless initiative projects as follows:

- 1) Reallocated ARPA funds of \$567,963;
- 2) Unused Economic Development funds of \$150,000; and
- 3) Project Development funds from Fund 090 of \$156,156.

BACKGROUND AND POLICY IMPLICATIONS:

The Homeless Initiatives Funding matrix outlines current homeless initiatives, current fiscal year project costs, partner contributions, funding gaps, requested allocations to cover funding gaps, and rough estimated project costs through fiscal year 2028.

Staff are requesting allocation of funds to support initiatives including,

- 1) Reallocated ARPA funds of \$567,963
- 2) Unused Economic Development funds of \$150,000
- 3) Project Development funds from Fund 090 of \$156,156

Reallocated APRA funds of \$567,963 were previously earmarked for homeless initiatives and staff is seeking approval to use these funds for identified homeless projects budgeted in the Project Development Fund (Fund 090). These funds in addition to the \$150,000 from the Economic Development Fund (Fund 050) will provide necessary funding to preserve funds within Fund 090 for future strategic development projects or ongoing homeless initiatives.

BUDGET IMPACTS:

The Economic Development Fund (Fund 050) has a balance of approximately \$369,000. EDCO has indicated they will utilize approximately \$95,000 of these funds. If the \$150,000 transfer to the Project Development Fund (Fund 090) is approved, any remaining funds would be transferred to the General Fund and Fund 050 closed.

If approved, a budget adjustment to allow Fund 050 and the General Fund to transfer funds to Fund 090 would be forthcoming.

ATTENDANCE:

Erik Kropp – Deputy County Administrator

Kristie Bollinger – County Property Management

Cam Sparks – Budget and Financial Planning Manager

Laura Skundrick – Management Analyst

Deschutes County
Homeless Initiatives - Funding
10.15.25

	FY2026 Budgeted/Projected Costs	Funding Sources				Funding Gap	Requested Reallocated ARPA	Requested Econ Dev Funds	Remainder Funded by Property Development (Fund 090)	Est Budget FY 2027	Est Budget FY 2028
		General Fund (Fund 001)	City of Bend (Reimbursement)	City of Redmond (Reimbursement)	Approved Reallocated ARPA						
TSSA:											
Operations, cleanup, etc.	\$ 527,000		\$ 100,000			\$ 427,000	\$ 427,000	\$ -	\$ -	\$ 400,000	\$ -
Case Management											
County contribution to COID fence project	30,000					30,000			30,000		
East Redmond Managed Camp:											
Development (Taylor NW - Lowest Bid)	676,119			250,000	281,000	145,119	140,963	-	4,156		
Operations	111,000				111,000	-	-	-	-	250,000	150,000
Case Management	TBD									TBD	TBD
Pending DSL Land Transfer:											
Cleanup, relocations, etc.	272,000					272,000	-	150,000	122,000	150,000	-
Veterans Village:											
Operations	100,000	100,000				-	-	-	-	100,000	100,000
Total Operations	738,000	100,000	100,000	-	111,000	427,000	427,000	-	-	750,000	250,000
Total Development	676,119	-	-	250,000	281,000	145,119	140,963	-	4,156	-	-
Total Other	302,000	-	-	-	-	302,000	-	150,000	152,000	150,000	-
Total	\$ 1,716,119	\$ 100,000	\$ 100,000	\$ 250,000	\$ 392,000	\$ 874,119	\$ 567,963	\$ 150,000	\$ 156,156	\$ 900,000	\$ 250,000

Notes:

- 1) BOCC has approved Reallocated ARPA funds of \$281K for development of east Redmond managed camp and \$511K for two years of operations for a total of \$792K
- 4) NW Taylor's bid of \$676,119 to construct the East Redmond Managed Camp is higher than the original budgeted estimate of \$531K
- 2) Additional costs will apply to close or extend TSSA
- 3) Additional costs will apply to install signage on select County-owned property to limit to "Day Use Only"
- 5) Without additional funding from the City of Redmond or other funding sources, Deschutes County would need to fund an estimated minimum of ~\$910K from FY26 thru FY28 (this assumes ARPA and EDCO funds are allocated to these projects)



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Notice of Intent to Award a contract to Taylor NW LLC to construct the Deschutes County East Redmond Managed Camp

RECOMMENDED MOTION:

Move approval of Document No. 2025-977, a Notice of Intent to Award a contract to Taylor NW LLC to construct the Deschutes County East Redmond Managed Camp.

BACKGROUND AND POLICY IMPLICATIONS:

In August 2025, Deschutes County and the City of Redmond executed an intergovernmental agreement (IGA) to develop a managed camp in East Redmond, which will provide an authorized location for identified individuals that are seeking a path out of homelessness.

A project team consisting of County and City elected officials and staff, community service providers, and H.A. McCoy Engineering & Surveying completed the design of a 36-unit managed camp. The East Redmond Managed Camp will feature perimeter fencing, 50'x30' graveled camp spaces with picnic tables, centralized power and water, cooking area, portable restrooms and handwashing stations, storage, and dumpsters. The design includes designated areas for up to four yurts for onsite hosts and/or onsite managers, visitor parking, and an RV space for use by service providers.

The Invitation to Bid for Construction Services-Deschutes County East Redmond Managed Camp, was issued on Wednesday, August 20, 2025 and closed at 2:00 pm on Thursday, September 18, 2025. A mandatory pre-bid meeting was held on Friday, August 29, 2025.

The Invitation to Bid was advertised on the Deschutes County website August 20, 2025, the Daily Journal of Commerce on August 20, 2025 and August 22, 2025, and the Bend Bulletin on August 20, 2025, August 21, 2025, and August 24, 2025.

County Property Management held a public bid opening and reviewed bids on Friday, September 18, 2025.

Six bids were submitted, as follows:

Results of Invitation to Bid Issued Wednesday, August 20, 2025 Closed Thursday, September 18, 2025	
Construction Services Deschutes County East Redmond Managed Camp	
Contractors	Bid Amount
Taylor NW LLC (<i>lowest bid</i>)	\$676,118.75
Rickabaugh Construction LLC	\$752,056.50
Tim Bloom Construction Inc.	\$837,657.00
Robinson & Owen Heavy Construction Inc.	\$915,957.77
JAL Construction Inc.	\$946,475.00
BDL Plumbing LLC	\$958,920.00

This action issues a Notice of Intent to Award the contract to the apparent low bidder, Taylor NW LLC, and allows seven days for concerned parties to protest the award. If there is no protest within the seven-day period, the contract will be awarded to the apparent low bidder.

BUDGET IMPACTS:

Original estimate included in the Fiscal Year 2026 Adopted budget is \$531,000. Reallocated ARPA funds in the amount of \$281,000 have been approved for the project and the City of Redmond has pledged \$250,000. The unfunded amount is \$145,119. Staff will be requesting approval to use additional recategorized ARPA funds earmarked for homelessness for a portion of the difference. Additionally, per the aforementioned IGA with the City of Redmond, the agencies agreed to discuss and collectively resolve how to fund any shortfall.

ATTENDANCE:

Erik Kropp – Deputy County Administrator

Kristie Bollinger – County Property Manager

Hayes McCoy – Owner, H.A. McCoy Engineering & Surveying



BOARD OF COUNTY COMMISSIONERS

October 15, 2025

NOTICE OF INTENT TO AWARD CONTRACT

Construction Services for the
Deschutes County East Redmond Managed Camp

Taylor NW LLC:

On October 15, 2025, the Board of County Commissioners of Deschutes County, Oregon, considered bids for the above-referenced project. The Board of County Commissioners determined that the successful bidder for the project was Taylor NW LLC, with a bid amount of Six-Hundred Seventy-Six Thousand One Hundred Eighteen Dollars and Seventy-Five Cents (\$676,118.75).

This Notice of Intent to Award Contract is issued pursuant to Oregon Revised Statute (ORS) 279C.375. Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice may submit a written protest within seven (7) calendar days after the issuance of this Notice of Intent to Award Contract to the Board of County Commissioners of Deschutes County, Oregon located at the Deschutes Services Building, 1300 NW Wall Street, Bend Oregon, 97703. **The seven (7) calendar day protest period will expire at 5:00 PM on Wednesday, October 22, 2025.**

Any protest must be in writing and specify any grounds upon which the protest is based. Please refer to Oregon Administrative Rules (OAR) 137-049-0450. If a protest is filed within the protest period, a hearing will be held at a regularly-scheduled business meeting of the Board of County Commissioners of Deschutes County, Oregon, acting as the Contract Review Board, at the Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703 within two (2) weeks of the end of the protest period.

If no protest is filed within the protest period, this Notice of Intent to Award Contract becomes an Award of Contract without further action by the County unless the Board of County Commissioners, for good cause, rescinds this Notice before the expiration of the protest period.

If you have any questions regarding this Notice of Intent to Award Contract or the procedures under which the County is proceeding, please contact Deschutes County Legal Counsel: Phone 541-388-6625, Fax 541-383-0496, or email david.doyle@deschutes.org.

Be advised that if no protest is received within the stated time period, the County is authorized to process the contract administratively.

BOARD OF COUNTY COMMISSIONERS
DESCHUTES COUNTY, OREGON

Anthony DeBone, Chair

Copy of Notice of Intent to Award Contract to:

Taylor NW LLC
18500 Bull Springs Road
Bend, OR 97703

Rickabaugh Construction
3480 SW Empire Drive
Prineville, OR 97754

BDL Plumbing, LLC
301 NE Curtis Drive
Corbett, OR 97019

Robinson & Owen Heavy Construction, Inc.
PO Box 267
Sisters, OR 97759

JAL Construction, Inc.
PO Box 6269
Bend, OR 97708

Tim Bloom Construction, Inc.
1842 SE 1st Street, Unit D
Redmond, OR 97756



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Second Reading: Farm and Forest Housekeeping Amendments

RECOMMENDED MOTIONS:

1. Move approval of second reading of Ordinance No. 2025-016 by title only.
2. Move adoption of Ordinance No. 2025-016.

BACKGROUND AND POLICY IMPLICATIONS:

On October 15, 2025, staff will present Ordinance No. 2025-016 to the Board for consideration of second reading. The Board held a public hearing on September 10, 2025, to consider text amendments to integrate changes to state rule, resulting from the state's Farm and Forest Modernization Project, into local code (File no. 247-25-000297-TA). First reading was conducted on October 1, 2025.

BUDGET IMPACTS:

None

ATTENDANCE:

Nicole Mardell, AICP, Senior Planner



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners

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

DATE: October 8, 2025

SUBJECT: Consideration of Second Reading: Farm and Forest Housekeeping Amendments

On October 15, 2025, staff will present Ordinance No. 2025-016 to the Board of County Commissioners (Board) for consideration of second reading. The Board conducted a public hearing on September 10, 2025, to consider text amendments to integrate changes to state rule, resulting from the state's Farm and Forest Modernization Project, into local code (File no. 247-25-000297-TA). On October 1, 2025, the Board voted to adopt the proposed package with minor amendments presented by staff and conducted first reading of the ordinance.

Staff submitted a 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on May 14, 2025. An initial public hearing was held before the Planning Commission on June 26, 2025¹. No testimony was received, and the Commission voted unanimously to recommend approval of the amendments.

All record materials can be found on the project website: bit.ly/farmforesthouskeeping.

I. AMENDMENT SUMMARY

To comply with this rulemaking package, staff is proposing the following amendments:

- Amend 18.16.040(A) to apply farm impacts test through reference to ORS and OAR.
- Amend 18.16.042(A) 'incidental and subordinate' definition for agri-tourism.
- Amend 18.16.030(Y) to include ORS and OAR references for rural transportation facilities in Exclusive Farm Use (EFU) zone.
- Add rural transportation facilities as 18.36.030(AE) and 18.40.030(AG) in forest zones and include ORS and OAR references.

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-68>

- Amend 18.16.031(D), 18.36.030(G), and 18.40.030(H) to reference ORS and OAR definition for private parks.
- Amend 18.16.020(J), 18.36.020(M), and 18.40.020(M) to reference ORS and OAR standards for replacement dwellings. Removed sections 18.16.023, 18.36.025, and 18.40.025 as they were duplicative.
- Amend 18.04 to reference ORS and OAR for definition of “farm use”.
- Amend 18.16.050(A)(3)(f), 18.16.050(B)(8), and 18.16.050(C)(5) to reflect new requirements for verification of income associated with farmworker and primary farm dwellings.
- Amend 18.16.038(C) to reference ORS and OAR standards for farm stands.
- Amend 18.16.030(M), 18.36.030(R), and 18.40.030(S) to reference ORS and OAR standards for home occupations.
- Amend 18.36.050(D)(1)(d)(1) and 18.40.050(D)(1)(d)(1) to remove a temporary provision for template dwellings that has sunset.
- Amend 18.16.031(D), 18.16.030(G), 18.36.030(G), and 18.40.030(H) to directly reference requirements for campgrounds in OAR and ORS. Removed 18.16.050(L) as no longer needed.
- Amend 18.04 to amend the definition for a processing facility for farm crops to include rabbit products.
- Amend 18.16.033(C) as it is duplicative and superseded by 18.120.010(B), pertaining to expansion of nonconforming schools.

Staff included only housekeeping style amendments resulting from rulemaking in this particular text amendment package. Additional discretionary amendments related to childcare, temporary storage sites, and natural disaster event allowances may be pursued in future amendment processes.

II. NEXT STEPS

The ordinance will become effective approximately 90 days following the second reading.

Attachments:

Ordinance No. 2025-016 and Corresponding Exhibits

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending the Deschutes County Code *
 Title 18, Zoning Ordinance Relating to Farm and *
 Forest Modernization Rulemaking. *
 *

ORDINANCE NO. 2025-016

WHEREAS, the Deschutes County Community Development Department (“CDD”) initiated amendments (Planning Division File No. 247-25-000297-TA) to the Deschutes County Code (“DCC”) Chapter 18.04 – Definitions, 18.16 – Exclusive Farm Use Zone, Chapter 18.36 – Forest Use Zone; F-1, Chapter 18.40 – Forest Use Zone; F-2; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on June 26, 2025, and forwarded to the Deschutes County Board of County Commissioners (“Board”) a unanimous recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on September 10, 2025, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Title 18; now, therefore,

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

Section 1. AMENDING. Chapter 18.04, Definitions, is amended to read as described in Exhibit “A” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDING. Chapter 18.16, Exclusive Farm Use Zone, is amended to read as described in Exhibit “B” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 3. AMENDING. Deschutes County Code Chapter 18.36, Forest Use Zone; F-1, is amended to read as described in Exhibit “C”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 4. AMENDING. Deschutes County Code Chapter 18.40, Forest Use Zone; F-2, is amended to read as described in Exhibit “D”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 5. FINDINGS. The Board adopts as its findings Exhibit “E,” attached and incorporated by reference herein.

Dated this _____ of _____, 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHILIP CHANG, Commissioner

Date of 1st Reading: _____ day of _____, 2025.

Date of 2nd Reading: _____ day of _____, 2025.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	___	___	___	___
Patti Adair	___	___	___	___
Philip Chang	___	___	___	___

Effective date: _____ day of _____, 2025.

Exhibit A to Ordinance 2025-016

CHAPTER 18.04 TITLE, PURPOSE AND DEFINITIONS18.04.010 Title18.04.020 Purpose18.04.030 Definitions

...

18.04.030 Definitions

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030, or, where such words and phrases are defined in applicable Oregon Revised Statutes (ORS) and/or Oregon Administrative Rules (OAR), as defined therein. If there is any conflict between the definitions set forth in DCC 18.04.030 and the definitions of the same words and phrases in applicable ORS and/or OAR, the definitions in ORS and/or OAR shall prevail.

...

"Facility for the processing of farm products" means a facility for:

- A. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
- B. Slaughtering, processing or selling poultry, ~~or poultry products,~~ rabbits, or rabbit products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).

...

~~"Farm use" has the meaning given in ORS 215.203 and OAR 660-033-0020. means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm Use" also includes the current employment of the land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to, providing riding lessons, training clinics and schooling shows. "Farm use" also~~

~~includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described above. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3). Current employment of the land for farm use also includes those uses listed under ORS 215.203(2)(b).~~

...

(Ord. Chapter 18.04 35 (04/2015); Ord. 88-050 §3, 1988)

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [82-013](#) §1 on 5/25/1982

Amended by Ord. [83-037](#) §2 on 6/1/1983

Amended by Ord. [83-033](#) §1 on 6/15/1983

Amended by Ord. [84-023](#) §1 on 8/1/1984

Amended by Ord. [85-002](#) §2 on 2/13/1985

Amended by Ord. [86-032](#) §1 on 4/2/1986

Amended by Ord. [86-018](#) §1 on 6/30/1986

Amended by Ord. [86-054](#) §1 on 6/30/1986

Amended by Ord. [86-056](#) §2 on 6/30/1986

Amended by Ord. [87-015](#) §1 on 6/10/1987

Amended by Ord. [88-009](#) §1 on 3/30/1988

Amended by Ord. [88-030](#) §3 on 8/17/1988

Amended by Ord. [89-004](#) §1 on 3/24/1989

Amended by Ord. [89-009](#) §2 on 11/29/1989

Amended by Ord. [90-014](#) §2 on 7/12/1990

Amended by Ord. [91-002](#) §11 on 2/6/1991

Amended by Ord. [91-005](#) §1 on 3/4/1991

Amended by Ord. [92-025](#) §1 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§3 and 4 on 9/30/1991

Amended by Ord. [92-004](#) §§1 and 2 on 2/7/1992

Amended by Ord. [92-034](#) §1 on 4/8/1992

Amended by Ord. [92-065](#) §§1 and 2 on 11/25/1992

Amended by Ord. [92-066](#) §1 on 11/25/1992

Amended by Ord. [93-002](#) §§1, 2 and 3 on 2/3/1993
Amended by Ord. [93-005](#) §§1 and 2 on 4/21/1993
Amended by Ord. [93-038](#) §1 on 7/28/1993
Amended by Ord. [93-043](#) §§1, 1A and 1B on 8/25/1993
Amended by Ord. [94-001](#) §§1, 2, and 3 on 3/16/1994
Amended by Ord. [94-008](#) §§1, 2, 3, 4, 5, 6, 7 and 8 on 6/8/1994
Amended by Ord. [94-041](#) §§2 and 3 on 9/14/1994
Amended by Ord. [94-038](#) §3 on 10/5/1994
Amended by Ord. [94-053](#) §1 on 12/7/1994
Amended by Ord. [95-007](#) §1 on 3/1/1995
Amended by Ord. [95-001](#) §1 on 3/29/1995
Amended by Ord. [95-075](#) §1 on 11/29/1995
Amended by Ord. [95-077](#) §2 on 12/20/1995
Amended by Ord. [96-003](#) §2 on 3/27/1996
Amended by Ord. [96-082](#) §1 on 11/13/1996
Amended by Ord. [97-017](#) §1 on 3/12/1997
Amended by Ord. [97-003](#) §1 on 6/4/1997
Amended by Ord. [97-078](#) §5 on 12/31/1997
Amended by Ord. [2001-037](#) §1 on 9/26/2001
Amended by Ord. [2001-044](#) §2 on 10/10/2001
Amended by Ord. [2001-033](#) §2 on 10/10/2001
Amended by Ord. [2001-048](#) §1 on 12/10/2001
Amended by Ord. [2003-028](#) §1 on 9/24/2003
Amended by Ord. [2004-001](#) §1 on 7/14/2004
Amended by Ord. [2004-024](#) §1 on 12/20/2004
Amended by Ord. [2005-041](#) §1 on 8/24/2005
Amended by Ord. [2006-008](#) §1 on 8/29/2006
Amended by Ord. [2007-019](#) §1 on 9/28/2007
Amended by Ord. [2007-020](#) §1 on 2/6/2008
Amended by Ord. [2007-005](#) §1 on 2/28/2008
Amended by Ord. [2008-015](#) §1 on 6/30/2008
Amended by Ord. [2008-007](#) §1 on 8/18/2008
Amended by Ord. [2010-018](#) §3 on 6/28/2010
Amended by Ord. [2010-022](#) §1 on 7/19/2010
Amended by Ord. [2011-009](#) §1 on 10/17/2011
Amended by Ord. [2012-004](#) §1 on 4/16/2012
Amended by Ord. [2012-007](#) §1 on 5/2/2012
Amended by Ord. [2013-008](#) §1 on 7/5/2013

Amended by Ord. [2014-009](#) §1 on 8/6/2014
Amended by Ord. [2015-004](#) §1 on 4/22/2015
Amended by Ord. [2016-015](#) §1 on 7/1/2016
Amended by Ord. [2016-026](#) §1 on 11/9/2016
Amended by Ord. [2016-006](#) §1 on 2/27/2017
Amended by Ord. [2017-015](#) §1 on 11/1/2017
Repealed by Ord. [2018-005](#) §8 on 10/10/2018
Amended by Ord. [2018-006](#) §4 on 11/20/2018
Amended by Ord. [2019-010](#) §1 on 5/8/2019
Amended by Ord. [2019-016](#) §1 on 2/24/2020
Amended by Ord. [2020-001](#) §1 on 4/21/2020
Amended by Ord. [2020-010](#) §1 on 7/3/2020
Amended by Ord. [2020-007](#) §7 on 10/27/2020
Amended by Ord. [2021-013](#) §3 on 4/5/2022
Amended by Ord. [2022-014](#) §1 on 4/4/2023
Amended by Ord. [2023-001](#) §2 on 5/30/2023
Amended by Ord. [2024-008](#) §2 on 1/7/2025
Amended by Ord. [2025-002](#) §1 on 3/28/2025
Amended by Ord. 2025-016 §1 on x/xx/xxxx

Exhibit B to Ordinance 2025-016

CHAPTER 18.16 EXCLUSIVE FARM USE ZONES[18.16.010 Purpose](#)[18.16.020 Uses Permitted Outright](#)~~[18.16.023 Lawfully Established Dwelling Replacement](#)~~[18.16.025 Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable](#)[18.16.030 Conditional Uses Permitted; High Value And Non-High Value Farmland](#)[18.16.031 Conditional Uses On Non-High Value Farmland Only](#)[18.16.033 Conditional Uses On High Value Farmland Only](#)[18.16.035 Destination Resorts](#)[18.16.037 Guest Ranch](#)[18.16.038 Special Conditions For Certain Uses Listed Under DCC 18.16.025](#)[18.16.040 Limitations On Conditional Uses](#)[18.16.042 Agri-Tourism And Other Commercial Events Or Activities Limited Use Permit](#)[18.16.043 Single Permit](#)[18.16.050 Standards For Dwellings In The EFU Zones](#)[18.16.055 Land Divisions](#)[18.16.060 Dimensional Standards](#)[18.16.065 Subzones](#)[18.16.067 Farm Management Plans](#)[18.16.070 Setbacks](#)[18.16.080 Ordinary High Water Mark Setbacks](#)[18.16.090 Rimrock Setback](#)

...

18.16.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

- A. Farm use, ~~having the meaning given in ORS 215.203 and OAR 660-033-0020. as defined in DCC Title 18.~~
- B. Propagation or harvesting of a forest product.
- C. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).

- D. Accessory buildings customarily provided in conjunction with farm use.
- E. Climbing and passing lanes within the right of way existing as of July 1, 1987.
- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land lots or parcels result.
- G. Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed.
- H. Minor betterment of existing public road and highway-related facilities such as maintenance yards, weigh stations, and rest areas, within a right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
- I. Creation, restoration, or enhancement of wetlands.
- J. A lawfully established dwelling may be altered, restored, or replaced as allowed by and subject to the requirements of ORS 215.291 and OAR 660-033-130.~~subject to DCC 18.16.023.~~
 - 1. The replacement dwelling is subject to OAR 660-033-0130(30) and the County shall require as a condition of approval of a single-family replacement dwelling that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.
- K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480, and subject to 18.16.020(J)(1)above.
- L. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

1. A public right of way;
 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 3. The property to be served by the utility.
- N. The land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.
- O. Fire service facilities providing rural fire protection services.
- P. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- Q. Outdoor mass gathering described in ORS 197.015(10)(d), and subject to DCC Chapter 8.16.
- R. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract as allowed under OAR 660-033-0130(29).

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [81-001](#) §1 on 3/5/1981

Amended by Ord. [81-025](#) §1 on 7/15/1981

Amended by Ord. [86-007](#) §1 on 1/29/1986

Amended by Ord. [91-002](#) §3 on 2/6/1991

Amended by Ord. [91-005](#) §4 on 3/4/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991
 Amended by Ord. [91-024](#) §1 on 6/26/1991
 Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991
 Amended by Ord. [92-065](#) §3 on 11/25/1992
 Amended by Ord. [95-007](#) §10 on 3/1/1995
 Amended by Ord. [98-030](#) §1 on 5/13/1998
 Amended by Ord. [2001-016](#) §2 on 3/28/2001
 Amended by Ord. [2001-039](#) §1 on 12/12/2001
 Amended by Ord. [2004-001](#) §2 on 7/14/2004
 Amended by Ord. [2008-001](#) §2 on 5/6/2008
 Amended by Ord. [2009-014](#) §1 on 6/22/2009
 Amended by Ord. [2010-022](#) §2 on 7/19/2010
 Amended by Ord. [2012-007](#) §2 on 5/2/2012
 Amended by Ord. [2014-010](#) §1 on 4/28/2014
 Amended by Ord. [2016-015](#) §2 on 7/1/2016
 Amended by Ord. [2018-006](#) §5 on 11/20/2018
 Amended by Ord. [2021-004](#) §1 on 5/27/2021
 Amended by Ord. [2025-002](#) §4 on 3/28/2025
 Amended by Ord [2025-016](#) §2 on x/xx/xxxx

18.16.023 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored, or replaced under DCC~~

~~18.16.020(J) above if:~~

~~A.—The dwelling to be altered, restored, or replaced:~~

~~1.—Has, or formerly had:~~

~~a.—Intact exterior walls and roof structure;~~

~~b.—Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;~~

~~c.—Interior wiring for interior lights; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

- 1.—Five years before the date of the application; or
 - 2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
 - 3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - a.—Five years before the date of the destruction or demolition; or
 - b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- C.—For replacement of a lawfully established dwelling under this section:
- 1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - 2.—The replacement dwelling:
 - a.—May be sited on any part of the same lot or parcel.
 - b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
 - 1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
 - 2.—No statewide map of wildfire risk has been adopted.
- D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS

~~215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.~~

~~E.—If an applicant is granted a deferred replacement permit under this section:~~

~~1.—The deferred replacement permit:~~

~~a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and~~

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2021-013](#) §4 on 4/5/2022

Amended by Ord. [2024-008](#) §3 on 1/7/2025

Amended by Ord. [2025-002](#) §4 on 3/28/2025

~~Repeal by Ord 2025-016 §2 on x/xx/xxxx~~

...

18.16.030 Conditional Uses Permitted; High Value And Non-High Value Farmland

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

A. Nonfarm dwelling.

- B. Lot of record dwelling.
- C. Subject to the standards of ORS 215.296, residential home in existing dwellings.
- D. A hardship dwelling, as described in DCC 18.16.050(H).
- E. Commercial activities that are in conjunction with farm use, but not including the processing of farm crops as described in DCC 18.16.025.
- F. Operations conducted for: Mining and processing of geothermal resources as defined by ORS 522.005, and Mining and processing of natural gas or oil as defined by ORS 520.005, not otherwise permitted under DCC 18.16.020.
- G. Expansion of an existing private park, playground, hunting and fishing preserve and campground on the same tract as the existing use, subject to ORS 215.283 and OAR 660-033-0130.
- H. Public park and playground consistent with the provisions of ORS 195.120, and including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- I. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
 - 1. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006.
 - 2. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
- J. Transmission towers over 200 feet in height.
- K. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260, and OAR 660-033-0130), for the purpose of generating power for public use by sale, not including wind power generation facilities.
- L. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner,

and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

- M. Home Occupation ~~as allowed by and~~, subject to the requirements of ORS 215.448, OAR 660-033-0130, and DCC 18.116.280.

~~1.—The home occupation shall:~~

~~a.—be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;~~

~~b.—be operated by a resident or employee of a resident of the property on which the business is located; and~~

~~c.—employ on the site no more than five full-time or part-time persons.~~

~~d.—The home occupation shall not unreasonably interfere with other uses permitted in the EFU zone.~~

- N. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 213.203(2).

1. The primary processing of a forest product, as used in DCC 18.16.030, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

2. Forest products, as used in DCC 18.16.030, means timber grown upon a lot or parcel of land or contiguous land where the primary processing facility is located.

- O. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land lots or parcels.

- P. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land lots or parcels.

- Q. Improvement of public road and highway-related facilities such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required, but not resulting in the creation of new land lots or parcels.

- R. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.

1. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
 2. The county shall provide notice of all applications under this section to the State Department of Agriculture.
 3. Notice shall be provided in accordance with DCC Title 22, but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
- S. Room and board arrangements for a maximum of five unrelated persons in an existing residence. If approved, this use is subject to the recording of the statement listed in DCC 18.16.020(J)(1).
- T. Fill or removal within the bed and banks of a stream or river or in a wetland.
- U. Roads, highways and other transportation facilities, and improvements not otherwise allowed under DCC 18.16, if an exception to Goal 3, Agricultural Lands, and to any other applicable goal is first granted under state law. Transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
- V. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- W. A living history museum.
- X. Operations for the extraction and bottling of water.
- Y. Transportation improvements on rural lands allowed by and subject to the requirements of ORS 215.283(3) and OAR 660-012-0065.
- Z. Expansion of existing county fairgrounds and activities relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- AA. Extended outdoor mass gatherings, subject to DCC 8.16.
- AB. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

AC. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130.

AD. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130. On high-value farmland only, photovoltaic solar power generation facilities are subject to the provisions in ORS 215.447.

AE. Commercial dog boarding kennel, or dog training classes or testing trials that exceed the standards under DCC 18.16.025(K), subject to DCC 18.16.040(A)(1 and 2).

