



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 1, 2026

Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall Street – Bend
(541) 388-6570 | www.deschutes.org

AGENDA

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

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

Citizen Input: The Board of Commissioners provides time during its public meetings for Citizen Input. Alternatively, comments may be submitted on any topic at any time by emailing or leaving a voice message at 541-385-1734.

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

CITIZEN INPUT

The Board of Commissioners provides time during its public meetings for Citizen Input. This is an opportunity for citizens to communicate to the Commissioners. Citizen Input is not available for matters that have closed records, are presently scheduled for a quasi-judicial public hearing, or are anticipated or likely to come before the Commissioners as a future quasi-judicial public hearing. Time is limited to 3 minutes.

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

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

COMMISSIONER ANNOUNCEMENTS

CONSENT AGENDA

1. Approval of Document No. 2026-0180, an amendment to the Intergovernmental Agreement between Central Oregon Law Enforcement Services and Deschutes County
2. Consideration of Board Signature on letter appointing Gary Anderson for service on the Deschutes River Recreation Homesites Special Road District #8
3. Approval of the minutes of the BOCC meetings on March 4, 11, 16 and 18, 2026

ACTION ITEMS

4. **9:10 AM** Proclamation: Child Abuse Prevention Month
5. **9:20 AM** Proclamation: Fair Housing Month
6. **9:30 AM** Presentation on the impacts of heavy cannabis use on mental health
7. **10:20 AM** First reading of Ordinance No. 2026-009 rezoning property at 19975 Destiny Court, Bend from Exclusive Farm Use to Multiple Use Agricultural
8. **10:30 AM** Second reading of Ordinance 2026-007 – Tumalo RV Park Text Amendments
9. **10:35 AM** Body-Worn Camera, Taser, and Fleet Camera Grant Opportunity

[10.](#) **10:45 AM** Central Oregon Health Information Exchange Grant

LUNCH RECESS

Continued ACTION ITEMS

[11.](#) **12:30 PM** Annual Update: Economic Development of Central Oregon (EDCO)

OTHER ITEMS

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

EXECUTIVE SESSION

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

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

ADJOURN



Deschutes County encourages persons with disabilities to participate in all programs and activities. This meeting/event is accessible. Accommodations including sign and other language interpreter services, assistive listening devices, materials in alternate formats such as Braille, large print, electronic formats, or language translations are available upon advance request at no cost. Please make a request at least 24 hours in advance of the meeting/event by calling Brenda Fritsvold at (541) 388-6572 or send an email to brenda.fritsvold@deschutes.org.



El condado de Deschutes anima a las personas con discapacidad a participar en todos los programas y actividades. Esta reunión/evento es accesible. Hay disponibles servicios de intérprete de lengua de señas y de otros idiomas, dispositivos de escucha asistida, materiales en formatos alternativos como braille, letra grande, formatos electrónicos, traducciones o cualquier otra adaptación, con solicitud previa y sin ningún costo. Haga su solicitud al menos 24 horas antes de la reunión/el evento llamando a Brenda Fritsvold al (541) 388-6572 o envíe un correo electrónico a brenda.fritsvold@deschutes.org.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Approval of Document No. 2026-0180, an amendment to the Intergovernmental Agreement between Central Oregon Law Enforcement Services and Deschutes County

RECOMMENDED MOTION:

Move approval of Amendment No. 1 to Contract No. 2004-260, an Intergovernmental Agreement (IGA) between the Central Oregon Law Enforcement Services (COLES) and Deschutes County.

BACKGROUND AND POLICY IMPLICATIONS:

Based on recently updated County ISF charges and the fact that no updates have been made to the financial service charge of \$5,446 from the County to Central Oregon Law Enforcement Services (COLES) in twenty-plus years, County Finance recommended updating this IGA. The proposed amendment includes the following language:

2.1 COLES shall pay \$38,543 for fiscal year 2027 to County for financial services. This fee is calculated based on the Internal Service Fund (ISF) methodology the County uses to allocate the Finance Department expenses across all County funds. The fee shall be adjusted annually in February based on the ISF methodology used Countywide to allocate Finance Department expenses for the upcoming fiscal year. County will provide COLES with notice of the adjustment no less than thirty (30) days prior to implementation for the new fiscal year of July 1 through June 30.

2.2 COLES shall pay the monies set out in 2.1 by July 31 of the current fiscal year prior to receiving said services for that fiscal year.

2.3 The fee is based on anticipated cooperation from COLES personnel, the expectation that the records will be in good order, and the assumption that unexpected circumstances will not be encountered during the completion of the services performed. If the County finds that significant additional time is likely to be necessary, County will attempt to discuss it with COLES and arrive at a new fee estimate before significant additional fees or expenses are incurred.

4.1 County shall provide accounts payable, payroll, financial reporting, budgeting support and all accounting activities for COLES, in accordance with the accounting

practices performed for Deschutes County.

BUDGET IMPACTS:

\$38,543 payment from COLES to Deschutes County has been included in the FY27 COLES budget.

ATTENDANCE:

Jeff Price, Business Manager, Deschutes County Sheriff's Office
Camilia Sparks, Budget & Financial Planning Manager, Deschutes County

REVIEWED

LEGAL COUNSEL

For Recording Purposes Only

DOCUMENT NO. 2026-0180

**AMENDMENT No. 1 to CONTRACT No. 2004-260
INTERGOVERNMENTAL AGREEMENT BETWEEN
CENTRAL OREGON LAW ENFORCEMENT SERVICES and DESCHUTES COUNTY**

The Intergovernmental Agreement, Contract No. 2004-260, made and entered into by and between Deschutes County, a political subdivision of the State of Oregon “County”, and Central Oregon Law Enforcement Services, an intergovernmental entity “COLES”, on June 23, 2004, is hereby amended, effective upon signing of all parties, as set for the below. **Except as provided herein, all other provisions of the contract remain the same and in full force.**

The parties have agreed to amend contract no. 2004-260 as to **Sections 2 and 4** in its entirety as follows:

2. OBLIGATIONS OF COLES

- 2.1 COLES shall pay \$38,543 for fiscal year 2027 to County for financial services. This fee is calculated based on the Internal Service Fund (ISF) methodology the County uses to allocate the Finance Department expenses across all County funds. The fee shall be adjusted annually in February based on the ISF methodology used Countywide to allocate Finance Department expenses for the upcoming fiscal year. County will provide COLES with notice of the adjustment no less than thirty (30) days prior to implementation for the new fiscal year of July 1 through June 30.
- 2.2 COLES shall pay the monies set out in 2.1 by July 31 of the current fiscal year prior to receiving said services for that fiscal year.
- 2.3 The fee is based on anticipated cooperation from COLES personnel, the expectation that the records will be in good order, and the assumption that unexpected circumstances will not be encountered during the completion of the services performed. If the County finds that significant additional time is likely to be necessary, County will attempt to discuss it with COLES and arrive at a new fee estimate before significant additional fees or expenses are incurred.

Amendment No. 1 2026-0180, amending IGA No. 2004-260

4. OBLIGATIONS OF COUNTY

4.1 County shall provide accounts payable, payroll, financial reporting, budgeting support and all accounting activities for COLES, in accordance with the accounting practices performed for Deschutes County.

Dated this _____ of _____, 2026

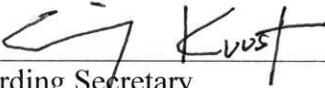
BOARD OF COUNTY COMMISSIONERS

PHIL CHANG, CHAIR

ANTHONY DEBONE, VICE CHAIR

PATTI ADAIR, COMMISSIONER

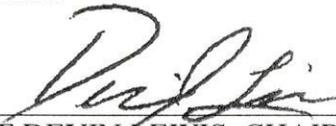
ATTEST:



Recording Secretary

Dated this 11 of March, 2026

CENTRAL OREGON LAW ENFORCEMENT DISTRICT



CHIEF DEVIN LEWIS, CHAIR



REVIEWED
SAB
LEGAL COUNSEL

For Recording Purposes Only

**INTERGOVERNMENTAL AGREEMENT BETWEEN
CENTRAL OREGON LAW ENFORCEMENT SERVICES and DESCHUTES COUNTY**

Contract No. 2004-260

This agreement is made and entered into by and between Deschutes County, a political subdivision of the State of Oregon, hereinafter referred to as "County", and Central Oregon Law Enforcement Services, an intergovernmental entity, hereinafter referred to as "COLES",

RECITALS:

WHEREAS, County and COLES are units of local government as defined under ORS 190.003; and

WHEREAS, ORS 190.010 to 190.030 authorizes County and COLES to enter into an intergovernmental Agreement for the performance of any and all functions and activities that a party to the Agreement has the authority to perform; and

WHEREAS, COLES is in need of financial services; and

WHEREAS, County has the ability to provide said services to COLES at a reasonable cost;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is mutually agreed as follows:

1. EFFECTIVE DATE/DURATION/TERMINATION

1.1. This Agreement is effective upon signing by both parties. This Agreement shall remain in effect unless terminated by either party upon (60) days written notice to the other party. At the time of termination, any remaining COLES monies not yet spent or obligated under this agreement shall be returned to COLES within 30 days of termination.

2. OBLIGATIONS OF COLES

2.1 COLES shall pay \$5,446 per fiscal year to County for financial services.

2.3 COLES shall pay the monies set out in 2.1 by June 30 of the fiscal year prior to receiving said services.

4. OBLIGATIONS OF COUNTY

4.1 County shall provide accounts payable, payroll and all accounting activities for COLES, in accordance with the accounting practices performed for Deschutes County.

5. EVENTS OF DEFAULT AND REMEDIES

5.1 The following shall constitute events of default:

5.1.1 Failure of County to perform any obligation it is required to perform under this IGA, if the failure continues more than thirty (30) days after COLES has notified County of the failure in writing, and demanded that County remedy the failure.

5.1.2 Failure of COLES to pay the amount set out under 3.1 of this agreement if the failure continues more than thirty days after County has notified COLES of the failure in writing, and demanded that COLES remedy the failure.

5.2 If default occurs:

5.2.1 Either party may terminate the contract.

5.2.2 If an event of default described in subsections 5.1.1 occurs, COLES may pursue any other remedy available at law or in equity.

5.2.3 If an event of default described in subsection 5.1.2 occurs, County may pursue any remedy available at law or in equity.

6. ASSIGNMENT

6.1 Neither this Agreement nor any of the rights granted by this Agreement may be assigned or transferred by either party.

7. BINDING EFFECT

7.1 The terms of this Agreement shall be binding upon and inure to the benefit of each of the parties and each of their respective administrators, agents, representatives, successors and assigns.

8. AGENCY AND PARTNERSHIP

8.1 Neither party is, by virtue of this Agreement, a partner or joint venturing with the other party nor shall neither party have any obligation with respect to the other party's debts or liabilities of whatever kind or nature.

9. INDEMNIFICATION

9.1 To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall defend, save, hold harmless and indemnify COLES and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of County or its officers, employees, contractors, or agents under this agreement.

9.2 To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, COLES shall defend, save, hold harmless and indemnify the County and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of COLES or its officers, employees, contractors, or agents under this agreement.

10. NO WAIVER OF CLAIMS

10.1 The failure by any party to enforce any provision of this agreement shall not constitute a waiver by that party of that provision or of any other provision of this agreement.

11. COMPLIANCE WITH PROVISIONS, REQUIREMENTS OF FUNDING SOURCE AND FEDERAL AND STATE LAWS, STATUTES, RULES, REGULATIONS, EXECUTIVE ORDERS AND POLICIES, DEBT LIMITATION.

11.1 This agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore.

11.2 Any provisions herein, which would conflict with law, are deemed inoperative to that extent.

11.3 Additionally, any requirements, conditions or limitations arising under the terms of any grant funding source or required pursuant to any federal or state law, statute, rule, regulation, executive order and policy applicable to this Agreement are by this reference incorporated herein.

12. INCORPORATION OF RECITALS

12.1 The recitals set forth above are hereby incorporated into and made a part of this IGA.

13. APPLICABLE LAW

13.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.

14. ENTIRE AGREEMENT

14.1 This Agreement constitutes the entire Agreement between the parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous agreements or understandings between the parties, if any, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be modified or amended except by a writing signed by both

Dated this 23rd of June, 2004

BOARD OF COUNTY COMMISSIONERS

-absent-
MICHAEL M. DALY, CHAIR

[Signature]
DENNIS R. LUKE, COMMISSIONER

[Signature]
TOM DEWOLF, COMMISSIONER

ATTEST:

[Signature: Bonnie Baker]
Recording Secretary

Dated this 23rd of June, 2004

CENTRAL OREGON LAW ENFORCEMENT DISTRICT

[Signature]
CHIEF LANE ROBERTS, CHAIR



**BOARD OF
COMMISSIONERS**

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Proclamation: Child Abuse Prevention Month

RECOMMENDED MOTION:
Move approval of the proclamation.

BACKGROUND AND POLICY IMPLICATIONS:
KIDS Center is a nationally-accredited Children’s Advocacy Center which provides services to children and families impacted by abuse, including training and prevention programs to help teach adults how to protect children from abuse.

BUDGET IMPACTS:
None

ATTENDANCE:
Rachel Visser, Prevention Education Manager for the KIDS Center

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

A Proclamation declaring April 2026 to be Child Abuse Prevention Month

PROCLAMATION

WHEREAS, there were over 5,400 reports of child abuse and neglect in Central Oregon last year, which resulted in more than 2,700 investigations; and

WHEREAS, we all have a responsibility, as individuals, neighbors, community members and citizens of Central Oregon to help create healthy, safe, nurturing experiences for children; and

WHEREAS, safe and healthy childhoods help produce confident and successful adults; and

WHEREAS, child abuse and neglect often occur when people find themselves in stressful situations, without community resources, and don't know how to cope; and

WHEREAS, the majority of child abuse and neglect cases stem from situations and conditions that are preventable with the support of an engaged community; and

WHEREAS, child abuse and neglect can be reduced by making sure that families have the support and access to services they need to raise their children in a healthy environment; and

WHEREAS; child abuse and neglect not only directly harm children, but the trauma can also increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and poor academic outcomes; and

WHEREAS; effective prevention programs succeed because of partnerships among agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community;

NOW, THEREFORE, BE IT RESOLVED that the Deschutes County Board of Commissioners does hereby proclaim April 2026 to be **Child Abuse Prevention Month** in Deschutes County and we urge all citizens to work together to make sure every family has the support they need to raise their children in a healthy environment.

DATED this 1st Day of April 2026 by the Deschutes County Board of Commissioners.

Phil Chang, Chair

Anthony DeBone, Vice-Chair

Patti Adair, Commissioner

ATTEST:

Recording Secretary



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Proclamation: Fair Housing Month

RECOMMENDED MOTION:
Move approval of the proclamation.

BACKGROUND AND POLICY IMPLICATIONS:
The proclamation declares the month of April to be Fair Housing Month in recognition of the enactment of the Fair Housing Act in April of 1968. This Act enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States.

BUDGET IMPACTS:
None

ATTENDANCE:
Morgan Greenwood
Government Affairs Director for the Cascades East Association of Realtors



For Recording Stamp Only

BEFORE THE BOARD OF COMMISSIONERS OF DESCHUTES COUNTY, OREGON

PROCLAMATION
Declaring April 2026 as Fair Housing Month

WHEREAS, The Fair Housing Act, enacted on April 11, 1968, enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and

WHEREAS, The Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, familial status, national origin, and disability, and commits recipients of federal funding to affirmatively further fair housing in their communities; and

WHEREAS, Deschutes County is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all; and

WHEREAS, our social fabric, the economy, health, and environment are strengthened in diverse, inclusive communities; and

WHEREAS, nearly sixty years after the passage of the Fair Housing Act, discrimination persists, and many communities remain segregated; and

WHEREAS, acts of housing discrimination and barriers to equal housing opportunity are contrary to a common sense of decency and fairness; and

WHEREAS, Deschutes County is an inclusive community committed to fair housing, and promotes appropriate activities by private and public

entities to provide and advocate for equal housing opportunities for all residents and prospective residents of Deschutes County.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners does hereby declare the month of April 2026 as

Fair Housing Month

Dated this ____ day of _____ 2026 by the Deschutes County Board of Commissioners.

Phil Chang, Chair

Anthony DeBone, Vice Chair

Patti Adair, Commissioner

ATTEST:

Recording Secretary



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Presentation on the impacts of heavy cannabis use on mental health

RECOMMENDED MOTION:

N/A—presentation only to provide information about emerging medical findings related to heavy cannabis use and the impacts on mental health in Deschutes County.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Behavioral Health and Public Health work together to provide comprehensive, community-based services and prevention support to people with substance use disorders or harmful substance use. This presentation will provide information about emerging medial findings, scientific data and the impacts of increased cannabis use among youth, which has been linked to higher chances of mental health issues, including increased odds of anxiety and suicide attempts as well as academic decline and physical health risks such as Cannabinoid Hyperemesis Syndrome. The presentation will cover the items listed below:

- Review of research/data on therapeutic applications and risks of marijuana use
• Impacts on patients and community
• Interventions with people with mental health disorders
• Prevention efforts that are currently in place
• Support for healthy messaging around risks
• Key take aways for parents and communities

The full opinion piece can be accessed at The Epoch Times.

BUDGET IMPACTS:

None

ATTENDANCE:

Shannon Brister, Deschutes County Behavioral Health, Deputy Director
Sam Murray, Deschutes County Behavioral Health, Medical Director
Anne Linton, Deschutes County Behavioral Health, Psychiatrist
Jessica Jacks, Deschutes County Public Health, Prevention Program Manager

Deschutes County Health Services

Cannabis Use Trends, Treatment, Prevention, & Updates

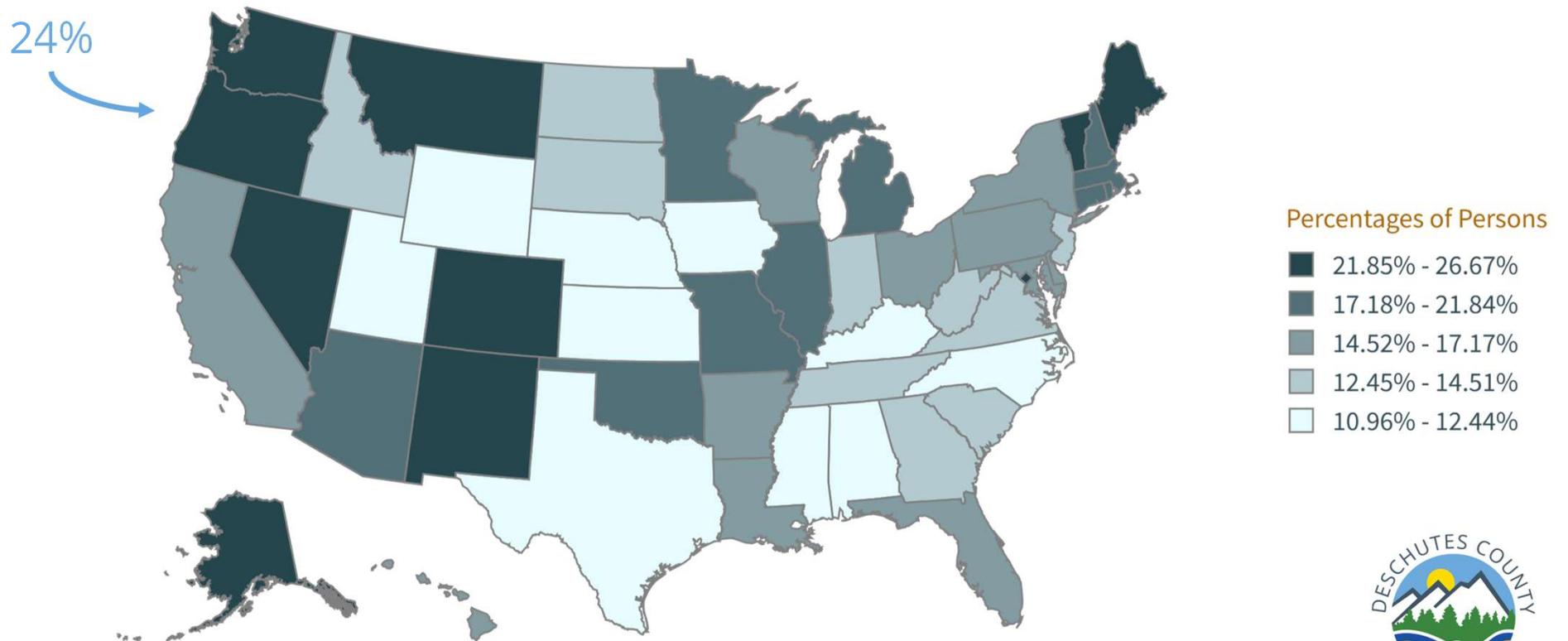
- Shannon Brister-Raugust, Behavioral Health Director
- Sam Murray, Behavioral Health, Medical Director
- Anne Linton, Behavioral Health, Psychiatrist
- Jessica Jacks, Public Health, Program Manager



April 1, 2026

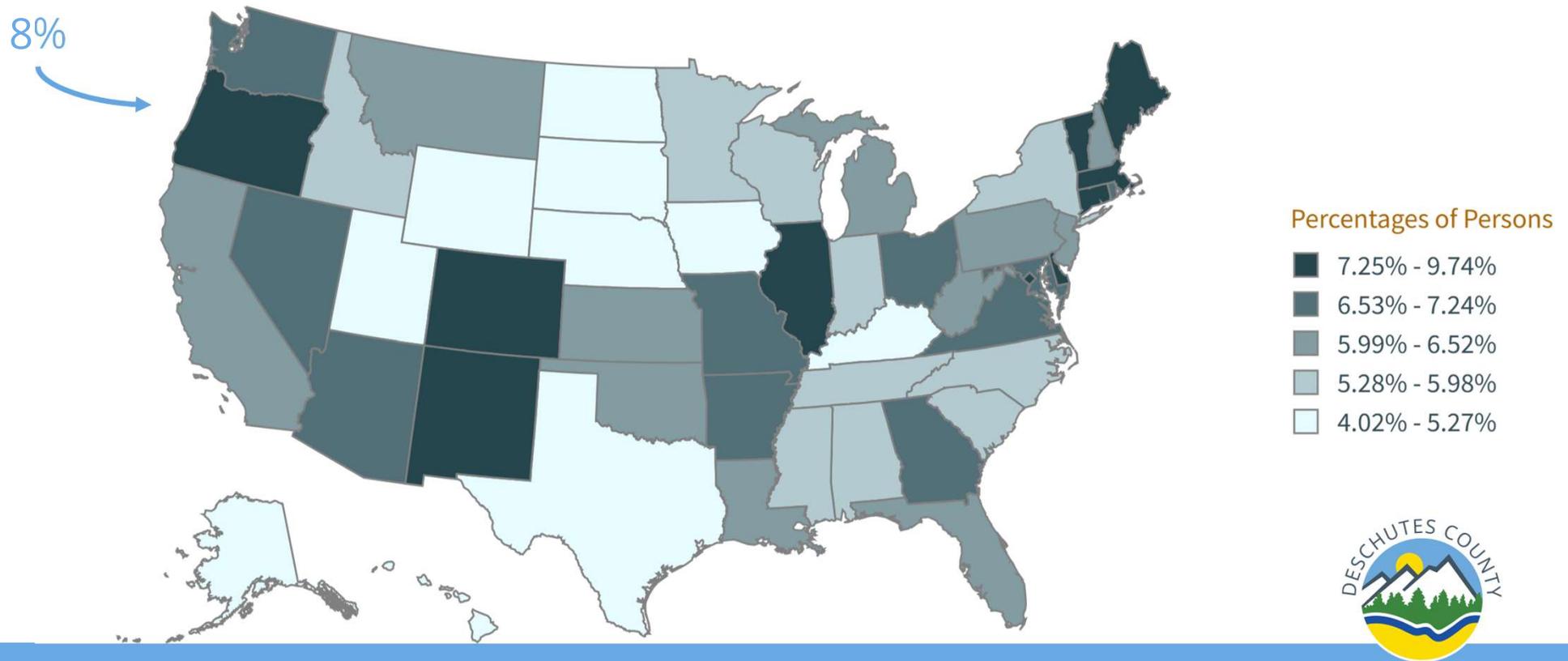
Oregon adult use is higher than U.S.

Marijuana Use in Past Month Among Adults Aged 18 or Older, by State: 2022-2023



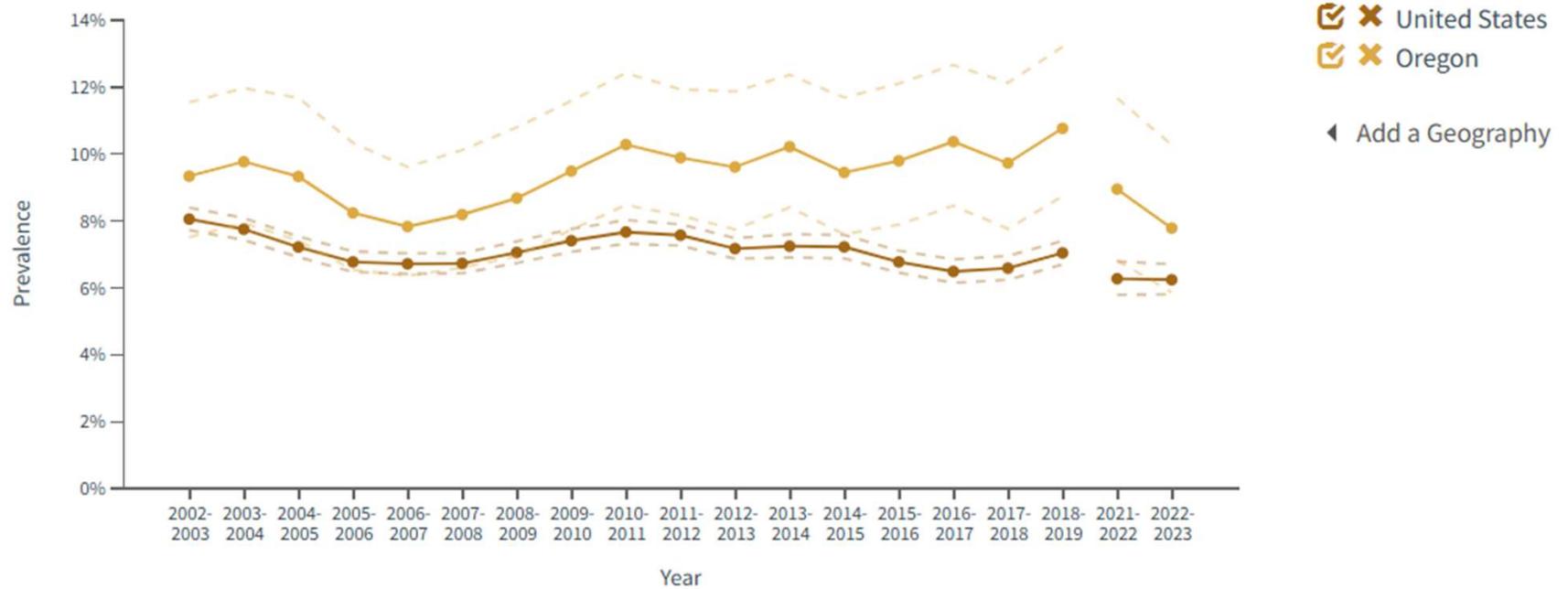
Oregon youth use is higher than U.S.

Marijuana Use in Past Month Among Youths Aged 12 to 17, by State: 2022-2023



Oregon youth use is higher than U.S.

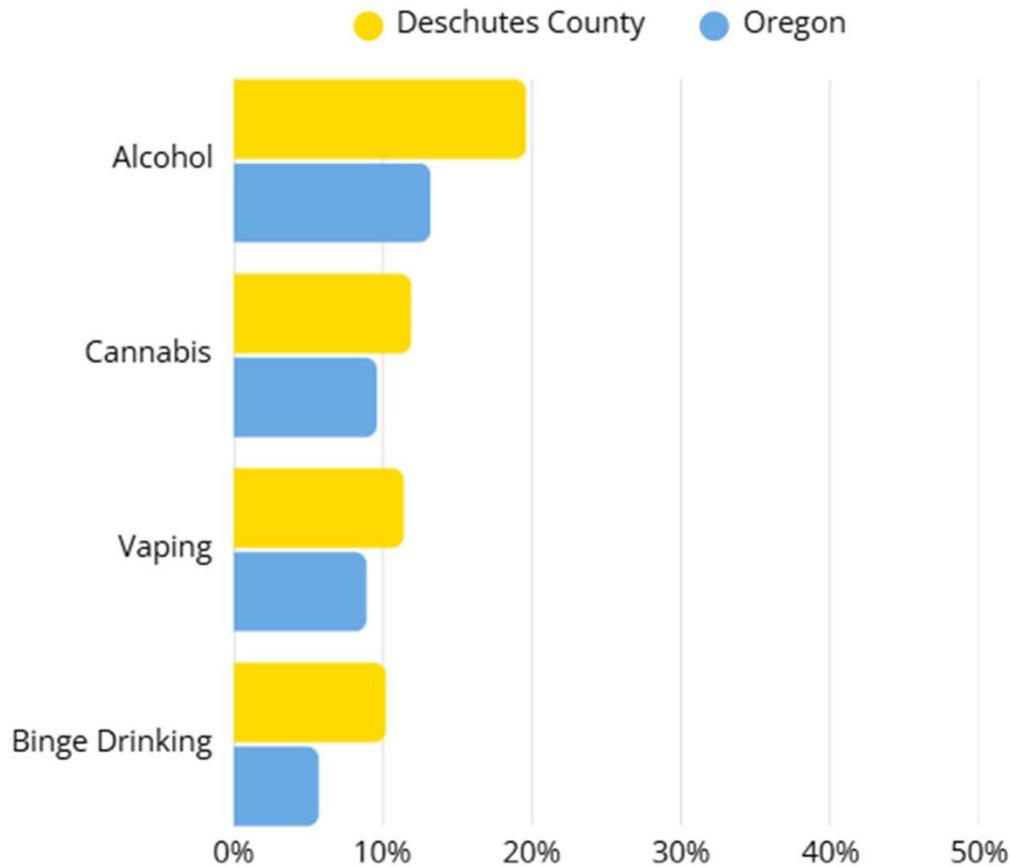
Marijuana Use in Past Month Among Youths Aged 12 to 17, by Geographic Area



NOTE: Estimates from 2021-2022 are not comparable to estimates from previous years due to changes in NSDUH survey methodology.



Deschutes County use is higher than OR



Deschutes County 11th graders **are more likely** than their peers to be currently **using *any substance***



Prevention Strategies

What works in Youth Cannabis Use Prevention



Start the Conversation



Help & Information

We invite you to learn more about the impacts of substance misuse and problem gambling and the powerful opportunities we have for prevention. Join our efforts and start making a difference today!



Marijuana



Alcohol



Tobacco



RX Drugs



Gambling

Parent Engagement PSAs

Parents are the number one influence on whether or not their child uses marijuana, alcohol, or other drugs before the age of 21.

Campaign ads drive parents to tangible resources on a user-friendly website.

English & Spanish PSAs with county-wide reach



Prevention Education



- Parent Workshops in English and Spanish
- Health teacher professional development – opioids, overdose, tobacco, alcohol, cannabis use prevention
- SBIRT Training – teachers, admin, and SBHC providers



Strategic actions, meeting needs



19

Schools in all 3 school districts have adopted a positive disciplinary model for substance-related violations

13,643

Deschutes County students reached with substance use prevention education and services

54,000

Families reached with Start the Conversation substance use prevention media messages



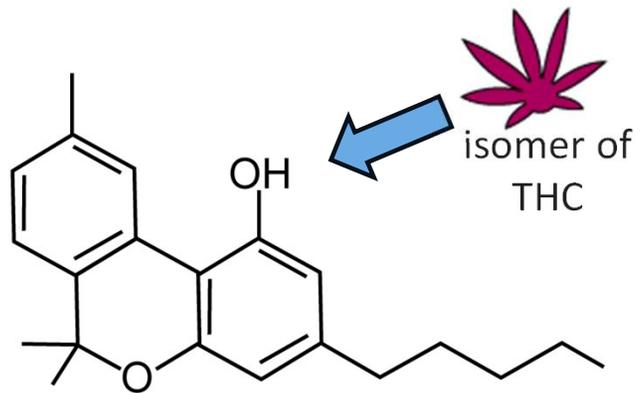
Cannabis and Mental Health

Cannabis Basics

- **Cannabis plant has 144 cannabinoids; only 2 (THC and CBD) have been extensively studied for potential therapeutic applications**
- **THC is the most psychoactive component of Cannabis**
 - Has been used to mitigate anorexia associated with AIDS, chemotherapy nausea/vomiting, cancer pain* (Cesamet, Marinol in US)
- **CBD is NOT psychoactive; has other mechanisms of action**
 - Has been used as an anti-inflammatory, and to address childhood seizure disorder (Epidiolex in US) and pain/muscle stiffness associated with MS (Sativex CAN 1:1 thc/cbd)

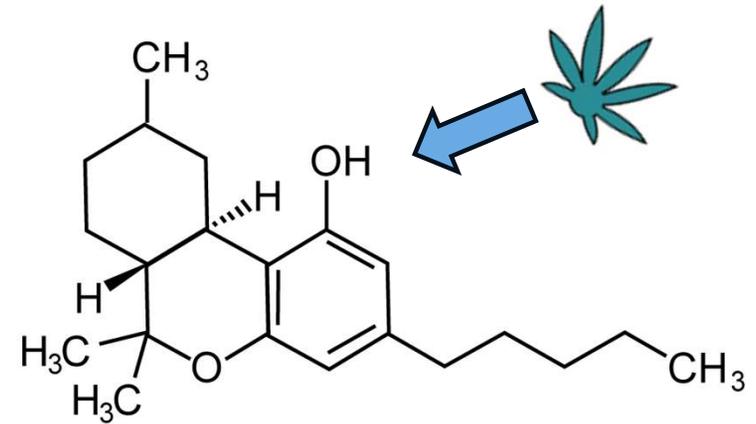


CBD



- NOT psychoactive anxiolytic
- Anticonvulsant under investigation by NIDA and NIH for therapeutic uses

THC



Psychoactive
anxiogenic

Greydanus DE et al. Disease Month 2015;61:118-75; Iseger TA, Bossong MG. Schizophr Res 2015;162:153-61.



THC vs. CBD: Psychiatric Effects

	 Cannabis w/ Low CBD Content	 Cannabis w/ High CBD Content	 CBD alone
Psychosis symptoms	Higher risk of hallucinations and delusions	Lower risk of hallucinations and delusions	Possible antipsychotic effects
Psychotic disorder	Earlier age of onset	Later age of onset	
Cognition	Higher risk of acute memory impairment	Lower risk of acute memory impairment	
Anxiety	Anxiogenic; Increased amygdalar activity		Anxiolytic; Reduced amygdalar activity

Iseger TA, Bossong MG. Schizophr Res 2016;162:153-61.



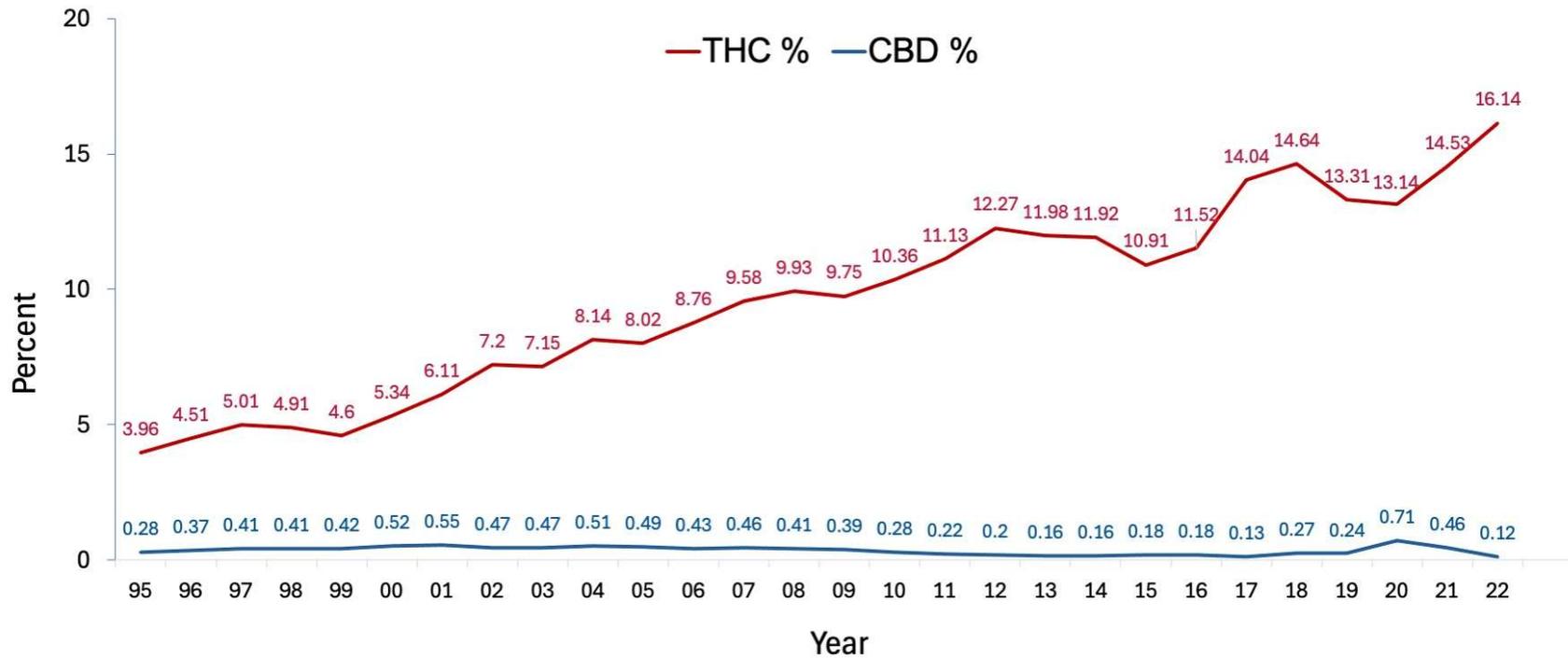
2023 Monitoring the Future Panel Study Annual Report

- 20,000 individual age 18-65 years, use in past 12 months, self reported
- Past year cannabis and hallucinogen use stayed at record highs in adults age 19-30 and 35-50
- Cigarette smoking dropped to record low

"Monitoring the Future Panel Study Annual Report: National data on substance use among adults age 18-65", 1976-2023. Published July 2024 <https://monitoringthefuture.org>



Percentage of THC and CBD in Cannabis Samples Seized by DEA, 1995-2022



Source: U Miss, Potency Monitoring Project



Cannabis use for Psychiatric Conditions

- Currently *no clear evidence for use of cannabis to treat any psychiatric illness*
- Early research showing potential benefits of pure pharmaceutical CBD for some psychiatric conditions.

May 17, 2021 Timothy Fong, M.D American Psychiatric Association Official Statement Annual Meeting 2021



Cannabis Use Effects-Mood and Anxiety

- Studies support an association between cannabis use and new-onset mania and worsening of manic symptoms in patients diagnosed with bipolar disorder
- Acute intoxication may cause transient acute anxiety including panic attacks
- Withdrawal from cannabis can cause increased depression, suicidal ideation, increased anxiety, panic attacks and insomnia
- Cannabis use or cannabis use disorder (CUD) can produce chronic mood changes such as those seen in Persistent Depressive Disorder and Major Depressive Disorder



Cannabis Use Effects-Psychosis

- There is substantial evidence that chronic cannabis use, especially during early adolescence, is associated with increased risk of psychosis and development of schizophrenia
- More than 30% of patients with cannabis induced psychosis develop long term psychotic disorder indistinguishable from schizophrenia
- Risk of schizophrenia 2-4 times higher in those who use cannabis regularly



Cannabis and Psychosis

- **Earlier onset of Schizophrenia associated with :**
 - Higher THC potency
 - Age of first cannabis use
 - Years of cannabis use
 - Daily cannabis use
- **Cannabis use and development of Schizophrenia share genetic overlap**
- **THC alone can induce symptoms like Schizophrenia in individuals without mental illness**



Cannabis Use Effects-Medical

- American Heart Association risk of MI and stroke due to THC effect on platelets/blood clotting as well as increased heart rate-recent American College of Cardiology review reports **Cannabis user age 50 and under were six times as likely to have heart attack vs non-users**
- Increased mouth, throat and lung cancer risk associated with smoking cannabis (studies removed cigarettes as complicating factor)
- Increased auto accidents associated with cannabis use due to decreased reaction time when using cannabis
- Increased emergency room visits reported in Colorado due to hyperemesis syndrome, children poisoning because of cannabis ingestion (gummies, brownies, etc..)



Cannabis Use Effects-Medical

- **Drug Interactions: Cannabis is metabolized via a pathway/enzymes in liver can interact with many prescribed meds**
 - Cannabis can increase bleeding risk for those on Warfarin (Coumadin) -for stroke prevention, Atrial Fibrillation, and other conditions by inhibiting the metabolism of it via CYP2C9-mediated metabolism
 - Case report cannabis increasing Tegretol levels-seizure medication can be toxic in high doses
 - Smoking cannabis can decrease Clozapine levels and effectiveness (from hydrocarbons in smoke)
 - Check cannabis/or marijuana in drug interactions when prescribing
- **Cannabis can accentuate sedative effects of CNS depressants**
 - Pain pills-opiates, benzodiazepines, muscle relaxers and many more



Cannabis Use Disorder (CUD)

- **22% of** people who use cannabis develop CUD (18-26%)
- Risk of CUD **INCREASED TO 33%** (22-44%) among young regular users (daily or weekly)
- **Cannabis Use Disorder most prevalent in young adults-highest risk of CUD (41.1%, 95% CI 38.4-43.8%)** among the cohort of 21-year-old emerging adults
- Cannabis Use Disorder may be associated with **cognitive impairment, poor school or work performance and psychiatric comorbidity such as mood disorders and psychosis**
- Most develop after **prolonged use, with at least weekly use, increased frequency of cannabis use and use of more potent cannabis products**



Cannabis Use Disorder

DSM V Diagnosis: if 2 or more present in same year:

Impaired Control

- Unable to ↓ use
- Lots time use
- Craving

Risky Use

- Hazardous use
- Use despite physical/psychological problems

Social Impairment

- Failed roles work, home, school
- Use despite problems socially/interpersonally
- ↓ Activities

Pharmacological Criteria

- Tolerance
- Withdrawal



Cannabis Use Disorder (CUD) and Psychiatric Comorbidity

2/3 people with cannabis use disorder have other substance use disorder (most common nicotine or alcohol)

Almost half have a current psychiatric disorder

- Major Depression
- PTSD
- GAD

In Danish nationwide cohort study of 6.7 million CUD associated with increased risk of Unipolar Depression, and nominally higher Bipolar Disorder (psychotic bipolar disorder more common)

Among VA patients greatest increase in CUD (2005-2019) among those with bipolar and psychotic disorder



Treatment of Cannabis Use Disorder

Few evidence-based supported approaches

~ 50% achieve remission

~ 70% return to use

No FDA-approved medications



Behavioral Health Resource Networks (BHRN) History, Updates and Impacts

BHRN History

Also known as Measure 110

- Began in 2020
- 2024 shifted from decriminalization to addiction services

County based, community provider networks

Offer timely, accessible, and comprehensive care for addiction



Drug Treatment and Recovery Services Fund (DTRSF)

Created to fund Measure 110:

- Addiction treatment
- Recovery
- Harm Reduction

Reliant upon Marijuana Tax Revenue

Purpose for BHR:

- Screenings/Treatment
- Behavioral Health Assessment
- Peer Support
- Low-Barrier substance use treatment



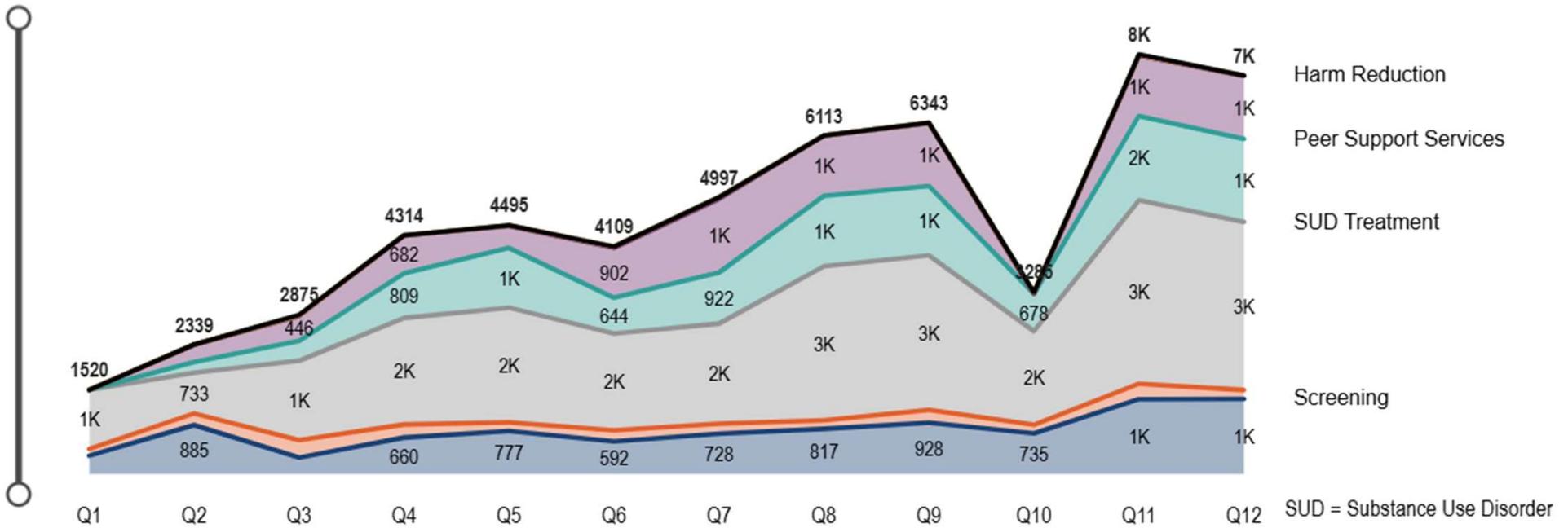
Deschutes Countywide BHRN Partners

	Substance Use Treatment	Supported Employment	Screening/ Assessment	Peer Support	Housing
Best Care	✓			✓	
Boulder Care	✓	✓	✓	✓	✓
Deschutes County	✓		✓	✓	
4 D Recovery (New)	✓			✓	
Ideal Option	✓				
Rimrock Trails	✓		✓	✓	



Countywide BHRN – Clients and Encounters

Number of BHRN encounters by service area and quarter - Deschutes County
 The number of BHRN client encounters in each quarter, beginning in July 2022 - July 2025



DCBH BHRN Funding Updates

14% DTRSF Funding Reduction
-\$871,771.61

Eliminates 2.0 FTE
Continues to Support
6.2 FTE

64% Medicaid
14% Medicare
22% Indigent/Self-Pay



DCBH BHRN Funding Impacts

Substance Use Treatment

2025 (actuals)

- 5 FTE
- 123 distinct clients per quarter

2026 (estimates)

- 4 FTE – 20% decrease
- 98 distinct SUD clients per quarter

Peer Support

2025 (actuals)

- 3 FTE
- 82 distinct clients per quarter

2026 (estimates)

- 1.4 FTE – 34% decrease
- 56 distinct SUD clients per quarter



QUESTIONS

Citations-Websites

1. Colorado Cannabis <https://cannabis.colorado.gov/>
2. Smart Approaches to Marijuana <https://learnaboutsam.org/>
3. NIDA-National Institute on Drug Abuse Interactive Site
<https://nida.nih.gov/themes/custom/solstice/interactive/cannabis/>
4. NIDA <https://nida.nih.gov/research-topics/cannabis-marijuana>
5. Monitoring the Future Study <https://nida.nih.gov/new-events-releases/cannabis-hallucinogen-use-among-adults-remained-historic-highs-2023>



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- Cannabis Addiction and the Brain: a Review. *Focus Psychiatry* Vol 17, No 2. Spring 2019 p 169-182
- Effects of persistent cannabis use on depression, psychosis, and suicidality following cannabis-induced psychosis: A longitudinal study. *American Journal of Addiction*, 2025; 1-11



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- The Psychotomimetic Effects of Intravenous Delta-9-Tetrahydrocannabinol in Healthy Individuals: Impacts for Psychosis. *Neuropsychopharmacology* 2004, Vol 29 1158-1572
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- American Academy of Addiction Psychiatry Proposed Model State Cannabis Laws to Reduce Harm, December 2019



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- Cannabis Use, Cannabis Use Disorder, and Comorbid Psychiatric Illness: A Narrative Review. *Journal of Clinical Medicine* 2021,10,15. 1-19.
- Legalized Cannabis in Colorado Emergency Departments: A Cautionary Review of Negative Health and Safety Effects. *Western Journal of Emergency Medicine* Vol 20, No 4. 557-572.
- Effects of Regular Cannabis Use on Neurocognition, Brain Structure, and Function: A Systematic Review of Findings in Adults. *The American Journal of Drug and Alcohol Abuse* 2018, Vol.44, No.1, 4-18.
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- What is the prevalence and risk of cannabis use disorders among people who use cannabis? A systematic review and meta-analysis. J Leung et al, *Journal of Addictive Behaviors* 109 (2020)p 1-8.
- The Psychomimetic Effects of IV Delta-9-Tetrahydrocannabinol in Healthy Individuals: Implications for Psychosis. D'Souza et al, *Neuropsychopharmacology* 92(04) 1558-1572
- Kamel I, et al. *JACC Adv.* 2025 Myocardial Infarction and Cardiovascular Risks Associated with Cannabis Use: A Multicenter Retrospective Study, 18 March 2025.





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: First reading of Ordinance No. 2026-009 rezoning property at 19975 Destiny Court, Bend from Exclusive Farm Use to Multiple Use Agricultural

RECOMMENDED MOTION:

Move approval of first reading of Ordinance No. 2026-009 by title only.

BACKGROUND AND POLICY IMPLICATIONS:

In January 2025, the Board of County Commissioners ("Board") approved a Comprehensive Plan Amendment from Agricultural to Rural Residential Exception Area and a zone change from Exclusive Farm Use to Multiple Use Agricultural for property located at 19975 Destiny Court, Bend. This decision was appealed to the Oregon Land Use Board of Appeals and ultimately remanded back to the County for further review.

On January 28, 2026, the Board held a remand hearing and on March 4, 2026, voted 2 - 1 to approve the requested rezone.

BUDGET IMPACTS:

None

ATTENDANCE:

- Caroline House, Senior Planner
- Stephanie Marshall, Senior Assistant Legal Counsel
- Anthony Raguine, Principal Planner
- Will Groves, Planning Manager



MEMORANDUM

DATE: March 25, 2026

TO: Board of County Commissioners (“Board”)

FROM: Caroline House, Senior Planner

RE: First Reading of Ordinance No. 2026-009 - Destiny Court PA/ZC Remand

On April 1, 2026, staff will present the draft ordinance to the Board for approval and completion of first reading.

I. BACKGROUND

The subject property is assigned address 19975 Destiny Court, Bend, OR 97703, and is located in Deschutes County’s jurisdiction between the City of Bend and the Unincorporated Community of Tumalo. In 2022, the Applicant initiated several land use applications. These included the subject Comprehensive Plan Amendment to change the designation of this property from Agricultural (“AG”) to Rural Residential Exception Area (“RREA”) and Zone Change to rezone this property from Exclusive Farm Use (“EFU”) to Multiple Use Agricultural (“MUA-10”)¹. In January 2025, the Board voted 2-1 to approve the Comprehensive Plan Amendment and Zone Change request, which aligned with the Hearings Officer’s Recommendation. The County’s decision was appealed to LUBA by Central Oregon LandWatch (“COLW”) and LUBA remanded² the County’s decision back for further review (ref. LUBA No. 2025-015).

