



COMMUNITY DEVELOPMENT

DESCHUTES COUNTY PLANNING COMMISSION

5:30 PM, THURSDAY, AUGUST 08, 2024

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St – Bend

(541) 388-6575 | www.deschutes.org

AGENDA

MEETING FORMAT

The Planning Commission will conduct this meeting in person, electronically, and by phone.

Members of the public may view the Planning Commission meeting in real time via the Public Meeting Portal at www.deschutes.org/meetings.

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

<https://bit.ly/dcpczoom>

Passcode: 764609

Using this option may require you to download the Zoom app to your device.

Members of the public can access the meeting via telephone, dial: 1-312-626-6799. When prompted, enter the following Webinar ID: 824 8646 7893 and Passcode: 764609. Written comments can also be provided for the public comment section to planningcommission@deschutes.org by 5:00 p.m. on August 8. They will be entered into the record.

I. CALL TO ORDER

II. APPROVAL OF MINUTES - July 25

III. PUBLIC COMMENT

IV. ACTION ITEMS

- [1.](#) Staff Update: Draft Statewide Wildfire Hazard Mapping and Rules Discussion (*Kyle Collins, Associate Planner*)
- [2.](#) Deliberations: Hwy 97 Mini-Storage Text Amendment (*Nicole Mardell, Senior Planner*)

V. PLANNING COMMISSION AND STAFF COMMENTS

VI. ADJOURN



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, please call (541) 617-4747.



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Kyle Collins, Associate Planner
Will Groves, Planning Manager
Kevin Moriarty, County Forester

DATE: August 1, 2024

SUBJECT: Senate Bill 80 – Draft Statewide Wildfire Hazard Mapping and Rules Discussion

I. BACKGROUND

Certain properties in rural Deschutes County will be subject to new wildfire mitigation measures as approved under Senate Bill (SB) 762¹. One of the primary pieces of SB 762 is the creation of a comprehensive Statewide Wildfire Hazard Map to guide new wildfire regulations for development. The initial hazard map was made available on June 30, 2022. However, based on significant concern from citizens and interest groups throughout the state, the Oregon Department of Forestry (ODF) withdrew the initial map to provide more time for additional public outreach and refinement of hazard classification methodologies.

SB 80², passed in the 2023 Oregon Legislative Session, amended sections of SB 762 and outlined changes that ODF is required to make to the map before future public release. The bill changed the name of the map from "Wildfire Risk Map" to "Wildfire Hazard Map." It also reduced the hazard categories from the original five to three: low, medium, and high hazard. SB 80 also forbids insurance companies from using the map to set insurance rates for homeowners.

Based on comments from Oregon State University (OSU) and ODF staff, one of the primary alterations to the newest draft map is a more thorough consideration of irrigated agriculture in the hazard analysis. ODF and OSU stated that lands irrigated in one of the past five years would receive different weighting considerations in the overall hazard classification formula.

A copy of the updated map was provided to county planning departments throughout Oregon in April 2024. The preview was limited in scope and was intended to provide planning departments an opportunity to identify what OSU and ODF described as "anomalies" within the draft map results.

¹ <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/Enrolled>

² <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB80/Enrolled>

“Anomalies” were not categorically or statutorily defined, and thus it was left up to planning departments to scrutinize the map results based on local knowledge to identify hazard classification anomalies. ODF and OSU also requested spatial data for any development which has occurred since approximately 2018 to help further refine the Wildland Urban Interface (WUI) boundary. The request from ODF and OSU stated that any proposed revisions to the draft hazard classifications must be based on property specific information and evidence such as aerial imagery, property photographs, or other relevant materials. Staff’s June 28, 2024 response to this request is included as Attachment 1 to this memorandum.

ODF and OSU staff are reviewing proposed revisions and comments from county planning departments, as well as public comments, before releasing a final version of the hazard map to the public on October 1, 2024.

Under SB 80, once the Statewide Wildfire Hazard Map is finalized, properties included in **both** a designated WUI boundary and classified as high hazard will be subject to additional development regulations. SB 80 requires that, at a minimum, local governments ensure that properties meeting both of these classifications will be subject to:

- 1) Home hardening building codes as described in section R327 of the Oregon Residential Specialty Code.
- 2) Defensible space standards as determined by the Oregon State Fire Marshal.

At present, the State Fire Marshal has yet to adopt final statewide defensible space requirements. The current draft code is included as Attachment 2.

II. PUBLIC COMMENT OPPORTUNITIES

Wildfire Hazard Map Implications for Deschutes County

Attachment 3 spatially depicts the wildfire areas in Deschutes County. Attachment 4 disaggregates the high hazard areas statistically by Urban Growth Boundaries, county zoning, and ownership.

Wildfire Hazard Map Public Comment Period

The updated wildfire hazard map was released to the public on July 18, 2024³. This map release will initiate a month-long public comment period for the general public to review and provide comments to ODF on the map.

Wildfire Hazard Rulemaking Public Comment Period

The [Board of Forestry](#) approved a public hearing process for a proposed rule package to implement the wildfire hazard maps during their June 5, 2024 meeting. See the [notice of proposed rulemaking](#)

³ <https://oregonexplorer.info/topics/wildfire-risk?ptopic=62>

for draft rule language. The department consulted a [Rulemaking Advisory Committee](#) representing a wide variety of stakeholder interests while drafting the proposed rules.

These rules will be used by Oregon State University to address irrigated agriculture as a mitigating factor to assess wildfire hazard in the Statewide Wildfire Hazard Map, which includes assigning one of three hazard zones to individual properties. The rules also update definitions, notice requirements, appeal options, and make other technical edits. Under the draft rules, any appeals of the wildfire hazard maps must be filed with ODF within 60 days of the release of the final maps.

Comments can also be sent to maprules@odf.oregon.gov until 5 p.m. on August 15, 2024.

III. NEXT STEPS

Members of the public may provide comments and ask questions concerning the draft map by contacting ODF staff through their wildfire hazard map website⁴. Questions or comments concerning the forthcoming defensible space and home hardening building standards can be directed to the Oregon Office of State Fire Marshal⁵ and the Oregon Building Codes Division⁶ (within the Department of Consumer and Business Services), respectively.

As noted above, a final version of the hazard map will be released to the public on October 1, 2024. The release of the final map will initiate an appeal opportunity for all property owners who will be subject to additional development standards. ODF will provide formal notice of the appeals process to all affected property owners concurrently with the release of the final hazard map. An affected property owner or local government may appeal the assignment of property by submitting an appeal in writing within:

1. 60 days of the date that the wildfire risk map is posted on Oregon Explorer Map Viewer website; or
2. The date that a correctly addressed notice is deposited with the postal service for mailing to the affected property owner.

Attachments:

1. Memo: Review of the Draft Wildfire Hazard Map for Anomalies and Spatial Data Updates
2. Oregon State Fire Marshal provided Draft Defensible Space Code
3. Draft Deschutes County Wildfire Hazard Maps
4. Property Statistics Summary from Draft Wildfire Hazard Map

⁴ <https://www.oregon.gov/odf/fire/pages/wildfire-hazard.aspx>

⁵ <https://oregondefensiblespace.org/>

⁶ <https://www.oregon.gov/bcd/codes-stand/Pages/wildfire-hazard-mitigation.aspx>



MEMORANDUM

TO: Andy McEvoy, Oregon State University, College of Forestry

FROM: Kyle Collins, Associate Planner
Kevin Moriarty, County Forester

DATE: June 28, 2024

SUBJECT: Senate Bill 80 – Review of the Draft Wildfire Hazard Map for Anomalies and Spatial Data Updates

I. BACKGROUND

In April 2024, Oregon State University (OSU) made two requests from county planning directors and their staff. OSU staff requested that by June 28, 2024, counties should:

- 1) Review the current draft of the Statewide Wildfire Hazard Map for anomalies in property-level hazard classifications.
- 2) Provide spatial data which will help OSU fully map the wildland-urban interface (WUI) in Oregon according to OAR 629-044-1011.

According to the initial request from OSU:

Anomalies are property-level hazard classifications that appear arbitrarily different to county planners when compared to neighboring areas. An example of a potential anomaly is a single taxlot classified as high hazard but surrounded by a large area assessed as entirely moderate hazard taxlots.

Another example of an anomalous hazard classification might be a newly created gravel pit that is classified as high hazard based on previous vegetation conditions. While previous vegetation referenced during simulations may have been highly flammable, the gravel pit is essentially unburnable and does not warrant a high hazard designation.

OSU further clarified the types of spatial data relevant to WUI designation which should be provided if available:

- 1) Planned development which has been approved for development and which meets the criteria of the WUI in OAR 629-044-1011, but was not originally mapped as part of the WUI; or
- 2) Completed development which meets the criteria for the WUI in OAR 629-044-1011, but that was not originally mapped as part of the WUI.

Finally, OSU staff noted that they will evaluate all provided responses and, where appropriate and permissible, incorporate the counties' data into an updated hazard map. As noted under Senate Bills (SBs) 762 and 80, a final version of the hazard map (which is currently in draft form), will identify the hazard classification of individual properties and the location of WUI boundaries on the landscape. Structures included within **both** a high hazard classification and a designated WUI will be subject to defensible space and fire hardening codes, to be determined by the Oregon State Fire Marshal and the Department of Business and Consumer Services Building Codes Division respectively.

II. LIMITATIONS

The Deschutes County Community Development Department (CDD), which includes the Planning Division, and the Deschutes County Forester greatly appreciate the opportunity to review the draft hazard map to provide local knowledge and help ensure the greatest level of accuracy possible for an incredibly complex spatial analysis. County staff acknowledge the difficulty of completing a project of this scale and anticipated impact across a variety of jurisdictions and landscapes.

However, OSU staff should be aware that Deschutes County has numerous limitations in its ability to respond to the requests outlined above. These limitations fall broadly into the following categories:

- 1) While OSU has attempted to provide a succinct description of what may constitute "anomalies" in hazard classification, without a formal definition and framework it is difficult or impossible to capture all possible issues within the draft hazard classifications.
- 2) The number of properties which county staff would likely consider "anomalies" measures in the hundreds. Evaluating the sheer number of properties with potentially inconsistent hazard classifications on a case-by-case basis would necessitate a much greater dedication of resources than county staff was able to provide in the time allotted. This is especially true given the specific limitations for identifying "anomalies" provided by OSU staff and discussed in greater detail below.
- 3) OSU staff utilized building footprint spatial data to identify WUI boundaries on the draft hazard map. County staff understands that this data was current as of approximately 2018-2019, and thus the updated spatial data request would need to cover approximately the last 4-5 years to provide current results. However, CDD does not capture specific spatial data which identifies planned developments or building footprints in Deschutes County. Given this limitation, county staff is unable to provide this level of analysis for development which may have occurred in the previous 4-5 years. However, county staff has attempted to provide some spatial data which may be useful for future iterations of the hazard map.

III. REVIEW FOR ANOMALIES

OSU staff provided the following parameters for verifying “anomalies” and whether adjustments to the draft hazard classification would be undertaken:

For OSU to review potential anomalies and consider adjusting, evidence of a potentially incorrect property-level hazard designation needs to [sic] objective, verifiable, and address the four mapping criteria in the directing legislation: “weather, climate, topography and vegetation.” Examples of evidence that will not be considered support for claim of an anomaly includes:

- Personal anecdotes unaccompanied by verifiable evidence
- Evidence premised on factors outside of the four mapping criteria. For example, defensible space and home hardening characteristics are outside the mapping criteria and so a potential anomaly cannot be premised on the fact that the property has significantly mitigated hazard with defensible space (e.g., sprinklers, fire safe landscaping, etc.) or fire hardening (e.g., cement siding, metal roof, etc.)

Given the hazard map development language included in SBs 762 and 80, county staff understands the need for these limitations. However, as noted above, the number of individual properties throughout Deschutes County which appear to have an anomalous hazard classification would require significant and sustained effort by staff to review on a case-by-case basis and provide evidence to justify a classification change. This expected effort is particularly pronounced when tools such as standard aerial imagery may not accurately reflect concerns encountered through site visits and on-the-ground experience from experts such as the Deschutes County Forester. Additionally, both planning staff and the Deschutes County Forester have concerns that entire regions of the county may in fact have anomalous hazard classifications based on local knowledge, recent fire history, the discrepancy between fuel treatments on federal versus private lands, and the expected increase in fire activity for Central Oregon for the coming decades¹.

As county staff is unable to provide the level of detailed analysis requested by OSU in the time allotted, the Deschutes County Forester and planning staff have provided the following themes which we believe should be addressed in future iterations of the hazard map:

Theme 1: Communities appear to have been given moderate or low hazard classifications due to adjacent USDA Forest Service fuel treatments.

The communities of primary concern are: Black Butte Ranch, Crosswater, Seventh Mountain/Widgi Creek, River Canyon Estates, Sunriver, Three Creek Communities, and Woodside Ranch.

Most of these communities are forested, have high tree density, and variable homeowner compliance of adequate defensible space. However, it appears that hazard classifications within these communities have been influenced by fuel treatment projects on adjacent USDA Forest Service land,

¹ <https://www.climatehubs.usda.gov/hubs/northwest/topic/climate-change-and-wildfire-idaho-oregon-and-washington>

causing a majority of taxlots to be classified as moderate hazard. The hazard map analysis does not appear to anticipate that wildfires could potentially start from within the communities themselves and not necessarily within adjacent USDA Forest Service land. Additionally, available ladder fuels within these communities are not adequately captured on the taxlots of concern.

Theme 2: Lack of representation of non-federal fuel treatments creates an inequitable approach to determining wildfire hazard on a County-wide scale

As stated above, based on review of the draft hazard map, it appears that USDA Forest Service fuel treatments have been captured as part of the hazard classification methodology. However, numerous State, county, local, and private fuel treatments have not been represented in a similar manner. If it is accurate that Forest Service fuel treatments have been included as part of the hazard classification analysis, it is unclear why a discrepancy has been drawn between federal actions and those undertaken by others.

To provide two examples:

- 1) The Bend Park and Recreation District and Tree Farm LLC fuel treatment areas on the City of Bend's western boundary are currently classified as high hazard, but these areas appear to meet the same ruleset and conditions as the Theme 1 communities of Black Butte Ranch, Crosswater, Seventh Mountain/Widgi Creek, River Canyon Estates, Sunriver, Three Creek Communities, and Woodside Ranch. Tree Farm and other homeowner associations in the Westside Transect Zone on Bend's western edge have strict defensible space standards in their architectural guidelines which must be maintained in perpetuity.
- 2) Numerous taxlots within the Tetherow Golf Course (part of the Tetherow Destination Resort) which have been converted to golf courses, agricultural pastures, parks, or other cleared features are currently classified as high hazard.

Theme 3: Flame length is not a good metric to determine fire intensity

Fire intensity in wildfire modeling is generally defined as the amount of BTU's per meter cubed. Two fires can have the same flame lengths with very different intensities. Flame length is defined as the average flame length of a flaming front.

Grass fuel models (GR4) and shrub models (GS2) appear to be used for the eastern portion of Deschutes County. Whereas timber models (FM10, etc.) appear to be used on the western portion of Deschutes County. Although flame lengths from grass and light shrub can exceed 8 feet, the resistance to control is much lower than timber fires for the following reasons:

- Grass fires are limited in duration and have a low chance of producing lofted embers.
- Shrubs and juniper woodlands generally produce short-range to mid-range spot fires (less than ¼ mile).

- Croplands will generally produce short duration fires with limited to no spot fires if crops are available to burn.
- The Rothermel fire spread model² is only a surface fire behavior model. Within the draft hazard map, forested canopy fire does not seem to be a consideration when determining fire intensity analysis.

Given these concerns, large numbers of taxlots in rangelands and farmlands have been classified as high hazard and appear to show greater hazard than taxlots located in or near mature forest, contrary to the available evidence regarding wildfire risk within forested landscapes.

Theme 4: The spatial datasets used in the draft map are outdated by several years

County staff notes that the draft hazard map identifies 102,451 taxlots within Deschutes County. As of the date of this report, Deschutes County has 106,838 taxlots on record. It is unclear how the remaining 4,387 taxlots will be assigned hazard classifications in the final version of the hazard map slated for issuance in October 2024.

Theme 5: The hazard map appears broadly inconsistent based on previous fire history and on-site knowledge

The draft map currently presented is inadequate in determining priority areas within Deschutes County for hazardous fuel mitigation. Some of the communities classified as moderate hazard in Theme 1 have the highest fire risk in Deschutes County deemed by the County Forester and other fire experts from federal, state, and local fire protection organizations. For example, many homeowners in Black Butte Ranch are currently unable to find fire insurance because insurance companies have deemed this area as having extreme fire risk, however a majority of Black Butte Ranch is currently classified as moderate hazard in the draft map.

Additionally, in areas containing juniper woodlands and rangelands, the draft map shows a checkerboard type pattern between moderate and high hazard. Neighbors with similar landscapes frequently have dissimilar classifications. Some taxlots have been completely converted from original native vegetation and are not adequately captured in the hazard map.

Some examples of this general irregularity are demonstrated in the figures below. These examples are not exhaustive but are intended to provide a snapshot of numerous inconsistencies within the hazard map, both at a taxlot scale and at a regional level. These examples are spread across a wide geographic area and appear to show:

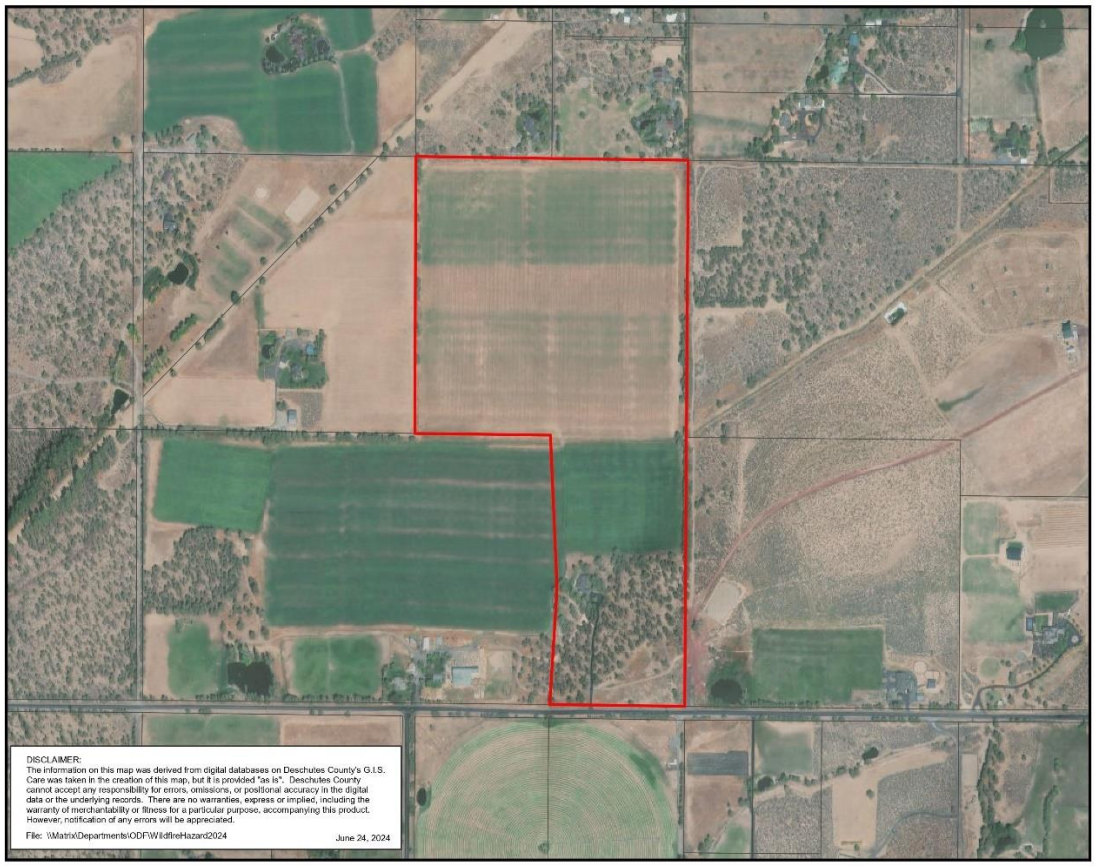
- Moderate (or low) classification taxlots with identical vegetation and topography patterns to surrounding areas composed mostly or entirely of high hazard classification taxlots.