AF. Equine and equine-affiliated therapeutic and counseling activities, provided:

1. The activities are conducted in existing buildings that were lawfully constructed on the property before the effective date of January 1, 2019 or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract; and
2. All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [83-028](#) §1 on 6/1/1983

Amended by Ord. [86-018](#) §3 on 6/30/1986

Amended by Ord. [87-013](#) §1 on 6/10/1987

Amended by Ord. [90-018](#) §1 on 5/16/1990

Amended by Ord. [90-014](#) §§23 and 31 on 7/12/1990

Amended by Ord. [91-005](#) §5 on 3/4/1991

Amended by Ord. [91-014](#) §1 on 3/13/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [94-008](#) §9 on 6/8/1994

Amended by Ord. [95-007](#) §11 on 3/1/1995

Amended by Ord. [95-025](#) §1 on 3/3/1995

Amended by Ord. [98-030](#) §1 on 5/13/1998

Amended by Ord. [2001-016](#) §2 on 3/28/2001

Amended by Ord. [2001-039](#) §1 on 12/12/2001

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008
 Amended by Ord. [2009-014](#) §1 on 6/22/2009
 Amended by Ord. [2012-007](#) §2 on 5/2/2012
 Amended by Ord. [2014-010](#) §1 on 4/28/2014
 Amended by Ord. [2018-006](#) §5 on 11/20/2018
 Amended by Ord. [2021-013](#) §4 on 4/5/2022
 Amended by Ord. [2024-008](#) §3 on 1/7/2025
 Amended by Ord. [2025-002](#) §4 on 3/28/2025
 Amended by Ord [2025-016](#) §2 on x/xx/xxxx

18.16.031 Conditional Uses On Non-High Value Farmland Only

The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute non-high value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. A disposal site which includes a land disposal site approved by the governing body of a city or County or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- B. Golf course and accessory golf course uses as defined in DCC Title 18 on land determined not to be high value farmland, as defined in ORS 195.300.
- C. Except for those composting facilities that are a farm use as allowed under DCC 18.16.020, composting operations and facilities for which a permit has been granted by the Oregon Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.
 - 1. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
 - 2. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
 - 3. A composting facility use shall be subject to DCC 18.16.040(~~MN~~).
- D. Private parks, playgrounds, hunting and fishing preserves and campgrounds as allowed by and subject to the requirements of ~~home~~ORS 215.283 and OAR 660-033-0130.

- E. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to the applicable Oregon Administrative Rules.

HISTORY

Adopted by Ord. [95-007](#) §12 on 3/1/1995

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2020-007](#) §9 on 10/27/2020

~~Amended by Ord. 2025-016 §2 on x/xx/xxxx~~

18.16.033 Conditional Uses On High Value Farmland Only

In addition to those uses listed in DCC 18.16.030 above, the following uses may be allowed on tracts in the Exclusive Farm Use Zones that constitute high value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. Maintenance, enhancement or expansion of a site for the disposal of solid waste approved by the County for which a permit has been granted under ORS 459.245 by the Oregon Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation, subject to other requirements of law. New such sites are prohibited.
- B. Maintenance, enhancement or expansion of golf course and accessory golf course uses as defined in DCC Title 18 existing as of March 1, 1994, subject to other requirements of law. New such uses are prohibited. Expanded courses may not exceed 36 holes total.

~~C. Additions or expansions to existing public or private schools on high value farmland, for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the applicable Oregon Administrative Rules.~~

HISTORY

Adopted by Ord. [95-007](#) §13 on 3/1/1995

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2014-010](#) §1 on 4/28/2014

~~Amended by Ord. 2025-016 §2 on x/xx/xxxx~~

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18.16.038 Special Conditions For Certain Uses Listed Under DCC 18.16.025

- A. A utility facility necessary for public use allowed under DCC 18.16.025 shall be one that must be sited in an agricultural zone in order for service to be provided. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
1. Technical and engineering feasibility;
 2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 3. Lack of available urban and nonresource lands;
 4. Availability of existing rights of way;
 5. Public health and safety; and
 6. Other requirements of state and federal agencies.
 7. Costs associated with any of the factors listed in 1-6 above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities that are not substantially similar.
 8. The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

9. In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
10. The provisions above do not apply to interstate gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
11. The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use, in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
12. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this provision are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

B. Wineries are subject to the following:

1. A winery, authorized under DCC 18.16.025 is a facility that produces wine with a maximum annual production of:
 - a. Less than 50,000 gallons and:
 1. Owns an on-site vineyard of at least 15 acres;
 2. Owns a contiguous vineyard of at least 15 acres;
 3. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 4. Obtains grapes from any combination of i, ii, or iii of this subsection; or
 - b. At least 50,000 gallons and the winery:

1. Owns an on-site vineyard of at least 40 acres;
 2. Owns a contiguous vineyard of at least 40 acres;
 3. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
 4. Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 5. Obtains grapes from any combination of i, ii, iii, or iv of this subsection.
2. In addition to producing and distributing wine, a winery established under this section may:
- a. Market and sell wine produced in conjunction with the winery.
 - b. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 1. Wine tastings in a tasting room or other location on the premises occupied by the winery;
 2. Wine club activities;
 3. Winemaker luncheons and dinners;
 4. Winery and vineyard tours;
 5. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 6. Winery staff activities;
 7. Open house promotions of wine produced in conjunction with the winery; and
 8. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
 - c. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of

which is incidental to on-site retail sale of wine, including food and beverages:

1. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
2. Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.
- d. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections of this section.
- e. Host charitable activities for which the winery does not charge a facility rental fee.
3. On-site kitchen.
 - a. A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section.
 - b. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
4. The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
 - a. The gross income of the winery does not include income received by third parties unaffiliated with the winery.
 - b. At the request of the County, who has land use jurisdiction over the site of a winery, the winery shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.
5. A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.

6. If a winery approved under DCC 18.16.038(B)(5) conducts agri-tourism or other commercial events, the winery may not conduct agri-tourism or other commercial events or activities authorized under Deschutes County Code 18.16.042.
7. Gross Income.
 - a. The gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail of wine produced in conjunction with the winery.
 - b. The gross income of the winery does not include income received by third parties unaffiliated with the winery.
 - c. The winery shall submit to the Deschutes County Community Development Department a written statement, prepared by a certified public accountant that certifies compliance with this section for the previous tax year by April 15 of each year in which private events are held.
8. A winery operating under this section shall provide parking for all activities or uses on the lot, parcel, or tract on which the winery is established.
9. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsections (B)(1) of this section have been planted or that the contract for the purchase of grapes has been executed, as applicable.
10. The siting of a winery shall be subject to the following standards:
 - a. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places, unless the County grants an adjustment or variance allowing a setback of less than 100 feet.
 - b. Shall comply with DCC Chapter 18.80, Airport Safety Combining Zone, and DCC 18.116.180, Building Setbacks for the Protection of Solar Access.
11. As used in this section, “private events” includes, but is not limited to, facility rentals and celebratory gatherings.
12. The winery shall have direct road access and internal circulation.

13. A winery is subject to the following public health and safety standards:

- a. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
- b. No event, gathering or activity may begin before 7:00 a.m. or end after 10:00 p.m., including set-up and take-down of temporary structures.
- c. Noise control.
 - 1. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - 2. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during private events.
- d. Adequate traffic control must be provided by the property owner to address the following:
 - 1. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 - 2. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
- e. Structures.
 - 1. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
 - 2. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building

occupancy classification requirements of the State of Oregon adopted building code.

- f. Inspection of event premises authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.

C. Farm stands ~~as allowed and re~~ subject to the requirements of ORS 215.283 and OAR 660-033-130, the following:

- ~~1.—The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and~~
- ~~2.—The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock, and does not include structures for banquets, public gatherings or public entertainment.~~
- ~~3.—As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.~~
- ~~4.—As used in this subsection, “processed crops and livestock” includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.~~
- ~~5.—As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.~~

D. A site for the takeoff and landing of model aircraft is subject to the following:

1. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section.
 - a. The site shall not include an aggregate surface or hard surface area, unless the surface preexisted the use approved under this section.
 - b. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property.
 - c. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.
 - d. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- E. An associated transmission line is necessary for public service if an applicant for approval under DCC 18.16.025 demonstrates that the line meets either the requirements of 1 or 2 below.
 1. The entire route of the associated transmission line meets at least one of the following requirements:
 - a. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - b. The associated transmission line is co-located with an existing transmission line;
 - c. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - d. The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
 2. After an evaluation of reasonable alternatives, the entire route of the associated transmission line meets, subject to DCC 18.16.038(E)(3) and (4) below, two or more of the following factors:

- a. Technical and engineering feasibility;
 - b. The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - c. Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
 - d. Public health and safety, or
 - e. Other requirements of state or federal agencies.
3. As pertains to DCC 18.16.038(E)(2), the applicant shall present findings to the County on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
 4. The County may consider costs associated with any of the factors listed in DCC 18.16.038(E)(2) above, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

HISTORY

Adopted by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2012-004](#) §2 on 4/16/2012

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2025-002](#) §4 on 3/28/2025

Amended by Ord 2025-016 §2 on x/xx/xxxx

18.16.040 Limitations On Conditional Uses

- A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to applicable provisions of ORS 215.296, OAR 660-033-0120, OAR 660-033-0130, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body: ~~that the proposed use:~~
- ~~1.—Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and~~
 - ~~2.—Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and~~
 - ~~3.1. _____~~ That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.
- B. A commercial activity allowed under DCC 18.16.030(E) shall be associated with a farm use occurring on the lot or parcel where the commercial use is proposed. The commercial activity may use, process, store, or market farm products produced outside of Deschutes County.
- C. A power generation facility that is part of a commercial utility facility for the purpose of generating power for public use by sale identified in DCC 18.16.030(K) and:
1. That is located on high-value farmland, the permanent features of which shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 004.
 2. That is located on non-high-value farmland, the permanent features of which shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 4.
 3. A power generation facility may include on-site and off-site facilities for temporary workforce housing as allowed under OAR 660-033-0130(17) and (22).
- D. A wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings,

temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

1. For high value farmland soils described in ORS 195.300(10), that all of the following are satisfied:
 - a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 1. Technical and engineering feasibility;
 2. Availability of existing rights of way; and
 3. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B);
 - b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any component thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
 - c. Costs associated with any of the factors listed in OAR 660-033-0130(37)(a)(A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

- d. The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
 - e. The criteria of OAR 660-033-0130(37)(b) are satisfied.
- 2. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designated must find that:
 - a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
 - b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, show unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other

appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

- d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
3. For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.
4. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project.
- E. No aircraft may be based on a personal-use airport identified in DCC 18.16.030(L) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
- F. The facility for the primary processing of forest products identified in DCC 18.16.030 is intended to be portable or temporary in nature. Such a facility may be approved for a one-year period which is renewable.
- G. Batching and blending mineral and aggregate into asphaltic cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date of the application for bat
- H. Accessory uses for golf courses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service

facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to service only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

- I. An expansion of an existing golf course as allowed under DCC 18.16.033(C) shall comply with the definition of "golf course" set forth in DCC Title 18 and the provisions of DCC 18.16.040(A).
- J. An applicant for a nonfarm conditional use may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.
- K. For purposes of approving a conditional use permit for a lot of record dwelling under DCC 18.16.030, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 1. Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 2. Submits a report from a soils scientist whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 3. Submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in 2 above and finds the analysis in the report to be soundly and scientifically based.
 4. The soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation before November 4, 1993, except for changes made pursuant to subsections 1-3 above.
 5. For the purposes of approving a land use application under OAR 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation.

~~L.—Except on a lot or parcel contiguous to a lake or reservoir, a private campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004.~~

- ~~1.—A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~
- ~~2.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~
- ~~3.—As used in this paragraph, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~
- ~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~

~~M.L.~~ _____ A living history museum shall be related to resource based activities and be owned and operated by a governmental agency or a local historical society.

1. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities, or if the museum administration buildings and parking lot are located within one-quarter mile of an urban growth boundary.
2. As used in this paragraph, a “living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and “local historical society” means the local historic society recognized by the County and organized under ORS Chapter 65.

~~N.M.~~ _____ Pre-Application Conference

1. Before an applicant may submit an application under DCC Chapter 22.08 and DCC 18.16.031(C), for land use approval to establish or modify a

disposal site for composting that requires a permit issued by the Oregon Department of Environmental Quality, the applicant shall:

- a. Request and attend a pre-application conference described in DCC 18.16.040(MN)(3);
 - b. Hold a pre-application community meeting described in DCC 18.16.040(MN)(6).
2. DCC 18.16.040(MN)(1)(a) and (b) apply to an application to:
 - a. Establish a disposal site for composting that sells, or offers for sale, resulting product; or
 - b. Allow an existing disposal site for composting that sells, or offers for sale, resulting product to:
 1. Accept as feedstock non-vegetative materials, including dead animals, meat, dairy products and mixed food waste; or
 2. Increase the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.
3. During the pre-application conference:
 - a. The applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations;
 - b. The County and other representatives described in DCC 18.16.040(MN)(5) shall inform the applicant of permitting requirements to establish and operate the proposed disposal site for composting and provide all application materials to the applicant.
4. The applicant shall submit a written request to the County to request a pre-application conference.
5. A representative of the Planning Division and a representative of the Oregon Department of Environmental Quality shall attend the conference along with representatives, as determined necessary by the County, of the following entities:

- a. Any other state agency or local government that has authority to approve or deny a permit, license or other certification required to establish or operate the proposed disposal site for composting;
 - b. A state agency, a local government or a private entity that provides or would provide one or more of the following to the proposed disposal site for composting:
 - 1. Water systems;
 - 2. Wastewater collection and treatment systems, including storm drainage systems.
 - 3. Transportation systems or transit services;
 - c. A city or county with territory within its boundaries that may be affected by the proposed disposal site for composting;
 - d. The Department of Land Conservation and Development;
 - e. The State Department of Agriculture;
6. The County shall:
- a. Provide notice of the pre-application conference to entities described in DCC 18.16.040(MN)(5) by mail and, as appropriate, in any other manner that ensures adequate notice and opportunity to participate;
 - b. Hold the pre-application conference at least 20 days and not more than 40 days after receipt of the applicant's written request; and
 - c. Provide pre-application notes to each attendee of the conference and other entities described above for which a representative does not attend the pre-application conference.
7. After the pre-application conference and before submitting the application for land use approval, the applicant shall:
- a. Hold a community meeting within 60 days after the pre-application conference:
 - 1. In a public location in the county with land use jurisdiction; and
 - 2. On a business day, or Saturday, that is not a holiday, with a start time between the hours of 6:00 p.m. and 8 p.m.

b. Provide notice of the community meeting to:

1. The owners of record, on the most recent property tax assessment roll, of real property located within one-half mile of the real property on which the proposed disposal site for composting would be located;
 2. The resident or occupant that receives mail at the mailing address of the real property described above, if the mailing address of the owner of record is not the mailing address of the real property;
 3. Neighborhood and community organizations recognized by the governing body of the County if a boundary of the organization is within one-half mile of the proposed disposal site for composting;
 4. A newspaper that meets the requirements of ORS 193.020 for publication;
 5. Local media in a press release; and
 6. The entities described in 18.16.040(~~MN~~)(5) above.
8. During the community meeting, the applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.
9. The applicant's notice provided under DCC 18.16.040(~~MN~~)(6)(b) above must include:
- a. A brief description of the proposed disposal site for composting;
 - b. The address and the location of the community meeting; and
 - c. The date and time of the community meeting.

(Ord. 91-011 §1, 1991)

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [95-007](#) §14 on 3/1/1995

Amended by Ord. [95-075](#) §1 on 11/29/1995
 Amended by Ord. [98-030](#) §1 on 5/13/1998
 Amended by Ord. [2004-001](#) §2 on 7/14/2004
 Amended by Ord. [2006-008](#) §3 on 8/29/2006
 Amended by Ord. [2008-001](#) §2 on 5/6/2008
 Amended by Ord. [2009-014](#) §1 on 6/22/2009
 Amended by Ord. [2012-007](#) §2 on 5/2/2012
 Amended by Ord. [2014-010](#) §1 on 4/28/2014
 Amended by Ord. [2015-016](#) §2 on 3/28/2016
 Amended by Ord. [2018-006](#) §5 on 11/20/2018
 Amended by Ord. [2020-007](#) §9 on 10/27/2020
 Amended by Ord. [2025-002](#) §4 on 3/28/2025
 Amended by Ord. [2025-016](#) §2 on x/xx/xxxx

18.16.042 Agri-Tourism And Other Commercial Events Or Activities Limited Use Permit

A. Agri-tourism and other commercial events or activities ~~necessary to support related to and supportive of~~ agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.

1. A determination under DCC 18.16.042 that an event or activity is ‘incidental and subordinate’ requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses that bear on whether the existing farm use remains the predominant use of the tract.

4.2. A determination under DCC 18.16.042 that an event or activity is ‘necessary to support’ either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.

B. Application. The application shall include the following.

1. The General Provisions information required in DCC 22.08.010.
2. A written description of:
 - a. The proposal.
 - b. The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of

operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of are necessary to support agriculture and incidental and subordinate to the existing farm use of the tract.

- c. The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.
3. A traffic management plan that:
- a. Identifies the projected number of vehicles and any anticipated use of public roads;
 - b. Provides an assurance that one traffic control person shall be provided for each 250 persons expected or reasonably expected to be in attendance at any time during the agri-tourism and other commercial event or activity. The traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - c. Demonstrates that the parcel, lot, or tract has direct access such that the lot, parcel, or tract on which commercial events will occur:
 - 1. Fronts on a public road; or
 - 2. Is accessed by an access easement or private road, and all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.
4. Inspection of Event Premises Authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.

C. Approval Criteria.

- 1. Type 1. Up to six (6) agri-tourism events in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:

- a. Criteria set forth in 18.16.042(C)(2)(d-j).
 - b. May not, individually, exceed one calendar day.
 - c. Commercial events or activities are not permitted.
 - d. Minimum lot area: 5 acres.
 - e. Comply with DCC Chapter 8.08 Noise Control at all times. Sound amplification and sound producing devices are prohibited.
 - f. The maximum attendance is 30 at any one time for all non-residents of the tract.
 - g. Where there is a conflict between this section and DCC 18.16.042(C)(4-12), the more restrictive criteria shall apply.
2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
- a. Minimum lot area: 10 acres.
 - b. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.
 - d. Must be incidental and subordinate to existing farm use of the tract, and ~~shall be related to and supportive of necessary to support~~ agriculture.
 - e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one business day after the agri-tourism and other commercial events or activities between 7:00 a.m. and 10:00 p.m.

- f. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities.
 - g. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.
 - h. Must comply with ORS 215.296.
 - i. Limited Use Permits approved under this section expire two years from the date of approval.
 - j. Limited Permits may be renewed for an additional two years subject to:
 - 1. An application for renewal; and
 - 2. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
2. Type 3. Agri-tourism or other commercial events or activities may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, more frequently or for a longer period than allowed under 18.16.042(C)(1) and (2) if the agri-tourism or other commercial events or activities is in compliance with:
- a. Criteria set forth in 18.16.042(C)(2)(d)(e)(f)(g) and (h).
 - b. Must be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.
 - c. Minimum lot area: 160 acres.
 - d. Do not exceed 18 commercial events or activities in a calendar year.
 - e. Commercial events or activities may not, individually, exceed a duration of 24 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 24 consecutive hours.
 - f. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary

structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.

- g. No more than two commercial events or activities may occur in one month.
 - h. Limited Use Permits approved under this section expire four years from the date of approval.
 - i. Limited Use Permits may be renewed at four year intervals subject to:
 - 1. An application for renewal;
 - 2. Public notice and public comment as part of the review process.
 - 3. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
3. The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.
4. Notification of agri-tourism and other commercial events or activities.
- a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.
 - b. The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.
 - c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.
 - d. The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.

5. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
6. Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.
7. Overnight camping is not allowed.
8. Noise Control
 - a. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - b. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.
9. Transportation Management.
 - a. Roadways, driveway aprons, driveways, and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
 - b. Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.
 - c. The parcel, lot, or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).
 - d. Adequate traffic control must be provided by the property owner to address the following:
 1. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 2. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

10. Health and Safety Compliance

- a. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
- b. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.

11. The maximum number of people shall not exceed 500 per calendar day.

12. Agri-Tourism and other Commercial Events or Activities shall not be allowed:

- a. Within the County adopted big game winter ranges during the months of December through March.
- b. Within the County adopted big game migration corridors during the month of April and during the months of October and November.
- c. Within the County adopted sensitive bird and mammal habitat areas as defined in DCC 18.90.020, unless a site has had no nesting attempt or the nest has failed, as determined by a professional wildlife biologist in May of the calendar year in which the application is approved unless a site has had no nesting attempt or the nest has failed which could be determined in May by a professional wildlife biologist.

HISTORY

Adopted by Ord. [2012-004](#) §2 on 4/16/2012

Amended by Ord. [2025-002](#) §4 on 3/28/2025

[Amended by Ord. 2025-016 §2 on x/xx/xxxx](#)

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18.16.050 Standards For Dwellings In The EFU Zones

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury

from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- A. Farm-related dwellings on non-high value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.025(A), may be approved if it satisfies any of the alternative tests set forth below:

1. Acreage test.

- a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:

1. The lot or parcel on which the dwelling will be located is at least:

A. One hundred sixty acres and not in the Horse Ridge East subzone; or

B. Three hundred twenty acres in the Horse Ridge East subzone;

2. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan;
3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;
4. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;

2. Median acreage/gross sales test.

- a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:

1. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study

area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;

2. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a)(1);
 3. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(2). If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to establishment of the farm use capable of meeting the median income test.
 4. The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
 5. There is no other dwelling on the subject tract(1), except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001; and
 6. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
- b. For the purpose of calculating appropriate tract sizes and gross incomes to satisfy DCC 18.16.050(A)(2)(a)(1) and (2), the County will utilize the methodology contained in Oregon Administrative Rules 660-33-135(3) using data on gross sales per acre tabulated by LCDC pursuant to Oregon Administrative Rules 660-33-135(4).
3. Gross annual income test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 1. The subject tract is currently employed for a farm use, and that the farm operator earned \$40,000 in gross annual revenue in

the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years.

2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in DCC 18.16.050(A)(3)(a)(1); and
- b. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract.
 - c. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.
 - d. Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - e. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk or counties where the property subject to the covenants, conditions and restrictions is located.
 1. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
 - A. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed under ORS Chapter 215; and

- B. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- C. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
- D. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

f. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement.

- B. Farm related dwellings on high value farmland. On land identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - 1. The subject lot or parcel is currently employed for the farm use as defined in DCC 18.04.030, and that the farm operator earned at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned by the farm operator in the best three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract;
 - 2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
 - 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the revenue under DCC 18.16.050(B)(1);
 - 4. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.

5. When a farm or ranch operation has lots or parcels in both “western” and “eastern” Oregon as defined in OAR 660-033-0020, lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.
 6. Only gross revenue from lots or parcels owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 7. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16 has been recorded with the county clerk. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
 - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - b. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
 8. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement.
- C. Accessory dwelling. A dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:
1. The accessory dwelling meets the following criteria:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
 - b. The accessory farm dwelling will be located:

1. On the same lot or parcel as the primary farm dwelling; or
 2. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single lot or parcel with all other contiguous lots and parcels in the tract; or
 3. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling and a deed restriction substantially in compliance with the form set forth in [Exhibit A](#) to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under DCC 18.16.050; or
 4. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under DCC 18.16.065 and the lot or parcel complies with the gross farm income requirements in DCC 18.16.050(A)(3) or (B)(1), whichever is applicable; and
- c. There is no other dwelling on land zoned EFU owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
2. The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following:
 - a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced \$40,000 in gross annual sales in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract; or

- b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. Gross revenue shall be calculated by deducting the cost of purchased livestock from the total gross revenue attributed to the tract; and
- 3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).
- 4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to DCC 18.16.050(G).
- 4.5. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement in DCC 18.16.050(C)(2)(a) or (b), whichever is applicable.

D. Relative farm help dwelling.

- 1. A dwelling listed in DCC 18.16.025(B) is allowed when:
 - a. The subject tract is a commercial farming operation.
 - b. The dwelling is a manufactured dwelling and is sited in accordance with DCC 18.116.070, or is a site-built dwelling;
 - c. The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a relative of the farm operator or farm operator's spouse, including a grandparent, step-grandparent, grandchild, parent, step-parent, child, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
 - 1. Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the

secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new lot or parcel.

2. Prior conditions of approval for the subject land and dwelling remain in effect.
3. For purposes of this subsection, "Foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).
- d. The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.
- e. Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator continues to play in the management and farm use of the farm.
2. A manufactured dwelling permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured dwelling shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
3. A dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.

5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- E. Lot of record dwelling on non-high value farmland.
1. A lot of record dwelling may be approved on a pre-existing lot or parcel on non-high value farmland when all of the following requirements are met:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 1. Prior to January 1, 1985; or
 2. By devise or by intestate succession from a person who acquired and owned continuously the lot or parcel prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
 - d. If the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 - e. The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
 - f. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of the tract;
 2. For purposes of DCC 18.16.050(E), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

3. For purposes of DCC 18.16.050(E), the date of creation and existence means that, when a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel, or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

F. Lot of record dwelling on high-value farmland.

1. A lot of record dwelling on a pre-existing lot or parcel will be approved on high value farmland when all of the following requirements are met:
 - a. The requirements set forth in DCC 18.16.050(E)(1)(a) through (f), as determined by the County; and
 - b. The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by the County hearings officer.
2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall notify the State Department of Agriculture at least 20 calendar days prior to the public hearing under DCC 18.16.050(F)(1)(b).
3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.
4. For purposes of DCC 18.16.050(F), the date of creation and existence means that, when a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel, or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

G. Nonfarm dwelling.

1. One single-unit dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, not provided in conjunction with farm use, may be permitted on an existing lot or parcel subject to the following criteria:
 - a. The Planning Director or Hearings Body shall make findings that:
 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS

215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.

2. The proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the lot or parcel will lead to creation of other nonfarm lots or parcels, to the detriment of agriculture in the area.
 3. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract.
 4. The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot, or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm-dwelling or the agriculture of the area.
 5. Road access, fire and police services, and utility systems (i.e., electrical and telephone) are adequate for the use.
 6. The nonfarm dwelling shall be located on a lot or parcel created prior to January 1, 1993, or was created or is being created as a nonfarm lot or parcel under the land division standards in DCC 18.16.055(B) or (C).
2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:

- a. A lot or parcel or a portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the lot or parcel.
 - b. A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.
 - c. If a lot or parcel under forest assessment can be sold, leased, rented, or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.
3. Loss of tax deferral. Pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the lot or parcel upon which the dwelling is proposed has been disqualified under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or

321.805 to 321.855 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

H. Temporary hardship dwelling.

1. A temporary hardship dwelling listed in DCC 18.16.030 is allowed subject to DCC 18.116.090, and the requirements of this chapter.~~under the following conditions:~~

1.2. ~~A temporary hardship dwelling approved under this section is not eligible for replacement under DCC 18.16.020(J).~~

~~a.—The dwelling is an existing building, or is a manufactured dwelling or recreational vehicle that is used in conjunction with an existing dwelling on the lot or parcel. For the purposes of this section, “existing” means the building was in existence on or before March 29, 2017;~~

~~b.—The manufactured dwelling or recreational vehicle would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident. The manufactured dwelling shall be removed or demolished within three months of the date the hardship no longer exists. The recreational vehicle shall not be occupied once the term of the medical hardship is completed, except as allowed under DCC 18.116.095. A temporary dwelling approved under this section is not eligible for replacement under DCC 18.16.020(J);~~

~~c.—The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and~~

~~d.—The temporary manufactured dwelling uses the same subsurface sewage disposal system used by the existing dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~

~~e.—If a recreational vehicle is used as a medical hardship dwelling, it shall be required to have a bathroom, and shall meet the minimum setbacks established under DCC 18.16.070.~~

- ~~2.—Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090 and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.~~
- ~~3.—As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
- ~~4.—As used in DCC 18.16.050(H), the term "relative" means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, sibling, step-sibling, niece, nephew, uncle, aunt, or first cousin of the existing resident.~~
- ~~5.—The proposed hardship dwelling or recreational vehicle shall meet the criteria under DCC 18.16.040(A)(1-2) and DCC 18.16.020(J)(1).~~

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [94-026](#) §1 on 5/11/1994

Amended by Ord. [95-007](#) §15 on 3/1/1995

Amended by Ord. [98-030](#) §1 on 5/13/1998

Amended by Ord. [98-033](#) §1 on 12/2/1998

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2004-013](#) §2 on 9/21/2004

Amended by Ord. [2004-020](#) §1 on 10/13/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2018-006](#) §5 on 11/20/2018

Amended by Ord. [2021-013](#) §4 on 4/5/2022

Amended by Ord. [2025-002](#) §4 on 3/28/2025

[Amended by Ord. 2025-016 §2 on x/xx/xxxx](#)

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Exhibit C to Ordinance 2025-016

CHAPTER 18.36 FOREST USE ZONE; F-118.36.010 Purpose18.36.020 Uses Permitted Outright~~18.36.025 Lawfully Established Dwelling Replacement~~18.36.030 Conditional Uses Permitted18.36.040 Limitations On Conditional Uses18.36.050 Standards For Single-Unit Dwellings18.36.060 Siting Of Dwellings And Structures18.36.070 Fire Siting Standards For Dwellings And Structures18.36.080 Fire Safety Design Standards For Roads18.36.085 Stocking Requirement18.36.090 Dimensional Standards18.36.100 Setbacks18.36.110 Ordinary High Water Mark Setbacks18.36.120 State Law Controls18.36.130 Rimrock Setbacks18.36.140 Restrictive Covenants

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18.36.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in DCC 18.36 and any other applicable provisions of DCC Title 18.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4.
- B. Temporary on-site structures, that are auxiliary to and used during the term of a particular forest operation, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use. For the purposes of this section, including DCC 18.36.020(B) and (C) "auxiliary" means a use or alteration of a structure or land, that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is

not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, land disposal sites, dams, reservoirs, road construction or recreational facilities, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4). Gravel extraction and processing not covered by DCC 18.36.020 is governed by DCC 18.52.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights of way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. A lawfully established dwelling may be altered, restored or replaced, as allowed by and subject to the requirements of ORS 215.291 and OAR 660-006-0025. ~~subject to DCC 18.36.025.~~
- N. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in

any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under OAR 660-006.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [91-002](#) §8 on 2/6/1991

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2003-007](#) §1 on 3/26/2003

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2023-001](#) §5 on 5/30/2023

Amended by Ord. [2024-008](#) §5 on 1/7/2025

~~Amended by Ord 2025-016 §3 on x/xx/xxxx~~

18.36.025 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored or replaced under DCC 18.36.020(M) above if:~~

~~A.—The dwelling to be altered, restored or replaced:~~

~~1.—Has, or formerly had:~~

~~a.—Intact exterior walls and roof structure;~~

~~b.—Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~c.—Interior wiring for interior lights; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

~~1.—Five years before the date of the application; or~~

~~2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or~~

- 3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
- a.—Five years before the date of the destruction or demolition; or
 - b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- G.—For replacement of a lawfully established dwelling under this section:
- 1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - 2.—The replacement dwelling:
 - a.—May be sited on any part of the same lot or parcel.
 - b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
 - 1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
 - 2.—No statewide map of wildfire risk has been adopted.
- D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- E.—If an applicant is granted a deferred replacement permit under this section:
- 1.—The deferred replacement permit:

~~a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and~~

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2024-008](#) §5 on 1/7/2025

Amended by Ord. [2025-002](#) §7 on 3/28/2025

Repealed by Ord. [2025-016](#) §3 on x/xx/xxxx

18.36.030 Conditional Uses Permitted

The following uses and their accessory uses may be allowed in the Forest Use Zone, subject to applicable provisions of the Comprehensive Plan, DCC 18.36.040 and other applicable sections of DCC Title 18.