On December 23, 2025, Destiny Court Properties, LLC (the “Applicant”) initiated an Oregon Land Use Board of Appeals (“LUBA”) remand application (ref. File No. 247-25-000759-A), and the Board held a remand hearing on January 28, 2026. The Board conducted deliberations on March 4, 2026, and voted 2-1 to approve the Applicant’s request.

II. NEXT STEPS

The Board is scheduled to conduct second reading of Ordinance 2026-009 on April 15, 2026, fourteen (14) days following first reading.

¹ Ref. File Nos. 247-22-000436-ZC & 247-22-000443-PA.

² LUBA’s Final Opinion and Order was not appealed to the Court of Appeals.

III. 120-DAY REVIEW CLOCK

Remand applications have a 120-day review clock³, and this review clock cannot be extended in most circumstances⁴. Therefore, the 120th day on which the County must take final action on this application is April 22, 2026.

VI. RECORD

The record for this remand application is as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-25-000759-remand-destiny-court-properties-llc-comprehensive-plan-amendment-zone-change>

Attachment:

- 1) Draft Ordinance 2026-009 and Exhibits
 - Exhibit A: Legal Description
 - Exhibit B: Proposed Comprehensive Plan Amendment Map
 - Exhibit C: Proposed Zone Change Map
 - Exhibit D: Comprehensive Plan Section 23.01.010, Introduction
 - Exhibit E: Comprehensive Plan Section 5.12, Legislative History
 - Exhibit F: Decision of the Board of County Commissioners on Remand
 - Exhibit G: Decision of the Board of County Commissioners on Original Application
 - Exhibit H: Hearing’s Officer Recommendation

³ Most land use applications have a 150-day review clock, and the Applicant can extend the clock for up to 215 days or waive the review clock entirely.

⁴ Ref. ORS 215.435(2)(b).

REVIEWED _____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County *
Code Title 23, the Deschutes County *
Comprehensive Plan, to Change the *
Comprehensive Plan Map Designation for *
Certain Property From Agriculture to Rural *
Residential Exception Area, and Amending *
Deschutes County Code Title 18, the Deschutes *
County Zoning Map, to Change the Zone *
Designation for Certain Property From *
Exclusive Farm Use to Multiple Use *
Agricultural.

ORDINANCE NO. 2026-009

WHEREAS, Destiny Court Properties, LLC (“Applicant”), applied for changes to both the Deschutes County Comprehensive Plan Map (247-22-000443-PA) and the Deschutes County Zoning Map (247-22-000436-ZC), to change the Comprehensive Plan designation of the subject property from Agricultural (AG) to Rural Residential Exception Area (RREA), and a corresponding Zone Change from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10); and

WHEREAS, the Board of County Commissioners (“Board”) issued a decision approving the subject application on January 15, 2025, and the decision was thereafter appealed to the Oregon Land Use Board of Appeals (“Land Use Board of Appeals”), which issued a Final Opinion and Order on June 26, 2025, remanding the decision to the County for further review of two issues (“Remand”); and

WHEREAS, the Applicant initiated remand proceedings on December 23, 2025 (247-25-000759-A) pursuant to Deschutes County Code (“DCC”) Chapter 22.34; and

WHEREAS, as limited by the scope of the Remand, the Board reopened the record pursuant to Order No. 2026-002 for submission of new testimony and evidence concerning the subject property’s suitability for farm uses identified in the record before the Board at the time of its January 15, 2025 decision; and

WHEREAS, after notice was given in accordance with DCC 22.34.030 and other applicable law, a public hearing on remand was held before the Deschutes County Board of County Commissioners on January 28, 2026, and the record closed on February 18, 2026; now, therefore,

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

Section 1. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan Map, is amended to change the plan designation for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "B" from AG to RREA, with both exhibits attached and incorporated by reference herein.

Section 2. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation from EFU to MUA-10 for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "C", with both exhibits attached and incorporated by reference herein.

Section 3. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "D" attached and incorporated by reference herein, with new language underlined.

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

Section 5. FINDINGS. The Board adopts as its findings in support of this Ordinance the Decision of the Board on remand as set forth in Exhibit "F" and incorporated by reference herein. The Board also incorporates in its findings in support of this decision, the original Decision of the Board attached as Exhibit "G", and the Recommendation of the Hearings Officer, attached as Exhibit "H", each incorporated by reference herein.

Section 6. AGREEMENT. The Board adopts the Conditions of Approval Agreement as set forth in Exhibit "I" that must be executed once this Ordinance becomes effective.

Section 7. EFFECTIVE DATE. This Ordinance takes effect on the 90th day after the date of adoption.

Dated this ____ of _____, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PHIL CHANG, Chair

ANTHONY DeBONE, Vice Chair

ATTEST:

Recording Secretary

PATTI ADAIR, Commissioner

Date of 1st Reading: ____ day of _____, 2026.

Date of 2nd Reading: ____ day of _____, 2026.

Record of Adoption Vote:

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

Effective date: ____ day of _____, 2026.

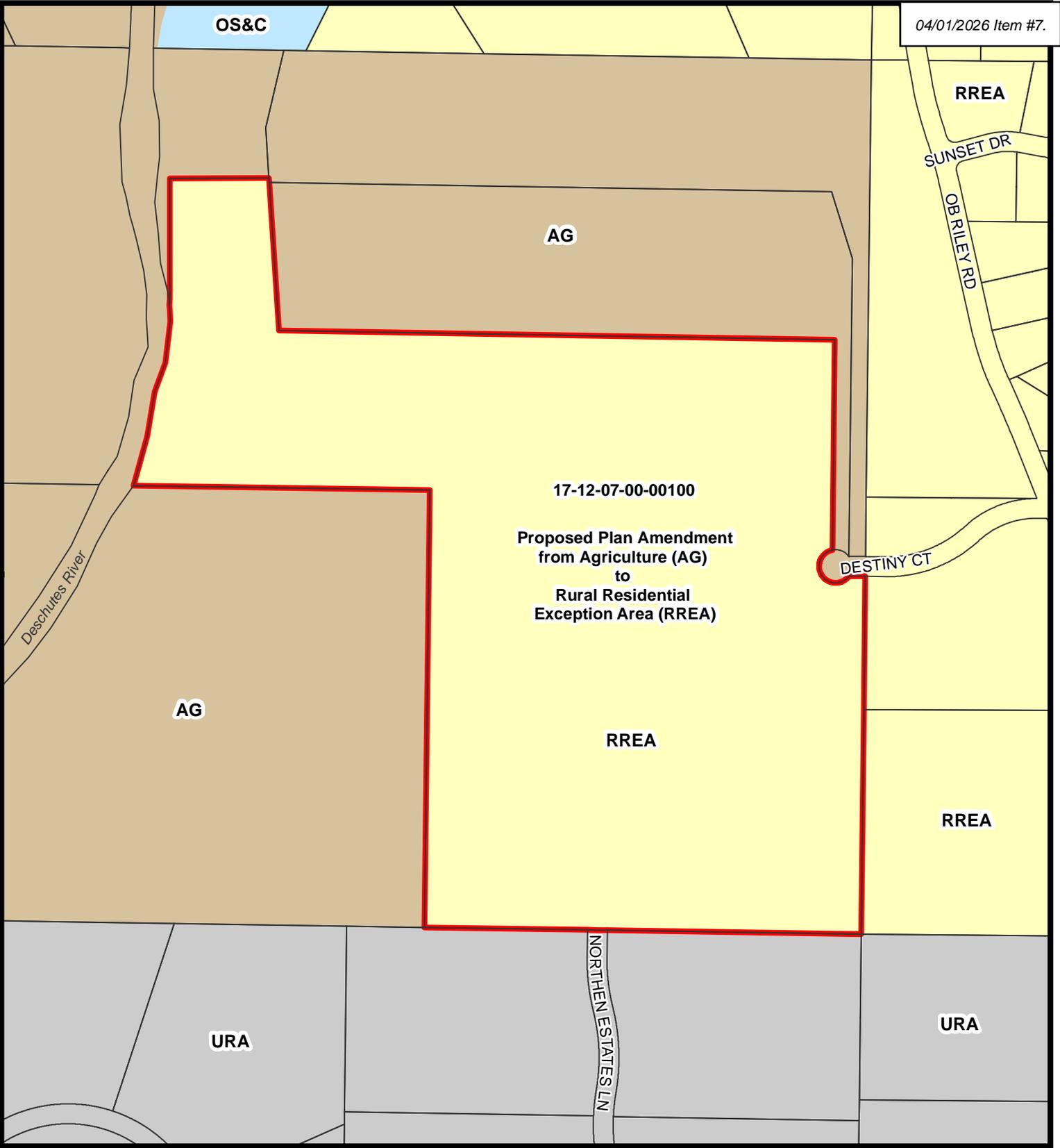
Exhibit "A" to Ordinance 2026-009

LEGAL DESCRIPTION
(TAX LOT 100, MAP 17-12-07)

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO DESTINY COURT PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, IN DOCUMENT NO. 2021-61291, DESCHUTES COUNTY OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID DESTINY COURT PROPERTIES, SAID NORTHWEST CORNER BEING ON THE CENTERLINE OF THE DESCHUTES RIVER AND BEARING, ALONG THE NORTH LINE OF SAID SECTION 7, S89°35'43"E 432.83 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE CONTINUING ALONG SAID NORTH LINE, S89°35'43"E 425.47 FEET TO A POINT; THENCE DEPARTING SAID NORTH LINE, S13°11'48"W 239.62 FEET TO A POINT; THENCE S3°48'59"E 152.39 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S89°52'26"W 298.75 FEET TO A POINT; THENCE S0°00'00"E 366.21 FEET TO A POINT; THENCE S5°57'50"W 178.47 FEET TO A POINT; THENCE S11°00'43"W 127.94 FEET TO A POINT; THENCE S15°48'44"W 92.60 FEET TO A POINT ON SAID DESCHUTES RIVER CENTERLINE; THENCE ALONG SAID CENTERLINE, S16°08'19"W 179.19 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE ALONG SAID SOUTH LINE, S89°38'02"E 914.03 FEET TO THE NORTHEAST SIXTEENTH (NE1/16) CORNER OF SAID SECTION 7; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE1/4 NE1/4) OF SAID SECTION 7, S0°12'11"W 1320.01 FEET TO THE CENTER EAST SIXTEENTH CORNER (CE1/16) OF SAID SECTION 7; THENCE ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 7, S89°37'30"E 1318.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 7, BEING THE SOUTHEAST CORNER OF PARCEL C OF PARTITION PLAT 1996-55; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL C THE FOLLOWING COURSES: N0°08'26"E 1080.22 FEET; THENCE N89°37'33"W 50.00 FEET; THENCE 193.64 FEET ALONG THE ARC OF A 50-FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 221°53'48" (THE CHORD OF WHICH BEARS N32°08'04"W, 93.39 FEET); THENCE N0°07'29"E 634.22 FEET TO A POINT ON THE EASTERLY LINE OF SAID DESTINY COURT PROPERTIES, LLC TRACT; THENCE ALONG SAID EASTERLY LINE, N89°36'12"W 1684.60 FEET; THENCE N3d48'59"W 461.08 FEET THE **TRUE POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 65.11 ACRES, MORE OR LESS.



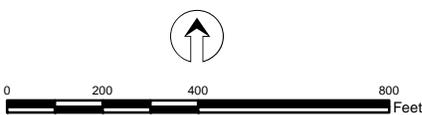
17-12-07-00-00100
 Proposed Plan Amendment
 from Agriculture (AG)
 to
 Rural Residential
 Exception Area (RREA)

Plan Amendment Boundary

- Comprehensive Plan**
- AG - Agriculture
 - RREA - Rural Residential Exception Area
 - OS&C - Open Space & Conservation
 - URA - Urban Reserve Area

PROPOSED COMPREHENSIVE PLAN

Exhibit "B"
to Ordinance 2026-009



March 16, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Phil Chang, Chair

Anthony DeBone, Vice Chair

Patti Adair, Commissioner

ATTEST: Recording Secretary

Dated this _____ day of _____, 2026
Effective Date: _____, 2026



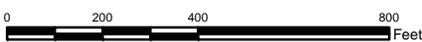
17-12-07-00-00100
 Proposed Zone Change
 from Exclusive Farm Use (EFUTRB)
 to
 Multiple Use Agricultural (MUA10)

Zone Change Boundary

- Zoning**
- EFUTRB - EFU Tumalo/Redmond/Bend
 - MUA10 - Multiple Use Agricultural
 - OS&C - Open Space and Conservation
 - FP - Flood Plain
 - UAR10 - Urban Area Reserve

PROPOSED ZONING MAP

Exhibit "C"
 to Ordinance 2026-009



March 16, 2026

BOARD OF COUNTY COMMISSIONERS
 OF DESCHUTES COUNTY, OREGON

Phil Chang, Chair

Anthony DeBone, Vice Chair

Patti Adair, Commissioner

ATTEST: Recording Secretary

Dated this ____ day of ____, 2026
 Effective Date: ____, 2026

Exhibit "D" to Ordinance 2026-009

TITLE 23 COMPREHENSIVE PLAN

CHAPTER 23.01 COMPREHENSIVE PLAN

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. [Repealed by Ordinance 2013-001, §1]
- D. [Repealed by Ordinance 2023-017]
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.

Exhibit "D" to Ordinance 2026-009

- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- T. [Repealed by Ordinance 2016-027 §1]
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- AC. [repealed by Ord. 2019-010 §1, 2019]
- AD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- AE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- AF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- AG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- AH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.

AI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.

AJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.

AK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.

AL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.

AM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.

AN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.

AO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.

AP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.

AQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.

AR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.

AS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.

AT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.

AU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-002, are incorporated by reference herein.

AV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-005, are incorporated by reference herein.

AW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-008, are incorporated by reference herein.

AX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-001, are incorporated by reference herein.

AY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-003, are incorporated by reference herein.

AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.

BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-010, are incorporated by reference herein.

BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-011, are incorporated by reference herein. (superseded by Ord. 2023-015)

BC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-013, are incorporated by reference herein. (supplemented and controlled by Ord. 2024-010)

BD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-001, are incorporated by reference herein.

BE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-007, are incorporated by reference herein.

BF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-010 are incorporated by reference herein.

BG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-018, are incorporated by reference herein.

BH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-015, are incorporated by reference herein.

BI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-025, are incorporated by reference herein.

BJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-001, are incorporated by reference herein.

BK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-003, are incorporated by reference herein.

BL. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2024-007 and found on the Deschutes County Community Development Department website, is incorporated by reference herein (superseded by Ord. 2025-007).

BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-010, are incorporated by reference herein.

BN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-017, are incorporated by reference herein.

BO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-016, are incorporated by reference herein.

BP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-011, are incorporated by reference herein.

BQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-012, are incorporated by reference herein.

BR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2025-001, are incorporated by reference herein.

BS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2025-003, are incorporated by reference herein.

BT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2025-010, are incorporated by reference herein.

BU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2025-007, are incorporated by reference herein.

BV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2025-014, are incorporated by reference herein.

BW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2026-004, are incorporated by reference herein.

BX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2026-005, are incorporated by reference herein.

[BY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2026-009, are incorporated by reference herein.](#)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/compplan>)

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.

2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.
2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal 11 to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial

2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone
2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial

2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.
2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
2019-011	05-01-19/05-16/19	23.01.010, 4.2	Comprehensive Plan Map Amendment to adjust the Bend Urban Growth Boundary to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area I boundary. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.

2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCDC's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.
2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-001	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.

2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal 11 (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.
2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.

2020-006	08-12-20/11-10-20	23.01.01, 2.11, 5.9	Comprehensive Plan and Text amendments to update the County's Resource List and Historic Preservation Ordinance to comply with the State Historic Preservation Rule.
2020-009	08-19-20/11-17-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add reference to J turns on US 97 raised median between Bend and Redmond; delete language about disconnecting Vandevent Road from US 97.
2020-013	08-26-20/11/24/20	23.01.01, 5.8	Comprehensive Plan Text And Map Designation for Certain Properties from Surface Mine (SM) and Agriculture (AG) To Rural Residential Exception Area (RREA) and Remove Surface Mining Site 461 from the County's Goal 5 Inventory of Significant Mineral and Aggregate Resource Sites.
2021-002	01-27-21/04-27-21	23.01.01	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)
2021-005	06-16-21/06-16-21	23.01.01, 4.2	Comprehensive Plan Map Amendment Designation for Certain Property from Agriculture (AG) To Redmond Urban Growth Area (RUGA) and text amendment
2021-008	06-30-21/09-28-21	23.01.01	Comprehensive Plan Map Amendment Designation for Certain Property Adding Redmond Urban Growth Area (RUGA) and Fixing Scrivener's Error in Ord. 2020-022

2022-001	04-13-22/07-12-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-003	04-20-22/07-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-006	06-22-22/08-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2022-011	07-27-22/10-25-22 (superseded by Ord. 2023-015)	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)
2022-013	12-14-22/03-14-23 (supplemented and controlled by Ord. 2024-010)	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-001	03-01-23/05-30-23	23.01.010, 5.9	Housekeeping Amendments correcting the location for the Lynch and Roberts Store Advertisement, a designated Cultural and Historic Resource
2023-007	04-26-23/6-25-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)

2023-010	06-21-23/9-17-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-018	08-30-23/11-28-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-015	9-13-23/12-12-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)
2023-025	11-29-23/2-27-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2024-001	1-31-24/4-30-24	23.01.010	Comprehensive Plan Map Amendment for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-016	5-8-24/8-6-24	23.01(BM) (added), 4.7 (amended), Appendix B (replaced)	Updated Tumalo Community Plan
2023-017	3-20-24/6-20-24	23.01(D) (repealed), 23.01(BJ) (added), 3.7 (amended), Appendix C (replaced)	Updated Transportation System Plan

2024-003	2-21-24/5-21-24	23.01.010, 5.8	Comprehensive Plan Map Amendment, changing designation of certain property from Surface Mining (SM) to Rural Residential Exception Area (RREA); Modifying Goal 5 Mineral and Aggregate Inventory
2024-007	10-02-24/12-31-24 (superseded by Ord. 2025-007)	23.01(A)(repealed) 23.01(BK) (added)	Repeal and Replacement of 2030 Comprehensive Plan with 2040 Comprehensive Plan
2024-010	10-16-24/01-14-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2024-011	11-18-24/02-17-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Redmond Urban Growth Area (RUGA)
2024-012	1-8-25/4-8-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2025-001	2-5-25/2-5-25	23.01.010	Comprehensive Plan and Zoning Map Amendment updating the Greater Sage-Grouse Area Combining Zone boundary.
2025-003	4-2-25/7-1-25	23.01.010	Comprehensive Plan Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)

2025-010	6-25-25/9-23-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2025-007	8-27-25/11-25-25	23.01(BU)	Amendments to Comprehensive Plan resulting from Deschutes County 2040 Update process.
2025-014	10-6-25/10-6-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Forest (F) to Rural Residential Exception Area (RREA)
2026-004	1-28-26/4-28-26	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2026-005	3-11-26/6-9-26	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) and Surface Mine (SM) to Rural Residential Exception Area (RREA)
<u>2026-009</u>	<u>TBD/TBD</u>	<u>23.01.010</u>	<u>Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)</u>

**BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

FILE NUMBERS: 247-25-000759-A, 247-22-000443-PA, 247-22-000436-ZC, 247-23-000651-MA

APPLICANT/OWNER: Destiny Court Properties, LLC

APPLICATION: Remand of Board of Commissioners’ Decision Approving a Comprehensive Plan Amendment to re-designate the subject property from Agriculture (“AG”) to Rural Residential Exception Area (“RREA”) and a corresponding Zone Change to change the zoning of the subject property from Exclusive Farm Use – Tumalo/Redmond/Bend Subzone (“EFU-TRB”) to Multiple Use Agriculture (“MUA-10”).

SUBJECT PROPERTY: Address: 19975 Destiny Ct., Bend, OR 97703
Map and Taxlot: 1712070000100

STAFF PLANNER: Caroline House, Senior Planner
Caroline.House@deschutes.org, 541-388-6667

I. PROCEDURAL HISTORY:

This matter is on remand to Deschutes County from the Oregon Land Use Board of Appeals (“LUBA”). This decision (“Decision”) addresses only those issues on remand to the County. The Board of County Commissioners (“Board”) does not revisit other findings that are outside of the scope of remand; such issues are settled. The findings in this document supplement the findings in the 2025 decision of the Board that approved the plan amendment and zone change (“Application”) requested by Destiny Court Properties, LLC (“Applicant”). The findings herein control over any inconsistent findings in the Board’s 2025 decision, including the Hearings Officer’s April 26, 2024, recommendation which was made a part of the Board’s 2025 decision. Additionally, as stated in our 2025 decision, findings in this decision control over inconsistent findings in the Hearings Officer’s recommendation.

The County’s land use Hearings Officer conducted the initial hearing regarding the Application on February 27, 2024, and recommended approval of the Application to the Board. The Board approved the Application (2-1) on January 8, 2025. Central Oregon LandWatch (“COLW”) filed an appeal to LUBA, which remanded the Board’s decision on June 26, 2025. *See Central Oregon LandWatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2025-015)(“*Destiny Court*”). Although LUBA affirmed the Board on multiple assignments of error, it remanded to address two discreet issues: (1) an alleged inconsistency with Deschutes

County Comprehensive Plan (“DCCP”) Policy 3.3.1 regarding lot sizes and density, and (2) to complete the analysis and findings regarding the Subject Property’s suitability for farm use factors under OAR 660-033-0020(1)(a)(B) as it relates only to those farm uses that COLW had identified in the record. *Destiny Court*, slip op 23.

On December 23, 2025, the Applicant initiated remand proceedings. On January 5, 2026, the Board issued Order No. 2026-002 reopening the local record to address issue #2. On January 6, 2026, the County mailed its Notice of Public Hearing to all parties to the original proceedings, and listed the issues remanded, and all relevant criteria, rules, and procedures relating to the remand proceedings.

The Board held a hearing on January 28, 2026 (“Hearing”). At the Hearing, COLW raised an objection, arguing that the County could not proceed with consideration of the remand application at that time under ORS 197.797(3)(h) and Deschutes County Code (“DCC”) 22.24.040(A)(9). DCC 22.24.040(A)(9) contains the same requirements as ORS 197.797(3)(h), so we address both provisions together.

COLW claims error because of the “County’s failure to ensure that the documents and evidence submitted by the developer for the remand hearing were made available for public inspection at no cost at least twenty days before the hearing[.]” COLW clarified at the Hearing that its argument was that the County was required to make the Applicant submit evidentiary documents in advance of the Hearing so that such evidence could be provided to the parties prior to hearing. Staff submitted a memorandum addressing this objection on February 3, 2026, and we agree with Staff’s analysis. While ORS 197.797(3)(h) requires any information *submitted by an applicant* to be made available, it does not require an applicant to submit its evidence *in advance of a remand hearing*. Staff confirmed that all documents submitted by the Applicant were available to all parties. COLW’s argument is without legal merit and is properly denied.

The Board agreed to hold open the record to cure any potential procedural error alleged by COLW. The Board permitted an additional 7 days for new evidence, followed by 7 days for rebuttal evidence, and then 7 days for the Applicant to provide final legal argument. COLW did not object to this procedure.

On March 4, 2026, the Board deliberated and considered all issues remanded to it by LUBA. Thereafter, it voted 2-1 to again approve the Application. This Decision supports the Board’s action.

II. FINDINGS AND CONCLUSIONS OF LAW:

The Board approves the requested Application for the subject property (“Property”) and provides the following supplemental findings and conclusions of law.

A. Remand Issue 1: DCCP Policy 3.3.1 and Lot Size or Density Requirements

LUBA remanded the Board’s 2025 decision to address a perceived conflict between DCCP Policy 3.3.1 and the MUA-10 zone. *See Destiny Court*, slip op 6-10. Because the arguments presented to LUBA and the discussion around this issue was varied,¹ our findings are varied as well, so as to consider all sub-issues addressed by LUBA.

Before turning to our findings, we note that the Applicant has withdrawn its initial and tandem request for a planned unit development (“PUD”). This Decision, therefore, only addresses the current and relevant Application. And, the Applicant has offered—and the Board so imposes—a Conditions of Approval Agreement (“COAA”) in a form substantially similar to that attached as Exhibit A, that further resolves this issue. That COAA requires that any future subdivision of the Property be limited to either 10-acre minimum lot sizes or to 1:10 (one unit per ten acre) equivalent density through a cluster development or PUD, as permitted by the County’s applicable codes, Comprehensive Plan and state law. This equivalent density results in a limitation to a 2-acre minimum lot size with an associated 8 acres of preserved open space. Consistent with the findings below, the Board finds that imposition of this COAA ensures the Application meets all applicable criteria and policies contained in the DCCP.

As noted by COLW and LUBA, where there is a conflict between a comprehensive plan and a zoning code, the comprehensive plan controls. *Baker v. Milwaukie*,²⁷¹ Or 500, 533 P2d 772 (1975). Therefore, even if the MUA-10 zone did in fact conflict with the DCCP, the DCCP controls and it is irrelevant as to whether or not the MUA-10 zone conflicts with the DCCP. No party has raised any criteria or other legal reason for why the Application could not be approved—just that the minimum lot size would be restricted. As such, even if LUBA determines that the below interpretation is not plausible, this Board finds that the Application should still be approved.

To address the alleged or perceived inconsistency between the DCCP and the MUA-10 zone, the Board makes the following interpretations.

¹ For example, LUBA addressed COLW’s arguments that Goal 14 may be implicated, however LUBA later found Goal 14 to be satisfied.

Interpretation of DCCP 3.3.1 and the MUA-10 Zoning District

The basis for LUBA’s remand was focused on DCCP 3.3.1 which states that: “Except for parcels in the Westside Transect Zone, the minimum parcel size for new rural residential parcels shall be 10 acres.” LUBA agreed with COLW that DCCP 3.3.1 could facially conflict with then-existing DCC 18.32.040(A). DCCP 3.3.1 states:

“[t]he minimum lot area shall be 10 acres, except planned and cluster developments shall be allowed an equivalent density of one unit per seven and one-half acres and planned and cluster developments within one mile of acknowledged urban growth boundary shall be allowed a five-acre minimum lot area or equivalent density.”

DCCP Policy 3.3.1 was amended as part of Ordinance No. 2019-001, which adopted the Westside Transect Zone (“WTZ”). However, the policy was substantially the same before that amendment. It previously stated, “The minimum parcel size for new rural residential parcels shall be 10 acres.” This policy had always been interpreted and applied by the County as nonetheless allowing for potential PUDs and cluster developments, so long as an equivalent density of 1:10 acres is met. The Board interprets DCCP 3.3.1 in this manner. DCCP Policy 3.3.1 was not intended to prevent cluster developments or PUDs with lot sizes smaller than 10 acres, provided such proposed developments are consistent with the Deschutes County Code (“Code”) and state law. The Board interprets DCCP Policy 3.3.1 to generally require 10-acre minimum lot sizes, but nothing therein prohibits a PUD or cluster development that complies with the Code and state law. The Board further finds that DCCP Policy 3.3.1 was not intended to prevent the use of the Code’s density bonus, which as discussed below, was re-adopted and acknowledged after LUBA issued its *Destiny Court* decision.

As noted above, DCCP Policy 3.3.1 was changed as part of the adoption of the WTZ. The objective of the WTZ was to create an orderly development from rural to urban uses. The WTZ reduced the *equivalent density* of one unit per 10 acres, as otherwise permissible under the RR-10, MUA-10, and UAR-10 zones, to one unit per 2.5 acres. As noted in Ordinance No. 2019-001, the concern is not related to minimum parcel size but is instead a concern related to *equivalent density*. See e.g. *Applicant’s Exhibit UU*, p. 4, 8, 9, etc., (ODFW recognizing the *density standards* changing from 1:10 to just 1:2.5). This equivalent density intent is also reflected in the WTZ itself, the purpose of which “provides a transitional residential development pattern with densities ranging from one unit per 2.5 to 10 acres to guide development[.]” DCC 19.22.010. Obviously, a revision to equivalent density from 1:10 down to 1:2.5 is a significant change and one for which the County took an exception to Goal 14. This circumstance is different than that under the existing RR-10 and MUA-10 zones, which are acknowledged and have always required 1:10 equivalent densities and, under certain circumstances, allow for a density bonus.

As is clear throughout Ordinance No. 2019-001, the County has always considered an *equivalent density* as the standard, and not just minimum lot size. Confusion arises from using the two terms interchangeably. The Board interprets DCCP Policy 3.3.1 to address minimum equivalent densities.

The MUA-10 and RR-10 zones do require a minimum *lot* size of 10 acres. However, the County also permits the use of PUDs and cluster developments which, upon imposition of other restrictions, including the preservation of open space, reduce the subdivided lot size to below 10 acres. PUDs are specifically permitted under state law. *See e.g.* OAR 660-004-0040. It is through the use of PUDs and cluster developments that rural lot sizes may be below 10 acres, however a specific minimum equivalent density is still required, which is accomplished through the preservation of open space. *See e.g.* DCC 18.128.200 and -.210. A contrary interpretation would effectively strike those provisions from Code, which is not the intent of DCCP Policy 3.3.1 as further evidenced by Ordinance No. 2019-001. The same is true regarding the County’s density bonus provisions that were re-codified in July 2025 and are acknowledged—although the density bonus provisions are no longer codified in DCC Chapter 18.32 (the MUA-10 zoning district).

The Board interprets DCCP Policy 3.3.1 to require minimum lot sizes of 10 acres, except when PUD or cluster developments are used, in which case equivalent densities of 1:10 are permitted with the preservation of open space. This interpretation is plausible and should be affirmed. *Crowley v. City of Hood River*, 294 Or App 240, 244, 430 P3d 1113 (2018).

The Board also notes that the standards related to the use of cluster and PUDs, including the use of the “density bonus” (no longer included within the MUA-10 zoning district) was recently re-acknowledged as being compliant with the Statewide Planning Goals and the comprehensive plan. Ordinance No. 2025-009 was adopted on July 1, 2025, which re-codified these standards. This ordinance was adopted *after* LUBA issued its decision in this case. Ordinance No. 2025-009 amended the MUA-10 zone and readopted the standards related to PUDs and cluster developments. That ordinance was not appealed, is final, and deemed to be acknowledged. ORS 197.625. The Applicant and the County are entitled to rely upon acknowledged zoning regulations and comprehensive plan provisions. *Friends of Neabeack Hill v. City of Philomath*, 139 Or App 39, 1996, *rev denied*.

Even if LUBA determines that the above interpretation is incorrect or not plausible, the issue is also not ripe before this Board. As noted, the Applicant has withdrawn its request for a PUD. The issue of minimum lot sizes may be raised when and if the Applicant applies for a subdivision of the Property. Until such time the DCCP governs and there is no conflict because the Property is larger than 10 acres.

B. Issue 2: Property Suitability for Farm Use

LUBA remanded to the County to “evaluate whether the subject property is suitable for the farm uses petitioner identified in the record, including various types of animal husbandry and equine facilities listed in ORS 215.203(2)(a)”. *Destiny Court*, slip op 23. This Decision confines review to the scope of the remand, which requires consideration only of those farm uses previously raised in COLW’s arguments; COLW waived its right to request consideration of other uses by not raising those issues in the original proceedings. ORS 197.797(1), ORS 197.835(3), *Currie v. Douglas County*, 308 Or App 235, 482 P3d 427 (2020) (“*Currie*”); *Devin Oil*, 252 Or App at 111-13; *Beck v. City of Tillamook*, 313 Or 148, 831 P2d 678 (1992).

Notwithstanding the limited scope on remand, COLW did not confine its arguments to uses it had previously raised for the Board’s consideration. Instead, it presented a veritable laundry-list of additional crops or uses it now claims, for the first time, could be supported on the Property. We agree with Applicant and the Applicant’s experts that COLW is both incorrect that the Property is suitable for these uses and that COLW has waived its ability to raise new potential farm uses on remand. To that end, we adopt Exhibit XX of Applicant’s Final Legal Argument herein and note that uses not previously raised in the original proceedings cannot be raised on remand.² We also agree that the Property is not suitable for these new uses given the factors under OAR 660-033-0020(1)(a)(B). Findings related to these factors, individually, are provided below.

Factor Analysis

Some of the findings and evidence overlap and can be used to show why more than a single factor points to the unsuitability of the Property for farm use. For example, findings related to the soil fertility factor are also relevant to technological and energy inputs because of the inputs required to increase or elevate the soil fertility that would be required for a viable farm use. None of the factors or findings related thereto are intended to be read in a vacuum; they may relate to additional factors.

No credible evidence by any party was submitted to refute Applicant’s evidence and the testimony of Brian Rabe, Greg Mohnen, Matt Cyrus, or Rand Campbell. The only contrary testimony is conclusory statements from COLW and the opinions of its attorney—which is not substantial evidence. Moreover, COLW’s list of “farms” that it asserts are similar to the Property was refuted on a farm-by-farm basis by the Applicant and we agree with the Applicant’s analysis.

² To the extent the list of crops may be considered as part of a broader category of “irrigated agriculture” it is addressed below.

1. Soil fertility

The Property has poor soils comprised of approximately 65.8% Class VII and VIII soils, with substantial rocky outcroppings that make use of traditional farm equipment difficult or impossible. This was opined on by Applicant’s experts Greg Mohnen and Rand Campbell and was not refuted by any other party. COLW argued that the historic use of the Property should control, and claims that there is “unrefuted photographic evidence” of past farm uses. COLW’s claims are misleading. Applicant supplied substantial evidence that the Property has never had any history of agricultural activity except for two short-lived attempts in recent history.

In response to COLW’s claimed “unrefuted photographic evidence” the Applicant provided a number of aerial photographs that detail the actual historical use of the Property. The aerial photographs³ that are instructive and show the following:

1994 – Property shown in natural state, including massive rock outcroppings and scrub cover.

2000 – Property has some road improvements to prepare for potential development.

2005 – Road improvements are continued and a pond is established. Some earthwork is started to try to clear to attempt a pasture.

2006 – More earthwork is completed and large rock outcroppings remain, including in the intended pasture areas.

2011 – There is a gap from 2006 to 2011 in the aerial photograph materials. However, by 2011 two irregular pasture areas have been partially established.

2012 – The rock outcroppings are beginning to show again in the pasture area.

2014 – Irrigation has fully ceased, although a small pond still exists. The larger of the pasture areas shows clear signs of rock and almost no topsoil or other growth.

2017/2018/2024 – Rocks continue to peak out of the very shallow soil, with the most illustrative shown in the 2024 aerial.

These aerials correlate to the testimony of Mark and Cathy Ferguson, who attempted to graze cattle in 2012 but were unable to even recoup costs, and the Ferguson’s grazing agreement that was terminated after just a single month.

COLW’s arguments are based on a photograph taken out of context; its statement that such photo proves suitability is not persuasive. LUBA has previously found that even if there is a

³ Reference Applicant’s Rebuttal submittal dated February 11, 2026, and identified as Exhibit OO.

history of attempted agricultural use—even going back decades—that is insufficient to determine *per se* that a property is suitable for farm use under the factor analysis. See *Central Oregon LandWatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2023-049)(“*Marken*”). The Board determines that the photograph offered by COLW does not constitute substantial evidence of suitability for the farm uses identified in the record. We find other evidence in the record more compelling. As determined in *Marken*, mere photographs, without more, are not substantial evidence. *Marken*, slip op 11-12.

As is clear in the aeriels and the testimony by Greg Mohnen, Matt Cyrus, Rand Campbell, and soils expert Brian Rabe, even the “cleared” area on the Property remains extremely rocky. Mr. Mohnen estimated that it would take at least \$100,000 to attempt to remove rock such that you *may* be able to use standard farm equipment. The Board finds the Applicant’s evidence and expert testimony to be persuasive and more reliable than evidence provided by COLW.

At the remand hearing, a question was posed regarding whether soil fertility could be improved through soil enrichment. Although consideration of this factor is focused on the *land itself and its capability*, we address the question of soil enrichment here.⁴ Applicant provided pricing and bid information for soil enrichment from two sources - the County’s own facility and from High Desert Mulching. This information was reviewed by Applicant’s expert Mr. Rabe, who confirmed that importing enough soil/material to enrich the roughly 20-acre area on the Property that had previously been attempted for irrigation would cost more than \$1 million. And, as evidenced by Mr. Campbell’s testimony, local fertilizer availability has been diminished by the closing of such operations. This increases the cost of additional enrichment. The Board finds there is substantial evidence to support our finding that no reasonable farmer would make such an investment, rather than just purchasing land that is not comprised of rock and includes Class VI or better soils.

As it relates to horse or equine uses, the Board finds substantial evidence in the record to support our finding that no reasonable farmer would attempt to create a horse boarding facility on the Property. As was shown by all of the examples of such operations submitted by COLW, horse facilities commonly have additional facilities and infrastructure such as barns, arenas, and irrigated and separated irrigated pasture lands for each boarded horse. The Property has no such improvements. In fact, absent some limited fencing and a lean-to structure, there are no other improvements on the Property. Two examples provided by COLW, Emboldened Equine Ranch and Silver Horse Ranch, both have facilities that are assessed by the County’s Assessor’s Office as substantial improvements. These operations are located on properties that have significant better soils that permit pasture use by boarded horses, something that this Property lacks. The Board is persuaded by the operational analysis provided by the Applicant which showed the costs associated with establishing an equine operation on the Property. Applicant’s Exhibit B. These costs include

⁴ This may also be relevant to the technological and energy input factor.

boarding up to 20 horses per month, the cost of importation of feed, and typical operational costs, but does *not* include the initial costs to build such facilities in the first place. Even still, such an operation on the Property would result in more than a \$50,000 annual loss. No contrary evidence was provided. The Board finds the Applicant’s evidence persuasive to show that the Property is not suitable for equine facilities.

Lastly, COLW argued that the Property should have better soils through the removal of rock and because the Property had “21.53 or more acres of irrigated, predominantly Class III farmland.” This ignores the expert testimony on the type and reality of the soils on the Property. Expert Mr. Rabe refuted COLW’s argument in a letter dated February 10, 2026, calling it a “very inaccurate representation.” Rocks in the types of soil on the Property are common and the water holding capacity, along with the depth of the soil, is what partially dictates *just how bad* the soils are. Moreover, as in COLW’s own submittal of NRCS publications, “the soils mapped across the property are not listed as having any potential for other crops grown in Deschutes County.” Mr. Rabe Letter, pg. 2. The Board finds Mr. Rabe’s expert testimony is more persuasive than the comments from COLW’s attorney.

2. Suitability for grazing

No credible testimony was offered by any party that shows the Property is suitable for grazing. COLW included in its laundry list of farm use claims that grazing or rearing of various animals could occur, from cows to horses to goats to, remarkably, ostriches. Uses that were not previously identified in the prior proceeding are waived—such as COLW’s new claim regarding ostriches. However, they are also simply unpractical and no reasonable farmer would seek a grazing farm use on the Property.

In contrast to COLW’s unsupported claims, the Applicant submitted evidence regarding the significantly limited potential to use the Property for grazing. Taken individually or as a whole, the weight of the evidence shows why the Property is not suitable for farm use or grazing. Without fully re-stating all record evidence, the Board provides the following highlights:

- Exhibit 25 – 2022 Application: Ferguson ceased attempting grazing on the Property after merely a month, due to lack of productivity and forage on the site even when irrigated.
- Exhibit C – Mohnen, renting the Property is unlikely due to lack of forage and need for significant upgrades to fencing, ponds, and new irrigation system that would be costly.
- Exhibit D – Cyrus, no significant forage ability or shelter and it would be a “waste of resource” to farm the Property. Raising cattle or other farm animals would be unprofitable.

- Exhibit E – Campbell, provided a detailed analysis regarding total amount of AUMs that could be produced on the Property, which is relevant to multiple types of grazing animals. That figure is approximately 12 AUMs, which results in no reasonable operator attempting to graze the Property.
- Exhibit RR – Rabe, revenue produced on the Property based upon AUMs is extremely low and would “not begin to cover the cost of inputs[.]”

We find substantial, persuasive evidence in the record that the Property is unsuitable for grazing.

3. Climatic conditions

COLW did not previously argue that the climate conditions of the Property make it suitable; therefore, this new challenge has been waived. Even still, the Board finds that the growing season in Central Oregon is one of the shortest in the entire state. Mr. Campbell provided testimony that Central Oregon spans a wide area and there are significant climactic variations that impact precipitation, temperature, wind and frost-free days. Examples offered by COLW included farms like Smith Rock Ranch, which are *significantly lower* in elevation, and which make them more suitable for crops due to a longer growing season with more frost-free days.

The Board’s previous findings on this factor are reaffirmed.

4. Existing and future availability of water for farm irrigation purposes

LUBA’s remand required the County to consider the Property as if it already had irrigation. Testimony from both Greg Mohnen and Rand Campbell discussed the difficulty of installing an irrigation system due to the extreme rockiness of the soils. Mr. Campbell estimated that such a system would cost over \$100,000 and specifically commented that the physical characteristics of the Property make it unlikely to be successful. Therefore, no reasonable farmer would expend the resources to establish a system on the Property. As was shown in the aerials, any previous attempts to irrigate were short lived. The Board finds this is persuasive evidence to support findings that the Property is not suited for irrigated agriculture—especially when coupled with the soil fertility challenges on the Property.

This Board has previously found that irrigating Class VII and VIII soils is not an accepted farming practice in Deschutes County. That finding was not upset in LUBA’s review in *Central Oregon Landwatch v. Deschutes County*, ___ Or LUBA ___ (LUBA No. 2022-075 December 6, 2022) (*Aceti*) and it remains true here. While the Property may have limited Class VI soils, we find persuasive the testimony of Mr. Campbell and Mr. Mohnen that operators would not seek to establish an irrigation system on the Property. Mr. Rabe’s testimony is also persuasive—the areas of better soils are irregular in shape and occur in 15 separate

delineations as small as 0.12 acres in size. The rocky outcroppings and irregular shape of the limited good soils make the Property unsuitable for irrigation.

5. Existing land use patterns

The Property is surrounded on all sides with rural residential uses. Multiple comments in the record, including from Matt Cyrus and Rand Campbell, highlight that the adjacent properties are developed for small residential lots and would interfere with agricultural practices initiated on the Property. Applicant also provided an extensive analysis in the prior proceeding regarding surrounding uses and that there were no other farm use parcels in the area. Given that all of the surrounding areas or adjacent areas are in residential use, this is a strong indicator that the Property is similarly not suitable for farm use. Additionally, the Property in portions abuts the Deschutes River and is very close to significant recreation including that at Tumalo State Park. This could provide additional conflict that, consistent with Mr. Cyrus and Mr. Campbell's testimony, may provide additional reason why the Property is unsuitable for farm uses due to potential conflicts.

6. Technological and energy inputs required

The Property has few improvements and would require substantial work, including new fencing, in order to put to any sort of farm use. COLW argues that the property cannot be considered in its "neglected" state; however, COLW ignores that there has never been an actual farm use established or operated on the Property. Outlined above are the substantial inputs that would be needed, including new fencing, irrigation equipment, and others.

Although relevant to other factors as well, one use that has been alleged for possibility on the Property has been horse and equine uses, including boarding. However, the evidence shows that such a use is impracticable at best and that no reasonable operator would seek to start a horse facility on the Property. Horse facilities require substantial infrastructure, including separate pastures for boarding, barns, storage, and arenas. These improvements can require a significant investment in money. A specific operation and proforma was generated for the Property, which shows the impracticality. In short, even assuming a boarding operation—which would be large—at 20 horses consistently per month, there would be operating losses of about \$50,000. No reasonable farmer would seek to build an equine operation on the Property—they would seek a property that already had the required improvements. The same is true for soil enrichment because of its extreme cost.

7. Accepted farming practices

COLW uses the term "accepted farming practice" throughout its submittals claiming that growing certain crops are accepted farming practices. COLW misunderstands that term. An "accepted farming practice" is a mode of operation used by similarly situated or common farms; it is not the growth of a particular crop.

Given the poor soil quality on the site, none of the accepted farming practices in Deschutes County would be appropriate on the Property. This includes irrigated agriculture. Deschutes County has previously determined, in *Aceti*, that it is not an accepted farm practice to irrigate Class VII and VIII soils, which is by far the predominant soil types here.

The Board is persuaded by the evidence provided by the Applicant, including the expert testimony of Greg Mohnen, Matt Cyrus, and Rand Campbell that no reasonable farmer would seek to establish a farm on the Property and that no accepted farming practice is appropriate on the Property.

Additional response to COLW Claims

In its Hearing submittal and in its rebuttal submittal dated February 11, 2026, COLW argues that several “farms” are producing certain crops and that they are essentially indistinguishable from the Property. The Board does not find COLW’s arguments persuasive. As an initial matter, COLW did not provide any reliable evidence that proves or substantiates its claims. Mere statements by COLW’s attorney are not evidence. Such statements, including “Smiley Lavender Farm is operated in Central Oregon for the primary purpose of obtaining a profit in money”⁵ simply are not grounded on any factual basis. LUBA has long held that the lay opinion of an attorney cannot form the basis for substantial evidence in a decision, and we adhere to that precedent. Absent testimony from an owner or operator of Smiley Lavender Farm itself there is nothing to corroborate the arguments of COLW’s attorney. COLW’s submittal of web pages and statements, made without support of the farm owner, do not establish that “Smiley Lavender Farm” (or any other example provided by COLW) is in fact engaged in an ORS 215.203(2)(a) farm use, or whether such properties are merely being used as a hobby farm. To properly consider COLW’s arguments, the Board would need evidence from the farmers or other experts or operators. COLW’s supposition that such uses are “farm uses” or are being operated to obtain a profit in money, as opposed to merely for the purpose of engaging in a rural lifestyle, is unsupported by evidence.

The Board finds that the “farm” examples provided by COLW as similar in nature to the Property are not persuasive. The Applicant provided contrary evidence regarding each example and evidenced how each property and/or operation was substantially different than the Property. We broadly agree with Applicant’s analysis. We also disagree with COLW’s base premise. We find that an applicant need not prove that its property is different from each and every other farm use in the County. An applicant must address the factors in OAR 660-033-0020(1)(a)(B) and other relevant applicable criteria—none of which require a comparative analysis between properties.⁶ To the extent COLW wishes to provide evidence of farm uses and argue how a particular property is suitable for such, it may do so. However, the lay opinion of its lawyer cannot form an adequate factual basis to satisfy the substantial

⁵ COLW L dated Feb 11, 2026, p. 2.

⁶ To the extent this could require an analysis of potential combined or conjoined use in a typical review, that review was previously completed and is not within the scope of the remand here.

evidence requirements in Oregon land use law. See *Oregon Coast Alliance v. City of Brookings*, 72 Or LUBA 222 (2015). We find the Applicant’s expert testimony and evidence, including that from Brian Rabe, Greg Mohnen, Matt Cyrus, and Rand Campbell more persuasive as to the factors and a determination of whether the Property is suitable for farm use. Based on this evidence, we find that the Property is not.

COLW’s Record Objection to Applicant’s Final Legal Argument

COLW submitted a record objection to the inclusion of several exhibits to Applicant’s Final Legal Argument. As stated at our deliberations, we overrule that objection and accept the Applicant’s exhibits. The Board agrees with staff that the Applicant’s exhibits are not new evidence and COLW is incorrect. The Applicant provided a tabular form that summarized evidence already in the record, a proposed condition of approval, and provided us copies of ordinances that are already the law of the land in this County and subject to official notice under ORS 40.090. None of this is new evidence. Our procedural ordinance does not require an applicant to make a separate motion for official notice, and we do not impose such a requirement here. The Board therefore rejects COLW’s objection made on February 19, 2026, and its renewed objection on March 5, 2026.

C. Decision

THE BOARD HEREBY APPROVES THE APPLICATION SUBJECT TO THE FOLLOWING CONDITION OF APPROVAL(S):

Conditions of Approval:

- 1) The attached Conditions of Approval Agreement, with restrictive covenants enforceable by Deschutes County, must be recorded within 180 days of the date this decision is final. If the decision is appealed, the 180-day period will run from the date a final decision and, if applicable, judgment on appeal has been entered.

After recording return to:

Deschutes County Community Development
117 NW Lafayette Avenue
Bend, OR 97703

**CONDITIONS OF APPROVAL AGREEMENT
AND RESTRICTIVE COVENANT**

This conditions of approval agreement is made this _____ day of _____, 2026 by Destiny Court Properties LLC, an Oregon limited liability company (hereinafter “Destiny Court”) and Deschutes County, a political subdivision of the State of Oregon (hereinafter “County”).

RECITALS

WHEREAS, Destiny Court sought approval of a plan amendment from Agricultural (AG) to Rural Residential Exception Area (RREA) and zone change from Exclusive Farm Use – Tumalo/Redmond/Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10) in File Nos. 247-22-000436-ZC and 247-22-000443-PA for the property described on **Exhibit A** (the “Property”), a copy of which is attached and incorporated by reference herein; and

WHEREAS, the applicant in the land use review process asked the County to impose a condition of approval on future development of the Property that will apply while the Property is zoned MUA-10: and

WHEREAS, the Board of Commissioners approved the land use applications and imposed the condition of approval requested; and

WHEREAS, the condition of approval requires that an agreement be recorded that memorializes the condition of approval and applies it to the rezoned property:

NOW THEREFORE, the parties agree as follows:

1. Any future subdivision shall be limited to equivalent density of 1 lot per 10-acres, which can be accomplished through use of a cluster or planned unit development for a minimum lot size of 2-acres with associated 8-acre reservation of open space. This condition shall be required so long as the property remains outside of an urban growth boundary.

DATED this _____ day of _____, 20__.

COUNTY

BOARD OF COMMISSIONERS OF DESCHUTES
COUNTY

PHIL CHANG, Chair

ANTHONY DeBONE, Vice-Chair

PATTI ADAIR, Commissioner

ATTEST:

Recording Secretary

STATE OF OREGON)
) SS.
COUNTY OF DESCHUTES)

This instrument was acknowledged before me on _____, 20__ by Phil Chang, Anthony DeBone, and Patti Adair, the above-named Board of County Commissioners of Deschutes County, Oregon and acknowledged the foregoing instrument on behalf of Deschutes County.

Notary Public
Print Name _____
My commission expires _____

DATED this ____ day of _____, 20__.

DESTINY COURT PROPERTIES LLC

By: Robert Cochran
Its: _____

STATE OF OREGON)
) SS.
COUNTY OF DESCHUTES)

This instrument was acknowledged before me on _____, 20__ by Ronald Cochran as _____ of Destiny Court Properties LLC, an Oregon limited liability corporation.

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A

PROPERTY DESCRIPTION
(TAX LOT 100, MAP 17-12-07)

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO DESTINY COURT PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, IN DOCUMENT NO. 2021-61291, DESCHUTES COUNTY OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID DESTINY COURT PROPERTIES, SAID NORTHWEST CORNER BEING ON THE CENTERLINE OF THE DESCHUTES RIVER AND BEARING, ALONG THE NORTH LINE OF SAID SECTION 7, S89°35'43"E 432.83 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE CONTINUING ALONG SAID NORTH LINE, S89°35'43"E 425.47 FEET TO A POINT; THENCE DEPARTING SAID NORTH LINE, S13°11'48"W 239.62 FEET TO A POINT; THENCE S3°48'59"E 152.39 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S89°52'26"W 298.75 FEET TO A POINT; THENCE S0°00'00"E 366.21 FEET TO A POINT; THENCE S5°57'50"W 178.47 FEET TO A POINT; THENCE S11°00'43"W 127.94 FEET TO A POINT; THENCE S15°48'44"W 92.60 FEET TO A POINT ON SAID DESCHUTES RIVER CENTERLINE; THENCE ALONG SAID CENTERLINE, S16°08'19"W 179.19 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE ALONG SAID SOUTH LINE, S89°38'02"E 914.03 FEET TO THE NORTHEAST SIXTEENTH (NE1/16) CORNER OF SAID SECTION 7; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE1/4 NE1/4) OF SAID SECTION 7, S0°12'11"W 1320.01 FEET TO THE CENTER EAST SIXTEENTH CORNER (CE1/16) OF SAID SECTION 7; THENCE ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 7, S89°37'30"E 1318.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 7, BEING THE SOUTHEAST CORNER OF PARCEL C OF PARTITION PLAT 1996-55; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL C THE FOLLOWING COURSES: N0°08'26"E 1080.22 FEET; THENCE N89°37'33"W 50.00 FEET; THENCE 193.64 FEET ALONG THE ARC OF A 50-FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 221°53'48" (THE CHORD OF WHICH BEARS N32°08'04"W, 93.39 FEET); THENCE N0°07'29"E 634.22 FEET TO A POINT ON THE EASTERLY LINE OF SAID DESTINY COURT PROPERTIES, LLC TRACT; THENCE ALONG SAID EASTERLY LINE, N89°36'12"W 1684.60 FEET; THENCE N3d48'59"W 461.08 FEET THE **TRUE POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 65.11 ACRES, MORE OR LESS.