² <https://www.fs.usda.gov/research/treesearch/55928>

- Irrigated parcels which are classified as moderate hazard adjacent to irrigated parcels which are classed as high hazard. Curiously, in several of these instances, aerial imagery appears to show taxlots with recent and/or frequent irrigation receiving a high hazard classification adjacent to parcels that appear to have similar or less irrigation activity with a moderate hazard classification.

Example 1

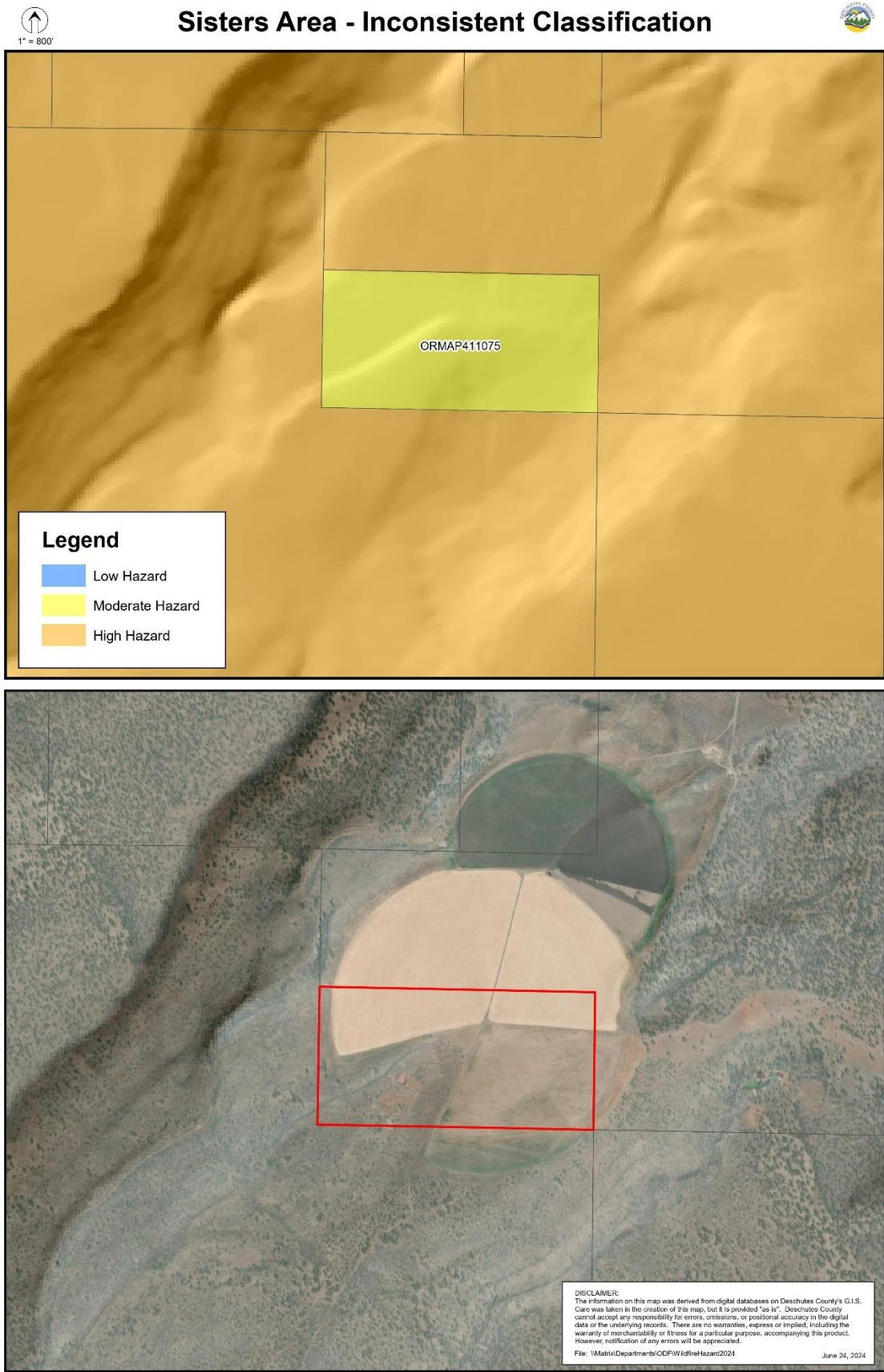
Tumalo - Inconsistent Classification



DISCLAIMER:
The information on this map was derived from digital databases on Deschutes County's G.I.S. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.
File: \\Mathi\Departments\ODFW\kdfre\Hazar2024 June 24, 2024

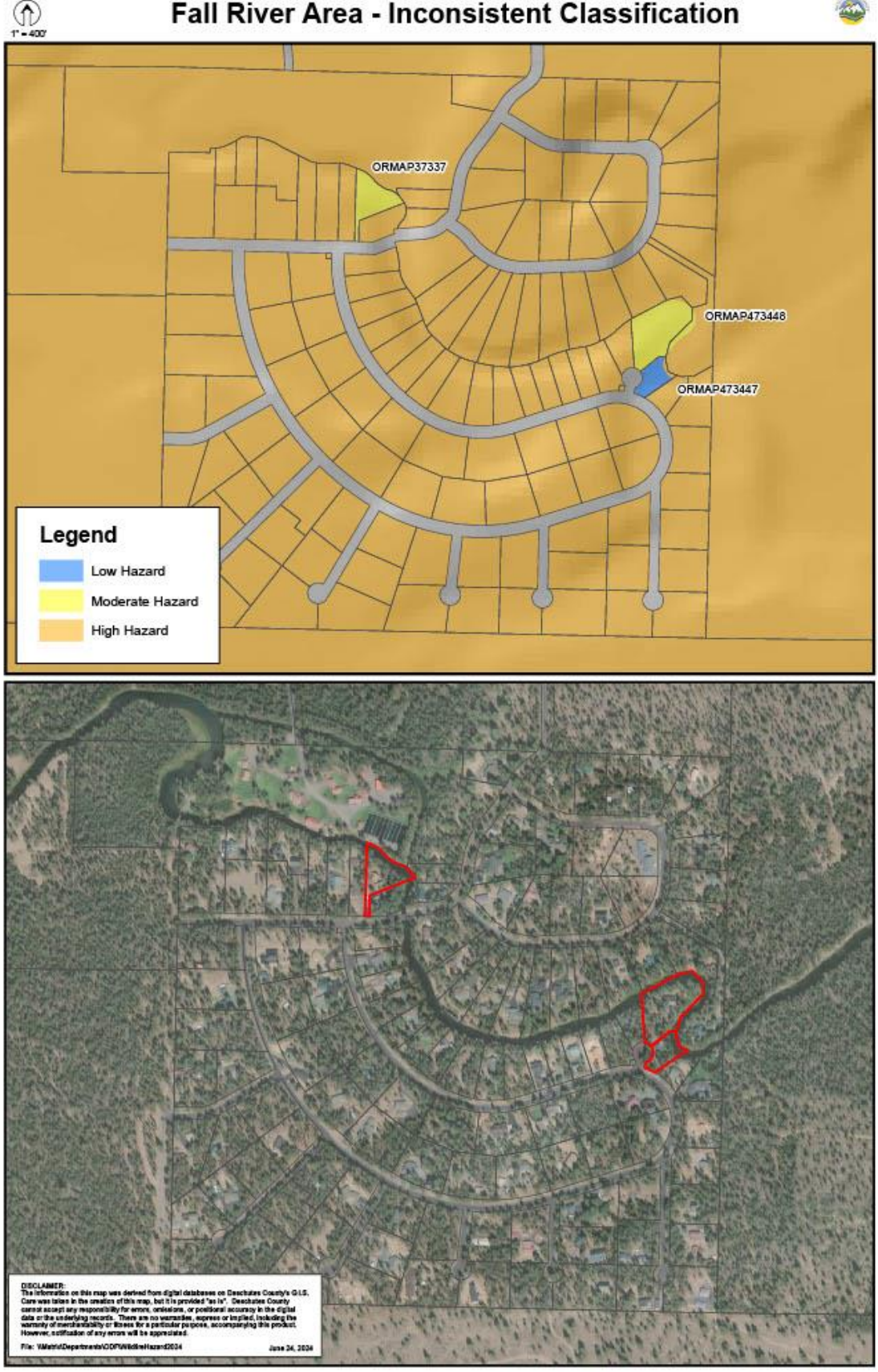
Example 2

Sisters Area - Inconsistent Classification



Example 3

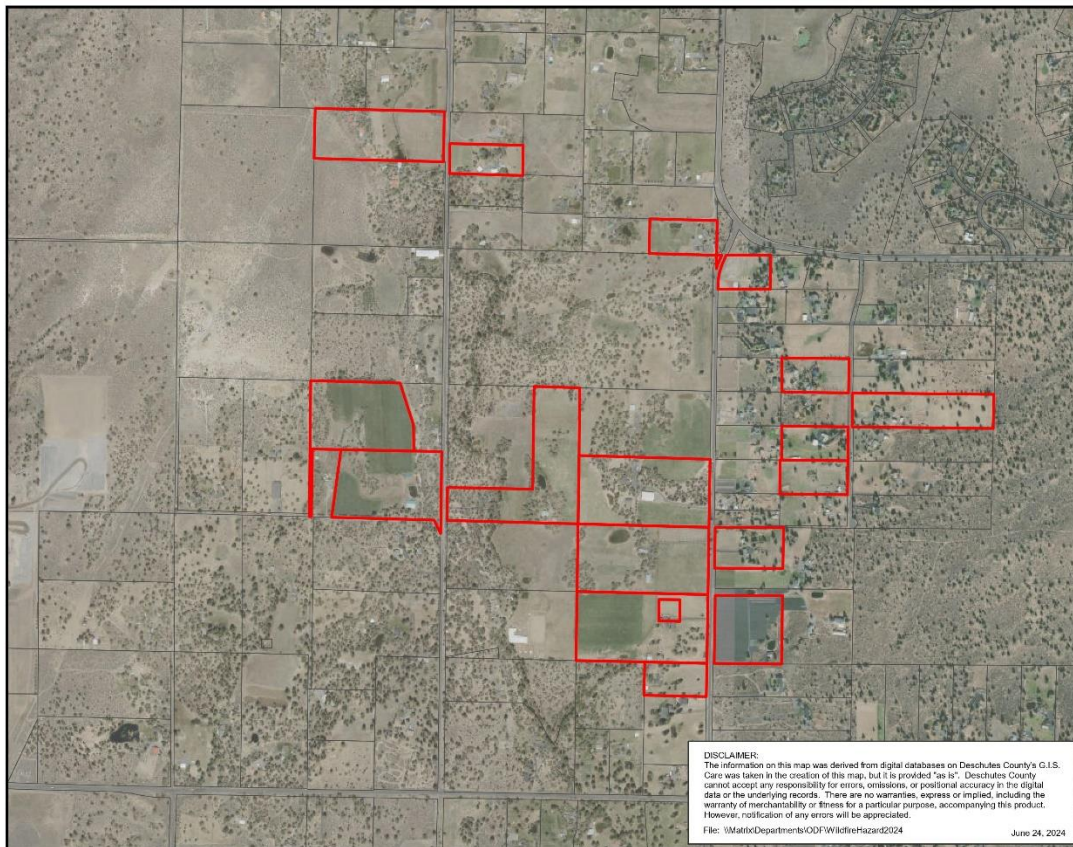
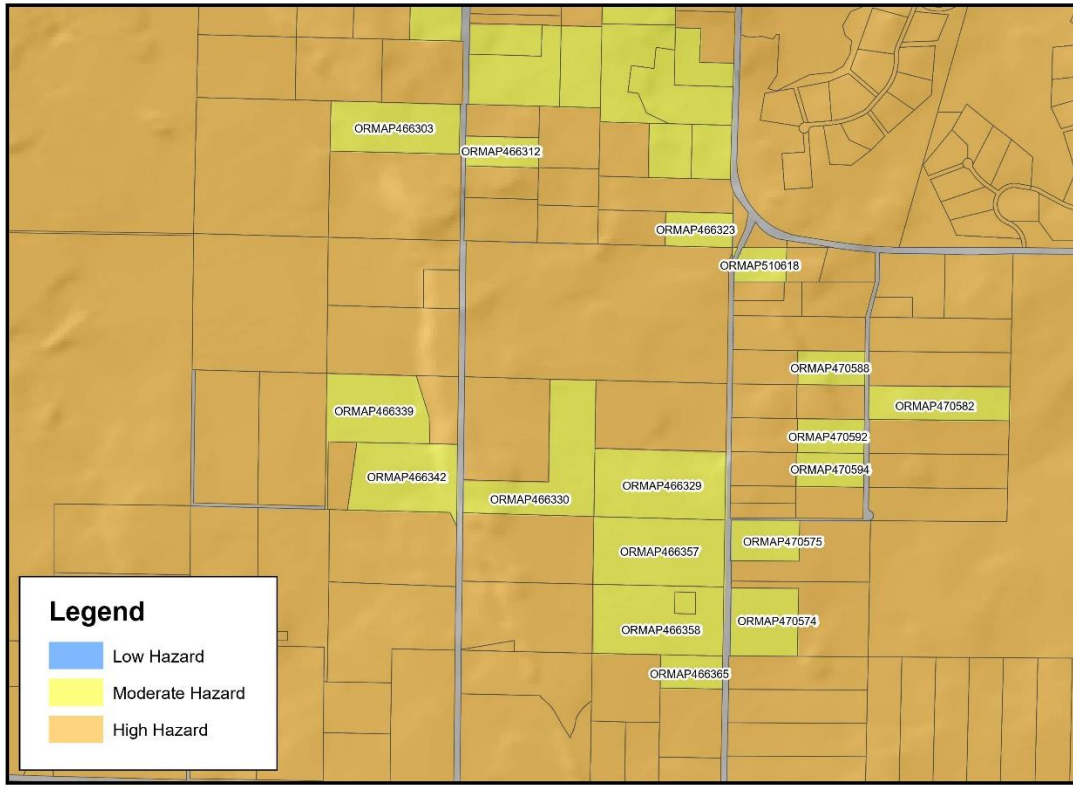
Fall River Area - Inconsistent Classification



Example 4

SE Bend Area - Inconsistent Classification

1" = 1,000'



Theme 6: Impacts to local fuel treatment programs

State-level hazard classifications may also drive prioritization for fuel treatments and funding opportunities to create defensible space in rural communities throughout Deschutes County. It is unclear if these hazard classifications will align with areas that have been prioritized by county staff and local communities for future fuel treatment efforts.

Theme 7: LandFire³ was never intended to be used to determine Wildfire Hazard on a taxlot level

LandFire data products consist of over 50 spatial data layers in the form of maps and other data that support a range of land management analysis and modeling. For example, specific data layer products include: Existing Vegetation Type, Canopy, and Height; Bio-physical Settings; Environmental Site Potential; Fire Behavior Fuel Models; Fire Regime Classes; and Fire Effects layers.

The following links describe in greater detail the applicability and limitations of utilizing LandFire data products for determining wildfire risk at a taxlot level:

- https://www.natureserve.org/sites/default/files/lf_fact_sheet.pdf
- https://landfire.gov/sites/default/files/documents/The_LANDFIRE_Project_TNC_pub.pdf

As a general summary, the LandFire factsheet states the following:

LandFire products are designed to be used at a landscape-scale in support of strategic vegetation, fire, and fuels management planning to evaluate management alternatives across boundaries.

LandFire National products are delivered at a 30-meter pixel resolution. The most effective use of the products is at the landscape scale. Thus, applying LandFire data at an individual pixel level or in small groups of pixels is not recommended.

It is county staff's understanding that certain data layers utilized within the draft hazard mapping process are LandFire products or similar spatial datasets. Given the requirements from SBs 762 and 80 that individual taxlots be given hazard classifications, use of these datasets may produce unintended or inaccurate results.

IV. WILDLAND URBAN INTERFACE (WUI) SPATIAL DATA

As noted above, Deschutes County does not compile or maintain spatial data associated with building footprints and/or planned developments. However, county staff understands the general request to provide additional data that may help fill in gaps regarding development activity which has occurred since approximately 2019. As an intermediate step, staff has compiled spatial data for all properties which have received development permits (i.e. – building permits) since 2019. This data does not contain details such as the location of individual structures, but provides an overview of developed

³ <https://landfire.gov/>

properties which may have not been captured in the original WUI analysis performed by OSU staff. This data is included as an attachment to this memorandum.

Attachment:

1. Deschutes County – Spatial Data for Structures Developed Between 2019 and 2024

CHAPTER 2

DEFINITIONS

User note:

About this chapter: Codes, by their very nature, are technical documents. Every word, term and punctuation mark can add to or change the meaning of a technical requirement. It is necessary to maintain a consensus on the specific meaning of each term contained in the code. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code

SECTION 201

GENERAL

201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in ORS 476.390 and in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in other International Codes, such terms shall have the meanings ascribed to them as in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have their ordinarily accepted meanings such as the context implies.

SECTION 202

DEFINITIONS

ACCESSORY DWELLING UNIT (ADU). A residential structure that is used in connection with, or that is auxiliary to, a single-family dwelling in accordance with ORS 215.501. ADU's must have adequate access for firefighting equipment and be served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410. [Section 301.1.1]

[A] APPROVED. Acceptable to the *code official*. [Section 302.4.1]

BEST MANAGEMENT PRACTICES. Means *defensible space* requirements specific to Oregon, and not contained in the International Wildland-Urban Interface Code, in accordance with the best practices provisions of ORS 476.392. The Oregon Department of State Fire Marshal has included best management practices to establish the minimum defensible space requirements of this code. Best management practices adopted locally must be approved by the Oregon Department of State Fire Marshal in accordance with OAR 837-039-0006. Locally adopted best management practices may be related to, species-specific concerns, special hazards, management practices of recognized local, state, or national programs, or other relevant fuel modification concerns. [Section 105]

User note:

Local government may adopt requirements that address conditions that are of particular concern or interest in their area. Amongst others, these could include the following areas:

- **Species-specific.** The requirements of the Oregon Defensible Space Code may not be practical for all vegetation, including some trees or ground cover. For example, lodgepole pine trees are prone to blowing over in strong winds without the protection of being grown in clusters. In other areas of the state the intensity and rate of fire spread created by some highly volatile plant species such as rabbitbrush, juniper or sagebrush may be of local concern, while fire-resistant species such as oak and maple may be of less concern.
- **Special hazards.** In some cases, locals may want to address hazards that are particularly prevalent in their jurisdiction. An example would be areas where the heating of homes with firewood is especially common, and its storage is nearly always within the defensible space. The adoption and enforcement of local requirements to mitigate this danger would be appropriate.
- **Recognized programs.** Many established programs, at both the local, state, and national level, can provide greater requirements than the minimum state-wide code provided by the Oregon Department of State Fire Marshal. Many

communities, particularly those in regions of the state prone to *wildland-urban interface* wildfires, have successfully utilized programs such as Wildfire Ready (FEMA), Firewise USA (NFPA), Fire Adapted Oregon (OSFM), Project Wildfire (Deschutes County), and many others.