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring its use.
- D. Exploration for and production of geo-thermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- E. Log scaling and weigh stations.

F. A disposal site which includes a land disposal site which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

G. Private parks and campgrounds as allowed by and subject to the requirements of ORS 215.459 and OAR 660-006-0025.

- ~~1.—Campgrounds in private parks shall only be those allowed by OAR 660-006-0025.~~
- ~~2.—Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.~~
- ~~3.—For the purpose of DCC 18.36.030 a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.~~
- ~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~
- ~~5.—Campsites may be occupied by a tent, travel trailer, or recreational vehicle.~~
- ~~6.—Separate sewer, water or electric service hookups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by OAR 660-006-0025(4)(e)(C).~~
- ~~7.—Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.~~
- ~~8.—A private campground may provide yurts for overnight camping:

 - ~~a.—No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~~~

~~b.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~

~~9.—As used in this rule, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~

- H. Mining and processing of oil, gas or other subsurface resources, as defined in ORS 520.005, and not otherwise permitted under DCC 18.36.030(D).
- I. Television, microwave and radio communication facilities and transmission towers.
- J. Fire stations for rural fire protection.
- K. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
- L. Aids to navigation and aviation.
- M. Water intake facilities, related treatment facilities, pumping stations and distribution lines.
- N. Reservoirs and water impoundments.
- O. Cemeteries.
- P. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. electrical, gas, oil, geothermal, telephone, fiber optic cable) with rights of way 50 feet or less in width.
- Q. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- R. Home Occupations as allowed by and subject to the requirements of ORS 215.448 and, subject to DCC 18.116.280.
- S. Expansion of existing airports.
- T. Public road and highway projects as described as ORS 215.283(2) and 215.283(3).
- U. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of DCC Title 18 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 2. Only minor incidental and accessory retail sales are permitted;
 3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 4. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
- V. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.
- W. Fill or removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270.
- X. ~~Temporary hardship dwelling. An existing building, or a manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. For the purposes of this section, "existing" means the building was in existence on or before March 29, 2017.~~
- ~~1.—A temporary hardship dwelling is conditionally allowed subject to DCC 18.116.090, 18.36.040, and 18.36.060. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
 - ~~2.—The use shall be subject to the review criteria in DCC 18.116.090, as well as DCC 18.36.040 and 18.36.060 of this chapter.~~
 - ~~3.—The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.~~
 - ~~4.—If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~
 - ~~5.1. _____~~ A temporary residence approved under this subsection is not eligible for replacement under OAR 660-006-025.
- Y. Single-unit dwellings or manufactured dwellings as specified in DCC 18.116.070, as pursuant to DCC 18.36.050.

Z. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

AA. Private seasonal accommodations for fee hunting operations may be allowed subject to DCC 18.36.050 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted; and
3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

AB. An Extended Outdoor Mass gathering subject to review by a county planning commission pursuant to DCC Chapter 8.16.

AC. Permanent facility for the primary processing of forest products.

AD. Firearms training facility.

AE. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [86-018](#) §8 on 6/30/1986

Amended by Ord. [90-014](#) §28 on 7/12/1990

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-038](#) §2 on 9/30/1991

Amended by Ord. [92-068](#) §1 on 12/7/1992

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2001-001](#) §1 on 1/22/2001

Amended by Ord. [2004-002](#) §5 on 4/28/2004

Amended by Ord. [2007-020](#) §3 on 2/6/2008

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2018-006](#) §6 on 11/20/2018

Amended by Ord. [2020-007](#) §10 on 10/27/2020

Amended by Ord. [2025-002](#) §7 on 3/28/2025

Amended by Ord 2025-016 §3 on x/xx/xxxx

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18.36.050 Standards For Single-Unit Dwellings

A. General provisions.

1. Dwellings listed as a conditional use under DCC 18.36.050 shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.36.050(B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules chapter 629).
 1. For purposes of DCC 18.36.050, evidence of a domestic water supply means:
 - A. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

- B. A water use permit issued by the Water Resources Department for the use described in the application; or
 - C. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.
- e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
2. In addition, dwellings listed as a conditional use under DCC 18.36.030(Y) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.36.040;
 - b. The siting criteria set forth in DCC 18.36.060;
 - c. The fire siting standards set forth in DCC 18.36.070;
 - d. The fire safety design standards for roads set forth in DCC 18.36.080;
 - e. The stocking requirements set forth in DCC 18.36.085, if applicable; and
 - f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.
 3. Dwellings in forest zones shall not be subject to conditional use standards.
 4. Approval of a dwelling in the forest zone under DCC Chapter 18.36 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forestry practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Lot of Record Dwelling. For approval under DCC 18.36.050(B), a single-unit dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985, and was acquired and owned continuously by the present owner either prior to January 1, 1985, or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
2. For the purposes of DCC 18.36.050(B), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or combination of these family members.
3. The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be a:
 1. United States Bureau of Land Management (BLM) road, or
 2. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
4. For the purposes of DCC 18.36.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
- C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.36.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.
1. A deed restriction shall be filed pursuant to DCC 18.36.140 for all tracts that are used to meet the acreage requirements of this subsection.
 2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.
- D. Template Dwelling. For approval under DCC 18.36.050(D), a single-unit dwelling shall meet the following requirements:
1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:

~~1. As an exception to DCC 18.36.050(0)(1)(d), prior to November 1, 2023, a single-family dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract.~~
 2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:

- a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
3. Requirements of Applying Template
- a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.
 - b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.
 - c. If a tract 60 acres or larger described in DCC 18.36.050(D) abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream.

- d. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:
 - 1. Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;
 - 2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- e. If a tract reviewed under DCC 18.36.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2003-007](#) §1 on 3/26/2003

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2021-013](#) §6 on 4/5/2022

Amended by Ord. [2025-002](#) §7 on 3/28/2025

[Amended by Ord. 2025-016 §3 on x/xx/xxxx](#)

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Exhibit D to Ordinance 2025-016

CHAPTER 18.40 FOREST USE ZONE; F-2[18.40.010 Purpose](#)[18.40.020 Uses Permitted Outright](#)[~~18.040.025 Lawfully Established Dwelling Replacement~~](#)[18.40.030 Conditional Uses Permitted](#)[18.40.040 Limitations On Conditional Uses](#)[18.40.050 Standards For Single-Unit Dwellings](#)[18.40.060 Siting Of Dwellings And Structures](#)[18.40.070 Fire Siting Standards For Dwellings And Structures](#)[18.40.080 Fire Safety Design Standards For Roads](#)[18.40.085 Stocking Requirement](#)[18.40.090 Dimensional Standards](#)[18.40.100 Setbacks](#)[18.40.110 Ordinary High Water Mark Setbacks](#)[18.40.120 State Law Controls](#)[18.40.130 Rimrock Setback](#)

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18.40.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in DCC 18.40 and any other applicable provisions of DCC Title 18:

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4.
- B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use. For the purposes of this section, including DCC 18.36.020(B) and (C) "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not

designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, land disposal sites, dams, reservoirs, road construction or recreational facilities, subject to the Forest Practices Act (ORS Chapter 527 and Goal 4). Gravel extraction and processing not covered by DCC 18.40.020 is governed by DCC 18.52.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights of way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. A lawfully established dwelling may be altered, restored or replaced, as allowed by and subject to the requirements of ORS 215.291 and OAR 660-006-0025. ~~DCC 18.040-025-~~
- N. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under OAR 660-006.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [91-002](#) §9 on 2/6/1991

Amended by Ord. [91-005](#) §21 on 3/4/1991

Amended by Ord. [92-025](#) §3 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §2 on 10/5/1994

Amended by Ord. [2003-007](#) §2 on 3/26/2003

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2023-001](#) §6 on 5/30/2023

Amended by Ord. [2024-008](#) §6 on 1/7/2025

[Amended by Ord. 2025-016 §4 on x/xx/xxxx](#)

18.040.025 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored or replaced under DCC 18.40.020(M) above if:~~

~~A.—The dwelling to be altered, restored or replaced:~~

~~1.—Has, or formerly had:~~

~~a.—Intact exterior walls and roof structure;~~

~~b.—Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~c.—Interior wiring for interior lights; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

~~1.—Five years before the date of the application; or~~

~~2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or~~

~~3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:~~

- a.—Five years before the date of the destruction or demolition; or
- b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.

C.—For replacement of a lawfully established dwelling under this section:

- 1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
- 2.—The replacement dwelling:
 - a.—May be sited on any part of the same lot or parcel.
 - b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
 - 1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
 - 2.—No statewide map of wildfire risk has been adopted.

D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

E.—If an applicant is granted a deferred replacement permit under this section:

- 1.—The deferred replacement permit:
 - a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2024-008](#) §6 on 1/7/2025

Amended by Ord. [2025-002](#) §8 on 3/28/2025

[Repealed by Ord. 2025-016 §4 on x/xx/xxxx](#)

18.40.030 Conditional Uses Permitted

The following uses and their accessory uses may be allowed in the Forest Use Zone, subject to applicable provisions of the Comprehensive Plan, DCC 18.40.040 and other applicable sections of DCC Title 18:

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring it use.
- D. Destination Resorts where mapped in a DR zone and subject only to the provisions of DCC 18.113 and other applicable provisions of DCC Title 18 and the Comprehensive Plan not contained in DCC 18.40.
- E. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- F. Log scaling and weigh stations.

G. A disposal site which includes a land disposal site which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

H. Private parks and campgrounds as allowed by and subject to the requirements of ORS 215.459 and OAR 660-006-0025.

- ~~1.—Campgrounds in private parks shall only be those allowed by OAR 660-006-0025.~~
- ~~2.—Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.~~
- ~~3.—For the purpose of DCC 18.36.030 a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.~~
- ~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~
- ~~5.—Campsites may be occupied by a tent, travel trailer, or recreational vehicle.~~
- ~~6.—Separate sewer, water or electric service hookups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by OAR 660-006-0025(4)(e)(C).~~
- ~~7.—Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period.~~
- ~~8.—A private campground may provide yurts for overnight camping:

 - ~~a.—No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~
 - ~~b.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~~~

- ~~9.—As used in this rule, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~
- I. Mining and processing of oil, gas or other subsurface resources, as defined in ORS 520.005, and not otherwise permitted under DCC 18.40.030(E).
 - J. Television, microwave, and radio communication facilities and transmission towers.
 - K. Fire stations for rural fire protection.
 - L. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
 - M. Aids to navigation and aviation.
 - N. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
 - O. Reservoirs and water impoundments.
 - P. Cemeteries.
 - Q. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights of way 50 feet or less in width.
 - R. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
 - S. Home Occupations, ~~as allowed by and;~~ subject to ~~the requirements of ORS 215.448 and~~ DCC 18.116.280.
 - T. Expansion of existing airports.
 - U. Public road and highway projects as described as ORS 215.283(2) and 215.283(3).
 - V. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of DCC Title 18 and the following requirements:
 - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 4. Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- W. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.
- X. Single-unit dwellings or manufactured dwellings as specified in DCC 18.116.070, pursuant to DCC 18.40.050.
- Y. Fill or removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270.
- Z. ~~Temporary hardship dwelling. An existing building, or a manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. For the purposes of this section, "existing" means the building was in existence on or before March 29, 2017.~~
1. ~~A temporary hardship dwelling is conditionally allowed subject to DCC 18.116.090, 18.40.040, and 18.40.060 As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
 2. ~~The use shall be subject to the review criteria in DCC 18.116.090, as well as DCC 18.40.040 and 18.40.60.~~
 3. ~~The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.~~
 4. ~~If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~
- ~~5.2.~~ A temporary residence approved under this subsection is not eligible for replacement under OAR 660-006-025.
- AA. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- AB. Private seasonal accommodations for fee hunting operations may be allowed subject to DCC 18.36.050 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted; and
3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

AC. An Extended Outdoor Mass Gathering subject to review by a county planning commission pursuant to DCC Chapter 8.16.

AD. Permanent storage and repair of logging equipment.

AE. Permanent facility for the primary processing of forest products.

AF. Firearms training facility.

AG. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [86-018](#) §8 on 6/30/1986

Amended by Ord. [90-014](#) §28 on 7/12/1990

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-038](#) §1 on 9/30/1991

Amended by Ord. [92-068](#) §1 on 12/7/1992

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2000-033](#) §1 on 12/6/2000

Amended by Ord. [2004-020](#) §6 on 10/13/2004

Amended by Ord. [2007-020](#) §4 on 2/6/2008

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2018-006](#) §7 on 11/20/2018

Amended by Ord. [2020-007](#) §11 on 10/27/2020

Amended by Ord. [2025-002](#) §8 on 3/28/2025

Amended by Ord [2025-016](#) §4 on x/xx/xxxx

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18.40.050 Standards For Single-Unit Dwellings

A. General Provisions.

1. Dwellings listed as a conditional use under DCC 18.40.030(X) shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.40.050(B) (lot of record dwelling), DCC 18.40.050(C) (large tract dwelling), or DCC 18.40.050(D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules Chapter 629).
For purposes of DCC 18.40.050, evidence of a domestic water supply means:
 1. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 2. A water use permit issued by the Water Resources Department for the use described in the application; or
 3. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.

- e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
 - 2. In addition, dwellings listed as a conditional use under DCC 18.40.030(X) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.40.040;
 - b. The siting criteria set forth in DCC 18.40.060;
 - c. The fire siting standards set forth in DCC 18.40.070;
 - d. The fire safety design standards for roads set forth in DCC 18.40.080;
 - e. The stocking requirements set forth in DCC 18.40.085, if applicable; and
 - f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.
 - 3. Dwellings in forest zones shall not be subject to conditional use standards.
 - 4. Approval of a dwelling in the forest zone under DCC Chapter 18.40 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- B. Lot of Record Dwelling. For approval under DCC 18.40.050, a single-unit dwelling shall meet the following requirements:
- 1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985, and was acquired and owned continuously by the present owner either prior to January 1, 1985, or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

2. For the purposes of DCC 18.40.050, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or combination of these family members.
 3. The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be:
 1. a United States Bureau of Land Management (BLM) road; or
 2. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
 4. For the purposes of DCC 18.40.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
 5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
 6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
- C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.40.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.

1. A deed restriction shall be filed pursuant to DCC 18.40.140 for all tracts that are used to meet the acreage requirements of this subsection.
2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.

D. Template Dwelling. For approval under DCC 18.40.050(D), a single-unit dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:

~~1.—As an exception to DCC 18.40.050(D)(1)(d), prior to November 1, 2023, a single-unit dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract.~~

2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
 - a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 1. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

1. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
- c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
3. Requirements of Applying Template
- a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.
 - b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.
 - c. Except as provided by subsection (d) of this section, if the tract described in DCC 18.40.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
 - d. If a tract 60 acres or larger described in DCC 18.40.050(D) abuts a road or perennial stream, the measurement shall be made in accordance with subsection (c) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and;
 1. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- e. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [92-025](#) §3 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §2 on 10/5/1994

Amended by Ord. [2003-007](#) §2 on 3/26/2003

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2018-006](#) §7 on 11/20/2018

Amended by Ord. [2021-013](#) §7 on 4/5/2022

Amended by Ord. [2025-002](#) §8 on 3/28/2025

[Amended by Ord. 2025-016 §4 on x/xx/xxxx](#)

...



EXHIBIT E FINDINGS

FARM AND FOREST HOUSEKEEPING TEXT AMENDMENTS

247-25-000297-TA

I. **APPLICABLE CRITERIA:**

Title 22, Deschutes County Development Procedures Ordinance

II. **BACKGROUND:**

Oregon's zoning-based farm and forest land conservation programs have been in place since 1973. Over the past 10 years, interested parties, the courts, and the Department of Land Conservation and Development (DLCD) have identified a number of issues needing review. In 2024, the Land Conservation and Development Commission (LCDC) initiated the Farm and Forest Modernization Project, which included rulemaking and the appointment of a rules advisory committee (RAC). Rulemaking was intended to improve the clarity and consistency of implementing Oregon's farm and forest program across the state. DLCD directed the RAC to consider:

- Codifying identified case law standards;
- Other EFU rule amendments;
- Conforming rule changes; and
- Providing additional clarity to counties and potential applicants with the intent of reducing unnecessary appeals.

LCDC ultimately adopted new Oregon Administrative Rules (OARs) on December 6, 2024. They became effective on January 1, 2025. Staff provided an update to the Board of County Commissioners on February 3, 2025¹ and acknowledged an amendment package would be forthcoming in spring/summer 2025.

This housekeeping text amendment will incorporate the changes to the OAR into the Deschutes County Code (DCC), as well as incorporate some minor housekeeping changes from previous rulemaking or legislative changes that have not yet been captured locally.

III. **AMENDMENT SUMMARY:**

To comply with this rulemaking package, staff is proposing the following amendments:

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-220>

- Amend 18.16.040(A) to apply farm impacts test through reference to Oregon Revised Statute (ORS) and OAR.
- Amend 18.16.042(A) 'incidental and subordinate' definition for agri-tourism.
- Amend 18.16.030(Y) to include ORS and OAR references for rural transportation facilities in Exclusive Farm Use zone.
- Add rural transportation facilities as 18.36.030(AE) and 18.40.030(AG) in forest zones and included ORS and OAR references.
- Amend 18.16.031(D), 18.36.030(G), and 18.40.030(H) to reference ORS and OAR definition for private parks.
- Amend 18.16.020(J), 18.36.020(M), and 18.040.020(M) to reference ORS and OAR standards for replacement dwellings. Removed sections 18.16.023, 18.36.025, and 18.40.025 as they were duplicative.
- Amend 18.04 to reference ORS and OAR for definition of "farm use".
- Amend 18.16.050(A)(3)(f), 18.16.050(B)(8), and 18.16.050(C)(5) to reflect new requirements for verification of income associated with farmworker and primary farm dwellings.
- Amend 18.16.038(C) to reference ORS and OAR standards for farm stands.
- Amend 18.16.030(M), 18.36.030(R), and 18.40.030(S) to reference ORS and OAR standards for home occupations.
- Amend 18.36.050(D)(1)(d)(1) and 18.40.050(D)(1)(d)(1) to remove a temporary provision for template dwellings that has sunset.
- Amend 18.16.031(D), 18.16.030(G), 18.36.030(G), and 18.40.030(H) to directly reference requirements for campgrounds in OAR and ORS. Removed 18.16.050(L) as no longer needed.
- Amend 18.04 to amend the definition for a processing facility for farm crops to include rabbit products.
- Amend 18.16.033(C) as is it duplicative and superseded by 18.120.010(B), pertaining to expansion of nonconforming schools.

Staff included only housekeeping style amendments resulting from rulemaking in this particular text amendment package. Additional discretionary amendments related to childcare, temporary storage sites, and natural disaster event allowances may be pursued in the future.

IV. BASIC FINDINGS:

The Planning Division determined amendments were necessary to incorporate changes to state law into various sections of the Deschutes County Code. Staff initiated the proposed amendments and notified the Oregon Department of Land Conservation and Development on May 22, 2025 (File no. 247-25-000297-TA). As demonstrated in the findings below, the amendments remain consistent with Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

V. FINDINGS:

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.

Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice will be published in *The Bulletin* newspaper at least 10 days prior to each public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board and has received a fee waiver. This criterion has been met.

Section 22.12.040. Hearings Body

- A. *The following shall serve as hearings or review body for legislative changes in this order:***
 - 1. *The Planning Commission.***
 - 2. *The Board of County Commissioners.***
- B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-25-000297-TA will be implemented by ordinances upon approval and adoption by the Board.

OAR 660-015, STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement:

FINDING: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing. This goal is met.

Goal 2: Land Use Planning:

FINDING: The purpose of the amendment is to integrate requirements from Oregon Administrative Rule and Oregon Revised Statutes. The proposal has a factual base and is consistent with the intent of the Comprehensive Plan and zoning districts. This goal is met.

Goal 3: Agricultural Lands:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 4: Forest Lands:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 5. This goal does not apply.

Goal 6: Air, Water and Land Resources Quality:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6. This goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 7. This goal does not apply.

Goal 8: Recreational Needs:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 8. This goal does not apply.

Goal 9: Economic Development:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 9. This goal does not apply.

Goal 10: Housing:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 11: Public Facilities and Services:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 11. This goal does not apply.

Goal 12: Transportation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 12. This goal does not apply.

Goal 13: Energy Conservation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 13. This goal does not apply.

Goal 14: Urbanization:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goals 15 through 19

FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

2011 DESCHUTES COUNTY COMPREHENSIVE PLAN

Chapter 2 – Resource Management -Section 2.2 Agricultural Land Policies

Policy 2.2.5 Uses allowed in Exclusive Farm Use zones shall comply with State Statute and Oregon Administrative Rule.

Policy 2.2.6 Regularly review farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law.

FINDING: The intent of the proposed text amendment is to integrate changes to state administrative rules into local code for implementation. Where possible, staff has proposed amendments to the code to directly reference state statute and administrative rule. These policies are met.

Chapter 2 – Resource Management -Section 2.3 Forest Land Policies

Policy 2.3.5 Uses allowed in Forest zones shall comply with State Statute and Oregon Administrative Rule.

FINDING: The intent of the proposed text amendment is to integrate changes to state administrative rules into local code for implementation. Where possible, staff has proposed amendments to the code to directly reference state statute and administrative rule. These policies are met.

VI. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments that make minor changes necessary to clarify existing standards and procedural requirements, incorporate changes to state and federal law, and to correct errors in the Deschutes County Code.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Deschutes County Employee Benefits Renewal for the 2026 Plan Year

RECOMMENDED MOTION:

1. Move to approve a contract (including deductible limits for the 2026 plan year) with a Stop Loss provider who presents the best financial options for the County.
2. Move to approve renewing with PacificSource, the current Third Party Administrator (TPA), for the 2026 plan year.
3. Move to approve the staff recommended Employee Benefit Plan changes #1-6.
4. Approve County Administrator signature of the final Deschutes County Employee Benefits Health Plan documents and service agreements for the 2026 plan year.

BACKGROUND AND POLICY IMPLICATIONS:

The Deschutes County Employee Health Benefits Plan is set to renew January 1 for the 2026 Plan Year. This annual renewal period requires the County to evaluate the health benefits plans and vendor contracts supporting the plans. Deschutes County has established the Deschutes County Group Health Plan (referred to as the "Plan") to provide health care coverage for eligible employees and their dependents. Deschutes County is the Plan Sponsor. This Plan Document contains both the written Plan Document and the Summary Plan Description ("SPD") which will be administered by PacificSource, the Third Party Administrator, and will be effective on January 1, 2026.

The attached memo provides additional details on the recommended changes and proposed contract renewals.

BUDGET IMPACTS:

The proposed changes are anticipated to be within the currently approved Health Benefit Fund 650 budget for FY26 and will be included in the proposed budget for FY27.

ATTENDANCE:

Susan DeJoode, Human Resources Director
Trygve Bolken, Human Resources Analyst



HUMAN RESOURCES

Date: October 15, 2025

To: Deschutes County Board of County Commissioners

From: Trygve Bolken, HR Analyst
Susan Dejoode, HR Director

Re: Deschutes County Employee Benefits Renewal for the 2026 Plan Year

The Deschutes County Employee Benefits Plan is set to renew for the 2026 Plan Year. The following is a summary of program renewals and considerations for the period of January 1, 2026 – December 31, 2026.

In preparation for the annual renewal period, staff meets with the County's legal team, benefit consultant, and Third-Party Administrator (TPA) to review proposed changes to the plan. This includes an analysis of changes due to legislative requirements, industry standards, new offerings in the industry, benchmarking against comparable plans, cost impacts, and the impact on the health care needs of our employees and their dependents. It is the County's approach to consider changes that have proven effectiveness, are mandated by law, fiscally responsible, and competitive with benchmarking against other health plans.

This year, due to the continued increases associated with the cost of the County's Health Benefits Plan and the need to continue to build reserves in the Health Benefits fund, County leadership increased Health Plan charges to departments by 1% in Fiscal Year 2026. In Fiscal Year 2025, charges to departments were increased by 30% which contributed to building healthy reserve levels in the fund. The ending fund balance as of June 30, 2025, is \$11.8 million, \$3.8 million higher than the County's reserve policy of \$8.0 million.

Claims costs continue to increase, but at a slower rate than the previous two plan years. During the first seven months of the 2025 plan year (January – July 2025) Medical/RX/Vision claims have increased 9.6% while Dental claims have decreased 0.6%. Because claims costs have stabilized, the long-term forecast model assumes 9% year over year increases, based on input from the County's health benefits consultants.

On Tuesday, September 23, the County's Employee Benefits Advisory Committee (EBAC)¹ voted 13- 0 in

¹ (EBAC is comprised of representation of County management and represented staff. The committee is

support of the proposed plan changes detailed in this memo for the 2026 Plan Year. The proposed plan changes are due to legislative requirements and have an estimated cost of \$20,574 for the 2026 benefit year.

EBAC also voted in support of increasing employee cost shares by 1%, which would increase monthly rates for individuals from \$95 to \$96 and for employees and dependents from \$116 to \$117. This change is estimated to generate an additional \$17,000 in annual revenue.

Employee Health Benefits Plan: Refer to attachment A – Changes Recommended to BOCC for 2026 Plan Year.

➤ ***Human Resources and Administration recommend and EBAC supports the following Employee Benefit Plan changes, #1-6, for the 2026 plan year.***

1. **Add Doula services under medical services on the medical plan.**

Oregon statute requires health plans to cover doula services, postpartum doula services, and lactation consultations.

➤ **The estimated cost impact to the plan is a cost of \$7,558 annually.**

2. **Expand prosthetic devices under durable medical equipment on the medical plan.**

Oregon statute requires health plans cover prosthetic and orthotic devices when they are medically necessary for performing daily activities or essential work tasks. This also includes devices needed for physical activities to improve health.

➤ **The estimated cost impact to the plan is a cost of \$13,016 annually.**

3. **Covering Autologous breast reconstruction.**

Oregon statute requires health plans to cover autologous breast reconstruction procedures for out-of-network providers the same as in-network providers in situations where there is not an adequate network.

➤ **There is no estimated cost impact to the plan.**

4. **Dependent Care FSA Limit Increase.**

The One Big Beautiful Bill Act (OBBBA) permanently increased the Dependent Care FSA (DCAP) annual limit from \$5,000 to \$7,500 for tax years beginning 1/1/2026.

➤ **There is no cost impact to the plan.**

responsible for making recommendations to the Board of County Commissioners regarding Health benefits.)

5. **Update plan language to align with current plan interpretation and TPA best practices.**

In partnership with our TPA, HR staff have made efforts to clarify plan language. Proposed changes are clarifications to the plan document and do not change benefit coverage.

- **HR Staff recommended and EBAC supports making the corrections, clarifications and changes as described on the PacificSource Medical and Dental plan documents.**

6. **Increase employee cost shares.**

Increase employee medical and dental premium cost shares by 1%. This would increase monthly rates for individuals from \$95 to \$96 and monthly rates for employees with dependents from \$116 to \$117.

- **The estimated additional revenue generated would be \$17,000 annually.**

Additionally, Human Resources and County Administration recommend that the Board approve the following administrative actions associated with renewal rates and selection of a stop loss carrier:

- **Renewal – Third Party Administrator (TPA):** Last year, the County experienced an 8.1% rate increase for TPA services with our current vendor, PacificSource. This year, PacificSource has proposed a 3.3% rate increase for TPA services. The final rate increase will depend on which performance reporting options the County selects.
- **Renewal - Life and Disability Insurances** with New York Life: Rate decreases for basic group life, Accidental Death and Dismemberment and Long-Term Disability rates last year. Rates guaranteed until 1/1/2028).
- **Renewal - Employee Assistance Program** with Canopy: Had a 23.4% fee increase last year. There will be no rate increase this year.
- **Renewal - Flexible Spending Accounts** with PacificSource Administrators: No administration fee increase.
- **Renewal - Livongo Diabetic Management Program:** No increase.
- **Stop loss provider.** Staff worked with the County's benefit consultant to obtain competitive bids for coverage and reviewed adjusting the policy deductible. Currently, the most favorable bid is 7% while maintaining the deductible at \$500,000 and a 50% rate cap. Other bidders are waiting for September claims report to make their final bids. Staff recommends maintaining the current deductible of \$500,000 and selecting the bid that is the most cost effective.