Conditions of Approval Agreement – Exhibit A

EXHIBIT "G" to Ordinance 2026-009

04/01/2026 Item #7.

Exhibit "F" to Ordinance 2024-012

BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON FINDINGS OF FACT AND CONCLUSIONS OF LAW

FILE NUMBERS: 247-22-000436-ZC, 247-22-000443-PA, 247-23-000651-MA

SUBJECT PROPERTY/

OWNER/ DESTINY COURT PROPERTIES, LLC

APPLICANT: Map and Taxlot: 171207A000100

Account: 113037

Situs Address: 19975 DESTINY CT, BEND, OR 97703

APPLICANT'S

ATTORNEY: Elizabeth Dickson, Dickson Hatfield LLP

STAFF PLANNER: Caroline House, Senior Planner

Anthony Raguine, Principal Planner

REQUEST: Comprehensive Plan Amendment from Agricultural to Rural Residential Exception Area and Zone Change from Exclusive Farm Use to Multiple Use Agricultural Zone.

I. SUMMARY OF DECISION

In this decision, the Board of County Commissioners ("Board") considers whether to approve the proposed Comprehensive Plan Amendment and Zone Change. Hearings Officer Frank recommended approval in his April 26, 2024, recommendation, after a Public Hearing held on February 27, 2024. No appeals were filed. Land Use File Numbers 247-22-000436-ZC, 247-22-000443-PA and 247-23-000051-MA contain the Hearings Officer's Recommendation ("Recommendation") and related documents as referenced herein. The Board considered the applications *de novo*, incorporating the Record below, and a public hearing before the Board was held on July 24, 2024.

On October 9, 2024, following deliberation, the Board voted 2-1 finding the applicant had met their burden of proof, and moved to uphold the Recommendation and approving the Comprehensive Plan Amendment and Zone Change applications on the subject property.

The Recommendation dated April 26, 2024, is hereby incorporated as part of this decision, including any and all interpretations of the County’s code, and modified as follows. In the event of conflict, the findings in this decision control.

II. BASIC FINDINGS OF FACT:

The Board adopts and incorporates by reference the code interpretations, findings of fact, and conclusions of law in the Recommendation as set forth in Section I, Applicable Criteria, and Section II, Basic Findings. The Recommendation is attached as Exhibit G to the Board’s Decision. The following additions are made to the basic findings in the Recommendation.

A. PROCEDURAL HISTORY: A public hearing was held before a Hearings Officer on February 27, 2024, and the Recommendation was issued on April 26, 2024. The Board conducted a *de novo* hearing on July 24, 2024. The Board left the record open until August 7, 2024, for all parties to submit written legal argument; until August 14, 2024, for all parties to submit rebuttal; and until August 21, 2024, for applicant’s final argument. The Board rendered its oral decision after deliberations on October 9, 2024, affirming the Recommendation and modifying the findings as described herein. This written Decision memorializes that decision.

B. REVIEW PERIOD: The applications were submitted on May 27, 2022. Planning Division deemed the applications incomplete on June 24, 2022. Applicant submitted First Supplement on November 23, 2022, a Second Supplement and Modification of Application on September 1, 2023. The 150-day clock does not apply to the applications for the Comprehensive Plan Amendment and Zone Change.

The Board takes note that the subject property achieved its current configuration via property line adjustment approval 247-23-000653-LL.

C. PUBLIC COMMENTS: Planning Division received three comments from the public between the issuance of the Recommendation and the close of the Public Record for public comment after the Board Public Hearing on August 14, 2024. The Planning Division also received one comment from a public agency, Department of Land Conservation and Development (“DLCDC”), on August 7, 2024, in response to the Planning Division’s inquiry about applicability of a recent statute adopted to allow Accessory Dwelling Units (“ADUs”). The Cherrie Brooks comment dated July 16, 2024, did not address relevant criteria to the application. Consequently, the Board did not consider these comments. Carol Macbeth filed two comments on behalf of Central Oregon Land Watch, one on July 24, 2024, and a second comment on August 8, 2024. Both contained arguments regarding subjects raised before the Hearings Officer below, and introduced additional facts. Applicant addressed all relevant arguments

raised within the allowed time periods for rebuttal, submitting supplemental evidence where needed. The Board considered all arguments raised in deliberations, finding the Macbeth arguments unpersuasive.

Planning Division’s inquiry to DLCD addressed whether ADUs could be allowed on the Subject Property if it were rezoned. DLCD entered a comment into the Record on the afternoon of the last day of the Open Comment Period, noting that the unusual circumstances of the proposed rezone make the approval of ADUs “entirely up to the county...” [underline original]. Applicant, in rebuttal period, addressed the possibility of the rezone impact with additional evidence and argument. The Board considered the argument in deliberations, finding Applicant addressed the issue to the Board’s satisfaction.

III. FINDINGS

This Board adopts the Recommendation for Approval, as supplemented by noted Findings related to matters which arose after the Recommendation was issued.

1. Subject Property as “Agricultural Land” with respect to Soils

Statewide Planning Goal 3, OAR 660-033-0020(1)(a)(A)

FINDING: The Board adopts the Recommendation unanimously, finding that the Subject Property is predominantly NRCS Class VII and VIII soils, and consequently is not Agricultural Land.

2. Subject Property as “Agricultural Land” with respect to Factors

Statewide Planning Goal 3, OAR 660-033-0020(1)(a)(B)

This rule analyzes what constitutes “Agricultural Land” as referenced in Statewide Planning Goal 3. One of those factors is “existing and future availability of water for farm irrigation purposes.” At the time of the Public Hearing before Hearings Officer Frank and in the Open Record period leading up to draft of the Recommendation by Hearings Officer Frank, confirmation from Swalley Irrigation District was not available to verify the status of irrigation water appurtenant to the Subject Property. The Hearings Officer’s Findings noted on Page 46, paragraph 2, that irrigation rights did exist at the Subject Property. He went on to note that existence may be suggestive of agricultural land, but standing alone, did not determine that the land was agricultural land.

On August 7, 2024, Applicant submitted Exhibit 42 into the Record before the Board. That Exhibit conclusively determined by letter from Swalley Irrigation District dated August 1, 2024, that there are no longer any Swalley water rights on the Subject Property.

FINDING: The Board adopts the Recommendation regarding “Agricultural Land” where it is determined that the Subject Property is not properly characterized as Agricultural Land. By correction, the Board finds that no irrigation water rights exist at the Subject Property, as evidenced by Exhibit 42 in the Record, Swalley Letter of No Appurtenant Water Rights. This does not change the Hearings Officer’s conclusion that the Subject Property is not Agricultural Land.

The Board adopts the Recommendation by a vote of 2 to 1, finding that the Subject Property is not Agricultural Land when considering factors established by the Goal, the Administrative Rules, Oregon Revised Statutes, and relevant common law.

3. Subject Property as “Agricultural Land” when considering Adjacent or Nearby Agricultural Lands

Statewide Planning Goal 3, OAR 660-033-0020(1)(a)(C)

FINDING: The Board unanimously adopts the Recommendation, finding no adjacent or nearby agricultural lands and no evidence to suggest that a nearby farm would benefit from agricultural use of the Subject Property including use as a storage or maintenance facility.

4. Goal 14 Exception Requirement

Statewide Planning Goal 14

FINDING: The Board adopts the Recommendation by a vote of 2 to 1, finding that the Plan Amendment / Zone Change proposed will not result in urbanization such that an exception to Goal 14 is required.

5. Allowance of Accessory Dwelling Units under ORS 215.495, ORS 215.501 on Rural Lands, such as Subject Property

Transportation Planning Rule, OAR 660-012-0060, DCC 18.116.310(E)(4)

A question posed by a member of the public at a public hearing preceding the subject application on July 24, 2024, raised the issue of whether ADUs would be allowed on rural lands rezoned without necessity of exception to Statewide Planning Goals under ORS 215.495 and ORS 215.501, recently effective. Such additional use could pose concerns related to increased density on rural lands and rural roadways. Planning Division staff addressed the question to the DLCD. DLCD’s response was received and submitted into the Record on August 7, 2024. The Department’s response was inconclusive, noting that “[t]he department concludes approved rezones of resource land could result in the development of ADUs if the county permits rural ADUs on non-resource lands.”

Applicant subsequently submitted Transight Consulting Transportation’s Errata, providing an analysis of possible ADU impacts resulting from approval of the subject rezone. It is entered into the Record as Exhibit 43. It concludes that the additional ADU-related trips would not violate applicable standards.

FINDING: The Board finds unanimously that ADUs, if allowed on the Subject Property, are not foreseen to reduce operation levels on OB Riley Road and Destiny Court to an unacceptable level of service, based on the expected trip generation for 14 ADUs. The Board further finds ADUs would not change the functional classification of existing roads, change standards implementing a functional classification system, or result in types of travel that are inconsistent with the functional classification of existing roads. For purposes of the Transportation Planning Rule (OAR 660-012-0060) a significant impact does not occur with or without the inclusion of ADUs on the Subject Property.

IV. DECISION:

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of County Commissioners hereby **APPROVES** the Applicant’s application for a Deschutes Comprehensive Plan Amendment and Zone Change for the Subject Property.

HEARINGS OFFICER RECOMMENDATION

FILE NUMBERS: 247-22-000436-ZC / 247-22-000443-PA / 247-23-000651-MA

HEARING: February 27, 2023, 6:00 p.m.
Zoom & Barnes & Sawyer Rooms

SUBJECT PROPERTY APPLICANT/OWNER: Mailing Name: DESTINY COURT PROPERTIES LLC (“Applicant”)
Maps and Tax Lots: 1712070000100¹
Accounts: 113037
Situs Address: 19975 DESTINY CT, BEND, OR 97703
 (“Subject Property”)

***Note:** The Subject Property has been recently reconfigured as part of a property line adjustment.*

APPLICANT’S ATTORNEY: Elizabeth Dickson (“Dickson”), Dickson & Hatfield LLP

REQUEST: The Applicant requested a Deschutes County Comprehensive Plan Amendment to change the designation of the Subject Property from Agricultural (“AG”) to Rural Residential Exception Area (“RREA”); and a Zone Change to rezone the Subject Property from Exclusive Farm Use – Tumalo/Redmond/Bend Subzone (“EFU”) to Multiple Use Agricultural (“MUA”).

Note:** The Applicant also applied for conditional use and tentative plan approval for a 14-lot residential Planned Unit Development (“PUD”). The development proposal request is **not a part of this review.

STAFF PLANNER: Caroline House, Senior Planner
Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-22-000436-zc-247-22-000443-pa-destiny-court-properties-llc-comprehensive-plan-amendment>

I. APPLICABLE CRITERIA

Deschutes County Code (“DCC”)

Title 18, Deschutes County Zoning Ordinance

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.16, Exclusive Farm Use Zones (“EFU”)

Chapter 18.32, Multiple Use Agricultural (“MUA10”)

Chapter 18.56, Surface Mining Impact Area Combining Zone (“SMIA”)

Chapter 18.84, Landscape Management Combining Zone (“LM”)

Chapter 18.136, Amendments

¹ The Deschutes County Assessor’s Office updated the tax map between the mailing of the Notice of Public Hearing and the release of The County Planning Staff Report. The Subject Property is now identified as a singular tax lot and account (ref. TL 100 / 113037).

Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.20.055, Modification of Application

Deschutes County Comprehensive Plan (“DCCP”)
Chapter 2, Resource Management
Chapter 3, Rural Growth Management
Appendix C, Transportation System Plan

Oregon Administrative Rules (“OAR”) Chapter 660
Division 6, Forest Lands
Division 12, Transportation Planning
Division 15, Statewide Planning Goals
Division 33, Agricultural Land

II. BASIC FINDINGS

LOT OF RECORD: The Subject Property is one (1) legal lot of record (County file no. 247-22-000433-LR) and its current configuration reflects a recently perfected property line adjustment (County file no. 247-23-000653-LL). The Hearings Officer incorporates as additional findings for this section the Applicant’s comments (Supplemental Rebuttal, 11/23/2022, pages 3 – 4) and the decisions rendered in 247-22-000433-LR/247-23-000653-LL.

ZONING: The Subject Property is zoned EFU-TRB subzone and is partially located in the LM and SMIA Combining Zones. The recently perfected property line adjustment removed all Flood Plain (“FP”) zoned areas on the Subject Property (County file no. 247-23-000653-LL) and the Applicant filed a Modification of application to incorporate the changes associated with the reconfigured property (County file no. 247-23-000651-MA).

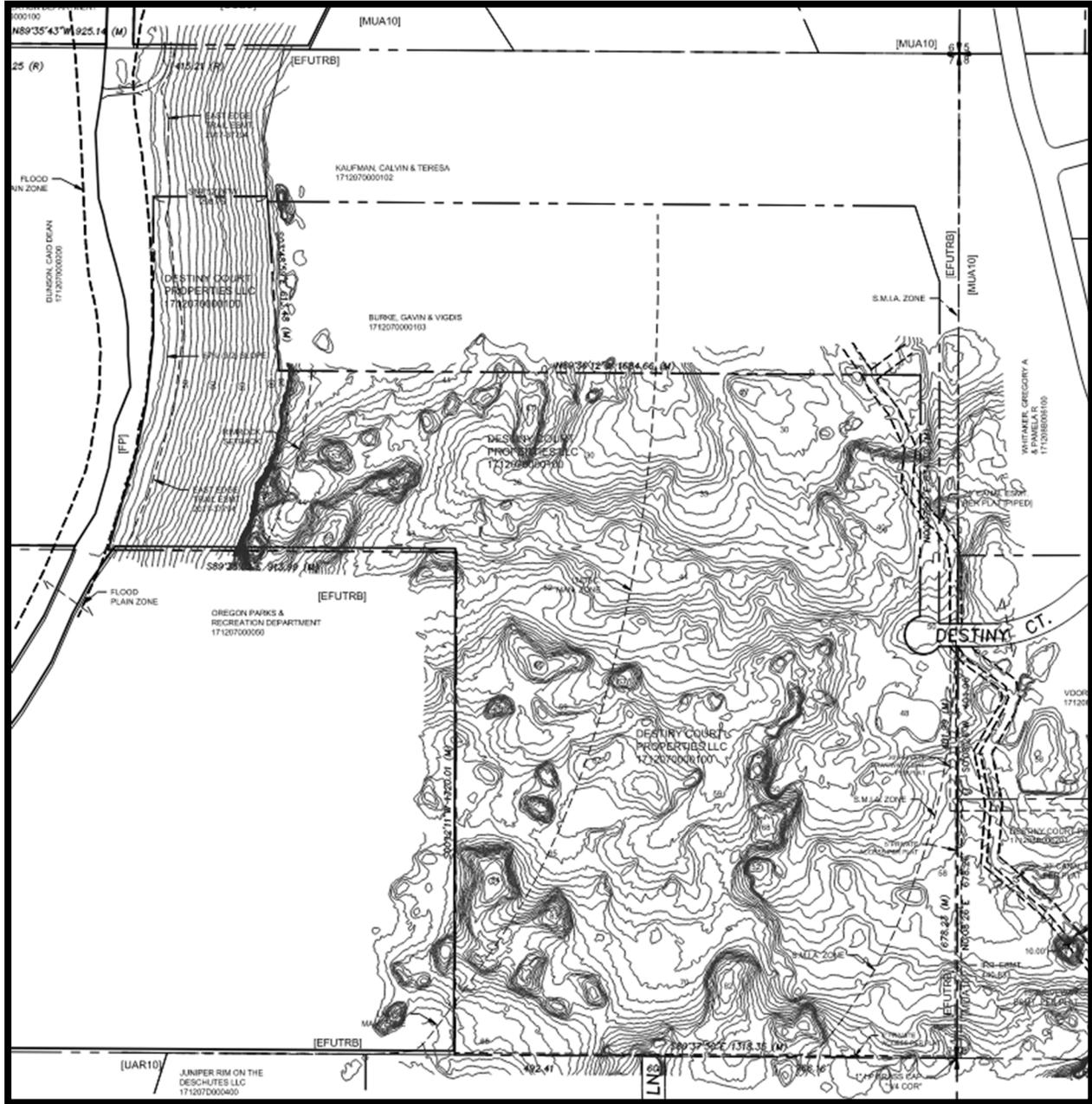
SITE DESCRIPTION: According to the Applicant’s materials, the Subject Property is +/-65.1 acres in size, irregularly shaped, and there are no structures or improvements on the Subject Property except for a small pond adjacent to the eastern property line and near the terminus of Destiny Court. Some areas of the Subject Property have been previously used for raising livestock and/or horses. Irrigation water rights (Swalley Irrigation District), once existing at the Subject Property but may have been transferred. The Subject Property is not currently being used for farming purposes. The remaining undisturbed areas of the Subject Property consist of native vegetation and rock outcroppings.

Destiny Court, a paved County Road², terminates at the northeastern Subject Property line and Northern Estates Lane, a paved Local Access Road³, terminates at the southern Subject Property line. As shown in *Figure 1* below, grade varies across the property with the most dramatic changes along the northwestern corner of the Subject Property, which consists of rimrock along the Deschutes River canyon. The nearest boundary for the City of Bend’s Urban Growth Boundary (“UGB”) is located approximately 2,000 feet to the southeast of the Subject Property.

² Per DCC 12.04.060, "County Road" means a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016 and maintained by Deschutes County.

³ Per DCC 12.04.060, "Local Access Road" means any public street or road which is not maintained by the County but over which the County has jurisdictional authority.

Figure 1 – Topographical Map of the Subject Property



SOILS: The Natural Resources Conservation Service (“NRCS”) map shown on the County’s DIAL GIS mapping program identifies three (3) soil complex units on the Subject Property: 38B, Deskamp-Gosney complex, 0 to 8 percent slopes, 58C, Gosney-Rock outcrop-Deskamp complex, 0-15 percent slopes, and 106E, Redside Licksillet complex, 30-50 percent slopes.

An Agricultural Soils Capability Assessment (Order 1 Soil Survey – referred to by the Hearings Officer as the “Site-Specific Study”) was conducted by Brian T. Rabe, CPSS, WWS, for the majority of the Subject Property and found the following⁴:

“Cascade Earth Sciences (CES) was retained to conduct a site-specific soil survey on a substantial portion

⁴ Ref. Applicant’s Exhibit 3 and Exhibit 24.

of the above referenced parcels (Site) consisting of approximately 63 acres. The subject acreage is zoned Exclusive Farm Use Tumalo Redmond Bend (EFUTRB). Those areas not specifically evaluated generally consisted of steeper slopes with rocky soils leading into the adjacent Deschutes River canyon. We understand that an application to Deschutes County is being prepared to request a zone change to a non-resource designation (rural residential). The soil-related criteria for this process is contained in Oregon Administrative Rules (OAR) 660-033. Parcels need to consist predominately of soils in land capability classes VII and VIII to be considered for a non-resource designation.

...

SUMMARY AND CONCLUSIONS

The purpose of this report is to present the results of an assessment to verify and, where necessary, refine the soils, map units, and boundaries mapped on the Site and to determine whether the soils on the Site meet the land capability classification criteria for a non-resource zoning designation. The published soil survey information was reviewed and direct observations of soil conditions were made at representative locations across the Site. CES has determined that the information from the published soil survey was generally consistent with observations on the ground with boundary refinements limited to delineating components of the complexes mapped by the NRCS. CES has determined that 41.35 acres, or 65.8 percent, of the Site consists of Class VII and Class VIII soils. Since the Site is predominantly Class VII and Class VIII soils and does not otherwise meet the criteria for further consideration as agricultural land, the Site meets the soils criteria for consideration of a non-resource zoning designation.”

Further discussion regarding soils is found in the findings related to DCC 18.04.030 and Statewide Planning Goal 3 below.

LAND USE HISTORY:

- **LR-94-42:** The County approved a Lot of Record Verification.
- **MP-94-29:** The County approved a three-parcel partition. The Subject property was originally platted as a part of Parcel 1 (ref. PP1995-05).
- **CU-95-68:** The County conditionally approved a non-farm dwelling on Parcel 1 of MP-94-29.
- **MP-96-07/FPA-96-39:** The County approved a three-parcel partition. The Subject Property was platted as a part of Parcel C (ref. PP1995-05).
- **V-97-3/LL-97-10:** The County approved a minor variance and a lot line adjustment between the Subject Property and properties identified on Assessor’s Map 17-12-07, as tax lots 102 and 103.
- **E-97-16:** The County approved a 1-year extension of CU-95-68.
- **E-98-28:** The County approved a 2-year extension of CU-95-68.
- **E-99-26:** The County approved a second 2-year extension of CU-95-68.
- **LM-00-195/SMA-00-33:** Site plan approval for the previously approved non-farm dwelling in the Landscape Management and Surface Mining Impact Area Combining Zones. However, the non-farm dwelling use was never initiated and the approvals expired.
- **247-22-000433-LR:** The County found the Subject Property is recognized as one legal lot of record.
- **247-23-000653-LL:** The County approved a property line adjustment between the Subject Property and a property identified on Assessor’s Map 17-12-07, as tax lot 200.

SURROUNDING LAND USES: Staff (Staff Report, pages 5 - 6) provided the following descriptive summary of surrounding uses and zoning:

North: The two closest properties to the north are zoned EFU-TRB and are developed with non-farm dwellings. Beyond these two properties is Tumalo State Park and other residentially developed MUA10 zoned properties. Tumalo State Park is zoned Open Space & Conservation Zone “(OS&C)”, FP, MUA10, and EFU-TRB.

East: The properties to the east are zoned MUA10 and are predominantly developed with residential uses. The lot sizes vary from less than one (1) acre to 16 acres. State Highway 20 is approximately 1,700 feet to the east.

South: The properties to the south-southwest are platted 10-acre residential lots in the Pacific Cascade Heights and Juniper Rim subdivisions. These properties are zoned Urban Area Reserve Zone (“UAR10”). The properties to the south-southeast are also residentially developed and zoned UAR10. However, these lots are not part of a recorded subdivision or partition and range in size from +/- .96 acres to +/- 17.84 acres. Further to the south is a large UAR10-zoned tract of land owned by the Elkins Revocable Trust and Bend Metro Parks & Recreation District’s Riley Ranch Reserve. As noted above, the City of Bend’s UGB is approximately 2,000 feet to the southeast and properties within the UGB are in the City of Bend’s zoning jurisdiction.

West: The Oregon Parks & Recreation Department owns the abutting land to the west-southwest. The Deschutes River crosses this property and continues generally in a north-south direction. This Oregon Parks & Recreation Department property is zoned EFU-TRB and FP and appears to be undeveloped. However, there is a public trail along the banks of the Deschutes River connecting Tumalo State Park, to the north, and Riley Ranch Reserve, to the south. Abutting the northwest corner of the property is a privately owned EFU and FP zoned property that is developed residentially and also includes a segment of the publicly accessible trail connecting Tumalo State Park and Riley Ranch Reserve. Further to the west is Surface Mining Site No. 303, which Oregon Department of Geology and Mineral Industries (“DOGAMI”) identifies as a “permitted”⁵ surface mine, and privately owned EFU-TRB zoned properties.

Applicant provided additional comments related to the site description in its March 19, 2024 record submission. The Hearings Officer incorporates the Applicant March 19, 2024 (pages 6 – 10) surrounding property descriptions as additional findings for this section. See also the Hearings Officer’s findings for Section 2.7, Open Spaces, Scenic Views and Sites Open Space and Scenic View Designations and Protections.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 3, 2022, and September 9, 2023, to several public agencies and received the following comments:

Bend Fire & Rescue, Jason Bolen

A three-page letter was submitted by Bend Fire & Rescue and is incorporated herein by reference.

STAFF REPORT COMMENT: The Bend Fire & Rescue comments appear to be related to the Fire Department standards that apply to the 14-lot PUD. This request is not a part of this review.

Deschutes County Addressing Coordinator, Tracy Griffin

Addresses and street names for this proposed subdivision will be determined and approved during the tentative plat phase of this development.

⁵ DOGAMI’s *Mining Permit & Status Code Reference* defines “permitted” as Certificate, Exemption, or Permit has been approved and issued - does not necessarily indicate site is active.

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Onsite Wastewater Division, Todd Cleveland

Prior to final plat approval, each proposed residential lot must have a complete approved site evaluation.

Deschutes County Road Department, Cody Smith

I have reviewed the application materials for the above-referenced file numbers, proposing 14-lot PUD subdivision of Tax Lots 100 and 101 on County Assessor’s Tax Map 17-12-07 and Tax Lot 6201 on County Assessor’s Tax Map 17-12-08B. The subject property is accessed by Destiny Court, which presently terminates at the eastern boundary of the subject property, and Northern Estates Lane, which presently terminates at the southern boundary of the subject property. Road Department records indicate that both roads have the following attributes where they abut or provide access to the subject property:

Destiny Court

- Road Status: County Road
- Surface Type: Asphalt Concrete
- Surface Width: 28 feet
- Functional Classification: Rural Local
- Right of Way Width: 60 feet
- Right of Way Instrument: Partition Plat No. 1995-5

Northern Estates Drive

- Road Status: Local Access Road
- Surface Type: Asphalt Concrete
- Surface Width: 28 feet
- Functional Classification: Rural Local
- Right of Way Width: 60 feet
- Right of Way Instrument: Partition Plat No. 1995-5

Where they provide access to or abut the subject property, Destiny Court and Northern Estates Drive meet or exceed the minimum rural local road standards given in Deschutes County Code (DCC) 17.48A

The applicant has proposed an interior private road system that would be an extension of both Destiny Court and Northern Estates Drive. Staff note that the site traffic report submitted with the application materials recommends that “All internal streets should be constructed within a dedicated public access easement.” State law and DCC do not differentiate between “public access easements” and “public rights of way”; they are one and the same. Road Department staff assume that the applicant’s intent is to build public internal roads to the private road standard.

Deschutes County Road Department requests that approval of the proposed land uses be subject to the following conditions:

Prior to construction of road improvements:

- Applicant shall submit road improvement plans and stormwater drainage report to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. The roads shall be designed to the minimum road standard given in 17.48.160, 17.48.180, and 17.48A. Stormwater drainage shall be designed in accordance with DCC 17.48.190 and the latest edition of the Central Oregon Stormwater Manual. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48.

Prior to final plat approval by Road Department:

- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- If roads are dedicated to the public, applicant shall dedicate internal road rights of way to provide for the minimum standard rural local road right of way width of 60 ft. pursuant to DCC 17.16.105, 17.36.040, 17.36.060, and 17.48A. Dedication shall be by plat declaration.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
- The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

STAFF REPORT COMMENT (page 8): Most of the comments above appear to be related to DCC standards that apply to the 14-lot residential PUD. This request is not a part of this review.

Deschutes County Senior Transportation Planner, Peter Russell (June 23, 2022)

I have reviewed the transmittal materials for 247-22-000346-ZC/438-TP/439-CU/443-PA/433-LR/434-LR/435-LR for properties totaling approximately 83 acres to change the Comprehensive Plan designation from Agriculture to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The properties lie in the Exclusive Farm Use (EFU), Surface Mining

Impact Area (SMIA), Landscape Management (LM) and Flood Plain (FP) zones and add a 14-lot Planned Unit Development (PUD) at 19975 and 19995 Destiny Ct., aka County Assessor’s Maps 17-12-07, Tax Lots 100 and 101 and 17-12-08B, Tax Lot 6201. For reasons discussed below, staff finds more information is needed to address the Transportation Planning Rule (TPR).

Deschutes County Code (DCC) 18.116.310(4) requires a 20-year analysis for zone changes. The application has submitted what in essence is a trip generation memo from Transight, the applicant’s traffic engineer, that is dated Sept. 15, 2021. The memo does not have any operational analysis regarding performance of affected intersections. Staff therefore cannot determine compliance with the TPR at Oregon Administrative Rule (OAR) 660-012-0060 for significant effect. The applicant needs to provide operational analysis of the affected intersections pre-zone change and post-zone change. Staff does agree with the consultant that the difference in trip generation between EFU and MUA-10 is negligible. Historically, staff has used single-family home as its base case for reasonable worst-case scenario for uses in the EFU zone. The outright permitted uses are listed at DCC 18.16.020. The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual lists Single Family Detached Home (Land Use 210) has having 9.43 weekday trips. Staff has also reviewed the outright permitted uses in the MUA-10 at DCC 18.32.020 as well as the outright permitted uses listed in Oregon Revised Statute (ORS) 215.213(1) and 215.283(1).

The property accesses Destiny Court, a public road maintained by Deschutes County, and functionally classified as a local. The property has an access permit approved by Deschutes County (#247-SW1403) and thus complies with the access permit requirements of DCC 17.48.210(A).

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC RATE IS ONLY VALID UNTIL JUNE 30, 2022. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

BEGINNING JULY 1, 2022, THE SDC RATE WILL INCREASE TO \$5,080 PER PEAK HOUR TRIP AND LAST UNTIL JUNE 30, 2023. AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.

STAFF REPORT COMMENT (page 9): In response to Mr. Russell’s comments above, the Applicant submitted a supplemental transportation memorandum dated August 8, 2022⁶.

⁶ Ref. 2023-09-15 E. Dickson - Destiny Transportation Analysis Response.

Deschutes County Senior Transportation Planner, Tarik Rawlings, October 17, 2023

I have reviewed the transmittal materials for 247-23-000651-MA, 652-MA, 653-LL which modifies original files 247-22-000436-ZC/438-TP/439-CU/443-PA/433-LR/434-LR/435-LR for properties totaling approximately 83 acres to change the Comprehensive Plan designation from Agriculture (AG) to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The properties lie in the Exclusive Farm Use (EFU), Surface Mining Impact Area (SMIA), Landscape Management (LM) and Flood Plain (FP) zones and add a 14-lot Planned Unit Development (PUD) at 19975 and 19995 Destiny Ct. recognized on County Assessor’s Maps 17-12-07 as Tax Lots 100 and 101 and 17-12-08B as Tax Lot 6201. For reasons discussed below, originally stated in response to the initial Plan Amendment/Zone Change/Tentative Plat application, staff finds that the additional information provided by the applicant and their traffic engineer addresses the requests made in the County Transportation Planner’s original June 23, 2022 comment.

I have reviewed Mr. Bessman’s August 8, 2023, Site Traffic Report/TPR Analysis related to the subject application and I agree with the assumptions, methodology, and conclusions contained therein. As Mr. Bessman utilizes the 2040 planning horizon year (reflective of the most recent data included in the County’s forthcoming Transportation System Plan update) this analysis appears to comply with relevant criteria. Mr. Bessman utilizes the acceptable road segment standard of 13,900 Average Daily Trips (ADT) which is incorporated into the County’s most recent 2020-2040 Transportation System Plan. The analysis and references therein related to peak hour trips (16 to 22 total weekday p.m. peak hour trips) are adequate. Staff agrees with Mr. Bessman’s summary of Transportation Planning Rule (TPR) Compliance and finds that relevant TPR provisions appear to be satisfied through the submittal of this additional information.

The property accesses Destiny Court, a public road maintained by Deschutes County, and functionally classified as a local. The property has an access permit approved by Deschutes County (#247-SW1403) and thus complies with the access permit requirements of DCC 17.48.210(A).

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,603 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC RATE IS ONLY VALID UNTIL JUNE 30, 2024. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

BEGINNING JULY 1, 2024, THE SDC RATE WILL INCREASE AND LAST UNTIL JUNE 30, 2025. AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.

Oregon Department of Land Conservation & Development, Hilary Foote

DLCD has reviewed a soil assessment as requested by Ron Cochran for QRR Properties LLC. Attached are the soil assessment, DLCD completeness review, and DLCD application form.

In accordance with OAR 660-033-0045(6)(a), the Department of Land Conservation and Development (DLCD) finds that this soils assessment is complete. DLCD has reviewed the soils assessment for

completeness only and has not assessed whether the parcels qualify as agricultural land as defined in OAR 660-033-0020(1) and 660-033-0030.

The county may make its own determination as to the accuracy and acceptability of the soils assessment.

Oregon Parks and Recreation Department, Fiona Noonan

Based on the information in this Notice of Application, tax lots 1712070000100, 1712070000101, and 1712070000200 are all within the Middle Deschutes State Scenic Waterway. To my understanding, no structural development has been proposed here yet, but please correct me if I’m wrong. If/when the relevant property owners wish to build or remodel any structures, remove/alter vegetation, or conduct other similar activities, they will need to submit a Notification of Intent Application to the State Scenic Waterway Program. If possible, please have them reach out to me directly beforehand.

The following agencies did not respond to the notice: 911, Bend Metro Parks & Recreation, Deschutes County Assessor, Deschutes County Sheriff, Deschutes County Surveyor, Oregon Department of Agriculture – Land Use Planning Coordinator, Oregon Department of Environmental Quality, Oregon Department of Fish & Wildlife, Oregon Water Resources Department (Watermaster – District 11), and Swalley Irrigation District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the Subject Property on June 3, 2022, and September 9, 2023. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on June 15, 2022. Eleven (11) public comments were received. Staff, in the Staff Report, provided the following summary of the public comments:

1. *Road and traffic impacts*
2. *Design consistency of roads between developments*
3. *Damage to Northern Estates Lane during construction or development*
4. *Small Lot sizes*
5. *Lots should be at least 10 acres*
6. *Loss of natural habitat*
7. *Impacts on rural character of the area*
8. *Concerns the applications are incomplete*
9. *Need for the County to require a Road Maintenance Agreement*
10. *Comments in support of the PA/ZC request, but opposed to the 14-lot Planned Development*
11. *Need for equitable sharing of road maintenance costs*
12. *Concerns the applicable criteria are generally not met*
13. *Increased traffic impacts on O.B. Riley Road*
14. *Desire for a “peaceful wilderness environment” near Tumalo State Park*
15. *Spatial restrictions/5-acre minimum lot sizes associated with the LM Combining Zone*
16. *Open space acreage requirements*
17. *Cluster Development standards not being met*
18. *Lot of Record issues*
19. *Need for Goal 14 Exception*
20. *Establishment of “neighborhood-style subdivision housing” outside of the UGB*
21. *Need for fire gates between the proposed subdivision and Pacific Cascade Heights to reduce road maintenance, trespassing, vagrants, houseless, camping, speed contests, etc.*

STAFF REPORT COMMENT (page 12): *Most of the comments above appear to apply standards that will be evaluated during the review of the 14-lot residential PUD. As part of the County’s review of those applications,*

staff or the hearings body will address these comments and their relevancy to the applicable standards. Compliance with the applicable rural growth and transportation standards for a comprehensive Plan Amendment and Zone Change are addressed below. Staff notes the Lot of Record issue has been resolved as part of files nos. 247-22-000433-LR / 247-22-000435-LR / 247-23-000653-LL. The subject property is recognized as one (1) lot of record.”

The Hearings Officer concurs with the Staff characterizations and conclusions set forth in the above “Staff Comment.” The Hearings Officer addresses, in the context of findings for relevant approval criteria, concerns related to less than 10 acres (#5 above), rural character (#7 above), application incomplete (#8 above), lot of record (#18 above) and Goal 14 (#19 above) above in the findings for relevant approval criteria.

HEARING NOTICE: On January 19, 2024, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property, public agencies, and parties. A Notice of Public Hearing was also published in the Bend Bulletin on Sunday, January 21, 2024. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development (“DLCD”) on January 19, 2024.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change application is not subject to the 150-day review period.

III. FINDINGS & CONCLUSIONS

A. PRELIMINARY FINDINGS

1. Purpose of the Preliminary Findings

The Hearings Officer, in these Preliminary Findings, responds to issues raised by Central Oregon LandWatch (“COLW”) and the Staff. General public comments also raised one issue, also raised by COLW (Goal 14), addressed below. These Preliminary Findings are intended to provide an overview of the COLW issues, discussion of the relevant laws/rules related to those issues and the Hearings Officer’s legal interpretation of various sections of the DCC and State statutes/regulations relevant to the COLW issues. The Hearings Officer incorporates these Preliminary Findings as additional findings for relevant approval criteria.

2. Scope of this Recommendation

This recommendation focuses solely upon the Applicant requests to change the comprehensive plan designation and zone change designation for the Subject Property. For context, the Applicant initially requested approval for a Comprehensive Plan Amendment, Zone Change, Conditional Use/Tentative Plan (14-lot residential Planned Unit Development – PUD). Applicant removed the Conditional Use/Tentative Plan request. Approval criteria related to the Conditional Use/Tentative Plan request are **not** relevant approval criteria in this case.

Applicant also modified its proposal. In summary, the modification removed from the original application areas of the property zoned FP which reconfigured/reduced the area included in the Comprehensive Plan and Zone Change requests. The Hearings Officer will address criteria related to Applicant’s modification in the findings below.

3. Overview of Issues Raised by COLW

COLW (9/14/2024 email to Staff) raised “concerns” about Staff’s processing of the applications in this case. COLW expressed multiple concerns related to Applicant’s proposed site plan. These concerns related to Applicant’s initial request for conditional use/tentative plan approval. As noted in the Scope of Review section above, the Applicant removed the Conditional Use/Tentative Plan request from consideration in this case. COLW’s site plan concerns, as expressed in its 9/14/2024 email, are not relevant to the Hearings Officer’s decision in this case.

COLW, in the 9/14/2024 email, also expressed concerns related to tax lot 101; whether tax lot 101 is a lot of record (“Lot of Record Issue”) and raised concerns related to the applications in this case meeting Goal 14 (“Goal 14 Issue”). The Hearings Officer addressed above, in the findings set forth in Section II. Basic Findings, Lot of Record, COLW’s Lot of Record issue.

McBeth testified at the February 27, 2024 public hearing on behalf of COLW. McBeth, during her hearing testimony, suggested that the Planning Staff processing of the applications in this case “violated county process and procedures.” McBeth, during her hearing testimony, also argued that Statewide Planning Goals 3, 5 and 14 were applicable and that the applications did not adequately address those Goals. COLW, in an open-record submission (March 26, 2024), expanded upon its Goal 3 and 14 arguments.

4. Oregon Statewide Planning Goal 14

COLW argued that Applicant, in this case, failed to properly address Statewide Planning Goal 14. COLW, in a February 27, 2024 (page 4) record submission, stated the following:

“Goal 14 obligates local governments to establish urban growth boundaries that ‘identify and separate urbanizable land from rural land.’ The policy of Goal 14 is to contain urbanization within acknowledged UGBs. 1000 Friends of Oregon v. LCDC, 301 Or 447, 451-452 n3, 724 P2d 268 (1986) (Curry County). Goal 14 prohibits development that will undermine the effectiveness of an established UGB. Id. at 474.

This land is outside the Bend UGB. Deschutes County may not adopt a development pattern that conflicts with Goal 14 and its implementing rules. Sandy v. Clackamas County, 3 LCDC 139, 149-50 (1979) (‘If this development is allowed, then there may as well not be urban growth boundaries. [This] ...is a perfect example of how Goal 14 may, little by little, case by case, be rendered ineffective and useless in controlling urban sprawl.’).

The applicant's Burden of Proof explained:

‘Applicant proposes a planned development of fourteen approximately 1.75 acre lots on the newly zoned MUA-10 lands, grouped together and appropriately set back beyond the rimrock above the Deschutes River on the current Tax Lot 100.’

One dwelling per 1.75 acres is an urban density. This land outside the Bend UGB cannot be developed to an urban density without an exception to Goal 14.

In order to allow land use which any goal would prohibit, a local government must take an “exception” to that goal. Conversion of rural land to urban uses must be supported either by compliance with the requirements of Goal 14, or by an exception to that goal. Curry County, 301 Or at 477.

The Supreme Court has held that local governments must support any exceptions to Goal 14 by demonstrating that it is impracticable to allow any rural uses in the exception area. Id. at 489. It is not impracticable to allow

any rural uses on the subject property. As explained above, the property could be used for a riding school or other farm uses.

The integrity of the planning system depends on local governments starting from the assumption that lands will be used in compliance with the goals, unless specific circumstances justify departure from the state policy embodied in a particular goal.

The application does not demonstrate that it is impracticable to allow any rural uses on the subject property. No exception to Goal 14 has been proposed, and if it were, the application would not qualify. Therefore the application must be denied.”

COLW, in a March 26, 2024 submission (pages 1 – 2) stated the following:

“The policy embodied in Goal 14 is that land cannot be converted to urban uses prior to inclusion within an acknowledged urban growth boundary. The purpose of the goal is to provide for an orderly and efficient transition from rural to urban land use. Perkins v. City of Rajneeshpuram, 300 Or 1, 12 n. 15, 706 P2d 949 (1985).

The developer is mistaken that the density planned for the property is irrelevant. March 19, 2024 letter, p. 13. The record shows the applicant's objective is to develop a subdivision with 1.75- acre lots. The 2022 Burden of Proof refers to the 1.75-acre lot subdivision at pages 13, 24, 26, 32, 40, 44, 46, 47, 48, and 64. This objective is not denied by the developer.

In the unlikely event that the applicant prevails in this proceeding while denying it plans a subdivision with 1.75-acre lots on the property, the applicant will be estopped from requesting a subdivision with 1.75-acre or similar lots on the property in the future. Moreover such denial would raise the issue of candor toward the tribunal.

The decision in this case must be based on evidence in the record. The record shows the applicant's intent is a subdivision with small lot sizes at an urban density. Urban land uses in Oregon are restricted to lands inside an urban growth boundary. The applicant has not met its burden of showing compliance with Goal 14.”

The Hearings Officer finds that COLW raised a number of Goal 14 issues that must be addressed in this section of the Preliminary Findings. The Hearings Officer concurs with COLW that consideration of Goal 14, in this case, is relevant. *1000 Friends of Oregon v. Josephine County*, LUBA No. 2023-022 (2023) citing *Hess v. City of Portland*, 23 OR LUBA 343, 345 (1992). The Hearings Officer also notes that LUBA, in the *1000 Friends of Oregon v. Josephine County* opinion, stated that

“a petitioner who alleges that a decision violates Goal 14 by allowing conversion of rural land to urban uses must explain what urban use the decision allows.” citing *Wood v. Crook County*, 55 Or LUBA 165, 176-77 (2007)

The Hearings Officer interprets COLW’s above-quoted statements as asserting that the application in this case violates Goal 14 by (1) proposing a lot size of 1.75 acres (or, per Applicant’s final argument 1.7 acres), (2) failing to request a Goal 14 exception, (3), if an exception to Goal 14 was requested by Applicant it must demonstrate that it is impracticable to allow any rural uses in the exception area and (4) undermining the effectiveness of an established UGB. The Hearings Officer addresses these concerns in the findings below.

The first COLW Goal 14 issue relates to the possibility of Applicant utilizing a planned development type approach to develop the Subject Property. This possibility resulted in an application by the Applicant for conditional use and tentative plan approval for a 14-lot residential planned development. The conditional use/tentative plan

applications are not part of this case; this recommendation is limited to addressing approval criteria relevant to the comprehensive Plan Amendment and Zone Change applications. As such the Hearings Officer cannot consider specific lot sizes proposed in separate applications.

The Applicant seeks to change the comprehensive plan map designation from Agricultural (“AG”) to Rural Residential Exception Area (“RREA”) and the zoning map from Exclusive Farm Use (“EFU”) to Multiple Use Agricultural (MUA”). The Hearings Officer takes official notice that the current Deschutes County Comprehensive Plan (“DCCP”) has been acknowledged by the Oregon Department of Land Conservation and Development (“DLCD”). The Hearings Officer finds that DLCD’s acknowledgment is properly interpreted to mean that the current Deschutes County Comprehensive Plan met/satisfied all relevant Statewide Planning Goals including Goal 14.⁷

The Hearings Officer finds COLW did not argue that the comprehensive plan RREA designation or the zoning MUA zoning designation, per se, conflict with Goal 14. If COLW believes it did make such argument then the Hearings Officer finds that COLW argument was not sufficiently developed to allow the Hearings Officer to authoritatively respond.

The Hearings Officer finds that the MUA zoning (DCC 18.32.040 A) provides for various development alternatives. The Hearings Officer finds that each of the MUA alternative development alternative complies with Goal 14. Therefore, the Hearings Officer finds all allowed densities provided for in DCC 18.32.040 A comply with Goal 14. The Hearings Officer finds no Goal 14 exception is required for an application seeking a development alternative allowed by DCC 18.32.040 A.

The Hearings Officer finds Applicant did not seek an exception to Goal 14. The Hearings Officer finds it would be speculative and impermissible to, as part of this recommendation, to assess the likelihood of approval of a Goal 14 exception.

COLW argued (February 27, 2024, page 5) that the Oregon Supreme Court, in *1000 Friends of Oregon v. Land Conservation and Development Commission (Curry County)* 310 Or 447 @ 489 (1986) must demonstrate “that it is impracticable to allow any rural uses in the *exception area*.” [emphasis added by Hearings Officer]

The Hearings Officer finds that the COLW “impracticable” argument is not sufficiently described to allow the Hearings Officer, or a participant in this case, to authoritatively respond. Also, the Hearings Officer finds that there is no evidence in the record that the Subject Property is in an “exception area” and therefore COLW’s *Curry* reference to “exception area” is either inappropriate or misleading. In the alternative, the Hearings Officer responds to COLW’s “impracticable” argument by finding that the proposed RREA and MUA designations are rural uses (not urban uses); therefore, the Applicant’s proposal in fact involves rural uses.

The last COLW argument (as summarized by the Hearings Officer above) suggests that approval of the proposals in this case should be denied because they “undermine the UGB.” The Hearings Officer finds that this COLW argument is not sufficiently developed to allow the Hearings Officer, or any participant in this case, to authoritatively respond.

Additionally, the Hearings Officer finds that the purpose of the requested MUA zone is

⁷ *Central Oregon LandWatch v. Deschutes County*, LUBA 2023-006 (2023) (hereafter referred to as the “710 Properties Decision”): “The DCCP provides that the RREA comprehensive plan designation is implemented by the RR-10 and Multiple Use Agriculture (MUA) zones. We have no reason to believe that DLCD’s acknowledgment of the 2015 amendments as consistent with Goal 14 was premised on anything other than the conclusion that the RREA plan designation facially does not allow urban uses of rural land...We similarly conclude that the board of commissioners did not err in relying on DLCD’s acknowledgment of the 2016 amendments to conclude that the RR-10 zone facially complies with Goal 14.”

“to preserve the rural character of various areas of the County while permitting development consistent with that character.”

The MUA zone also is intended to “provide for an orderly and efficient transition from rural to urban land use.” (See DCC 18.32.010). The Hearings Officer finds, based upon this quoted language, is properly interpreted to mean that the MUA zone allows (current) rural uses in anticipation of (future) urban uses; a transitional zone.

The Hearings Officer takes note that the Subject Property is relatively close to the City of Bend UGB. However, that fact does not imply that a MUA level development of the Subject Property is somehow an urban use. Developing the Subject Property, consistent with the MUA zoning requirements, will result in a rural use and not an urban use.

Applicant, in its May 27, 2022 Burden of Proof, March 19, 2024 open-record submission and April 2, 2024 final argument set forth evidence and argument related to the so-called *Curry/Shaffer* urban versus rural determination factors. The Hearings Officer adopts those Goal 14 related Applicant comments as additional findings for this Preliminary Finding. The Hearings Officer finds the *Curry/Shaffer* factors are satisfied in this case and that the RREA plan designation and MUA zone allow rural and not urban uses. Further, the Hearings Officer reiterates that LUBA, in the *710 Properties Case (Central Oregon LandWatch v. 1000 Friends of Oregon, LUBA 2023-006)* clearly stated that the Deschutes County RREA plan designation and MUA zone designation, as acknowledged by DLCD, are rural designations and a site-specific *Curry/Shaffer* analysis is not necessary.

In conclusion, the Hearings Officer finds COLW’s Goal 14 legal arguments are not persuasive.

5. Oregon Statewide Planning Goal 3

Staff (Staff Report, pages 39 to 49) addressed various aspects of Goal 3 in the context of the evidence in the record for this case. Staff requested the Hearings Officer to address a number of Goal 3 issues. COLW raised Goal 3 issues in record submissions (February 27, 2024 and March 26, 2024) and in testimony offered at the public hearing.

a. Past Use of Subject Property

COLW (February 27, 2024, page 2) stated the following:

“The applicant’s materials indicate the property has been used for the raising of irrigated crops, a farm use. Thus the property meets the definition of ‘agricultural land.’ It is impossible to find that land that has already been in farm use cannot be put to farm use.”

COLW proffered the “past farming” argument in the past. *Central Oregon LandWatch v. Deschutes County, LUBA No. 2023-049* (hereafter the “*Marken Decision*”). COLW, in the *Marken Decision*, argued that there was evidence in the record that the property in that case was used (2005 to 2023) for growing hay and other crops which the owner received income. LUBA, in the *Marken Decision*, concluded:

“We agree with intervenor that petitioner has not established that photographic evidence of crops growing on a property is conclusive evidence that a property is ‘suitable for farm use,’ given that the definition of farm use includes farm activities undertaken ‘for the primary purpose of obtaining a profit,’ where other evidence demonstrates that growing crops did not generate a profit. OAR 660-033-0020(1)(a)(B); ORS 215.203(2)(a).”

The Hearings Officer rejects COLW’s argument that evidence of past farming practices on a property conclusively determines that a property is “agricultural land” under relevant Oregon law. The Hearings Officer, consistent with the *Marken Decision* finds that the Hearings Officer should consider past farming of the Subject Property in the context of all evidence contained in the record.

b. Irrigation Rights

COLW (March 26, 2024, page 3) asserted that the Subject Property has irrigation rights and those rights have been used in the past for crop production. COLW concluded that the existence and use of irrigation water rights constitutes “*irrefutable evidence that the land can be put to farm use for the production of irrigated crops.*” The Hearings Officer, for the reasons stated above in the “past farming” findings, disagrees with this COLW argument. The Hearings Officer finds that the existence of irrigation rights and the past use of those irrigation rights for crop production must be considered in the context of all evidence contained in the record.

c. Profitability

COLW (March 26, 2024, page 3) provided the following statement related to “profitability”:

“The applicant misinterprets the applicable law in arguing that profitability in its March 19, 2024 letter. Profit is not a consideration in the definition of agricultural land use in Deschutes County. DCC 18.04.030 (land put to the listed farm uses meets the definition of agricultural use ‘whether for profit or not.’)”

DCC 18.04.030 defines “agricultural land” as follows:

“... lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominately Class I-VI soils, and other lands in different soil classes which are suitable for farm use, taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural lands in any event.”

The Hearings Officer agrees with COLW that the word “profit” is not included in the above-quoted definition. However, this section of the DCC is essentially the same as OAR 660-033-0020(1); COLW references OAR 660-033-0020(1) in its February 27, 2024 record submission in the context of Goal 3.