Important: Draft copies of locally proposed amendments to the ODSC must be evaluated by the OSFM and comply with the OAR 837-039-0006 process. The review will ensure that the proposed requirements are lawful, consistent with the intent of the ODSC, and will be approved by local resolution.

[A] CODE OFFICIAL. The official designated by the jurisdiction to interpret and enforce this code, or the code official's authorized representative in accordance with ORS 476.060. [Chapter 1, Section 302]

DEFENSIBLE SPACE. A natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur. See also ORS 476.390.

FIRE-RESISTIVE VEGETATION. Plants with the characteristics compiled in Appendix F of this code that can be used to reduce the likelihood of fire spread. [Section 302.5/App. F]

User note:

While no vegetation can be regarded as truly “fire-proof”, and while all will burn under severe fire conditions, fire resistive vegetation can lower that likelihood and severity.

There is a large variety of fire resistive vegetation that can be found commercially and assist an owner in an overall strategy to modify the fuels on their property. This may include groundcovers such as kinnikinnick and periwinkle, perennials such as iris and lupine, shrubs such as azalea and rhododendron, and trees such as maple and crabapple.

Details are available at the Oregon Department of State Fire Marshal homepage. Additional resources are widely available online, including:

- “*Safer from the start: A Guide to Firewise-Friendly Developments*” published by the National Fire Protection Association (NFPA).
- “*Firewise Toolkit*” published by the National Fire Protection Association (NFPA).
- “*Fire-Resistant Plants for Oregon Home Landscapes*” published by the OSU extension service and the USDA.
- “*Choosing the Right Plants for Northern Nevada’s High Fire Hazard Areas*” published by the University of Nevada Reno Extension
- “*Firewise Landscaping for Southern Idaho*” brochure published by the Bureau of Land Management.

FIRE-RESISTIVE VEGETATION, NON. Flammable plants, including *vegetative fuels*, that ignite readily, can add to the intensity of a wildfire and may increase its spread. Generally, these fuels have fine dry material such as twigs, leaves and needles, or have high oil and resin content. [302.3, 402.2, 402.3]

FUEL MODIFICATION. A method of modifying fuel load by reducing the amount of *nonfire-resistive vegetation* or altering the type of vegetation to reduce the fuel load. [Section 302]

HAZARD RATING. A numerical value describing the likelihood and intensity of a fire, based on specific factors or conditions including weather, climate, topography, and vegetation. [Chapter 3 Scope]

LADDER FUEL. Branches, leaves, needles, and other combustible vegetation that may allow a wildfire to spread from lower growing vegetation to higher growing vegetation. [Section 302.4]

MAP. The comprehensive statewide map that displays the five wildfire risk classes and populates Oregon Wildfire Risk Explorer, the official wildfire planning and risk classification mapping tool for the State of Oregon, coordinated by the Oregon Department of Forestry. See ORS 477.027. [Chapter 1, Section 301 and 401.]

OTHER HUMAN DEVELOPMENT. Means essential facilities, special occupancy structures, or hazardous facilities as defined in ORS 455.447 that support community functions, public communication, energy, or transportation. See OAR 629-044-1005. [Throughout]

STRUCTURE. Means:

- A residential building that requires a Certificate of Occupancy.
- A commercial building that requires a Certificate of Occupancy.
- A manufactured dwelling that has received a Housing and Urban Development certification label (Insignia of Compliance).
- A structure that has received a temporary Certificate of Occupancy under the state building code; or
- A structure constructed prior to adoption of the state building code, that would have required a Certificate of Occupancy or Insignia of Compliance under the state building code, if one was not was obtained. [Throughout]

TREE CROWN. The primary and secondary branches growing out from the main stem, together with twigs and foliage. [Sections 302.4]

VEGETATIVE FUELS. Means both live and dead plant material that constitute a wildfire hazard, including *ladder fuels*. [Section 302.5. See also OAR 629-044-1005]

WILDFIRE. An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures. [other definitions]

WILDFIRE RISK. Means the wildfire impacts to values based on scientifically modeled wildfire frequency and wildfire intensity. [Section 101, Section 302.2. See 629-044-1005]

WILDLAND. An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities. [Sections 101, 301]

WILDLAND FUELS. Means natural vegetation that occurs in an area where development is essentially non-existent, including grasslands, brushlands, rangelands, woodlands, timberlands, or wilderness. Wildland fuels are a type of *vegetative fuels*. [Sections 101, 301]

WILDLAND-URBAN INTERFACE. Means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. [Throughout]

CHAPTER 3 DEFENSIBLE SPACE

User note:

About this chapter: Chapter 3 establishes minimum fire protection requirements to mitigate the hazards to life and property from fire in the wildland-urban interface. The chapter includes strategies to reduce the hazards of fire originating within a structure spreading to wildland and fire originating in wildland spreading to structures and other human development. These requirements, and those in Chapter 4, are the result of a law made effective by the Oregon Legislature July 19, 2021 and resulted in the creation of ORS 476.390 through 476.398.

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter establish general requirements statewide for all *structures* and *other human development* on lands in the *wildland-urban interface* that are designated with a *hazard rating* of extreme or high risk, as identified on the comprehensive statewide *map* facilitated by the Oregon Department of Forestry, and in accordance with ORS 476.392.

Exceptions:

1. Vineyards, crops, and other cultivated vegetation that are irrigated and maintained, or non-irrigated but maintained, throughout the year.
2. *Structures* and *other human development* exempted under ORS 455.315.

ORS 455.315 is not a part of this code but is reprinted or paraphrased here for the reader's convenience:

ORS 455.315 provides for the exemption of the application of a state structural specialty code to agricultural buildings such as structures used for storage of farm machinery, crops, forest products, or used as equine facilities.

301.1.1 Accessory dwelling units. *Accessory dwelling units* on lands in the *wildland-urban interface* that are designated with a *hazard rating* of extreme or high risk shall be in conformance with this section. *Accessory dwelling units* not identified on the comprehensive statewide *map* must comply with any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.

301.2 Intent. The intent of this chapter is to establish minimum requirements to mitigate the risk to life and property from *wildland* fire exposures, exposures from adjacent *structures* and *other human development*, and to prevent *structure* fires from spreading to *wildland fuels*.

SECTION 302 DEFENSIBLE SPACE REQUIREMENTS

302.1 Objective. Provisions of this section are intended to modify the fuel load in areas adjacent to *structures* and *other human development* to create a *defensible space*.

302.2 Fuel modification. *Structures* and *other human development* located in areas designated as high risk or extreme risk in accordance with OAR 629-044-1020 shall comply with the *fuel modification* distances contained in Table 302.2. Distances specified in Table 302.2 shall be measured on a horizontal plane from the perimeter or projection of the *structure* and *other human development* as shown in Figure 302.2.

OAR 629-044-1020 is not a part of this code but is reprinted or paraphrased here for the reader's convenience:

OAR 629-044-1020 defines *wildfire risk* classifications by a range of wildfire hazard values that illustrate likely wildfire behavior.

302.3 Responsible party. Persons owning, leasing, controlling, operating or maintaining *structures* and *other human development* requiring defensible space are responsible for modifying or removing *nonfire-resistive vegetation* on the property owned, leased or controlled by said person.

302.4 Trees. Trees are allowed within the defensible space provided they are in accordance with Sections 302.4.1 and 302.4.2

302.4.1 Tree spacing. Single trees, or *approved* groups of trees considered as a single crown, shall comply with at least one of the following:

1. Trees with *ladder fuels* removed in accordance with Section 302.4.2 shall have the horizontal distance between crowns of adjacent trees, structures and other human development, outlets of chimneys, and overhead electrical facilities be not less than 10 feet (3048 mm). See Fig. 302.4.1(1)
2. Trees pruned to remove *ladder fuels* a minimum of 15 feet (4572 mm) above the ground shall be maintained a minimum of 10 feet (3048 mm) above the surface of a roof and 10 feet from overhead electrical facilities and outlets of chimneys. See Fig. 302.4.1(2).

302.4.2 Ladder fuel. Trees 18 feet or taller, the *tree crowns* within the *defensible space* shall be pruned to remove limbs located less than 6 feet (1829 mm) above the ground surface adjacent to the trees. Trees less than 18 feet shall be pruned to remove limbs equal to no more than 1/3 the trees height. To protect tree health, no more than 1/2 of the live crown shall be required to be removed at one time.

302.4.2.1 Deadwood. Deadwood and litter shall be regularly removed from within trees and on the ground around trees.

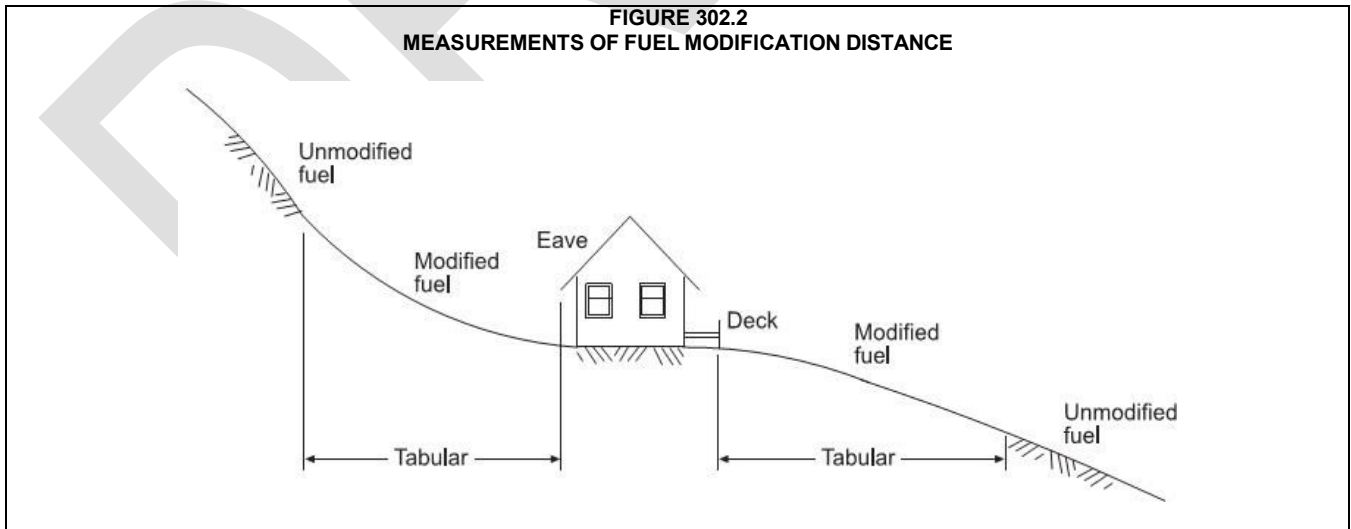
302.5 Ground cover. Where *vegetative fuels*, *fire-resistive vegetation*, or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated *defensible space*, provided that they do not form a means of transmitting fire from the native growth to any *structure* or *other human development*.

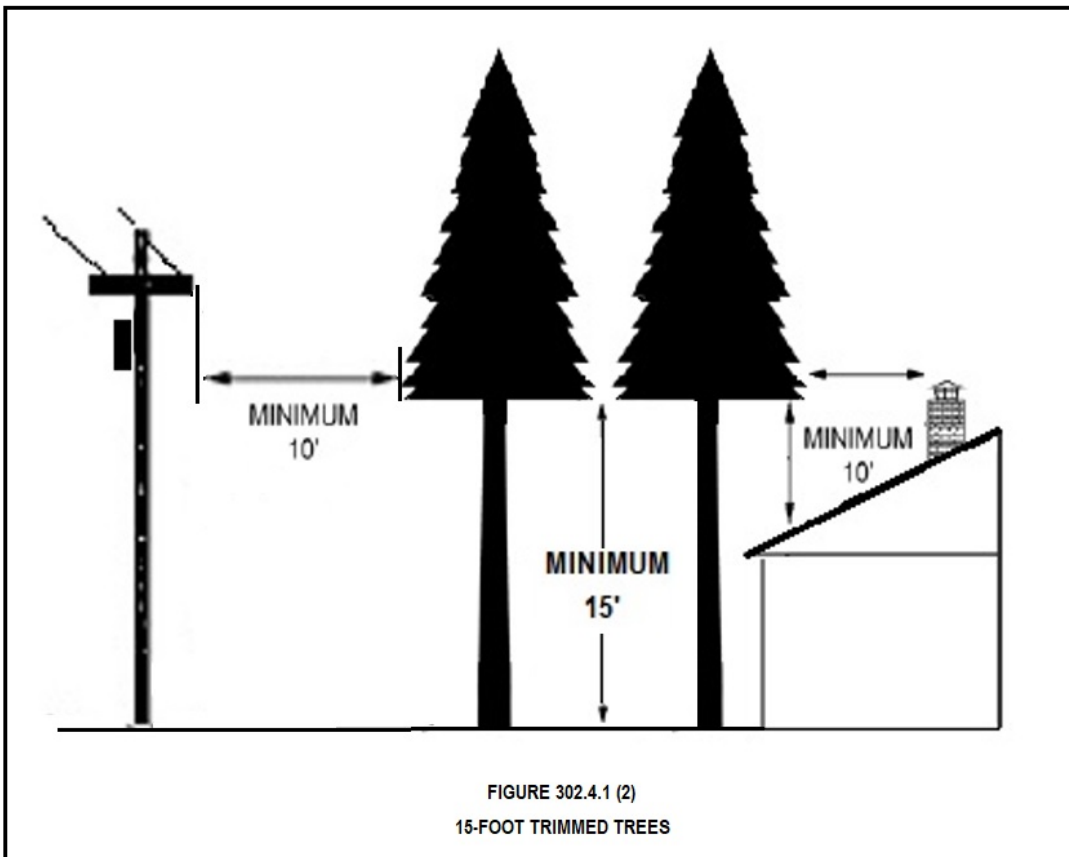
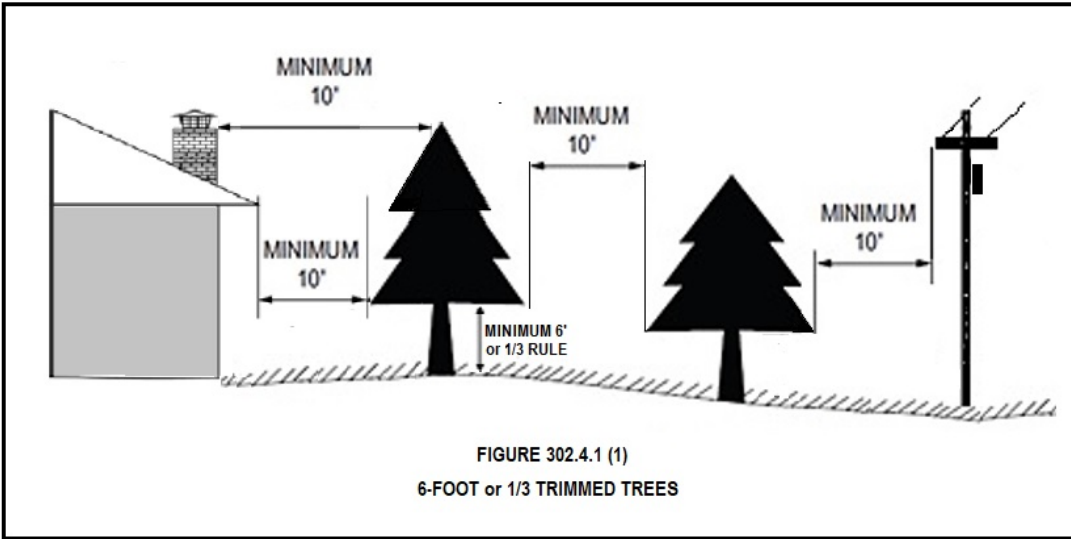
**TABLE 302.2
REQUIRED DEFENSIBLE SPACE**

WILDLAND-URBAN INTERFACE AREA	FUEL MODIFICATION DISTANCE (feet)
High risk	50
Extreme risk	100

For SI: 1 foot = 304.8 mm.

**FIGURE 302.2
MEASUREMENTS OF FUEL MODIFICATION DISTANCE**





CHAPTER 4

MAINTENANCE OF DEFENSIBLE SPACE

User note:

About this chapter: Chapter 4 provides the maintenance provisions of the Defensible Space requirements in Chapter 3 and may be cited for enforcement purposes.

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter establish the general requirements statewide for maintenance of defensible space on all lands in the *wildland-urban interface* that are designated as extreme or high risk, as identified on the comprehensive statewide *map* facilitated by the Oregon Department of Forestry.

401.2 Intent. The intent of this chapter is to establish the minimum maintenance requirements required in Chapter 3.

SECTION 402 MAINTENANCE REQUIREMENTS

402.1 General. Defensible space required by Chapter 3 shall be maintained in accordance with this chapter. In addition to citing a code specified herein, compliance notices shall also include a plain statement of the facts in consideration of Chapter 3 and in accordance with Section 104.3.

402.2 Modified area. Nonfire-resistive vegetation or growth shall be kept clear of *structures* and *other human development* in accordance with Chapter 3, in such a manner as to provide a clear area for fire suppression operations.

402.3 Responsibility. Persons owning, leasing, controlling, operating or maintaining *structures* and *other human development* are responsible for maintenance of *defensible spaces*. Maintenance of the *defensible space* shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles and other dead vegetative material regularly removed from roofs of *structures* and *other human development*.

402.4 Trees. Trees shall be maintained in accordance with Section 302.4.

402.5 Ground cover. Ground cover shall be maintained in accordance with Section 302.5.

APPENDIX F

CHARACTERISTICS OF FIRE-RESISTIVE VEGETATION

This appendix is for information purposes and is not intended for adoption.

User note:

About this appendix: Appendix F is an informational appendix provided for the convenience of the code user. It is simply a compilation of the eight characteristics of fire-resistive vegetation that can be used effectively within wildland-urban interface areas to reduce the likelihood of fire spread through vegetation.