Staff Recommendations: Changes to DC Employee Benefits Plan 2026 Plan Year (effective 1/1/2026)

Plan Impact	Change	Reason For Consideration
1. Maternity Services – Doula Services State Regulation (Oregon SB 692)	Oregon statute requires health plans to cover doula services, postpartum doula services, and lactation consultations. Staff supports this change.	Estimate \$7,558 annually. No plan language change is required. Coverage will be administered by PacificSource
2. Durable Medical Equipment – Prosthetic Devices State regulation (Oregon SB 699)	Oregon statute requires health plans cover prosthetic and orthotic devices when they are medically necessary for performing daily activities or essential work tasks. This also includes devices needed for physical activities to improve health. Staff supports this change.	Estimate \$13,016 annually. No plan language change is required. Coverage will be administered by PacificSource
3. Breast Reconserection – Autologous Breast Reconstruction State regulation (Oregon SB 1137)	Oregon statute requires health plans to cover autologous breast reconstruction procedures for out-of-network providers the same as in-network providers in situations where there is not an adequate network. Staff supports this change.	Estimate \$0.00 annually. No plan language change is required. Coverage will be administered by PacificSource
4. Dependent Care FSA Limit Increase Federal Legislation (OBBA Act)	The OBBA permanently increased the Dependent Care FSA (DCAP) annual limit from \$5,000 to \$7,500 for tax years beginning 1/1/2026. Staff supports this change	There is no cost impact to the plan.
5. Plan language updates (Medical and Dental Documents Wide)	Language to be added or changed throughout the plan documents to clarify the administration of benefits, simplify plan language, or to align with PacificSource core plan language. Staff supports language clarification and simplification with no changes to benefits.	These changes are clarification and clean-up of plan language. Not a change to the benefit or coverage. HR is reviewing language changes with Deschutes County Legal to ensure it does not result in a change to benefits.
6. Employee Cost Shares	\$96 (\$91 medical/\$5 dental) EE Only and \$117 (\$112 medical/\$5 dental) EE+Dependents. Although similar to department increase, this increase recommendation is not tied to department increase. Staff supports this change.	Estimate \$17,000 annually in revenue.

Supplemental: Stop Loss Insurance	Maintain current stop loss deductible at \$500,000. Consider Sun Life and other providers determined by last best rate offer. Staff supports.	Preliminary estimate + \$102,031 (7.0%) cost to the plan. Consultants went to market for additional bids. Sunlife and other bidders will provide final rates after they review Sept. claims.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 15, 2025

SUBJECT: Deliberations: BCL LLC Plan Amendment and Zone Change for 240 acres located to the north and south of Highway 20, approximately one-quarter mile east of Bend's Urban Growth Boundary

RECOMMENDED MOTION:

Upon conclusion of the deliberations, the Board may:

- Approve the application
- Deny the application
- Continue deliberations to a date to be determined

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will hold deliberations to consider a Comprehensive Plan Amendment and Zone Change request submitted by BCL LLC. A public hearing was held before the Board on August 20, 2025, and the written record was left open until September 10, 2025.

The applicant requests to change the zoning designation of a 240-acre property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10). The applicant also requests a concurrent change in the Comprehensive Plan designation from Agriculture to Rural Residential Exception Area. The full record is available at the following link:

<https://www.deschutes.org/cd/page/247-24-000097-pa-247-24-000098-zc-bcl-llc-comprehensive-plan-amendment-and-zone-change>

BUDGET IMPACTS:

None

ATTENDANCE:

Audrey Stuart, Associate Planner



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Board of County Commissioners

FROM: Audrey Stuart, Associate Planner

DATE: October 8, 2025

SUBJECT: October 15th Deliberations for BCL LLC Plan Amendment and Zone Change

The Board of County Commissioners ("Board") held a public hearing on August 20, 2025, to consider a request for a Comprehensive Plan Amendment and Zone Change (file nos. 247-24-000097-PA, 98-ZC) for a property located east of Bend that is approximately 240 acres in size. The Board is scheduled to deliberate on October 15, 2025, in consideration of this request.

I. BACKGROUND

The applicant, BCL 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 – Tumalo-Redmond-Bend subzone (EFU-TRB) to Multiple Use Agricultural – 10 Acre Minimum (MUA-10). The subject property consists of four tax lots, which are located to the north and south of Highway 20, approximately 0.26 miles east of the Bend Urban Growth Boundary. The subject property primarily consists of undeveloped land, however, one of the tax lots is developed with a dwelling and one tax lot is developed with a solar voltaic array (solar farm). Prior to the initial hearing, the applicant submitted a Modification of Application (land use file no. 247-25-000021-MA) to reduce the size of the area to be rezoned from 259 to 240.17 acres.

The applicant argues that the subject property does not meet the definition of "agricultural land" due to its poor soil quality, and there is no history of farm use on the subject property. For these reasons, the applicant states a mistake was made when the property was originally zoned and MUA-10 zoning is more appropriate.

The soils map available from Natural Resources Conservation Service (NRCS) indicates the soil on the subject property is a complex that includes various classes of soils, as rated by the Land Capability Classification. The applicant provided a memorandum from a certified soil scientist, who concluded that the subject property predominantly consists of Class 7 and Class 8 soils, which are

not suitable for farm use. Additionally, the applicant has provided a traffic study, and findings within the burden of proof that demonstrate compliance with state and local requirements and policies.

A public hearing was held before a Hearings Officer on May 9, 2025, and the written record was left open following the close of that hearing. On July 9, 2025, the Hearings Officer issued a recommendation for approval of the proposed Plan Amendment and Zone Change evaluating compliance with all applicable review criteria.

II. PUBLIC COMMENTS

Following the issuance of the Hearings Officer Recommendation, four members of the public and Central Oregon LandWatch (COLW) submitted comments in opposition to the proposal. Comments included concerns regarding loss of farmland, impacts to surrounding properties, increased traffic, and compliance with Oregon's Statewide Planning Goals.

Following the Board hearing on August 20, 2025, the written record was left open until September 10, 2025. The applicant and COLW both submitted additional comments during this open record period. In addition, the Deschutes County Road Department submitted a comment in response to a question raised by a Commissioner during the hearing.

III. BOARD DELIBERATIONS

If the Board finds that additional deliberations are necessary, the Board may schedule a future date for continued deliberations. If the Board finds no additional deliberations are necessary, the Board may then vote on whether to approve or deny the subject application.

Board Decision Matrix

Staff prepared a matrix outlining key issue areas for the Board's deliberation. This matrix is included as an attachment, and provides additional review and discussion of the application's compliance with applicable approval criteria.

IV. NEXT STEPS

If the Board determines that additional deliberations are necessary, staff will work with the Board to schedule a future meeting for continued deliberations. If the Board concludes their deliberations during the October 15, 2025, 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 October 15, 2025, 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. SUGGESTED MOTION

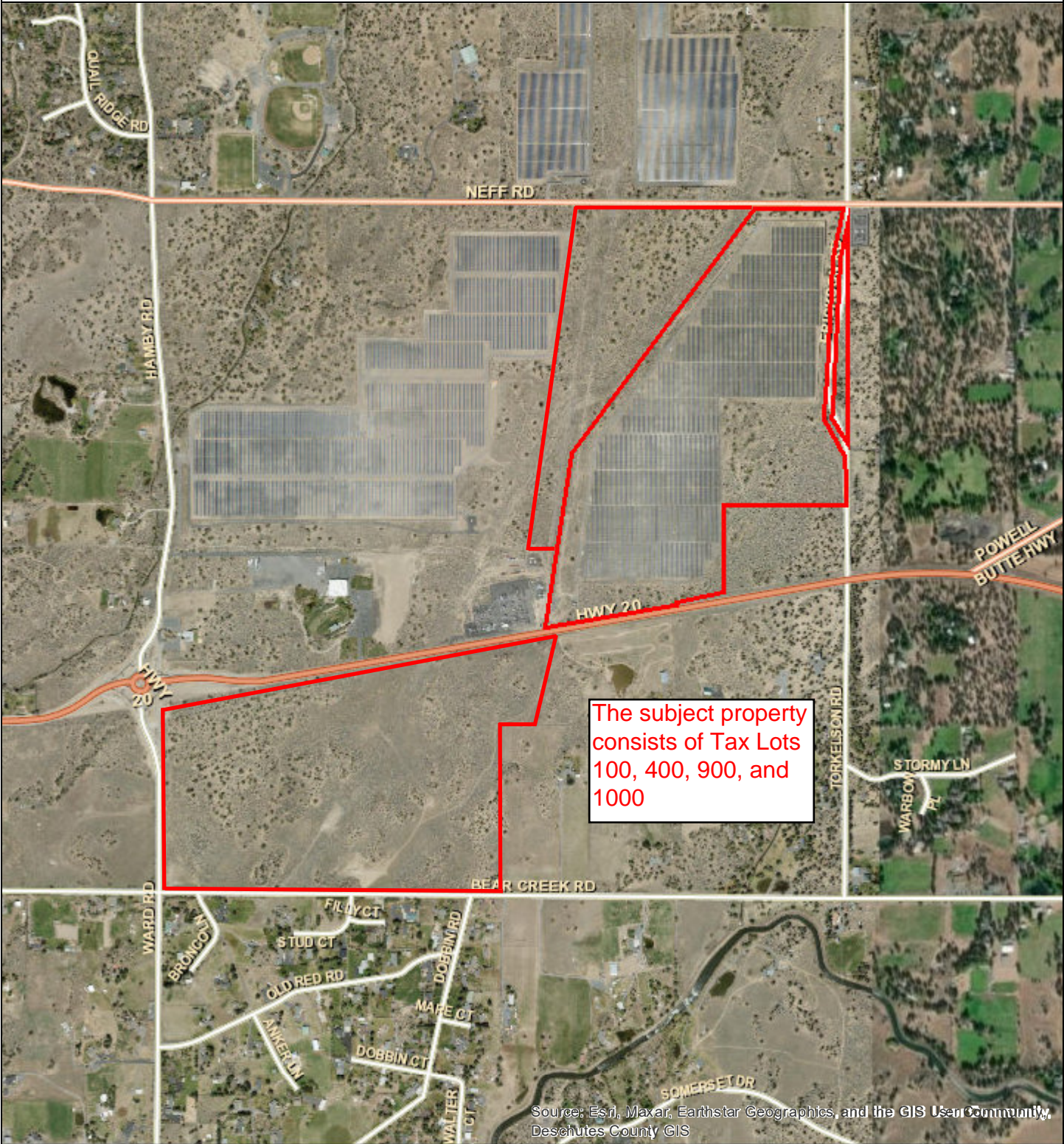
To the extent the Board decides to approve Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the Plan Amendment and Zone Change for file nos. 247-24-000097-PA, 247-24-000098-ZC, and 247-25-000021-MA.

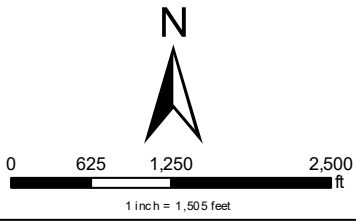
To the extent the Board decides to modify or reverse the Hearings Officer's decision, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

Enclosures: Area Map
Board Decision Matrix
Hearings Officer Recommendation

Land Use File #247-24-000097-PA, 98-ZC, 247-25-000021-MA



Date: 3/6/2024



BCL LLC PLAN AMENDMENT / ZONE CHANGE Land Use File Nos. 247-24-000097-PA, 098-ZC, 247-25-000021-MA				
Issue Area #1	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<u>Soils Report</u> Is the applicant's Soils Report a "soils assessment" pursuant to applicable Oregon Administrative Rules (OAR)?	<p>OAR 660-033-0030 (5)(a) allows a property owner to provide a more detailed soils assessment.</p> <p>OAR 660-033-0045 outlines the procedure for a qualified professional to conduct a soils assessment.</p>	<p><u>Applicant comments</u> state the soil scientist did not conduct an onsite investigation and relied on information available through NCRS. Therefore, the Soils Report is not a 'soil assessment' as described in OAR 660-033-0030 (5)(a) and is not subject to those requirements.</p> <p>The applicant's soil scientist submitted a letter dated May 15, 2025, stating that the report was not an Order 1 soil assessment.</p> <p><u>Oppositional comments</u> assert that the applicant's Soils Report contains more detailed information than what is contained in the NRCS Web Soil Survey. The applicant was required to submit their Soils Report to DLCD to confirm it followed the correct methodology and was scientifically sound.</p> <p>In a May 30, 2025, letter Central Oregon LandWatch (COLW) asserts the applicant's soil scientist used discretion in applying and calculating the acreage of each soil capability within the subject property. They claim the resulting information is not contained in the NRCS map or tables and is therefore "more detailed information."</p>	<p>The Hearings Officer determined the Soils Report did not generate, produce, or otherwise utilize more detailed data on soil capability than what is contained in the NRCS soil maps. The Hearings Officer agreed with the applicant's argument that a "soils assessment" is an assessment that relies on data other than the NRCS maps and soil surveys.</p> <p>The Hearings Officer concluded the Soils Report is not a "soil assessment" that requires DLCD certification (HOff Recommendation p 16).</p>	<p>Is the applicant's Soils Report a "soils assessment" as described in OAR 660-033-0030 (5)(a)?</p> <ol style="list-style-type: none">1. If no, the Board can continue reviewing the applications.2. If yes, the Board must deny the Plan Amendment (PA)/Zone Change (ZC) for failure to follow the procedures in OAR 660-033-0045.

Issue Area #2	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<p><u>Soils Report</u></p> <p>Does the submitted Soils Report demonstrate the property is predominantly Class 7 and Class 8 soils, and therefore not “agricultural land”?</p>	<p>OAR 660-33-0020(1)(a) defines agricultural land in Eastern Oregon as predominantly Class 1-6 soils.</p>	<p><u>Applicant comments</u> state the Soils Report was prepared by a professional soil scientist and utilized information available through the NRCS soil maps and soil surveys. Applicant asserts they utilized information provided by NRCS and do not dispute the published soil maps. Applicant also cites a previous Board decision (file nos. PA-11-7, ZC-11-2) that allowed a weighted average methodology when determining the capability of land that is mapped as a complex soil unit.</p> <p><u>Oppositional comments</u> take issue with the weighted average approach that the applicant uses for the 58C soil unit, which is a complex that contains Class 6, Class 7, and Class 8 soils. COLW claims the NRCS map simply provides broad mapping units, and does not specify the percentage of Class 6, Class 7, and Class 8 soils within the subject property.</p>	<p>The Hearings Officer found that the Soils Report was prepared by a qualified professional soil scientist, and is credible and persuasive evidence that the property is predominantly Class 7 and Class 8 soils.</p>	<p>Does the applicant’s Soils Report demonstrate the property is predominantly made up of Class 7 and Class 8 soils, and therefore not “agricultural land”?</p> <ol style="list-style-type: none">1. If yes, the Board can continue reviewing the applications.2. If no, the Board must deny the PA/ZC.

Issue Area #3	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<p><u>Goal 3</u></p> <p>Is the property agricultural land with respect to applicable OAR factors?</p>	<p>Goal 3 and OAR 660-033-0020(1)(a)(B).</p> <p>This OAR requires the decision-maker to determine whether the property is agricultural land by considering the following factors:</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.• Accepted farming practices.	<p><u>Applicant comments</u> assert the property has no known history of agricultural use. The applicant cites the costs to fertilize poor soil, deal with lack of water, and the limited crops that would grow on the property to demonstrate it is not feasible to generate a profit from farming on the subject property. The applicant’s soil scientist concluded that the infertile soils on the property made it impracticable to engage in farm uses.</p> <p>The applicant provided detail on the uses on surrounding properties to demonstrate that the subject property is not necessary to permit farming practices on them.</p> <p><u>Oppositional comments</u> claim certain farm uses are feasible on the subject property, and steps such as applying fertilizer can be taken to allow farm uses. These comments state livestock breeding, horse boarding, cattle grazing, and raising poultry may be possible. COLW also asserts that portions of the subject property were previously irrigated. In a letter dated August 20, 2025, COLW states the soil and topography of the property is similar to that of other ranches within Central Oregon.</p>	<p>The Hearings Officer found the subject property does not meet the definition of “agricultural land” and that the applicant’s Soils Report contained persuasive evidence regarding the inability of the property to support profitable livestock grazing.</p> <p>Staff notes that both the applicant and COLW submitted additional arguments regarding this issue area after the Hearings Officer’s recommendation was issued. Arguments responding to the recent LUBA decision <i>Central Oregon LandWatch v. Deschutes County (Destiny Court)</i> LUBA No. 2025-015 were submitted after the recommendation was issued and were not addressed by the Hearings Officer.</p>	<p>Does the subject property constitute agricultural land with respect to the factors under OAR 660-033-0020(1)(a)(B)?</p> <ol style="list-style-type: none">1. If no, the Board can continue reviewing the applications.2. If yes, the Board must deny the PA/ZC because the property meets the definition of Goal 3 ‘agricultural land.’

Issue Area #4	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<p><u>Goal 5</u></p> <p>The Landscape Management corridor along Highway 20 is an inventoried Goal 5 resource.</p> <p>Would the proposed Multiple Use Agricultural (MUA10) zoning allow for new uses that conflict with the adopted Economic, Social, Environmental, and Energy (ESEE) analysis for this resource?</p>	<p>Goal 5 and OAR 660-023-0250(3).</p> <ul style="list-style-type: none"> Pursuant to OAR 660-023-0250(3), the county does not have to apply Goal 5 as part of a Post Acknowledgment Plan Amendment (“PAPA”) unless the PAPA affects a Goal 5 resource. Pursuant to OAR 660-023-250(3)(b), a PAPA affects a Goal 5 resource if the PAPA would allow new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. The Highway 20 scenic corridor is the Goal 5 resource. 	<p><u>Applicant comments</u> assert the County is not required to apply Goal 5 to this PA/ZC because uses allowed under the proposed MUA10 zoning would not conflict with the Goal 5 resource. Any future development would also be subject to Landscape Management review to ensure development is consistent with the scenic corridor. In addition, the applicant describes existing development within the Highway 20 corridor to show that the PA/ZC will not have an appreciable impact.</p> <p>If it is determined that a Goal 5 analysis is required, the applicant has provided an ESEE analysis. This May 9, 2025, submittal identifies potential conflicting uses and concludes that they should be allowed in a limited manner that protects the resource.</p> <p><u>Oppositional comments</u> assert that Goal 5 must be applied because the subject Zone Change would allow new uses that could conflict with an inventoried Goal 5 resource. In a May 23, 2025, letter, COLW argues that the applicant used an incorrect impact area in their ESEE analysis. They claim the applicant must evaluate the entire inventoried resource, including land in the Highway 20 corridor that is outside of the subject property.</p> <p>COLW states that existing degradation of the scenic corridor cannot be used to support an argument to allow new potentially conflicting uses. Their letter also identifies uses in DCC 18.32.030 which are not evaluated in the applicant’s ESEE analysis.</p>	<p>The Hearings Officer agreed with the applicant’s summary of applicable regulations and found that the submitted ESEE analysis adequately addresses issues relevant to Goal 5. The Hearings Officer did not provide additional analysis in response to the recent LUBA and Hearings Officer decisions that the applicant cited.</p> <p>Staff notes the LUBA decision in <i>Central Oregon LandWatch v. Deschutes County (LBNW)</i> LUBA No. 2023-008 does not appear to support the argument that applying the Landscape Management Combining Zone is sufficient to ensure compliance with Goal 5. Staff therefore recommends the Board address the applicant’s ESEE analysis in their findings.</p>	<p>Does the MUA10 Zone introduce new conflicting uses to the Highway 20 scenic corridor?</p> <ol style="list-style-type: none"> If yes, does the applicant’s ESEE analysis adequately address Goal 5? <ol style="list-style-type: none"> If yes, the Board can continue reviewing the applications. If no, the Board must deny the PA/ZC. If no, an ESEE analysis is not required and the Board can continue reviewing the applications.

Issue Area #5	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<p><u>Compliance with Rezoning Standards</u></p> <p>Does the proposed change to MUA10 zoning best serve the public interest?</p>	<p>DCC 18.136.020 Rezoning Standards:</p> <p>“The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:...”</p>	<p><u>Applicant comments</u> assert that the factors listed in DCC 18.136.020(A-D) provide a methodology for determining whether the Zone Change would best serve the public interest, and that each of those factors have been met. The applicant claims the language of DCC 18.136.020 must be read as a whole, and that the Hearings Officer has correctly interpreted this Code section. At an extreme, the applicant claims that COLW’s interpretation of this Code section would require an evaluation of every potential rural zoning designation and creates a standard that is impossible to meet.</p> <p><u>Oppositional comments</u> state that demonstrating compliance with DCC 18.136.020 requires demonstrating the public interest is best served by the proposed Zone Change <i>and</i> that the factors in DCC 18.136.020(A-D) are met. In an August 20, 2025, letter COLW asserts the Hearings Officer incorrectly applied DCC 1.04.030 and DCC 1.04.060, and that a common usage definition of “best served” must be applied.</p>	<p>The Hearings Officer finds the term “best” used in the introductory statement to DCC 18.136.020 can be reasonably interpreted to mean that the public interest is “best served” if the proposal meets the factors set forth in DCC 18.136.020 (A-D) (HOff Recommendation p 23). Based on this interpretation, the Hearings Officer agrees with the applicant that DCC 18.136.020 will be met.</p> <p>Staff notes that additional arguments regarding this issue were submitted after the Hearings Officer Recommendation was issued. Staff therefore recommends the Board include findings regarding whether demonstrating compliance with the factors listed in DCC 18.136.020(A-D) is sufficient to show that DCC 18.136.020 has been met.</p>	<p>Has the applicant demonstrated that the public interest is best served by the proposed rezoning in compliance with DCC 18.136.020?</p> <ol style="list-style-type: none">1. If yes, the Board can continue reviewing the applications.2. If no, the Board must deny the PA/ZC.

Issue Area #6	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
<p><u>Existing Solar Facility</u></p> <p>The subject property is developed with a photovoltaic solar facility, which was permitted as a conditional use under the current EFU zoning. A solar facility is not a permitted use under the proposed MUA10 zoning.</p>	<p>DCC 18.136.020(B).</p> <p>That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.</p>	<p><u>Applicant comments</u> state that both Deschutes County Code and Oregon Revised Statute allow for the continued use of a lawfully-established nonconforming use. The applicant asserts that cities and counties regularly create nonconforming uses when rezoning properties. In a letter dated September 10, 2025, the applicant referred to the purpose statement of the MUA10 Zone and described how the subject property would meet that intent under new MUA10 zoning.</p> <p><u>Oppositional comments</u> assert the continued existence of the solar facility would not be consistent with the purpose and intent of the MUA10 Zone, since it is not a permitted use in the new zone. COLW states that while there is a path for nonconforming uses to continue to operate, creating a new nonconforming use is not consistent with DCC 18.136.020(B).</p>	<p>The Hearings Officer determined that a lawful nonconforming use (the solar facility) would be consistent with the purpose of the MUA10 Zone (HOff Recommendation p 22).</p> <p>Staff and the Hearings Officer both note that the subject application only reviews the request for a Plan Amendment and Zone Change. This application is not a status determination on the existing solar facility.</p>	<p>Is the proposed Zone Change consistent with the purpose and intent of the proposed MUA10 zoning?</p> <p>1. If yes, the Board can continue reviewing the applications.</p> <p>If no, the Board must deny the PA/ZC for failure to comply with DCC 18.136.020(B).</p>

Issue Area #7	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
Will the PA/ZC result in urban uses such that an exception to Goal 14 is required?	OAR 660-015-0000(14). Goal 14 and its implementing rules “provide for an orderly and efficient transition from rural to urban land use.”	<p><u>Applicant comments</u> state the Board has consistently approved similar Zone Change requests and found that the County’s adopted Comprehensive Plan is sufficient to ensure the uses in the MUA10 Zone are rural in nature. As an alternate finding, the applicant also submitted an analysis of the “Curry factors.”</p> <p>In response to COLW’s argument regarding Comprehensive Plan Policy 3.3.1, the applicant states this issue will be resolved through a separate process.</p> <p><u>Oppositional comments</u> claim the proposed Zone Change is inconsistent with Goal 14 because it would allow urban densities outside of an urban growth boundary (UGB), and future residents would rely on urban services. COLW also states that the proposed MUA10 zoning would allow for a density bonus if the applicant pursued a cluster development or planned development, and this density would be inconsistent with Goal 14 and Comprehensive Plan Policy 3.3.1.</p>	The Hearings Officer agreed with the applicant’s argument that Goal 14 was not applicable because no urban uses were proposed, and found that an exception to Goal 14 was not required.	<p>Would the proposed Zone Change allow for urban uses on the subject property?</p> <ol style="list-style-type: none">1. If no, the Board can continue reviewing the applications.2. If no, the Board must deny the PA/ZC for failure to comply with Goal 14.

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

FILE NUMBER: 247-24-000097-PA, 247-24-000098-ZC, 247-25-000021-MA

HEARING DATE: May 9, 2025

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

**SUBJECT PROPERTY/
OWNER:** Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Tax lot: 1712360000100
Account: 109118
Situs Address: 21875 NEFF RD, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Tax lot: 1712360000400
Account: 109115
Situs Address: 21850 HWY 20, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Tax lot: 1712360001000
Account: 111676
Situs Address: 21700 BEAR CREEK RD, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Tax lot: 1712360000900
Account: 111677
Situs Address: 62098 WARD RD, BEND, OR 97701

APPLICANT: BCL LLC

APPLICANT ATTORNEY: Christopher Kobak

REQUEST: The Applicant requested approval of a Comprehensive Plan Amendment to change the designation of the Subject property from Agricultural (AG) to Rural Residential Exception Area (RREA). The Applicant also requested a corresponding Zone Change to rezone the Subject Property from Exclusive Farm Use – Tumalo-Redmond-Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA10).

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679

Email: Audrey.Stuart@deschutes.org

RECORD:

Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-24-000097-pa-247-24-000098-zc-bcl-llc-comprehensive-plan-amendment-and-zone-change>

I. APPLICABLE CRITERIA

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

- Chapter 18.04, Title, Purpose, and Definitions
- Chapter 18.16, Exclusive Farm Use Zones (EFU)
- Chapter 18.32, Multiple Use Agricultural (MUA10).
- Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

- Chapter 2, Resource Management
- Chapter 3, Rural Growth Management
- Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR), Chapter 660

- Division 12, Transportation Planning
- Division 15, Statewide Planning Goals and Guidelines
- Division 33, Agricultural Land

Oregon Revised Statutes (ORS)

- Chapter 215.010, Definitions
- Chapter 215.211, Agricultural Land, Detailed Soils Assessment

II. BASIC FINDINGS

LOT OF RECORD: The submitted Burden of Proof includes the following response regarding lot of record status:

“Deschutes County determined that Tax Lots 100, 300, and 400 (combined with Tax Lot 1100) were a lot of record in LR-91-54 and LR-91-55, as corrected by Planning Staff Letter dated December 17, 1998. Exhibit 1. Deschutes County determined that Tax Lot 1000 was a lot of record in 247-20-000077-LR. Exhibit 2.”

The application materials also include a request for Lot of Record Verification for Tax Lot 900 and provide an analysis on the deed history of this tax lot. However, Staff noted (Staff Report, pages 2 & 3) that a Lot of Record Verification is a separate application type that requires its own form and fee, which were not submitted. Staff (Staff Report, pages 2 & 3) concluded that a lot of record analysis for Tax Lot 900 was not required in order to process Applicant’s current Comprehensive Plan Amendment and Zone Change requests.

DCC 22.04.040(B)(1) specifies the types of land use applications that require lot of record verification, and a Comprehensive Plan Amendment and Zone Change is not listed. In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, a County Hearings Officer held to a prior zone change decision (*Belveron* ZC-08-04; page 3) that a property’s lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, an applicant would be required to receive lot of record verification prior to any *development* on the property. The Hearings Officer concurs with Staff’s analysis and finds that this criterion does not apply.

SITE DESCRIPTION: The properties included in Applicant’s proposal in this case (the “Subject Property”) consists of four tax lots, which are summarized in the table below.

<i>Tax Lot</i>	<i>Size (Acres)</i>
100	100.89
400	38.06
900	43.89
1000	57.33

Applicant’s Burden of Proof for file 247-25-000021-MA provides the following description of the Subject Property:

“The subject tract is designated agricultural and zoned EFU. However, there is no history of any agricultural use. As the Applicant will explain more below, the tract is comprised predominantly of 58C soils which are not considered suitable for agricultural uses. Tax Lots 900, 1000, and 400 are, with the exception of one dwelling recently constructed on Tax Lot 1000, vacant unirrigated parcels with no use. Each tax lot has only a few trees and is primarily comprised of sagebrush, rabbit brush, and bunch grasses. No part of Tax Lot 900 is irrigated, and it has no water rights. Tax Lot 100, like similar parcels north and west, is developed with a solar farm that consumes all but the southeast corner of the lot, which portion is vacant. No part of Tax Lot 100 is irrigated, nor does it have any water rights.

The subject tract extends east from Ward Road west to Erickson Road. The tract extends north to Neff Road and south to Bear Creek Road. The following aerial photograph shows the approximate locations of the subject property and the general character of the property and surrounding area.”