The standard analysis of Goal 3 starts with the text of Goal 3 and OAR 660-033-0030 and then references OAR 660-033-0020(1)(A). DCC 18.04.030 (definition of “agricultural land”) and OAR 660-033-0020 (1)(A) both reference “accepted farming practices” which has consistently been interpreted to incorporate the definition of “farm use” found in ORS 215.203(2)(a). See *Marken Decision and 710 Properties Decision*.⁸

LUBA has consistently considered profitability in the context of ORS 215.203 and OAR 660-033-0020. What weight to be given to profitability, on the other hand, has been the subject of significant debate. The Hearings Officer disagrees with COLW’s statement that profitability is not a factor to be considered in determining whether the Subject Property is, or is not, agricultural land.⁹

⁸ *Central Oregon LandWatch v. 1000 Friends of Oregon*, LUBA Nos. 2023-006, & 2023-009 (2023) (the *710 Properties LUBA Decision* stated “...OAR 660-033-0020(1)(a)(B) defines “agricultural land” to include land that is ‘suitable for farm use’ based on a number of factors, and ORS 215.203(2)(a) defines ‘farm use’ to include farm activities that are undertaken ‘for the primary purpose of obtaining a profit in money.’”

⁹ See DCC 18.04.030 definition of “Farm Use” does include the word “profit.”

d. Multiple (Alternative) Farm Uses

COLW suggests that multiple farm uses should, and perhaps must, be considered when determining whether the Subject Property is “agricultural land.” COLW referenced uses such as poultry, grapes, goats, honeybees, training of equines and riding lessons as examples of alternative farm uses. The Hearings Officer conceptually agrees that considering multiple farm related uses, such as suggested by COLW, may be appropriate on one or more properties in Deschutes County. The Hearings Officer notes that any alternative use must be considered in the context of the DCC 18.04.030 and OAR 660-033-0020(1)(a)(B) factors. The Hearings Officer finds that mere speculation of possible alternative uses is not sufficient to, standing alone, demonstrate that the Subject Property is “agricultural land.”

The Hearings Officer discusses the “multiple (alternative) farm uses” issue, in greater detail, in the findings for OAR 660-033-030.

e. Open Space

COLW provided the following comments (March 3, 2024, page 3) related to “open space” and “agricultural land:”

“The definition of agricultural land in Oregon is purposefully broad to meet the objectives of the states agricultural land use policy. ORS 215.243. While the legislature protects farmland primarily to protect Oregon’s agricultural sector, it has also declared that open space protected for agricultural use is ‘an important physical, social aesthetic and economic asset to all of the people of the state.’ ORS 215.243(1)”

The Hearings Officer finds that COLW failed to describe its “open space” argument with sufficient specificity as to allow the Hearings Officer, or any participant, the ability to meaningfully respond.

6. Modification of Application

COLW, through hearing testimony of McBeth, suggested that Applicant’s Modification application and the County’s handling of that application was somehow improper. The Hearings Officer reviewed McBeth’s testimony and concludes that COLW failed to identify any specific legal problem with the modification process. The Hearings Officer finds COLW’s modification argument was not presented with sufficient legal or factual specificity to allow the Hearings Officer, or any participant, the ability to authoritatively respond. COLW did not provide relevant law, code or relevant approval criteria potentially offended by Applicant’s Modification proposal or the County’s response to such application.

In the alternative, the Hearings Officer adopts as findings for this recommendation, Applicant’s comments contained in its March 19, 2024 record submission (pages 1 – 3, section titled “Application Compliance with Modification Law”).

7. 710 Properties Decision

Staff (Staff Report, pages 41 – 44) expressed concern about issues raised and decided in the *710 Properties Decision*. Staff provided the following comments:

“...since the subject request was received, LUBA remanded a locally approved Plan Amendment and Zone Change request back to Deschutes County for failing to fully address the requirements under OAR 660-033-0020(1)(a)(B) and OAR 660-033-0020(1)(a)(C).

LUBA reached the following conclusions in their Final Opinion and Order for Central Oregon Landwatch et al v. Deschutes County (LUBA Nos. 2023-006/2023-07, July 28, 2023)¹⁰:

[T]he Board of commissioners erroneously concluded (1) that it need not consider whether forage grown on-site can be supplemented by feed imported from off-site, (2) that land is suitable for the construction and maintenance of equipment and facilities used for farm activities only if those farm activities occur on the same land, and (3) that it need not consider nearby or adjacent land at all.

...

On Remand, the board of commissioners must consider the ability to use the subject property for farm use in conjunction with other property, including the Keystone property, and may not limit its review to the profitability of farm use of the subject property as an isolated unit. The board of commissioners must consider the ability to import feed for animals and may not limit its consideration to the raising of animals where adequate food may be grown on the subject property. The board of commissioners must also consider whether the subject property is suitable for farm use as a site for construction and maintenance of farm equipment. Furthermore, the board of commissioners must consider the evidence and adopt findings addressing the impacts of redesignation of the property related to water, wastewater, and traffic and whether retaining the property's agricultural designation is necessary to permit farm practices on adjacent or nearby lands.'

Staff asks the Hearings Officer to determine if the Applicant has sufficiently addressed the requirements of OAR 660-033-0020(1)(a)(B) and make detailed findings on this issue."

The Hearings Officer finds LUBA was clear, in the *710 Properties Decision*, that it is necessary and integral, when assessing whether a property is "agricultural land," to consider nearby and adjacent lands. Restated, LUBA clearly held that limiting analysis solely to the property subject to a plan amendment/zone change application is not appropriate. Less clear to this Hearings Officer is "how" such consideration of the various LUBA identified factors are to be analyzed.

LUBA, in the *710 Properties Decision*, addressed "source of feed," "on-site construction and maintenance of equipment and facilities," and "necessity of retaining the current Subject Property planning/zoning designations to permit farm practices on adjacent or nearby lands" as factors to be considered in the context of "nearby and/or adjacent" properties. The Hearings Officer finds the "source of feed" and "on-site construction and maintenance of equipment and facilities" are best analyzed in the context of the OAR 660-033-0020 evaluation factors (discussed above and later in relevant Goal 3 findings) and what use(s) is/are made of nearby and adjacent land parcels. The Hearings Officer finds the necessity of retaining the current planning/zoning designation analysis should also focus on the use characteristics of the nearby/adjacent properties and the transportation connections between the Subject Property and the nearby/adjacent properties. Finally, the Hearings Officer finds that all of the *710 Properties Decision* issues discussed above should be considered in the context of whether a reasonable farmer would have an expectation of obtaining a profit in money from growing crops or engaging in some other farm use on the Subject Property.

¹⁰ The Oregon Court of Appeals has affirmed LUBA's Final Order and Opinion and at this time it is unknown if a Petition for Judicial Review has been filed to the Oregon Supreme Court. [this footnote is part of the above-quoted Staff Report comments]

Title 18, Deschutes County Zoning Ordinance

Chapter 18.136, Amendments

Section 18.136.010, Amendments

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

FINDING: The Applicant requested a quasi-judicial Plan Amendment and filed the applications for a Plan Amendment and Zone Change. The Applicant filed the required Planning Division’s land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the DCC.

Section 18.136.020, Rezoning Standards

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

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

FINDING: The DCCP’s introductory statement explains land use must comply with the statewide planning system and sets out the legal framework set by State law. It also summarizes the Statewide Planning Goals and explains the process the County used to adopt the current DCCP. Prior Deschutes County quasi-judicial zoning approvals, some of which have been affirmed by LUBA and other appellate courts¹¹, have found that the introductory statement of the Comprehensive Plan is aspirational in nature and not necessarily approval criteria and it is appropriate to only respond to the DCCP goals that apply to a particular request.

The Applicant identified applicable DCCP provisions on pages 10-15 of their Burden of Proof. Staff (Staff Report, page 13) requested that the Hearings Officer consider, in greater depth, DCCP provisions related to protected Goal 5. The Hearings Officer addresses conformance with the DCCP and consistency with the applicable DCCP provisions in the Preliminary Findings and in subsequent findings for this recommendation.

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

FINDING: The Applicant provided the following response to this provision (Burden of Proof, pages 15 – 16):

“The proposed zone change from EFU to MUA-10 is consistent with the purpose and intent of the MUA zone classification. Per DCC 18.60, the stated purposes of the MUA-10 zone are:

‘The purposes of the Multiple Use Agricultural Zone is 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 sited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest

¹¹ *Central Oregon Landwatch v. Deschutes County*, 75 Or LUBA 441 (Aceti II), aff’d, 288 Or App 378, 405 P3d 197 (2017), *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (Aceti III), aff’d, 298 Or App 375, 449 P3d 534 (2019), *Central Oregon Landwatch v. Deschutes County*, ___ Or LUBA _ (LUBA No 2021-028, June 18, 2021) (Aceti IV), aff’d, 315 Or App 673, 501 P3d 1121 (2021), and *Central Oregon Landwatch v. Deschutes County*, (LUBA No 2022-075, December 6, 2022) (Aceti V).

lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.'

The MUA-10 zone is the optimal county zone to transition the Subject Property to a rural residential use. As detailed above and incorporated herein by reference, the subject property is not suited for agricultural use. This property is more appropriately zoned MUA-10. The Subject Property is currently zoned Exclusive Farm Use (EFU) likely due to general classification as undeveloped, rather than consideration of the agricultural capability of the land. The Property has never been successfully used for farming or pasture, despite repeated attempts over many years. Agricultural uses are also not practical or compatible with the existing residential uses surrounding the similar property, already zoned MUA-10.

This Comprehensive Plan Map and Zoning Map Amendment request will resolve the incorrect classification of the subject properties. Because most surrounding properties are used as MUA-10 properties, there is an incompatibility between the presently zoned EFU permitted uses and the adjacent, surrounding lands developed or committed for urban and residential uses. The requested Comprehensive Plan Map and Zoning Map amendments will result in a zoning assignment that is compatible with neighboring properties and the realities of the site, rather than the current EFU zoning, which poses potential conflict with established residential uses.

Rezoning of the Subject Property from EFU to MUA-10 will resolve the latent conflict between EFU permitted uses and the immediately adjacent rural residential uses. Furthermore, the Comprehensive Plan Map and Zone Map change will serve the interests of the northwest Bend residents, surrounding neighborhoods, and public investments in public facilities and services. This development will allow infrastructure to go "to and through" the subject property, connecting the development to the south with Destiny Court, giving better connectivity to the neighborhood, rather than a series of dead-ends and inaccessible lots.

The requested Rural Residential Comprehensive Plan Map designation is also sought at this time promote a logical transition for inclusion in a future expansion of the Bend UGB and/or in the designation of urban reserves. This request to re-designate and re-assign the Comprehensive Plan and Zoning Maps from Agriculture to Rural Residential and MUA-10, respectively, will allow this site to be developed in a transitional use.

The requested MUA-10 zone emphasizes the conservation of open spaces and the protection of natural and scenic resources. While the subject property is not suitable for agriculture, it does represent a significant planned open space area. The MUA-10 zone will encourage that preservation and protection while also maintaining consistency with the MUA-10 lands in the vicinity.

By allowing for single family dwellings as an outright permitted use (DCC 18.32.020(8)), the MUA-10 zone recognizes that rural lands may sometimes be better suited for residential use than agricultural uses, depending on their resource value. Other non-resource land uses are conditionally permitted; any nonresource land development proposal on the property other than a single family dwelling would not be allowed unless it was found to be consistent with the surrounding properties and the applicable conditional use evaluation standards. Therefore, the proposed change in zoning is consistent with the intent and purpose of the MUA-10 zone, and will be compatible with surrounding properties."

The Hearings Officer finds the Applicant’s above-quoted statements are credible and adequately address this provision. The Hearings Officer finds the Applicant demonstrated the change in classification is consistent with the purpose and intent of the MUA Zone.

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

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

FINDING: The Applicant provided the following response related to this provision (Burden of Proof, page 16):

“The proposed change from EFU will not require the extension of new public services to the subject property, other than expansion of the existing road system in the area. The site is already adjacent to urban infrastructure (Destiny Court and Northern Estates Lane). The site will be served by Avion Water Co. and on-site septic systems, accommodated by planned patterns of development. Thus, public facilities are available and can be efficiently provided to the site.

There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Development of the property under MUA-10 zoning would need to comply with applicable requirements of the DCC, including land use permits, building permits, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.”

The Applicant also provided the following response as part of their modification application (Applicant’s Second Supplemental Submittal, page 10):

“Public Facilities and Services demand will still be able to accommodate the proposal’s impacts, including Bend’s high school systems which added Caldera High School in the fall of 2021.”

The Subject Property is located in the Bend Rural Fire Protection District, Bend La Pine School District, and police services are provided by the Deschutes County Sheriff’s Office. Adjacent and nearby properties to the north, east, and south contain dwellings. These properties are served by Avion Water Company or onsite wells, onsite sewage disposal systems, electrical service, telephone service, and the regional public service providers noted above. No issues have been identified in the record regarding service provision to the surrounding area. The southeast corner of the Subject Property is located +/-2,000 feet from the City of Bend’s UGB.

The Hearings Officer finds that the close proximity to urban development will likely result in efficiency of providing necessary public services. The application materials include will-serve letters indicating electrical service and water service are available to the subject property. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the Subject Property, the Applicant will be required to comply with the applicable requirements of the DCC, including approval of required land use, building, and onsite wastewater disposal permits. Through the review of these development permits, assurance of adequate public services and facilities will be verified. The Hearings Officer finds this provision is met.

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

FINDING: The Applicant provided the following response related to this provision (Burden of Proof, pages 16-17):

“The relevant goals of the Comprehensive Plan are implemented through the MUA-10 purpose statement in the zoning ordinance, as set forth above. The zone is unique in that it serves as a transition between EFU

lands with productive soils and other rural lands that are "not suited to full time commercial farming" and are more appropriately suited for "diversified or part time agricultural uses." The MUA-10 zone retains consistency with EFU lands by allowing a limited array of rural uses and mandating a 10-acre minimum lot size (except in planned developments, in which the smaller lot sizes are offset by the 65% open space requirement). There are only a limited number of uses allowed in the MUA-10 zone that are not also allowed in the EFU zone. Further, the majority of the different non-resource land uses in the MUA-10 zone are conditional, thereby ensuring that potential impacts on surrounding land uses will be further reviewed by the County during each site specific land use application.

In summary, the MUA-10 zone remains a rural zone devoted to a mix of part-time agricultural and residential uses. This minimizes potential impacts on surrounding lands. The MUA-10 zoning would emphasize the continued protection of the open space and wildlife values of the property with the planned development design proposed, which distances homesites from the river's rim as well as surrounding uses."

In addition to the above-quoted comments, the Applicant provided specific findings for specific goals and policies contained within the DCCP, which are addressed below. DCCP goals and policies related to protected Goal 5 resources are addressed in the Preliminary Findings and relevant approval criteria later in this recommendation. Based upon the Preliminary Findings and subsequent findings related to Goal 5 the Hearings Officer finds that the Applicant demonstrated the impacts on surrounding land use will be consistent with all the relevant goals and policies contained within the DCCP.

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

FINDING: The Applicant proposed to rezone the Subject Property from EFU to MUA. The Applicant provided the following response to this provision (Burden of Proof, page 17):

"Circumstances have changed since the zoning of the property. When the property was first given an EFU zoning assignment, it was in the early days of Oregon zoning, approximately half a century ago. Much of our undeveloped and unirrigated lands were zoned EFU, for lack of a better zone or label, even though these parcels were dry and not farmable. If they weren't forest or already developed in a denser pattern, they were zoned farm by default. This property was zoned without detailed or site specific consideration given to its soil, geologic, and topographic characteristics. Now that a certified soils scientist has conducted a detailed Soils Investigation (See Exhibit 3), it is documented that the parcels do not qualify as farmland. The change in circumstance is the soil study. It also evidences a mistake of sorts in classifying poor soil as farmland.

In summary, the County's zoning of agricultural lands has been a process of refinement since the 1970s. The Subject Property has never been suitable for agriculture and has never been actively farmed successfully due to its poor soil. Although it was assigned EFU zoning, this property likely should not have been originally zoned EFU due to its location, soils, and geology. Therefore, the parcels should be rezoned to MUA-10, consistent with the zoning of adjacent rural-residential uses. The MUA-10 zoning assignment supports logical, compatible, and efficient use of the land."

The Hearings Officer finds that the Applicant demonstrated there has been a change in circumstances since the property was zoned to warrant rezoning the Subject Property from EFU to MUA.

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.20, Review of Land Use Action Applications

Section 22.20.055, Modification Of Application

A. **An applicant may modify an application at any time during the approval process up until the close of the record, subject to the provisions of DCC 22.20.052 and DCC 22.20.055.**

FINDING: The Applicant filed a Modification on September 1, 2023, which was 462 days following the submittal of the original applications and prior to the close of the record. Compliance with the remaining requirements of DCC 22.20.052 is addressed below.

The Hearings Officer incorporates, as additional findings for DCC 22.20.055 A, B, C and D, the Applicant’s comments contained in its March 19, 2024 record submission (pages 1-3). The Hearings Officer also incorporates the Preliminary Findings (III.A.3 - **Overview of Issues**) as additional findings for DCC 22.20.055 B, C and D.

B. **The Planning Director or Hearings Body shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in DCC 22.04) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 150-day time clock as of the date the modification is submitted. The 150-day time clock for an application, as modified, may be restarted as many times as there are modifications.**

FINDING: The Applicant applied for a Modification, paid all required modification fees, and agreed in writing to restart the 150-day time clock as of the date the Modification was submitted. The Plan Amendment and Zone Change are not subject to the 150-day clock. The Hearings Officer finds this criterion is met.

C. **The Planning Director or Hearings Body may require that the application be re-noticed and additional hearings be held.**

FINDING: Notice of the Modification was mailed to all parties on September 8, 2023. The initial hearing was held on February 27, 2024. The Hearings Officer finds that no additional hearings are necessary beyond what is required for a Plan Amendment and Zone Change request pursuant to DCC Title 22.

D. **Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Planning Director or Hearings Body's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.**

FINDING: The initial hearing occurred on February 27, 2024. The Planning Director determined the Applicant’s submittal constitutes a modification. DCC 22.04.020 establishes the following definition:

"Modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site lay out (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or

pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

The Hearings Officer incorporates the Preliminary Findings (III.A.3 - **Overview of Issues**) related to COLW's concern related to Applicant's Modification as additional findings for this section. The Hearings Officer takes note of Applicant's open-record submission (Dickson, March 19, 2024, pages 1-3). The Hearings Officer finds Applicant's open-record submission is credible and correctly characterizes Applicant's Modification actions in the context of relevant County law (DCC 20.20).

The Modification changes the site lay out in a manner that would require the findings of fact to be changed. The Modification removed the FP Zoned areas of the property and reconfigured/reduced the area included in the subject Plan Amendment and Zone Change request, which requires the findings of fact to be changed. To the extent a party wishes to challenge the County's decision to require a modification of application, it is appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.

The Hearings Officer finds Applicant's Modification proposal met/satisfied relevant County law.

Deschutes County Comprehensive Plan ("DCCP")

Chapter 2, Resource Management

Section 2.2, Agricultural Lands

Goal 1, Preserve and maintain agricultural lands and the agricultural industry.

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 11):

"As discussed below, the Applicant's soil study, NRCS soil data, and the submitted burden of proof effectively demonstrate that the subject property is not suitable for designation as Agriculture in the Comprehensive Plan. It does not contain the soils required for agricultural use. See Soil Study attached as Exhibit 3. These properties are not "agricultural" as defined by state statute and administrative rules. They are properly rezoned to exception land in accordance with their character."

The Applicant submitted into the record (Exhibit 24) a copy of the DLCD Soil Assessment Completeness Review, deeming said analysis complete. Applicant also provided supplementary evidence (March 19, 2024) and argument (April 2, 2024) addressing this section. The Hearings Officer finds the Applicant's Burden of Proof, March 19, 2024 evidentiary submission, and April 2, 2024 final argument are credible and persuasive with respect to this Goal. The Hearings Officer also incorporates, as additional findings for this section, Preliminary Findings for Goal 3 (III.A.5. – Oregon Statewide Planning Goal 3) and the Goal 3 findings set forth later in this recommendation. The Hearings Officer finds nothing in the record to dispute the Applicant's evidence and legal conclusions that soils are predominantly Class VII and VIII.

The Hearings Officer finds, based upon the evidence in the record and the incorporated findings that the Subject Property is not "agricultural land." The Hearings Officer also finds, based upon the record and incorporated findings, that approval of the requested Plan Amendment and Zone Change will not negatively impact the agricultural industry.

Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

FINDING: The Applicant is not seeking to amend the subzone that applies to the Subject Property; rather, the Applicant requests a change under Policy 2.2.3 and has provided evidence to support rezoning the Subject Property to MUA.

Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this policy.

Applicant requested approval of a Plan Amendment and Zone Change to re-designate the property from AG to RREA and rezone the property from EFU to MUA. The Applicant does not seek an exception to Goal 3 – Agricultural Lands, but rather to demonstrate that the Subject Property does not meet the state definition of “agricultural land” as defined in Statewide Planning Goal 3 (OAR 660-033-0020).

The Applicant provided the following response related to this Policy (Burden of Proof, page 11):

“The Applicant has applied for a Zone Change to rezone Tax Lots 100 and 101 from EFU(TRB) to MUA-10. The Applicant has also applied for a Plan Amendment to support this Zone Change, which would designate the approximately 69 acres as Rural Residential rather than Agricultural. Rather than pursuing an exception to Goal 3, which would ordinarily be the method of effectuating such a change, the Applicant has attempted to demonstrate that the subject property does not meet the state definition of “Agricultural Land”, as defined in Statewide Planning Goal 3 (OAR 660-033-0020). Neither of the tax lots are in farm production of any type and are unirrigated. It should be noted that farm production has been repeatedly attempted and has consistently failed. Now that the soil study has been performed, this result is understandable.

The Land Use Board of Appeals (LUBA) allowed this approach in Wetherell v. Douglas County, 52 Or LUBA 677 (2006). The County Hearings Officer also accepted this method in file PA-10-5 (Rose & Associates) and in Wetherell v. Douglas County, LUBA states at pp. 678-679:

‘As we explained in DLCD v. Klamath County, 16 Or LUBA 817, 820 (1988), there are two ways a county can justify a decision to allow nonresource use of land previously designated and zoned for farm use or forest uses. One is to take an exception to Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). The other is to adopt findings which demonstrate the land does not qualify either as forest lands or agricultural lands under the statewide planning goals. When a county pursues the latter option, it must demonstrate that despite the prior resource plan and zoning designation, neither Goal 3 or Goal 4 applies to the property. Caine v. Tillamook County, 25 Or LUBA 209, 218 (1993); DLCD v. Josephine County, 18 Or LUBA 798,802 (1990).’

The facts pertinent to the subject application are sufficiently similar to those in PA-10-5 to allow the Applicant to attempt to show that the subject property is not agricultural land, rather than seeking an exception to Goal 3 under state law. This criterion is satisfied.”

Additionally, the Applicant submitted the following as part of their Incomplete Letter Response titled Supplemental Submittal dated November 23, 2022:

“The Applicant has applied for a Zone Change to rezone Tax Lots 100 and 101 from EFU(TRB) to MUA-10. The Applicant has also applied for a Plan Amendment to support this Zone Change, which would designate the approximately 69 acres as Rural Residential rather than Agricultural.

Applicant submits to the record with this submittal a copy of the DLCD Soil Assessment Completeness Review, deeming said analysis complete, as Exhibit 24. Applicant submits to the record with this submittal an Affidavit by Mr. and Mrs. Ferguson attesting to their attempts to farm the subject property of the PA/ZC, and their failure to succeed. This is submitted as Exhibit 25.”

Staff agreed (Staff Report, page 21) that the evidence and argument presented by the Applicant in their Burden of Proof are similar to those in the *Wetherell* decisions and in the aforementioned Deschutes County Plan Amendment and Zone Change decision. Based upon the Applicant’s Burden of Proof (quoted above), supplemental discussion (quoted above), the Preliminary Findings for Goal 3 and the findings later in this recommendation related to Goal 3, the Hearings Officer finds that the Applicant has adequately demonstrated that the Subject Property is not “agricultural land” and does not require an exception to Goal 3 under state law.

Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

FINDING: The Applicant provided the following response to this Policy (Burden of Proof, page 12):

“This provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. In the findings for the previous Plan Amendment and Zone Change for the subject property, the County found that this policy does not impose a moratorium on requests for applications of this type, and that nothing in this policy prohibits the conversion of EFU parcels to other designations (see PA-1 1-7, also 247 -16-000318-PA, PA-10-5, PA-07-1). Previous determinations and the proposal are consistent with this policy.”

The Hearings Officer concurs with the Applicant’s analysis of prior decisions by the County and finds the requested Plan Amendment and Zone Change proposal is consistent with this policy.

Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.
Policy 2.2.13 Identify and retain accurately designated agricultural lands.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this policy.

This DCCP policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicant argued the Subject Property was not accurately designated as demonstrated by the soil study and record submissions (Burden of Proof, March 19, 2024 and April 2, 2024). Further discussion on the soil analysis is detailed under the OAR Division 33 criteria below.

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.

FINDING: In *Aceti IV* (247-20-000438-PA, 439-ZC), the Hearings Officer and the Board of County Commissioners (“BOCC”) adopted the following finding:

“The Hearings Officer found in Aceti 1 that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2 and ZC-14-2 that stated, “Nevertheless, in my decision in NNP I held it is not clear from this plan language what “water impacts” require review -- impacts to water supplies from use or consumption on the subject property, or Impacts to off-site water resources from development on the subject property.” The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County’s land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review “water impacts” because the Applicant has not proposed any particular land use or development. Thus, there are no “significant land uses or developments” that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County’s land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant’s requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant’s Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development.”

The Applicant is not proposing a specific development application as part of the application requests to be decided in this case. The Hearings Officer finds, consistent with the analysis in *Aceti IV* (247-20-000438-PA, 439-ZC), the Applicant is not required to demonstrate the water impacts associated with development. Rather, the Applicant will be required to address this criterion during a development application for the Subject Property. A subsequent development application would be reviewed under any necessary land use review process for the Subject Property (i.e., conditional use and tentative plan approval).

A County Hearings Officer made, and the BOCC adopted, similar findings in the *LBNW, LLC* decisions (County planning files 247-23-000398-A, 247-21-000881-PA, 882-ZC). The Hearings Officer in this case finds that the above-referenced findings are relevant and applicable to this recommendation.

Section 2.7, Open Spaces, Scenic Views and Sites

Open Space and Scenic View Designations and Protections

...

Scenic view protection is implemented through the Landscape Management Combining Zone regulations, with the list of landscape management roads and rivers in the Goal 5 resource list in Chapter 5 of this Plan.

Goal and Policies

Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: The Applicant provided the following response to these policies (Burden of Proof, page 12):

“The subject property is not within the Open Space and Conservation (OS&C) Zone. The properties are located within a Landscape Management (LM) Combining Zone associated with designated scenic highways, roads, rivers, and streams.

It should be noted that no actual development of the property is proposed at this time.”

The western portion of the Subject Property is located within the LM Combining Zone associated with the Deschutes River scenic corridor. The standards associated with the LM Combining Zone are generally reviewed for compliance when a new structure or substantial alternation of an existing structure is proposed.

LUBA recently held in *Central Oregon Landwatch v. Deschutes County* (LUBA No. 2023-008, April, 24 2023)(the “*LBNW Decision*”) the following:

“Goal 5 is ‘[t]o protect natural resources and conserve scenic and historic areas and open spaces.’ OAR 660-023-0250(3) provides:

‘Local governments are not required to apply Goal 5 in consideration of a PAPA [Post-Acknowledgement Plan Amendment] unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

“(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list[.]’ Footnote 11

Footnote 11 – If Goal 5 applies, then the local government is required to comply with OAR 660-023-0040 and OAR 660-023-0050.”

The BOCC addressed this issue in their remand decision for *LBNC Decision* (ref. files nos. 247-23-000398-A, 247-21-000881-PA, 882-ZC). The Applicant for the *LBNC Decision* case also requested a Plan Amendment and Zone Change for a property located in a LM Combining Zone and the BOCC in that case found:

“As stated within OAR 660-023-0030(1), this rule’s purpose is ‘to compile or update a list of significant Goal 5 resources in a jurisdiction.’ Importantly here, the inventory process has already been completed. Accordingly, the Board finds that Section 5.5 of the Deschutes County Comprehensive Plan (‘DCCP’) entitled Goal 5 Inventory: Open Spaces, Scenic Views and Sites identifies an area extending ¼-mile on either side of the centerline of certain roadways, including Highway 97 between the Bend and Redmond Urban Growth Boundaries (‘UGBs’), as a Goal 5 scenic view resource.

...
[T]he Board finds that the LUBA Decision already ‘identified conflicting uses’ in this case, i.e., the first step as set forth in OAR 660-023-0040(1)(a) and further identified in OAR 660-023-0040(2). The Board unanimously finds that those ‘identified conflicting uses’ are those uses allowed outright or conditionally under the RI zone on the subject Properties that would not have otherwise been allowed under the current EFU zoning. Accordingly, these findings focus on the second, third, and fourth steps in the ESEE [Economic, Soil, Environmental & Energy] Decision Process as further detailed by OAR 660-023-0040(3) through (5).

...
The Board accepts and agrees with the identification of the conflicting uses as identified in the LUBA Decision, as those uses allowed outright or conditionally under the RI zone on the Subject properties that would not have otherwise been allowed under the current EFU zoning.

...
The Board presumes that the Applicant initially suggested such a limited impact area because of the second sentence in OAR 660-023-0040(3) stating that that the impact area should ‘include only the area in which allowed uses could adversely affect the identified resources.’

...
As understood by the Board, this ‘impact area’ disagreement between the Applicant and COLW [Central Oregon LandWatch] stems from the Applicant focusing on the second sentence set forth in OAR 660-023-0040(3) and COLW focusing on the third sentence. The Board further notes that it is hard to reconcile what appears to be contradictory direction provided by those two sentences. Nevertheless, the Board does not need to resolve that issue presently because the Applicant’s July 19 rebuttal submittal and July 26 final legal argument both proposed an expanded impact area to address COLW’s concerns. Consistent with the Applicant’s aforementioned submittals, the Board unanimously finds that the appropriate impact area in this case includes ‘those properties to the west of Highway 97 and within the existing LM Zone (i.e., within ¼-mile of the centerline of Highway 97) between the 61st Street intersection to the north and the Tumalo Road off ramp to the south.’ The Board favors this expanded impact area for three reasons.

...
*As understood by the Board, every ESEE analysis is intended to be context specific, and the Board is “afforded fairly broad discretion in considering potential impacts from allowing or prohibiting a particular use * **.” See Central Oregon LandWatch v. Deschutes County, __ Or LUBA __ (LUBA No 202-019, March 22, 2021) (internal citations omitted). Pursuant to OAR 660-023-0040(1), the Board again notes that an “ESEE analysis need not be lengthy or complex but should enable the reviewers to gain a clear understanding of the conflicts and the consequences to be expected.” In this case, the majority of the Board () finds that the Updated ESEE Analysis provides a “clear understanding of the conflicts and consequences to be expected” if the RI uses are allowed on the subject Properties.”*

DCCP Section 5.5 also identifies Goal 5 scenic view resources as the land within the boundaries of a state scenic waterway or a federal wild and scenic river corridor; and all land within 660 feet of the ordinary high water mark of portions the following designated rivers and streams which are not designated as state scenic waterways or

federal wild and scenic rivers. This would include the area of the Subject Property located within the LM Combining Zone is an inventoried Goal 5 scenic view resource associated with the Deschutes River.

Applicant provided an open-record evidentiary submission (March 19, 2024, pages 10-12) comparing uses allowed in the EFU zone to those uses allowed under the proposed MUA zoning. The Hearings Officer finds that the Applicant’s March 19, 2024 record submission addressed the primary LUBA concern raised in the *LBNC Decision*; would approval of a plan designation change and zone change allow “new uses” (compared the existing plan/zone) that “could conflict with Goal 5 resources.”

Applicant, in its Final Argument (April, 2, 2024, pages 7-9), provided a legal analysis of the Goal 5 evidence already in the record. The Hearings Officer sets forth the Applicant’s Goal 5 legal analysis, in full, below:

“The Deschutes River scenic corridor runs along the western side of the subject property (though not bordering most of it as a result of the 2024 4-acre sale to the adjoining property owner, Dunson, Exhibit 36). Approximately ½ of the subject property is located within the LM Combining Zone as protection for the corridor. New structures within the view area of the river are commonly regulated by this standard. It is a designated Goal 5 resource. LUBA recently broadened previous interpretations of how a PA/ZC or PAPA should be analyzed when Goal 5 lands are involved.

The Site 303 “Pink Pit” is also an inventoried Goal 5 resource. Approximately 2/3 of the subject property is overlaid with the Combining Zone for this protected use. Because the same analysis and caselaw applies to both resources, the compliance analysis is combined here in summary.

Aceti V, discussed above, is an illustration of this broadened analysis. A more recent application of the Aceti V analysis of Goal compliance was made by LUBA in Central Oregon Landwatch v. Deschutes County and LBNW LLC, (LUBA No 2023-008, April 24, 2023)(“LBNW”). LUBA remanded Deschutes County’s first approval in Ordinance No. 2022-011 on March 14, 2022. Goal 5 Compliance was central to LUBA’s remand, finding that Deschutes County misconstrued the applicable law because it did not evaluate “whether the new RI zoning allows uses on the subject property that were not allowed under the previous EFU zoning and whether those uses could conflict with protected Goal 5 resources.” (LBNW, Page 35). LUBA went on to find that because the approval “allows new uses that could conflict with inventoried Goal 5 resources. . .the county is required to comply with OAR 660-023-0250(3).” (LBNW, Page 36).

OAR 660-023-0250 is part of LCDC’s rules governing “Procedures and Requirements for Complying with Goal 5” as addressed in prior submittals. See Applicant’s March 19, 2024 Open Record Submittal, Pages 10-12.

*(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. . .”

Applicant’s March 19, 2024 Open Record Submittal provided the allowed, conditional, and special uses for both EFU and MUA-10 zones. See Exhibit 41. These allow for the analysis of the change of uses proposed, comparing the two zones. Impactful uses include:

EFU Uses (Non-HV Farmland)
Outright: 18, including 2 dwelling types
Special: 11, including 2 dwelling types
Cndnl: 37, including 5 dwelling types,

MUA-10 Uses
Outright: 11, including 2 dwelling types
Special: None
Cndnl: 34, including 5 dwelling types,

*res. facilities, agri-tourism, equine,
guest dog, aquatic species farms*

lodge, bed & breakfast

EFU zoning allows significantly more uses than MUA-10 as summarized above and detailed in previously submitted Exhibit 41. The specific resource zones on the subject property, mineral and river, have been analyzed for potential conflicts in the change to MUA-10 zoning and Rural Residential Exception Area plan designation as required by recent caselaw interpretation of the OAR.

The Site 303 “Pink Pit” and the Deschutes River are the Protected Goal 5 Resources impacting the TL 100 Subject Property. Exhibit 23 was submitted with Supplemental Submittal dated November 23, 2022, and is described in the narrative on page 5. The 1989 ESEE Findings and Decision identifies on Page 0457 that site characteristics include “residential acreages” including 40-acre residential acreages to the south, residential property between the mine and the river, and Tumalo Rim subdivision within a half mile to the north on ½ acre lots. The Land Use Conflicts analysis that follows starting on page 0459-0461 notes that the existing residential uses in the area, “[s]pecifically, the residential uses in the nearby 40-lot Tumalo Rim Drive subdivision to the North and the adjacent residence to the East would be subject to noise near the subdivision and possible dust impacts.” The first paragraph on Page 0461 closes with this comment on the subject property, “The site would be most visible from the undeveloped land to the East.” That finding was likely based on viewing the Pink Pit from the high rim of the subject property overlooking the Deschutes River ravine. Current setback rules and Scenic River visual setbacks would preclude any construction along the viewable (or viewing) rim, but instead would be set back, similar to the layout proposed in Applicant’s Tentative Plan.

Despite these conflicts identified with 1989 and future uses, the Deschutes County Board of Commissioners decided in 1989 to classify the area as “SM” or Surface Mining, concluding that the different uses between the nearby residential uses and the Goal 5 resource were not sufficiently significant to preclude that the two uses could co-exist though different, and determining that the mineral resource was properly protected by a Goal 5 designation. It is reasonable to conclude that now that the site is largely inactive and possibly depleted to preclude further profitable extraction and processing, the potential conflict between the mineral resource and MUA-10 uses would be significantly less than it was in 1989, when such uses were allowed in conjunction with an active and resource-rich mining site. Even if fully active as it was at that time, the area MUA-10 and other rural residential uses did not obstruct use of the mining resource. The allowed uses under MUA-10 zoning do not pose a potential conflict different from the existing EFU use conflicts, except that perhaps there will be fewer of them.

The Deschutes River scenic corridor is a designated scenic view resource. Its views are protected from structural changes by setback review which is not relevant to a PA/ZC analysis where no structural changes are proposed. The changes in uses identified in Exhibit 41, analyzed in Applicant’s Open Record submittal on March 19, 2024, and the impactful uses compared above, show no potentially conflicting uses to the scenic corridor, where all proposed uses under the MUA-10 zone would be subject to setback review and could be located back from the rim without being seen from the Deschutes River below.”

The Hearings Officer finds that the above-quoted Applicant final argument statement references credible and substantial evidence previously submitted into the record of this case and the evidence and argument fairly reflects the intent of Goal 5 and related administrative rules. The Hearings Officer finds that Applicant did undertake a thorough review of the EFU and MUA zoning code provisions related to allowed, special and conditional uses.

The Hearings Officer finds the two identified Goal 5 resources, in this case, are the Deschutes River (with associated public ownership) and the surface mining property referred to as the “Pink Pit.” The Hearings Officer takes note that building setback requirements limit the visibility of any EFU or MUA allowed use from the

Deschutes River. The Hearings Officer finds uses allowed in the EFU zone are more varied and potentially more impactful than MUA allowed residential uses. As a practical matter lawful development of the Subject Property under the current EFU zone or proposed MUA zone will not negatively impact the Deschutes River Goal 5 resource.

The Hearings Officer finds that residential use is allowed in the EFU zone and MUA zone and that there will be no new use, if this application is approved, that will impact the Goal 5 identified "Pink Pit" resource.

The Hearings Officer adopts, as additional findings for this section, the Applicant's above-quoted final argument statements. The Hearings Officer finds, based upon the November 23, 2022 Supplemental Submittal, March 19, 2024 open-record submission and April 2, 2024 final argument that this policy is satisfied.

Section 2.10, Surface Mining

Goal 1, Protect and utilize mineral and aggregate resources while minimizing adverse impacts of extraction, processing and transporting the resource.

Policy 2.10.3 Balance protection of mineral and aggregate resources with conflicting resources and uses.

FINDING: The Hearings Officer incorporates the findings for Section 2.7, 2.73 and 2.75, as set forth immediately above as additional findings for this policy. The Subject Property, except for the southeast corner, is located within the SMIA Combining Zone associated with Surface Mining Site No. 303 (the "Pink Pit"). This mining site is approximately 400 feet to the west and County records indicate pumice and aggregate can be extracted from approximately 30 acres of the 80-acre Surface Mine ("SM") zoned property.

The Hearings Officer finds that Applicant did conduct a review of EFU and MUA uses to determine if any new uses would be introduced that would conflict with the Pink Pit surface mining Goal 5 resource. The Hearings Officer concurs with Applicant's conclusion reached in its November 23, 2022 Supplemental Submittal, March 19, 2024 open-record submission and April 2, 2024 final argument documents that approval of the MUA zone would not add any new use that would conflict with the Pink Pit surface mining Goal 5 resource.

Chapter 3, Rural Growth Management

Section 3.2, Rural Development

Growth Potential

As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns, changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.

- ...
- **2009 legislation permits a new analysis of agricultural designated lands**
- **Exceptions can be granted from the Statewide Planning Goals**
- **Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential**

FINDING: This section of the DCCP does not contain goals or policies but does provide the guidance above. The Applicant provided the following response to this provision (Burden of Proof, page 13):

"The County Comprehensive Plan notes that "Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential." The requested Plan amendment is based on the results of the submitted Soils Investigation which has demonstrated that the subject property is made up of "poor soils" so does not constitute "agricultural lands" as defined in the Goal, based upon a site-specific soils study conducted by a certified, professional soil scientist (Brian Raby). Therefore, the proposal is consistent with this section of the Comprehensive Plan, given that the subject property has been determined to be non-resource land, so appropriate for rural residential development.

It should also be noted that the MUA-10 Zone is a rural residential zone and as discussed above, there are many adjacent and surrounding properties that are zoned MUA-10. This proposal fits well with this criterion."

The MUA Zone is a rural residential zone and as discussed in the Basic Findings above. Adjacent and nearby properties to the east, northeast, and north are zoned MUA. This guidance text also references poor soil quality as a consideration, which is discussed in more detail under the OAR Division 33 criteria below.

Section 3.3, Rural Housing

Rural Residential Exception Areas

In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal 2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.

In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 14):

"To the extent that the quoted language above represents a policy, it appears to be directed at a fundamentally different situation than the one presented in this application. The quoted language addresses conversions of "farm" or "forest" land to rural residential use. In those cases, the language indicates that some type of exception under state statute and DLCD rules will be required in order to support a change in Comprehensive Plan designation. See ORS 197.732 and OAR 660, Division 004.

That is not what this application seeks to do. The analysis below explains that the Applicant has been successful in demonstrating that the subject property is composed predominantly of nonagricultural soil types and is unirrigated. It is not "agricultural." Therefore, it is permissible to conclude that the property is not "farmland" as defined under state statute, DLCD rules, and that it is not correctly zoned for exclusive farm use.

It is important to distinguish that this application does not seek to convert "agricultural land" to rural residential use. If the land is demonstrated to not be composed of agricultural soils, then there is no

"exception" to be taken. There is no reason that the Applicant should be made to demonstrate a reason, developed or committed exception under state law because the subject property is not composed of the type of preferred land which the exceptions process was designed to protect. For all these reasons, Applicant should not be required to obtain an exception to Goal 3. It is reasonable to conclude that the requirement of an Exception is not applicable here."

Staff (Staff Report, page 29) noted that prior Deschutes County Hearings Officer and BOCC interpretations have found the above language is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Hearings Officer, in this case, concurs.

The Applicant has provided evidence in the record addressing whether the Subject Property qualifies or does not qualify as agricultural or forest land. The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this section.

The Hearings Officer finds, based upon Applicant’s above-quoted statements and Staff comments and the incorporated findings that the proposed RREA plan designation is the appropriate plan designation to apply to the Subject Property assuming the applicable standards identified in this recommendation are met.

Section 3.7, Transportation

The Transportation System was adopted in Ordinance 2012-005 and is hereby incorporated into this Plan as Appendix C. The Deschutes County Transportation System Plan Map will be retained in official replica form as an electronic map layer within the County Geographic Information System and is adopted as part of this Comprehensive Plan.

***DCCP Appendix C – Transportation System Plan
Executive Summary***

...

ARTERIAL AND COLLECTOR ROAD PLAN

...

Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

...

Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

FINDING: Staff noted (Staff Report, page 29) the heading for this section of the Transportation System Plan (“TSP”) is titled “Arterial and Collector Road Plan.” Staff (Staff Report, page 29) suggested that it is unclear whether the goals and policies included in this section of the TSP apply to properties without frontage or clear impacts on a roadway classified as an arterial or collector. Staff noted that prior Hearings Officer recommendations and Board decisions have included the following finding for similarly situated properties without frontage on an arterial or collector:

“This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The County will comply with this direction by

determining compliance with the Transportation Planning Rule (“TPR”), also known as OAR 660-012, as described below in subsequent findings.”

The Subject Property does not have frontage on an arterial or collector. The Subject Property abuts Destiny Court (County Road) and Northern Estates Drive (Local Access Road). Additionally, the Traffic Reports and TPR Analysis submitted by the Applicant do not identify any impacts on any arterial or collector roadway.

The Hearings Officer concurs generally with the above-quoted statement. The Hearings Officer finds that while the section is titled “Arterial and Collector Road Plan” Policy 4.4 describes the transportation system more holistically; not limited to just arterial and collector roads. The Hearings Officer policy 4.4 is a relevant consideration in this case.

The Hearings Officer incorporates the findings for Division 12 -Transportation Planning as additional findings for this section. Further, the Hearings Officer finds, for the purposes of a plan amendment/zone change application, the Applicant’s Site Traffic Report/TPR analysis addresses affected roadway function, classification, and capacity. The Hearings Officer finds County transportation planning staff reviewed Applicant’s transportation submittals and concurred with Applicant that proposed plan and zoning designations do not exceed the planned capacity of the transportation system. The Hearings Officer finds this policy is met.

OAR Chapter 660, Land Conservation and Development Department

Division 6, Forest Lands

OAR 660-006-0005, Definitions

- (7) “Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:**
 - (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and**
 - (b) Other forested lands that maintain soil, air, water and fish and wildlife resources.**

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 18):

“The subject property is not zoned for forest lands, nor are any of the surrounding properties. The property does not contain merchantable timber and there is no evidence in the record that the property has been employed for forestry uses historically. None of the soil units comprising the parcel are rated for forest uses according to NRCS data. The property does not appear to qualify as forest land and there is no evidence of it ever having been zoned as such. This standard is not applicable.”

The Hearings Officer finds that the Subject Property is not zoned for forest lands, nor are any of the properties zone for forest lands within a 1.5-mile radius. The Subject Property does not contain merchantable tree species and there is no evidence in the record that the Subject Property has been employed for forestry uses historically. Additionally, none of the soil units comprising the parcel are rated for forest uses according to NRCS data. The Hearings Officer finds the Subject Property does not qualify as forest land.

Division 12, Transportation Planning

OAR 660-012-0060, Plan and Land use Regulation Amendments

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

FINDING: This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed Plan Amendment would change the comprehensive plan designation of the Subject Property from AG to RREA and change the zone from EFU to MUA. The Applicant is not proposing any land use development of the Subject Property as a part of this review request.

The Applicant submitted a Site Traffic Report/TPR analysis dated September 15, 2021, and prepared by Joe Bessman of Transight Consulting LLC. As noted in the Agency Comments section above, the County’s Senior Transportation Planner identified deficiencies with the submitted STR and TPR analysis and requested additional information. The Applicant then submitted a memorandum, dated August 8, 2022, and prepared by Joe Bessman, to supplement the information provided in the original STR/TPR analysis.

The memorandum was reviewed by the County’s Senior Transportation Planner who agreed with the Applicant’s updated traffic report conclusions. The County Senior Transportation Planner found that the proposed Plan Amendment and Zone Change would be consistent with the identified function, capacity, and performance standards of the County’s transportation facilities in the area. The County Senior Transportation Planner found that the proposed Zone Change would not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. Regarding the memorandum dated August 8, 2022, the County’s Transportation Planner provided the following comments in an email dated October 17, 2023:

“I have reviewed Mr. Bessman’s August 8, 2023, Site Traffic Report/TPR Analysis related to the subject application and I agree with the assumptions, methodology, and conclusions contained therein. As Mr. Bessman utilizes the 2040 planning horizon year (reflective of the most recent data included in the County’s forthcoming Transportation System Plan update) this analysis appears to comply with relevant criteria. Mr. Bessman utilizes the acceptable road segment standard of 13,900 Average Daily Trips (ADT) which is incorporated into the County’s most recent 2020-2040 Transportation System Plan. The analysis and references therein related to peak hour trips (16 to 22 total weekday p.m. peak hour trips) are adequate. Staff agrees with Mr. Bessman’s summary of Transportation Planning Rule (TPR) Compliance and finds that relevant TPR provisions appear to be satisfied through the submittal of this additional information.”

Based on the County Senior Transportation Planner’s comments and the traffic study from Transight Consulting LLC, the Hearings Officer finds compliance with the Transportation Planning Rule has been effectively demonstrated.

Division 15, Statewide Planning Goals and Guidelines

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Statewide Planning Goals and the Applicant’s findings are quoted below:

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: Deschutes County has adopted and publicized a program for citizen involvement in policy formulation and implementation. This program complies with this goal as part of an acknowledged Comprehensive Plan. In this case, the public in the area will be mailed notices, a notice will be published in the local newspaper, and a sign was posted on the Subject Property. In addition, at least two public hearings will be held on the proposed plan amendment before it can be approved - one before the Hearings Officer and one before the Deschutes County Board of Commissioners. The citizenry will have notice and opportunity to be involved in the process that is the subject of this application. This program, as practiced, complies with this goal.

Goal 2, Land Use Planning.

PART I -- PLANNING To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

PART II – EXCEPTIONS

PART III -- USE OF GUIDELINES

RESPONSE: Deschutes County's land use planning process and policy framework are acknowledged. The processes rely on factual offerings of proof from knowledgeable and verified sources on which to base quasi-judicial and legislative decisions.

An exception to one of the Goals is not requested by this application.

Deschutes County's guidelines comply with state law as required.

This application complies with Deschutes County's Code regarding land use planning. Deschutes County's land use planning system and implementation comply with this Goal. Therefore, this application complies with the Goal.

Goal 3, Agricultural Lands. To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

RESPONSE: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan (“DCCP”), Chapter 2, Resource Management, Section 2.2, Agricultural Lands** as additional findings for this section.

Applicant asserts that the Subject Property is not Goal 3 “agricultural land” and therefore no exception from Goal 3 is required. Applicant provided, in its Burden of Proof and subsequent record submissions, evidence and argument in support of its conclusion that the Subject Property is not “agricultural land” as defined in relevant sections of the DCC, ORS, OAR as interpreted by LUBA and the courts.

The Hearings Officer finds the Applicant included in the record a site -specific soil analysis of the Subject Property and the site-specific study concluded that soils on the Subject Property are predominately Class VII and VIII (65.8%). The Hearings Officer finds no persuasive evidence in the record to dispute credibility of the site-specific soil study conclusion that the Subject Property is predominately Class VII and VIII soils. The Hearings Officer finds the soil characteristics standard set forth in OAR 660-033-0020(1)(a)(A) defines “agricultural land” to be (Eastern Oregon) predominately Class I through and including VI. The Hearings Officer finds, based on the site-specific soil study, that the Subject Property is not “agricultural land” under the OAR 660-033-0020(1)(a)(A) test.

OAR 660-033-0020 (1)(a)(B) & (C) necessitate additional analysis. OAR 660-033-0020(1)(a)(B) is often referred to as the “suitable for farm use” test or standard.

OAR 660-033-0020(1)(a)(B) requires consideration of the following:

- * Soil suitability for grazing; and
- * Climatic conditions; and
- * Existing and future availability of water for farm irrigation purposes; and
- * Existing land use patterns; and
- * Technological and energy inputs required; and
- * Accepted farming practices.

OAR 660-033-0020(1)(a)(C) requires consideration of adjacent or nearby agricultural lands to determine if the Subject Property is necessary to permit farm practices on those adjacent or nearby lands.

The Hearings Officer finds that it is important that the Hearings Officer accurately reflect the evidence in the record related to the “agricultural land” issue. The Hearings Officer, therefore, includes below the entire Applicant March 19, 2024 Goal 3 open-record submission. The Hearings Officer will address relevance and credibility issues related to Applicant submission in later findings.

Applicant’s Goal 3 (March 19, 2024, pages 3 - 10) submission follows:

“Two separate issues have been raised regarding Goal 3. These are:

- A. Compliance with Goal 3
- B. Need for an Exception to Goal 3

These shall be addressed separately below.

A. Compliance with Goal 3

ORS 197.175 (2)(a) requires local governments to comply with LCDC goals as part of Plan Amendments. Goal 3 is one of LCDC's goals.

Goal 3: Agricultural Lands OAR 660-015-0000(3)
To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land policy expressed in ORS 215.243 and 215.700.

Recent caselaw has focused on the definition of "Agricultural Land" and has seemingly broadened long standing and established legal interpretations, at least in the cases decided at LUBA and the Court of Appeals. What is meant by "Agricultural Land" is pivotal to understanding the Goal's proper implementation.

The Statewide Planning Goal defines Agricultural Land in eastern Oregon as follows:

[I]n eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils... and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.