SECTION F101 GENERAL

F101.1 Characteristics of fire-resistive vegetation. All plants will burn under extreme fire weather conditions such as drought. However, plants burn at different intensities and rates of consumption. Fire-resistive plants burn at a relatively low intensity, slow rates of spread and with short flame lengths. The following are characteristics of fire-resistive vegetation:

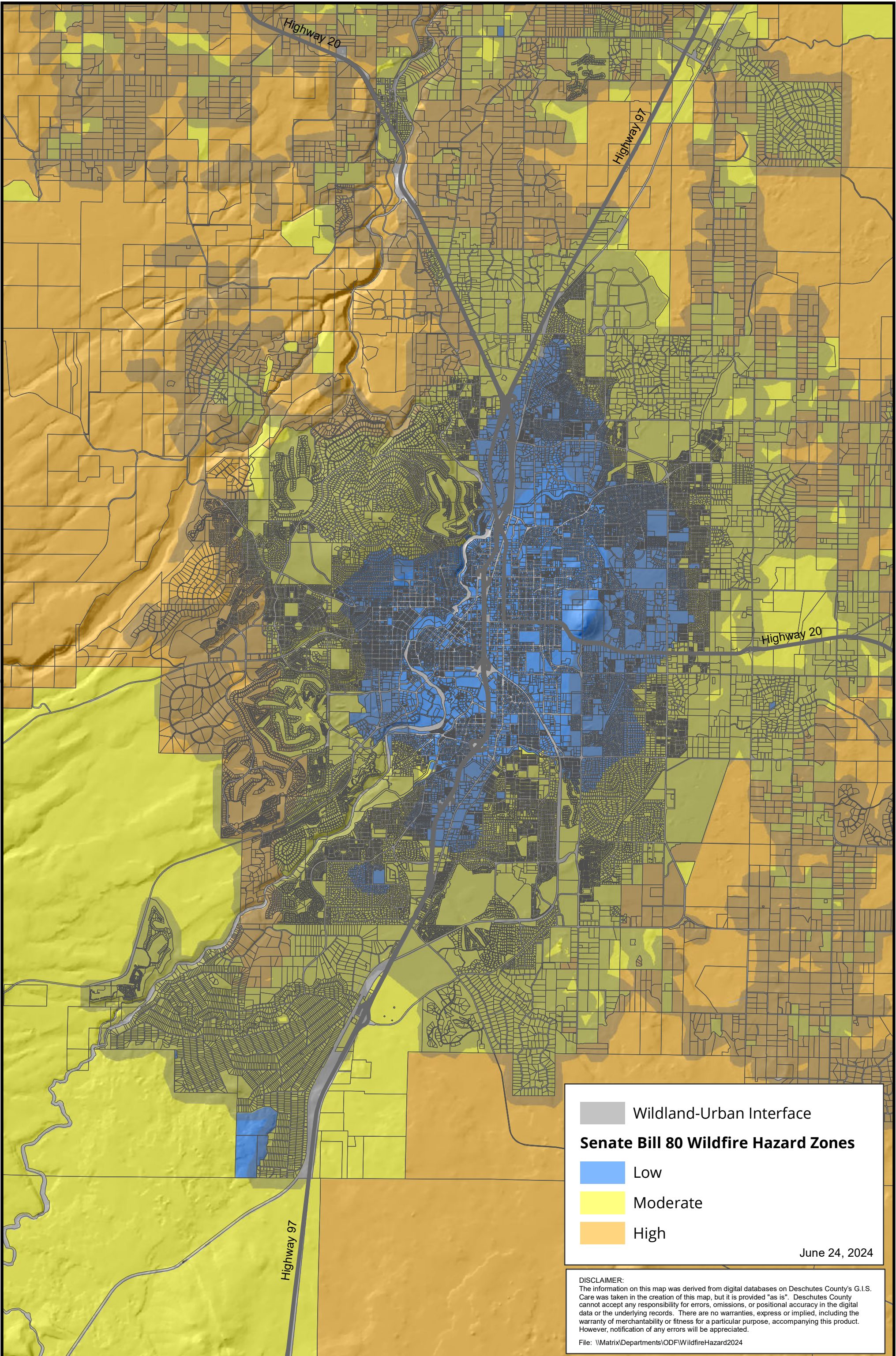
1. Growth with little or no accumulation of dead vegetation (either on the ground or standing upright).
2. Nonresinous plants (willow, poplar or tulip trees).
3. Low volume of total vegetation (for example, a grass area as opposed to a forest or shrub-covered land).
4. Plants with high live fuel moisture (plants that contain a large amount of water in comparison to their dry weight).
5. Drought-tolerant plants (deeply rooted plants with thick, heavy leaves).
6. Stands without ladder fuels (plants without small, fine branches and limbs between the ground and the canopy of overtopping shrubs and trees).
7. Plants requiring little maintenance (slow-growing plants that, when maintained, require little care).
8. Plants with woody stems and branches that require prolonged heating to ignite.



Bend Area - Draft Senate Bill 80 Wildfire Hazard



1" = 1 Mi.



Wildland-Urban Interface
Senate Bill 80 Wildfire Hazard Zones
 Low
 Moderate
 High

June 24, 2024

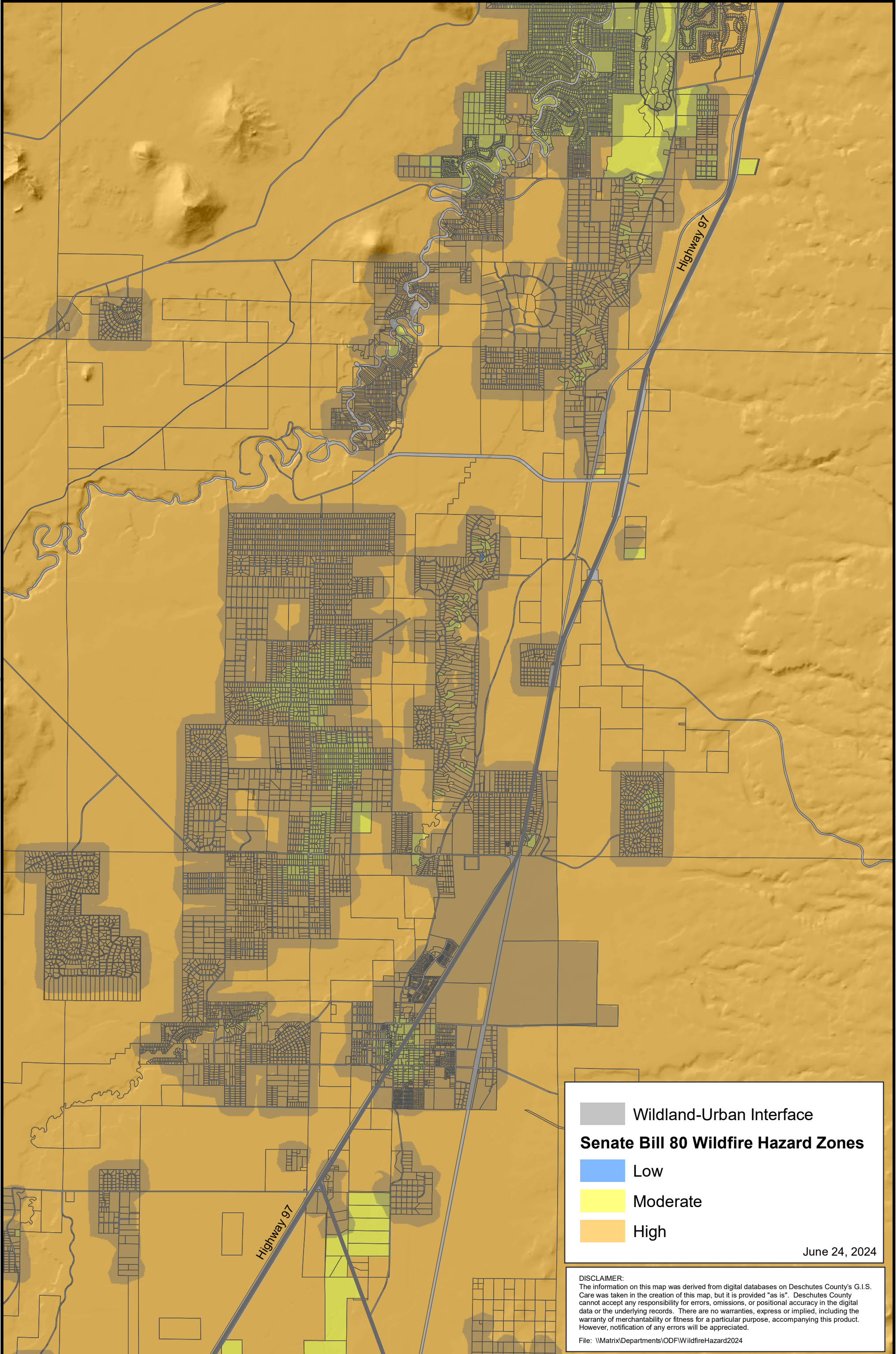
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File: \\Matrix\Departments\ODFWildfireHazard2024



1" = 1 Mi.

La Pine Area - Draft Senate Bill 80 Wildfire Hazard

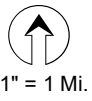


Wildland-Urban Interface
Senate Bill 80 Wildfire Hazard Zones
 Low
 Moderate
 High

June 24, 2024

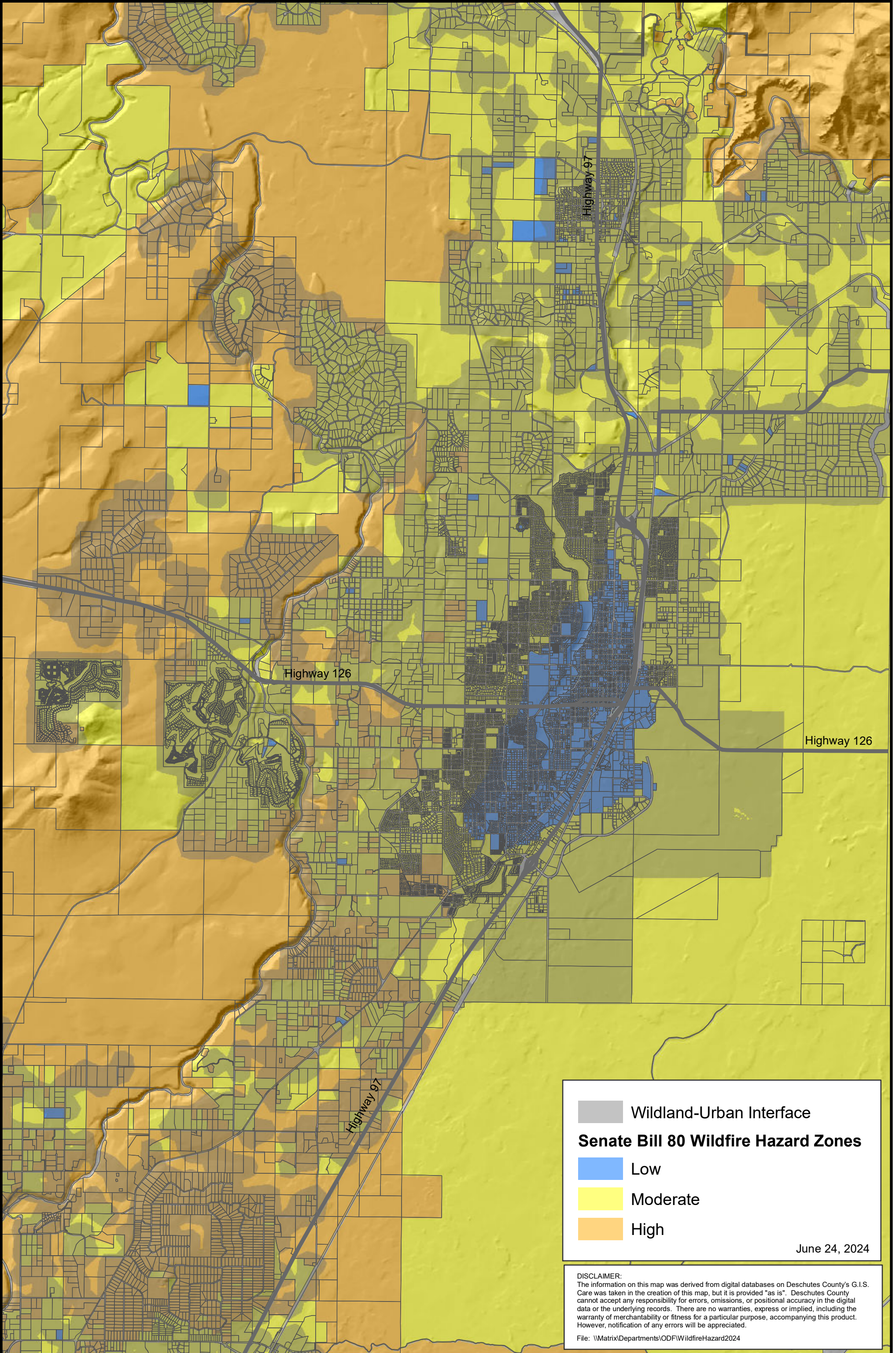
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1" = 1 Mi.

Redmond Area - Draft Senate Bill 80 Wildfire Hazard

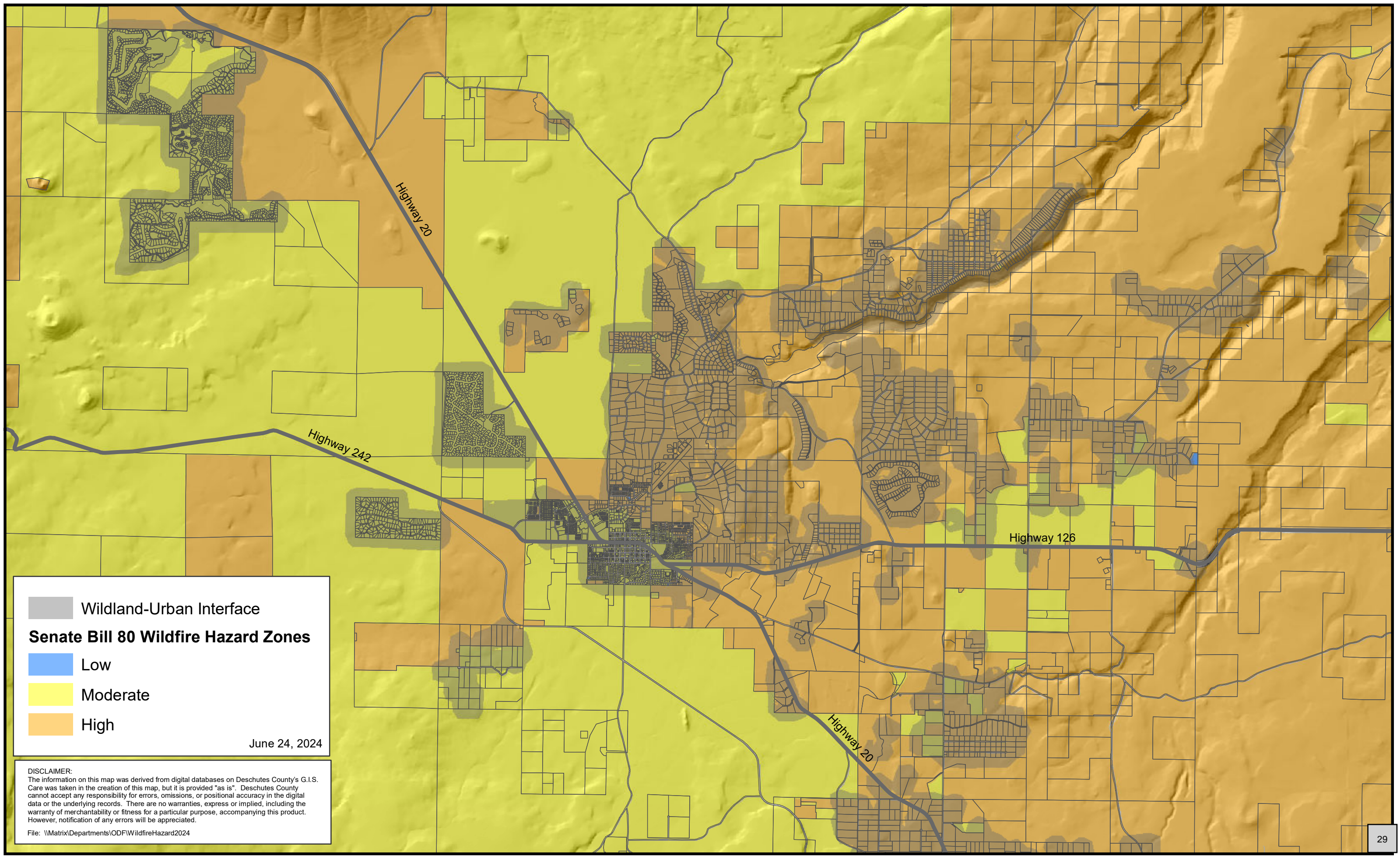


June 24, 2024

DISCLAIMER:
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Sisters Area - Draft Senate Bill 80 Wildfire Hazard

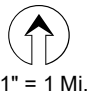


Wildland-Urban Interface
Senate Bill 80 Wildfire Hazard Zones
 Low
 Moderate
 High

June 24, 2024

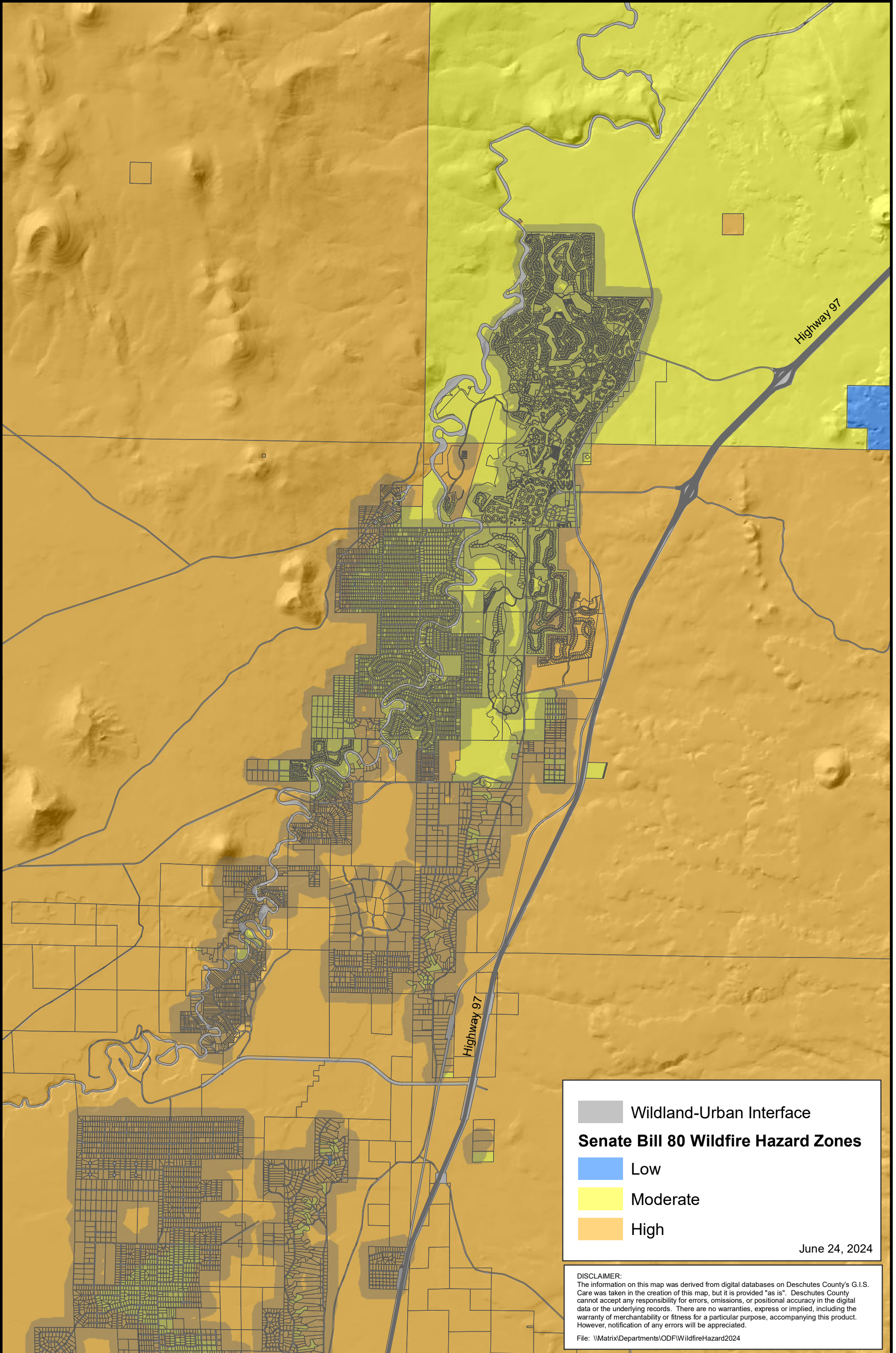
DISCLAIMER:
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1" = 1 Mi.