The parcels making up the Subject Property are located east of Bend, to the north and south of Highway 20. At its closest point, the Subject Property is approximately 0.26 miles from the City of Bend’s Urban Growth Boundary (UGB). The Subject Property consists primarily of undeveloped land, with two exceptions. Tax Lot 1000 is developed with a Lot of Record Dwelling which was approved through Deschutes County file 247-21-000119-CU. Tax Lot 100 is developed with a solar voltaic array (“Solar Array”) that was originally approved through Deschutes County files 247-15-000170-CU, 171-SP and have subsequently been modified. The fenced area developed as the Solar Array encompasses an area of approximately 62.6 acres.

PROPOSAL: The Applicant requested approval of a Comprehensive Plan Map Amendment to change the designation of the Subject Property from an Agricultural (“AG”) designation to a Rural Residential Exception Area (“RREA”) designation. The Applicant also requested approval of a corresponding Zoning Map Amendment to change the zoning of the subject properties from Exclusive Farm Use (“EFU”) to Multiple Use Agricultural (“MUA10”). The Applicant asked that Deschutes County change the zoning and the plan designation because the Subject Property does not qualify as “Agricultural Land” under Oregon Revised Statutes (“ORS”) or Oregon Administrative Rules (“OAR”) definitions.¹ The Applicant proposed that no exception to Statewide Planning Goal 3, Agricultural Land was required because the Subject Property is not “agricultural land.”

The original proposal included five tax lots, with a total area of 259 acres. On January 8, 2025, the Applicant submitted a Modification of Application (Deschutes County file 247-25-000021-MA). This modified the proposal to reduce the size of the area to be rezoned, by removing Tax Lot 300 on Assessor’s Map 17-12-36. The materials for 247-25-000021-MA also supplemented the analysis provided in the original application materials regarding agricultural lands and provided a professional soil report.

¹ As defined in OAR 660-033-0020, 660-033-0030

Submitted with the application is a review of the Subject Property soil characteristics, titled *Bear Creek Analysis of Agricultural Land* (hereafter referred to as the “Red Hills Soils Report”) prepared by soil scientist Andy Gallagher, CPSSc/SC of Red Hill Soils. The Applicant also submitted a traffic analysis prepared by Ferguson and Associates, Inc. dated February 28, 2025, hereafter referred to as the “Traffic Study.” Additionally, the Applicant submitted an application form, a Burden of Proof statement (the “Burden of Proof”), and other supplemental materials, all of which are included in the record for the subject applications.

SOILS: According to Natural Resources Conservation Service (“NRCS”) maps of the area, the Subject Property contains three different soil types as described below. The Subject Property contains 58C – Gosney-Rock Outcrop-Deskamp complex, 36B – Deskamp loamy sand (3 to 8 percent slopes) and 36A – Deskamp loamy sand (0 to 3 percent slopes). The 36A and 36B soil units are defined as high-value soil by DCC 18.04 when it is irrigated. The 58C soils complex is not defined as high-value farmland, regardless of irrigation.

The applicant submitted the Red Hills Soils Report (exhibit to 247-25-000021-MA application materials), which was prepared by a certified soils scientist and soil classifier. The purpose of the Red Hills Soils Report was to inventory and assess the soils on the Subject property and to provide additional insight related to the NCRS soil classifications and ratings. Additional discussion of the Red Hills Soils Report can be found in the Preliminary Findings section titled Certification of Soils Report (III.A.2).

The NRCS soil map units identified on the properties are described, for background information, below.

36A, Deskamp loamy sand, 0 to 3 percent slopes: This soil complex is composed of 85 percent Deskamp soil and similar inclusions, and 15 percent contrasting inclusions. The Deskamp soils are somewhat excessively drained with a rapid over moderate permeability, and about 5 inches of available water capacity. Major uses of this soil type are irrigated cropland and livestock grazing. The agricultural capability rating for 36A soils are 3S when irrigated, and 6S when not irrigated. This soil is high-value when irrigated. Approximately 33 percent of the subject parcel is made up of this soil type.

36B, Deskamp loamy sand, 3 to 8 percent slopes: This soil is composed of 85 percent Deskamp soil and similar inclusions, and 15 percent contrasting inclusions. This soil is somewhat excessively drained, with rapid permeability and an available water capacity of approximately 3 inches. The major uses of this soil are irrigated cropland and livestock grazing. This Deskamp soils have a capability rating of 6E when unirrigated, and 3E when irrigated. This soil type is considered high-value when irrigated. The 36B soils are limited to the northern, irrigated portion of the site and comprise approximately 0.2 percent of the property.

58C, Gosney-Rock Outcrop-Deskamp complex, 0 to 15 percent slopes: This soil type is comprised of 50 percent Gosney soil and similar inclusions, 25 percent rock outcrop, 20 percent Deskamp soil and similar inclusions, and 5 percent contrasting inclusions. Gosney soils are somewhat excessively drained with rapid permeability. The available water capacity is about 1 inch. Deskamp soils are somewhat excessively drained with rapid permeability. Available water capacity is about 3 inches. The major use for this soil type is livestock grazing. The Gosney soils have ratings of 7e when unirrigated, and 7e when irrigated. The rock outcrop has a rating of 8, with or without irrigation. The Deskamp soils have ratings of 6e when unirrigated, and 4e when irrigated. Approximately 66 percent of the subject properties is made up of this soil type, all located within the northern parcel.

SURROUNDING LAND USES: The general surrounding area of the Subject Property is defined by the City of Bend’s Urban Growth Boundary (“UGB”) to the west and then a mix of residential and agricultural uses spreading out to the north, east, and south. Adjoining properties are zoned MUA10 and EFU, and range in size and type of development. The general surrounding area includes small-scale farms that predominantly consist of irrigated fields and pasture, and are located to the east of the Subject Property. The area to the west of the Subject

Property provides a transition from the UGB to rural land use, and is developed with a number of uses such as solar farms, a church, a fire station, and a public park.

Applicant provided (Burden of Proof) the following description of adjacent properties:

“West: Tax Lot 900 fronts Ward Road. West of Ward Road, the majority of properties are zoned MUA10 and not used for agricultural purposes. The property that abuts Ward Road on the west is an approximate 53-acre tract consisting of three tax lots, 17-12-36, Tax Lots 1400, 1600, and 1601. In 2018, in Files 24 7-18-000485 and 24 7-18-000486, the County approved a change in the designation to Rural Residential Exception area and a change in the zoning to MUA10. In 2021, in Files 247-22-000353 and 354, the County approved the same redesignation and zone change on a parcel identified as 18-12-02, Tax Lot 201. Northeast of Tax Lot 900, the parcel immediately east of Tax Lot 900 (17-12-36 Tax Lot 800), is a vacant EFU-TBR. The other properties east of the Subject Property are either MUA10 with dwellings or EFU parcels and most include dwellings and hobby farms uses.

The properties northwest of the Subject Property are a mixture of MUA10 land recently rezoned, EFU land developed with commercial solar farms and institutional uses such as a church, a Christian Center, and a Pacific Power facility. Just north of Highway 20 and west of Hamby Road, in 2022, the County approved a similar request involving a 94-acre tract that consisted of two parcels identified as 17-12-35, Tax Lots 1200 and 1201. There are a few large acre dwellings as well. There does not appear to be any active farming operations within close proximity to the Subject Property to the northwest.

North: The properties north of Tax Lot 900 are the same as that east of Tax Lot 100. They are EFU and MUA-10 zoned parcels with the above-described commercial, institutional, and residential uses. The property immediately north of Tax Lot 100 is a 118-acre parcel zoned EFU and MUA-10. It has a dwelling on pali and a large solar farm on the remainder. Northeast of Tax Lot 100 the properties are predominantly all MUA-10 zoned parcels developed with residential uses.

South: The land south and southeast of Tax Lot 900 is zoned MUA-10 and is developed with single-family homes. Most of the parcels are within Dobbins Estate, a large acre subdivision. South of Tax Lot 100 the properties are primarily EFU zoned parcels developed with large acre residential dwellings. One parcel appears to have a small hobby horse farm on it. There are no active farming operations.

East: The properties east of Tax Lot 900 are predominantly EFU zoned with most being less than 20 acres and many less than 10 acres. The primary development pattern is large acre residential uses with one horse farm noted above. One property directly east of Tax Lot 1000 appears to be developed with a personal moto-cross course. East of Tax Lot 100 the properties lying east of Erickson Road are predominantly all MUA-10 zoned parcels developed with large acre residential estate-type dwellings. There is an irrigation canal that runs diagonally through some of those properties.”

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on March 12, 2024, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings, March 5, 2025, Comments

I've reviewed the revised TPR analysis prepared by Ferguson & Associates, Inc dated February 28, 2025. Reflective of the applicant's pending Modification of Application file (no. 247-25-000021-MA) to remove Tax Lot 300 from the scope of the project (resulting in a 12.41-acre reduction in acreage from the original application), the revised analysis provides updated information related to the total ~240.17 acres of subject property. The full build-out scenario included in the revision (considering redevelopment of the

existing solar farm portions of the subject property) aligns with staff's comments from 6/11/24. The report's inclusion of modified acreage and assumed development credit for one existing single-family dwelling complies with additional comments from staff's 6/11/24 email correspondence regarding the MUA10 Zone's worst case scenario analysis. I agree with the assumptions, methodologies, and conclusions outlined in the revised analysis.

Deschutes County Senior Transportation Planner, Tarik Rawlings, June 11, 2024, Comments

Thank you for forwarding the revised TPR analysis produced by Ferguson & Associates, Inc., dated April 22, 2024.

While the revised TPR analysis has addressed some of the transportation-related comments issued on behalf of the County Road Department on March 29, 2024, there are some outstanding issues with the revised analysis that should be addressed by the applicant in order to comply with TPR:

1. The translation of the "farm manufacturing" analysis into the category of "farm stand" is not a reasonable conclusion and the revised analysis does not clearly demonstrate how a "farm stand" derived from the 18.16.025(1)(1-2) "facility for the processing of farm crops" (and termed "farm manufacturing" at multiple points in the report) constitutes a reasonable worst case scenario for outright EFU use categories even when compared to other uses within DCC 18.16.025. The applicant should provide demonstrable analysis (derived from real local or regional examples of farm crop processing facilities) showing how this use category constitutes a reasonable worst case scenario for outright EFU use categories.
2. At the conclusion of the "Trip Generation Forecast – Outright Permitted Uses – Land Use Scenario for Existing EFU Zoning" section of the revised analysis (beginning on page 3 of the revised report), the applicant concludes with an assumption that three of the five parcels making up the subject properties would each respectively support a dog training class use, a farm stand use, and a Winery/Farm Brewery/Cider business use. The remaining two parcels within the subject properties are not included within this analysis and the applicant must account for these additional 2 parcels in their reasonable worst case scenario analysis. If the applicant continues their revisions under the analytical framework that each of the 5 individual lots within the subject properties would support different reasonable worst case scenario uses, then the applicant must clearly state which use is assigned to which tax lot. Further, that analysis should be tailored to the unique aspects of each individual lot such as acreage and location. Alternatively, if the applicant decides to revise their report to analyze all 5 lots as one contiguous property for the purpose of reasonable worst case scenario analysis, that analysis should focus on one reasonable worst case scenario use category across the contiguous 5 lots. Staff notes that, of the identified EFU reasonable worst case scenario uses included on pages 3-6 of the revised report, winery or dog training classes are likely the highest trip-generative uses. For the purposes of quantifying the anticipated impacts from the EFU reasonable worst case scenario uses, staff encourages the applicant to base any methods and assumptions of these uses on real local or regional examples.
3. Staff disagrees with the applicant's assertion that the existing solar farm would not be redeveloped as part of the reasonable worst case scenario analysis for the requested MUA10 Zone. As the requested MUA10 Zone is outright permissive of single-family dwellings, staff finds that it would be reasonable to assume that the existing solar farm would be redeveloped with single-family dwellings as an economically-advantageous land use and the applicant should produce revised analysis reflecting the full build-out of residential single-family dwellings as the reasonable worst case scenario for the requested MUA10 Zone.
4. Pursuant to bullet #3, above, staff also requests that the applicant revise the single-family dwelling analysis for the requested MUA10 Zone included in Table 5 (page 8 of the revised

report) to reflect a total “Number of Single-Family Residentials” of 25 (revised from 13). Based on the acreage of the subject properties (252.58 acres), the ability to redevelop the existing solar farm, and the purpose of this exercise as a scenario forecast for trip generation, staff finds that the subject properties would be able to support a maximum of 25 single-family dwellings as the reasonable worst case scenario for the requested MUA10 Zone.

5. Pursuant to bullets #3 and #4, above, the applicant must revise Table 7 (page 9 of the revised report) to reflect a total of 25 single-family dwelling units for the purpose of P.M. Peak hour and daily weekday trip generation forecasting.

Deschutes County Senior Transportation Planner, Tarik Rawlings, March 29, 2024, Comments

I have reviewed the transmittal materials for 247-24-000097-PA, 98-ZC for properties totaling approximately 259 acres to change the Comprehensive Plan designation from Agriculture (AG) to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10). The properties are within the Exclusive Farm Use (EFU) Zone, and the Airport Safety (AS) and Landscape Management (LM) Combining Zones associated with the following identifying property information:

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Taxlot: 1712360000100
Account: 109118
Situs Address: 21875 NEFF RD, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Taxlot: 1712360001000
Account: 111676
Situs Address: 21700 BEAR CREEK RD, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Taxlot: 1712360000300
Account: 109116
Situs Address: **NO SITUS ADDRESS**

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Taxlot: 1712360000900
Account: 111677
Situs Address: 62098 WARD RD, BEND, OR 97701

Mailing Name: ERICKSON-WARD LAND TRUST LLC
Map and Taxlot: 1712360000400
Account: 109115
Situs Address: 21850 HWY 20, BEND, OR 97701

I have reviewed traffic analysis provided by Ferguson & Associates, Inc., dated February 2, 2024, included as Exhibit 12 of the submitted application materials. The analysis included within the submitted Ferguson & Associates, Inc. report does not comply with the relevant provisions of OAR 660-012-0060, known as the Transportation Planning Rule (TPR). In order to determine whether the proposal will produce a significant effect on transportation facilities, the applicant must revise their traffic analysis to comply with TPR including OAR 660-012-0060(1)(a-c). Due to the scope of the proposal, staff notes that the applicant’s revised analysis must comply with the requirements for a Traffic Impact Analysis (TIA) (DCC 18.116.310(C)(3)(c)) outlined in DCC 18.116.310 including the minimum TIA requirements at DCC 18.116.310(G)(1-16), the study time frame requirements at DCC 18.116.310(E), the operation and safety standards at DCC 18.116.310(H) (20-year study time frame) and the mitigation standards at DCC 18.116.310(I), should any mitigations be required as the result of the revised analysis. The TIA should include a review of existing and future levels of service (LOS), average vehicle delay, and volume/capacity (V/C) ratios associated with the subject properties and surrounding project area. The V/C ratios would be applicable to any ODOT facilities included in the TIA.

Regarding the reasonable worst case scenario(s) put forward in the submitted traffic analysis, staff disagrees with the scenario proposed for the existing EFU Zone. For the existing EFU Zoning, staff does not agree that “farm use” or farm crop processing is the reasonable worst case scenario associated with the EFU Zone and notes that “winery” has been used in past applications for PA/ZC proposals from

EFU to MUA10. The assertion that “farm use” constitutes the reasonable worst case scenario for the EFU Zone is antithetical to the analysis provided in the submitted Burden of Proof statement, demonstrating that the subject properties are not currently suited for farm use.

The properties have frontage on Highway 20, Bear Creek Road, Erickson Road, and Neff Road. Highway 20 is a public road maintained by the Oregon Department of Transportation (ODOT), functionally classified as a Primary Arterial Highway. Staff recommends the applicant work closely with representatives from ODOT for any access permitting or other requirements related to Highway 20. Based on ODOT’s jurisdiction over Highway 20, the access permit requirements of DCC 17.48.210(A) do not apply. Bear Creek Road and Erickson Road are public roads maintained by Deschutes County and functionally classified as Rural Collectors. Neff Road is a public road maintained by Deschutes County and functionally classified as a Rural Arterial. If the applicant intends to utilize access from Bear Creek Road, Erickson Road, or Neff Road, the applicant must address the provisions of DCC 17.48.210(B) related to access on Rural Collectors and Arterials.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,603 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC RATE IS ONLY VALID UNTIL JUNE 30, 2024. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

BEGINNING JULY 1, 2024, THE SDC RATE WILL INCREASE AND LAST UNTIL JUNE 30, 2025. AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.

Oregon Department of Transportation, Principal Planner Ken Shonkwiler

Thank you for the opportunity to review 247-24-000097-PA, 247-24-000098-ZC: Erickson Ward Zone Change. Our comments are attached in a comment log and I also provided a letter on the applicant’s TPR assessment memo with regards to OAR 660-012-0060.

Oregon Department of Agriculture, John Harrang

No involvement needed by ODA Food Safety Program.

Department of Land Conservation and Development, Natural Resource Specialist Amanda Punton

Good to know, thanks. Do you anticipate including finding on how new uses allowed by the proposed rezoning will affect the Goal 5 scenic resource? There is mention of the combining zone in the applicant’s material but nothing about the Goal 5 origins of the combining zone. This is the piece of OAR chapter 660, division 23 that speaks to new uses that could impact a significant Goal 5 resource.

OAR 660-023-0250(3)(b)

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if: . .

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or . . .

There is a good chance the county will find that no additional Goal 5 work is needed. I'm happy to discuss further if you like.

The following agencies did not respond to the notice: Avion Water Company, Bend-La Pine School District, Bend Fire Department, City of Bend Growth Management, Bend Municipal Airport, City of Bend Planning Department, Central Oregon Irrigation District, Deschutes County Assessor, and Deschutes County Road Department.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property on March 12, 2024. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on June 11, 2024.

Christopher Koback appeared at the Hearing and testified on behalf of Applicant. Robin Hayakawa appeared at the Hearing and testified on behalf of COLW. Submissions were made into the public record, prior to the Hearing, and are set forth below. Issues raised in the public comments below related to relevant approval criteria are addressed in the findings of this recommendation.

Rory Isbell, Central Oregon LandWatch, March 12, 2024

“Central Oregon LandWatch is concerned whether file no. 247-24-000097-PA/98-ZC, an application that proposes to redesignate and rezone 259 acres of agricultural land for residential use, meets the applicable criteria. Please notify us of any decisions or hearings on the application. Our address is 2843 NW Lolo Drive Ste 200, Bend, OR 97703.”

Jordi Stiffler, March 19, 2024

“I'm writing on the proposed land use action regarding the applicant, which I believe is Mr. Steele and his wife Shelby, petitioning to change their property, 21700 Bear Creek Rd, from Agricultural to Rural Residential Exception Area (RREA).

I am contesting the right for the applicant to change the zoning. Two years ago the county sent out letters to everyone in the vicinity of the applicants property when he wanted to split the land into separate tax lots. When I talked to the county planner at that time he assured me that the land was zoned only for one residential house and that other residential homes could not be built on it. The neighbors, including myself, had to put up with 18 months of construction with dirt, heavy equipment, litter, excessive traffic, noise. The land that they built on was home to coyotes, deer, and other wildlife which has pretty much disappeared.

The narrow Ward Rd can't sustain more traffic to include a new residential area. The road is dangerous as Ward Rd is used by the car dealers for test drives at high rates of speed, and young drivers who fly down Ward Rd to “catch air” in the rise of the road heading east. I have seen numerous dogs and deer get killed on that road in front of my house. The neighbor hood bought our houses outside the urban boundary area for one main purposes ... acreage without multiple housing infringing on us.”

Audrey Henry, March 20, 2024

"I am writing in response to the proposed land use application paperwork I received recently. I am an adjacent property owner and I oppose this proposal for a number of reasons.

This land has been a wildlife habitat for many years and most recently has been home to red fox who have finally come back to this area. There are deer who live there and many other wildlife as well. I moved here over 15 years ago for the peacefulness and serenity and I would hate to see that taken away.

Recently, I was approached by a representative of the gas company that has an easement and line going through that property. He stated one house needed to be removed due to the close proximity of the gas line. It appears due to the new house construction on 21700 Bear Creek Road, they are over the amount of housing allowed for that gas line so I am concerned that after recently being asked to sell my home to them so it could be vacated that we would now have to deal with additional homes, businesses here by the gas line.

I will reach out to you via phone and in person soon to further discuss."

Courtney Eastwood, March 20, 2024

"I am writing this email to inform you that as a property owner on Bear Creek Road - I am completely opposed to this change in zoning. There is already a housing development going in on Bear Creek that is going to bring more traffic and cars. Also the property across the street from the current development was just approved to also rezone to Multiple Use. This open land should be protected. We have lots of wildlife including deer, hawks, an eagle, and other critters that currently utilize these fields for their survival. Also I, and my neighbors, purchased land because we wanted land - not to stare at homes and increased traffic. Please re-evaluate how much land is going to be developed in this area and how much more you are proposing."

Amy and Matt Ruff, March 27, 2024

"We are responding to the mail correspondence in regards to File #247-24-000097-PA and File #247-24-000098-ZC. As residents of Filly Court, we are opposed to the change of designation from Agricultural (AG) to Rural Residential Exception Area (RREA) and the rezoning of Exclusive Farm Use (EFU-TRB) to Multiple Use Agricultural (MUA10). We feel the current designations are appropriate as is and there should be no further opportunity for building on those pieces of land.

With many people in the city and in the county wanting to expand the urban growth boundary, we feel we need to hold the line firm. Part of the reason we chose to move to this area was because of the open space. These changes in designation and rezoning are concerning due to the unknown type of housing that may go in. We are DEFINITELY not in favor of managed campsites for the homeless or for low income properties that could lower the value of the nearby homes and be a safety concern. Furthermore, additional residences could increase traffic.

It is difficult not knowing the full intentions of the land owner. We would appreciate transparency on this matter and would like to be made aware of any hearings that relate to these file numbers."

Rob DuValle, March 21, 2024

“Why would they want to rezone the land where they just put the solar panel farm in? That is concerning from an impact on my quality of life/ property value as a neighbor.

The whole land use process is very confusing from a community member perspective. I may be totally supportive or not depending on what actually goes in the ground, but without that information it leaves me without the ability to provide an informed response.

The list of potential ‘conditional uses’ has many that I would be opposed to. Shouldn’t the property owner be required to declare their intentions upfront and be legally held to them upon approval? That would seem to be the honorable way to do business. Please put me on the notification lists you mentioned.

NOTICE REQUIREMENT: On April 17, 2025, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property and public agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, April 13, 2025. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on April 3, 2025.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial plan amendment and zone change application is not subject to the 150-day review period.

III. FINDINGS & CONCLUSIONS

A. PRELIMINARY FINDINGS

1. Procedural Issues

Two record related procedural issues were raised in this case. Both issues relate to Central Oregon Land Watch (“COLW”) submissions. The first dispute relates to a COLW May 23, 2025 submission and the second relates to a COLW June 2, 2025 submission.

A brief background discussion should assist in understanding the Hearings Officer’s findings related to both record related issues. At the conclusion of the May 9, 2025 public hearing (the “Hearing”) the Applicant requested the record remain open for what is often referred to, in Deschutes County, as the “standard 7/7/7 open-record period.” The Hearings Officer, at the Hearing described the “standard 7/7/7 open-record period” as allowing new evidence to be submitted by any interested person during the first 7 day open-record period (“1st 7-day open-record period”), evidence in rebuttal to evidence submitted during the initial 7 day open-record period (“2nd 7-day open-record period”) and an applicant has a right to submit final argument during the third open-record period (“3rd 7-day open record period”).

The Hearings Officer announced, at the conclusion of the Hearing, the following open-record periods:

- * Submission of new evidence to be received by the County until 4:00 pm on May 16, 2025 (1st 7-day Open-Record Period); and
- * Submission of evidence in response to evidence submitted during the 1st Open-Record Period to be received by the County until 4:00 pm on May 23, 2025 (2nd 7-day Open-Record Period); and
- * Submission by Applicant of its final legal argument until 4:00 pm on May 30, 2025 (3rd 7-day Open-Record Period).

Deschutes County Planning Staff (“Staff”) contacted the Hearings Officer (email sent at 4:14 pm on May 23, 2025) and informed the Hearings Officer, in part, the following:

“The applicant submitted timely testimony during the new evidence & testimony period which ended Friday, May 16th. Unfortunately, that submittal was not uploaded to the record until today [May 23, 2025]. For this

reason, the county is requesting that the rebuttal period to be extended for a period of 7 days from the date that a Hearings Officer Order can be sent to all parties or to some other date certain - assuming you consent to the extended rebuttal period...

The Hearings Officer issued a *Hearings Officer Order Extending Written Record* modifying the Open-Record Periods that were announced at the Hearing. The Hearings Officer, in the *Hearings Officer Order Extending Written Record*, allowed the submission of rebuttal evidence (original deadline May 23, 2025) to be submitted until 4:00 pm on May 30, 2025 and the submission of Applicant's final argument (original deadline May 30, 2025) to be submitted until 4:00 pm on June 6, 2025.

On May 23, 2025 COLW submitted an open-record document which included the following statement:

"Central Oregon LandWatch ('LandWatch') offers the following comments in response to Applicant's submittal during the Hearings Officer Hearing's Open Record Period on May 9, 2025 ('2025-05-09 Applicant Submittal')."

Applicant objected to COLW's May 23, 2025 submission and provided the following comments:

"In its May 30, 2025 letter, the applicant asserted an objection to the written testimony that Central Oregon LandWatch ('COLW') submitted on May 23, 2025. The applicant renews that objection. In its May 23, 2025 letter, COLW acknowledged that its written testimony was directed at the applicant's May 9, 2025 submission. In an apparent effort to avoid the consequences of missing the submittal window for new evidence in response to evidence submitted at the public hearing, COLW stated: 'LandWatch offers the following comments in response to Applicants submittal during the open record period on May 9, 2025 (2025-05-09 Applicant Submittal).'

The May 9, 2025 Applicant submittal was not submitted during the open record period. It was submitted prior to the public hearing on May 9, 2025. The submittal included a letter addressing the hearing issues and the applicant's ESEE analysis chart. COLW requested that the record be kept open for new evidence to address the evidence submitted at the public hearing. Under the order that the Hearings Officer entered, all parties had until May 16, 2025, to submit any new evidence based on what was submitted at the public hearing. The order allowed parties until May 23, 2025, to submit testimony and evidence strictly in rebuttal to the new testimony and evidence submitted on May 16, 2025.

The applicant submits that under ORS 197.797, COLW was required to submit new evidence in response to the applicant's May 9, 2025 material within the initial seven-day period, or by May 16, 2025. COLW did not do that. It waited until May 23, 2025 to submit what it admits is testimony directed that the material submitted before the public hearing on May 9, 2025. None of COLW's May 23, 2025 testimony is directed at the applicant's May 16, 2025 submittal. COLW's May 23, 2025 submission should be stricken and disregarded."

It is clear to the Hearings Officer that COLW's May 23, 2025 submission was made during the originally announced "rebuttal evidence" time-period (per discussion above during the 2nd Open-Record Period). It is also clear to the Hearings Officer, based upon COLW's own statement (May 23, 2025 submission), that COLW's evidence and arguments contained in the COLW May 23, 2025 submission was directed towards Applicant's May 9, 2025 Hearing submission. Restated, the Hearings Officer finds Applicant's primary concern about COLW's May 23, 2025 submission was that the COLW May 23, 2025 evidence was directed towards Applicant evidence submitted **during the evidentiary Hearing** (which preceded the Open-Record Period) and not directed towards Applicant's evidence submitted **during** the "original" Open-Record Period (per discussion above the "original" 1st Open-Record Period).

The Hearings Officer finds that he explained the Open-Record process to all present at the Hearing and included a statement that evidence submitted during the 2nd Open-Record Period should be related to and in response to evidence submitted during the 1st Open-Record Period. The Hearings Officer asked those present at the Hearing

if they had any questions related to the Hearings Officer's explanation of what was appropriate to be submitted during each stage of the Open-Record. The Hearings Officer finds that the Applicant and COLW representatives are experienced land use hearing participants and believes that they both understood the Hearings Officer's expectations for Open-Record submissions.

The Hearings Officer finds that his decision related to the admission (or not) of the COLW May 23, 2025 submission is procedural in nature. The Hearings Officer finds that the appropriate legal procedural decision-making standard is for the Hearings Officer to assess whether or not the admission would substantially prejudice Applicant's and/or COLW's rights.

The Hearings Officer takes note that the Hearings Officer, in this case, issues a *recommendation* (not decision). Pursuant to Deschutes County code the Hearings Officer's recommendation will undergo a de novo review before the Deschutes County Commission (DCC 28.030). In this instance COLW will have the right to submit the evidence and argument contained in its May 23, 2025 Open-Record submission to the Commission for its consideration.

The Hearings Officer is disappointed in the approach taken by COLW and feels that technically the Hearings Officer could reject the admission/consideration of the COLW May 23, 2025 submission. The Hearings Officer does take note that Applicant provided, in its Final Argument Open-Record submission, a "precautionary" response to evidence/argument raised by COLW in its May 23, 2025 submission.

The Hearings Officer finds it appropriate, in this case only, to admit and consider the COLW's untimely May 23, 2025 submission. The Hearings Officer finds such admission and consideration will not substantially prejudice the Applicant's rights.

The Hearings Officer finds that COLW's June 2, 2025 email to Planner Stuart was filed/submitted during the Applicant's final argument time and cannot be considered in this case.

2. Certification of Soils Report

COLW argued that the Red Hills Soils Report (soils report submitted by Applicant) was required to be **certified** by the Oregon Department of Land Conservation and Development ("DLCD"). COLW (May 9, 2025, page 10) provided the following comments:

"... OAR 660-033-0030(5)(d) provides that after October 1, 2011, 'only those soil assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.'