Here's the administrative rule definition, which notes the above definition also applies:

**Division 33 Agricultural Land
660-033-0020**

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class... I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns, technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than...I-VI that is adjacent to or intermingled with lands in capability classes... I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed....

RESPONSE: Since the OAR definition is different from the Goal definition, and the OAR definition expressly notes that the Goal definition is also valid, we address elements of both.

Soil Classification Method: Exhibit 3 is the Site-Specific Soil Survey of the Subject Property. Figure 4 is the site-specific soils map. 62.87 acres were evaluated (excluding most of rock ravine, which was too steep to be sampled). See pages 4-5. In summary, 34.2% tested as Class VI or less, leaving 65.8% soils testing as Class VII-VIII. It is reasonable to conclude that under either definition, the "predominantly Class VI (or less) soils" of the Goal, or the (1)(a)(A) definition of the OAR, the Subject Property does not qualify as "Agricultural Land" by soil classification.

Other Lands Analysis

The Goal identifies "other lands which are suitable" based on other factors. These are:

Soil Fertility

The Subject Property was studied for soil fertility in the Site-Specific Soil Survey Report, Exhibit 3. The Page 5 summary notes 'These soils are predominantly shallow with sandy textures (low clay content) and low organic matter content. These conditions result in a low Cation Exchange Capacity (CEC) that limits the ability of these soils to retain nutrients. Fertilizer must be applied to achieve optimum yields. Proper management requires that fertilizers be applied in small doses on a frequent basis. The revenue from most locally adapted crops are not expected to cover the cost of inputs and management.'

These scientists concluded that the soils do not contain sufficient nutrients and do not have the capacity to retain artificially applied nutrients in the form of fertilizers. Attempts to irrigate and grow pasture have also failed, as described in the Ferguson affidavit, Exhibit 25, described in more detail in the next section. It is reasonable to conclude that this tract does not have sufficient soil fertility to qualify as "agricultural land."

Suitability for Grazing

The CEC Site-Specific Soil Survey Report (Exhibit 3) also evaluated this factor on Pages 5-6. In summary, the scientists found that forage production potential, at 912.5 pounds of dry matter needed to feed a cow and calf pair for one month (animal unit month -AUM), the Subject Property 'does not represent a sufficient number of AUM for a commercially viable livestock operation.'

The scientific conclusion is verified by actual site experience. In 2012, Applicant Member Manager Ron Cochran leased the Subject Property to Mark and Cathy Ferguson to graze 12 head of cattle over the summer season. Two small pivots were positioned to water about 28 of the 62 acres. This was 'the only real area with enough soil to support pasture' according to the Ferguson affidavit, Exhibit 25. Even the best area proved to be too uneven and rocky. The Fergusons gave up after a month, and Mr. Cochran, convinced they'd made best efforts, released them from the agreement.

By both scientific analysis and actual site experience, it is reasonable to conclude that the Subject Property is not suitable for grazing as a means to qualify as 'agricultural land'

Climatic Conditions

The nearest urban area tracking climate data is the city of Bend, less than a mile to the south. Bend averages 3,623' elevation. Average snowfall is 33 inches per year. The last spring frost averages on June 14 and first fall frost averages on September 12, leaving approximately 89 days on average for a traditional growing season. This is considered to be a 'short' growing season and precludes successful farming of most commercial crops.

The CEC Site-Specific Soils Analysis, Exhibit 3, summarizes Climatic Conditions on Page 6. The report also notes an approximately three-month growing period and goes on to note that the region receives less than 12 inches of annual rainfall, 'with very little falling during the growing season.' Native rangeland grasses "are the only realistic crop" without irrigation. As noted above in the Ferguson affidavit, irrigation isn't productive due to the uneven and rocky nature of the site. The CEC report concludes 'the Site would not support a commercial livestock operation.'

It is reasonable to conclude that climatic conditions on the site are such that it would not qualify as 'agricultural land' under this definitional category.

Existing and future availability of Water for farm irrigation purposes

Irrigation water is available to the site. Irrigation has been tried on the site by both the current owner and at least one previous owner. See Ferguson Exhibit 25. Current irrigation water supplies provided to the Subject Property are delivered by Swalley Irrigation District, a district that stores its reserves in the Crane Prairie Reservoir and delivers to the north Bend area through the Deschutes River main diversion. The Riley sublateral stubs out in the area of the Subject Property. Swalley is part of a basin-wide push to pipe all canals, laterals, and sub laterals and eliminate wasteful deliveries to meet conservation goals by returning water to the Deschutes River for habitat conservation as part of a Federal agreement, and in keeping with Oregon Water Resources Department administrative rules.

Irrigation water delivery facilities do exist to the site. However, irrigating the site has proven to waste a precious resource, while yielding little to no productive growth to justify the expense and resource waste. Going forward, surface water in the entire Deschutes Basin is expected to be scrutinized for efficiency and productivity, since surface and groundwater are deemed by the USGS to be commingled in the Basin, and demand for potable water is projected to increase exponentially in the coming years with population growth.

In summary, water is available for now, but both science and experience have proven that irrigating the Subject Property won't improve it sufficiently to qualify it as 'agricultural land.'

Existing Land-use Patterns

Deschutes County tracks land-use patterns and provides reports over 1 mile radius around the Subject Property. A packet prepared for the Subject Property and surrounds is submitted as Exhibit 37. It contains the following information relevant to surrounding land-use patterns:

- *EFU-zoned parcels (list and map) -Pages 1, 2*

There are 3 other parcels zoned EFU on the same side of the Deschutes River ravine as the subject property. The two to the north, TLs 102 and 103 belonging to Kaufman and Burke respectively, are not in farm-deferral,

are both less than 20 acres (23 acres is the minimum EFU TRB zoned tract allowed to allow for profitable agricultural use) and are not farmed. The tract to the south, TL 502, was traded by Deschutes County to the Oregon State Parks and Recreation Department. It is part of a contiguous tract bordering the Deschutes River ravine. It is not farmed or cultivated in any way. None of the parcels west of the ravine are in farm deferral for 1600 feet, or approximately 1/3 mile.

It is reasonable to conclude that no tracts within 1 mile of the Subject Property on the east side of the Deschutes River ravine are zoned EFU and actually being farmed.

■ Soils (NRCS Classification) Map- Page 3

As noted above, the site-specific analysis provided as Exhibit 3 provides data that is superior for the Subject Property. The 1-Mile Packet Map shows a total of 5 general soil classifications on the east side of the ravine in the 1-mile radius. Based on the Map Unit Description Table, these are mostly Class VII soils, but 38B can be Class VI in some circumstances. Across the ravine to the west, 13 soil classifications are mapped, indicating a different soil set. This is also the area where there is some farm deferral land in the 1-mile study area. These are 1/3 mile from the Subject Property or more and separated by the deep ravine and the Deschutes River. See Exhibit 38, previously submitted into the Record.

■ Properties in Tax Deferral Map - Page 4

While tax deferral is not a clear indicator of lands being used for commercial agriculture, it is generally accepted that owners looking to make an agricultural profit will seek out property tax deductions to improve the profit margin, and are more likely to qualify for it. As the map shows, there is no property in tax deferral on the east side of the ravine, indicating there are no owners using lands for commercial agriculture on the Subject Property side of the river.

■ EFU-zoned parcels by acreage Map - Page 5

Parcel size is another indicator of land use. Larger parcels are needed to make farming profitable, in keeping with Deschutes County's 23 acre minimum for EFU-TRB tracts. The Map indicates that the larger parcels, apart from the Subject Property, are those owned by Oregon State Parks and Recreation Department. (Ownership by tract is listed in the table on Page 1 of the packet). Even the nearest tax deferred tract is approximately 17 acres. This is not an area of commercially productive agricultural tracts based on acreages.

■ Year Built (1900-1978, 1979-1992, 1993-Present) Map-Page 6

The 'Year Built' map can provide data that's useful to understand development trends in the 1- mile area. This specific data is questionable, since the subdivision to the south of the subject property has undergone extensive development in recent decades but is not shown. We have included it as part of the packet provided, but do not cite to it for guidance as it appears unreliable in understanding development patterns in all but the EFU zoned tracts, and lands to the south and west are not zoned EFU.

■ Last Conditional Use Permit (non-traditional EFU) Map - Page 7

Similar to the map on Page 6, a map of 'Last Conditional Use Permit' indicates where uses have been applied that do not fit squarely within the outright uses allowed in the respective zone. As shown, most of the surrounding tracts have received conditional use permits, indicating non-traditional uses within that zone. The legend confirms all are EFU-zoned properties.

■ Last Administrative Determination Map - Page 8

This map is included as part of the packet, but is not a likely indicator of agricultural uses in the area.

■ **1985 Aerial Photo showing cleared land (farm, desert, or mining) - Page 9**

This aerial photo, taken almost 40 years ago, when compared to current tax lot maps included in the packet, shows extensive development has taken place to the south as the City of Bend's UGB expanded considerably in a northerly direction. What was undeveloped is now developed to the north, west, and south of the Subject Property. The Urban Area Reserve is now right on the southern boundary of the Subject Property. Development is moving in the direction of the instant tract, and surrounds it already on 3 sides.

■ **NRCS estimated soil classifications (not site-specific) - Pages 10-17**

This general data is a starting point in determining farmability of area soils. As the aerial shows, there are no crop circles or irrigated fields in the color photo on or near the Subject Property. It appears there is one possibly irrigated field to the north near Highcroft Road, but it is not well defined or well irrigated.

The remainder of the packet sheets through page 17 are intended to provide soil classification data used by NRCS. These are general, and not as reliable as the site-specific analysis provided by the CES scientists in Exhibit 3.

The County 1-Mile Packet (Exhibit 37), read together, provides detailed and site-specific data to yield the following conclusions about existing land use patterns:

- ▶ *No commercial farming is conducted on the east side of the ravine within the 1 mile radius of the Subject Property.*
- ▶ *Soils on the east side of the ravine are not predominantly Class VI or better, so agricultural use is not likely to be viable in the future.*
- ▶ *Tax deferral maps show the nearest commercial agricultural land use is approximately 1/3 mile away, and that is across the ravine.*
- ▶ *Tract sizes have already been divided below EFU minimums to make farming impracticable, with the exception of Oregon State Parks Recreation Department tracts which are reserved for recreational use.*
- ▶ *Most EFU parcels near the Subject Property have developed with conditional uses (not traditional agricultural uses)*
- ▶ *Development since 1985 around the Subject Property on three sides has been residential development, not agricultural development, indicating a trend going forward.*

Technological and Energy Inputs Required

The CES Survey Report (Exhibit 3) analyzes this factor on Page 6-7. The scientific analysis concludes "[t]here is nothing that has been revealed during the course of this investigation that would suggest there is any technological or energy-related reason to retain the subject property in an agricultural classification." It is reasonable to conclude that this factor does not indicate the Subject Property is properly agricultural land.

Accepted Farming Practices

The Deschutes County 1-Mile Packet includes a table of "Common Farm Practices" used within the entire County (Exhibit 37, Pages 18-21). The practices listed are mostly not feasible on the Subject Property, due to soils, rocks, topography, and short growing season, according to the CES Analysis (Exhibit 3). The remainder

would not be profitable, per CES. Potential for conflicts is also analyzed by CES, and the report concludes on Page 7 that "[s]ince the Site is surrounded by parcels that are not managed for farm use and there does not appear to be any recent history of farm use, the re-zoning of this parcel is not likely to represent any significant increase in the potential for conflicts with accepted agricultural practices.

This detailed analysis of the factors identified in both the Goal and the related OAR indicate that this tract does not qualify as Agricultural Land.

The OAR goes on to identify additional factors that may contribute to a tract qualifying as 'Agricultural Land.'

(A) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

Analysis of this factor requires identifying 'adjacent or nearby agricultural lands.' In summary, based on the Exhibit 37 1-Mile Packet Data discussed above, there are none on the eastern side of the ravine within one mile of the Subject Property. On the western side of the ravine, there appears to be one 17 acre parcel in tax deferral and zoned EFU, but it's 1/3 mile away in aerial distance (Exhibit 38) and the ravine is not crossable by a motor vehicle in the area, since the ravine is very deep and there are no public bridges in the area between the Subject Property and the EFU lot. The nearest route would require travelling north on O.B. Riley Road to a bridge which intersects with Johnson Road, travelling southwest to the 17 acre parcel. This is a distance of approximately 2.5 miles. See Exhibit 40, incorporated by this reference.

Applied to the language of the rule above, "adjacent or nearby" does not identify any qualified farm parcels that meet this definition. If there are no 'adjacent or nearby' agricultural lands, it is logical to conclude this land is not "necessary to permit farm practices" on such lands.

(b) Land in capability classes other than... I-VI that is adjacent to or intermingled with lands in capability classes... I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed....

This factor similarly requires identification of qualifying categories to perform the analysis required. The Subject Property contains Class VI, VII, and VIII soils, though the VII and VIII soils are predominant (Exhibit 3). 'Adjacent or intermingled Class I-VI soils' do exist on the Subject Property, but are so erratically interspersed and difficult to irrigate as to be unfarmable. As noted in the Ferguson Affidavit and discussed below, it has been tried. See Figure 4, Site Specific Soils Map, within Exhibit 3. See Page 4, last paragraph, Discussion of Observations and Results. 'Of the 62.87 acres evaluated, 21.52 acres or 34.2 percent are represented by Deskamp (Class VI) soils, in 14 irregularly shaped delineations ranging in size from 0.12 to 4.14 acres.'

The Deskamp soil is included in the area that Ferguson tried to irrigate for pasture production. See Exhibit 25. He was unsuccessful, despite use of two pivots covering 28 acres of the 'only real area with enough soil to support pasture.' He notes in his affidavit that the "uneven nature of the land and rock outcroppings [sic] caused the pivot to frequently get out of line and would automatically shut down. Even where irrigation covered the ground not enough grass grew to support the herd. The soil was just too thin and would support only one or two animals. We ended the agreement after a month or so because it was obvious to both of us that the 62 acres wouldn't grow enough to support grazing.' The Ferguson affidavit packet includes the Lease Agreement, evidence of lease payment, and liability insurance on the Subject Property (last address listed on Policy Declaration sheet).

The "adjacent or intermingled" factor has been carefully analyzed by the CES scientists and found to be so interspersed as to be unfarmable. The reality of the Subject Property has been tested by Ferguson, and his

conclusions align with the CES Site-Specific Soil Survey Report. It is reasonable to conclude that even with approximately 35% of the soil qualifying as Class VI, it is so far apart and in such small sections and mixed with such uneven topography and rock as to make it not suitable as Agricultural Land.

All factors identified as possible qualifiers for Agricultural Land have been analyzed carefully and evidence - has been introduced into the Record to prove that the Subject Property does not qualify as Agricultural Land as defined in the Goal and the applicable administrative rule.

B. Need for an Exception to Goal 3

Applicant's original Burden of Proof Statement, submitted on May 27, 2022, analyzes the need for a Goal 3 Exception on Pages 18-20. That reasoning still applies. Recent caselaw has broadened the definition of 'Agricultural Land.' Applicant has addressed the new interpretation in the analysis above, proving that even under the new standards, the Subject Property does not meet the legal definition of 'Agricultural Land.'

Because the Subject Property is not legally 'Agricultural Land,' the regulatory nature of Goal 3 does not apply the Subject Property. As a result, no exception to it is required."

[End of Applicant's March 19, 2024 Goal 3 quoted material]

As noted earlier in the findings for Goal 3 the Hearings Officer found the Applicant's site-specific soil study (Applicant Exhibit 3) to be credible and persuasive. The Hearings Officer found that the Subject Property soils were predominately Class VII and VIII.

The Hearings Officer next addresses the OAR 660-033-0020(1)(a)(B) factors:

- * soil fertility,
- * suitability for grazing,
- * climatic conditions,
- * existing and future availability of water for farm irrigation purposes,
- * existing land use patterns, technological and energy inputs required and accepted farming practices).

The Hearings Officer, relying upon Applicant's site-specific soil study and the quoted comments above, finds that the Subject Property does not have sufficient soil fertility to qualify as "agricultural land."

The Hearings Officer notes that the Applicant's site-specific soil study evaluated the "suitability for grazing" factor. Further, Applicant included a statement by individuals who attempted to graze 12 head of cattle on the Subject Property during a summer season. These individuals utilized irrigation water. These individuals abandoned the grazing use of the Subject Property after only one month concluding that the Subject Property was not economically feasible to use for grazing. (See Applicant's Exhibit 25, pages 1 – 2). There is no evidence in the record indicating that the Subject Property is "agricultural land" for "grazing of livestock." The Hearings Officer finds, based upon Applicant's site-specific soil study grazing analysis and the statement by individuals who attempted to use the Subject Property for grazing, that the Subject Property is not "suitable for grazing."

The Hearings Officer finds consideration of "climatic conditions," as an independent "agricultural land" review factor, to be challenging. Generally, the climate for Deschutes County, is relatively dry and allows for a short growing season. No evidence is in the record to suggest that the Subject Property is located in a micro-climate area which distinguishes the Subject Property location from the Deschutes County climate as a whole. The Hearings Officer finds that "climatic conditions" (relatively little rainfall and short growing season) suggest the

Subject Property could possibly be “agricultural land” depending upon other OAR 660-033-0020(1)(a)(B) factors. However, the Hearings Officer finds that “climatic conditions,” standing alone, is not a determinative independent factor leading to a conclusion that the Subject Property is “agricultural land.”

The Hearings Officer finds irrigation rights do exist at the Subject Property (Applicant admission, March 19, 2024, page 6). The Hearings Officer finds that the existence of water for farm irrigation purposes at the Subject Property is suggestive that the Subject Property is “agricultural land.” However, similar to the Hearings Officer’s findings related to “climatic conditions,” the Hearings Officer finds that the availability of water for farm purposes at the Subject Property, standing alone, is not determinative that the Subject Property is “agricultural land.”

The individuals who attempted to farm the Subject Property utilizing irrigation water concluded, after one month, “grazing livestock,” even with irrigation water, was not feasible. Those individuals commented (Applicant Exhibit 25, letter dated June 25, 2022) that irrigation water failed to enhance the soils at the Subject Property sufficiently to profitably farm because of the “uneven nature of the land” and the “existence of rock outcroppings.” Those individuals stated that the “soil was just too thin and would only support one or two animals.” The Hearings Officer finds that the site-specific soil study (Applicant Exhibit 3) and letter (Applicant Exhibit 25, letter dated June 25, 2022) from the above-referenced individuals constitute substantial evidence that the Subject Property is not suitable for grazing even with the existence of water for farm irrigation purposes.

Applicant (quoted comments above) provided a thorough inventory and analysis of existing land use patterns in the vicinity of the Subject Property. The Hearings Officer finds the Applicant’s inventory and analysis of existing land use patterns to be credible and constitutes substantial and persuasive evidence relating to the OAR 660-033-0020(1)(a)(B) “existing land use patterns” factor. The Hearings Officer concurs with Applicant’s summary of land use patterns in the vicinity of the Subject Property (March 19, 2024, page 8). The Hearings Officer finds existing land use patterns in the vicinity of the Subject Property suggest that the Subject Property is not “agricultural land.”

The Hearings Officer agrees with Applicant’s above-quoted discussion and conclusion that there is nothing in the record to suggest that additional, alternative or supplementary technology or energy related inputs would improve the prospects for the Subject Property to be considered “agricultural land.” The Hearings Officer finds, based upon the record of this case, that additional technology or energy inputs would not make up for the poor quality of soil and the topographical limitations existing at the Subject Property.

Applicant’s site-specific soil study discussed “accepted farming practices” at the Subject Property. Applicant’s site-specific soil study concluded that utilizing “accepted farming practices” would not offset the poor soil quality, rocks, topography and short growing season at the Subject Property. The Hearings Officer also takes note of the letter from the only individuals who did attempt to farm (Applicant Exhibit 25, letter dated June 25, 2022). These individuals concluded that grazing livestock, even utilizing the irrigation water rights, was not economically viable. The Hearings Officer finds, based upon the evidence in the record, that the Subject Property is not “agricultural land” based upon a review of the OAR 660-033-0020(1)(a)(B) factors.

OAR 660-033-0020(1)(a)(C) requires analysis of the Subject Property in the context of adjacent and nearby properties. Applicant, in the above-quoted comments, addressed this factor/standard. The Hearings Officer finds no adjacent properties being farmed (used as “agricultural land”). Applicant did note (April 2, 2024, page 6) the following:

“There are 3 other parcels zoned EFU on the same side of the Deschutes River ravine as the subject property. The two to the north, Tls 102 and 103 belonging to Kaufman and Burke respectively, are not in farm-deferral, are both less than 20 acres (23 acres is the minimum EFU-TRB zoned tract to allow profitable agricultural use) and are not farmed. The tract to the south, TL 502, was traded by Deschutes County to the Oregon State Parks and Recreation Department. It is part of a contiguous tract bordering the Deschutes River ravine. It is not

farmed or cultivated in any way. None of the parcels west of the ravine are in farm deferral for 1600 feet, or approximately 1/3 mile. It is reasonable to conclude that no tracts within 1 mile of the Subject Property on the east side of the Deschutes River ravine are zone EFU and actually being farmed."

Based upon the record in this case the Hearings Officer finds that the Subject Property is not necessary to permit farm practices to be undertaken or maintained on adjacent or nearby agricultural lands; there simply are no adjacent farm uses or adjacent "agricultural lands." The Hearings Officer also finds that there is no evidence in the record suggesting that a nearby farm use would benefit from the "agricultural use" of the Subject Property; including, but not limited to, providing additional feed resources to the Subject Property or the use of the Subject Property to locate storage or maintenance facilities for the nearby properties.

Finally, the Hearings Officer addresses COLW's "alternative farm uses" argument (February 27, 2024, pages 2 – 3 and March 26, 2024, page 3). The Hearings Officer believes, as suggested by COLW, that consideration of ORS 215.203(2)(a) is a good analysis starting point. ORS 215.203(2)(a) lists/defines "farm use" to include significant number of farm related activities including (COLW listed many of these potential farm uses as alternative uses at the Subject Property):

- * poultry,
- * lambs,
- * mules,
- * donkeys,
- * fur-bearing animals,
- * honeybees,
- * eggs,
- * hogs,
- * pigs,
- * dairying,
- * other horticultural uses,
- * animal husbandry,
- * preparation, storage and disposal products raised on such land,
- * stabling or training equines,
- * propagation, cultivation, harvesting of aquatic, bird and animal species under the jurisdiction of the State Fish and Wildlife Commission,
- * the on-site construction and maintenance of equipment and facilities used for farm use activities.

This Hearings Officer does not believe every listed "farm use" in ORS 215.203(2)(a) needs to be individually/independently analyzed as part of every Goal 3 "agricultural land" determination process. The Hearings Officer finds it is unnecessary for the Applicant to demonstrate (provide documentation and analysis) that the Subject Property is not "agricultural land" because it is not feasible to use the property, for example, to use that property as a dairy or for the propagation and harvest of aquatic species. The Hearings Officer finds that requiring every listed OAR 215.203(2)(a) potential farm use to be analyzed in every case does not represent the spirit and intention of ORS 215.203 or associated OAR's. The Hearings Officer finds that the goal of ORS 215.213 and associated OAR's is to thoughtfully consider what a reasonable farmer would consider when assessing a particular property's ability to be profitably farmed.

The Hearings Officer finds that there are common agricultural uses in every geographical area of Oregon and that the viability of a specific farm use of any property is dependent upon the factors set forth in OAR 660-033-0020. The Hearings Officer believes that a reasonable farmer is going to consider such factors as soils, topography, orientation to the sun, transportation access and water access when assessing potential farm uses of a particular

property. The Hearings Officer does not, however, believe a reasonable farmer would take the list of potential farm uses set forth in ORS 215.203(2)(a) and pragmatically consider the pros and cons of every one of those activities on a particular Deschutes County property. The reasonable farmer may consider one or more use not listed in ORS 215.203(2)(a) or fewer uses depending on the site characteristics of a particular property.

LUBA, in *Friends of the Creek v. Jackson County*, 36 Or LUBA 562 (1999) stated “we do not believe the legislature intended, by requiring that the land be currently employed ‘for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops,’ to require an inquiry into the primary actual motivation of particular land owners.” (See also *Cox v. Polk County*, 39 Or LUBA 1 (2000)). LUBA concluded, in the *710 Properties Decision*, that the appropriate test is “whether a reasonable farm would be motivated to put the land to agricultural use, for the primary purpose of obtaining a profit in money.”

The Hearings Officer finds the “objective” reasonable farmer approach is relevant in the context of answering the question: How does a reasonable farmer analyze what potential farm uses are to be considered for a particular property? The Hearings Officer finds that what use a reasonable farmer would make of the Subject Property is best demonstrated by historical use of that particular property, the historical uses of nearby and adjacent properties and general farming trends in the area.

COLW (February 27, 2024, page 2) argues that many of the ORS 215.203(2)(a) listed farm uses “are not dependent on any particular soil type” and therefore those uses need to be considered. Again, the Hearings Officer believes the LUBA findings related to the “reasonable farmer” standard would infuse some level of common sense into the ORS 215.203(2)(a) and OAR 660-033-0020 “agricultural land” analysis. It is conceivable and possible, for example, that a honeybee farmer or grape grower might find a particular property located in central Oregon to be appropriate for honeybee/grape farming. However, as a practical matter how long does a property owner have to wait for a honeybee or grape farmer to “discover” a particular property? Evidence in the record shows that only one farmer attempted to use the Subject Property as “agricultural land;” that was in 2012 for one month. There is no evidence that a honeybee farmer, wine grower, or any other person/entity desiring to make use of the Subject Property for any ORS 215.203(2)(a) use ever expressed interest in farming the Subject Property beyond the 2012 livestock grazing user.

The Hearings Officer finds that the Applicant in this case was not required to consider all uses listed in ORS 215.203 (2)(a) or by COLW. Rather, the Hearings Officer finds that the Applicant is required to consider only uses that a “reasonable farmer” for the Subject Property would consider in light of the OAR 660-033-0020(1)(a)(B) factors. The Hearings Officer does not believe that the Applicant in this case is obligated to independently/individually analyze and assess each and every one of the ORS 215.203 (2)(a) or COLW listed possible uses.

The Hearings Officer finds it is important to note that OAR 660-033-0021(1)(a)(B) does list one “farm use” that is required to be considered; “livestock grazing.” The Hearings Officer finds that “livestock grazing” is a farm use that must be considered during each and every “agricultural land” analysis. Further, the Hearings Officer finds that “livestock grazing” is a farm use that is common in Deschutes County. The Hearings Officer finds “livestock grazing” to be a use that a reasonable farmer might consider at the Subject Property. The Hearings Officer finds, in this case, the Applicant provided persuasive evidence that a reasonable farmer would not consider “livestock grazing” to be a “farm use” that would be entered into for the primary purpose of obtaining a profit in money.

The Hearings Officer, based upon the Preliminary Findings, the evidence and argument in the record, concludes that the Subject Property is not “agricultural land” and no Goal 3 exception is required.

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 Hearings Officer incorporates the findings for DCCP Policies 2.2.3 and 2.7 as additional findings for this section. The Hearings Officer reiterates that this recommendation relates only to Applicant’s request for a comprehensive plan designation change and a zone change; not to any specific development proposal.

The Hearings Officer notes a parcel of land to the west of the Subject Property has been removed from the proposal in this case. The removed parcel fronts the Deschutes River with a trail running along the river in this location. The removal of the parcel reduces potential Goal 5 related impacts (i.e., scenic views and trail interference) that could potentially be created by approval of the application in this case.

The Hearings Officer finds that the proposed comprehensive plan designation and zone are consistent with preservation of open space, as well as protection of both uses and views of the Deschutes River, while recognizing that the true "highest and best use" of the Class VII and VIII land is not farmland.

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: As specified in Goal 6, the Plan buffers potential residential uses allowed in the MUA zone from residential uses. The proposal is consistent with Goal 6 because it will not result in any adverse impact on air or water quality and land resources.

Goal 7, Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

RESPONSE: Statewide Planning Goal 7 focuses on natural hazard areas and accommodations needed for them. In Central Oregon, these are most likely wildfires and steep slopes. Deschutes County has devoted planning to both. On the Subject Property, the rimrock issue is relevant. Construction along rimrock is protected with setbacks and no construction is allowed in this area. This Goal has been considered, and future development must be planned accordingly.

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: The Deschutes River is located to the west of the Subject Property. The river has carved a deep canyon into this portion of the County, creating steep rimrock ledges. Future development must be located back and away from the rim, allowing the river and riverbanks to be preserved in their natural state, without visual infringement by private homes.

A dedication to the Oregon State Game Commission for foot travel "adjacent to the east side of the Deschutes River and between said trail and the center of the Deschutes River" has been defined and perpetually protected through a dedication by Ronald Cochran, member manager of Applicant. See Exhibit 6, including both the 2017-37794 surveyed dedication of trail easement, and the 1957 prior dedication. Dedications to OPRD, provides more recreational benefit to Oregon's citizens, and allows more recreational access to the river without reducing the visual enjoyment of this resource as a recreational center of the County. The application is consistent with this Goal.

Goal 9, Economy of the State. 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 proposal is consistent with Goal 9 because it will not adversely impact economic activities in the state. Deschutes County development does not generally involve economic development and the commercial and industrial development at its core, but it can, with a little vision. Applicant, in its Burden of Proof, addressed these concerns in the following comments:

“Economic stability is central to this Goal. Trend analysis shows the City of Bend is growing quickly and the current urban area reserve is immediately south and east of the subject property. This is a factor somewhat unique to this County site. It is foreseeable that future Bend UGB expansion will include the subject property. It is currently approximately 1500 feet from the SE corner of the subject property, and the Urban Reserve Area is on the southern property line of the subject property. The property is not comprised of "agricultural land", so rezoning to MUA-10 is a logical transition of classification of use. Further, by arranging the homesites in a "T" formation, future development may fill around the homesites as urban needs for density dictate. This form of transition lends predictability, and so stability to land use patterns in keeping with concerns of Goal 9.

Goal 9 implementation requires that plans should take such regional conditions into account. Coordinating regional and local economic plans and programs is an essential part of good governance, as applied to land use decisions on a case-by-case basis. In this instance, where the EFU zoning designation is error now that soil classifications are known, a transition to non-resource designation is good economic planning as envisioned by Statewide Planning Goal 9.”

The Hearings Officer concurs with the above-quoted Applicant comments.

Goal 10, Housing. To provide for the housing needs of citizens of the state.

RESPONSE: Like Goal 9, Deschutes County does not traditionally focus on Goal 10 Housing. However, there are facets of the goal that merit consideration while considering this Application. Applicant, in its Burden of Proof, provided the following comments:

“Buildable lands for residential use are a particular concern in these times of housing shortages. This proposal will provide 14 new homesites on land that is currently underutilized because it is improperly zoned. Deschutes County's Board of County Commissioners and Planning Commission have devoted time and resources to the search for more buildable lands. This application is an example of using critical thinking to identify mis-zoned properties that can be opened up for residential use.”

The Hearings Officer concurs with the above-quoted Applicant comments.

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 proposal is consistent with Goal 11 because the proposed plan amendment and zone change will have little impact upon the provision of public facilities and services to the subject property. As a rural development pattern, Avion Water Co. and septic systems will serve the parcels proposed under the MUA zone; consistent with rural lands.

When City of Bend urban density demands reach the Subject Property, transition will be customary to provide public facilities and services at that time.

Goal 12, Transportation. To provide and encourage a safe, convenient and economic transportation system.

RESPONSE: Deschutes County's Transportation System Plan, incorporated into the Comprehensive Plan and adopted as Exhibit C to it, is part of the acknowledged County Plan. The proposal is consistent with that plan, complying with County Level of Service standard D. The proposal is compliant with the TPR as well, and therefore is also consistent with Goal 12 as demonstrated by the attached, professionally prepared Transportation Analysis. See Exhibit 4.

Goal 13, Energy Conservation. To conserve energy.

RESPONSE: No known sources of non-renewable energy exist on the Subject Property. Any proposed development, under the MUA zone will be required to address energy conservation strategies. The proposal is consistent with this goal because it will have no negative impact on energy use or conservation.

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: The Hearings Officer incorporates the Preliminary Findings related to Goal 14 (III.A.4 – **Oregon Statewide Planning Goal 14**) and the Division 15, Statewide Planning Goals and Guidelines findings related to Goal 14. Further, the Hearings Officer also finds the following Staff (Staff Report, page 37) comments to be credible and persuasive and adopts these Applicant statements as additional findings for this section.

“Like Goals 9 and 10, this Goal doesn't traditionally utilize significant portions of County Planning resources. And like Goals 9 and 10, population growth in the County and the cities within it, is changing that focus. Portland State University's (PSU) Oregon Population Forecast Program provided its latest datum in March, 2022. That forecast predicted a continued annual growth rate of 1-2%, in contrast to the national Average Annual Growth Rate ("AAGR") which has been generally declining since 1980. Deschutes County's population in 2022 is 207,921, at a growth rate of 2.2%. Using conservative growth rates, Deschutes County's 2050 forecast population is 308,894, over 100,000 its current population, and almost double what it is now.

Bend's population is also forecast to grow, despite shrinking nationwide trends. Bend's 2022 population is calculated to be 106,062. In 2047, it is conservatively forecast to have 164,835 people, over half again as many as it has today. Bend is now 51% of Deschutes County's population. In 2047, it will be 55.1%.

Forecasting housing needs, both Bend and Deschutes County will need more housing. Because this property is approximately 1500 feet from the northeast edge of Bend's UGB and right on the boundary of Bend's URA, it's likely to be part of Deschutes County's growth in the immediate future, then part of Bend's growth after the next legislative UGB expansion. Either way, it's much needed based on the PSU forecasts.

Statewide Planning Goal 14 focuses not only on housing supply, but also "an orderly and efficient transition from rural to urban. . . ." This site's optimal location, just outside of Bend's current urban boundary, makes it an excellent candidate for rezoning, particularly where we now know the soil is not suitable for farming. It's not really "agricultural land." It is properly exception land, ideally developed in a less sprawled configuration in preparation for a more dense housing pattern in the future. These factors make it an excellent candidate for planned development in MUA-10 zoning.

This proposal meets the needs set out in Statewide Planning Goal 14. In summary, the proposal is consistent with Goal 14 for the following reasons:

1. *The proposal does support a likely, though not certain, eventual transition from rural to urban land use that responds to identified needed lands;*
2. *The proposal represents an orderly growth pattern that eventually will efficiently enhance and utilize public facilities and services;*
3. *The proposal will ultimately result in the maximum efficiency of land uses on the fringe of the existing urban area;*
4. *The subject property has been found to be not predominantly agricultural land as defined in OAR 660-033-0020; and*
5. *The proposal will promote compatibility with surrounding urban uses and will not adversely impact any nearby commercial agricultural uses because there are none.*

The Applicant's responses demonstrate compliance with the applicable Goals."

The Hearings Officer finds Goal 14 has been satisfactorily addressed by Applicant and that the Applicant's proposal is consistent with Goal 14 and no exception is required/necessary.

Division 33 - Goal 3 - Agricultural Lands

OAR 660-015-0000, Purpose Statewide Planning Goals and Guidelines #1 through #14

(3) To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon¹²;***
- (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and***
- (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.***

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and **710 Properties Decision** (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management, Section 2.2, Agricultural Lands** as additional findings for this section.

¹² OAR 660-033-0020(5): "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

The Applicant’s basis for not requesting an exception to Goal 3 is that the Subject Property is not “agricultural land.” The Hearings Officer concurred with Applicant that the Subject Property is not “agricultural land.”

- (b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;**

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan (“DCCP”), Chapter 2, Resource Management, Section 2.2, Agricultural Lands** as additional findings for this section. While the Applicant did not provide a specific response to this subsection of OAR 660-033-0020 the Applicant did provide a listing of nearby and adjacent lands in the context of uses made of those lands. There is no evidence in the record of this case indicating that the Subject Property was used along with or intermingled as a farm unit with any adjacent or nearby land. The Hearings Officer finds that the Subject Property is **not** intermingled with lands in capability classes I – VI as a “farm unit.”

- (c) “Agricultural Land” does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.**

FINDING: The Subject Property is not within an acknowledged urban growth boundary or land within acknowledged exception areas for Goals 3 or 4.

OAR 660-033-0030, Identifying Agricultural Land

- (1) All land defined as “agricultural land” in OAR 660-033-0020(1) shall be inventoried as agricultural land.**
- (2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is “suitable for farm use” requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural “lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands”. A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).**
- (3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either “suitable for farm use” or “necessary to permit farm practices to be undertaken on adjacent or nearby lands” outside the lot or parcel.**

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan (“DCCP”), Chapter 2, Resource Management, Section 2.2, Agricultural Lands** as additional findings for this section.

- (5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land.**

However, the more detailed soils data shall be related to the NRCS land capability classification system.

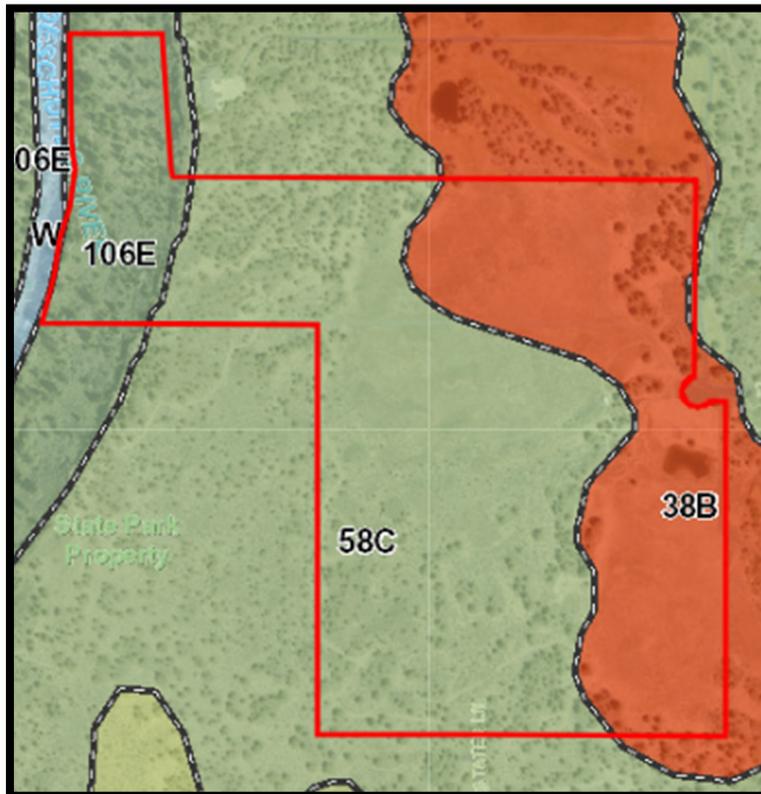
- (b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and 710 *Properties Decision* (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan (“DCCP”), Chapter 2, Resource Management, Section 2.2, Agricultural Lands** as additional findings for this section. The Hearings Officer also finds the Staff Report statements/comments/maps below are credible and relevant to this section. The Hearings Officer incorporates the following Staff (Staff Report, page 44) statements/comments/maps as additional findings for this section:

“The soil study prepared by Brian T. Rabe, CPSS, WWS of Cascade Earth Sciences, provides more detailed soils information than contained in the NRCS Web Soil Survey. NRCS sources provide general soils data for large units of land. The soil study provides detailed and accurate information about individual parcels based on numerous soil samples taken from the subject property. The soil study is related to the NCRS Land Capability Classification (“LLC”) system that classifies soils class I through VIII. An LCC rating is assigned to each soil type based on rules provided by the NRCS.

The NRCS mapping for the subject property is shown below in Figure 2. According to the NRCS Web Soil Survey tool, the subject property contains +/- 31 percent 38B soils, +/-58 percent 58C soils, and +/- 11 percent 106E soils.

Figure 2 – NRCS Soil Mapping for Subject Property



The soil study finds the soil types on the subject property vary from the NRCS identified soil types. Staff notes the soil study was prepared before the most recent property line adjustment. For this reason, the study area doesn't include the northwestern corner of the property (+/-3 acres). Nevertheless, the topography of this area appears to match the area directly south¹³, which Mr. Rabe classified as "rock outcrop – major" with a Class VIII rating in the soil study. Given the similarities of the terrain shown in the Applicant's topographical map, staff believes it is reasonable to presume this area does not need further review as part of an amended soil study.

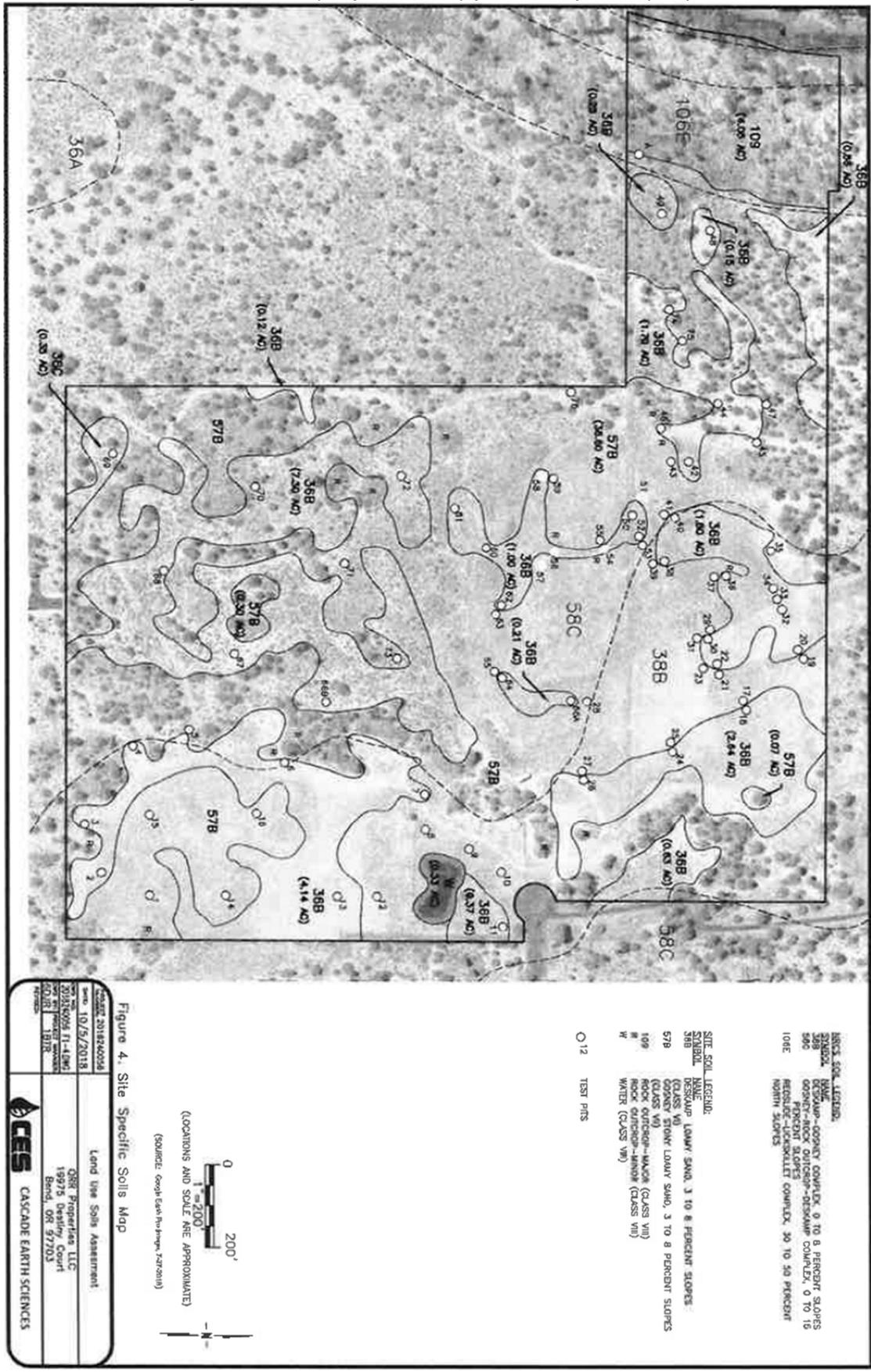
The soil types described in the soil study are shown below as Figure 3. Additionally, the Summary and Conclusions sections of the soil study states:

'The purpose of this report is to present the results of an assessment to verify and, where necessary, refine the soils, map units, and boundaries mapped on the Site and to determine whether the soils on the Site meet the land capability classification criteria for a non-resource zoning designation. The published soil survey information was reviewed and direct observations of soil conditions were made at representative locations across the Site. CES has determined that the information from the published soil survey was generally consistent with observations on the ground with boundary refinements limited to delineating components of the complexes mapped by the NRCS. CES has determined that 41.35 acres or 65.8 percent, of the Site consists of Class VII and Class VIII soils. Since the Site is predominantly Class VII and Class VIII soils and does not otherwise meet the criteria for further consideration as agricultural land, the Site meets the soils criteria for consideration of a non-resource zoning designation.'

The soil study concludes that 65.8% of +/-63 acres of the subject property consists of Class VII and Class VIII soils. As noted above, staff believes it is reasonable to assume the northwestern corner of the property is also comprised of Class VII and Class VIII soils, which potentially increases the percentage of Class VII and Class VIII soils to 66.6%. The submitted soil study is accompanied in the submitted application materials by correspondence from DLCD. The DLCD correspondence confirms that the soil study is complete and consistent with the reporting requirements for agricultural soils capability as dictated by DLCD. Based on Mr. Rabe's qualifications as a certified Soil Scientist and Soil Classifier, staff finds the submitted soil study to be definitive and accurate in terms of site-specific soil information for the subject property.

¹³ Ref. Figure 1 above.

Figure 3 – Site Specific Soils Map for the Subject Property



- (c) ***This section and OAR 660-033-0045 apply to:***
 - (A) ***A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and***

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – **710 Properties Decision**) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan (“DCCP”), Chapter 2, Resource Management**, Section 2.2, Agricultural Lands as additional findings for this section. The Applicant requested approval of a non-resource plan designation on the basis that the Subject Property is not defined as agricultural land. In prior findings the Hearings Officer concluded, based upon the evidence in the record, that the Subject Property is not “agricultural land.”

- (d) ***This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.***

FINDING: The Applicant submitted a soil study dated December 19, 2018. The soils study was submitted following the ORS 215.211 effective date. The Applicant also submitted acknowledgement from Hilary Foote, Farm/Forest Specialist with the DLCD, dated November 14, 2022, that the soil study is complete and consistent with DLCD’s reporting requirements. The Hearings Officer finds this criterion to be met based on the submitted soil study and confirmation of completeness and consistency from DLCD.

- (e) ***This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.***

FINDING: The Applicant has provided a DLCD certified soil study as well as NRCS soil data. The Hearings Officer finds the Applicant has demonstrated compliance with this provision.

IV. CONCLUSION & RECOMMENDATION

The Hearings Officer finds that the application to change the Comprehensive Plan designation from AG to RREA and Zoning for the Subject Property from EFU to MUA complies with all relevant approval criteria. The Hearings Officer recommends approval of the Applicant’s requested Comprehensive Plan and Zone change requests.

DESCHUTES COUNTY HEARINGS OFFICER



Gregory J. Frank
Deschutes County Hearings Officer

EXHIBIT "I" to Ordinance 2026-009

After recording return to:

Deschutes County Community Development
117 NW Lafayette Avenue
Bend, OR 97703

CONDITIONS OF APPROVAL AGREEMENT AND RESTRICTIVE COVENANT

This conditions of approval agreement is made this ____ day of _____, 2026 by Destiny Court Properties LLC, an Oregon limited liability company (hereinafter “Destiny Court”) and Deschutes County, a political subdivision of the State of Oregon (hereinafter “County”).

RECITALS

WHEREAS, Destiny Court sought approval of a plan amendment from Agricultural (AG) to Rural Residential Exception Area (RREA) and zone change from Exclusive Farm Use – Tumalo/Redmond/Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10) in File Nos. 247-22-000436-ZC and 247-22-000443-PA for the property described on **Exhibit A** (the “Property”), a copy of which is attached and incorporated by reference herein; and

WHEREAS, the applicant in the land use review process asked the County to impose a condition of approval on future development of the Property that will apply while the Property is zoned MUA-10: and

WHEREAS, the Board of Commissioners approved the land use applications and imposed the condition of approval requested; and

WHEREAS, the condition of approval requires that an agreement be recorded that memorializes the condition of approval and applies it to the rezoned property:

NOW THEREFORE, the parties agree as follows:

1. Any future subdivision shall be limited to equivalent density of 1 lot per 10-acres, which can be accomplished through use of a cluster or planned unit development for a minimum lot size of 2-acres with associated 8-acre reservation of open space. This condition shall be required so long as the property remains outside of an urban growth boundary.

DATED this _____ day of _____, 20__.

COUNTY

BOARD OF COMMISSIONERS OF DESCHUTES
COUNTY

PHIL CHANG, Chair

ANTHONY DeBONE, Vice-Chair

PATTI ADAIR, Commissioner

ATTEST:

Recording Secretary

STATE OF OREGON)
) SS.
COUNTY OF DESCHUTES)

This instrument was acknowledged before me on _____, 20__ by Phil Chang, Anthony DeBone, and Patti Adair, the above-named Board of County Commissioners of Deschutes County, Oregon and acknowledged the foregoing instrument on behalf of Deschutes County.

Notary Public
Print Name _____
My commission expires _____

DATED this ____ day of _____, 20__.

DESTINY COURT PROPERTIES LLC

By: Robert Cochran
Its: _____

STATE OF OREGON)
) SS.
COUNTY OF DESCHUTES)

This instrument was acknowledged before me on _____, 20__ by Ronald Cochran as _____ of Destiny Court Properties LLC, an Oregon limited liability corporation.

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A

PROPERTY DESCRIPTION
(TAX LOT 100, MAP 17-12-07)

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO DESTINY COURT PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, IN DOCUMENT NO. 2021-61291, DESCHUTES COUNTY OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID DESTINY COURT PROPERTIES, SAID NORTHWEST CORNER BEING ON THE CENTERLINE OF THE DESCHUTES RIVER AND BEARING, ALONG THE NORTH LINE OF SAID SECTION 7, S89°35'43"E 432.83 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE CONTINUING ALONG SAID NORTH LINE, S89°35'43"E 425.47 FEET TO A POINT; THENCE DEPARTING SAID NORTH LINE, S13°11'48"W 239.62 FEET TO A POINT; THENCE S3°48'59"E 152.39 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S89°52'26"W 298.75 FEET TO A POINT; THENCE S0°00'00"E 366.21 FEET TO A POINT; THENCE S5°57'50"W 178.47 FEET TO A POINT; THENCE S11°00'43"W 127.94 FEET TO A POINT; THENCE S15°48'44"W 92.60 FEET TO A POINT ON SAID DESCHUTES RIVER CENTERLINE; THENCE ALONG SAID CENTERLINE, S16°08'19"W 179.19 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE ALONG SAID SOUTH LINE, S89°38'02"E 914.03 FEET TO THE NORTHEAST SIXTEENTH (NE1/16) CORNER OF SAID SECTION 7; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE1/4 NE1/4) OF SAID SECTION 7, S0°12'11"W 1320.01 FEET TO THE CENTER EAST SIXTEENTH CORNER (CE1/16) OF SAID SECTION 7; THENCE ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 7, S89°37'30"E 1318.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 7, BEING THE SOUTHEAST CORNER OF PARCEL C OF PARTITION PLAT 1996-55; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL C THE FOLLOWING COURSES: N0°08'26"E 1080.22 FEET; THENCE N89°37'33"W 50.00 FEET; THENCE 193.64 FEET ALONG THE ARC OF A 50-FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 221°53'48" (THE CHORD OF WHICH BEARS N32°08'04"W, 93.39 FEET); THENCE N0°07'29"E 634.22 FEET TO A POINT ON THE EASTERLY LINE OF SAID DESTINY COURT PROPERTIES, LLC TRACT; THENCE ALONG SAID EASTERLY LINE, N89°36'12"W 1684.60 FEET; THENCE N3d48'59"W 461.08 FEET THE **TRUE POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 65.11 ACRES, MORE OR LESS.