Sunriver Area - Draft Senate Bill 80 Wildfire Hazard



June 24, 2024

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COMMUNITY DEVELOPMENT

Draft Statewide Wildfire Hazard Map – Deschutes County Estimates

The following tables estimate the properties within Deschutes County which are likely to be affected by the Statewide Wildfire Hazard Map mandated under Senate Bill (SB) 762 and modified pursuant to SB 80. They are based upon data obtained from Oregon State University (OSU) and the Oregon Department of Forestry (ODF) in April 2024. Based on the draft nature of the data and missing details such as local tax lot numbers, these estimates are subject to refinement and modification as new information becomes available.

Table 1: Total High Hazard Destinations within WUI, Including UGBs

Properties	20,785
Acres	83,979

Table 2: Total High Hazard Destinations within WUI, Outside UGBs

Properties	17,385
Acres	77,094

Table 3: High Hazard Designation within WUI, Outside UGBs

Zoning	Properties
Black Butte Ranch (BBRR)	10
Exclusive Farm Use (EFU)	2,548
Forest Use (F1/F2)	615
Multiple Use Agricultural (MUA10)	2,465
Open Space & Conservation (OS&C)	20
Rural Commercial (RC)	8
Rural Residential (RR10)	10,074
Rural Service Center (RSC)	11
Suburban Residential (SR 2.5)	64
Sunriver Single Family Residential District (SURS)	8
Tumalo Residential 5 Acre Minimum District (TUR5)	71
Tumalo Residential District (TUR)	18
Urban Area Reserve (UAR10)	970
Westside Transect (WTZ)	34

Table 4: Public Ownership, High Hazard Designation within WUI, Outside UGBs

Ownership	Properties	Acres
Local (Fire Districts, School District, etc.)	49	~276
County	201	~917
State	50	~647
Federal	637	~8,153



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Nicole Mardell, AICP, Senior Planner

DATE: August 1, 2024

SUBJECT: Deliberations: Hwy 97 Mini-Storage Text Amendment

On August 8, 2024, the Deschutes County Planning Commission will conduct deliberations on an applicant-initiated text amendment to allow mini-storage as a conditional use in certain areas of the Multiple Use Agricultural (MUA-10) Zone. The file number associated with the application is 247-23-000732-TA.

I. BACKGROUND

In October 2023, the applicant Schwabe, Williamson, and Wyatt, applied for a legislative amendment related to mini-storage in the MUA-10 zone. The applicant submittal revised application materials in November 2023 and May 2024. Attached to this memo are the applicant's proposed amendments (Attachment A), proposed findings (Attachment B), and a map of eligible properties (Attachment C). The proposed amendments would add self-storage as a conditional use in the zone, if the following siting criteria are met:

- The property is at least 10 acres in size and no greater than 30 acres in size
 - (multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section);
- Adjacent to State Highway 97; and
- Within 2,500 feet of an urban growth boundary (UGB).

In addition to these locational criteria, future applications would also need to comply with requirements for 18.128 Conditional Uses, including the general compatibility standards (18.128.015) and specific requirements for mini-storage uses (18.128.300) related to screening, parking, and landscaping (Attachment D).

The Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) was sent on April 18, 2024. Staff presented information on the proposed

amendments at a Planning Commission work session on June 13, 2024¹. The Planning Commission had scheduled a public hearing on June 27² although the hearing was continued to July 11³ due to a lack of quorum. Following public testimony, the Commission closed the oral portion of the hearing and left the record open until July 18 at 4:00 p.m.

The record, which contains all memoranda, notices, and written testimony received, is available at the following website: www.deschutes.org/Hwy97Storage

II. SUMMARY OF TESTIMONY

Notice of the public hearing was sent to agencies on May 8, 2024. Comments from the following agencies were received:

- Oregon Department of Transportation (ODOT): noted that access would need to be addressed at the time of individual property development, if the amendment moved forward. Requested additional transportation analysis and trip generation rates for mini-storage facilities.
- City of Redmond: sought clarification regarding properties that may be eligible for the proposed text amendment that are in the Redmond Urban Reserve Area (RURA). This area is intended to be an urban holding zone and identifies priority lands for future urban growth boundary expansions.

One member of the public provided oral testimony during the hearing, expressing concern regarding the proposal and expressed concerns regarding compliance with Goal 14, limiting urban uses on rural land.

Two written comments were received. Central Oregon Landwatch raised additional concerns regarding compliance with Comprehensive Plan goals and policies, Statewide Planning Goal 5, and compatibility with the zone's purpose statement. An additional comment expressed opposition due to aesthetics of storage facilities and lack of need for facilities in rural areas.

During the hearing, the applicant clarified they are amending the proposal to exclude RURA properties. The applicant provided additional information during the open record period following the hearing, including a transportation analysis and additional findings related to issues raised in public comment.

III. FORMAT FOR DELIBERATIONS

The deliberations matrix (Attachment E) provides an outline of key issues and decision points for discussion. As the proposal is an applicant-initiated text amendment, the applicant bears the responsibility for demonstrating compliance with all applicable criteria. Staff recommends the Commission evaluate the proposal as drafted by the applicant, without any additional modifications or revisions. Unlike staff-led text amendments which are iterative, the applicant has submitted a specific proposal to be evaluated.

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-49>

² <https://www.deschutes.org/bc-pc/page/planning-commission-52>

³ <https://www.deschutes.org/bc-pc/page/planning-commission-53>

In addition to the recommendation, staff will gather comments from Commissioners to share with the Board during their hearing process.

VI. NEXT STEPS

At the conclusion of the meeting, the Commission can:

- Continue deliberations to a subsequent meeting;
- Close deliberations and propose a recommendation during this meeting.

Ultimately, the Planning Commission will provide a recommendation to the Board. Options include:

- Recommend approval of amendments as drafted;
- Recommend denial of amendments;
- Other.

Attachments:

- A. Proposed Text Amendments
- B. Proposed Finding
- C. Eligible Property Map
- D. Conditional Use Standards
- E. Decision Matrix

Attachment A: Proposed Text Amendments

Chapter 18.32 Multiple Use Agricultural Zone; MUA-10

18.32.030 Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.
- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal use landing strip 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 Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for 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 215.203(2). Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in DCC 18.32.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.32.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.
- Q. A disposal site which includes a land disposal site for which they Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- R. Time share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.

- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and 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.
- W. Religious institutions or assemblies, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horse stables.
- AB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- AC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL 15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- AE. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(8)(g) that:
 - a. Is on property adjacent to an existing manufactured home/recreational vehicle park;
 - b. Is adjacent to the City of Bend Urban Growth Boundary; and
 - c. Has no more than 10 dwelling units.
- AE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
- AF. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- AG. Guest lodge.
- AH. 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.
- AI. Mini-storage facilities, including watercraft, and RV storage. Mini-storage facilities are allowed on parcels that are:
 - a. Within 2,500 feet of an urban growth boundary;
 - b. Adjacent to State Highway 97; and
 - c. A minimum of 10 acres in size and not to exceed 30 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.

HISTORY

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

Amended by Ord. [80-206](#) §3 on 10/13/1980

Amended by Ord. [83-033](#) §2 on 6/15/1983

Amended by Ord. [86-018](#) §7 on 6/30/1986

Amended by Ord. [90-014](#) §§27 and 35 on 7/12/1990

Amended by Ord. [91-002](#) §7 on 2/6/1991

Amended by Ord. [91-005](#) §§19 and 20 on 3/4/1991
Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [91-038](#) §1 on 9/30/1991
Amended by Ord. [92-055](#) §2 on 8/17/1992
Amended by Ord. [93-043](#) §§4A and B on 8/25/1993
Amended by Ord. [94-008](#) §11 on 6/8/1994
Amended by Ord. [94-053](#) §2 on 12/7/1994
Amended by Ord. [96-038](#) §1 on 6/12/1996
Amended by Ord. [97-017](#) §2 on 3/12/1997
Amended by Ord. [97-029](#) §2 on 5/14/1997
Amended by Ord. [97-063](#) §3 on 11/12/1997
Amended by Ord. [2001-016](#) §2 on 3/28/2001
Amended by Ord. [2001-039](#) §2 on 12/12/2001
Amended by Ord. [2004-002](#) §4 on 4/28/2004
Amended by Ord. [2009-018](#) §1 on 11/5/2009
Amended by Ord. [2015-002](#) §1 on 7/8/2015
Amended by Ord. [2016-015](#) §3 on 7/1/2016
Amended by Ord. [2020-001](#) §4 on 4/21/2020
Amended by Ord. [2021-004](#) §2 on 5/27/2021
Amended by Ord. [2021-013](#) §5 on 4/5/2022
Amended by Ord. [2023-001](#) §4 on 5/30/2023



Community Development Department
 Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
 (541)388-6575 FAX (541)385-1764
 http://www.co.deschutes.or.us/cdd/

PLAN/ZONE/TEXT AMENDMENT

ZONE MAP AMENDMENT: _____	PLAN MAP AMENDMENT: _____	TEXT AMENDMENT: <u>X</u>
FEE:	FEE:	FEE: \$7,659.00

Applicant's Name (print): Schwabe, Williamson & Wyatt (c/o Keenan Ordon-Bakalian) Phone: (503) 796-2470

Mailing Address: 360 SW Bond Street, Suite 500 City/State/Zip: Bend, Oregon 97702

Property Owner's Name (if different): _____ Phone: (____) _____

Mailing Address: _____ City/State/Zip: _____

Property Description: Township n/a Range n/a Section n/a Tax Lot n/a

Lot of Record? (state reason): _____

Current Zoning: n/a Proposed Zoning: n/a

Current Plan Designation: n/a Proposed Designation: n/a

Applicable State Goals: Goals 1-14 Exception Proposed? _____ Yes X No

Size of Affected Area: n/a Acres

INSTRUCTIONS FOR COMPLETING THIS APPLICATION:

1. Complete this application form including the appropriate signatures. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.
2. Include a detailed statement describing the proposal and how it meets all requirements of the appropriate State rules and statutes, and County codes and Comprehensive Plan policies. Text amendment applications must include the proposed language and the basis for the change.
3. If multiple properties are involved in this application, then identify each property on a separate page and follow with the property owners' signatures.
4. Submit the correct application fee.
5. Submit a copy of the current deed(s) for the property(ies).

A PRE-APPLICATION APPOINTMENT IS REQUIRED FOR ALL AMENDMENTS

Applicant's Signature: *Keenan Ordon-Bakalian* Date: 10/18/2023

Property Owner's Signature (if different)*: n/a Date: n/a

Agent's Name (if applicable): _____ Phone: (____) _____

Mailing Address: _____ City/State/Zip: _____

***If this application is not signed by the property owner, a letter authorizing signature by the applicant must be attached. By signing this application, the applicant understands and agrees that Deschutes County may require a deposit for hearings officers' fees prior to the application being deemed complete; and if the application is heard by a hearings officer, the applicant will be responsible for the actual costs of the hearings officer.**

**APPLICANT’S WRITTEN NARRATIVE
TEXT AMENDMENT TO MULTIPLE USE AGRICULTURE ZONE**

APPLICANT: Schwabe, Williamson & Wyatt
360 SW Bond St #500
Bend, OR 97702

ATTORNEY: Kenneth Katzaroff
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SUBJECT PROPERTY: Multiple Use Agriculture Zone

ZONING: Multiple Use Agriculture – MUA

REQUEST: Make certain amendments to Deschutes County’s MUA Zone to allow self-storage in limited circumstances.

I. APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Deschutes County Code

Title 18, County Zoning
Title 22, Deschutes County Development Procedures Ordinance
Title 23, Deschutes County Comprehensive Plan

OAR 660, Division 15, the Statewide Planning Goals

II. BASIC FINDINGS

The applicant proposes the following legislative amendment to the text of Deschutes County Code (“DCC”) Title 18, Chapter 18.32, Multiple Use Agriculture Zone (“MUA”). The proposed change would permit mini-storage in limited portions of MUA-designated land within Deschutes County. The amendments would not remove text from the code, and would add the following text, indicated in **bold**:

18.32.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.
- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.

- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
1. Fewer than 10 riders;
 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 3. More than 25 riders, no more than two times per year on nonconsecutive days.
- Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
- J. Accessory Dwelling Units, subject to DCC 18.116.350.
- K. Mini-storage facilities, including watercraft, and RV storage, subject to site plan review as provided in DCC 18.124. Mini-storage facilities are allowed on parcels that are:**
- 1. Within 2,500 feet of an urban growth boundary;**
 - 2. Adjacent to a state highway; and**
 - 3. A minimum of 10 acres in size and not to exceed 30 acres in size.**
- Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.**

III. APPLICANT'S RESPONSE TO APPLICABLE STANDARDS AND CRITERIA:

Applicable approval criteria are listed below in italics. Applicant's responses follow.

A. COMPLIANCE WITH DCC TITLE 18 COUNTY ZONING

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.

RESPONSE: This is an application for a legislative text amendment to DCC Title 18, Chapter 18.32, MUA Zone. This is not an application for a quasi-judicial map amendment, as this text amendment will not alter the County's zoning map if it is approved. This application is subject to the standards and criteria set forth in DCC 22.12. DCC 22.12.010 and .040 require a public hearing before the Deschutes County Planning Commission (the "**Planning Commission**") and then the Board of County Commissioners for all legislative changes. DCC 22.12.020 sets forth the basic notice requirements for the hearings.

18.136.040 Record of Amendments

All amendments to the text or map of DCC Title 18 shall be filed with the County Clerk.

RESPONSE: Upon adoption, the proposed amendment will be filed with the County Clerk.

B. COMPLIANCE WITH DCC TITLE 22, DESCHUTES COUNTY DEVELOPMENT PROCEDURES ORDINANCE

DCC 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.

RESPONSE: The proposed amendments will be reviewed by both the Planning Commission and Board of County Commissioners, and will include public hearings.

Section 22.12.020 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.*

RESPONSE: This criterion will be met with notice to be published in the Bend Bulletin newspaper for the Planning Commission public hearing, and the Board of County Commissioners' 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.*

RESPONSE: Notice will be posted if determined to be necessary by the Planning Director.

- 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.*

RESPONSE: Individual notice will be sent at the discretion of the Planning Director. It is the applicant's position that because the proposed legislative text amendment does not apply to any specific property, individual notice is not required for this application. ORS 215.203 ("Measure 56 notice") is not applicable because this is an application for a legislative text amendment, not an action to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan. See ORS 215.203(3). As such, no property will have to be rezoned in order to comply with the amendment to DCC 18.32.020 if any adopting ordinance is approved.

- D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.*

RESPONSE: Notice of proposed legislative changes will be published in Deschutes County newspapers.

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 Commissioners or the Planning Commission.

RESPONSE: Application fees will be paid upon filing of the application.

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.

RESPONSE: The proposed legislative changes will be reviewed by both the Planning Commission and Board of County Commissioners.

Section 22.12.050 FINAL DECISION

All legislative changes shall be adopted by ordinance.

RESPONSE: The proposed legislative changes will be adopted by ordinance.

D. DCC TITLE 23 DESCHUTES COUNTY COMPREHENSIVE PLAN

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.

Chapter 3: Rural Growth, Section 3.4: Rural Economy Policies

Goal 1: Maintain a stable rural economy, compatible with rural lifestyles and a healthy environment.

Policy 3.4.1: Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

a. Review land use regulations to identify legal and appropriate rural economic development opportunities.

RESPONSE: The proposed amendment is consistent with the County's mandate to review land use regulations to identify legal and appropriate economic development opportunities. This amendment provides a new rural economic development opportunity within specific areas of the MUA zone while maintaining the integrity of the rural character and natural environment by requiring site plan review and expressly limiting where in the MUA zone mini-storage facilities can be located.

The proposed amendment restricts the development of mini-storage facilities to parcels that are a minimum of 10 acres in size, and in close proximity to existing urban growth boundaries and state highways. The proposed restrictions on the location of mini-storage development in the MUA zone will maintain the integrity of the rural character and natural environment within the MUA zone.

Policy 3.4.2: Work with stakeholders to promote new recreational and tourist initiatives that maintain the integrity of the natural environment.

RESPONSE: Allowing mini-storage development in certain areas of the MUA zone will support new and existing recreational and tourist initiatives in the area. Secure storage subject to site plan review is consistent with maintaining the integrity of the natural environment because it (1) reduces the visual impact of vehicles parked in residential or public spaces; and (2) serves to protect vehicles from the elements and reduces left-behind waste.

Policy 3.4.7: Within the parameters of State land use regulations, permit limited local-serving commercial uses in higher-density rural communities.

RESPONSE: Approval of the subject application will allow for a new local-servicing commercial use (mini-storage) in higher-density rural communities located in close proximity to established urban growth boundaries and adjacent state highways.

Chapter 3: Rural Growth, Section 3.5: Natural Hazard Policies

Goal 1: Protect people, property, infrastructure, the economy and the environment from natural hazards.

RESPONSE: Allowing mini-storage in rural areas adjacent existing urban growth boundaries will further the County’s goal of protecting Deschutes County citizens’ property and the economy at large. Mini-storage facilities will provide rural residents the opportunity to protect the physical and economic integrity of their property.

Chapter 4: Urban Growth Management, Section 4.2: Urbanization Policies

Goal 1: Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

RESPONSE: Mini-storage in MUA zone will be restricted to locations within 2,500 feet of an established urban growth boundary. Geographic proximity to urban growth boundaries will contribute to the orderly and efficient transition between urban and rural lands because storage facilities for recreational vehicles will promote rural recreation while limiting the non-farm commercial use of rural lands.

E. STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

RESPONSE: The amendments do not propose to change the structure of the County’s citizen involvement program. Notice of the proposed amendments will be provided through notice of public hearings in the “Bend Bulletin” newspaper. The public hearing on this application will provide the opportunity for any resident to participate in the land use process. Goal 1 is met.