Here, the Applicant has submitted a soil assessment dated January 2, 2025, well after the effective date provided in OAR 660-033-0030(5)(d). Furthermore, the Applicant did not submit that the soil assessment was certified by the DLCD as complete and consistent with the Department's requirements. This application relies heavily on the soils assessment from Mr. Gallagher in asserting that the subject property does not contain a predominance of NRCS Class I-VI soils. Because the soils assessment was not certified by DLCD as required under OAR 660-033-0030(5)(d), the local government may not consider its contents as substantial evidence of whether the subject property is agricultural land."

COLW supplemented its above-quoted comments in an Open-Record submission, (May 30, 2025, pages 1 – 5). The Hearings Officer includes a portion of the COLW May 30, 2025 comments below:

"In response to LandWatch's 5/9/2025 submittal where we noted that the Applicant's Soil Assessment has not been certified by DLCD, Mr. Gallagher of Red Hill Soils submitted a brief letter which concluded:

Because this is not a “Soil Assessment” this work does not need to be ‘certified by DLCD’ or anyone else. It is just an interpretive summary of the NRCS WEBSOILSURVEY Data. No new information or original or onsite information is provided or claimed in my report. The COLW has mistaken my report for something it is not and has attached certain rules to it that do not apply.

2025-05-016 Applicant Submittal at p. 3-4

At issue here is whether the applicant has submitted ‘more detailed soils information than that contained in the Web Soil Survey operated by the NRCS’ in order to assist the county in making a determination of whether the subject property qualifies as agricultural land. ORS 215.211(1); OAR 660-033-0030(5)(b). These sections and OAR 660-033-0045 specifically apply to ‘change[s] to the designation of a lot or parcel planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land’. OAR 660-033-0030(5)(c)(A). The purpose of requiring DLCD review of the soil assessments that may be used to remove lands from the protections of Goal 3 is to ensure that ‘the soils assessment is soundly and scientifically based’. OAR 660-033-0045(6)(b)(B). If more detailed information than what is contained in the NRCS Web Soil Survey was provided, then the Applicant was required to request that DLCD arrange the soil assessment. ORS 215.211(1).

In this case, the Applicant has submitted ‘more detailed soils information’ than what is contained in the NRCS Web Soil Survey, necessitating DLCD’s review and quality control. Specifically, Mr. Gallagher provided more detailed information about the total amount of acreage contained in each NRCS soil mapping unit within the subject property.”

Applicant, in its Final Argument (June 6, 2025, pages 5 & 6) responded to COLW’s comments set forth above, as follows:

“COLW incorrectly asserts that the applicant was required to submit for DLCD approval the January 2, 2025 report prepared by Red Soils that explained the NRCS mapping for the property. COLW relied on and quoted one subsection from OAR 660-033-0030. Specifically, COLW argues that under OAR 660-033-0030(5)(b), if an applicant believes that a more detailed soil information, other than that contained in the Websoils Survey operated by NRCS, would assist the county to make a better determination of whether the land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capacity of the land by a professional soil classifier.

COLW is misconstruing the requirements in OAR 660-033-0030(5). The text, examine in context, informs that a more detailed assessment of soil capacity is an assessment that relies on data other than that in the NRCS maps and soil surveys. COLW did not mention OAR 660-033-0030(5)(a), which provides:

More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

Clearly, the assessment referred to in OAR 660-033-0030(5)(b) is an assessment of detailed data on soil capability not contained in the existing NRCS maps and soil surveys. Mr. Gallagher’s report does not contain data on soils from the site or data other than what is contained in the existing NRCS maps and soils surveys. Mr. Gallagher expressly stated in his report:

Baseline information for this report is the NRCS WEBSOILS SURVEY and does not include an onsite evaluation or a Soil Assessment as defined by the State of Oregon.

Mr. Gallagher is one of the certified professionals who DLCD lists on its website as a resource for people who require an assessment of their soils. His professional statement that his report is not a soils assessment

as defined by the State is wholly credible and persuasive. Moreover, as the applicant testified, DLCD received formal notice of the application and did not voice a position contrary to Mr. Gallagher. Furthermore, Mr. Gallagher knows what a soil assessment under the State regulations looks like. The applicant submitted a copy of the study that Mr. Gallagher prepared in File No. 247-000404-PA/000405-ZC. One can readily see a soils assessment under the regulations is based on soil data gathered from samples taken from many locations on the property, which is then evaluated.

Mr. Gallagher's report further confirms that his work was based on the NRCS Websoils Survey and not on more detailed soil data that one would obtain from an on-site evaluation. In section 3 of his report, Mr. Gallagher explains only what the NRCS maps illustrate about the soil composition. In discussing soil fertility and suitability for grazing, Mr. Gallagher relied on the existing information in the NRCS soil surveys. See Table 5 of the NRCS Websoils Survey on page 4 of his report. He did not rely on soil data from the site. In discussing existing and future availability of water for irrigation, Mr. Gallagher relied on the NRCS information to conclude that the soil will remain Class 7 and Class 8 whether irrigated or not. None of the issues that Mr. Gallagher addressed relied on more detailed soil data.

In response to COLW's May 9, 2025 testimony, Mr. Gallagher, an expert in the field, explained that his report is not a soil assessment under OAR 660-003-0045 and did not have to be submitted to DLCD. The applicant submitted an example of a soil assessment that Mr. Gallagher prepared pursuant to OAR 660-033-0045 that was submitted to DLCD. It is easy to discern the remarkable difference between a report that relies on soils studies that supplement the NRCS maps and a report that merely explains how the NRCS soils assessment works."

The Hearings Officer finds the following are relevant subsections of OAR 660-033-0030:

(5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

(b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

...

(d) This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.

(e) This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether a lot or parcel qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.

The Hearings Officer notes that OAR 660-033-0030 is titled "Identifying Agricultural Land." This section of the Oregon Administrative Rules defines Agricultural Lands and provides guidance in how to determine if land is in fact Agricultural Land. Subsection (5) deals, in part, with the possibility of using more detailed "soil assessments" to demonstrate that certain land is, or is not, Agricultural Land. COLW argues that the Red Hills Soil Report is a "soil assessment" that required Applicant to secure DLCD approval/certification. Applicant counters that its soil expert simply interpreted existing NCRS information and therefore Applicant was not required to secure DLCD approval/certification.

OAR 660-033-0030 (5)(a) states, in part, that "***more detailed data*** on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define

agricultural land” [bolding and italics added by the Hearings Officer]. The Hearings Officer reviewed the Red Hills Soils Report to determine if the report in fact provided **more detailed data** than what is contained in the NCRS soils maps and soil surveys.

Gallagher, in the Red Hills Soils Analysis, concluded:

“The NRCS WEBSOILSURVEY shows the subject property is predominantly non-high value farmland, Class 7 and 8 and does not meet the definition of agricultural land within the meaning of OAR 660-033-0020(1)(b), as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit.”

Gallagher, in a May 15, 2025 letter (Applicant May 16, 2025 submission, attachment), stated

“I want to clarify for the record that my report only contained information taken from the NRCS database, and it did not include nor pretend to include any results from onsite investigations, and it is not an Order-1 Soil Survey. It is not a ‘Soil Assessment’ by the definition cited in OAR. It was not presented as such and was not called such in the title or body of the report. The specific reason I did not do a ‘Soil Assessment’ of this property is that the NRCS maps already showed a predominance of Class 7 and 8, non-high value farmland soils on these properties. There was no ‘Soil Assessment’ done or submitted so there is no failure to comply with OAR, as COLW stated in their letter.”

The Hearings Officer finds, based upon a review of the Red Hills Soils Report and Gallagher’s May 15, 2025 letter, that Gallagher did not generate, produce or otherwise utilize **more detailed data** on soil capability than what is contained in the NCRS soil maps and surveys. The Hearings Officer finds, consistent with OAR 660-033-0030 (5)(a), that the Red Hills Soils Report is not a “soil assessment” requiring DLCD certification.

The Hearings Officer also finds that Gallagher, in the Red Hills Soils Report, was “interpreting” existing NCRS maps and data. The Hearings Officer finds that if “interpreting” NCRS maps and data necessitated DLCD certification then COLW’s “interpretation” (See, for example, COLW comments in its May 9, 2025 and May 30, 2025 submissions) of the NCRS maps and data would require DLCD certification. It is not unusual in cases involving disputes as to whether a particular property is Agricultural Land to have multiple “interpretations” of NCRS maps and data. The Hearings Officer finds mere interpretation of existing NCRS maps and data does not trigger the need for OAR 660-033-0030 DLCD certification.

Title 22 of the Deschutes County Code, Procedures Ordinance

Chapter 22.20, Review of Land Use Action Applications

Section 22.20.055, Modification Of Application

- A. *An applicant may modify an application at any time during the approval process up until the close of the record, subject to the provisions of DCC 22.20.052 and DCC 22.20.055.***

FINDING: The Applicant submitted a Modification of Application (Deschutes County file 247-25-000021-MA) on January 8, 2025. The Applicant provided the following description of the Modification in the submitted Burden of Proof:

“The Applicant has reevaluated the application and is proposing to modify the application to reduce the number of acres subject to the request to 240.17 acres... The modification application also supplements certain evidence included in the original application demonstrating further that the subject property is not agricultural land as defined in the applicable laws and regulations. The Applicant is submitting a supplemental report from a certified soils scientist who applied an accepted weighted distribution analysis to the NRCS mapping and determined that the subject property is comprised predominantly of

Class 7 and Class 8 soils which are not agricultural soils.”

The Hearings Officer concurs with Applicant’s above-quoted statement.

- B.** *The Planning Director or Hearings Body shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in DCC 22.04) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 150-day time clock as of the date the modification is submitted. The 150-day time clock for an application, as modified, may be restarted as many times as there are modifications.*

FINDING: The Applicant provided the following response to this criterion:

“The Applicant is providing additional evidence within an application for a modification of application and with the required fee. Thus, the hearing body may consider the new evidence.”

The Hearings Officer concurs with Applicant’s above-quoted statement.

- C.** *The Planning Director or Hearings Body may require that the application be re-noticed and additional hearings be held.*

FINDING: The Modification of Application was submitted prior to the date the Notice of Public Hearing was mailed, and the Modification materials were available as part of the public record. Furthermore, Staff (Staff Report page 14) noted that the Modification reduced the size of the Subject Property and therefore would have reduced the size of the mailing radius. For these reasons, Staff concluded that an additional mailed notice of application or notice of hearing date are not required. The Hearings Officer concurs with Staff’s statement and conclusion.

- D.** *Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Planning Director or Hearings Body's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.*

FINDING: Staff (Staff Report, page 14) stated that it agreed with the Applicant’s conclusion that the materials submitted with 247-25-000021-MA constituted a Modification of Application. The Hearings Officer concurs with this Staff conclusion.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.136, Amendments

Section 18.136.010, Amendments

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

FINDING: The Applicant, with written consent from the property owner, requested a quasi-judicial plan amendment and filed the applications for a plan amendment and zone change. The Applicant filed the required Planning Division land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

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

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

FINDING: The Applicant provided the following comments in its Burden of Proof statement:

“The Comprehensive Plan's introductory statement explains that land use must comply with the Statewide Planning System and sets out the legal framework set by State law. It summarizes the Statewide Planning Goals. It also explains the process the County used to adopt the current Comprehensive Plan. This application is consistent with this introductory statement because the requested change has been shown to be consistent with State law and County plan provisions and zoning code that implement the Statewide Planning Goals.

The following provisions of Deschutes County's Amended Comprehensive Plan set out goals or text that may be relevant to the County's review of this application. Other provisions of the plan do not apply.”

The Applicant utilized the above-referenced analysis, as well as analyses provided in prior Hearings Officers' decisions to determine and respond to only the Comprehensive Plan Goals and policies that apply, which are listed in the Comprehensive Plan section of this recommendation in further detail. Staff (Staff Report, page 15) generally agreed with the Applicant's analysis and finds the above provision to be met based on Comprehensive Plan conformance as demonstrated in subsequent findings.

Staff requested that the Hearings Officer make specific findings regarding whether the Subject Property qualifies as agricultural land, which may impact the findings for compliance with certain Comprehensive Plan policies. The Hearings Officer provides such requested findings below and concludes that this criterion/standard is met.

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

FINDING: Staff, Applicant and COLW raised a number of issues related to this criterion. Staff expressed concern related to the Solar Array located on the Subject Property. Staff (Staff Report, page 17) asked the Hearings Officer to determine “*if the applicant has sufficiently addressed DCC 18.36.020 (B) demonstrating that the change will be consistent with the purpose and intent of the proposed zoning classification, specifically with respect to creation of a nonconforming use.*” COLW expanded upon Staff's above-quoted concerns and argued that the Solar Array would not be consistent with the purpose statement for the MUA10 zone. (COLW submissions: May 9 2025, page 2). Staff, Applicant and COLW also addressed this criterion during hearing testimony.

The Hearings Officer finds Applicant (Final Argument, 6/2/2025, pages 2 – 5) best outlines the issues raised by Staff and COLW. The Hearings Officer includes Applicant's final argument comments below:

“A. DCC 18.136.010 – Consistency with purpose and intent of MUA-10 zone.

COLW asserts that rezoning the subject 240 acres to MUA-10 is not consistent with the purpose and intent of the MUA-10 zone because 63 acres of the site has a previously approved solar farm on it. COLW does not specifically argue that rezoning the remaining 177 acres is inconsistent with the purpose and intent of the MUA-10 zone.

The purpose statement for the MUA-10 zone has several statements about the purpose of the zone, including:

- To preserve the rural character of various areas of the County while permitting development consistent with the character;*
- Preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part time agricultural uses;*
- Conserve open spaces and protect natural and scenic resources; to maintain and improve quality of air, water and land resources;*
- Establish standards and procedures for the use of those lands designated for intense development by the Comprehensive Plan;*
- Provide for orderly and efficient transition from rural to urban land use.*

COLW’s argument has two fundamental flaws. First, COLW does not even attempt to apply DCC 18.136.010 to most of the site; it limits its argument to one 63-acre portion of the larger 240-acre tract.^{Applicant’s footnote 1} Second, COLW’s arguments are backed by nothing other than bare conclusions and unsupported supposition.

Applicant’s footnote 1: The applicant notes that ironically, later in its May 9, 2025 opposition when asserting that the subject site qualifies as agricultural land, COLW advocates that one must take into account the entire site.

COLW’s argument is that rezoning just one part of the site that includes 63 acres is not consistent with the purpose statement. As noted, COLW never tried to address the remaining 177 acres. DCC 18.136.020(B) is specifically directed at the entire subject property. It cannot be applied to isolated portions of an application site. When applied to the entire subject tract, the standard in DCC 18.136.020(B) is satisfied. First, hearings officers in Deschutes County have consistently found that the uses permitted in the MUA-10 zone are rural in nature. LUBA has upheld those findings. See, Applicant’s May 9, 2025 Letter citing File Nos. 247-24-000392-PA, 247-24-000404-PA and Central Oregon LandWatch v. Deschutes County, ____ Or LUBA ____ (LUBA No. 2023-049, Feb. 15, 2024). Consequently, it is appropriate for the Hearings Officer to find that, as applied to the entire site, redesignating the subject site to MUA-10 is consistent with the purpose of preserving the rural character.

Second, rezoning the property to MUA-10 is consistent with preserving land for diversified, part-time agricultural use. Because the minimum parcel size in the MUA-10 zone is 10 acres, it is conducive to creating parcels where owners can more economically maintain small hobby farm operations that require less water, fertilizer, and labor. The application material establishes that the subject site with poor soil and no water is not suitable for any large-scale farming. As the data included in the Amended Burden of Proof Statement (page 23) and Mr. Gallagher’s report illustrate, the cost of conducting such operations outweighs the economic benefits. Permitting smaller parcels where hobby farming can occur is consistent with this element of the purpose statement. Further, the application material demonstrates that there are other MUA-10 parcels that have diversified, small-scale agricultural uses.

Rezoning the property to MUA-10 is consistent with preserving open space and natural resources. For example, the MUA-10 does permit clustering of residential dwellings on parcels smaller than 10 acres. However, that permitted use is also consistent with the purpose statement. A cluster

development requires that 65% of the sites be preserved as open space. Creating such an open space preserves natural features and scenic resources. In turn, the low-intensity development permitted maintains and improves the quality of air, water, and land resources.

Rezoning the land to MUA-10 is consistent with the purpose of establishing standards and procedures for the use of land unsuitable for intense development. DCC 18.32.020 lists the uses permitted outright and they are all low-intensity uses that the county has already deemed consistent with the rural MUA-10 zoning. DCC 18.32.030 lists the conditional uses which can be viewed as being slightly more intense than the permitted uses. The county's conditional use standards ensure that uses conditionally permitted are developed to be compatible with the properties in the area.

Finally, rezoning the subject site to MUA-10 will promote orderly transition to urban use. The subject site is close to the current city limit and in an area of growth. A public street network and other public facilities are close to the property and can be extended to serve it when the city expands east. The subject site is large enough to accommodate annexation and any master planning that is appropriate.

COLW supposes that an existing transmission corridor presents challenges to an attempt to rezone. However, COLW does not link that argument to any specific approval criterion. Many land use proposals come with challenges. The amount of bare land in Deschutes County close to city limits is not increasing. There will be challenges and competing interests. The reality is that there are utilities all over Deschutes County, and in all zones. It is difficult to imagine a site that does not have some utility lines that impact the site. However, a general concern over the existence of utilities is not a basis in the code to deny an application to change a zoning designation. In fact, when one examines COLW's diagrams in its May 9, 2025 letter, particularly Figure 9, the existing transmission lines run north/south through property east of the subject site. Compared to the application material, one can see that the existing transmission lines continue south through a residential development in an MUA-10 zone. That demonstrates that transmission lines are commonplace in our world and not inconsistent with the purpose of the MUA-10 zone; the existence of utilities is not a basis to reject a rezoning request.

In more rank speculation, COLW asserts that there are 'almost certainly additional potential non-conforming structures as DCC 18.32.040(C) prohibits structures from exceeding 30 feet in height within the MUA-10 zone.' Not only is that assertion void of all substance, COLW does not even try to link it to any criterion relevant to the application. How is the current rezoning request going to "potentially" create more non-conforming structures? If the height limit in MUA-10 is 30 feet, there will be no structure approved that is over 30 feet.

COLW further asserts that one can imagine more conflicts because PacifiCorp shows one possible route for a transmission line near the subject tract. Based on the mere possibility of a new transmission line in the area, COLW projects that conflicts are destined to occur. Where is the evidence to support such obvious speculation? As of the time that the Hearings Officer must make a decision, any PacifiCorp transmission line is theoretical.

B. The existence of a non-conforming use does not create an inconsistency with the purpose or intent of a new zone.

On a related point, COLW makes a very confusing non-conforming use argument. In response to a question from county planning staff, the applicant explained that although solar farms are not permitted in the MUA-10 zone, rezoning to MUA-10 is not inconsistent with the MUA-10 zoning standards because the solar farm is a lawfully established use that will continue with non-conforming use rights until redevelopment presents itself. That is not an uncommon situation in any jurisdiction. Indeed, if the existence of non-conforming

use/development was a bar to rezoning, it is hard to imagine cities ever being able to annex property. When property is annexed, it gets a city urban zone. Invariably, there will be older uses/developments that are not in conformance with the new zoning. The fundamental notion embodied in non-conforming use law is that such uses may continue but the long-range goal is to bring such sites into conformity over time. Thus, the existence of a non-conforming use is not an inconsistency that precludes rezoning. It is something that local codes and state law accommodate in the process of rezoning.

COLW tries to twist the applicant's response to have said that the county must approve the rezoning because the solar farm has non-conforming rights. That is entirely not true. That was the situation in Jackson v. Clackamas County, where the petitioner argued that it was entitled to a conditional use permit for a use because that use had lawful non-conforming use rights. The applicant here never asserted that the existence of a non-conforming use entitles it to a rezone. The applicant merely pointed out to staff that approving the rezoning request with a non-conforming use is not inconsistent with any county regulation and is commonplace in most rezoning and annexation actions."

The Hearings Officer finds no argument in the record that disputes the concept that if a zone change is granted that the Solar Array, if confirmed as a legal nonconforming use, would have a legal right to continue. *Holmes v. Clackamas County*, 265 Or 193 (1973) The Hearings Officer finds, however, that Staff is *uncertain* whether the Solar Array can be considered consistent with the purpose and intent of the purpose statement of the MUA10 zone. COLW argued that the Solar Array (if in fact a legal nonconforming use) *cannot* be considered consistent with the purpose and intent of the MUA-10 zone.

Applicant addressed Staff's and COLW's concerns in two ways. First, Applicant addressed the overarching issue of nonconforming uses in the context of zone change applications. Second, Applicant addressed each of the factors set forth in the MUA10 purpose statement.

The Hearings Officer first addresses the overarching issue involving zone change applications where a nonconforming use may exist if the zone change application is approved. Applicant and COLW both cited, in support of their position, *Holmes v. Clackamas County*, 265 Or 193 (1973) and *Jackson v. Bd. Of Cnty. Comm'rs for Clackamas Cnty*, 26 Or App 265 (1976).

COLW included the following excerpt from the *Holmes* Oregon Supreme Court opinion:

"In light of ORS 215.130, DCC 18.120.010, and Oregon Supreme Court precedent, it is not possible to find that rezoning the subject property resulting in an existing use having lawful nonconforming status is inconsistent with the MUA zone. Indeed, there are lawfully established nonconforming uses throughout the county and the state. Each time the city or county rezones property in an area, it is common for there to be uses that become nonconforming. The fact that those uses become lawfully established nonconforming uses does not mean that having such use is inconsistent with the purposes of the new zone. The well-established laws on nonconforming uses that allow them to continue in a new zone are designed to assure consistency with the new zone. If the standard is that a rezoning can only be found consistent with the purpose of the new zone if after the rezoning there are no lawfully established nonconforming uses, it would frustrate the city's ability to rezone property as well. It makes no legal difference whether the County initiates a rezoning, or a property owner exercises their right to request a rezoning. The law on nonconforming rights makes no legal distinction. 2024-5-28 Applicant Response to Issues Letter at p. 4-5."

COLW argued (following the above quote) that "Applicant mistakenly relies upon ORS 215.130(5) that the proposed zone change complies with the requirements of DCC 18.136.020(B)" (footnote omitted). The Hearings Officer finds that COLW mischaracterizes Applicant's argument and the clear and plain language set forth in the

above-quoted section of the *Holmes* Supreme Court decision. The Hearings Officer finds two sentences included in the above-quoted *Holmes* Supreme Court decision are worthy of repeating:

“The fact that those uses become lawfully established nonconforming uses does not mean that having such use is inconsistent with the purposes of the new zone. The well-established laws on nonconforming uses that allow them to continue in a new zone are designed to assure consistency with the new zone.”

The Hearings Officer finds this language is clear and directly on point in this case. The Hearings Officer finds, based upon the *Holmes* Supreme Court case, that the Solar Array if in fact a legal nonconforming use, can be considered consistent with the purpose of the MUA10 zone.

Applicant and COLW also referenced *Jackson v. Bd. Of Cnty. Comm’rs for Clackamas Cnty* in support of their nonconforming use positions. The Hearings Officer, having reviewed the cited *Jackson* opinion and finds that such opinion is not relevant to the nonconforming issue presented in this case.

Both Applicant and COLW addressed the introductory language of DCC 18.136.020 (B) and the purpose statement for the MUA10 zone (See COLW 5/9/2025 submission pages 2-8 and Applicant 5/9/2025 submission pages 2-4, and Applicant 6/2/2025 Final Argument, pages 2-5). Staff also addressed this MUA10 purpose statement in the Staff Report (pages 15-20).

COLW provided the following statement related to DCC 18.136.020 (COLW 5/9/2025 submission, page 2):

“DCC 18.136.020 provides that the applicant for a quasi-judicial rezoning must establish the public interest is ‘best served’ by rezoning the subject property. Use of the word ‘best’ in DCC 18.136.020 means that rezoning of the property should be superior to the existing zoning classification based on the series of factors provided in subsections (A) – (D).”

The Hearings Officer has not addressed COLW’s “best” argument in prior zone change application cases. The Hearings Officer notes that the DCC use of the word “best” in the DCC 18.136.020 introductory language is difficult to harmonize with the language used in each of the “factors” listed in DCC 18.136.020 A., B., C and D. For example, the language in DCC 18.136.020 A and B does not use comparative language (e.g., best or better, etc.). Rather DCC 18.136.020 A and B utilize “consistent with” terminology. Being “consistent” does not imply that the proposed zone classification is somehow “best” or even “better” than the existing zone. The factors listed in DCC 18.136.020 C address adequacy of public services and facilities and impacts on surrounding land uses will be consistent with the Comprehensive Plan. DCC 18.136.020 C, once again, does not imply a comparative standard (e.g. “best” or “better”) but rather requires “adequate” services and a determination that impacts on surrounding uses will be “consistent” with the Comprehensive Plan.

The Hearings Officer, in this case, is asked to interpret the intent of the Deschutes County Commission when drafting DCC 18.136.020; specifically, the import and meaning of the word “best.” The Hearings Officer, takes note of the following two Deschutes County Code sections:

1.04.030 Interpretation Of Language

All words and phrases not specifically defined in this title or elsewhere in this code shall be construed according to the common and approved usage of the words or phrases. However, technical words and phrases and such others as may have acquired a particular meaning in the law shall be construed and understood according to such particular meaning.

1.04.060 General Construction

The ordinances of the County, and all proceedings under them, are to be construed in order to carry out their objectives and to promote justice.

The Hearings Officer finds, strictly from a definitional perspective (common and approved usage), that COLW's interpretation of the word "best" in DCC 18.136.020 is reasonable. However, when considering the Hearings Officer's context comments related to DCC 18.136.020 A., B., C and D the Hearings Officer finds that the word "best" in the introductory language **conflicts** with the language used in each of the relevant factors.

The Hearings Officer finds applying the word "best" (as argued by COLW) would frustrate the clear intention of the Board of County Commissioners adoption of the factors listed in DCC 18.136.020 A, B, C and D. The Hearings Officer finds that following COLW's "best" argument would necessitate replacing the word "consistent" in DCC 18.136.020 A, B and D with the word "best." The Hearings Officer finds following COLW's "best" argument would require a finding that the word "presently" would be replaced with the word "best." The Hearings Officer finds that DCC 136.020 C.1. simply requires a showing that public services and facilities are adequate and presently available. DCC 18.136.020 C.1 does not require a demonstration that changing the zone will result in "better" or "best" public services as compared to the existing zoning. DCC 18.136.020 C.2, once again uses the word "consistent" and not the word "best." The COLW "best" argument is simply irrelevant to DCC 18.136.020 D.

The Hearings Officer finds that for the purposes of this recommendation the term "best" used in the introductory statement to DCC 18.136.020 can be reasonably interpreted to mean that the public interest is "best served" if the proposal meets the factors set forth in DCC 18.136.020 A, B, C and D.

The Hearings Officer finds the evidence set forth in Applicant's final argument (quoted above) is credible and constitutes substantial evidence that the factors set forth in DCC 18.136.020 A., B., C and D are met. The Hearings Officer concurs with Applicant's analysis of the evidence in the context of the factors set forth in DCC 18.136.020.

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

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

FINDING: The Hearings Officer incorporates the findings for DCC 18.136.020 B set forth above as additional findings for this criterion.

Staff included (Staff Report, pages 17 & 18) the following comments:

"Although there are no plans to develop the properties in their current state, the above criterion specifically asks if the proposed zone exchange will presently serve public health, safety, and welfare. The applicant provided the following response in the submitted burden of proof statement:

Necessary public facilities and services are available to serve the subject property. Central Oregon Electric Cooperative, Pacific Power, and Avion Water Company, Inc. currently serve properties in the area and can continue to serve the subject property if rezoned. There is no perceived capacity issue and that can be addressed in future development application if the property is rezoned.

The subject property is located along Highway 20 east of the roundabout in Ward Road/Hamby Road and west of Erickson Road. Neff Road is to the north and Bear Creek Road is to the south, all of which can accommodate added traffic that may result from rezoning. The impact of rezoning the subject property will be extremely minor. With its current zoning, it is theoretically possible to divide the property into 10-

acre parcels. However, with the solar farm on a large part of Tax Lot 100, the amount of property that could be developed with houses in the foreseeable future is much less. The existing road network is available to serve the use. This is confirmed by a transportation system impact review conducted by Scott Ferguson.

The property receives police services from the Deschutes County Sheriff. The southern half of the property is in a rural fire protection district and the nearest fire station is less than one mile away. All of the property is located in the Rural Fire District #2. Access to the subject property by fire trucks is provided by aerial streets. It is efficient to provide necessary services to the property because the property is already served by these service providers and adjacent to large tracts of land zoned MUA-10 that have been extensively developed with rural residences on small lots and parcels.

Adjacent properties include a mix of vacant land, residential development, and utility facilities, and the general surrounding area includes several other public and commercial uses. Neighboring properties are served by wells, on-site sewage disposal systems, electrical service, and telephone service. No issues have been identified in the record regarding service provision to the surrounding area. The southwest corner of the subject property is located 0.26 miles from the City of Bend UGB. This close proximity to urban development will allow for efficient service provision.

There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the properties, the applicant would be required to comply with the applicable requirements of the Deschutes County Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified. Staff finds this provision is met.”

The Hearings Officer concurs with Staff’s above-quoted comments.

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

FINDING: The Hearings Officer incorporates the findings for DCC 18.136.020 B set forth above as additional findings for this criterion.

Staff included (Staff Report, pages 18 & 19) the following comments:

“The applicant provided the following response in the submitted burden of proof statement:

The MUA-10 zoning is consistent with the specific goals and policies in the Comprehensive Plan discussed above. The MUA-10 zoning is the same as the zoning of many other properties in the area of the subject property and is consistent with that zoning.

The only adjoining or nearby lands in farm use is a single property east of Tax Lot 1000. The proposed zone change and plan amendment will impose no impacts on this EFU zoned farmland because these lands are separated from the subject property by a large rock rim and that property is isolated with its own water supply and access. There is smaller scaled farming on discrete parcels in the greater area ancillary to the primary residential use but said farming is so far removed from the subject property, it has no bearing on this application.