Conditions of Approval Agreement – Exhibit A



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Second reading of Ordinance 2026-007 – Tumalo RV Park Text Amendments

RECOMMENDED MOTIONS:

- 1. Move approval of second reading of Ordinance No. 2026-007 by title only.
- 2. Move adoption of Ordinance No. 2026-007.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will hold second reading of an ordinance approving applicant-initiated amendments (File No. 247-25-000106-TA) to Chapter 18.67 of Deschutes County Code. The first reading of this ordinance was held on March 18, 2026.

The proposed amendments would allow a new recreational vehicle (RV) park as a conditional use in the TUC Zone, and also approve siting standards for new RV parks in this zone.

The Board held an initial public hearing on October 22nd . Following a continued public hearing on February 11th, the Board voted 2 – 1 to approve this application.

The full record can be viewed on the hearing webpage: <https://www.deschutes.org/cd/page/247-25-000106-ta-tumalo-rv-park-text-amendment>

BUDGET IMPACTS:

None

ATTENDANCE:

- Audrey Stuart, Associate Planner
- Anthony Raguine, Principal Planner
- Will Groves, Planning Manager

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 18, Zoning Ordinance, to Amend the Development Standards for Recreational Vehicle Parks in the Tumalo Commercial District. * * * * * ORDINANCE NO. 2026-007

WHEREAS, the Deschutes County Community Development Department (CDD) reviewed applicant-initiated amendments (Planning Division File No. 247-25-000106-TA) to the Deschutes County Code (“DCC”), Chapter 18.67—Tumalo Rural Community Zoning Districts; and

WHEREAS, the Deschutes County Hearings Officer held a duly noticed public hearing on June 16, 2025; and

WHEREAS, the Deschutes County Hearings Officer issued their recommendation on September 3, 2025, and recommended that the Board of County Commissioners (“Board”) approve the subject amendments; and

WHEREAS, the Board approved Order 2025-040 on September 3, 2025, initiating a de novo review of the subject application and subsequently held a duly noticed public hearing on October 22, 2025; and

WHEREAS, the Board approved Order 2026-007 on January 14, 2026, which reopened the record to accept new testimony and continued the public hearing; and

WHEREAS, the Board considered this matter after a continued public hearing on February 11, 2026, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Title 18; now, therefore,

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

Section 1. AMENDING. Deschutes County Code Chapter 18.67, Tumalo Rural Community Zoning Districts, is amended to read as described in Exhibit “A”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike through~~.

Section 13. FINDINGS. The Board adopts as its findings Exhibit “B”, attached and incorporated by reference herein. The Board also incorporates in its findings in support of this decision, the Recommendation of the Hearings Officer, attached as Exhibit “C” and incorporated by reference herein.

///

Dated this _____ of _____, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PHILIP CHANG, Chair

ANTHONY DeBONE, Vice Chair

ATTEST:

Recording Secretary

PATTI ADAIR, Commissioner

Date of 1st Reading: _____ day of _____, 2026.

Date of 2nd Reading: _____ day of _____, 2026.

Record of Adoption Vote:

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

Effective date: _____ day of _____, 2026.

Attachment A: Proposed Text Amendment

18.67.040 Commercial (TuC) District

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area or the travel needs of people passing through the area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review under DCC 18.124.
 - 1. A single-unit dwelling or duplex.
 - 2. A manufactured dwelling subject to DCC 18.116.070.
 - 3. Type 1 Home Occupation, subject to DCC 18.116.280.
 - 4. Class I and II road or street project subject to approval as part of a land partition, subdivision, or subject to the standards of DCC 18.67.060 and 18.116.230.
 - 5. Class III road or street project.
 - 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
 - 7. Residential home.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116, and 18.124:
 - 1. A building or buildings, none of which exceeds 4,000 square feet of floor area to be used by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating and/or drinking establishment.
 - c. Offices.
 - d. A dwelling unit permitted outright or conditionally, in the same building as a use permitted in DCC 18.67.040.
 - e. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
 - 2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).
 - 3. Child care facility and/or preschool.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
 - 1. Religious institutions or assemblies.
 - 2. Bed and breakfast inn.
 - 3. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 - 4. Park.
 - 5. Public or semi-public building.
 - 6. Utility facility.
 - 7. Water supply or treatment facility.
 - 8. Manufactured dwelling/~~RV park~~ on a lot or parcel in use as a manufactured dwelling 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 dwelling park ~~or recreational vehicle park~~, including any expansion of such uses on the same lot or parcel as configured on June 12, 1996.
 - 9. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor area.

- a. Farm equipment, sales, service, or repair.
 - b. Trailer sales, service, or repair.
 - c. Vehicle service or repair.
 - d. Veterinary clinic.
10. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor area:
- a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Marijuana retailing, subject to the provisions of DCC 18.116.330.
11. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
12. 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.
13. Psilocybin service centers, subject to the provisions of DCC 18.116.380.

14. Recreational Vehicle Parks.

D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(10).

- 1. Compatibility.
 - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel abutting or across a local or collector street from a lot or parcel in a residential district.
- 2. Traffic and Parking.
 - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity, and level of service of the affected transportation facility.
 - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.

E. Requirements for Large Scale Uses.

- 1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
 - a. The use is intended to serve the community and surrounding rural area, or the traveling needs of people passing through the area;
 - b. The use will primarily employ a work force from the community and surrounding rural area; and
 - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
- 2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).
- 3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.

F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.

- 1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
- 2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.

G. Lot Area Requirements. The minimum lot area is 10,000 square feet. In addition, lot area requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas, and off-street parking.

H. Lot Coverage Standards.

- 1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal, and landscaping are satisfied.
- 2. No use listed in DCC 18.67.040(C)(10) that is abutting or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage, including outside storage, and off-street parking and loading areas.

I. Setback Standards.

- 1. Front Setback. The front setback shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3). The front setback for structures may be reduced, but not increased, to the average setback distance of existing structures on abutting lots or parcels.
- 2. Side Setback. No requirement, subject to DCC 18.67.040(I)(4).
- 3. Rear Setback. No specific requirement, subject to DCC 18.67.040 (I)(4).
- 4. Exceptions to Setback Standards.
 - a. Lot line(s) abutting a residential zone. For all new structures or substantial alterations of a structure requiring a building permit, on a lot or parcel abutting a residential district, the setback shall be a minimum of 15 feet. The required setback will be increased by one foot for each foot by which the structure height exceeds 20 feet.
 - b. Lot line(s) abutting an EFU zone. Any structure requiring a building permit, on a lot or parcel abutting EFU-zoned land receiving special assessment for farm use, shall have a minimum setback of 100 feet from any shared lot line.

J. Additional Standards for Recreational Vehicle Parks

1. Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:

- a. **The area of the parcel(s) proposed for development shall exceed 2.3 acres but no more than 5 acres;**
- b. **The parcel(s) shall all be located in the boundaries of a sanitary district or sanitary authority, or confirmation shall be provided that a sewage collection and disposal system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and**
- c. **The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.**

2. Compliance with DCC 18.128.170.

- a. **To ensure compliance with DCC 18.128.170(G) which prohibits any**

- recreational vehicle remaining in a park for more than 30 days in a 60 day period, Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent "residential dwellings" as that term is used in ORS 197.493.
- b. Compliance with DCC 18.128.170(O) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.
 - c. Recreational Vehicle Parks in the Tumalo Commercial District shall impose quiet hours from 10:00 pm to 7:00 am daily.

Draft Findings for Board of County Commissioners Decision

**BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

I. BASIC FINDINGS OF FACT

The Board adopts and incorporates by reference the code interpretations, findings of fact, and conclusions of law in the Hearings Officer’s Recommendation (the “Recommendation”) except to the extent that the Recommendation is inconsistent with or modified by the Board’s findings herein. The Recommendation is attached as Exhibit C to Ordinance 2026-007.

The Board’s findings are set forth below:

a. Procedural History

The applicant, Joel Gisler (“Applicant”), submitted an application on February 18, 2025, seeking a text amendment to DCC 18.67.040 to alter the manner in which Recreational Vehicle Parks (“RV Parks”) may be permitted in the Tumalo Commercial District (“TUC”) (the “Text Amendment”). On June 9, 2025, a staff report was issued in advance of the public hearing before the Hearings Officer, scheduled for June 16, 2025. Following that public hearing, the Hearings Officer issued his Recommendation on September 2, 2025. The Hearings Officer found that the application met all applicable text amendment criteria but declined to make a formal decision, based on a finding that only the Board has the authority to amend DCC. Noting that the application invoked “legislative/policy” decisions that needed to be considered by the Board, the Hearings Officer recommended approval of the proposed text amendment, “unless the [Board] determines there is a legislative/policy reason not to adopt the amendments” (emphasis in original).

The Board voted to “call up” the Recommendation on September 3, 2025, pursuant to DCC 22.28.050(A) via Order No. 2025-040. The Board conducted a *de novo* public hearing on October 22, 2025, and thereafter held the written record open until November 12, 2025.

The Board’s deliberations were originally scheduled for January 7, 2026. However, numerous public comments were submitted after the record closed on November 12, 2025. To provide clarity on the nature of the proceedings and to ensure that all parties were provided ample opportunity to present evidence and testimony, the Board approved Order No. 2026-005 on January 14, 2026. Order No. 2026-005 reopened both the written and oral record and continued the public hearing so that public notice could be provided.

The Board held a continued public hearing on February 11, 2026. County staff clarified that, consistent with the Hearing Officer’s Recommendation, the Board was considering the proposed Text Amendment as a legislative matter to address the “legislative/policy” issues the Hearings Officer stated were left to the Board’s consideration. Following the public hearing, the Board closed the record, deliberated, and voted 2-1 (Commissioner Adair opposed) to approve the proposed Text Amendment. The Board subsequently approved Ordinance No. 2026-007 on April 1, 2026, memorializing the Board’s oral decision.

b. Clarifying Findings

The Board addresses several issues raised before the Hearings Officer concerning the staff report submitted on the application and makes the following clarifying findings at the outset:

- **Map:** In order to determine the maximum number of properties that could potentially be eligible for an RV Park under the applicant’s proposal, staff produced a map identifying properties in the TUC that consist of parcels under common ownership which are 2 to 5 acres in size and contiguous to Highway 20. This map did not include information on whether a property was located within a sewer district and did not confirm that an RV Park could be developed on any specific property. This map identified two properties in the TUC that met the size requirement and were contiguous to Highway 20, with one of the identified properties located west of Highway 20 on Wood Avenue. The Wood Avenue property is not located within a sewer district and the applicant later revised the proposed text amendment to increase the minimum RV Park acreage from 2 to 2.3 acres. Therefore, only the Applicant’s property located to the east of Highway 20 is presently eligible to apply for a conditional use permit to develop an RV Park with approval of the text amendment.
- **Onsite Wastewater:** Whether on-site wastewater permits could be approved for the Applicant’s property is not relevant because the Text Amendment requires that any RV Park in the TUC be connected to a central sewer system.
- **State Building Codes:** The Text Amendment does not change DCC 18.128.170(I) which requires any RV Park developed in the County to provide “toilets, lavatories and showers” based on the number of RV spots. Compliance with DCC 18.128.170(I) and OAR 918-650-0050(I) will be addressed in review of a subsequent conditional use permit application for any RV Park proposed to be developed in the TUC.
- **“Adding” RV Parks as a Conditional Use:** The Text Amendment will not “add” RV Parks as a conditional use in the TUC. RV Parks are allowable as a conditional use in the TUC subject to a historical limitation. The Text Amendment replaces that historical limitation with a geographic limitation.¹

II. FINDINGS

These findings address issues raised in the Board’s proceedings. The Board has no obligation to address arguments not related to applicable criteria or to address insufficiently developed arguments. *See, e.g., Wolverton v. Crook County*, 39 Or LUBA 256 (2000); *Gould v. Deschutes County*, ___ Or LUBA ___, ___ (LUBA No 2018-140, June 21, 2019) (slip op at *15), *aff’d*, 31 Or App 868, 484 P3d 1073 (2021) (citing *Deschutes Development v. Deschutes County*, 5 Or LUBA 218, 220 (1982)). Any issue raised or argument asserted in the Hearing Officer’s proceedings that

¹ By “geographic limitation” the Board is referring to the requirement that the tract proposed for any RV Park development in the TUC must be at least 2.3 acres but no more than 5 acres in size, be located within the boundaries of a sanitary district or sanitary authority or otherwise be served by an adequate sewage collection and disposal system and include at least one parcel that is adjacent to State Highway 20.

is not addressed in the Hearing Officer’s Recommendation or in these Findings has been determined to be insufficiently developed and/or not related to applicable code criteria.

A. Procedural Findings

a. The Hearings Officer Conducted the Initial Public Hearing.

DCC 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.

DCC 22.28.030 Decision On Plan Amendments and Zone Changes

- A. Except as set forth herein, the Hearings Officer or the Planning Commission when acting as the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the Board of County Commissioners.*
- B. In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has authority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer's decision. No argument or further testimony will be taken by the Board.*

* * *

FINDING: There is no provision in DCC Chapter 22 setting forth the procedures for processing an application for a quasi-judicial text amendment, even though DCC 18.136.010 allows both “text or legislative map changes” applications to be submitted. The Board agrees with the Hearings Officer’s findings that the proceedings before the Hearings Officer were quasi-judicial. Accordingly, the Board interprets DCC 22.28.030 as applying to the subject Text Amendment and finds that the initial hearing was properly conducted before a County Hearings Officer. No party objected to the initial hearing not having been held by the Planning Commission under DCC 22.28.030(A), nor demonstrated that their substantial rights were impaired by the County Hearings Officer conducting the initial hearing.

b. The Hearings Officer Issued a Recommendation.

FINDING: The Hearings Officer proceedings followed those of a quasi-judicial text amendment. The Hearing Officer determined that amendment of the Deschutes County Code must be by adoption of an ordinance. Therefore, the Hearings Officer issued a Recommendation to the Board, noting several “legislative/policy” issues that the Hearing Officer determined were best considered by the Board.

No party appealed the Hearing Officer’s Recommendation or otherwise objected to the Hearings Officer issuing a Recommendation. Because the Board initiated its own review, no party’s substantial rights were impacted and any potential procedural errors were cured. All parties who participated in the Hearings Officer proceedings were given notice of the public hearings held by the Board and were provided the opportunity to participate in the Board’s proceedings both orally and in writing.

c. The Board of Commissioners Conducted Legislative Review.

FINDING: The Hearings Officer determined that the Text Amendment complied with all applicable DCC provisions. The Hearings Officer recommended that the Board adopt the Text Amendment unless the Board determined that “there is a legislative/policy reason to not adopt the amendments” (emphasis in original). As understood by the Board, the Hearings Officer’s Recommendation determined that the first required step was a quasi-judicial process before the Hearings Officer with the second step then being a legislative process before the Board.

The Board takes no position on the Hearings Officer’s processing of the Text Amendment application. The Board finds that no party appealed or otherwise objected to the Hearings Officer’s Recommendation or otherwise argued that the Board was required to continue following a quasi-judicial process in its review. Any procedural errors that may have resulted from the Hearings Officer’s Recommendation were corrected by Board Order No. 2025-040 initiating review, and Board Order No. 2026-005 re-opening the public hearing to clarify that the Board’s proceedings were legislative. By re-opening the public hearing, the Board notes that all submitted public testimony was added to the record and considered by the Board., All parties were provided three (3) opportunities to present argument and testimony in this matter: once before the Hearings Officer, and twice before the Board.

The Board finds that no individual’s substantial rights were prejudiced by the Board considering the Hearing Officer’s Recommendation and following a legislative process in deciding whether to approve the Text Amendment.

B. Technical Findings

The Hearings Officer’s Recommendation is focused on applicable DCC provisions governing text amendments. Based on his analysis, the Hearings Officer recommended that the Board adopt the proposed Text Amendment unless the Board determined there are legislative/policy reasons not to adopt the amendments. To distinguish the Hearings Officer’s analysis from the Board’s own analysis, the Board describes the Hearings Officer’s Recommendation as primarily including “technical” findings.

The Board adopts and incorporates by reference the Hearing Officer’s code interpretations, technical findings of fact, and conclusions of law in the Recommendation, except to the extent the Hearings Officer’s technical findings are inconsistent with or modified by the Board’s findings herein. The Board adds to the Hearings Officer’s technical findings as follows:

a. The Text Amendment is Consistent with Applicable Traffic Impact Standards.

OAR 660-012-0060 Plan and Land Use Regulation Amendments

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

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

FINDING: The Hearings Officer found that the Applicant met the applicable traffic criteria for text amendment applications by demonstrating compliance with the Transportation Planning Rule (“TPR”). The Hearings Officer rejected opposition comments claiming that an RV Park will cause adverse traffic impacts in terms of volume and safety.

During its deliberations, the Board voted 2-1 (with Commissioner Adair opposed) in favor of adopting the Hearings Officer’s finding that the Applicant demonstrated compliance with the TPR through the three reports submitted by its licensed traffic engineer on February 18, 2025, October 21, 2025, and October 29, 2025. The Text Amendment does not have the potential to create a significant impact on the transportation system, which satisfies the TPR . As the Applicant’s traffic engineer determined in its October 21, 2025 report, a 30-unit residential development—a use that is already permitted within the TUC on the Applicant’s property—would generate an estimated 166 more daily trips compared to a 30-space RV Park. RVs can safely navigate Tumalo streets as needed to connect an RV Park on the Applicant’s property to Highway 20, as determined in the Applicant’s traffic engineer’s October 29, 2025 submittal.

Commenters opposed to the Text Amendment argued that the Board should disregard the Applicant’s traffic engineer’s submittals and instead give more credit to lay testimony arguing generally that Tumalo’s local roads cannot accommodate traffic associated with an RV Park developed in the TUC. However, no oppositional comments questioned the data or assumptions used by the Applicant’s traffic engineer to show compliance with the TPR; no one presented any alternative analysis demonstrating that an RV Park will have greater traffic impacts compared to other uses allowed in the TUC.

As understood by the Board, the opponents’ traffic objections present a substantial evidence issue. Accordingly, the Board is obliged to weigh the evidence in the record while giving particular attention to testimony from qualified experts that pertain to technical issues. The Oregon Land Use Board of Appeals (“LUBA”) determined that expert testimony must be relied upon when the approval standard is “a more technical transportation standard such as OAR 660-012-0060 [the TPR].” *See Falcon Ridge, LLC v. City of Klamath Falls*, 57 Or LUBA 651, 659 (2008). In this case, the majority of the Board (Commissioner Adair opposed) is not persuaded by the lay testimony from opponents. The Board finds that the Applicant’s traffic engineer’s submittals constitute substantial evidence in the record supporting a finding that the Text Amendment complies with the TPR. The Board further finds that any potential impacts to local traffic and any mitigation of these impacts, if needed, will be addressed during review of a conditional use permit application for an RV Park in the TUC. Any traffic related issue beyond compliance with the TPR is not currently before the Board because no RV Park is currently proposed.

The Board notes that the Text Amendment amends DCC 18.128.170(O) which requires for any RV Park proposed to be developed anywhere in the County that “[a]ccess * * * shall be from an arterial or collector street.” The Text Amendment alters that requirement for RV Parks proposed in the TUC, instead requiring a demonstration that an RV Park will not unreasonably impact the streets providing direct access by addressing “traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.”

The Applicant argued that the existing requirements in DCC 18.128.170(O) would prevent an RV Park from being developed with access from a local access road, regardless of whether such road could be shown to provide safe and viable access. Arguments to the contrary were made by several opponents who generically asserted that road standards should not be lowered in Tumalo.

The Board is unpersuaded by opponents’ comments. For the foregoing reasons, the Board finds that the Applicant’s proposal to amend DCC 18.128.170(O) to require a site-specific traffic analysis for RV Parks in the TUC does not functionally lower the road standards required. The Text Amendment’s reliance on a site-specific traffic analysis will help foster RV Parks in the TUC while likewise ensuring safe and adequate access to such developments.

b. The Text Amendment is Consistent with the Tumalo Community Plan

Deschutes County Comprehensive Plan- Appendix B-Tumalo Community Plan

Economic Development Goal. Retain the economic vibrancy of Tumalo’s historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community.

Economic Development Policies

[...]

3. Allow residential uses and mixed residential/commercial uses, without inhibiting future commercial development opportunities in the Commercial Zoning Districts.

4. Support economic development initiatives and tourism in the Tumalo area.

FINDING: Several opponents argued that the Text Amendment is inconsistent with the Tumalo Community Plan. Most oppositional comments did not address any specific goal or policy in the Tumalo Community Plan, and instead generally asserted that an RV Park does not preserve the rural or “small town” character of the community.

The Applicant cited the Tumalo Community Plan’s Economic Development Goal and corresponding Policies 3 and 4 in support of the Text Amendment. Policy 3 is to “[a]llow residential uses and mixed residential/commercial uses, without inhibiting future commercial development opportunities in the Commercial Zoning Districts.” Policy 4 is to “[s]upport economic development initiatives and tourism in the Tumalo area.” The Applicant further argued that RV Parks are not inherently an urban use that would impact Tumalo’s “rural” character. The Applicant noted there are many RV Parks throughout the state that are not within urban growth boundaries. In Deschutes County, RV parks are permitted as a conditional use in other rural zones. Additionally, RV Parks significantly contribute to rural recreational opportunities. Last, the Applicant noted and the Hearings Officer found that “lands in the TUC District [...] are located in close proximity to the adjacent State Hwy 20, thereby promoting an orderly and efficient transition from rural to urban land use to the extent applicable.”

The majority of the Board (Commissioner Adair opposed) agrees with the Applicant and finds that the Text Amendment is consistent with the Tumalo Community Plan including Economic Development Policies 3 and 4. The Board further notes the letters of support in the record from the owners of two local businesses in Tumalo which stated that local businesses in the TUC cannot thrive without customer bases that reach beyond the limits of Tumalo, and finds that increasing opportunities for RV Parks to be developed in the TUC is the very definition of “supporting * * * tourism in the Tumalo area” as mandated by Policy 4 of the Economic Development Goal in the Tumalo Community Plan.

With respect to comments asserting that RV Parks will change Tumalo’s intended rural character, the Board agrees with the Applicant’s arguments and evidence. The Board refers to the recent adoption of the 2040 Tumalo Community Plan, Deschutes County Ordinance No. 2023-016, Exhibit C, Tumalo Community Plan, Residential Area Policy 4. In developing the Plan, the community did not call for prohibition of short-term rental use of 4-unit developments, thereby evidencing the community’s determination that short-term rentals do not change Tumalo’s rural character. The Board further finds that the TUC currently allows for a range of commercial uses, any of which could have significantly greater traffic impacts than an RV park.

Within the TUC, multi-unit residential developments are not allowed. The maximum density for residential development is one duplex per lot. As demonstrated by the Applicant’s traffic engineer’s October 21, 2025, submittal, the Applicant could build up to 15 duplexes (30 units) on his property. His property also could qualify for an RV Park under the Text Amendment. If duplexes were built, they could be used as short term rental properties. Just as with multi-unit development in the Tumalo Residential zone (TUR), development of duplexes in the TUC that are used as short term rental properties do not change Tumalo’s rural character. The Board therefore finds that if the use of multi-unit housing or duplexes in Tumalo as short term rentals does not change Tumalo’s rural character, then neither will an RV Park.

C. Policy/Legislative Findings

The Hearings Officer found that legislative applications “generally involve broad public policy decisions” and “[i]n the context of a proposed text amendment, the County Board must eventually make a policy decision as to what uses may be allowed outright and conditionally in the TUC zone.” The Board makes the following policy findings in support of its approval of the Text Amendment.

a. The “Purpose Statement” of the TUC Should be Amended.

FINDING: The proposed Text Amendment includes a request to update the TUC’s purpose statement. Currently, uses allowed in the TUC are intended to “serve the community and surrounding area.” The Text Amendment clarifies that such uses may also serve “*the travel needs of people passing through the area.*”

For background, the Board notes its previous 2019 decision denying a proposed commercial use in the TUC because the use was determined to be inconsistent with the TUC’s purpose statement. See County File No 247-18-000545-CU/546SP/811-MA/247-19-000141-A. Therein, the County determined that the purpose statement in DCC 18.67.040 is enforceable as a regulatory requirement. That decision was upheld by LUBA. See *H2D2 v. Deschutes County*, 80 Or LUBA 528 (2019).

The Board finds that the TUC’s purpose statement in DCC 18.67.040 is stricter than a similar provision in OAR 660-022-0030(4)(c). Under OAR 660-022-0030(4)(c), commercial and industrial uses in the TUC that “serve the community and surrounding rural area *or the travel needs of people passing through the area,*” would not be precluded.

The Board finds that amending the TUC’s purpose statement in accordance with OAR 660-022-0030(4)(c) will align with existing uses in the TUC that currently serve “*the travel needs of people passing through the [Tumalo] area,*” as well as local residents. These existing uses include two cideries, multiple restaurants, a coffeeshop, the Tumalo Farmstand, “The Bite” food cart pod, an antiques store, a bicycle store, a gas station, etc. All these uses serve both residents and travelers alike. As a policy matter, the purpose statement of the TUC should be amended in recognition of existing uses serving the traveling public and to ensure that similar future uses are not determined to be inconsistent with the purpose of the TUC.

The Board finds that the purpose statement in DCC 18.67.040 should be updated such that the language is consistent with OAR 660-022-0030(4)(c).

b. The Text Amendment Supports Increased Camping Opportunities in Deschutes County

FINDING: The record includes a study commissioned by Deschutes County and completed in November 2023 (the “County’s Study”). This Study focused on the need for more campgrounds and RV Parks throughout the County. See Applicant’s Exhibit 1. The County’s Study cites statistics that Deschutes County attracts over four million visitors annually, largely for outdoor recreation, and that this tourism contributes over \$1.41 billion to the local economy each year. The County’s Study found that the County currently has a scarcity of short-term lodging capacity that caters to outdoor recreationists including campgrounds and RV Parks. This shortage thereby prevents visitors from extending their stays, limiting the area’s economic growth potential. The County’s Study concludes the County’s lack of camping opportunities, “including for recreational vehicles,” has increased dispersed camping in the Deschutes National Forest and along roads in the County resulting in added forest maintenance and damage to natural habitats, such as sanitation issues, problems with trash management, and increased fire risks. The County’s Study found that Tumalo State Park, which is located near the TUC, “has consistently outperformed the state-wide occupancy rate, often exceeding other state parks [...] by as much as 30 percent during peak seasons.” Exhibit 10 of the County’s Study provides data detailing that Tumalo State Park often reaches full occupancy during the busiest tourist seasons.

Considering the County’s Study, the Board finds the Text Amendment will enable greater opportunity for the development of RV Parks in the TUC and therefore will help alleviate the above-discussed issues. The Board finds that allowing new opportunities for an RV Park to be developed in the TUC will allow more travelers to visit the County and therefore contribute to the County and Tumalo’s economic growth.

c. RV Parks Are Already Conditionally Permissible in the TUC

FINDING: Several comments assert that RV Parks are not a compatible use in the TUC. The Board finds those arguments unpersuasive because DCC 18.67.040(C)(8) lists the expansion or continued use of RV Parks as a conditional use in the TUC, provided the RV Park was established prior to the adoption of PL-15 in 1979 and operated as of June 12, 1996. The Board interprets the current DCC provisions that conditionally allow RV Parks in the TUC—even subject to historical limitations—as confirmation that RV Parks may be compatible with other uses in that zoning district. If past County Commissioners determined that RV Parks were *per se* incompatible in the TUC, then the County would not have listed RV Parks as a conditionally permissible use.

Based on the foregoing, the Board finds that RV Parks may be a compatible use within the TUC, subject to conditional use permit review. Replacing the historic limitation with a geographic limitation as proposed by the Applicant does not run counter to the TUC.

d. The TUC District is Proximate to Tumalo’s Commercial Center and the Deschutes River

FINDING: Any RV Park proposed to be developed in the TUC will be located close to other commercial development in the TUC and will be adjacent to Highway 20. Many visitors to Deschutes County either stop in or pass through Tumalo and have an opportunity to visit

commercial development (including restaurants and shopping) that serve locals and tourists alike. Tumalo State Park is in relatively close proximity to the TUC and currently provides campground and RV park facilities. This indicates there is a demand for these facilities in the general Tumalo area and that such facilities are consistent with the character of the general surrounding area.

The TUC is also proximate to the Deschutes River. Guests of a future proposed RV Park located in the TUC near Tumalo State Park may have outdoor recreation activity opportunities as contemplated in the County’s Study.

e. Long Term Occupancies of an RV Park are Precluded by DCC 18.128.170(G)

Opponents expressed concern that a future RV Park will allow long term tenants that may bring unwanted effects to the surrounding area. The Board is not persuaded by those arguments, and notes that all RV Parks developed in Deschutes County must satisfy DCC 18.128.170(G), which states that “[n]o recreational vehicle shall remain in the park for more than 30 days in any 60 day period.” Although duplicative of this code requirement, the Text Amendment includes this same limitation on any RV Park developed in the TUC. The Board finds that concerns that the potential development of an RV Park in the TUC could create long term tenancies are unfounded.

III. DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of County Commissioners hereby **APPROVES** the Applicant’s application for a Text Amendment to DCC 18.67.040.

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

FILE NUMBERS: 247-25-000106-TA

HEARING DATE: June 16, 2025, 1:00 p.m.

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

APPLICANT: Joel Gisler

SUBJECT PROPERTIES: The Tumalo Commercial Zone encompasses multiple properties

REQUEST: Applicant requests text amendments to Deschutes County Code Chapter 18.67, Tumalo Rural Community Zoning Districts. The proposed text amendments would modify the Code to add recreational vehicle parks as a conditional use in the Tumalo Commercial (TUC) zone. The proposed amendments also include specific siting standards and modifications to road access standards.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: The Hearings Officer finds that the Applicant's request satisfies all procedural and substantive criteria necessary to approve the Applicant's request for amendments to the text of the Deschutes County Code as modified during this proceeding and by this Recommendation. The Hearings Officer recommends the Deschutes County Board of County Commissioners adopt by ordinance the language set forth in this Recommendation as Exhibit B.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code and Comprehensive Plan

Title 18, Deschutes County Zoning Ordinance
Chapter 18.67, Tumalo Rural Community Zoning District
Chapter 18.128, Conditional Use
Chapter 18.136, Amendments

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

II. BACKGROUND AND PROCEDURE

A. Background

The Applicant requests amendment of the Deschutes County Code (“DCC” or “Code”) to add a conditionally allowable use of recreational vehicle (“RV”) parks in the Tumalo Commercial (TUC) zone. The TUC zone is one of six zones in the County’s Tumalo Rural Community Zoning Districts governed by CDC Chapter 18.67.¹ Under current Code provisions, RV parks are already allowed as a conditional use in the TUC zone, but only “on a lot or parcel in use as a manufactured dwelling 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 dwelling park or recreational vehicle park, including any expansion of such uses on the same lot or parcel as configured on June 12, 1996.”² The Applicant requests a text amendment for the purpose of eventually seeking an entitlement to develop an RV park on one specific property in the TUC zone.

The Applicant’s proposal initially requested the following text amendments to DCC 18.67.040: (1) a revised purpose statement; (2) revisions to DCC 18.67.040(C)(8) and a proposed additional section – DCC 18.67.040(C)(14) – intended to allow RV parks as conditional uses without the current temporal requirements; and (3) a proposed new section – DCC 18.67.040(J) – establishing various siting standards for RV parks. The Applicant included its requested text amendments in the Application. After the Hearing, and in response to some of the comments made at the Hearing, the Applicant submitted revisions to the specific text amendments it seeks. This Recommendation will refer to the Applicant’s final version of the proposed text amendments, attached as Exhibit A, as the “Text Amendments.”

Prior to the Hearing, Staff from the County’s Community Development Department (“Staff”) issued a Staff Report describing the Application and the applicable criteria (“Staff Report”). The Staff Report does not make a recommendation, but the Staff Report does address the applicable criteria and makes certain findings.

B. Notice and Hearing

On April 3, 2025, the County issued a Notice of Application seeking comments on the Application. On May 15, 2025, the County issued a Notice of Public Hearing (“Hearing Notice”) for this matter. The County mailed the Hearing Notice to all owners of property within 250 feet of the TUC Zone, to the Department of Land Conservation and Development, and to other public agencies. The County also published the Hearing Notice in the Bend Bulletin on May 18, 2025.

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on June 16, 2025, beginning at approximately at 1:14 p.m. The Hearing took place in a hybrid format, with the Applicant, Staff, and other participants present in the Hearing Room, while the Hearings Officer and other participants participated remotely.

¹ DCC 18.67.010.
² DCC 18.67.040(C)(8).

At the beginning of the Hearing, I noted for the record that this phase of review of the requested Text Amendments would be quasi-judicial in nature and, therefore, I directed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. At the conclusion of the evidentiary Hearing, and at the request of the Applicant, I announced that the record would remain open for written materials as follows: (1) any participant could submit additional materials until June 30, 2025; (2) any participant could submit rebuttal materials until July 14, 2025; and (3) the Applicant could submit a final legal argument without new evidence by July 28, 2025. Participants were further instructed that all submittals must be received by the County by 4:00 p.m. on the applicable due date. The Hearing concluded at approximately 3:43 p.m.

At the beginning the Hearing, participant Nunziata Gould stated a preliminary objection to the time the Hearing was held and to any time limits placed on participants. The Hearing was held as set forth in the Hearing Notice, and participant Gould did not assert that the Hearing Notice or the time of the Hearing are in violation of the Code or any other legal requirements. Further, the Hearing followed the procedures set forth in DCC Chapter 22. While I indicated that public comments would be limited to three minutes each during the Hearing, some individuals, including participant Gould, were given additional time. No participant asserted that the actual time allotted to each was insufficient or in any way impaired a substantial right. Based on the foregoing, I find no action was required to further address participant Gould’s preliminary objection.

C. Nature of Decision

The Text Amendments propose revisions only to the language of the Code, and not a map amendment. The adoption of Code language is generally legislative in nature. Because the Code allows individuals to request text amendments to the Code and establishes a procedure for processing an application, the adoption of Code language could also be viewed as quasi-judicial in nature when requested by an individual. As explained below, this is a unique situation in which the Text Amendments are both legislative and quasi-judicial in nature. DCC 18.136.010 governs amendments to the Code:

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.

By its express terms, this provision states that the process for a text amendment is as set forth in DCC 22.12. But DCC 22.12 broadly governs “legislative” procedures. DCC 22.04.020 defines legislative changes as follows:

Legislative changes generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of property owners.

As Staff points out in the Staff Report (attached to this decision as Exhibit C), the Text Amendments do not fit squarely within this definition. Further, the Code does not expressly define “text amendment” in the context of legislative changes or in the context of a quasi-judicial land use application, even though DCC 22.12.030 allows an individual to seek legislative changes through an application process. The Staff Report suggests that the Text Amendments should be processed in the same manner as a quasi-judicial plan amendment, which is governed by DCC 22.28.030.

In support of its conclusion, Staff provides a detailed analysis under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979) (“*Strawberry Hill 4 Wheelers*”). In that case, the Oregon Supreme Court set out a multi-factor test to determine what process applies to a land use application:

Generally, to characterize a process as adjudication presupposes that the process is bound to result in a decision and that the decision is bound to apply preexisting criteria to concrete facts. The latter test alone [applying preexisting criteria to concrete facts] proves too much; there are many laws that authorize the pursuit of one or more objectives stated in general terms without turning the choice of action into an adjudication. Thus a further consideration has been whether the action, even when the governing criteria leave much room for policy discretion, is directed at a closely circumscribed factual situation or a relatively small number of persons. The coincidence both of this factor and of preexisting criteria of judgment has led the court to conclude that some land use laws and similar laws imply quasijudicial procedures for certain local government decisions. *Strawberry Hill 4 Wheelers* at 602-03.

As Staff correctly notes, the *Strawberry Hill 4 Wheelers* decision sets out three factors which must be considered:

1. Is the inquiry bound to result in a decision?
2. Are there preexisting criteria that are applied to concrete facts?
3. Is the inquiry directed at a closely circumscribed factual situation or a relatively small number of persons?

I agree with Staff that the three factors listed above, in this case, warrant following a quasi-judicial process for the Application, at least initially. First, even if the Text Amendments are legislative changes, the Code provides an opportunity for an individual to make an application to initiate amendments. Whether the County approves or denies that application, a decision will result, so the inquiry is bound to result in a decision. Second, the Code contains preexisting criteria applicable to the Applicant’s request. Although those Code provisions are largely procedural, the quasi-judicial process can determine if those requirements are met. Third, this matter is directed at a relatively small number of persons because the Text Amendments, as initially proposed, contain siting criteria that effectively limit the impact of the changes to only two properties.

At the same time, the Text Amendments carry the qualities of a legislative act. The language in DCC 22.04.020 provides that legislative changes “generally involve broad public policy decisions that apply to other than an individual property owner” (emphasis added), and that definition does not state that decisions applicable to only one individual property owner cannot be legislative. Indeed, that Code provision goes on to list examples of legislative decisions, including amendments to the text of zoning ordinances.

An important component of DCC 22.12 is DCC 22.12.050, addressing final decisions. That Code provision states that “[a]ll legislative changes shall be adopted by ordinance.” That language does not distinguish between purely legislative changes and those legislative changes that may be processed using a quasi-judicial process. This makes sense because the DCC is adopted by ordinance, and any changes to the text of the Code requires an amendment to that adopted ordinance. It also makes sense because ORS 215.503(2) requires that “[a]ll legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance” (emphasis added).

Based on the foregoing, I find that, in this case, the adoption of text amendments proposed by an applicant is a two-step process. In the first step of the process, the Applicant has a right under the Code to submit and to have considered an application to amend the Code’s text. This phase of the process is quasi-judicial in nature, and it is appropriate to have a hearing and to build a record following the principles of a quasi-judicial process. As part of that process, the Hearings Officer addresses the application only of the County’s existing laws. The second step of the process is for the Deschutes County Board of Commissioners (“County Board”) to adopt an ordinance to incorporate any text amendments to the Code. Amendments to the text of a zoning ordinance are a change in the County’s law, and only the County Board can make such a change. In other words, the Hearings Officer is without authority to issue a decision that amends the County’s Code. The Hearings Officer, however, can make a recommendation to the County Board based on what develops in the quasi-judicial phase of the process. The County Board is free to accept, modify, or reject the Hearings Officer’s recommendation.

III. FINDINGS AND CONCLUSIONS

A. Adoption and Incorporation of Findings in Staff Report

The Staff Report contains a comprehensive discussion and conclusion of the criteria applicable to the Application. Many of the conclusions in the Staff Report are not challenged in this proceeding. In some areas of the Staff Report, Staff requests that the Hearings Officer either modify Staff’s findings or make the findings directly. I find that the Staff Report correctly lists the applicable criteria, and I hereby adopt the discussion and conclusions in the Staff Report as my findings. The remainder of the findings in this Recommendation are intended to supplement the Staff Report and to address specific issues raised during this proceeding. To the extent any of the findings in this Recommendation conflict with the discussion and conclusions in the Staff Report, the findings set forth in this Recommendation control anything to the contrary in the Staff Report.

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B. Issues Raised in Opposition to the Application and in the Staff Report

Several participants submitted comments to the record in opposition to the Application. The vast majority of those comments did not address specific Code provisions. Instead, those comments introduced general concerns about RV parks. In the findings below, I examine the specific criteria that were addressed by participants, and I attempt to identify and address criteria that may be invoked by the participants who testified in opposition to the Application. These findings also address the issues raised in the Staff Report.

1. Sewage Disposal Services

Multiple participants expressed concern over how a new RV park in the TUC zone would handle wastewater disposal. DCC 18.128.170 regulates wastewater disposal in RV parks and is applicable in all zones. Under that Code provision, each RV space in an RV park is to be provided with piped potable water and sewage disposal service, and the RV park must provide a laundry facility.

The Applicant initially proposed language that would require any parcel proposed as an RV park to be “located in a sewer district,” but also proposed creating an exception to certain provisions of DCC 18.128.170, such that an RV park in the TUC zone would not have to comply with the sewage disposal and laundry requirements “until a sewer district is willing and able to provide service.” As acknowledged by the Applicant, an RV park that developed under that proposal could rely on septic systems until a sewer system became available.

The concerns raised by some participants generally asserted that septic systems in the TUC zone are not sufficient and that reliance on that technology would pose environmental and health risks. While these comments did not identify any particular criterion to which they are relevant, and did not provide supporting evidence addressing the adequacy of septic systems, the Applicant nevertheless modified the proposed Code changes to address these concerns. Specifically, the final version of the Text Amendments remove the originally-proposed exceptions to DCC 18.128.170, while also clarifying that an RV Park must be located in a sewer district or otherwise provide confirmation that “a sewerage system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available.” According to the Applicant, this proposed revision will ensure that each space in an RV park will be connected to a central sewer system, thereby negating the need to address the sufficiency of septic systems.

I agree with the Applicant that the removal of the originally-proposed exception to DCC 18.128.170 will address any sewage disposal concerns. Before a conditional use permit for an RV park may be approved, an applicant must demonstrate that a central sewer system is legally and physically available. Under DCC 18.128.170, the owner of the RV park would then have to ensure that each space in an RV park is actually connected to an available sewer system. That being said, I recommend that the County Board slightly modify the proposed language if it approves the Text Amendments. As proposed, the language refers to a “sewer district.” The actual district that exists in the area is the Tumalo Sanitary District, and “sanitary district” is the term used in ORS Chapter 450 that allows such districts. I also note that ORS Chapter 450 allows the creation of a “sanitary authority.” I recommend that the Board adhere to that more precise description by modifying the Applicant’s language to read as follows for DCC 18.67.040(J)(1)(b):

b. The parcel(s) shall all be located in the boundaries of a sewer sanitary district or sanitary authority, or confirmation shall be provided that a sewerage sewage collection and disposal system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and

2. Comprehensive Plan Policies

The Applicant identified several provisions in the County’s Comprehensive Plan (“Plan”) as potentially relevant to the Application. Staff recites those Plan provisions on pages 13 through 16 of the Staff Report and asks the Hearings Officer to determine if the Applicant has demonstrated compliance with those provisions.

Participant Kris Cranston submitted comments asserting that the Text Amendments are not compatible with the County’s Plan, which comments were repeated verbatim by other participants. Those comments, however, simply state that the Plan emphasizes the protection of the rural residential character and the promotion of orderly, compatible development. Participant Cranston (and others) does not identify any specific Plan policies on which those comments are based, and, to the contrary, simply state that the proposed Text Amendments would “violate” Deschutes County Code Title 18 – County Zoning. Other comments in the record similarly invoke the Plan in broad terms, without reference to specific Plan provisions. I find that participant Cranston’s arguments (and similar or identical arguments of other participants) are not developed enough for me to address in this Recommendation with respect to consistency with the Plan. I therefore find that the Applicant’s assertions with respect to the Plan provisions identified on pages 13 through 16 of the Staff report are sufficient to demonstrate compliance with the Plan.

The Applicant and multiple participants also address the Tumalo Community Plan (“Community Plan”), which is a component of the Plan. The Applicant points to the economic development goal of the Community Plan, which is to “[r]etain the economic vibrancy of Tumalo’s historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community.” Policy 4 under that Goal is to support economic development initiatives and tourism in the Tumalo area. The Staff Report finds that the proposed Text Amendments are consistent with that policy. Participants in opposition to the Application do not address the economic development portion of these goals and policies and, instead, assert that an RV park does not preserve the rural or “small town” character of the community.

Having reviewed and considered all comments submitted by participants, I find that the Text Amendments are not inconsistent with the Community Plan. Evidence in the record supports a finding that RV parks exist in rural areas. Indeed, RV parks are already allowed (albeit in limited circumstances) in the TUC zone. Further, the Community Plan expressly contemplates that commercial activities should be encouraged. The Community Plan, as with most Plan provisions, requires a balance between competing considerations. Based on the record before me, I find that the development of RV parks in the TUC zone can achieve that balance, and there is nothing inherent about such a development that would require the prohibition of RV parks in the TUC zone. I also note that the County will still have to review specific

development proposals through a conditional use process, during which impacts to surrounding areas will be considered and a decision will be made based on a fact-specific proposal. At this stage, where the County is simply determining if some new RV parks may be conditionally allowable in the TUC zone, I find that the Applicant has demonstrated that they can be, and there is a sufficient basis for the Board to approve the Text Amendments for that purpose.³

3. Statewide Planning Goals and Administrative Rules

Multiple participants mentioned Statewide Planning Goals (“Goals”), but did not specifically address those goals. For example, participant Brady submitted comments stating that “the project may be inconsistent with Statewide Planning Goals 2 (Land Use Planning) and 14 (Urbanization), which prioritize the containment of high-intensity uses within Urban Growth Boundaries.” That assertion was repeated verbatim by other participants. Because these comments are couched in terms of generalized allegations that the proposal “may be” inconsistent with the Goals, but do not offer evidence or any specific argument to support such allegations, I find that these arguments are not sufficiently developed for a response in this Recommendation.

One Goal that some participants seemed to invoke is Statewide Planning Goal 12 (“Goal 12”), which relates to transportation. In the context of a text amendment to a land use regulation, the applicable part of Goal 12 is set forth in OAR 660-012-0060, the Transportation Planning Rule (“TPR”). Under the TPR, the County must consider whether a proposed text amendment will significantly affect a transportation facility. The Applicant submitted an engineering analysis that concludes the proposal will not significantly affect a transportation facility. The County’s Senior Transportation Planner reviewed and agreed with the assumptions, methodologies, and conclusions in the Applicant’s report.

The majority of comments in the record relating to transportation assert that an RV park will cause unwanted traffic impacts, both in terms of volume and safety. None of those comments credibly assert that traffic resulting from the Text Amendments will significantly affect a transportation facility as that term is defined in OAR 660-012-0060, nor do they provide any analysis that disputes the findings in the Applicant’s report. At best, those comments questioned some of the assumptions in the report. Having reviewed the entire record, I find that the Applicant’s has met its burden of proving that the Text Amendments satisfy the TPR and are consistent with Goal 12.

The Staff Report notes that OAR 660-022-0030 imposes certain requirements the County must follow when planning unincorporated communities. Among those requirements, OAR 660-022-0030(8) requires that zoning of rural communities must ensure that cumulative development will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations and will not exceed the carrying capacity of the soil or of existing water supply resources and

³ The Applicant and the Staff Report also highlight Policy 5 of the Community Plan’s economic development goal, which guards against adverse effects on water resources and wastewater disposal. As discussed above, I find that the Applicant has adequately addressed waste water disposal. I also find that the evidence in the record supports a finding that amending the TUC zone to conditionally allow RV parks will not adversely affect water resources. The Applicant has documented the availability of municipal water to the properties where RV parks could be developed.

sewer services. The Staff Report asks the Hearings Officer to determine if the Text Amendments satisfy the rule language. While other participants addressed broad concerns relating to public health, environment, water resources, and wastewater disposal, no participant asserted that the Text Amendments will violate OAR 660-022-0030 generally, or subsection (8) of that rule specifically.

Based on the information provided by the Applicant, I find that OAR 660-022-0030(8) is satisfied. As concluded above, the Applicant has adequately addressed water resources and wastewater disposal. Further, no participant asserts that the Text Amendments will cause development that, cumulatively, will violate state or federal water quality regulations, or that will exceed the carrying capacity of the soil.

4. Policy-Related and Development-Specific Issues

The majority of comments submitted in opposition to the Text Amendments expressed a desire that the County not allow new RV parks in the Tumalo area. Those comments center around statements regarding what the County “should” or “should not” do as a matter of policy. Similar comments addressed site-specific concerns based on assumptions of how a specific RV park would be developed, even though no development proposal has been submitted

I find that these comments are not relevant at this time. In the context of a proposed text amendment, the County Board must eventually make a policy decision as to what uses may be allowed outright and conditionally in the TUC zone. If the Board does approve the Text Amendments, review of a future conditional use permit application will be the appropriate venue for addressing site-specific or development-specific concerns.

V. CONCLUSION AND RECOMMENDATION

Based on the Findings above, which augment the findings and conclusions in the Staff Report, I find that the Applicant’s proposed amendments to DCC Chapter 18.67 comply with the County’s provisions for amending the Code. However, I find that one portion of the Text Amendments could be revised by the Board of Commissioners in its adoption of an Ordinance approving the application and amending the Code to better reflect statutory language related to sanitary districts. I therefore recommend that the Deschutes County Board of Commissioners adopt the proposed text amendments presented in Exhibit A, as modified in Exhibit B by ordinance, unless the Board of Commissioners determines there is a legislative/policy reason not to adopt the amendments.

Dated this 2nd day of September 2025



Tommy A. Brooks
Deschutes County Hearings Officer

- Attachment:
- Exhibit A – Text Amendments (Applicant’s Version)
- Exhibit B – Modified Text Amendments (Hearings Officer’s Version)
- Exhibit C – Staff Report

EXHIBIT A

APPLICANT’S TEXT AMENDMENTS

DCC 18.67.040 Commercial (TuC) District

* * *

J. Additional Standards for Recreational Vehicle Parks

1. Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:

a. The area of the parcel(s) proposed for development shall exceed 2.3 acres but no more than 5 acres;

b. The parcel(s) shall all be located in a sewer district or confirmation shall be provided that a sewerage system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and

c. The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.

2. Compliance with DCC 18.128.170.

a. To ensure compliance with DCC 18.128.170(G) which prohibits any recreational vehicle remaining in a park for more than 30 days in a 60 day period, Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent “residential dwellings” as that term is used in ORS 197.493.

b. Compliance with DCC 18.128.170(O) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.

c. Recreational Vehicle Parks in the Tumalo Commercial District shall impose quiet hours from 10:00 pm to 7:00 am daily.

**EXHIBIT B
MODIFIED TEXT AMENDMENTS**

DCC 18.67.040 Commercial (TuC) District

* * *

J. Additional Standards for Recreational Vehicle Parks

1. Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:

a. The area of the parcel(s) proposed for development shall exceed 2.3 acres but no more than 5 acres;

b. The parcel(s) shall all be located in the boundaries of a sewer sanitary district or sanitary authority, or confirmation shall be provided that a sewerage sewage collection and disposal system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and

c. The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.

2. Compliance with DCC 18.128.170.

a. To ensure compliance with DCC 18.128.170(G) which prohibits any recreational vehicle remaining in a park for more than 30 days in a 60 day period, Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent “residential dwellings” as that term is used in ORS 197.493.

b. Compliance with DCC 18.128.170(O) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.

c. Recreational Vehicle Parks in the Tumalo Commercial District shall impose quiet hours from 10:00 pm to 7:00 am daily.

**EXHIBIT C
STAFF REPORT**



**STAFF REPORT
TUMALO RV PARK TEXT AMENDMENT**

FILE NUMBER(S): 247-25-000106-TA

SUBJECT PROPERTY: The Tumalo Commercial Zone encompasses multiple properties.

APPLICANT: Joel Gisler

APPLICANT’S ATTORNEY: Adam Smith, of Schwabe, Williamson and Wyatt

REQUEST: Amendments to Deschutes County Code (DCC) Chapter 18.67, Tumalo Rural Community Zoning Districts. The proposed amendments will modify the Deschutes County Code (DCC) to add recreational vehicle (RV) parks as a conditional use in the Tumalo Commercial (TUC) Zone. The proposed amendments include siting standards for new RV parks in the TUC Zone, including that the development area must be two-to-five acres in size, contiguous to Highway 20, and located within a sewer district. In addition, the proposed amendments will modify the standards for road access and wastewater facilities for RV parks in the TUC Zone.