Goal 2: Land Use Planning

Part I – Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

RESPONSE: Goals policies, and processes related to this application are included in the Deschutes County Comprehensive Plan, Title 23, and Deschutes County Code, Title 18 and Title 22. Compliance with these processes, policies, and regulations are documented within the subject application. Goal 2 is met.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 3. MUA is not an exclusive farm use zone. Instead, the purpose of MUA zoned land is to “preserve the rural character of various areas of the county while permitting development consistent with that character ...” MUA zones allow for land that is “so committed to other types of uses that an exception to Statewide Planning Goal 3 (Agricultural Lands) was taken to allow other types of uses of such land.” *Moody v. Deschutes County*, 22 Or LUBA, 3 n.1 (1992). Goal 3 is met.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

RESPONSE: The amendments do not propose to rezone or alter forest lands. Goal 4 is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

RESPONSE: The amendments do not propose to change open spaces, scenic or historic areas, or natural resources. Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

RESPONSE: The proposed text amendment will not impact the quality of the air, water, or land resources. Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

RESPONSE: To the extent that lands in the MUA zone are in areas subject to natural disasters and hazards, the subject application will serve to mitigate the risk of harm from such disasters on the property of Deschutes County citizens. Providing for mini-storage in select areas of the MUA zone will provide rural residents with the opportunity to store and protect their property from natural hazards. Goal 7 is met.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

RESPONSE: To the extent that Goal 8 is applicable to the subject application, providing for mini-storage on certain lands in the MUA zone will allow Deschutes County citizens and visitors to store recreational vehicles and other equipment, providing for ready access to state recreation sites within the County. Goal 8 is met.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

RESPONSE: The proposed text amendment complies with Goal 9 because it will permit a new and varied economic activity within the MUA zone that will allow Oregon citizens an additional opportunity for prosperity.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

RESPONSE: The subject application does not propose to change to housing. Goal 10 is met, to the extent it is applicable.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

RESPONSE: The proposed text amendment will have no adverse effect on the provision of public facilities and services. Goal 11 is met.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

RESPONSE: The proposed amendment will not impact transportation facilities within the County. To the extent this Goal is applicable, the subject application proposes to site mini-storage facilities adjacent state highways, providing for convenient access to mini-storage facilities in the rural area. Goal 12 is met.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: The proposed amendment will have a *de minimis* effect on the provision of public facilities and services. To the extent Goal 13 is applicable, new mini-storage facilities developed in the MUA zone will be designed and constructed with best practices for the modern-day construction industry, including energy efficient design standards.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

RESPONSE: Goal 14 concerns the provision of urban and rural land uses to ensure efficient use of land and livable communities. The proposed amendment does not amend an urban growth boundary, and mini-storage is permitted as a conditional use in the Rural-Industrial (“**R-I**”) zones. Like the MUA zone, the R-I zone serves rural communities. Storage is not exclusively an “urban use” and storage that targets recreational vehicles and equipment contributes to rural recreational opportunities. The subject application proposes to limit mini-storage to lands in the MUA zone that are located in close proximity to existing urban growth boundaries and adjacent state highways, thereby promoting an orderly and efficient transition from rural to urban land use. Goal 14 is met.

Goals 15-19

RESPONSE: Goals 15 through 19 do not apply (Goal 15 Willamette River Greenway; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources).



November 20, 2023

Keenan Ordon-Bakalian

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VIA E-MAIL

Jacob Ripper
Principal Planner
Deschutes County
117 NW Lafayette Avenue
Bend, OR 97703

RE: ***Revision to Text Amendment Application No. 247-23-000732-TA***
Our File No.: 136093-280105

Dear Jacob:

Our office is the applicant for the above-referenced Text Amendment Application (the “**Application**”). Submitted under the cover of this letter is an updated project narrative for the subject application, with a revision that narrows the scope of potential locations for mini-storage facilities in the MUA zone from “[a]djacent to a state highway” to “[a]djacent to State Highway 97.” The purpose of this change is to ensure an orderly and efficient transition from rural to urban land use, and to provide a new, local-serving commercial use in an area characterized by higher-density rural communities.

An updated project narrative reflecting this change is attached hereto as **Exhibit A**. For convenience, we have also provided a redline version of the project narrative that depicts the changes made between the original project narrative, and the revised project narrative. *See attached, Exhibit B*. We respectfully request that Deschutes County include the revised project narrative in the record for the application.

Thank you for your continued work on this application, and please do not hesitate to contact me with any questions.

Very truly yours,

Keenan Ordon-Bakalian
Attorney

KOB
Attachment

CC: Kenneth Katzaroff, Schwabe, Williamson & Wyatt
Peter Gutowsky, Deschutes County

**APPLICANT'S WRITTEN NARRATIVE
TEXT AMENDMENT TO MULTIPLE USE AGRICULTURE ZONE**

APPLICANT: Schwabe, Williamson & Wyatt
360 SW Bond St #500
Bend, OR 97702

ATTORNEY: Kenneth Katzaroff
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SUBJECT PROPERTY: Multiple Use Agriculture Zone

ZONING: Multiple Use Agriculture – MUA

REQUEST: Make certain amendments to Deschutes County's MUA Zone to allow self-storage in limited circumstances.

I. APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Deschutes County Code

Title 18, County Zoning
Title 22, Deschutes County Development Procedures Ordinance
Title 23, Deschutes County Comprehensive Plan

OAR 660, Division 15, the Statewide Planning Goals

II. BASIC FINDINGS

The applicant proposes the following legislative amendment to the text of Deschutes County Code (“DCC”) Title 18, Chapter 18.32, Multiple Use Agriculture Zone (“MUA”). The proposed change would permit mini-storage in limited portions of MUA-designated land within Deschutes County. The amendments would not remove text from the code, and would add the following text, indicated in **bold**:

18.32.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.
- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.

- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
 - 1. Fewer than 10 riders;
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 - 3. More than 25 riders, no more than two times per year on nonconsecutive days.Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
- J. Accessory Dwelling Units, subject to DCC 18.116.350.
- K. **Mini-storage facilities, including watercraft, and RV storage, subject to site plan review as provided in DCC 18.124. Mini-storage facilities are allowed on parcels that are:**
 - 1. **Within 2,500 feet of an urban growth boundary;**
 - 2. **Adjacent to State Highway 97; and**
 - 3. **A minimum of 10 acres in size and not to exceed 30 acres in size.****Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.**

III. APPLICANT'S RESPONSE TO APPLICABLE STANDARDS AND CRITERIA:

Applicable approval criteria are listed below in italics. Applicant's responses follow.

A. COMPLIANCE WITH DCC TITLE 18 COUNTY ZONING

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.

RESPONSE: This is an application for a legislative text amendment to DCC Title 18, Chapter 18.32, MUA Zone. This is not an application for a quasi-judicial map amendment, as this text amendment will not alter the County's zoning map if it is approved. This application is subject to the standards and criteria set forth in DCC 22.12. DCC 22.12.010 and .040 require a public hearing before the Deschutes County Planning Commission (the "**Planning Commission**") and then the Board of County Commissioners for all legislative changes. DCC 22.12.020 sets forth the basic notice requirements for the hearings.

18.136.040 Record of Amendments

All amendments to the text or map of DCC Title 18 shall be filed with the County Clerk.

RESPONSE: Upon adoption, the proposed amendment will be filed with the County Clerk.

B. COMPLIANCE WITH DCC TITLE 22, DESCHUTES COUNTY DEVELOPMENT PROCEDURES ORDINANCE

DCC 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.

RESPONSE: The proposed amendments will be reviewed by both the Planning Commission and Board of County Commissioners, and will include public hearings.

Section 22.12.020 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.*

RESPONSE: This criterion will be met with notice to be published in the Bend Bulletin newspaper for the Planning Commission public hearing, and the Board of County Commissioners' 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.*

RESPONSE: Notice will be posted if determined to be necessary by the Planning Director.

- 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.*

RESPONSE: Individual notice will be sent at the discretion of the Planning Director. It is the applicant's position that because the proposed legislative text amendment does not apply to any specific property, individual notice is not required for this application. ORS 215.203 ("Measure 56 notice") is not applicable because this is an application for a legislative text amendment, not an action to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan. See ORS 215.203(3). As such, no property will have to be rezoned in order to comply with the amendment to DCC 18.32.020 if any adopting ordinance is approved.

- D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.*

RESPONSE: Notice of proposed legislative changes will be published in Deschutes County newspapers.

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 Commissioners or the Planning Commission.

RESPONSE: Application fees will be paid upon filing of the application.

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.

RESPONSE: The proposed legislative changes will be reviewed by both the Planning Commission and Board of County Commissioners.

Section 22.12.050 FINAL DECISION

All legislative changes shall be adopted by ordinance.

RESPONSE: The proposed legislative changes will be adopted by ordinance.

D. DCC TITLE 23 DESCHUTES COUNTY COMPREHENSIVE PLAN

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.

Chapter 3: Rural Growth, Section 3.4: Rural Economy Policies

Goal 1: Maintain a stable rural economy, compatible with rural lifestyles and a healthy environment.

Policy 3.4.1: Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

- a. Review land use regulations to identify legal and appropriate rural economic development opportunities.

RESPONSE: The proposed amendment is consistent with the County’s mandate to review land use regulations to identify legal and appropriate economic development opportunities. This amendment provides a new rural economic development opportunity within specific areas of the MUA zone while maintaining the integrity of the rural character and natural environment by requiring site plan review and expressly limiting where in the MUA zone mini-storage facilities can be located.

The proposed amendment restricts the development of mini-storage facilities to parcels that are a minimum of 10 acres in size, and in close proximity to existing urban growth boundaries and State Highway 97. The proposed restrictions on the location of mini-storage development in the MUA zone will maintain the integrity of the rural character and natural environment within the MUA zone.

Policy 3.4.2: Work with stakeholders to promote new recreational and tourist initiatives that maintain the integrity of the natural environment.

RESPONSE: Allowing mini-storage development in certain areas of the MUA zone will support new and existing recreational and tourist initiatives in the area. Secure storage subject to site plan review is consistent with maintaining the integrity of the natural environment because it (1) reduces the visual impact of vehicles parked in residential or public spaces; and (2) serves to protect vehicles from the elements and reduces left-behind waste.

Policy 3.4.7: Within the parameters of State land use regulations, permit limited local-serving commercial uses in higher-density rural communities.

RESPONSE: Approval of the subject application will allow for a new local-servicing commercial use (mini-storage) in higher-density rural communities located in close proximity to established urban growth boundaries and adjacent State Highway 97.

Chapter 3: Rural Growth, Section 3.5: Natural Hazard Policies

Goal 1: Protect people, property, infrastructure, the economy and the environment from natural hazards.

RESPONSE: Allowing mini-storage in rural areas adjacent existing urban growth boundaries will further the County’s goal of protecting Deschutes County citizens’ property and the economy at large. Mini-storage facilities will provide rural residents the opportunity to protect the physical and economic integrity of their property.

Chapter 4: Urban Growth Management, Section 4.2: Urbanization Policies

Goal 1: Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

RESPONSE: Mini-storage in MUA zone will be restricted to locations within 2,500 feet of an established urban growth boundary. Geographic proximity to urban growth boundaries will contribute to the orderly and efficient transition between urban and rural lands because storage facilities for recreational vehicles will promote rural recreation while limiting the non-farm commercial use of rural lands.

E. STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

RESPONSE: The amendments do not propose to change the structure of the County’s citizen involvement program. Notice of the proposed amendments will be provided through notice of public hearings in the “Bend Bulletin” newspaper. The public hearing on this application will provide the opportunity for any resident to participate in the land use process. Goal 1 is met.

Goal 2: Land Use Planning

Part I – Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

RESPONSE: Goals policies, and processes related to this application are included in the Deschutes County Comprehensive Plan, Title 23, and Deschutes County Code, Title 18 and Title 22. Compliance with these processes, policies, and regulations are documented within the subject application. Goal 2 is met.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 3. MUA is not an exclusive farm use zone. Instead, the purpose of MUA zoned land is to “preserve the rural character of various areas of the county while permitting development consistent with that character ...” MUA zones allow for land that is “so committed to other types of uses that an exception to Statewide Planning Goal 3 (Agricultural Lands) was taken to allow other types of uses of such land.” *Moody v. Deschutes County*, 22 Or LUBA, 3 n.1 (1992). Goal 3 is met.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

RESPONSE: The amendments do not propose to rezone or alter forest lands. Goal 4 is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

RESPONSE: The amendments do not propose to change open spaces, scenic or historic areas, or natural resources. Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

RESPONSE: The proposed text amendment will not impact the quality of the air, water, or land resources. Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

RESPONSE: To the extent that lands in the MUA zone are in areas subject to natural disasters and hazards, the subject application will serve to mitigate the risk of harm from such disasters on the property of Deschutes County citizens. Providing for mini-storage in select areas of the MUA zone will provide rural residents with the opportunity to store and protect their property from natural hazards. Goal 7 is met.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

RESPONSE: To the extent that Goal 8 is applicable to the subject application, providing for mini-storage on certain lands in the MUA zone will allow Deschutes County citizens and visitors to store recreational vehicles and other equipment, providing for ready access to state recreation sites within the County. Goal 8 is met.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

RESPONSE: The proposed text amendment complies with Goal 9 because it will permit a new and varied economic activity within the MUA zone that will allow Oregon citizens an additional opportunity for prosperity.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

RESPONSE: The subject application does not propose to change to housing. Goal 10 is met, to the extent it is applicable.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

RESPONSE: The proposed text amendment will have no adverse effect on the provision of public facilities and services. Goal 11 is met.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

RESPONSE: The proposed amendment will not impact transportation facilities within the County. To the extent this Goal is applicable, the subject application proposes to site mini-storage facilities adjacent State Highway 97, providing for convenient access to mini-storage facilities in the rural area. Goal 12 is met.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: The proposed amendment will have a *de minimis* effect on the provision of public facilities and services. To the extent Goal 13 is applicable, new mini-storage facilities developed in the MUA zone will be designed and constructed with best practices for the modern-day construction industry, including energy efficient design standards.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

RESPONSE: Goal 14 concerns the provision of urban and rural land uses to ensure efficient use of land and livable communities. The proposed amendment does not amend an urban growth boundary, and mini-storage is permitted as a conditional use in the Rural-Industrial (“**R-I**”) zones. Like the MUA zone, the R-I zone serves rural communities. Storage is not exclusively an “urban use” and storage that targets recreational vehicles and equipment contributes to rural recreational opportunities. The subject application proposes to limit mini-storage to lands in the MUA zone that are located in close proximity to existing urban growth boundaries and adjacent State Highway 97, thereby promoting an orderly and efficient transition from rural to urban land use. Goal 14 is met.

Goals 15-19

RESPONSE: Goals 15 through 19 do not apply (Goal 15 Willamette River Greenway; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources).

**APPLICANT'S WRITTEN NARRATIVE
TEXT AMENDMENT TO MULTIPLE USE AGRICULTURE ZONE**

APPLICANT: Schwabe, Williamson & Wyatt
360 SW Bond St #500
Bend, OR 97702

ATTORNEY: Kenneth Katzaroff
Keenan Ordon-Bakalian
Schwabe, Williamson & Wyatt
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SUBJECT PROPERTY: Multiple Use Agriculture Zone

ZONING: Multiple Use Agriculture – MUA

REQUEST: Make certain amendments to Deschutes County's MUA Zone to allow self-storage in limited circumstances.

I. APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Deschutes County Code

Title 18, County Zoning
Title 22, Deschutes County Development Procedures Ordinance
Title 23, Deschutes County Comprehensive Plan

OAR 660, Division 15, the Statewide Planning Goals

II. BASIC FINDINGS

The applicant proposes the following legislative amendment to the text of Deschutes County Code (“DCC”) Title 18, Chapter 18.32, Multiple Use Agriculture Zone (“MUA”). The proposed change would permit mini-storage in limited portions of MUA-designated land within Deschutes County. The amendments would not remove text from the code, and would add the following text, indicated in **bold**:

18.32.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

A. Agricultural uses as defined in DCC Title 18.

- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
 - 1. Fewer than 10 riders;
 - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 - 3. More than 25 riders, no more than two times per year on nonconsecutive days.Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
- J. Accessory Dwelling Units, subject to DCC 18.116.350.
- K. **Mini-storage facilities, including watercraft, and RV storage, subject to site plan review as provided in DCC 18.124. Mini-storage facilities are allowed on parcels that are:**
 - 1. **Within 2,500 feet of an urban growth boundary;**
 - 2. **Adjacent to ~~a state highway~~State Highway 97; and**

3. **A minimum of 10 acres in size and not to exceed 30 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.**

III. APPLICANT’S RESPONSE TO APPLICABLE STANDARDS AND CRITERIA:

Applicable approval criteria are listed below in italics. Applicant’s responses follow.

A. COMPLIANCE WITH DCC TITLE 18 COUNTY ZONING

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.

RESPONSE: This is an application for a legislative text amendment to DCC Title 18, Chapter 18.32, MUA Zone. This is not an application for a quasi-judicial map amendment, as this text amendment will not alter the County’s zoning map if it is approved. This application is subject to the standards and criteria set forth in DCC 22.12. DCC 22.12.010 and .040 require a public hearing before the Deschutes County Planning Commission (the “**Planning Commission**”) and then the Board of County Commissioners for all legislative changes. DCC 22.12.020 sets forth the basic notice requirements for the hearings.

18.136.040 Record of Amendments

All amendments to the text or map of DCC Title 18 shall be filed with the County Clerk.

RESPONSE: Upon adoption, the proposed amendment will be filed with the County Clerk.

B. COMPLIANCE WITH DCC TITLE 22, DESCHUTES COUNTY DEVELOPMENT PROCEDURES ORDINANCE

DCC 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.

RESPONSE: The proposed amendments will be reviewed by both the Planning Commission and Board of County Commissioners, and will include public hearings.

Section 22.12.020 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.*

RESPONSE: This criterion will be met with notice to be published in the Bend Bulletin newspaper for the Planning Commission public hearing, and the Board of County Commissioners' 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.

RESPONSE: Notice will be posted if determined to be necessary by the Planning Director.

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.

RESPONSE: Individual notice will be sent at the discretion of the Planning Director. It is the applicant's position that because the proposed legislative text amendment does not apply to any specific property, individual notice is not required for this application. ORS 215.203 ("Measure 56 notice") is not applicable because this is an application for a legislative text amendment, not an action to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan. See ORS 215.203(3). As such, no property will have to be rezoned in order to comply with the amendment to DCC 18.32.020 if any adopting ordinance is approved.

D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

RESPONSE: Notice of proposed legislative changes will be published in Deschutes County newspapers.

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 Commissioners or the Planning Commission.

RESPONSE: Application fees will be paid upon filing of the application.

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.

RESPONSE: The proposed legislative changes will be reviewed by both the Planning Commission and Board of County Commissioners.

Section 22.12.050 FINAL DECISION

All legislative changes shall be adopted by ordinance.

RESPONSE: The proposed legislative changes will be adopted by ordinance.

D. DCC TITLE 23 DESCHUTES COUNTY COMPREHENSIVE PLAN

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.

Chapter 3: Rural Growth, Section 3.4: Rural Economy Policies

Goal 1: Maintain a stable rural economy, compatible with rural lifestyles and a healthy environment.

Policy 3.4.1: Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

- a. Review land use regulations to identify legal and appropriate rural economic development opportunities.

RESPONSE: The proposed amendment is consistent with the County's mandate to review land use regulations to identify legal and appropriate economic development opportunities. This amendment provides a new rural economic development opportunity within specific areas of the MUA zone while maintaining the integrity of the rural character and natural environment by

requiring site plan review and expressly limiting where in the MUA zone mini-storage facilities can be located.

The proposed amendment restricts the development of mini-storage facilities to parcels that are a minimum of 10 acres in size, and in close proximity to existing urban growth boundaries and ~~state highways~~[State Highway 97](#). The proposed restrictions on the location of mini-storage development in the MUA zone will maintain the integrity of the rural character and natural environment within the MUA zone.

Policy 3.4.2: Work with stakeholders to promote new recreational and tourist initiatives that maintain the integrity of the natural environment.

RESPONSE: Allowing mini-storage development in certain areas of the MUA zone will support new and existing recreational and tourist initiatives in the area. Secure storage subject to site plan review is consistent with maintaining the integrity of the natural environment because it (1) reduces the visual impact of vehicles parked in residential or public spaces; and (2) serves to protect vehicles from the elements and reduces left-behind waste.

Policy 3.4.7: Within the parameters of State land use regulations, permit limited local-serving commercial uses in higher-density rural communities.