In addition to these comments, the applicant provided specific findings for each relevant Comprehensive Plan goal and policy, which are addressed below. Staff finds the applicant has demonstrated the impacts on

surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan, but asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.”

The Hearings Officer concurs with Staff’s above-quoted comments and conclusions. The Hearings Officer finds no need to amend or add to Staff’s comments/findings.

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

FINDING: The Hearings Officer incorporates the findings for DCC 18.136.020 B set forth above as additional findings for this criterion. The Applicant proposed to rezone the properties from EFU to MUA10 and re-designate the properties from Agriculture to Rural Residential Exception Area. The Applicant provided the following response in the submitted burden of proof statement:

“There has been a change in circumstances since the subject property was last zoned and a mistake in designating the subject property EFU/ Agriculture when soils did not merit a designation and protection as ‘Agricultural Land.’ This zone was applied to the property in 1979 and 1980 when Deschutes County adopted zones, a zoning ordinance, and comprehensive plan that complied with the Statewide Goals.

In 1979 and 1980, undeveloped and undeveloped rural lands that contained poor soils, but were zoned EFU without regard to the specific soil characteristics of the property. Landowners were required to apply for a zone change to move their unproductive EFU properties out of the EFU zone. The County's zoning code allowed these owners a one-year window to complete the task. This approach recognized that some rural properties were mistakenly classified as EFU because their soils and other conditions did not merit inclusion of the property in the EFU zone.

Some of the other property owners of lands east of Bend received approval to rezone their properties from EFU to MUA-10 because their properties contained poor soils and were improperly included in the EFU zone. The soils on the subject property are similarly poor and also merits MUA-10 zoning. The NRCS maps and how the County Board has determined they should be used confirm that the subject property is not agricultural land. Since 1979 and 1980, there has been a change of circumstance related to this issue. The County's Comprehensive Plan has been amended to specifically allow individual property owners to have improperly classified land reclassified.

Additionally, circumstances have changed since the property was zoned EFU. The City of Bend has been developed to the east toward the subject property. The Bend Airport has grown significantly in this time period and now provides many aviation-related jobs. The property is located within easy commuting distance of Saint Charles Medical. It has grown significantly and its need for workers has increased. The area now includes large solar farms, churches, a Christian Center, and utility facilities.

Specific to the subject property, Tax Lot 100, which is about 100 acres, has been committed to use as a commercial solar farm. It has been irrevocably removed from farming due to the poor soil and other factors making farming infeasible. The proposed zone change to MUA-10 will not impact that use. Because it was lawfully established on the applicable zoning, pursuant to DCC 18.120.010, that use has the right to continue operating on the subject property. Thus, Tax Lot 100 will never be available for farming alone or in combination with any other parcel. The County should include a finding to this effect.

Since the property was zoned, it has become evident that farm uses are not viable on the property or on other area properties. The economics of farming have worsened over the decades making it difficult for most

*Deschutes County property owners to make money farming good ground and impossible to earn a profit from attempting to farm Class 7 and 8 farm soils. In 2022, according to Table 4 of the 2022 US Census of Agriculture, **Exhibit 8**, only 18.6% of farm operators achieved a net profit from farming (293 of 1572 farm operations). In 2017, according to Table 4 of the 2017 US Census of Agriculture, **Exhibit 9**, only 16.03% of farm operators achieved a net profit from farming (238 of 1484 farm operations). In 2012, the percentage was 16.45% (211 of 1283 farm operations). In 2007, according to the 2012 US Census of Agriculture, that figure was 17% (239 of 1405 farm operations). **Exhibit 10**. The number of farms with net losses increase from 1,246 in 2017 to 1,279 in 2022. The vast majority of farms in Deschutes County have soils that is superior to those found on the subject property. As farming on those soils is typically not profitable, it is reasonable to conclude that no reasonable farmer would purchase the subject property for the purpose of attempting to earn a profit in money from agricultural use of the land.*

The Hearings Officer incorporates findings for Deschutes County Comprehensive Plan, Goal 2 and the findings for OAR 660-033-0020 as additional findings for this goal.

The Hearings Officer finds, based upon the Applicant's above-quoted Burden of Proof Statement and the record as a whole, that there has been a change in circumstances since the Subject Property was last zoned. The Hearings Officer finds changes in circumstances include the clarification of the correct soil classification of the Subject Property as evidenced by the Red Hills Soils Report and the evolution of development progressing eastward from the City of Bend. Further, based upon Applicant's above-quoted statement the Hearings Officer finds the current Comprehensive Plan and zoning designation were based upon a mistake. The Hearings Officer finds the specific mistake was that the current zoning was selected based upon an incorrect designation of the Subject Property as Agricultural Land. Based upon the Red Hills Soils Report the Subject Property is not Agricultural Land as that phrase is defined in law.

Deschutes County Comprehensive Plan

Chapter 2, Resource Management

Section 2.2 Agricultural Lands

Goal 1, Preserve and maintain agricultural lands and the agricultural industry.

FINDING: The Hearings Officer notes that there are numerous relevant goals and approval criteria relating to the preservation and maintenance of Agricultural Lands. The Hearings Officer has attempted to include findings for many of the Agricultural Land criteria issues within the findings for Goal 1. Where appropriate the Hearings Officer incorporates the findings for Goal 1 into the findings for other relevant goals and/or approval criteria.

Applicant provided the following overview of the Agricultural Land issue (Burden of Proof):

"The Applicant presented in the original application that the County's historic reliance on the NRCS mapping for determining whether parcels are comprised predominantly of agricultural land or not. If the NRCS maps are not adequate to make that determination, the County can consider a site-specific soil study prepared by a certified soil scientist. In this matter, the NRCS maps require a finding that the subject property is predominantly not agricultural land.

To supplement the application in this modification request, the Applicant is submitting a detailed report from Red Hill Soils. The report is primary to provide more detail on the composition of the two soil types mapped on the property because each soils type is a complex soil type. The majority of the property is comprised of 58C-Gosney Rock Outcrop-Deskamp complex. The following table from the Red Hills Soils

Report breaks out each soil type found on the subject property. The Red Hill Soils report presents a detailed evaluation of the soil on the subject property accounting for each component in the 58C complex soil type...

The Red Hills Soils Report confirms that the subject property is comprised predominantly of Class 7 and Class 8 soils which are not agricultural land.

The Red Hill Soils Report also evaluated soil fertility concluding that that the soil fertility and productivity are very limiting to crop production. The soil has low fertility, lacking nutrients, and has a limited capacity for retaining water.

The vast majority of the subject property is comprised of Class 7 and Class 8 non-agricultural soils, and the property has no known history of agricultural use. As noted in the Eastside Bend decision, Class 7 and Class 8 soils have severe limitations for farm use as well as poor soil fertility, shallow and very shallow soils, surface stoniness, low available water capacity, and limited availability of livestock forage. According to Agricultural Handbook No. 210 published by the Soil Conservation Service of the USDA, soils in Class 7 ‘have very severe limitations that make them unsuited to cultivation and that restrict their use largely to grazing, woodland, or wildlife.’ Class 8 soils ‘have limitations that preclude their use for commercial plant production and restrict their use to recreation, wildlife, or water supply or to esthetic purposes.’”

Applicant, in its Final Argument, provided the following comments relating the evidence in the record to the relevant Agricultural Land law:

“D. The subject site is not agricultural land under OAR 660-033-0020.

COLW asserts that notwithstanding the NRCS maps and soil data that demonstrates that the property is predominantly not agricultural land, it is suitable for farm use considering the factors in OAR 660-033-0020(1)(a)(B): Soil fertility, Suitability for grazing, Climate Conditions, Existing and future availability of water for farm irrigation, existing land use patterns, technology and energy inputs, and accepted farming practices.

COLW completely ignores a fundamental issue that has been decided against it in prior cases. In applying the factors identified above, it is appropriate for counties to also consider economic factors, particularly the profitability or lack thereof of farming specific property. Wetherall v. Douglas County, 342 Or 666 (2007); Central Oregon LandWatch, et al v. Deschutes County, ___ Or LUBA ___ (LUBA No. 2023-006, July 28, 2023). As LUBA noted in Central Oregon LandWatch v. Deschutes County, ORS 215.203(2)(a) defines farm use as the current employment of land for the primary purpose of obtaining profit in money. The applicant provided data from reliable sources that demonstrates the economic infeasibility of conducting profitable farming on the subject site. The cost to fertilize poor soil, deal with lack of water, and the limited amount of crops that will grow even with those costly measures makes it unreasonable for any owner to expect to make any profit.

COLW also does not effectively address the applicant’s evidence on how the above factors illustrate that the subject site is not agricultural land.

Soil fertility: COLW’s discussion on this topic is more speculation that someone could, in theory, add enough amendments to the soil to improve fertility or make some use of the property that does not require fertile soils. The application demonstrates that one could expect, at best, about \$4,181.40 in annual gross profit from dry grazing. Adding in the cost of amending soil, fertilizer, and other expenses, no reasonable farmer will

attempt to farm the subject property. Further, Mr. Gallagher's professional report explains that the lack of soil fertility makes it impracticable to engage in farm use on the property. As to other farming use activities that may not rely on fertile soil, the applicant used dry grazing because it is anticipated to be the most profitable of all activities. Amended Burden of Proof Statement, p. 22. The suggestion that someone could board horses for a profit is unreasonable. One can imagine the enormous cost of constructing facilities that do not now exist to even begin such an operation. It does not square with the definition of current employment of land for obtaining a profit in money.

Suitability for grazing: Again, the application material and Mr. Gallagher explained in detail why the economics of dry grazing in this area on bad soil is not practicable and economically infeasible. Economic infeasibility is a valid consideration that COLW just ignores. Interesting though, when discussing this element, COLW agrees that the entire subject tract must be evaluated, as the applicant and Mr. Gallagher did. However, when discussing whether a change in the zoning to MUA-10 is consistent with the purpose and intent of that zone, COLW does not address the entire tract.

Climactic conditions: Mr. Gallagher addressed this element in detail, including data from reliable sources. COLW does nothing to refute his conclusions.

Existing and future availability of water for irrigation: COLW did not even address the issue. Mr. Gallagher confirmed what the applicant provided that the property does not have irrigation rights. COLW focuses on whether it is possible to get irrigation equipment on the property. Mr. Gallagher addressed this issue, but the main point is the equipment on the property does nothing without water flowing through it. COLW ignored that aspect altogether.

COLW relies on old photographs that illustrate that up to about 1968, there may have been pocket farming on portions of the subject property. The photographs alone do not establish what activity was being conducted at that time. Moreover, the definition of farm use is the current employment of land for farming activities. ORS 215.203. There is no evidence in the record that there has been any farming conducted in the past 56 years. The material in the application supported by Mr. Gallagher supports a finding that the poor soil, lack of irrigation, and rising cost of farming on dry land made it infeasible to currently conduct any farming on the property.

Existing land use patterns: COLW confirms that to the extent there is any agricultural use in the area, it is isolated to small hobby farms. The application included a detailed chart of the surrounding properties, and which ones had any such activity. The chart confirms that much of the hobby farming is being done on smaller MUA-10 parcels. That fact supports the finding that rezoning to MUA-10 is consistent with the existing land use pattern and consistent with the purpose and intent of the MUA-10 zone.

Technology and energy inputs required: COLW does not address this topic in substance. It does not refute the evidence in the application and the information from Mr. Gallagher that technology will not overcome the fact that the property has shallow soils with abundant rocks and no possibility of irrigation water.

Accepted farming practices: COLW provided nothing beyond its unsupported opinion that "nothing about the subject property indicates that it could not operate with accepted farming practices common in the area." COLW's May 9, 2025 Letter, p. 18. The detailed material in the application and supported by Mr. Gallagher demonstrates that the only large-scale farming practice in the area is irrigated hay production. The application material explains in detail why that cannot be done on the subject property. Mr. Gallagher further explains that the only agricultural use in the area is small-scale farming that can be managed with the limitations posed and is consistent with rezoning. The existing small agricultural uses are largely on MUA-10 property. Rezoning the subject property to MUA-10 will have no negative impact on the continuation of

that activity. In fact, by allowing the creation of 10-acre parcels, rezoning to MUA-10 will afford more opportunities for small-scale farming on parcels that are manageable from a cost/labor standpoint.

E. The subject property is not necessary to permit farming on adjacent land.

The applicant provided detailed information on why the subject property is not necessary to conduct farming on adjacent or nearby properties. Amended Burden of Proof Statement, pp. 25-27. COLW does not dispute that the subject property is not necessary to conduct farming on any of the parcels included in the applicant's charts. Rather, COLW argues that the subject property is necessary to permit farming on a 12-acre parcel adjacent to it at the intersection of Highway 20 and Erickson Road (TL 300). COLW offers no evidence to support that argument but rather provides more subjective opinions. It recites that TL 300 is likely not large enough to support a dryland grazing operation or other farm practices on its own, but it "almost certainly would" be with the subject property. COLW does not offer any explanation for how TL 300 could support a farming operation even if it were used with the subject property. The evidence is to the contrary.

The overwhelming evidence in the application material and supported by Mr. Gallagher proves that dry grazing and other farm operations are not feasible on the subject property. The question that COLW avoids is if the subject property itself is not suitable to support farm operations, how would it be necessary to support farm operations on adjacent property that is also unsuitable for farm practices? Stated otherwise, how would the subject property that is not suitable for farming facilitate farming on the adjacent parcel that COLW agrees is, by itself, not suitable for farming? It is intuitive that if one has 12 acres that is not suitable for farming and one combines it with adjacent property that is also unsuitable for farming, the combined properties are not magically suitable for farming. The subject property is not even a source for access to TL 300. One can easily see from the photographs in the record that it is not even possible to access TL 300 from the subject property due to the location of the solar farm and associated fencing.

COLW, as noted in the above-quoted Applicant comments, argued the Subject Property was properly classified by the NCRS maps as Agricultural Land (COLW, 5/9/2025, pages 10 – 20 and 5/30/2025, pages 6 – 8). COLW asserted that the Red Hills Soil Report omitted the area under the Solar Array during its consideration of the suitability for grazing factor. The Hearings Officer review of the Red Hills Soils Report confirms the area under the Solar Array was not considered in the suitability for grazing analysis. The Hearings Officer responds threefold. First, the Hearings Officer would have preferred the area under the Solar Array to have been included in the suitability for grazing analysis. Second, the Hearings Officer finds that a rational and reasonable inference, based upon evidence contained in the NCRS mapping and the Red Hills Soil Report, may be drawn that suitability for grazing under the Solar Array is functionally the same as the remainder of Subject Property. Third, the Hearings Officer finds no evidence in the record submitted by COLW supporting the proposition that adding the area under the Solar Array to the balance of the Subject Property analyzed in the Red Hills Soils Report would change the Red Hills Soils Report conclusion that the Subject Property is not suitable for grazing.

While the Hearings Officer would have preferred the Red Hills Soils Report consider the entire Subject Property in its suitability for grazing analysis the Hearings Officer finds that omission alone is not sufficient to alter the Hearings Officer's conclusion that the Subject Property is not Agricultural Land.

The Hearings Officer finds that the most persuasive Agricultural Land evidence in the record is the Red Hills Soils Report. The Hearings Officer finds that the Red Hills Soils Report, in addition to other evidence supplied by Applicant into the record, is substantial evidence and justifies the conclusion that the Subject Property is not Agricultural Land.

Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

FINDING: The Applicant did not ask to amend the subzone that applies to the subject property; rather, the Applicant requested a change under Policy 2.2.3 and has provided evidence to support rezoning the Subject Property to MUA-10.

Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this policy.

The Applicant requested approval of a plan amendment and zone change to re-designate the Subject Property from Agricultural to Rural Residential Exception Area and rezone the property from EFU to MUA10. The Applicant did not seek an exception to Goal 3 – Agricultural Lands, but rather to demonstrate that the Subject Property does not meet the state definition of Agricultural Land as defined in Statewide Planning Goal 3 (OAR 660-033-0020).

The Applicant provided the following response in the submitted Burden of Proof statement:

“The Applicant is seeking a comprehensive plan amendment from Agriculture to RREA, and a zone change from EFU-TRB to MUA-10 for non-resource land. This is the same change approved by Deschutes County in the Division of State Lands file PA-11-7 /ZC-11-2. In findings attached, Deschutes County determined that State law, as interpreted in Wetherell v. Douglas County, 52 Or LUBA 677 (2006), allows this type of amendment. LUBA said, in Wetherell at pp. 678-679:

‘As we explained in DLCD v. Klamath County, 16 Or LUBA 817, 820 (1988), there are two ways a county can justify a decision to allow nonresource use of land previously designated and zoned for farm use or forest uses. One is to take an exception to Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). The other is to adopt findings which demonstrate the land does not qualify either as forest lands or agricultural lands under the statewide planning goals. When a county pursues the latter option, it must demonstrate that despite the prior resource plan and zoning designation, neither Goal 3 or Goal 4 applies to the property. Caine v. Tillamook County, 25 Or LUBA 209, 218 (1993); DLCD v. Josephine County, 18 Or LUBA 798, 802 (1990).’

LUBA’s decision in Wetherell was appealed to the Oregon Court of Appeals and the Oregon Supreme Court but neither court disturbed LUBA’s ruling on this point. In fact, the Oregon Supreme Court used this case as an opportunity to change the test for determining whether land is agricultural land to make it less stringent. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007). In that case, the Supreme Court stated that:

‘Under Goal 3, land must be preserved as agricultural land if it is suitable for ‘farm use’ as defined in ORS 215.203(2)(a), which means, in part, ‘the current employment of land for the primary purpose of obtaining a profit in money’ through specific farming-related endeavors.’ Wetherell, 343 Or at 677.

The Wetherell court held that when deciding whether land is agricultural land, ‘a local government may not be precluded from considering the costs or expenses of engaging in those activities.’ Wetherell, 342 Or at 680. In this case, the Applicant has shown that the subject property is primarily composed of Class VII and VIII non-agricultural soils when irrigated and when not irrigated making farm-related endeavors unprofitable. The property is not currently employed for any type of farm use and has no known history of that use. Accordingly, this application complies with Policy 2.2.3.”

Staff (Staff Report, page 23) generally agreed with Applicant’s above-quoted Burden of Proof statements. Staff (Staff Report, page 23) found that Applicant provided sufficient evidence in the record addressing whether the Subject Property qualifies as non-resource land. Staff concluded that the Applicant “*has the potential to prove the properties are not agricultural land and do not require an exception to Goal 3 under state law.*”

Based upon the incorporated findings, Applicant’s Burden of Proof statements quoted above and Staff’s analysis the Hearings Officer finds this policy can be satisfied.

Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

FINDING: This plan policy provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. Staff stated (Staff Report, page 23) that it concurred with the County’s previous determinations in plan amendment and zone change applications and concluded that Applicant’s proposal in this case is consistent with this policy. The Hearings Officer agrees with Staff’s analysis and conclusion and finds Applicant’s proposal in this case is consistent with this policy.

Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.

Policy 2.2.13 Identify and retain accurately designated agricultural lands.

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this policy.

This plan policy requires the County to identify and retain Agricultural Lands that are accurately designated. The Applicant argued that the Subject Property was not accurately designated as demonstrated. Based upon the incorporated findings found later in this recommendation the Hearings Officer finds this policy can be satisfied.

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.

FINDING: The Applicant has not proposed a specific development in this application. The Hearings Officer finds that the Applicant is not required to address water impacts associated with development. The Hearings Officer finds that the Applicant will be required to address this criterion during development of the Subject Property, which would be reviewed under any necessary land use process for the site (e.g. conditional use permit, tentative plat). The Applicant provided the following response in the submitted Burden of Proof:

“Irrigation is essential for commercial farm use in Central Oregon. Irrigating poor farm ground consumes a large amount of the area's precious water resources without the resulting economic benefits of profitable agricultural production. Homes consume less water than would be needed for farm field irrigation on the subject property.

In its findings in Division of State Land, Deschutes County found that impacts of any proposed future development of the state property on water resources would be reviewed by Deschutes County in future development applications. That finding was sufficient to demonstrate compliance with this plan policy. Together with the findings above and then later review by Deschutes County, this policy is satisfied.”

Staff (Staff Report, page 24) agreed with the Applicant’s above-quoted analysis. Staff (Staff Report, page 24) also provided a portion of the findings from *Aceti IV* (247-20-000438-PA, 439-ZC). Staff stated that in the *Aceti IV* decision the Hearings Officer and the Board of County Commissioners (Board) made the following findings which appear to support the Applicant’s analysis:

“The Hearings Officer found in Aceti 1 that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2 and ZC-14-2 that stated, “Nevertheless, in my decision in NNP I held it is not clear from this plan language what ‘water impacts’ require review -- impacts to water supplies from use or consumption on the subject property, or Impacts to off-site water resources from development on the subject property.” The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County's land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review “water impacts” because the Applicant has not proposed any particular land use or development. Thus, there are no ‘significant land uses or developments’ that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County's land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant's requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant's Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development.

The Hearings Officer finds Staff's reference to *Aceti IV* (quoted above) to be relevant and persuasive. Based upon the Staff's analysis and conclusions and the findings for *Aceti IV* the Hearings Officer finds Applicant demonstrated compliance with this Comprehensive Plan policy.

Section 2.7, Open Spaces, Scenic Views and Sites

Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: The Hearings Officer adopts as additional findings for this policy the findings for Goal 5 (including analysis of Applicant's submitted ESEE). Staff (Staff Report, pages 25 & 26) stated that these policies are fulfilled by the County's Goal 5 program. Staff stated that the County protects scenic views and sites along major rivers and roadways by imposing Landscape Management (LM) Combining Zones to adjacent properties. A portion of the Subject Property is located within the LM associated with Highway 20.

Staff (Staff Report, page 25) noted in *Te Amo Despacio*, File 24 7-22-000313/314 that the standards and requirements of that overlay can be implemented at the time of any future development. The Hearings Officer finds that these provisions of the plan are not impacted by approval of the proposed zone change and plan amendment.

Chapter 3, Rural Growth

Section 3.2, Rural Development

Growth Potential

As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns, changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.

- ***2009 legislation permits a new analysis of agricultural designated lands***
- ***Exceptions can be granted from the Statewide Planning Goals***
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

FINDING: This section of the Comprehensive Plan does not contain Goals or Policies, but does provide the guidance above. The Applicant provided the following response to this section in its Burden of Proof:

"This part of the Comprehensive Plan is not a relevant approval criterion for a plan amendment and zone change application. Instead, it is the County's assessment of the amount of population growth that might occur on rural residential lands in the future based on its understanding of the types of changes allowed by law. Comprehensive Plan Policy 2.2.3 specifically authorizes rezoning and comprehensive plan map amendments for any property zoned EFU and is the code section that defines the scope of allowed zone changes.

This section makes it clear, however, that EFU zoned land with poor soils adjacent to rural residential development is expected to be rezoned for rural residential development during the planning period. The subject property has extremely poor soils that does not qualify as agricultural land that must be protected by Goal 3. The subject property is sandwiched between large areas recently rezoned to MUA-10 to the west and MUA zoned property to the east. Most of the intervening EFU land interspersed is committed to rural residential uses. There is a single active farming operation in the immediate vicinity. The property east of Erickson Road is developed with single-family homes.

The MUA-10 zone is a rural residential zone. It will provide for an orderly and efficient transition from rural to urban land use as intended by the purpose of the MUA-10 zone. As a result, rezoning the subject property MUA-10 is consistent with Section 3.2.”

Staff provided (Staff Report, pages 26 & 27) the following comments related to this section:

“Staff notes that the MUA10 Zone is a rural residential zone and as discussed in the Findings of Fact above, adjacent properties to the north, northwest, and southwest are zoned MUA10. One of these surrounding MUA10 properties has received approval for a Comprehensive Plan Amendment and Zone Change to change the zoning of the property from EFU to MUA10. This property is identified on Assessor’s Map 17-12-35 as Tax Lot 1600, and is located adjacent to the subject property, to the west of Tax Lot 900. Staff notes this policy also references the soil quality, which staff discusses in more detail below. Staff is uncertain if this policy is met by the available information in the record and requests the Hearings Officer make specific findings on this topic.”

The Hearings Officer agrees with Applicant that this part of the Comprehensive Plan is not a relevant approval criteria. The Hearings Officer finds the language in this section is purely aspirational and provides no clear and objective standards which must be met by an applicant for a plan and zone change. The Hearings Officer finds the aspirational issues raised by this section are addressed throughout this recommendation.

Section 3.3, Rural Housing

Rural Residential Exception Areas

In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal 2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.

In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.

FINDING: The Applicant provided the following response to this provision in the burden of proof:

“Staff and the County Board have conformed in prior decisions that the quoted language is part of the background text of the County's Comprehensive Plan. It is not a plan policy or directive, and it is not an approval standard for this application. Staff made this point in (Porter Kelly Burns). County zone change and plan amendment use decisions adopted by the Board of Commissioners have so found.”

The Applicant also provided an alternate argument that applying the RREA Comprehensive Plan designation to the subject property does not require an exception to a Statewide Planning Goal, even if this policy were interpreted as an approval criterion.

Staff (Staff Report, page 27) stated that it agreed with prior Deschutes County Hearings Officer interpretations and concluded that the above language in this section is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Applicant provided evidence in the record addressing whether the property qualifies or does not qualify as agricultural or forest land. Staff asks the Hearings Officer to make specific findings related to this language.

The Hearings Officer concurs with Applicant and Staff that the language in this section is not an independent relevant approval criterion. In the alternative, the Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this policy. The Hearings Officer finds, based upon the incorporated findings and findings found throughout this recommendation, that the Subject Property does not meet the definition of Agricultural Land.

Section 3.7, Transportation

Appendix C – Transportation System Plan ARTERIAL AND COLLECTOR ROAD PLAN

...

Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

...

Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

FINDING: This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The Hearings Officer finds that the County will comply with this direction by determining compliance with the Transportation Planning Rule (TPR), also known as OAR 660-012, as described below in subsequent findings.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 6, Goal 4 – Forest Lands

OAR 660-006-0005, Definitions

- (7) ***“Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:***
- (a) ***Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and***

(b) *Other forested lands that maintain soil, air, water and fish and wildlife resources.*

FINDING: The Subject Property is not zoned for forest lands, nor are any of the properties within a 4.5-mile radius. The Subject Property does not contain merchantable tree species and there is no evidence in the record that the Subject Property has been employed for forestry uses historically. The Hearings Officer finds this section is not relevant/applicable because the Subject Property is not “forest land.”

Division 33 - Agricultural Lands & Statewide Planning Goal 3 - Agricultural Lands;

OAR 660-015-0000(3)

To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

FINDING: Goal 3 defines Agricultural Land, which is repeated in OAR 660-033-0020(1). The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for Goal 3, OAR 660-015-0000(3).

OAR 660-033-0020, Definitions

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon²;*

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Report (III.A.2).

The Red Hills Soils Report included the following conclusion language:

“The NRCS WEBSOILSURVEY shows the subject property is predominantly non-high value farmland, Class 7 and 8 and does not meet the definition of agricultural land within the meaning of OAR 660-033-0020(1)(b), as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit. There is no clear evidence that the Capability Class 6 non-irrigated soils on the subject property were farmed or utilized in conjunction with any farming.”

As noted in prior findings the Hearings Officer finds the Red Hills Soils Report to be prepared by a qualified professional soil scientist. The Hearings Officer finds the Red Hills Soils Report is credible and persuasive evidence. Based upon the incorporated findings and the Red Hills Soils Report the Hearings Officer finds the

² OAR 660-033-0020(5): "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

Subject Property is made up of predominately NCRS Class 7 and 8 soils. Considering all relevant factors, including the soil characteristics, the Hearings Officer finds the Subject Property is not Agricultural Land as defined by relevant laws/regulations.

- (B) *Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and*

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2).

Staff concluded its findings for this criterion by stating:

“Staff agrees with the applicant that many of the factors surrounding the subject property – such as level of development in the surrounding area, soil fertility, and amount of irrigation required result in a relatively low possibility of farming on the subject property. Staff requests the Hearings Officer make specific findings on this issue.”

The Hearings Officer responds to Staff’s quoted request for “specific findings on this issue” by stating that the Hearings Officer, based upon the incorporated findings and the Red Hills Soil Report, finds that Applicant considered and addressed each of the factors set forth in the criterion with substantial credible evidence. The Hearings Officer finds that based upon the incorporated findings and the Red Hills Soil Report that each of the relevant factors set forth in this criterion was adequately considered and addressed.

- (C) *Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.*

FINDING: The Applicant offered the following response in its submitted Burden of Proof statement:

“The subject property is not land necessary to permit farm practices to be undertaken on adjacent or nearby lands. The following facts are shown by the Applicant's discussion of surrounding development in Section E of this application above, and by the additional information provided below.”

The submitted Burden of Proof also included the following summary of all EFU-zoned properties within an area of approximately one mile of the subject property.

“West: Properties to the west of the subject property, with one exception, are separated from the subject property by Ward/Hamby Roads. The road makes it infeasible to use the subject property for farm use in conjunction with these properties and much of that property was recently rezoned to MUA-10 (Marken Trust, East Bend LLC, and Te Amo Despacio). Additionally, the subject property is not necessary to permit farm practices to be undertaken on adjacent or nearby lands to the west. There is no recent history of farming on properties to the west.

ADJOINING PROPERTIES SOUTH OF PROPERTY

Tax Lots 900 and 1000 abut Bear Creek Road. The property south of Bear Creek Road is within Dobbin Estates, an approved residential subdivision. There is no farming or potential for farming on that property.