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-25-000106-ta-tumalo-rv-park-text-amendment>

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)
 Title 18, Deschutes County Zoning Ordinance:
 Chapter 18.67, Tumalo Rural Community Zoning Districts
 Chapter 18.128, Conditional Use
 Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: DCC 22.04.040(B) does not require lot of record verification for Text Amendment applications. The proposed amendments will apply to all properties within the TUC Zone. Any future development of an RV park would require property-specific land use review, and lot of record findings would be made at that time.

SITE DESCRIPTION: The TUC Zone is located within the unincorporated community of Tumalo, which is located along Highway 20 to the northwest of the City of Bend. The TUC Zone is predominantly located to the north of Highway 20, but also includes approximately 8.7 acres located to the south of Highway 20. The development pattern within the TUC Zone includes a variety of small-to-medium size commercial uses such as food cart pods, a gas station, eating and drinking establishments, and two small strip malls. The TUC Zone also includes a number of undeveloped lots as well as existing residential development.

PROPOSAL: The applicant proposes to amend section 18.67.040, regarding the Tumalo Commercial (TUC) Zone. The proposed language of the Text Amendment is included as Exhibit 1 and summarized as follows:

- The Applicant proposes to modify the Purpose statement of the TUC Zone to include the travel needs of people passing through the area.
- The Applicant proposes to add an RV park as a new conditional use within the zoning district.
- The Applicant proposes siting standards for new RV parks in the TUC Zone and also proposes certain exceptions to the standards of DCC 18.128.170 for RV parks in the TUC Zone. Specifically, new RV parks in the TUC Zone would not require road access from a collector or arterial, and would not be required to provide laundry facilities and sewage disposal until sewer service is available to the property.

The submitted Burden of Proof provides the following background on the proposed Text Amendment:

This application is submitted in anticipation of two upcoming companion conditional use applications. The subject text amendment to DCC Title 18, Chapter 18.67.040, TuC District is intended to only allow RV Parks on a limited number of parcels in the TuC District owned by the Applicant, with the two upcoming conditional use applications then seeking approval for related uses on the Applicant’s parcels.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on April 3, 2025, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings

I have reviewed the transmittal materials for 247-25-000106-TA for a text amendment request to DCC Chapter 18.67 (Tumalo Rural Community Zoning Districts) to add recreational vehicle (RV) parks as a conditional use in the Tumalo Commercial District (TUC).

I have reviewed the application materials for potential Transportation Planning Rule (TPR) OAR 660-012 effects, including the applicant's transportation memorandum produced by Transight Consulting, LLC, (dated January 8, 2025) and I agree with its assumptions, methodology, and conclusions. The memorandum adequately addresses reasonable worst case scenario analysis through a comparison of the existing outright allowed uses (utilizing ITE category 822 for Strip Retail Plaza as an aggregate category encompassing eating/drinking establishments, small retail, and offices each totaling less than 10,000 square-feet) to the proposed Campground/RV Park (ITE 416) use and ultimately concludes that no significant impacts will be anticipated with the proposed text amendment. Staff notes that, should the proposed text amendment receive approval, further traffic analysis may be required at the time of future development depending on the future development's vehicle trip generation potential. While the current text amendment does not absorb County road capacity, any future proposal for the development of a Campground/RV Park under the proposed use category must demonstrate compliance with the transportation analysis requirements of DCC 18.116.310, including p.m. peak hour vehicle trips related to System Development Charges (SDCs), mitigations, and adequacy of access.

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

Deschutes County Onsite Wastewater Manager, Todd Cleveland

This proposal would allow an RV park without full connections for sewer, water and not require a central comfort station. This would not require connection to a community wastewater system. However, once a wastewater treatment system becomes available in the Tumalo , it would be beneficial to provide full connections and services at RV locations. The lack of sewer connections would limit the length of stay because RV users would need to take their RV to an approved dump station.

Onsite prefers to have facilities that will promote proper wastewater treatment and disposal conveniently available. Hopefully, this facility will be able to be connected as soon as possible when a community wastewater treatment facility becomes available.

Onsite wastewater permits would be unlikely to be approved for the proposed site.

Being in the Tumalo Sanitary District, when sewer becomes both legally and physically available to this location the only option would be to connect to the sanitary system. An onsite system could not be permitted once sewer is available (OAR 340-071-0160(4)).

Deschutes County Building Division, Krista Appleby, June 4, 2025 Comments

OAR 650 is applicable to Recreation Parks & Organizational Camps. Per OAR 918-650-0005(12) definition of 'recreational vehicle park' falls under the Recreation Park requirements. Referenced Table attached as PDF.

Among other [requirements in] OAR 650, toilets are required – see clip below. Referenced Table 3-RV is attached as PDF.

Building Codes Division - Chapter 918

Division 650
RECREATION PARKS AND ORGANIZATIONAL CAMPS

918-650-0050
Toilets

(1) Toilet facilities must be provided in every recreation park or organizational camp. They must be convenient and accessible and must be located within 500 feet of any recreational vehicle space or camping site not provided with an individual toilet facility or sewer connection.

EXCEPTION: The requirement for toilets in picnic parks, campgrounds and organizational camps may be waived by the regulating authority for areas not accessible by road.

(2)(a) Sanitary facilities must be as required in Table 3-RV;

(b) Toilet Bowls. Toilet bowls for public use must be elongated bowls with open-front seats. Any room with flush toilets must be provided with a floor drain as required in the Oregon Plumbing Specialty Code;

(c) Signs. Toilets must either be marked for the designated sex or be provided with a privacy lock. If not apparent, the location of toilets must be indicated by appropriate direction signs;

(d) Flush Toilets and Showers. Flush toilets and showers and the buildings containing them must be constructed in accordance with the State Building Code;

(e) Unisex Toilets. Toilet facilities designed to serve an occupant load of 15 persons or less may serve both sexes. Such toilet facilities must be equipped with a urinal.

(3) Nonwater-Carried Toilets. Nonwater-carried toilets, including, but not limited to, chemical or vault toilets or pit privies, must be constructed and located in accordance with the requirements of the Department of Environmental Quality.

Deschutes County Building Division, Randy Scheid, April 3, 2025 Comments

The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

918-650-0010
Scope and Purpose

(1) OAR chapter 918, division 650 establishes minimum safety standards for the design and construction of recreation parks and organizational camps as authorized in ORS 455.680.

(2) These rules establish design and construction requirements for recreation parks and organizational camps for the purpose of protecting the life, health, safety and welfare of persons using these facilities.

EXCEPTIONS:

1- These rules do not apply to parking areas offering access to beaches, marinas, boat ramps, piers, ski areas, rivers, trails and similar facilities, where no recreational vehicle utility connections are provided.

2- The area development permit does not include permits or related fees for buildings, mobile home setups, mechanical, plumbing or electrical systems, boiler, or elevators, or permits required by other agencies.

Statutory/Other Authority: ORS 455.020, 455.110 & 455.680

Statutes/Other Implemented: ORS 455.680

History:

BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0050

918-650-0020

Permit Required

No person may establish or enlarge the facilities of any recreation park or organizational camp or do any construction within the recreation park or organizational camp or cause the same to be done without first obtaining all required permits from the building official and paying the prescribed permit fees. Multiple permits may be required when the proposed work involves two or more code areas (i.e., structural, electrical, plumbing, or mechanical).

EXCEPTION: Applications for permits, submission of plans and payment of fees are not required for additions, alterations, relocation and maintenance of picnic tables, play equipment, fire pits and similar facilities in existing parks.

Statutory/Other Authority: ORS 455.020, 455.110 & 455.680

Statutes/Other Implemented: ORS 455.680

History:

BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0065

The following agencies did not respond to the notice: Bend Fire Department, Deschutes County Assessor, Deschutes County Road Department, Laidlaw Water District, Oregon Department of Transportation, and Tumalo Irrigation District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within the TUC Zone and within a 250-foot buffer around the TUC Zone on April 3, 2025. As of the date of this staff report, 62 comments have been submitted by members of the public in opposition to the proposal. Concerns raised in the public comments included:

- Impacts to neighborhood livability and the transient nature of RV park residents.
- The density of an RV park being incompatible with the rural nature of Tumalo.

- Increased traffic and whether the local roads are sufficient to accommodate RV's.
- Lack of existing sewage facilities to treat the wastewater from an RV park.
- Whether the Text Amendment conflicts with the Tumalo Community Plan, which was updated in 2024.
- Impacts to natural resources such as the nearby section of the Deschutes River.
- Whether the proposal is necessary given the nearby facilities at Tumalo State Park.

NOTICE REQUIREMENT: On May 15, 2025, the Planning Division mailed a Notice of Public Hearing to all property owners within the TUC Zone and within 250 feet of the TUC Zone, as well as to public agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, May 18, 2025. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on May 12, 2025.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial Text Amendment application is not subject to the 150-day review period.

III. FINDINGS & CONCLUSIONS

Amendments

The Applicant proposes to amend section 18.67.040 of Deschutes County Code to allow RV parks as a new conditional use within the TUC Zone. The amendments also set forth standards for new RV parks within the zone, including specific wastewater standards. Currently, wastewater disposal within RV parks is regulated by DCC 18.128.170, which are conditional use standards that apply to all zones governed by Title 18. DCC 18.128.170(D) requires each RV space to be provided with piped potable water and sewage disposal service. The relevant text of the proposed amendments is copied below, and it would allow the developer of an RV park to only provide sewage disposal service once a sewer district is able and willing to serve the property. The full text of the proposed amendments is included as Exhibit 1.

J. Additional Standards for Recreational Vehicle Parks

...

2. Compliance with DCC 18.128.170.

A. For sewage disposal service and laundry facilities only, Recreational Vehicle Parks in the Tumalo Commercial District shall not be required to comply with DCC 18.128.170(D) and (J) until a sewer district is willing and able to provide service to the proposed project. The County may include conditions of approval requiring Recreational Vehicle Parks to provide sewer connection to each recreational vehicle space and to provide laundry facilities as outlined in DCC 18.128.170(J) once sewer service is available from a sewer district.

Staff notes that agency comments from the Deschutes County Onsite Wastewater Division and

Deschutes County Building Division raise questions about the facilities that would be required under the proposed amendments. Though it is not an applicable land use approval criterion, comments from Building Division staff cite concerns regarding compliance with State Building Code if toilet facilities are not provided within an RV park. Staff notes these concerns would be addressed at the time a specific development proposal is submitted. However, staff asks the Hearings Officer to address these comments as they see fit and as they pertain to applicable approval criteria.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.136, Amendments

Section 18.136.010, Amendments

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

FINDING: The Applicant, as the property owner, has requested a quasi-judicial Text Amendment and filed the corresponding application. The Applicant has filed the required land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

DCC 22.04.020 includes the following definition:

"Quasi-judicial" zone change or plan amendment generally refers to a plan amendment or zone change affecting a single or limited group of property owners and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.)

The subject application is not a request to change the zoning or Comprehensive Plan designation of the subject property. However, as described below, the quasi-judicial process of a Comprehensive Plan Amendment is the most applicable guidance regarding Text Amendments that are not squarely legislative. Therefore, staff includes the definition of a quasi-judicial process above for reference and also addresses the provisions of DCC 22.28.030, regarding final action on Comprehensive Plan amendments. The application materials include the following analysis of the process for the subject Text Amendment:

The subject text amendment application 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. Existing case law and the DCC allow for flexibility where text amendments may be processed

as quasi-judicial or legislative. See *Strawberry Hill 4 Wheelers v. Benton County*, 287 Or 591 (1979).

Strawberry Hill 4 Wheelers sets forth certain factors determining when applications are quasi-judicial or legislative: (1) the process is bound to result in a decision; (2) the decision is bound to apply preexisting criteria to concrete facts; and (3) the action is directed at a closely circumscribed factual situation or a relatively small number of persons. *Id.* The more definitely the questions are answered in the negative, the more likely the decision under consideration is a legislative land use decision. *Id.* Each of the factors must be weighed, and no single factor is determinative. *Id.*

Here, the subject text amendment application satisfies the first prong as the process is bound to result in a decision. Either the Text Amendment will be approved or denied. The second factor is also answered in the positive because the proposed text amendment applies preexisting criteria from the applicable provisions of the DCC and the Statewide Land Use Planning Goals to concrete facts i.e., whether the proposed amendments meet those criteria. Last, and most strongly, the third factor is answered in the positive. The proposed text amendment applies to a closely circumscribed factual situation and a small number of persons. The TuC District itself only applies to a small geographic area of the unincorporated community of Tumalo. Narrowing the scope even more, the text amendment will then only apply to parcels in the TuC District that are adjacent to Hwy 20, under common ownership, and collectively between 2 and 5 acres in size. The land use consequences are disproportionately concentrated on a relatively small pool of persons (if not only the Applicant), as opposed to a larger region or the general population, therefore a quasi-judicial procedure is the correct option according to the existing case law. *Id.*; *Van Dyke v. Yamhill County*, __ Or LUBA __ (LUBA No 2018-61, Dec 20, 2018) (slip op at 4).

Indeed, this is also consistent with the DCC itself. "Legislative changes" are defined as those that "generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of property owners." See DCC 22.04.020. The DCC also defines "legislative" as "a planning or zoning action resulting in a general rule or policy which is applicable to an open class of individuals or situations." See DCC 18.04.030. By design, the subject text amendment application only applies to a narrow scope of properties in a zoning district that is unique to Tumalo and not applicable elsewhere in the entire county. Based on the *Strawberry Hill 4 Wheelers* factors, this is a quasi-judicial application and not a legislative application.

Recently, the Planning Commission used this exact reasoning as part of its basis to recommend that the Board of County Commissioners deny a proposed text amendment to allow mini-storage use in the MUA-10 zone along Highway 20. The Planning Commission recommended denial after specifically determining that the proposed text amendment only affected a small number of parcels and therefore, in the Planning Commission's opinion, should have been proposed as a quasi-judicial text amendment. Subsequently, the Board of

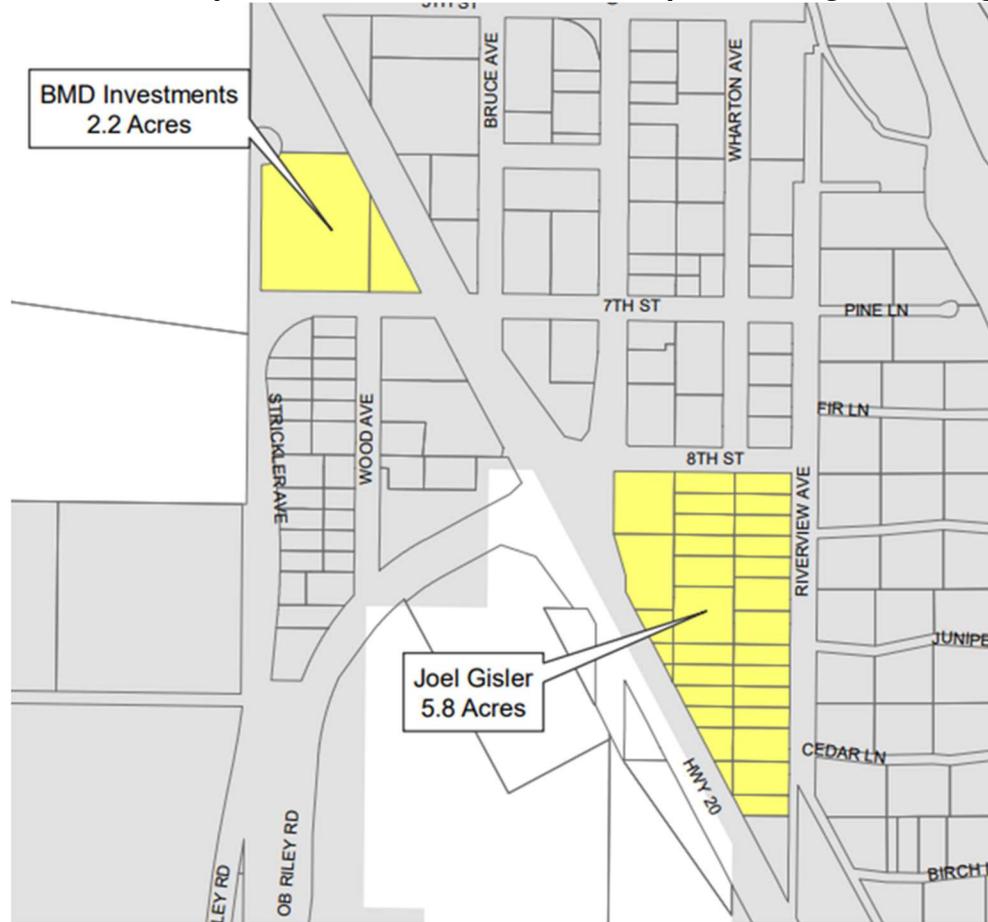
County Commissioners apparently agreed with the Planning Commission and denied this application. See County Planning File No. 247-24-000044-TA.

Although clearly a quasi-judicial application, DCC Chapter 22.24 does not include specific provisions governing the proposed quasi-judicial text amendment. The closest comparison is a quasi-judicial zone change or plan amendment, and the Applicant accordingly recommends that the County utilizes the procedures governing such applications in this matter. Notably, those procedures require a public hearing in front of the Hearings Officer with a decision issued thereafter. See DCC. 22.24.020. DCC 22.24.030 sets forth the basic notice requirements for the hearing. Notably, DCC 22.28.030(A) and (B) clarify that the Board of County Commissioners then adopts the Hearings Officer’s decision without further argument or testimony unless a separate appeal of that decision is filed.

Staff agrees with the applicant’s analysis of *Strawberry Hill 4 Wheelers* and notes the subject application will result in a decision, utilizes preexisting criteria, and will impact a limited number of properties.

Deschutes County staff conducted a preliminary analysis to identify the properties in the TUC Zone that may be potentially eligible for an RV park under the proposed amendments. This analysis identified properties in the TUC Zone that consist of parcels under common ownership which are two-to-five acres in size and contiguous to Highway 20. The results of this analysis are shown in the figure below and identify two properties that may potentially be eligible for an RV park under the proposed Code language. Staff notes this analysis is only intended to identify the number of properties impacted by the proposed amendments, and does not guarantee the eligibility or development potential of the identified properties.

Figure 1: TUC-Zoned Properties under Common Ownership and Contiguous to Highway 20



Based on the findings above, the subject request will impact the development potential of approximately two properties. Therefore, staff finds the subject request complies with the third component of the Strawberry Hill 4 Wheelers test and may be categorized as quasi-judicial based on the small number of persons who will be affected.

When the factors above are considered in combination, staff finds they indicate the subject Text Amendment is appropriately subjected to a quasi-judicial process. For these reasons, staff finds the request meets the three-part test outlined in *Strawberry Hill 4 Wheelers* as well as the intent of a quasi-judicial process.

Title 22 of the Deschutes County Code, Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Section 22.12.010, Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless

otherwise required by state law.

FINDING: As described above, staff finds the subject request is a quasi-judicial Text Amendment. However, the procedural steps will be similar to those of previous quasi-judicial Text Amendments, where Hearings Officers have determined that they also carry the qualities of a legislative act. The subject amendments will be adopted through an ordinance, consistent with the process for a legislative amendment. The Planning Director has exercised their discretion not to set a hearing before the Planning Commission.

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.***
- B. *Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.***
- 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.***
- D. *Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.***

FINDING: Notice of the proposed Text Amendment was published in the Bend Bulletin. Staff mailed a Notice of Application and a subsequent Notice of Public Hearing to property owners within the TUC Zone and within 250 feet of the TUC Zone. At the discretion of the Planning Director, posted notice was not required since the subject request is not property-specific. Staff notes a future application to develop an RV park on a specific property would require posted notice pursuant to DCC 22.24.030(B).

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.

FINDING: The applicant has submitted the required fees and requested a Text Amendment. Staff finds the applicant is granted permission under this criterion to initiate a legislative change and has submitted the necessary fee and materials.

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.**

FINDING: As described above, the subject application meets the definition of a quasi-judicial application. For this reason, this application was referred to a Hearings Officer rather than the Planning Commission for a recommendation. The adoption of the proposed text amendments will follow a legislative process because it must be approved by the Board. For the purpose of this criterion, staff notes the application has properties of both a quasi-judicial and legislative amendment.

- B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.**

FINDING: The subject application was not initiated by the Board. Staff finds this criterion does not apply.

Section 22.12.050, Final Decision

All legislative changes shall be adopted by ordinance.

FINDING: Staff finds this criterion requires action by the Board to effect any legislative changes to Deschutes County Code. If the proposed Text Amendment is approved, it will become effective through the Board adoption of an ordinance.

Chapter 22.28, Land Use Action Decisions

Section 22.28.030, Decision On Plan Amendments And Zone Changes

- A. Except as set forth herein, the Hearings Officer or the Planning Commission when acting as the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the Board of County Commissioners.**
- B. In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has authority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer's decision. No argument or further testimony will be taken by the Board.**

FINDING: As detailed above, staff finds the proposal should be viewed as a quasi-judicial plan amendment. For this reason, staff finds these criteria apply. This application is being referred to a Hearings Officer for a decision. If an appeal is not filed and the Board does not initiate review, the Board shall adopt the Hearings Officer's decision as the decision of the county.

- C. *Plan amendments and zone changes requiring an exception to the goals or concerning lands designated for forest or agricultural use shall be heard de novo before the Board of County Commissioners without the necessity of filing an appeal, regardless of the determination of the Hearings Officer or Planning Commission. Such hearing before the Board shall otherwise be subject to the same procedures as an appeal to the Board under DCC Title 22.***

FINDING: The subject Text Amendment does not require a goal exception and does not concern lands designated for forest or agricultural use. For this reason, a de novo hearing before the Board is not required.

- D. *Notwithstanding DCC 22.28.030(C), when a plan amendment subject to a DCC 22.28.030(C) hearing before the Board of County Commissioners has been consolidated for hearing before the hearings Officer with a zone change or other permit application not requiring a hearing before the board under DCC 22.28.030(C), any party wishing to obtain review of the Hearings Officer's decision on any of those other applications shall file an appeal. The plan amendment shall be heard by the Board consolidated with the appeal of those other applications.***

FINDING: No other application is being consolidated with the subject Text Amendment. Staff finds this criterion does not apply.

Deschutes County Comprehensive Plan

FINDING: The Applicant identified the following Comprehensive Plan policies as relevant to the subject proposal. The identified sections of the Comprehensive Plan and the Applicant’s responses are included below:

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.

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 TuC District while maintaining the integrity of the rural character and natural environment by requiring conditional use approval and expressly limiting where in the TuC District RV Parks can be located.

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

RESPONSE: Allowing RV Park development in certain areas of the TuC District will support new and existing recreational and tourist initiatives in the area. Such RV Park development is consistent with maintaining the integrity of the natural environment as it provides for less permanent building and changes to the existing landscape than several other uses permitted within the TuC District.

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 in higher-density rural communities located in close proximity to adjacent state highways. Visitors of the any potential RV Parks in the TuC District bring additional customers and revenue to other businesses in the TuC District.

Section 3.5: Natural Hazard Policies

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

RESPONSE: This goal is met. Any RV Parks created via a conditional use permit within the TuC District will provide for a development that protects people, property, infrastructure, the economy from natural hazards.

The County itself recently commissioned a feasibility study that specifically found “A scarcity of camping opportunities in Central Oregon, including for recreational vehicles (RV), not only reduces total visitation but also contributes to increased dispersed camping in undeveloped forestland and along roads. While visitation and population have both rapidly grown over recent decades, there has been no corresponding increase in camping capacity. This, in turn, results in added forest maintenance and damage to natural habitats, such as sanitation issues, problems with trash management, and increased fire risk.” Exhibit 1 at page 1. That statement from the County’s own study speaks directly to this Goal.

Stated simply, there is a serious demand for additional RV Parks within Deschutes County and the current lack thereof presents significant issues that can most directly be addressed by providing more RV Parks and campgrounds. In fact, per local news coverage of recent

County Commissioner meetings where the above-mentioned feasibility study was the focus of deliberations, the Commissioners noted there is an “incredible demand” for more RV Parks, and that very few, if any, have been built in the past 40 years in Deschutes County. See Exhibit 2 (news article).

Further, County Planning staff previously included in its 2022-2023 annual work plan an update regarding RV park opportunities, but appeared to stop short of exploring whether existing County zoning may be the main obstacle to developing more RV Parks. See Exhibit 3 at page 34. Examining existing zoning closely, this appears to be true. In Tumalo, potential for development of any RV Parks has effectively been prohibited due to the historical limitation that no RV Parks are allowed if they were not in existence before 1979. The Applicant’s own research suggests that this limitation was originally put in place because of the lack of central sewer services in the area, a concern that is likely to be address in Tumalo in the near future. However, even if that now-dated historical limitation were removed, other applicable conditional use standards in DCC chapter 18.128 make it very difficult for any new RV Parks to be feasible in Tumalo or elsewhere in the County. This proposed Text Amendment seeks to resolve these issues, at least for several properties within the TuC District. (The Applicant has no objection to the County addressing these concerns with a broader text amendment, but specifically limits the subject applicant to only the TuC District as the subject application is applicant-initiated and intended to be quasi-judicial.)

On a more local level in Tumalo itself, the County’s feasibility study cites data from the Oregon Parks and Recreation Department showing the nearby Tumalo State Park frequently reaches close to its 100% capacity which further exacerbate the issues outlined above. Exhibit 1 at page 10. The area proposed to be affected by the Text Amendment will specifically provide opportunities to help mitigate these issues and ease some of the high volume of visitors at Tumalo State Park that may cause capacity issues.

Chapter 4: Urban Growth Management

Section 4.9: Rural Service Center Policies.

Policy 4.9.11: Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted.

RESPONSE: While Tumalo itself is no longer characterized as a “Rural Service Center” by the County, its TuC District shares many similarities. The Comprehensive Plan defines Rural Service Centers as “an unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or persons traveling through the area, but which also includes some permanent residential dwellings.” While Tumalo is more broadly defined as a “Rural Community,” its TuC District is in essence a concentrated Rural Service Center with its purpose (as proposed to be amended) being to provide commercial uses providing goods and services to the surrounding rural area or persons traveling through the area. The Comprehensive Plan explicitly mandates that RV Parks catering to travelers shall be permitted in Rural Service Centers and naturally they shall

also be in the TuC District due to the aligned purposes of the two rural districts.

This is why the proposed Text Amendment seeks to amend the TuC District's purpose statement. The County Commissioners past actions and comments align with allowing uses in the TuC District that further this policy goal as set forth in state rules. OAR 660.022.0010(7) (defining Rural Community as "an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.")

In reality, there are hundreds of thousands of people that travel through Tumalo each year and the numbers will likely keep increasing. Hwy 20 is the major highway travelers use when travelling to Tumalo State Park, between Sisters and Bend, and to other attractions in this portion of Deschutes County. Being adjacent to Hwy 20, the TuC is the zoning district within Tumalo that most practically should include the purpose of serving the travel needs of people passing through the area.

Arguably more than any other use, an RV Park clearly "serves the travel needs of people passing through the area" by providing lodging and access to other recreational and commercial opportunities in the Tumalo area. The proposed Text Amendment finally brings the TuC District into consistency with this policy.

FINDING: Staff requests the Hearings Officer amend these findings as they see fit, and determine whether the Applicant has demonstrated compliance with applicable Comprehensive Plan provisions.

Appendix B- Tumalo Community Plan

RV Parks in the Tumalo Community Plan

FINDING: As detailed in the record, there are several public comments which point out that the Tumalo Community Plan does not appear to contemplate an RV park. Consequently, members of the public argue the proposed text amendment does not conform to the Tumalo Community Plan. Staff asks the Hearings Officer to determine whether these objections are relevant.

Economic Development Goal

Retain the economic vibrancy of Tumalo's historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community.

Economic Development Policies

Policy 4: Support economic development initiatives and tourism in the Tumalo area.

FINDING: Staff finds the proposed use is consistent with this policy of the Tumalo Community Plan. As detailed in the application materials, allowing an RV park as a conditional use in the TUC Zone would provide economic opportunities within the unincorporated community and would support tourism by expanding lodging options.

Policy 5: Allow for existing and future uses without producing adverse effects upon water resources or wastewater disposal. Coordinate with relevant agencies to ensure industrial uses meet requirements for water availability and wastewater disposal.

FINDING: As described herein, the proposed amendments would create new wastewater standards that only apply to RV parks within the TUC Zone. Specifically, the amendments would not require a property owner to provide laundry facilities or a sewer connection to each RV space until a sewer district is willing and able to provide service. In the interim, it appears to staff that the proposed amendments would allow an RV park to commence operations before sewer connections are established. Staff asks the Hearings Officer to make findings regarding the proposed amendments regarding wastewater disposal within RV parks in the TUC Zone, and whether this future use would have an adverse impact upon water resources or wastewater disposal.

Staff notes that an RV park is not an industrial use, and the proposed amendments are therefore not subject to the second part of this policy.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 22, Unincorporated Communities

OAR 660-022-0030 Planning and Zoning of Unincorporated Communities

- (4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:**
 - (c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.**

FINDING: The proposed amendments would create a new use within the unincorporated community of Tumalo, and is therefore subject to these provisions. The application materials state that an RV park would serve the travel needs of people passing through the area. Staff finds the proposed commercial use may be authorized within an unincorporated community.

- (8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:**
 - (A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and**

- (B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.**

FINDING: Any future development of an RV park within the TUC Zone would be subject to review by the Deschutes County Onsite Wastewater Division and/or the Department of Environmental Quality to ensure that wastewater disposal complies with applicable state standards. As described above, comments from the Deschutes County Onsite Wastewater Division indicate concerns regarding the ability of the Applicant’s property to obtain an onsite wastewater (septic) permit. The proposed amendments would allow a property owner to establish an RV park and wait to install sewage disposal until a sewer district is able to serve the property. Staff notes the capacity of the sewer district would be addressed at the time a development proposal is submitted for a specific property. However, staff finds it may also be relevant in addressing these criteria and determining whether the proposed use would have a cumulative impact that exceeds the capacity of the sewer system or the carrying capacity of the soil. Staff asks the Hearings Officer to make specific findings for this section.

Division 12, Transportation Planning

OAR 660-012-0060 Plan and Land use Regulation Amendments

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:**
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**
 - (b) Change standards implementing a functional classification system; or**
 - (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.**
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or**

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

FINDING: This above language is applicable to the proposal because it involves an amendment to a land use regulation, specifically the permitted uses within the TUC Zone. The proposed amendment would allow an RV park as a conditional use on properties that are two-to-fives acres in size and contiguous to Highway 20. While the Applicant is not proposing any land use development of a specific property at this time, the application materials indicate the intent is follow the Text Amendment with a subsequent Conditional Use Permit application to establish an RV park.

The submitted application materials include a traffic memorandum dated January 8, 2025, prepared by Joe Bessman of Transight Consulting LLC. The traffic memo analyzes a vacant parcel owned by the Applicant, which consists of 19 adjacent tax lots in the TUC Zone, and would potentially be eligible for development of an RV park under the amendments. The memo compares the uses that are currently permitted in the TUC Zone to an RV park to determine whether there would be a significant increase in trip generation with the new use category. As the memo notes, the TUC Zone currently allows for a range of commercial uses such as eating and drinking establishments, retail, and small office buildings.

Based on comparison of current allowable uses within the TuC zoning, the addition of RV park reflects a lower-intensity use. Accordingly, the proposed text amendment does not have the potential to create a significant impact on the transportation system...

Key findings of this Transportation Planning Rule analysis that would allow RV parks as a conditional use within the Tumalo Commercial (TuC) zoning includes the following:

- The proposed text amendment would conditionally allow an RV Park on 19 contiguous lots currently zoned TuC within the unincorporated Tumalo community.
- With a reduction in trips compared to allowable uses, a comparative analysis would show that all surrounding intersections and corridors will operate better with the text amendment, and a significant impact does not occur.
- While the siting of the RV Park complies with the comparative analysis required to satisfy the Transportation Planning Rule, future entitlements will need to assess the net system impacts as required by DCC 18.116.310. This analysis will need to demonstrate that adequate system capacity is available to serve these uses.

The traffic memo was reviewed by the County Senior Transportation Planner, who agreed with the report’s conclusions. Staff finds that the proposed Text Amendment will be consistent with the identified function, capacity, and performance standards of the County’s transportation facilities in the area. The proposed amendments will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. The County Transportation Planner provided the following comments in an email dated April 14, 2025:

I have reviewed the application materials for potential Transportation Planning Rule (TPR) OAR 660-012 effects, including the applicant's transportation memorandum produced by Transight Consulting, LLC, (dated January 8, 2025) and I agree with its assumptions, methodology, and conclusions. The memorandum adequately addresses reasonable worst case scenario analysis through a comparison of the existing outright allowed uses (utilizing ITE category 822 for Strip Retail Plaza as an aggregate category encompassing eating/drinking establishments, small retail, and offices each totaling less than 10,000 square-feet) to the proposed Campground/RV Park (ITE 416) use and ultimately concludes that no significant impacts will be anticipated with the proposed text amendment. Staff notes that, should the proposed text amendment receive approval, further traffic analysis may be required at the time of future development depending on the future development's vehicle trip generation potential. While the current text amendment does not absorb County road capacity, any future proposal for the development of a Campground/RV Park under the proposed use category must demonstrate compliance with the transportation analysis requirements of DCC 18.116.310, including p.m. peak hour vehicle trips related to System Development Charges (SDCs), mitigations, and adequacy of access.

Based on the County Senior Transportation Planner's comments and the traffic memo prepared by Transight Consulting LLC, staff finds compliance with the Transportation Planning Rule has been effectively demonstrated.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Statewide Planning Goals and the Applicant's findings are quoted below:

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 in accordance with the requirements of the DCC. 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. The purpose of TuC District, as proposed to be amended, is to “allow a range of limited commercial and industrial uses to serve the community and surrounding area or the travel needs of people passing through the area.” Tumalo does not contain any lands with the Comprehensive Plan designation of Agriculture nor the zoning designation of Exclusive Farm Use (EFU). 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. Further, there are no lands designated Forest, either by Comprehensive Plan or DCC 18.67, within or abutting Tumalo. 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 properties potentially affected by the proposed Text Amendment are not located in the Landscape Management Overlay Zone for the Hwy 20 corridor as that zone specifically does not overlay the TuC District. Several properties in the TuC District, however, are within 660 feet of the ordinary high-water mark of the Deschutes River such that those properties are then within that Landscape Management Overlay Zone. Nevertheless, the subject Text Amendment does not introduce a new conflicting use to the Landscape Management Overlay Zone thereby requiring an economic, social, environmental, and energy (“ESEE”) analysis. As noted above, historic RV Parks have always been allowed within the TuC District. Importantly, the proposed Text Amendment does not alter or change that any proposed RV Park on properties within the Landscape Management Overlay Zone will still be required to fully comply with DCC Chapter 18.84. 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 TuC District 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 via the conditional use permit process and applicable codes and standards. 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: While Goal 8 itself is most often discussed in relation to destination resorts, it more broadly directs local jurisdictions to inventory their existing recreation areas, facilities, and opportunities to determine the existing and future recreational needs of citizens and visitors, and to plan for recreational opportunities in proportion to the demand for them. Development of RV Parks helps satisfy this goal.

As aforementioned herein and as evidenced by the County's own feasibility study, there is a lack of existing RV Parks in Tumalo and its surrounding areas where the existing zoning limits the opportunities for their development despite the well documented and growing demand for such uses. The County itself documented that its existing zoning directly limits where RV Parks may be developed, and the County's existing conditional use requirements in Chapter 18.128 further make such developments not economically feasible. Requiring applicants to provide full amenities such as showers, sewer, and laundry makes RV Parks practically and economically infeasible in most locations throughout the County, and then requires all RV Parks to cater to limited clientele actually seeking such high-end services. Several publicly owned RV Parks, including Tumalo State Park, La Pine State Park, and the County-owned Jefferson County RV Park do not include the full list of amenities that are required for new privately-owned RV Parks in Deschutes County. It is telling that so few RV Parks have recently been developed in Deschutes County, resulting in the County commissioning its own feasibility study as discussed above. The proposed Text Amendment will loosen these requirements to provide new opportunities for RV Parks on at least certain properties in the TuC District. This better satisfies the recreational needs of Deschutes County citizens and visitors by providing for siting of RV vehicles and promoting access to nearby recreational

sites including Tumalo State Park, which is estimated to be more than 200,000 visitors a year according to the Tumalo Community Plan and is increasing annually. 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: Although the applicability of Goal 9 is debatable in this context, the County’s current code provisions governing the TuC District nevertheless clearly do not provide the same economic opportunity as would otherwise be allowed by state rules. Specifically, state rules allow uses in the TuC District that are intended to serve the travel public. DCC 18.67.040’s purpose statement notably omits similar language, instead only allowing uses that serve the community and surrounding area. Considering the TuC District’s location adjacent to Hwy 20 within the Tumalo community and between Bend and Sisters, omitting uses that also serve the traveling public undeniably then restricts economic development within the district. One clear example of a uses that would otherwise be allowed by state rules and that would otherwise further economic development within the TuC District is an RV park.

Accordingly, the proposed text amendment complies with Goal 9 because it will permit a new and varied economic activity i.e., RV Parks, within the TuC District that will allow property owners within the TuC District an additional opportunity for prosperity. Economic Development Policy 4 of the Tumalo Community Plan is specifically to “Support economic development initiatives and tourism in the Tumalo area” which is exactly what this Text Amendment will do. Goal 9 is met.

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. Further, because Tumalo is classified as a Rural Unincorporated Community under OAR-660-022-0010(7) it is not obligated to fulfill certain housing requirements.

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. In fact, to the extent the Tumalo Basin Sewer District creation moves forward, it can proceed in lockstep with the new opportunities presented by this Text Amendment application. Unless and until a sewer district is installed and functioning,

applicants for RV Parks still should be allowed the opportunity as a business decision to develop and maintain on-site septic systems that are capable of handling the demands of an RV Park with on-site bathrooms and showers. Increased flexibility for RV Park proposals is essential if more are ever to be developed in Deschutes County. 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. The Applicant engaged a traffic engineer, Joe Bessman of Transight Consulting, LLC, who prepared a TPR Analysis (attached as Exhibit 4) and will provide a further Traffic Impact Analysis when future Conditional Use Permit applications for an RV Park are submitted by the Applicant. Among the findings of the TPR is that an “RV park is a much less intense use than what is currently permitted within [the TuC District] and therefore does not create a significant transportation impact. The listing of this use as Conditional will require additional analysis to ensure that the use is consistent with County and State requirements.”

Further, allowing properties in the TuC District to be utilized for RV Parks even if accessed off something other than an arterial or collector street clearly provides more development opportunities for RV Parks. Applicants who are capable of meeting all applicable road standards except for being off an arterial or collector road ought to be provided the same development opportunity and RV Parks should not be arbitrarily prohibited in such circumstances. Stated simply, in its current form DCC 18.128.170(O) is blatantly over regulatory because it prohibits RV Parks on properties that could otherwise meet all applicable road standards. Rather than instead requiring compliance with those applicable road standards, DCC 18.128.170(O) elevates access off of an arterial or collector street as a proxy for those road standards. A property not having access off an arterial or collector is an arbitrary requirement that has directly contributed to the lack RV Parks being developed throughout the County.

The County’s current policy stance was clarified in a written response received by the Applicant from County staff after requesting a meeting to discuss DCC 18.128.170(O). The email communication is included as Exhibit 6. Rather than meeting to discuss the issue, County staff more directly defended in that written response that DCC 18.128.170(O) in its current form “aligns with transportation planning principles by balancing accessibility, safety, and minimal disruption to surrounding communities.” However, County staff also noted that “RV park access and traffic circulation on local roads is not desirable in many situations” (emphasis added). But something not being desirable in many situations is not the same thing as not being desirable in all situations, confirming then that DCC 18.128.170(O) in its current form is over regulatory. Further, County staff assumed that the only other option would be RV Park access off of local access roads, and failed to address that DCC 18.128.170(O) mandates access off of only arterial or collector streets therefore also prohibiting access off a state highway, for example. More importantly, County staff’s written response suggested that although they would be “opposed to eliminating [DCC

18.128.170(O)] outright,” County staff suggested that they would not then be opposed to modifying that provision so long as the following listed factors were instead addressed: (1) traffic capacity and flow; (2) geometric design; (3) pavement design; (4) livability impacts on local residents; and (5) accessibility and convenience to amenities and state highways. Although the Applicant questions if the last two aforementioned factors are best addressed as part of traffic and road issues, to honor County staff’s recommendation the Applicant, as part of the subject Text Amendment, proposes replacing the currently over regulatory DCC 18.128.170(O)—at least within the TuC District—with the same listed factors recommend by County staff. The intended outcome would be that RV Parks within the TuC District could be approved off of something other than arterial and collector streets after consideration of these factors. The proposed text amendment does not eliminate the purposes of DCC 18.128.170(O) outright as County staff cautioned, rather it provides more flexibility and opportunity for development of RV Parks when the County itself has determined that such uses are severely lacking throughout our community. Stated simply, when the County Commissioners themselves have expressed they want to foster RV Park development throughout the County, any blatantly over regulatory code provision that unnecessarily prohibits RV Parks on otherwise qualifying properties should be re-examined.

As a final comment, the impact of DCC 18.128.170(O) on RV Park development should not be lost on the County. The County’s very own feasibility study discussed above identified three properties where the County itself may consider developing an RV Park. Two out of three sites identified by that feasibility study would not meet DCC 18.128.170(O), yet those two sites were not then immediately excluded from further consideration. Specifically, the Crooked River Ranch Site’s only means of access is via NW 8th Court, a “Rural Local” road. The Fort Thompson Site’s only means of access is off Oregon State Highway 97 which also is not an “arterial or collector street.” If pursued further, both aforementioned sites would likely require zone changes and/or text amendments before RV Parks would be viable options. Assuming the County would then pursue legislative amendments allowing RV Parks as conditional uses on those two aforementioned properties, then the County would be in the very same position as the Applicant when it comes to the addressing DCC 18.128.170(O). If the County’s intention is to staunchly defend that RV Parks should only be developed on properties with direct access from arterial or collector streets, then presumably the County’s own feasibility study would not have wasted resources analyzing two properties that do not meet that overly stringent standard.

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 RV Parks developed in the TuC District will be designed and constructed with best practices for the modern-day construction industry, including energy efficient design standards, as well as the ability to

accommodate vehicles that are of the “van-life” variety and less consumptive than larger traditional RVs of both the motorized and trailer variety.

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 RV Parks are permitted as a conditional use in several other rural zones throughout the County. Like the TuC District, these other zones serve rural communities. RV Parks are not exclusively an “urban use” and RV Parks significantly contribute to rural recreational opportunities. The subject application proposes to limit RV Parks to lands in the TuC District that are located in close proximity to the adjacent State Hwy 20, thereby promoting an orderly and efficient transition from rural to urban land use to the extent applicable. 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).

Staff generally accepts the Applicant’s responses and finds compliance with the applicable Statewide Planning Goals has been effectively demonstrated.

IV. CONCLUSION & RECOMMENDATION

Staff requests the Hearings Officer determine if the Applicant has met the burden of proof necessary to justify the proposed Text Amendment through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (the Deschutes County Zoning Ordinance), the Deschutes County Comprehensive Plan, and applicable sections of OAR and ORS.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Audrey Stuart, Associate Planner

Anthony Raguine

Reviewed by: Anthony Raguine, Principal Planner

Attachments: 1) Proposed Text Amendments

Attachment A: Proposed Text Amendments

18.67.040 Commercial (TuC) District

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area or the travel needs of people passing through the area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review under DCC 18.124.
 1. A single-unit dwelling or duplex.
 2. A manufactured dwelling subject to DCC 18.116.070.
 3. Type 1 Home Occupation, subject to DCC 18.116.280.
 4. Class I and II road or street project subject to approval as part of a land partition, subdivision, or subject to the standards of DCC 18.67.060 and 18.116.230.
 5. Class III road or street project.
 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
 7. Residential home.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116, and 18.124:
 1. A building or buildings, none of which exceeds 4,000 square feet of floor area to be used by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating and/or drinking establishment.
 - c. Offices.
 - d. A dwelling unit permitted outright or conditionally, in the same building as a use permitted in DCC 18.67.040.
 - e. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
 2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).
 3. Child care facility and/or preschool.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
 1. Religious institutions or assemblies.
 2. Bed and breakfast inn.
 3. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 4. Park.
 5. Public or semi-public building.
 6. Utility facility.
 7. Water supply or treatment facility.
 8. Manufactured dwelling, ~~RV park~~ on a lot or parcel in use as a manufactured dwelling 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 dwelling park ~~or recreational vehicle park~~, including any expansion of such uses on the same lot or parcel as configured on June 12, 1996.
 9. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor area.
 - a. Farm equipment, sales, service, or repair.
 - b. Trailer sales, service, or repair.

- c. Vehicle service or repair.
- d. Veterinary clinic.
- 10. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor area:
 - a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- 11. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- 12. 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.
- 13. Psilocybin service centers, subject to the provisions of DCC 18.116.380.

14. Recreational Vehicle Parks.

D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(10).

- 1. Compatibility.
 - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel abutting or across a local or collector street from a lot or parcel in a residential district.
- 2. Traffic and Parking.
 - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity, and level of service of the affected transportation facility.
 - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.

E. Requirements for Large Scale Uses.

- 1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
 - a. The use is intended to serve the community and surrounding rural area, or the traveling needs of people passing through the area;
 - b. The use will primarily employ a work force from the community and surrounding rural area; and
 - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
- 2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).
- 3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.

- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.
 - 1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
 - 2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Area Requirements. The minimum lot area is 10,000 square feet. In addition, lot area requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas, and off-street parking.
- H. Lot Coverage Standards.
 - 1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal, and landscaping are satisfied.
 - 2. No use listed in DCC 18.67.040(C)(10) that is abutting or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage, including outside storage, and off-street parking and loading areas.
- I. Setback Standards.
 - 1. Front Setback. The front setback shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3). The front setback for structures may be reduced, but not increased, to the average setback distance of existing structures on abutting lots or parcels.
 - 2. Side Setback. No requirement, subject to DCC 18.67.040(I)(4).
 - 3. Rear Setback. No specific requirement, subject to DCC 18.67.040 (I)(4).
 - 4. Exceptions to Setback Standards.
 - a. Lot line(s) abutting a residential zone. For all new structures or substantial alterations of a structure requiring a building permit, on a lot or parcel abutting a residential district, the setback shall be a minimum of 15 feet. The required setback will be increased by one foot for each foot by which the structure height exceeds 20 feet.
 - b. Lot line(s) abutting an EFU zone. Any structure requiring a building permit, on a lot or parcel abutting EFU-zoned land receiving special assessment for farm use, shall have a minimum setback of 100 feet from any shared lot line.
- J. **Additional Standards for Recreational Vehicle Parks**
 - 1. **Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:**
 - a. **The area of the parcel(s) proposed for development shall exceed 2 acres but no more than 5 acres;**
 - b. **The parcel(s) shall all be located in a sewer district; and**
 - c. **The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.**
 - 2. **Compliance with DCC 18.128.170.**
 - a. **For sewage disposal service and laundry facilities only, Recreational Vehicle Parks in the Tumalo Commercial District shall not be required to comply with DCC 18.128.170(0) and (J) until a sewer district is willing and able to provide service to the proposed project. The County may include conditions of approval requiring Recreational Vehicle Parks to provide sewer connection to each**

recreational vehicle space and to provide laundry facilities as outlined in DCC 18.128.170(J) once sewer service is available from a sewer district

- b. To ensure compliance with DCC 18.128.170(G), Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent "residential dwellings" as that term is used in ORS 197.493.
- c. Compliance with DCC 18.128.170(0) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Body-Worn Camera, Taser, and Fleet Camera Grant Opportunity

RECOMMENDED MOTION:

Move to authorize a grant application¹ from the Deschutes County Sheriff's Office for 2027 Congressionally Directed Spending.

BACKGROUND AND POLICY IMPLICATIONS:

In 2021, the Deschutes County Sheriff's Office, in part due to legislative requirements, contracted with a body and car camera vendor to outfit the patrol division. This was DCSO's first body and car camera system for incident recording, evidentiary collection, and post-incident analysis. This system has reached its intended end of life. Body and dash cameras are no longer running on the latest hardware versions, and functional gaps have been identified when compared to other vendor offerings. DCSO was also subject to an internal audit last year which identified operational, regulatory, and policy improvements which cannot be met by the current vendor.

The new selected vendor will address the shortcomings of the current system and provide significant operational improvement and efficiency for DCSO. The new vendor is a market leader in this sector and offers technical innovations in body camera technology and digital evidence management. Funding from this grant will update DCSO's camera technology deployment to current industry standard and allow for continued efficiency and improvement as the technology evolves.

BUDGET IMPACTS:

The total cost of the project is \$2,298,672. DCSO originally sought to have the full cost covered by Community Project Funding (CPF). The sub-committee came back and asked if the request could be scaled back. After reviewing the quote and working with the sub-committee, it was agreed to seek \$1,749,819. The original package was phased over a five-year contract with Axon; the funding strategy will be reassessed if the funding is approved.

¹ The grant request was finalized with both Senator Merkley and Congresswoman Janelle Bynum's offices in mid-March. Due to learning about this grant opportunity late in the process, DCSO had a limited window to complete and submit the application.

ATTENDANCE:

Jeff Price, Business Manager, Deschutes County Sheriff's Office

Jon Spring, IT Manager, Deschutes County Sheriff's Office

Elizabeth Lopez, Administrative Analyst, Deschutes County Sheriff's Office



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Central Oregon Health Information Exchange Grant

RECOMMENDED MOTION:

Move to authorize applying for—and accepting, if awarded—a Central Oregon Health Information Exchange Grant.

BACKGROUND AND POLICY IMPLICATIONS:

The Central Oregon Health Information Exchange’s (COHIE) mission has been to provide the framework to enable the comprehensive management of health information and its secure exchange between consumers, providers, government, quality entities and insurers. COHIE has recently partnered with the Central Oregon Health Quality Alliance (COHQA) to be a fiscal sponsor, allowing COHIE to wind down its 501-c3 entity, and to host a small grant program for 2026, in partnership with COHQA.

The COHIE 2026 grant program priorities include technical assistance, interoperability projects, data security and informatics policy development, and support for Health Information Exchange.

Deschutes County Health Services (DCHS) requests approval from the Board of County Commissioners to apply for and, if awarded, accept a \$70,000 COHIE grant. DCHS intends to use the funds to support community-based Health Information Technology (HIT) initiatives aligned with COHIE’s mission, including but not limited to protecting patient data, optimizing electronic medical record utilization, and relieving clinic processes reliant on fax-based workflows. Funding would be used as follows:

- \$27,150 – Contractor services (Robotic Process Automation/RPA): Hire a contractor to use RPA to convert approximately 21,000 medical records from Profiler into pdf-ready document for migration into OCHIN EPIC. This will improve the ability to search, retrieve, and share records in a timely manner, supporting more effective coordination of care.

- \$6,087 - County IT staff time:
County IT staff time to coordinate the RPA work, including technical oversight, data handling logistics, and implementation support.
- \$20,400 – Data hosting (one year):
One year of data hosting to support secure storage and availability of records/data necessary for the project and ongoing operational needs.
- \$10,000 - County IT and Medical Records staff time (AI-support tools):
County IT and Medical Record staff time to develop medical-records related AI Assistants to help the public and providers more accurately complete medical request forms, Requests for Information (ROI), and other required documents. This will reduce incomplete submissions and shorten the turnaround time for fulfilling records requests.
- \$6,363 indirect costs (10%).

BUDGET IMPACTS:

\$70,000 if awarded.

ATTENDANCE:

Cheryl Smallman, Deputy Director, Health Services
Zachary Neeman, Information Security Manager



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 1, 2026

SUBJECT: Annual Update: Economic Development of Central Oregon (EDCO)

RECOMMENDED MOTION:

N/A—Information only.

BACKGROUND AND POLICY IMPLICATIONS:

For Fiscal Year 2026, the Board of County Commissioners allocated \$309,951 in Video Lottery funds to EDCO to support operations, local program capacity and the Venture Catalyst Program. At the BOCC's April 1st meeting, EDCO will provide an update on the status of those programs as well as a look-ahead to FY27 programs.