RESPONSE: Approval of the subject application will allow for a new local-servicing commercial use (mini-storage) in higher-density rural communities located in close proximity to established urban growth boundaries and adjacent ~~state highways~~[State Highway 97](#).

Chapter 3: Rural Growth, Section 3.5: Natural Hazard Policies

Goal 1: Protect people, property, infrastructure, the economy and the environment from natural hazards.

RESPONSE: Allowing mini-storage in rural areas adjacent existing urban growth boundaries will further the County's goal of protecting Deschutes County citizens' property and the economy at large. Mini-storage facilities will provide rural residents the opportunity to protect the physical and economic integrity of their property.

Chapter 4: Urban Growth Management, Section 4.2: Urbanization Policies

Goal 1: Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

RESPONSE: Mini-storage in MUA zone will be restricted to locations within 2,500 feet of an established urban growth boundary. Geographic proximity to urban growth boundaries will contribute to the orderly and efficient transition between urban and rural lands because storage facilities for recreational vehicles will promote rural recreation while limiting the non-farm commercial use of rural lands.

E. STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

RESPONSE: The amendments do not propose to change the structure of the County’s citizen involvement program. Notice of the proposed amendments will be provided through notice of public hearings in the “Bend Bulletin” newspaper. The public hearing on this application will provide the opportunity for any resident to participate in the land use process. Goal 1 is met.

Goal 2: Land Use Planning

Part I – Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

RESPONSE: Goals policies, and processes related to this application are included in the Deschutes County Comprehensive Plan, Title 23, and Deschutes County Code, Title 18 and Title 22. Compliance with these processes, policies, and regulations are documented within the subject application. Goal 2 is met.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 3. MUA is not an exclusive farm use zone. Instead, the purpose of MUA zoned land is to “preserve the rural character of various areas of the county while permitting development consistent with that character ...” MUA zones allow for land that is “so committed to other types of uses that an exception to Statewide Planning Goal 3 (Agricultural Lands) was taken to allow other types of uses of such land.” *Moody v. Deschutes County*, 22 Or LUBA, 3 n.1 (1992). Goal 3 is met.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

RESPONSE: The amendments do not propose to rezone or alter forest lands. Goal 4 is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

RESPONSE: The amendments do not propose to change open spaces, scenic or historic areas, or natural resources. Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

RESPONSE: The proposed text amendment will not impact the quality of the air, water, or land resources. Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

RESPONSE: To the extent that lands in the MUA zone are in areas subject to natural disasters and hazards, the subject application will serve to mitigate the risk of harm from such disasters on the property of Deschutes County citizens. Providing for mini-storage in select areas of the MUA zone will provide rural residents with the opportunity to store and protect their property from natural hazards. Goal 7 is met.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

RESPONSE: To the extent that Goal 8 is applicable to the subject application, providing for mini-storage on certain lands in the MUA zone will allow Deschutes County citizens and visitors to store recreational vehicles and other equipment, providing for ready access to state recreation sites within the County. Goal 8 is met.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

RESPONSE: The proposed text amendment complies with Goal 9 because it will permit a new and varied economic activity within the MUA zone that will allow Oregon citizens an additional opportunity for prosperity.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

RESPONSE: The subject application does not propose to change to housing. Goal 10 is met, to the extent it is applicable.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

RESPONSE: The proposed text amendment will have no adverse effect on the provision of public facilities and services. Goal 11 is met.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

RESPONSE: The proposed amendment will not impact transportation facilities within the County. To the extent this Goal is applicable, the subject application proposes to site mini-storage facilities adjacent ~~state highways~~ [State Highway 97](#), providing for convenient access to mini-storage facilities in the rural area. Goal 12 is met.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: The proposed amendment will have a *de minimis* effect on the provision of public facilities and services. To the extent Goal 13 is applicable, new mini-storage facilities developed in the MUA zone will be designed and constructed with best practices for the modern-day construction industry, including energy efficient design standards.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

RESPONSE: Goal 14 concerns the provision of urban and rural land uses to ensure efficient use of land and livable communities. The proposed amendment does not amend an urban growth boundary, and mini-storage is permitted as a conditional use in the Rural-Industrial (“**R-I**”) zones. Like the MUA zone, the R-I zone serves rural communities. Storage is not exclusively an “urban use” and storage that targets recreational vehicles and equipment contributes to rural recreational opportunities. The subject application proposes to limit mini-storage to lands in the MUA zone that are located in close proximity to existing urban growth boundaries and adjacent

~~state highways~~ [State Highway 97](#), thereby promoting an orderly and efficient transition from rural to urban land use. Goal 14 is met.

Goals 15-19

RESPONSE: Goals 15 through 19 do not apply (Goal 15 Willamette River Greenway; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources).

Summary report:	
Litera Compare for Word 11.6.0.100 Document comparison done on 11/20/2023 4:06:50 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS: iw://PDX-MIDDLE/pdx/37503665/5	
Modified DMS: iw://PDX-MIDDLE/pdx/37503665/6	
Changes:	
<u>Add</u>	6
Delete	6
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	12



May 2, 2024

Kenneth Katzaroff
Admitted in Washington and
Oregon
D: 206-405-1985
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KKatzaroff@SCHWABE.com

Nicole Mardell
Senior Planner
Deschutes County Planning Department
Community Development Building
117 NW Lafayette Avenue
Bend, OR 97703

RE: Text Amendment
Our File No.: 136093-280105

Dear Nicole:

As you know, our firm is the applicant (“Applicant”) in application No. 247-23-000732-TA. This letter provides additional information and requests that a hearing be scheduled to consider the matter.

1. Conditional Use of Self Storage, including Boat and RV Storage

Applicant’s proposal originally requested that the proposed uses be permitted outright, subject only to site plan review. Through conversations with planning staff, Applicant requests that the proposed uses instead be conditional uses, subject to site plan review and DCC 18.128.300.

2. ESEE Analysis

Applicant has prepared an ESEE Analysis which is attached as Exhibit A to this letter.

3. Conclusion

Applicant is happy to provide any additional information as may be reasonably requested. Applicant also respectfully requests that a hearing be scheduled to consider the application.

Nicole Mardell
May 2, 2024

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.


Kenneth Katzaroff

JKKA:aks

ESEE Analysis for Text Amendment

1.1 Scope of Proposal

The Applicant is proposing a legislative amendment to Title 18, Chapter 18.32 (Multiple Use Agricultural Zone; MUA) of the Deschutes County Code (DCC) that would designate mini-storage uses, including watercraft and RV storage, as a conditionally allowed use within the Multiple Use Agricultural Zone (MUA). The proposed text amendment would have the effect of allowing mini-storage on parcels that are:

- Zoned MUA;
- At least 10 acres in size and no greater than 30 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet this requirement.
- Adjacent to State Highway 97 (“Hwy 97”); and
- Within 2,500 feet of an urban growth boundary (UGB).

Given the proposed use would be allowed on certain parcels adjacent to Hwy 97, the use would be subject to DCC 18.84, Landscape Management Combining Zone (LM), which applies to all areas within one-fourth mile of the centerline of roads identified as landscape management corridors in the Deschutes County Comprehensive Plan (Comprehensive Plan). Per DCC 18.84.010, the purpose of the LM zone is to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams.

Because the proposed legislative amendment to DCC 18.32 requires a post-acknowledgement plan amendment (PAPA), which would have the effect of allowing a new use (mini-storage) that could be conflicting with a Goal 5 resource on the County’s acknowledged Goal 5 inventory (scenic views from Hwy 97), Oregon Administrative Rule (OAR) 660-023-0250 requires an Environmental, Social, Economic and Energy (ESEE) analysis for the proposed mini-storage use.

In 1992, Deschutes County prepared an ESEE analysis for scenic resources, including for scenic viewsheds and natural landscapes, and implemented the LM zone, which is intended to limit “conflicting uses” while still allowing development to occur (Ordinance 92-052). While more specific regulations of the LM zone are discussed in Section 2.2 of this document, it is important to note that the LM zone provides a maximum building height of 30-feet to help preserve scenic viewsheds from the highway. Additionally, many of the allowed uses within the MUA zone per DCC 18.32.020 and 18.32.030 are of a similar size and scale as a mini-storage facility, such as public/semipublic uses (such as libraries or governmental administrative buildings), and public and private schools, or veterinary clinics, all of which have significant parking facilities or collections of buildings to effectuate the use. This is demonstrative that the proposed mini-storage use is not a significant change in the size and scale of development already allowed within the MUA and LM zones. Importantly, the LM zone does not generally limit uses, it

effectively provides a set of design-review criteria that ensure compliance with protecting the scenic views. *See e.g.*, DCC Chapter 18.84.

Moreover, as it relates to Hwy 97 specifically, substantial portions of that scenic roadway have already been zoned or re-zoned to a Rural Industrial or “RI zone”, which permits mini-storage facilities. *See* DCC Chapter 18.100.020.M. This implicitly means that such uses have already been reviewed and found as compliant with the LM zone on Hwy 97.

1.2 Identification of Conflicting Uses

The Oregon Department of Land Conservation and Development (DLCD) administers Statewide Planning Goal 5 Administrative Rule (OAR) 660-023-000, which states that the purpose of Goal 5 is “...to conserve and protect significant Goal 5 natural resources.”

Goal 5 Administrative Rule OAR 660-0023-0230(1) identifies Goal 5 scenic views and sites as lands “that are valued for their aesthetic appearance”. The Goal 5 ESEE analysis describes the economic, social, environmental, and energy consequences of allowing, limiting, or prohibiting a new use that could conflict with the previously documented and protected scenic views from Hwy 97.

Under the ESEE process, an identification of “conflicting uses” must be made and a program to achieve the goal of protecting Goal 5 resources must be created if conflicting uses are substantially identified. Goal 5 Administrative Rule OAR 660-023-0010 defines “conflicting use” as follows:

(b) “Conflicting use” is a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)). Local governments are not required to regard agricultural practices as conflicting uses.

Goal 5 Administrative Rule (OAR 660-023-0040) describes how conflicting uses are identified:

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses, with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

For this ESEE analysis, the conflicting use is the newly proposed mini-storage use within the MUA zone for certain parcels situated along Hwy 97 and close to a UGB as limited through the proposed text amendment. However, the LM zone in these areas is intended to “maintain and enhance scenic vistas and natural landscapes as screen from designated roads, rivers, or streams” and the new mini-storage use could conflict with this Goal 5 resource and an ESEE analysis is required.

2.0 ESEE ANALYSIS

2.1 ESEE Process

This ESEE analysis is based on a proposed new mini-storage use within the MUA zone for certain parcels nearby UGBs and adjacent to Hwy 97, which could be conflicting with scenic viewsheds and natural landscapes viewed from the highway, which are an inventoried Goal 5 resource within the Deschutes County Comprehensive Plan. The County’s LM zone per DCC 18.84 is intended to allow development within the LM zone in a way that is compatible with preserving these views and existing landscapes. To that end, the LM zone has adopted certain design review criteria. However, an analysis must still occur.

An ESEE process identifies the consequences of allowing, limiting, or prohibiting conflicting uses in areas containing significant resources, including scenic views. OAR 660-023-0040 requires the following steps:

1. Identify the conflicting uses;
2. Determine the impact area;
3. Analyze the ESEE consequences of the conflicting use; and
4. Develop a program to achieve Goal 5

For the purpose of this ESEE analysis, the conflicting use is the proposed mini-storage use within the MUA zone for certain parcels adjacent to Hwy 97 that are subject to the LM zone, as discussed in Section 1.1. The impact area for this ESEE analysis consists of the parcels the proposed text amendment would affect, which is highly limited based upon the size of parcel requirement and the proximity to a UGB. Deschutes County already maintains a program for achieving Goal 5 specific to the scenic views and natural landscapes viewed from Hwy 97, which are an inventoried Goal 5 resource within Deschutes County and are protected through the establishment of the LM zone., which imposes certain design review criteria.

2.2 Existing Protections and Program to Achieve the Goal

The proposed new mini-storage use within the MUA zone would be allowed on certain parcels adjacent to Hwy 97, which would be subject to the County’s LM zone, which as is relevant here, is intended to maintain scenic view. The LM zone was established as a result of an ESEE analysis prepared by Deschutes County in 1992 for scenic resources, including for scenic viewsheds and natural landscapes (Ordinance 92-052). The LM zone is intended to limit conflicting uses while still allowing development to occur.

Within the LM zone, uses permitted in the underlying zone (either outright or conditionally) are permitted within the LM zone, subject to use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090. These standards and requirements are intended to allow development to occur while ensuring compatibility and preservation of scenic vistas and natural landscapes viewed from the highway in compliance with Goal 5. For example, the LM zone limits building heights to 30-feet, which ensures scenic viewsheds can be preserved when viewed from a designated road.

The LM zone also gives the review authority discretion to require certain improvements or modifications to protect views through site design, such as supplemental landscaping for screening, as well as specification of certain building materials and colors, depending on the development proposed and the location of the development site. This discretion further ensures compatibility with scenic vistas and natural landscapes viewed from the protected resource.

The proposed new mini-storage use would also only be allowed conditionally, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards per DCC 18.128.300, and site plan review (DCC Chapter 18.124) which has additional screening and safety requirements, including preserving existing topography (which provides additional protection to the view shed). Together, the County’s conditional use and site plan criteria provide ample protection and regulatory authority to impose additional protections to the scenic Goal 5 view shed that are over and above those already contained in the LM zone.

2.3 ESEE Analysis

As described in Section 1.1, the new proposed mini-storage use would only be allowed on parcels that meet the following requirements:

- Zoned MUA;
- At least 10 acres in size and no greater than 30 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet this requirement.
- Adjacent to State Highway 97 (“Hwy 97”); and
- Within 2,500 feet of an urban growth boundary (UGB).

For the purposes of this ESEE, we have assumed that all MUA zoned properties that are adjacent to Hwy 97 and within 2,500 feet of a UGB meet are included.

Allowing Conflicting Uses, Prohibiting Conflicting Uses, or Limiting Conflicting Uses:

Overall, allowing the conflicting uses as identified as mini-storage in the MUA zone and on property meeting the above criteria would have a marginal impact on the LM zone scenic view corridors and Goal 5 resource. This is due to a number of different reasons.

First, the area corridor and properties that would be subject to the conflicting use are limited to those near the Bend and Redmond UGB. Moreover, along this corridor, several properties already permit the proposed mini-storage use because they are zone Rural Industrial, which permits such use and was found not to be conflicting in such a way as to prohibit that use in the same scenic view corridor related to the Goal 5 protected resource.

Second, Applicant believes that the protected scenic view area has already been highly degraded. This is because the view corridor has been significantly altered since the Goal 5 resource was adopted, including by having substantial increases in the size and scope of Hwy 97 and the increased development adjacent to the corridor, including development both within and outside of the relevant UGBs. This development has diminished clear views of the mountains and other open space areas and instead now provides views of structures, shopping malls, rural industrial development, and other rural development. The introduction of mini-storage uses will provide no significant change.

In contrast, prohibiting the conflicting use would have an overall negative economic consequence. This is because prohibiting use would limit the economic use that the property could be made on the property and thereby impacts that potential tax valuation that could be received by the County, among other issues.

Prohibiting the use could mean fewer storage opportunities for the Deschutes County community, and rural residents in close proximity to the affected parcels would have to travel further to other mini-storage facilities located within UGBs, such as Bend. Full protection would also completely limit vegetation removal, minimizing development potential of a parcel and/or increasing costs to develop, leading to design requirements such as longer driveways or access roads in order to access areas of a development site beyond the LM zone.

To the extent limiting the conflicting use has social consequences, they would be negative. Mini-storage facilities present an opportunity for employment as well as for nearby residents to store items, such as boats and RVs, that are used for recreation. Many residents of property do not have or maintain proper storage facilities for such equipment and vehicles, which limits social interaction and vibrancy.

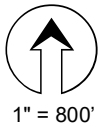
Environmental consequences based upon the proposal are marginal. As already stated, mini-storage is already a permitted use on nearby lands that maintain the RI zoning designation. Moreover, protections contained in the Site Plan Review criteria limit changes to topography and maintain specific vegetation requirements, all of which must be managed and maintained. This could provide a benefit. Moreover, having storage facilities located closer to rural residents could reduce trips to and from other storage facilities that may already be maintained within UGBs, or on the RI zoned lands.

Energy consequences are expected to be limited. There are existing power facilities nearby which either serve existing MUA uses or could be used for the mini-storage use. Moreover, the

opportunity for mini-storage to be constructed in closer proximity to rural residential areas could reduce drive times, thereby reducing energy consumption necessary for local businesses and nearby residents who wish to utilize these facilities, given they would not have to drive to a UGB to meet this end.

2.4 Conclusion

There is limited, if any, benefit to further limiting the conflicting use of mini-storage within the LM zone to those protections already provided by the conditional use and site plan criteria. This is particularly true on the Hwy 97 period given that several parcels in this corridor are zoned Rural Industrial, which already permits the conflicting use.