FARM PROPERTIES NEARBY TO WEST, SOUTH AND SOUTHWEST, AND NORTHWEST OF ADJOINING PROPERTIES

North: *Most of the land north of the subject property is privately owned and currently used for institutional purposes and commercial enterprises. There are several large solar farms, a church, a Christian center, and an electric power facility. Further to the northeast is Big Sky Park. Any farming is far to the north, a significant distance from the subject property. Moreover, it is separated physically from the subject property by Highway 20, other major roads, and intervening non-farm uses making it infeasible to farm with the subject property.*

East: *The non-adjacent property to the east of Tax Lots 900 and 1000 is primarily devoted to large acre residential uses and hobby farms. In light of the many surrounding non-farm uses that have been in existence for years and the amount of MUA-10 zoned property in the area already, rezoning the subject property will not impact farming on that parcel. The properties east of Tax Lots 100, 300, and 400 are primarily MUA zoned large estate properties that are not used in farming operations and are separated by Erickson Road.*

South: *The property south of Tax Lots 300, 400, and 100 is either part of the subject property or the property described above. As discussed earlier, the property south of Tax Lots 900 and 1000 are part of a platted residential subdivision. Rezoning the subject property to MUA-10 will not impact farming on any of that property.”*

Pages 26 to 27 of the Burden of Proof include tables that list surrounding properties and include information on potential farm uses. These tables provide detailed information on the existing surrounding uses, potential farm practices, and reasons why they do not require the subject property to operate. Applicant also addressed this criterion/standard in its Final Argument (June 6, 2025, page 9).

Staff (Staff Report, pages 33 & 34) addressed this criterion/standard as follows:

“Staff agrees with the applicant’s analysis and finds no feasible way that the subject property is necessary for the purposes of permitting farm practices on any nearby parcels discussed in the Findings of Fact section above, or the larger area more generally. This finding is based in part on poor quality, small size, and existing development on surrounding EFU and MUA10 properties. If the Hearings Officer disagrees with Staff’s assessment, Staff requests the Hearings Officer make specific findings on this issue.”

The Hearings Officer does not disagree with Staff’s above-quoted assessment. The Hearings Officer, based upon the incorporated findings, the Red Hills Soil Report and Applicant’s final argument statements finds that the Applicant adequately address and consider the factors listed in this criterion/standard and that the conclusion reached that the Subject Property is not Agricultural Land is reasonable and appropriate.

- (b) *Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;***

FINDING: The Applicant provided the following response in its Burden of Proof:

"The subject property is not and has not been a part of a farm unit. It has not been farmed. As a result, this rule does not apply to the County's review of this application.

Even if the subject property is considered to be a 'farm unit', despite the fact it has never been farmed, Goal 3 applies a predominant soil test to determine if a property is 'agricultural land.' The predominant soils classification of the subject property is Class VII and VIII which provides no basis to inventory the property as agricultural land, unless the land is shown to be, in fact, productive farmland.

As confirmed by the accepted soils maps, the predominant soil types found on the property are Class VII and VIII, non-agricultural land. Some Class VI soils are intermingled with the non-agricultural soil, not vice versa. As a result, this rule does not require the Class VII and VIII soils to be classified agricultural land."

Applicant also included comments related to this criterion/standard in its Final Argument (page 9). The Hearings Officer finds the Applicant's above-quoted comments, its Final Argument statements and the Red Hills Soils Report to be credible and persuasive evidence and argument. The Hearings Officer finds, based upon evidence contained in the Applicant's Burden of Proof, its Final Argument comments and the Red Hills Soil Report, that Applicant considered and provided substantial evidence that it considered (inventoried) adjacent properties in the context of this criterion/standard.

- (c) ***"Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.***

FINDING: The Subject Property is not within an acknowledged urban growth boundary or land within acknowledged exception areas for Goals 3 or 4.

OAR 660-033-0030, Identifying Agricultural Land

- (1) ***All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.***
- (2) ***When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).***

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2).

The Applicant argued that the Subject Property is not Agricultural Land, as referenced in OAR 660-033-0030(1) above, because of the existence of barriers for farm use including poor quality soils and the development pattern of the surrounding area. The Hearings Officer finds that Applicant adequately addressed OAR 660-033-0030(2) by submitting substantial evidence addressing the factors set forth in the findings of OAR 660-033-00020(1), including OAR 660-033-0020(1)(a)(b) in findings above. The Hearings Officer incorporates the findings for OAR 660-033-00020(1), including OAR 660-033-0020(1)(a)(b) as findings for this criterion/standard.

The Hearings Officer, based upon the incorporated findings, the Red Hills Soil Report and Applicant's Final Argument statements, finds that this criterion was adequately considered and addressed and that the Subject Property is not Agricultural Land and is also "not suitable for farm use."

- (3) *Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. 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.*

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis and the findings for OAR 660-033-00020(1), including OAR 660-033-0020(1)(a)(b).

The Hearings Officer finds that Applicant provided in the record substantial evidence showing the Subject Property is not Agricultural Land, is not "suitable for farm use" and is not necessary to permit farm practices to be undertaken on adjacent or nearby lands. The Hearings Officer finds that the ownership of the Subject Property was not used to determine whether the parcel is Agricultural Land.

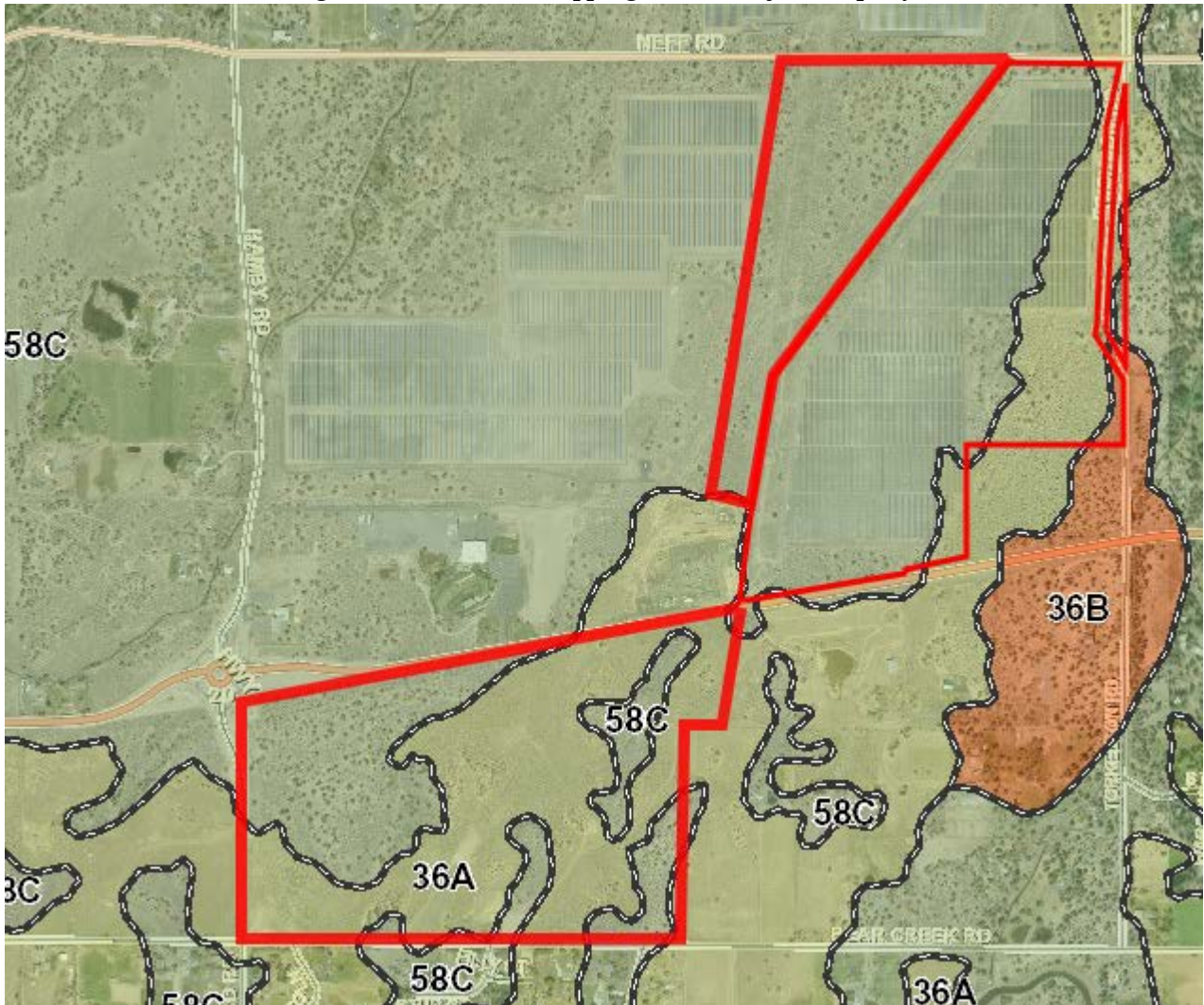
- (5)(a) *More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.*
- (b) *If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.*

FINDING: The Hearings Officer incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2). The Hearings Officer finds that based on the incorporated Preliminary Findings COLW's issue with this section is adequately addressed. However, as additional findings for this criterion the Hearings Officer adopts the following Staff comments (Staff Report, pages 36 - 29).

"The soil study prepared by Mr. Gallagher provides more detailed soils information than contained in the NRCS Web Soil Survey. NRCS sources provide general soils data for large units of land and provide a Land Capability Classification (LCC) system that classifies soils class 1 through 8. An LCC rating is assigned to each soil type based on rules provided by the NRCS, and the soil units that are mapped on the subject property are complexes made up of soils with various LCC ratings.

The NRCS mapping for the subject properties is shown below in **Figure 1**. According to the NRCS Web Soil Survey tool, the subject property contains approximately 80 acres of soil unit 36A, 0.6 acres of soil unit 36B, and 160 acres of soil unit 58C.

Figure 1: NRCS Soil Mapping on the Subject Property



The submitted soil study does not dispute the NRCS soils map for the subject property, or provide updated mapping. Instead, the soil study provides a methodology for calculating the LCC rating for the complex soil units identified within the subject property.

Table 1: Composition of Soil Types within Subject Property

Table 3. Coverage of soils after distributing weighted amounts of 58C by Capability classification.

Map Symbol	Map Unit Component	High-value Farmland Status	Agricultural lands	Nonirrigated Capability Class	Acres NRCS soil map by unit	Coverage -%-
36A, 36B	Deskamp	N (not irrigated)	Yes	6	115	48
58C	Gosney	N	No	7	83	35
58C	Rock outcrop	N	No	8	42	17
	Total				240	100

The soil study included the following conclusion regarding the productivity of soils within the subject property:

The NRCS WEBSOILSURVEY shows the subject property is predominantly non-high value farmland, Class 7 and 8 and does not meet the definition of agricultural land within the meaning of OAR 660-033-0020(1)(b), as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit. There is no clear evidence that the Capability Class 6 non-irrigated soils on the subject property were farmed or utilized in conjunction with any farming operation in the past.

The soil study applies a weighted average methodology to calculate the LCC rating of the 58C soil unit, Gosney-Rock outcrop- Deskamp Complex, which comprises the majority of the subject property. As described above, this soil unit is a complex and may contain both high value soils and non-high value soils. Mr. Gallagher applied information from the NRCS, which estimates the following amount of Class 6, Class 7, and Class 8 soils within this complex:

The NRCS gives percentages of three of the main components of this map unit as 50 percent Gosney (Class 7) 25 percent rock outcrop (Class 8) and 20 percent Deskamp (Class 6 and high value). NRCS includes five percent unspecified contrasting soils in the map unit composition. In my acreage calculations the unspecified five acres were equally divided between class 6, 7 and 8 soils.

In his report, Mr. Gallagher utilizes the information provided by NRCS on the typical composition of the 58C soil unit. He multiplies the 160 acres of 58C soils by the percentage of Class 6, 7, and 8 soils within the 58C soil unit. This information appears to be based on general information provided by NRCS on the composition of the 58C soil unit and is not specific to the subject property.

The applicant cites the Board of County Commissioners decision for file PA-11-7, ZC-11-2 (Department of State Lands) in support of this methodology³. In this prior Zone Change decision, testimony was provided by staff from NRCS and a weighted average was presented as one of three potential methodologies for calculating the LCC ratings within a complex soil unit. In the Department of State Lands decision, the Board found that they had discretion to choose any of the three methodologies to determine whether the soils on the property qualified as 'agricultural land.' Staff requests the Hearings

³ Staff references a letter from the Applicant dated May 28, 2024.

Officer make specific findings on this issue and determine whether the proposed methodology is consistent with OAR 660-033-0030.”

The Hearings Officer finds that the Red Hills Soil Report was prepared by a certified soil scientist. As such, the Hearings Officer finds that the author of the Red Hills Soil Report is a duly recognized expert in the soil science field. The Hearings Officer also finds that COLW offered no evidence from a soil scientist. Rather, COLW soils arguments were presented by a staff attorney who did not provide the Hearings Officer any evidence he was trained or experienced as a soil scientist. The Hearings Officer, comparing the testimony of the Applicant’s recognized soil scientist and the testimony presented by COLW, finds that the testimony of the Applicant’s soil scientist is significantly more credible and persuasive than the statements and opinions offered by COLW. The Hearings Officer also represents that he is not a professionally trained soil scientist and therefore finds that he must rely upon the professional opinions to determine appropriate methodologies to assess the factors required in OAR 660-033-0030. The Hearings Officer finds that there is simply no substantial and credible evidence in the record to dispute the methodologies used in the Red Hills Soil Report.

(c) ***This section and OAR 660-033-0045 apply to:***

(A) ***A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and***

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2) and the findings for OAR 660-033-00020(1), including OAR 660-033-0020(1)(a)(b).

The Applicant requested approval of a non-resource plan designation on the basis that the Subject Property is not Agricultural Land as that phrase is defined by relevant laws/rules. The Hearings Officer finds, based upon the incorporated findings, that this criterion/standard is satisfied.

(d) ***This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.***

FINDING: The Hearings Officer incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2).

(Staff Report, page 39) provided the following comments related to this criterion/standard:

“The applicant did not submit acknowledgement from Department of Land Conservation and Development (DLCD) that the soil study is complete and consistent with DLCD’s reporting requirements. However, it is not apparent to staff whether a DLCD completeness review is required for this soil study, since it expands on the NRCS soil map but does not include a full on-site assessment. The applicant relies on the soils report from Mr. Gallagher to determine whether the subject property consists predominantly of Class 1-6 soils. As described below, staff requests the Hearings Officer make specific findings regarding the submitted soil study and whether it has been correctly applied in the context of this section.”

The Hearings Officer, based upon the incorporated findings, finds that the Red Hills Soil Report is not a “soil assessment” as referenced in this criterion.

- (e) *This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.*

FINDING: The Hearings Officer incorporates the findings for the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, Section 2.2 Agricultural Lands, Goal 1 as set forth above as additional findings for this section. The Hearings Officer also incorporates as additional findings for this section the Preliminary Findings for Certification of Soils Analysis (III.A.2) and the findings for OAR 660-033-00020(1), including OAR 660-033-0020(1)(a)(b).

Staff (Staff Report, pages 39 & 40) provided the following comments related to this criterion/standard:

“Based on the information above, it is not clear to staff if the submitted soil study was prepared according to the procedures set forth in OAR 660-033-0045. Staff requests the Hearings Officer make findings regarding the submitted soil study, and whether it provides sufficient information to determine the percentage of the subject property that is comprised of Class 7 and Class 8 soils.”

The Hearings Officer finds that the Red Hills Soil Report was prepared by a certified soil scientist and utilized methodologies consistent with professional standards. The Hearings Officer finds the Red Hills Soil Report is not a “soil assessment” as described in OAR 660-033-0030 and was prepared consistent with OAR 660-033-0045.

DIVISION 12, TRANSPORTATION PLANNING

OAR 660-012-0060 Plan and Land use Regulation Amendments

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

FINDING: This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed plan amendment would change the designation of the Subject Property from AG to RREA and change the zone from EFU to MUA10. The Applicant is not, as part of this current application, proposing any land use development of the Subject Property.

The Applicant submitted a Transportation Planning Rule (“TPR”) assessment (Exhibit 12, dated February 2, 2024) prepared by Scott Ferguson of Ferguson and Associates, Inc. As noted in the agency comments section above, the County Transportation Planner identified deficiencies with the submitted TPR analysis and requested additional information. Specifically, the County Transportation Planner requested additional information to allow a determination as to whether the proposal would have a significant effect on transportation facilities. The Applicant then submitted a revised TPR analysis dated February 28, 2025, prepared by Scott Ferguson, PE, of Ferguson and Associates, Inc.

The revised TPR assessment was reviewed by the County Transportation Planner, who agreed with the report’s methodologies and conclusions. The Hearings Officer finds that the proposed plan amendment and zone change will be consistent with the identified function, capacity, and performance standards of the County’s transportation facilities in the area. The Hearings Officer finds that the proposed zone change will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. Regarding the TPR analysis dated February 28, 2025, the County Transportation Planner provided the following comments in an email dated March 5, 2025:

“...The revised analysis provides updated information related to the total ~240.17 acres of subject property. The full build-out scenario included in the revision (considering redevelopment of the existing solar farm portions of the subject property) aligns with staff’s comments from 6/11/24. The report’s inclusion of modified acreage and assumed development credit for one existing single-family dwelling complies with additional comments from staff’s 6/11/24 email correspondence regarding the MUA10 Zone’s worst case scenario analysis. I agree with the assumptions, methodologies, and conclusions outlined in the revised analysis.”

Based on the County Senior Transportation Planner’s comments and the revised traffic study from Ferguson and Associates, Inc., the Hearings Officer finds compliance with the Transportation Planning Rule has been effectively demonstrated.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Statewide Planning Goals and the Applicant’s proposed findings are set forth below:

*“**Goal 1, Citizen Involvement.** Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the Applicant to post a ‘proposed land use action sign’ on the subject property. Notice of the public hearings held regarding this*

application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.

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

Goal 3, Agricultural Lands. The Applicant has shown that the subject property is not agricultural land, so Goal 3 does not apply.

Goal 4, Forest Lands. The existing site and surrounding areas do not include any lands that are suited for forestry operations. Goal 4 says that forest lands 'are those lands acknowledged as forest lands as of the date of adoption of this goal amendment.' The subject property does not include lands acknowledged as forest lands as of the date of adoption of Goal 4. Goal 4 also says that '[w]here **a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water, and fish and wildlife resources.' This plan amendment does not involve any forest land. The subject property does not contain any merchantable timber and is not located in a forested part of Deschutes County.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. The subject property does not contain any inventoried Goal 5 resources.

Goal 6, Air, Water, and Land Resources Quality. The approval of this application will not cause a measurable impact on Goal 6 resources. Approval will make it more likely that the irrigation and pond water rights associated with the property will ultimately be returned to the Deschutes River or used to irrigate productive farm ground found elsewhere in Deschutes County.

Goal 7, Areas Subject to Natural Disasters and Hazards. This goal is not applicable because the subject property is not located in an area that is recognized by the Comprehensive Plan as a known natural disaster or hazard area.

Goal 8, Recreational Needs. This goal is not applicable because the property is not planned to meet the recreational needs of Deschutes County residents and does not directly impact areas that meet Goal 8 needs.

Goal 9, Economy of the State. This goal does not apply to this application because the subject property is not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely impact economic activities of the state or area.

Goal 10, Housing. The County's Comprehensive Plan Goal 10 analysis anticipates that farm properties with poor soils, like the subject property, will be converted from EFU to MUA-10 or RR-10 zoning, and that these lands will help meet the need for rural housing. Approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County Comprehensive Plan.

Goal 11, Public Facilities and Services. The approval of this application will have no adverse impact on the provision of public facilities and services to the subject site. Utility service providers have confirmed that they have the capacity to serve the maximum level of residential development allowed by the MUA-10 zoning district.

Goal 12, Transportation. *This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.*

Goal 13, Energy Conservation. *The approval of this application does not impede energy conservation. The subject property is located in a part of the community that contains a large amount of rural residential development. Providing homes in this location, as opposed to more remote rural locations, will conserve energy needed for residents to travel to work, shopping, and other essential services.*

Goal 14, Urbanization. *This goal is not applicable because the Applicant's proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The MUA-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The compliance of this zone with Goal 14 was recently acknowledged when the County amended its Comprehensive Plan. The plan recognizes the fact that the MUA-10 and RR zones are the zones that will be applied to lands designated Rural Residential Exception Areas.*

Goal 15, Willamette Greenway. *This goal does not apply because the subject property is not located in the Willamette Greenway.*

Goals 16 through 19. *These goals do not apply to land in Central Oregon.”*

Staff (Staff Report, page 43) provided the following comments:

“Staff generally accepts the applicant’s responses and finds compliance with the applicable Statewide Planning Goals has been effectively demonstrated. However, staff notes additional analysis may be required regarding Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces. A portion of the subject property is located within the Landscape Management Combining Zone associated with Highway 20, and this scenic corridor is identified in the County’s Goal 5 inventory.

The Board decision for Deschutes County files 247-22-000573-ZC, 574-PA included the following findings:

Pursuant to 660-023-0250(3), the county does not have to apply Goal 5 as part of a Post Acknowledgement Plan Amendment (‘PAPA’) unless the PAPA affects a Goal 5 resource. Pursuant to OAR 660-023-250(3)(b), a PAPA affects a Goal 5 resource if the PAPA would allow new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. In this case, the Goal 5 resource is the Highway 97 scenic corridor.

In the decision for files 247-22-000573-ZC, 574-PA, the Board ultimately determined that the proposed Zone Change would not require a new Economic, Social, Environmental, and Energy (ESEE) analysis. The Board found that the ESEE analysis that established the Highway 97 scenic corridor considered a wide range of potential uses, and the change in zoning from EFU to Rural Industrial would not introduce new conflicting uses. The applicant has not submitted specific arguments regarding whether the proposed MUA10 zoning would allow new, conflicting uses within the Landscape Management Combining Zone associated with Highway 20. Staff requests the Hearings Officer make findings on whether the applicant has sufficiently demonstrated compliance with Statewide Planning Goal 5.”

The Applicant provided (May 9, 2025 submission, pages 7 – 11 [plus an attached ESEE analysis]) a general response to Staff’s above-stated Statewide Goals and a specific response to Staff’s ESEE concerns. The Hearings

Officer finds it is important to include, within this recommendation, the entirety of Applicant's May 9, 2025 statement related to Statewide Goals. Applicant, in the May 9, 2025 submission, stated:

“OAR 660-015-0010, Statewide Planning Goals and Guidelines

A. Statewide Planning Goals

On pages 32 and 33 in the Burden of Proof, the applicant discussed each of the applicable Statewide Planning Goals. Neither County staff nor any public participant provided any contrary position. Thus, the applicant will not address each of the Goals again in this letter but will discuss the two that appear most prominent in prior similar applications.

Goal 14-Urbanization: Goal 14 addresses how counties must evaluate urban uses on rural land. Goal 14 does not apply to this application and an exception to it is not required because the County has consistently determined that the uses allowed in the MUA-10 zone are not urban uses. See File 247-24-000392-PA/393-ZC. As the hearings officer in that case noted, LUBA had accepted the County's determination. *Central Oregon LandWatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2023-049, Feb. 15, 2024). This Hearings Officer made the same finding in File 247-24-000404-PA/000405-ZC.

The recent decision in Department of Land Conservation and Development v. Clackamas County, 335 Or App 207 (2024), does not impact the County and LUBA's conclusion. That case involved the regulation that applies to amendments to properties already within a residential exception area reducing parcel size from 10 acres to two acres. The applicant understands that this issue was addressed in File 247-24-000404-PA/000405-ZC.

Goal 5-Natural Resources, Scenic and Historic Areas, and Open Spaces: As County staff noted, there is one Goal 5 resource on the subject property—a scenic corridor subject to the LM Overlay. The County conducted its Goal 5 assessment in 1992. The LM Combining Overlay was implemented to achieve consistency with Goal 5. However, in a recent hearings officer decision involving Cascade Academy, a hearings officer applied a recent LUBA decision to conclude that because a change to MUA-10 zoning allows uses on the property that would not necessarily been considered then, a new ESEE and analysis is required.

OAR 660-023-0250:

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

The applicant believes that the County is not required to apply Goal 5 to this application because uses allowed in the requested MUA-10 zone will not conflict with the Goal 5 resources identified. First, the uses allowed in the MUA-10 zone are rural, low-intensity uses that leave ample opportunity to preserve any scenic view from Highway 20 that may exist. Second, development allowed under the MUA-10 zone reviewed for consistency with the LM standards will not have any negative impact on the view from Highway 20. Indeed, even the formal agency comment from DLCD questioned the need for any new ESEE evaluation in this application.

However, to the extent the applicant must address Goal 5, the applicant will demonstrate how the Goal 5 considerations in the OARs support a decision by the County to allow conflicting uses to compel a conclusion that to the extent the MUA-10 zone allows for conflicting uses, those uses should be allowed in a limited manner after the application of all applicable development standards in Chapter DCC 18.032 and the LM Overlay.

Impact of the Board's decision on File 247-21-00081-PA/247-21-00082-ZC (LBNW LLC)

The Board's recent decision in the above file is instructive and should guide the Hearings Officer here. In that decision, the County Board explained in detail how the County applies the Goal 5 conflicting use analysis.

OAR 660-23-0030-Inventory Process

In LBNW, LLC, the Board determined that the inventory process required under this rule does not have to be completed for a PAPA zoning amendment. The County may rely on the existing inventory. As noted, the existing inventory identifies a single resource-the scenic corridor.

OAR 660-023-0040-ESEE Decision Process

OAR 660-023-0040 describes the process for evaluating potentially conflicting uses.

OAR 660-023-0040(1):

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (a) Identify conflicting uses;*
- (b) Determine the impact area;*
- (c) Analyze the ESEE consequences; and*
- (d) Develop a program to achieve Goal 5.*

(a) Identify conflicting uses;

Consistent with the decision in File 247-21-000881-PA/247-000882-ZC, the potentially conflicting uses

are those uses permitted outright or conditionally in the proposed MUA-10 zone. DCC 18.32.020 lists the outright permitted uses. Some uses present no conflict such as agriculture uses and propagation of forest products. Some of the more common uses are large acre residential developments, accessory dwellings, equestrian/horse facilities, home occupations, irrigation systems, and road projects.

DCC 18.32.030 identifies the conditional uses permitted in the MUA-10 zone. They include commercial activities in conjunction with farm use, dude ranches, guest houses, private parks/playgrounds, personal use landing strips, golf courses planned development, and cluster developments.

(b) Determine impact area;

For the Scenic LM resource, the impact area is portions of Tax Lots 900, 1000, 100, and 400 within .25 miles of the centerline of Highway 20.

(c) Analyze the ESEE consequences;

The applicant included a chart that presents the required ESEE analysis in a simple, short manner as allowed under OAR 660-023-0040(1). There is no requirement that an applicant has the analysis prepared outside. Further, OAR 660-004-0040(4) directs that the County adopt the ESEE analysis. The rules permit an applicant to present its information on the consequences and the County Board is allowed to accept, reject, or supplement those during the review process. The applicant's chart allows the County to make any required findings to support the application for Goal 5 considerations.

The applicant submits that another factor to consider, as was the case in File 247-21-000881-PA/882-ZC, is that as to the property north of Highway 20, the impact area has already been developed with uses at least as intense and impactful as the conflicting uses allowed under the MUA-10 zoning that the applicant requests. There is a church, a Christian Life Center, a PGE service building, and a large solar farm. Any additionally approved uses will not have any further appreciable impact on that side of Highway 20.

(d) Develop a program to achieve Goal 5.

The County, after completing its ESEE consideration process, has three options for treating conflicting uses.

(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

The applicant submits that based on the ESEE considerations, the County should find that both the scenic resource and the conflicting uses allowed in the MUA-10 zone are important to each other and that conflicting uses should be allowed in a limited manner that protects the resource site to the extent desired. In other words, the applicant advocates for the middle ground in the above regulation.

Conflicting uses should be allowed only after the application of the development standards in DCC Chapter 18.32 and the LM Overlay to ensure protection of any scenic resource.”

The Hearings Officer finds Applicant’s above-quoted statement, along with the ESEE Analysis attached to the May 9 2025 submission, is a comprehensive evidentiary presentation and accurately reflects relevant laws and rules. The Hearings Officer finds the ESEE Analysis adequately addresses issues relevant to Goal 5. The Hearings Officer finds Applicant’s May 9, 2025 submission sufficiently addressed Goal 5 requirements.

The Hearings Officer agrees with Applicant’s Goal 14 comments.

The Hearings Officer addressed the Applicant’s May 9, 2025 nonconforming use issue in earlier findings. As noted in those findings the Hearings Officer concluded that it would be inappropriate to opine as to the current or future legality of the Solar Array as Applicant did not formally apply for a verification of the validity of the Solar Array. If Applicant desires to “validate” the Solar Array the Applicant must follow relevant application steps (including a formal application and payment of fees) to accomplish that goal.

IV. CONCLUSION & RECOMMENDATION

The application in this case is to change the comprehensive plan and zoning designations for the Subject Property. Staff questioned, in the Staff Report, whether the Applicant provided adequate evidence to support findings that various approval criteria/policies were met/satisfied. COLW argued that the application should be denied for a number of reasons. COLW’s primary issues related to whether or not the application met the standards set forth in DCC 18.136.020 and whether the Subject Property is Agricultural Land. COLW also argued that the Applicant’s soil report (Red Hills Soils Report) could not be considered by the Hearings Officer as evidence in this case because the Red Hills Soils Report had not been certified by the Oregon Division of Land Conservation and Development.

The Hearings Officer addressed Staff’s concerns and COLW’s arguments in the findings for this recommendation. The Hearings Officer, based upon the evidence in the record and the arguments made by Staff, Applicant, COLW and other participants, concluded that all relevant approval criteria and goals were, or could be, met/satisfied.

The Hearings Officer recommends approval of Applicant’s proposal.

DESCHUTES COUNTY HEARINGS OFFICER



Gregory J. Frank
Deschutes County Hearings Officer