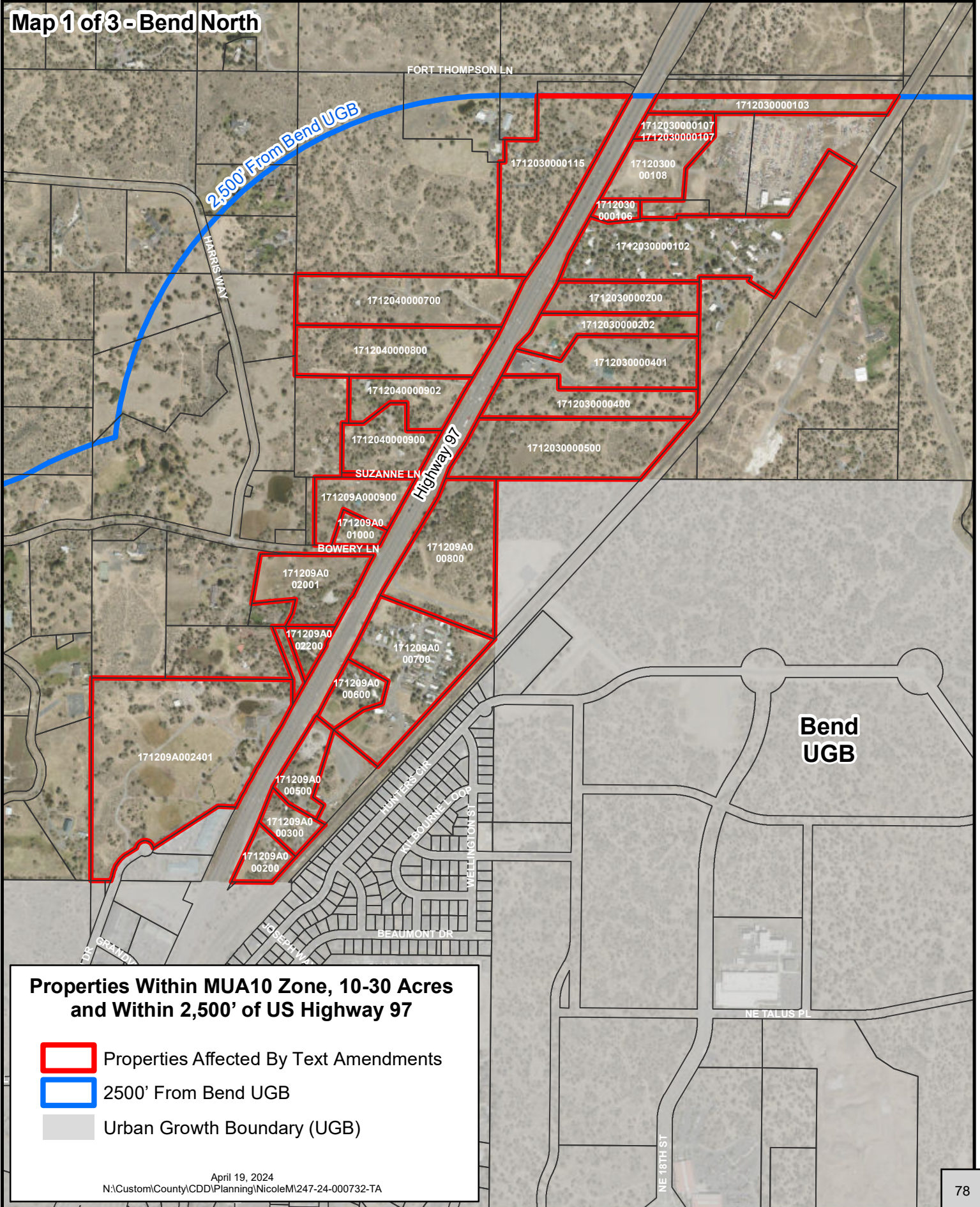
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Highway 97 Mini-Storage Text Amendments

Map 1 of 3 - Bend North





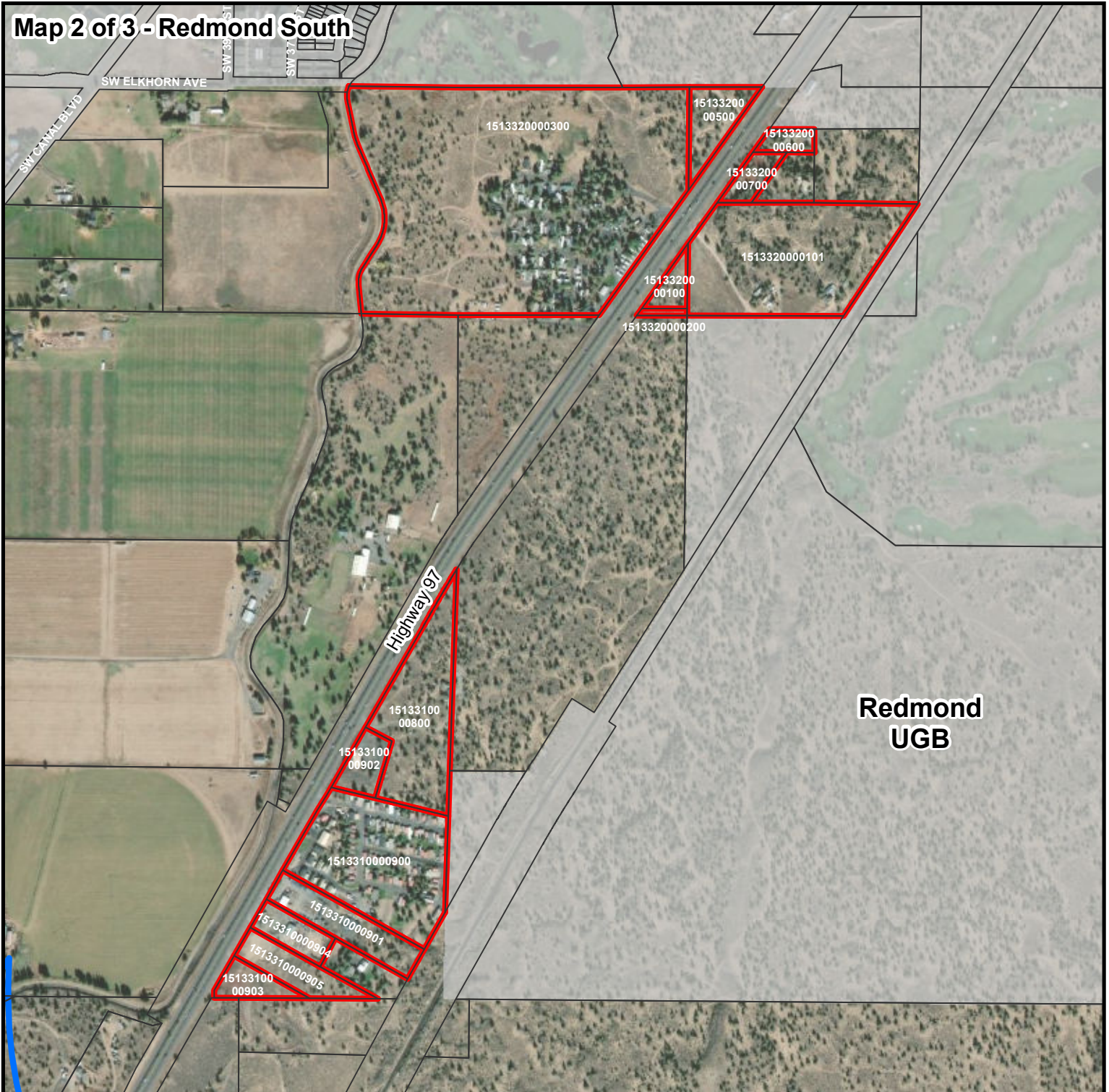
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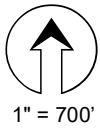
Highway 97 Mini-Storage Text Amendments

Map 2 of 3 - Redmond South



Properties Within MUA10 Zone, 10-30 Acres and Within 2,500' of US Highway 97

- Properties Affected By Text Amendments
- 2500' From Redmond UGB
- Urban Growth Boundary (UGB)



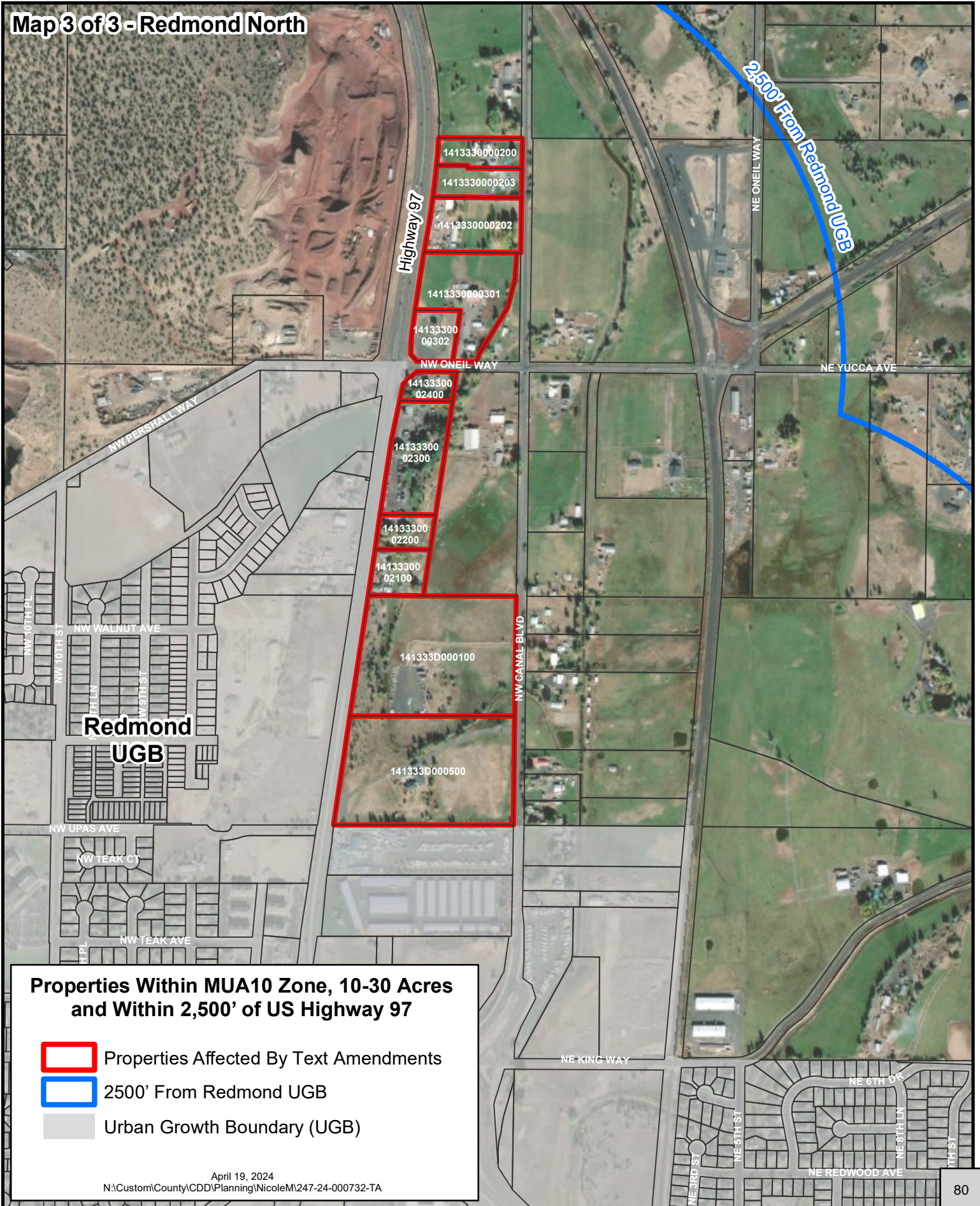
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Highway 97 Mini-Storage Text Amendments

Map 3 of 3 - Redmond North



Attachment D
Conditional Use Criteria

18.128.015 General Standards Governing Conditional Uses

Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

1. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:
 1. Site, design and operating characteristics of the use;
 2. Adequacy of transportation access to the site; and
 3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.
2. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).
3. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to ensure that the standard will be met.

18.128.020 Conditions

In addition to the standards and conditions set forth in a specific zone or in DCC 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.

1. Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.
2. Require a special yard or other open space or a change in lot area or lot dimension.
3. Require a limitation on the height, size or location of a structure.
4. Specify the size, number, location and nature of vehicle access points.
5. Increase the required street dedication, roadway width or require additional improvements within the street right of way.
6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.
7. Limit or specify the number, size, location, height and lighting of signs.
8. Limit the location and intensity of outdoor lighting and require shielding.
9. Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.
10. Specify the size, height and location of any materials to be used for fencing.
11. Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Require that a site plan be prepared in conformance with DCC 18.124.

18.128.300 Mini-Storage Facility

1. Each individual space for rent or sale shall be less than 1000 square feet.

2. Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles and similar vehicles placed within designated spaces on an all-weather surfaced area which is surrounded by a sight-obscuring fence at least six feet in height.
3. Yards shall be permanently landscaped.
4. Yard dimensions adjacent to residential zones shall be the same as required yards within the residential zone.
5. Parking shall be provided for office space associated with the mini-storage facility at one (1) space for every 300 square feet of office space. A minimum of two (2) parking spaces shall be provided for all mini-storage facilities regardless of office size.
6. All structures shall be fenced and visually screened.
7. Traffic lanes shall be 12 feet wide with an additional 10-foot parking lane, except where the traffic lane does not serve the storage units. All areas provided for vehicle access, parking and movement shall be improved to minimum public road standards.
8. A residence for a caretaker or 24-hour on-site manager is permitted.
9. There shall be only one access from each adjacent street.
10. Outside lighting, including shading to prevent glare on adjacent properties, may be required for safety and security purposes.

BOCC DECISION MATRIX

Schwabe – Hwy 97 Mini-Storage Text Amendment Land Use File No. 247-23-000732-TA

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Decision Point
1	<p>Is the proposed Text Amendment compatible with the purpose of the Multiple Use Agricultural (MUA-10) Zone?</p>	<p>18.32.010 Purpose <i>The purposes of the Multiple Use Agricultural (MUA-10) Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.</i></p>	<p><u>The Applicant</u> asserts that the use would allow for storage of RVs, tractors, and other equipment, which provides a helpful transition between the urban and rural environment. More intensive commercial and industrial uses – such as crushing or processing of minerals, landfill sites, bed and breakfasts, public parks, campgrounds, and churches are already allowed in the zone. Gravel can be utilized as an all-weather surface, which will limit paving and visibility impacts of mini-storage development.</p> <p><u>Oppositional comments</u> assert the amendments conflict with the proposed uses of the zone as storage facilities are out of place with the “rural character” of the zone due to its large and industrial nature. No other commercial or industrial uses of this intensity are allowed in the zone. The use does not support rural lifestyles in the way other permitted and conditional uses in the zone do. Horse stables, vet clinics, campgrounds, schools, and churches are more compatible with the rural nature of the area. The use is incompatible with agricultural operations due to its operating characteristics and would deplete open space due to visual impacts of RV or mini-storage units. Additionally, the use is not needed for rural properties as the acreage is typically sufficient for storage of personal items and equipment. Rather it’s more likely urban residents will utilize the storage if approved and the use could be accommodated by existing industrial land inside Urban Growth Boundaries (UGBs).</p> <p><u>Staff</u> notes that consistency with the purpose statement is not a “criterion” for approval or denial of this application. However, the Planning Commission is being asked to evaluate if the use, as proposed, will be appropriate and compatible with other uses in the zone.</p>	<p>Is this proposed use consistent with the purpose statement?</p> <p>A. If the PC finds the proposal is compatible with the purpose of the Multiple Use Agricultural (MUA-10) Zone, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this is not met, then recommend the Board deny the application.</p>
2	<p>Does the application comply with goals and policies of the County’s Comprehensive Plan?</p>	<p>See applicant’s amended burden of proof and public comments.</p>	<p><u>The Applicant</u> asserts the proposal complies with all applicable Comprehensive Plan goals and policies. In responding to the oppositional comments, the applicant notes there are other uses in the zone that are commercial or industrial in nature, so the proposal is not in conflict with Chapter 1. The proposal is not in conflict with Chapter 3, as the use promotes economic initiatives, and the code allows for new uses to be added to the zone. In fact, the zone has been updated many times since its creation to update uses and development standards. The conditional use criteria allow for housing and caretaking on the same site, which is consistent with the home business model cited in the policies. Lastly, urban growth management goals in Chapter 4 are supported, as the updated proposal carves out urban reserve areas (URAs) and is allowed in other rural areas of the county.</p> <p><u>Oppositional comments</u> assert the proposal does not comply with applicable goals and policies. The proposal is not compatible with the intent of the Comprehensive Plan designation of Rural Residential Exception Area, and does not comply with economic development, rural growth, or urban growth management policies. Detailed discussion of this topic can be found in the public comments.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>

Schwabe – Hwy 97 Mini-Storage Text Amendment
Land Use File No. 247-23-000732-TA

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Decision Point
3	Does the application comply with Oregon Statewide Planning Goal 14?	<p>Statewide Land Use Goal 14: <i>To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.</i></p>	<p><u>The Applicant</u> asserts the mini-storage use will not convert rural lands to urban uses. The conditional use requirements and proximity to UGBs will promote reasonable development and not limit future UGB expansion onto these lands. During the hearing process, the applicant noted that they are proposing to add an additional criterion to exclude URAs from eligibility. This reduces potential conflicts with future urbanization. Additionally, the <i>Friends of Yamhill County vs. Yamhill County</i> case law is not an “apples to apples” comparison and does not apply to this case, as the facts are quite different. LUBA weighed in on items to specific elements of Yamhill County code – including a lack of definition for mini-storage units, the rezoning proposal, proximity to two UGBs and size limitations in the County code. Mini-storage is already permitted in rural zones in Deschutes County, which was not the case in Yamhill County.</p> <p><u>Oppositional comments</u> assert the heightened intensity of the use requires goal exceptions to Statewide Land Use Goals 14.</p> <p>Case law from <i>Yamhill County</i> determined that a rezoning to allow expansion of a mini-storage facility on rural residential zoned land adjacent to two urban growth boundaries violated Goal 14. The County approved an operation that was 39,000 square feet in size, under the 40,000 square-foot limit cited in OAR 660-022-0030(11). The 40,000 square foot limitation was applied to unincorporated communities, to ensure that uses in those areas were less intensive than in cities. By approving an operation under that size in a rural residential area, the use was intended to be shown as rural scale development. LUBA disagreed with the approval and denied the application as the small difference in size led LUBA to believe the use was still urban in nature.</p> <p>LUBA also noted that the proximity to two urban growth boundaries could lead a reasonable person to suspect city resident would utilize the facilities. As the proposal is to allow facilities adjacent to UGBs and does not include any sideboards on the size of the operation, the use should be determined to be urban in nature. Therefore, a Goal 14 exception application should be required to allow an urban use on rural land.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>

Schwabe – Hwy 97 Mini-Storage Text Amendment
Land Use File No. 247-23-000732-TA

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Decision Point
4	Does the application comply with Oregon Statewide Planning Goal 5?	Statewide Land Use Goal 5: <i>To protect natural resources and conserve scenic and historic areas and open spaces.</i>	<p><u>The Applicant</u> asserts the submitted ESEE provides adequate analysis. The impacts of the new use were analyzed to those affected by the new use. The applicant asserts the scenic corridor has already been degraded over time and the addition of the mini-storage use will not cause additional significant degradation. The question of degradation, applicability of the LM zone, and how it protects the scenic view, was already decided by the Board of County Commissioners in reviewing a rezoning application from Exclusive Farm Use to Rural Industrial (RI). The conditional use and site plan review process, in combination with the requirements of the Landscape Management zone, will sufficiently protect the resource.</p> <p><u>Oppositional comments</u> assert the applicant’s ESEE contains errors and does not provide adequate analysis of the economic, social, environmental, and energy consequences of allowing, limiting, or prohibiting the use.</p> <p>The ESEE does not adequately protect the resource as it utilizes the same mitigation measures as used for rural residences, although mini-storage facilities are more intensive in scale. Comments also suggest the impact area analyzed is deficient, as the impacts of the mini-storage facilities will degrade the value of the resource to the traveling public along the entire corridor.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>
5	Does the application comply with Oregon Statewide Planning Goal 12?	Statewide Land Use Goal 12: <i>To provide and encourage a safe, convenient and economic transportation system.</i>	<p><u>The Applicant</u> addressed concerns from ODOT and public comments by providing transportation analysis. The analysis found the amendment would not have a significant impact on the transportation system, as mini-storage facilities generate less trips than other uses allowed in the zone. To date, ODOT’s only response to the analysis is that highway access permits would be required if the text amendment were adopted.</p> <p><u>Oppositional comments</u> assert the proposal does not comply with Statewide Planning Goal 12, and the Transportation Planning Rule, as the new use would significantly affect transportation facilities.</p>	<p>Is this requirement met?</p> <p>C. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>A. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>

Schwabe – Hwy 97 Mini-Storage Text Amendment
Land Use File No. 247-23-000732-TA

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Decision Point
6	Does the application comply with Oregon Statewide Planning Goal 2?	State Land Use Goal 2: <i>To maintain a transparent land use planning process in which decisions are based on factual information and reviewed in accordance with implementing ordinances.</i>	<p><u>The Applicant</u> asserts that “need” is not a requirement or applicable criteria of the County Code or Oregon Law. The applicant believes there is strong market demand, which is why the text amendment was proposed. The zone contains existing commercial and industrial uses, and the County already allows the use in other rural zones.</p> <p><u>Oppositional comments</u> assert this goal is not met as the applicant has not provided a factual base or demonstrated need for the amendments. Rural properties in the MUA-10 zone are subject to 10-minimum acre lot sizes, which would provide adequate space on individual lots for storage of possessions including RVs or outside storage. There isn’t sufficient evidence in the record to determine if there is demand for the use in these particular areas compared to cities. Additionally, commercial and industrial uses of this scale were intentionally not permitted when the zone was created.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then recommend the Board approve the application.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>