BUDGET IMPACTS:

At its March 4, 2026 meeting, the BOCC allocated \$324,517 in Video Lottery funds to EDCO for FY27.

ATTENDANCE:

Jon Stark, CEO, Economic Development of Central Oregon
Laura Skundrick, Management Analyst

EDCO Presentation

4.1.26



Board of Commissioners



EDCO's mission is to strengthen communities by creating opportunities that generate new revenue and family-wage jobs by:



MOVE. We guide employers outside the region through the relocation process as a resource for regional data, incentives, talent, site selection, and more.



START. We mentor and advise scalable young companies from concept to exit on issues such as access to capital, critical expertise and strategy.



GROW. We work with local traded-sector companies (those that export goods/services out of the region and import wealth back into the community) to help them grow and expand.

Outline For Today:

- 1) Mission and Strategy
- 2) Target Industries
- 3) Economy
- 4) Move, Start Grow Activity
- 5) Pending Projects
- 6) Industry Interest
- 7) Table Setting
- 8) National Recognition
- 9) Budget Request

The Team



Jon Stark
CEO



Erin Chalet
COO



Larry Holeman
Senior Director of Revenue



Wendy Morgan
Venture Catalyst



Megan Kantrim
Director of Events &
Community Relations



Ellen Wayte
Director of Marketing &
Communications



Ben Hutchins
Admin Coordinator

The Team



Steve Curley
REDI Director



Eric Strobel
Sisters Director



Kelsey Lucas
Senior Director,
Prineville/Crook County



Brenna Fulks
Jefferson County
Director



Mary Knight
REDI Assistant



Jessica Nicewonger
REDI Admin Coordinator



Patricia Lucas
Sunriver / La Pine Director



Don Myll
Bend Area Director

GOAL 1: Champion Business Growth and Industry Diversification

Continue our work of identifying and responding to industry needs. Connect businesses to resources, whether they are moving, starting or growing.

- Action 1:* Evolve Business Retention & Expansion (BRE) to a Regional Scaling Strategy
- Action 2:* Sharpen Industry Cluster Focus and Support
- Action 3:* Provide High-Value Technical Assistance and Connection

GOAL 2: Foster a Thriving Innovation Ecosystem

Lead the Central Oregon Innovation Hub by fostering a dynamic entrepreneurial culture and expanding the capital, programs and spaces that fuel innovation and startup development.

- Action 1:* Establish EDCO as the Long-Term Leader for the Central Oregon Innovation Hub
- Action 2:* Facilitate Cultivation and Attraction of New Sources of Capital
- Action 3:* Monitor and Engage the Remote Worker Economy

GOAL 3: Proactively Address Barriers to Business Growth

Lean into targeted efforts to remove barriers to business growth that align with our vision, mission and expertise, particularly around infrastructure, land use and regulatory complexity.

- Action 1:* Implement a Formal Advocacy and Engagement Framework
- Action 2:* Develop and Execute a Unified Regional Messaging Strategy

GOAL 4: Enhance Organizational Excellence and Sustainability

Strengthen organizational health and capacity through improved governance, sustainable revenue strategies and greater operational efficiency.

- Action 1:* Redesign Board Governance for Strategic Engagement
- Action 2:* Design and Implement a Financial Sustainability Strategy
- Action 3:* Optimize Internal Systems and Communication

OUR VISION

To be the catalyst for economic prosperity for all.

OUR MISSION

We strengthen communities by creating opportunities that generate new revenue and family-wage jobs.

Central Oregon Industry Clusters

EDCO focuses primarily on traded-sector employers, which are companies that sell a majority of their goods or services outside the region. As these businesses export their products and services, they simultaneously import wealth into our Central Oregon communities, helping grow the economy and promoting opportunity.

Management of Companies and Admin Support
Headquarters and business support services



Scientific
Bioscience, medical device and nutraceuticals manufacturing



High Technology
Data centers, semiconductors, electronic, software and hardware development



Advanced Manufacturing
Building products, aviation/aerospace and metallurgical manufacturing



Lifestyle Products
Outdoor and apparel products, food processing, brewing, distilling, and other beverage manufacturing



750	\$200M	3,400
JOB	CAPITAL INVESTMENT	EVENT ATTENDEES

Strategic Plan

FY 22/23 - FY 24/25

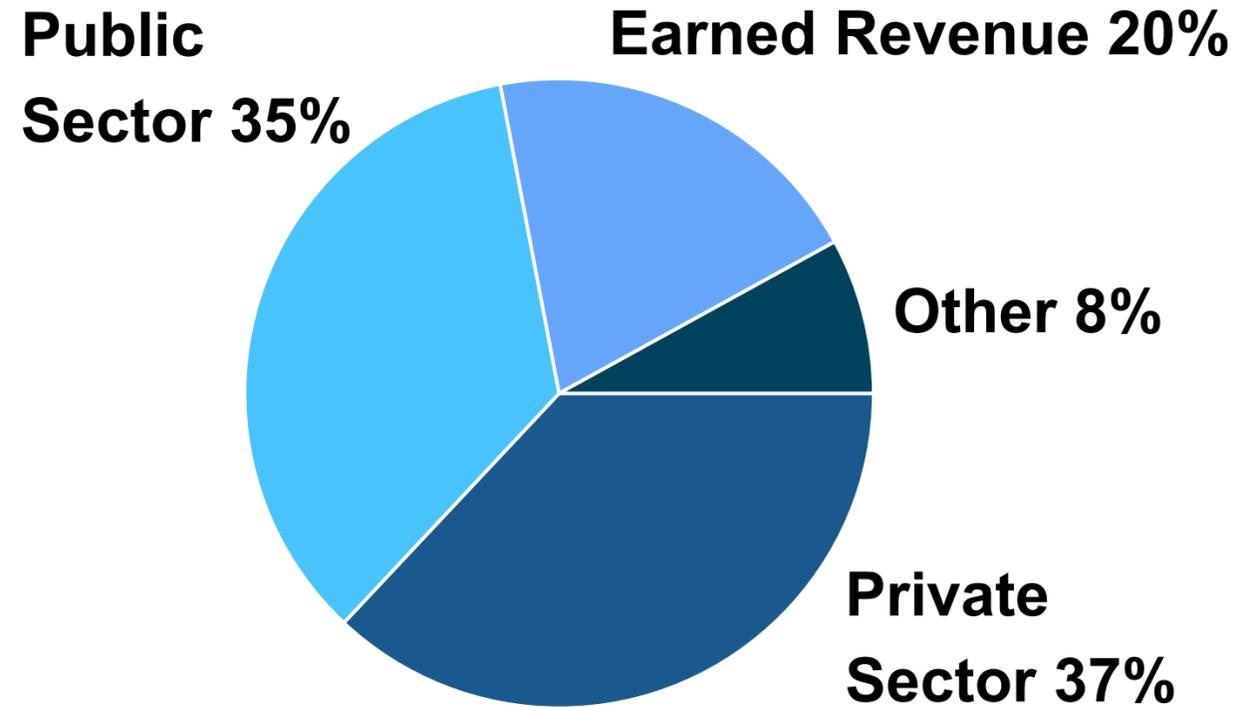
FY 2025/26 New Private Membership

Sample of New Members

EDCO's FY 25/26 Funding Mix

Goal: \$83,945

Actual: \$7,550



EDCO continues to identify new funding sources and increase engagement to further diversify revenue streams while being prudent and accountable with stakeholder dollars.

Budget Request

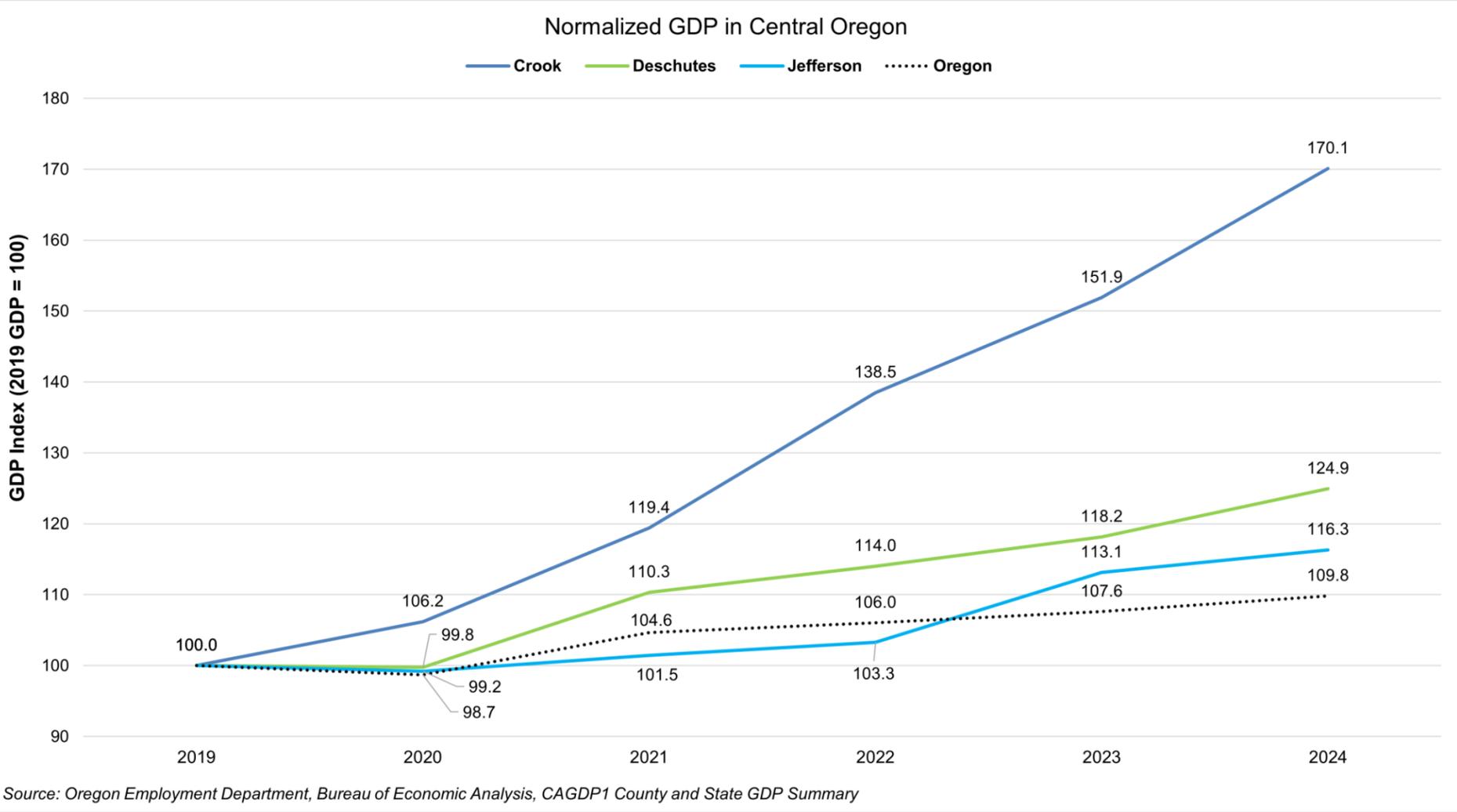
Program	Deschutes County FY 2025-2026 Contracted Amount	Proposed 3% Increase	EDCO Program Support - Deschutes County FY 2026-2027 (proposed 3% increase)
Sunriver-La Pine	\$39,200	\$1,176	\$40,376
Sisters Country	\$38,655	\$1,160	\$39,815
Redmond (REDI)	\$17,534	\$526	\$18,060
Bend	\$16,657	\$500	\$17,157
Venture Catalyst	\$44,176	\$1,325	\$45,501
Regional Office	\$153,819	\$4,615	\$158,434
Total:	\$310,041	\$9,301	\$319,342

EDCO would like to thank the BOCC for recognizing our efforts with a slightly higher amount of \$324,517 as proposed to the budget process and for Committee review and pending approval. We appreciate each of you and staff for your continued endorsement of our work.

- 3% increase over FY '25/'26 for Operations
 - ✓ Increases to contract services costs (CRM, accounting, IT)
 - ✓ Escalating benefits cost (17% for medical/dental/vision)
 - ✓ Increased materials cost (office Eq., travel, meetings)
 - ✓ Modest COLA (CPI is 2.4%)
- No longer Includes Annual Luncheon table sponsorships
- **REQUESTED INCREASE OF \$9,301 for all programs**



AREA GDP



- Area GDP continues to grow post-pandemic faster than the state
- Crook County leads the area and the state with an astonishing 70% growth over the last 5 years
- Deschutes ranked 4th among Oregon's 36 Counties and is 2 1/2 times the state's GDP growth over this period
- Deschutes County makes up 85% of the region's total GDP.

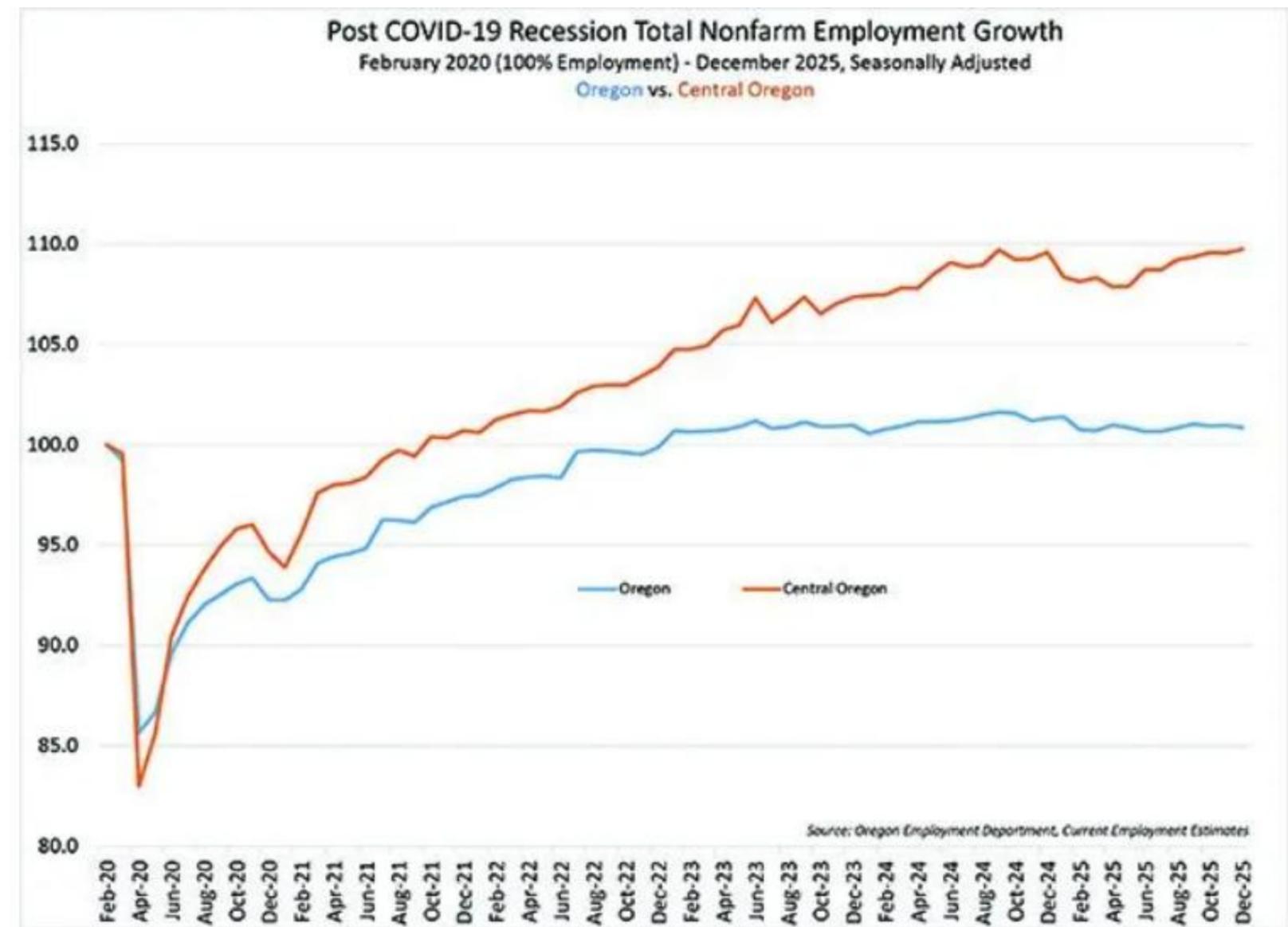
*Bureau of Economic Analysis/OED



Area Employment Growth

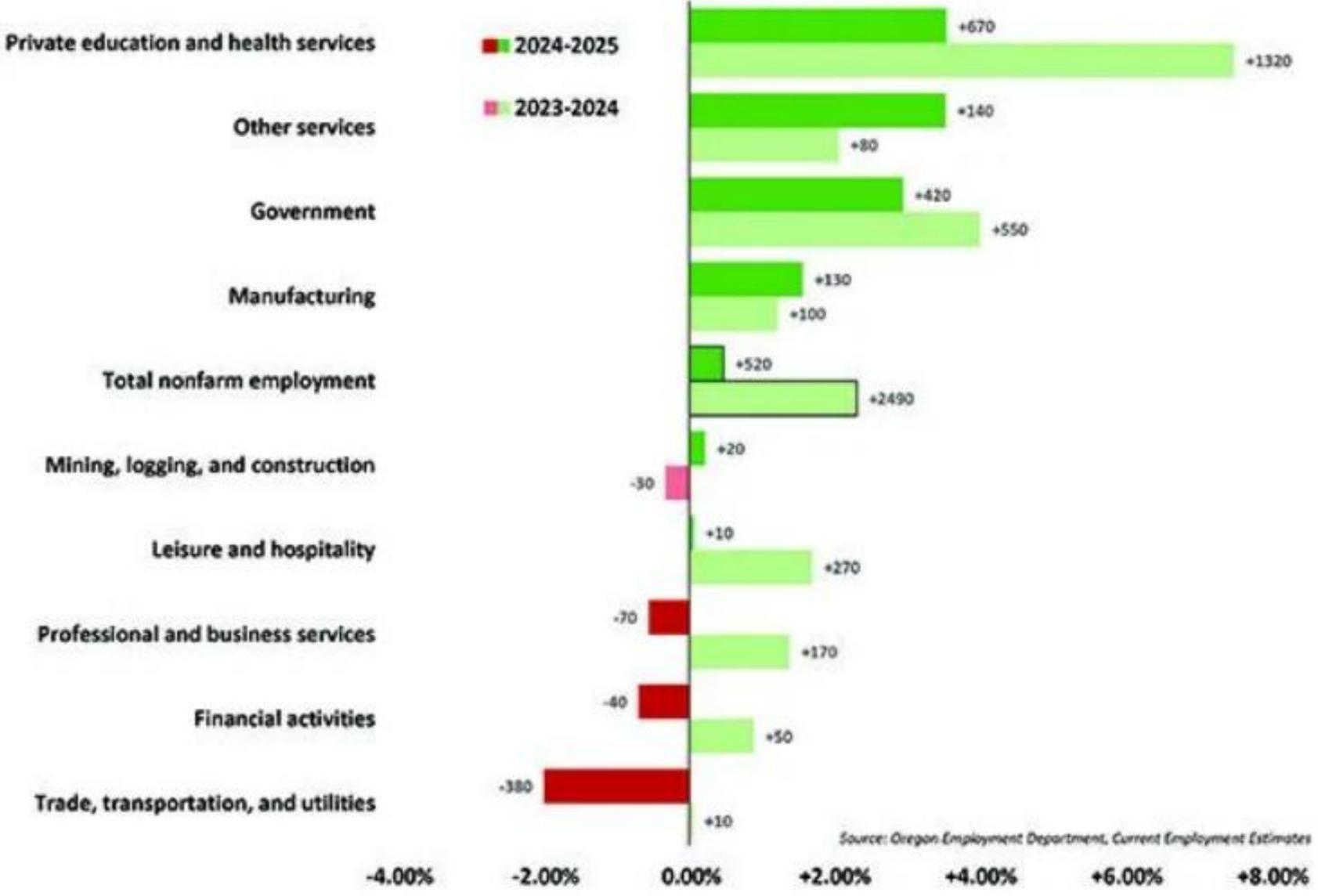
- **Central Oregon is bucking the statewide trend.**
- **This began to flatten out or see minimal growth around mid-2023.**
- **While there has been some slight upward movement, for the most part, state-level employment has not changed much.**

*OED



Employment

Average Yearly Total Nonfarm Employment Growth by Industry
Central Oregon, 2025 vs 2024

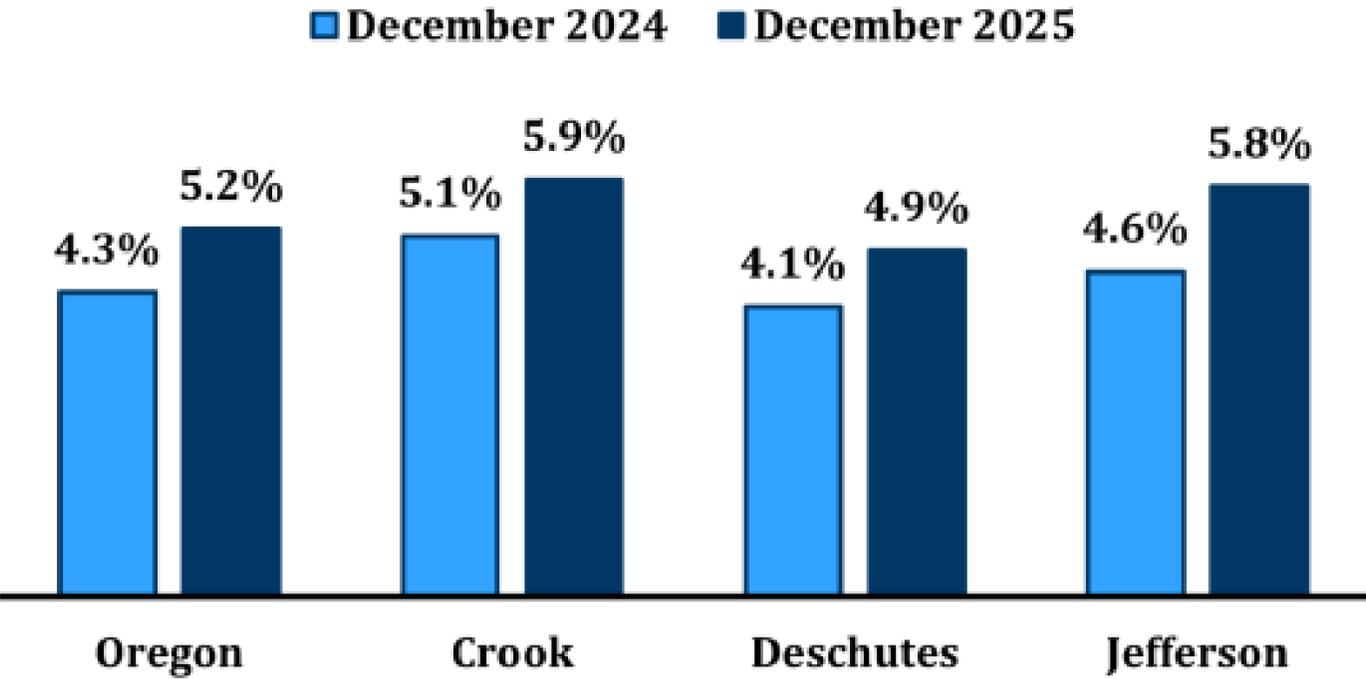


- What was growing in 2023 and 2024 has slowed or even declined
- Not ideal when government and health services lead employment growth
- However, manufacturing doesn't have to be at the top



Unemployment

Local Area Unemployment Rates (Seasonally adjusted)



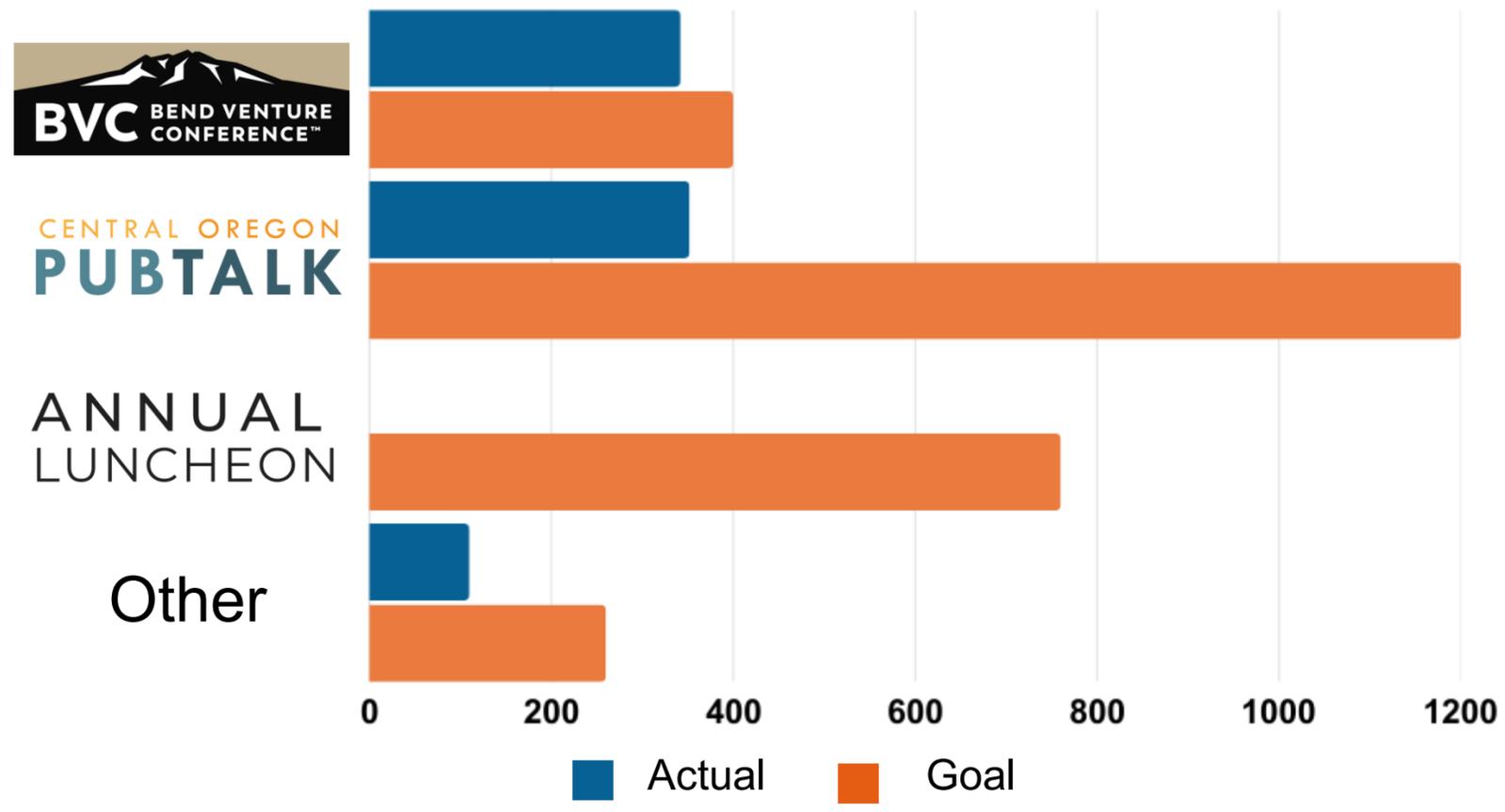
- Unemployment continues to rise across the region
- Deschutes County still on the YOY+ side by 820 jobs (Dec '25), while others have shed jobs (-340 Crook; -190 Jefferson)
- Full employment is 6%, meaning a balanced labor market – EDCO Perspective
- Job postings are down, while employment office activity is up.
- Stronger labor pool

*Worksource OED





FY 2025/26 Actual vs. Goal Event Attendance

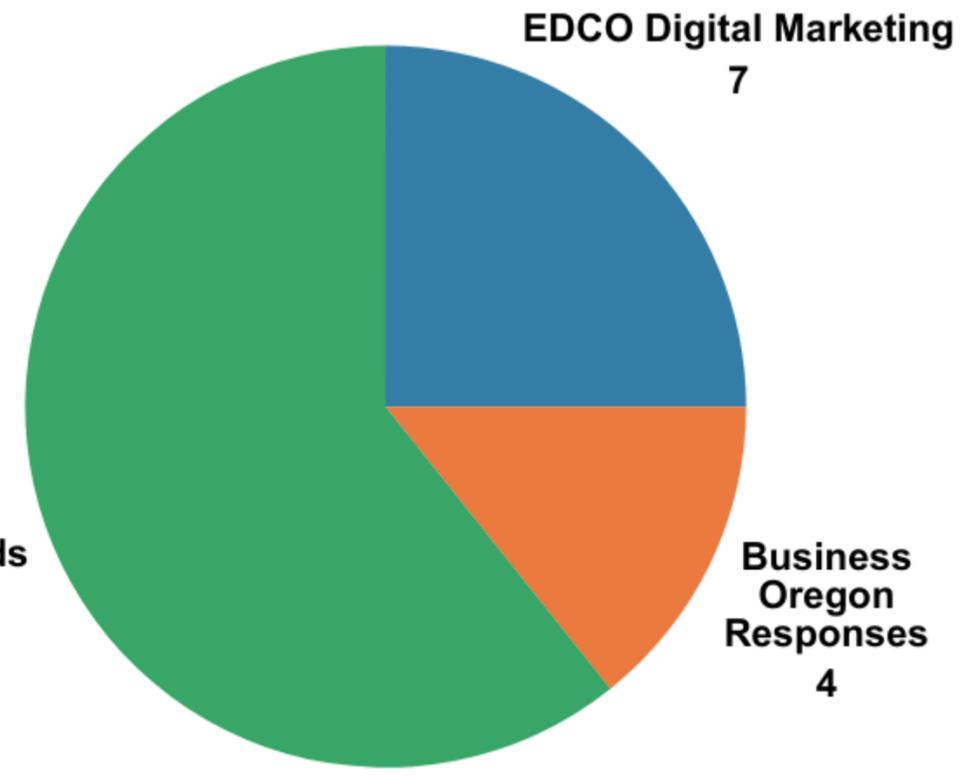
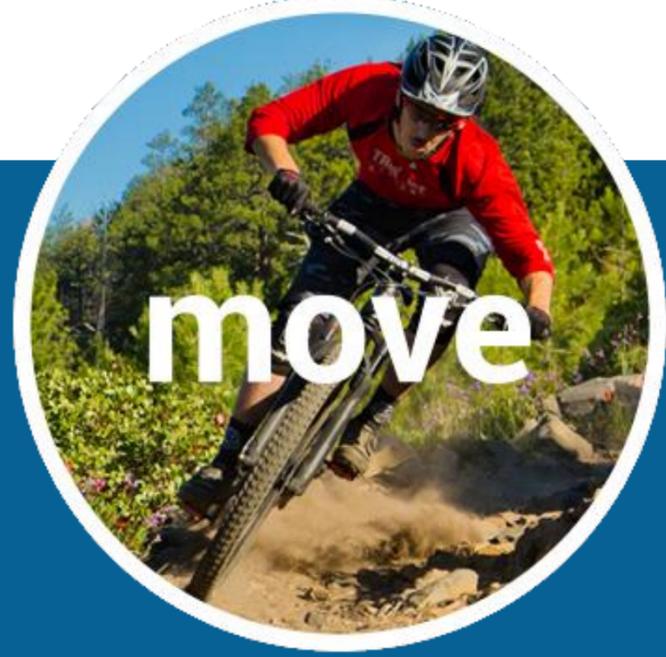


Connecting the local business community through conversation, networking and new ideas.

Regionwide Leads Generated by Lead Source: FY 2025/26



EDCO MOVE
START
GROW

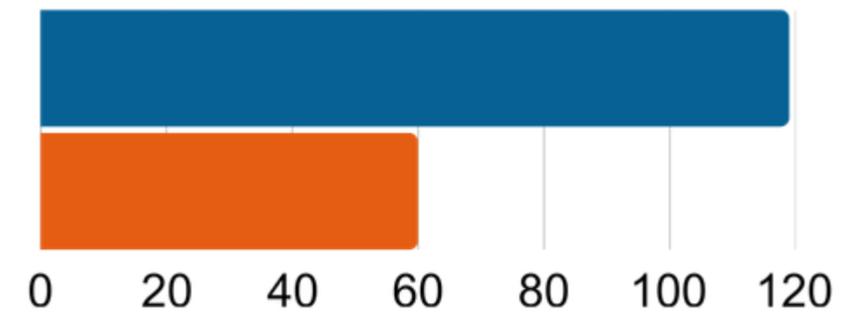


Attracting and guiding outside employers through the relocation process as a resource for regional data, incentives, talent, site selection, and more.

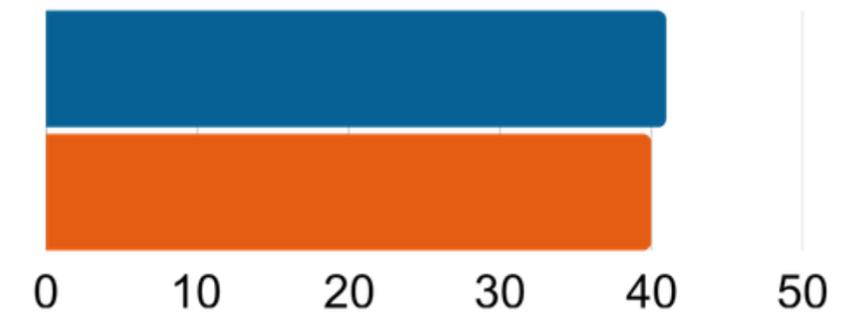
Results: FY 2025/26 "Start" Activity



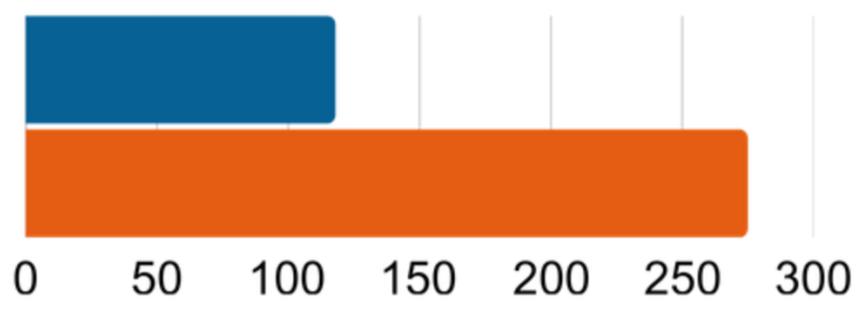
Active Portfolio Companies



Investors Engaged:



Cumulative Coaching Sessions



\$6,330,000

Total funding committed in FY 2025/26 to support EDCO's portfolio of early stage companies.

Actual Goal



At the center of the region's growing entrepreneurial network, EDCO mentors and advises promising, scalable young companies with support from concept to exit on issues such as access to capital, critical expertise and strategy.

2025 Bend Venture Conference



8
Winners

342
Attendees

2
Winners from
Central Oregon

\$278,000
Invested

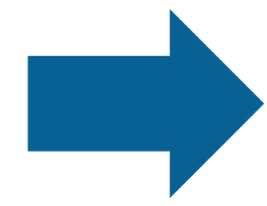
75
Companies
Applied

\$25,700
Cash
Awarded



Goals

- Optimize the Start-up Ecosystem
- Create Entrepreneur Resource Network (ERN)
- Broaden Entrepreneur Programming and Training
- Identify Gaps and Needed Resources
- Locate a Sustainable Funding Source



CULTIVATE BEND

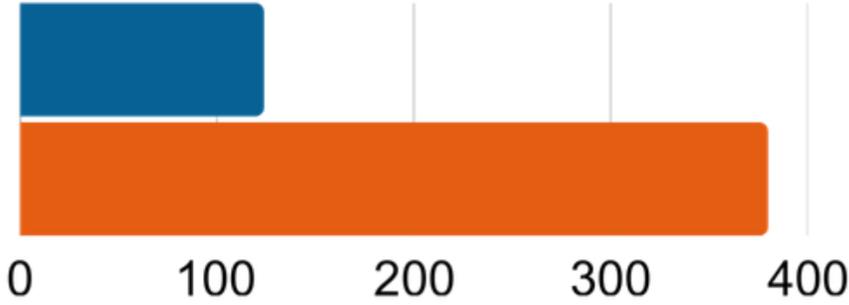


The Central Oregon Innovation Hub's mission is to unify, coordinate and collaborate efforts to strengthen the region's capacity to launch and scale innovation-driven, traded-sector companies.

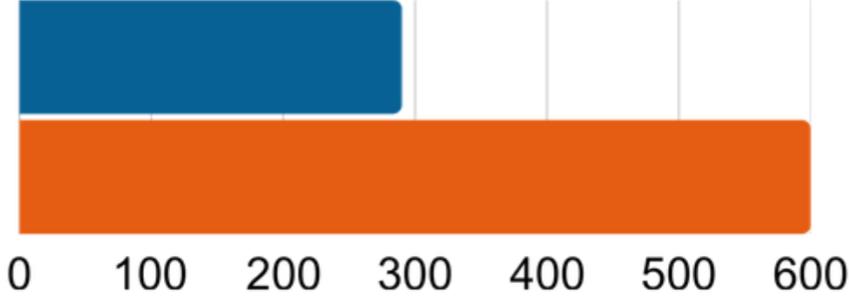


Cumulative Results: FY 2025/26 “Grow” Activity

Outreach Visits



Assists & Referrals



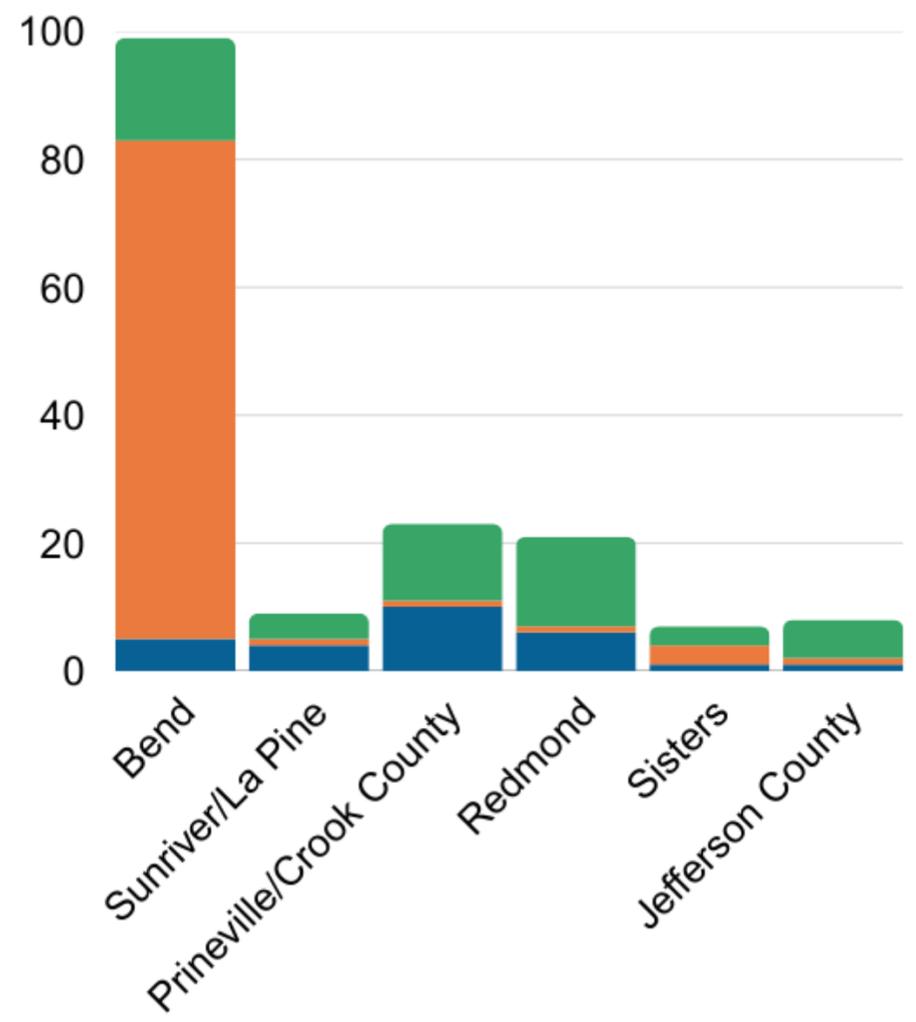
Actual Goal



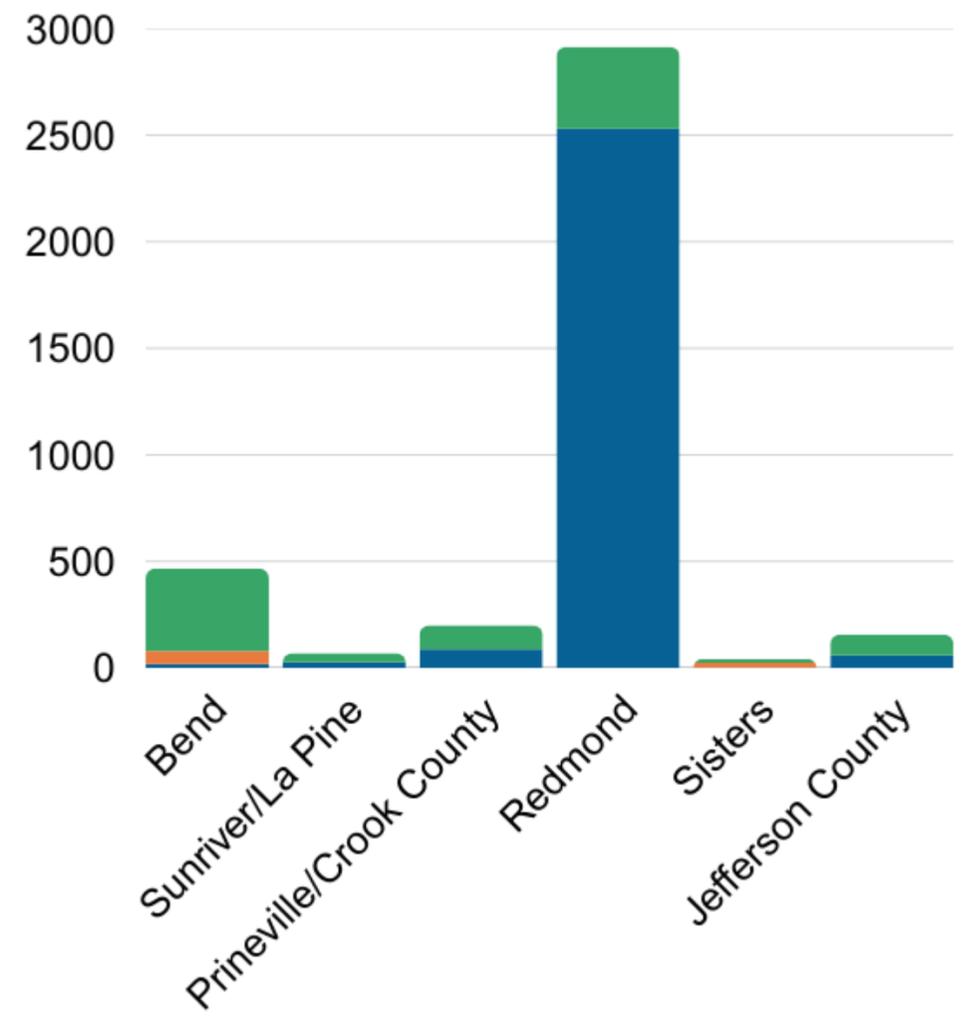
Our existing businesses are the job engine of the region’s economy. EDCO’s Area Directors are positioned across Central Oregon communities to partner with and advocate for local companies as they grow and expand.

Pending Projects: FY 2025/26, Q2

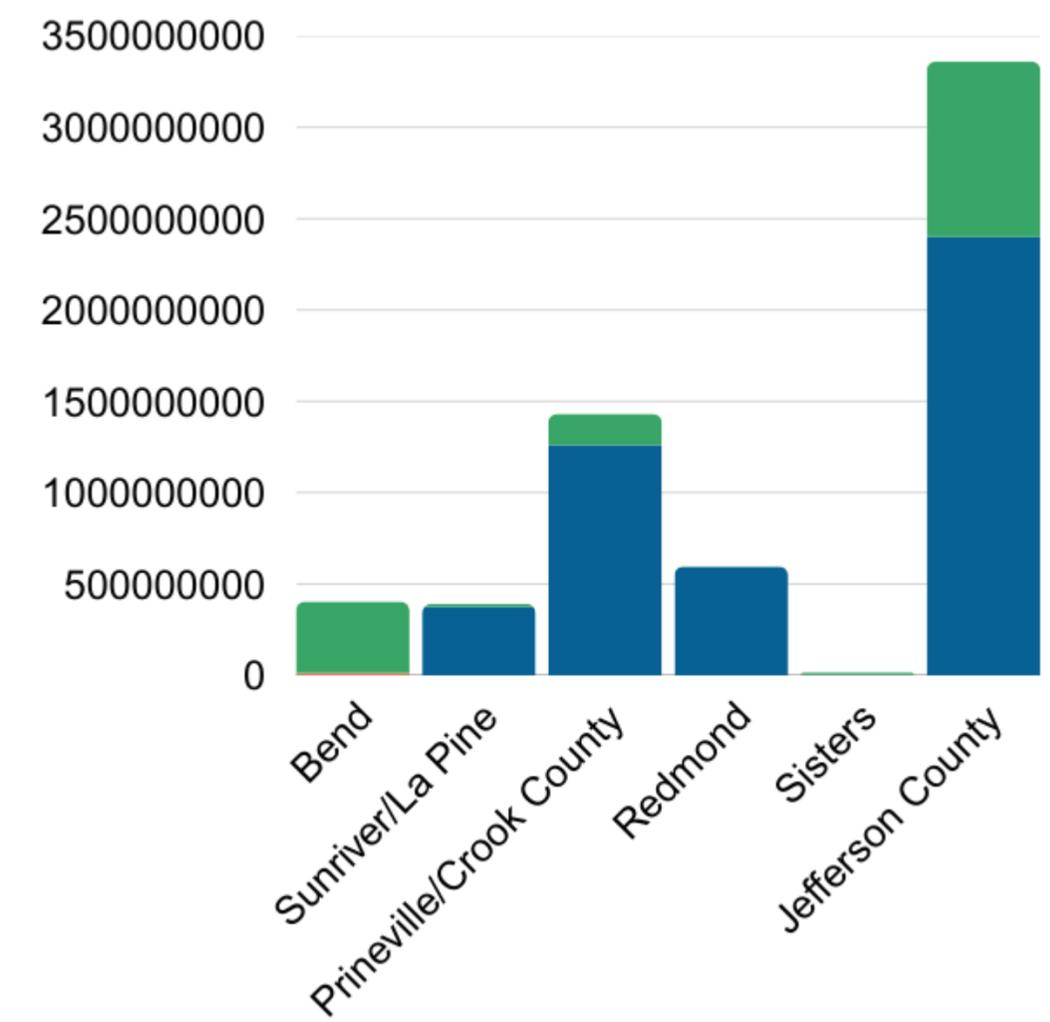
Total Projects by Community



Anticipated Jobs by Community



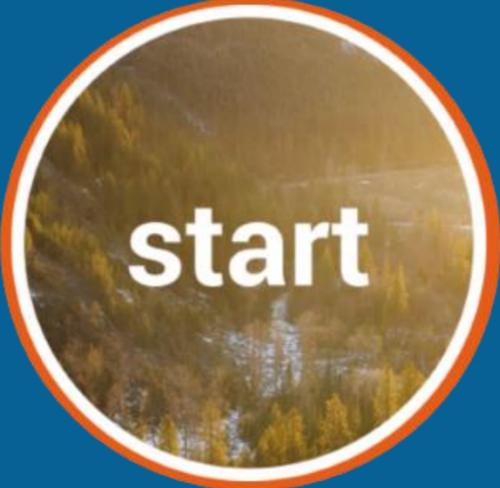
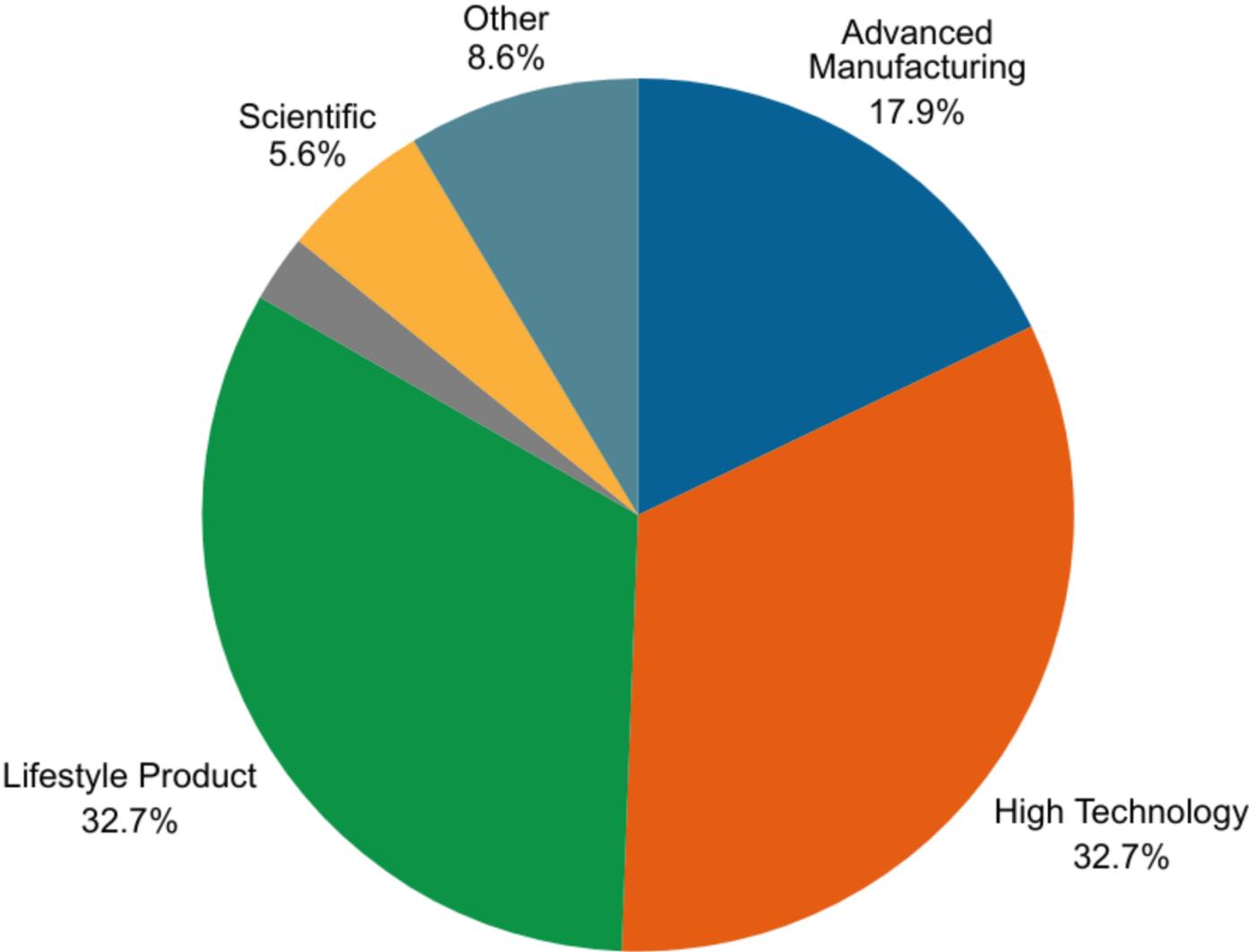
Anticipated Capital Investment by Community



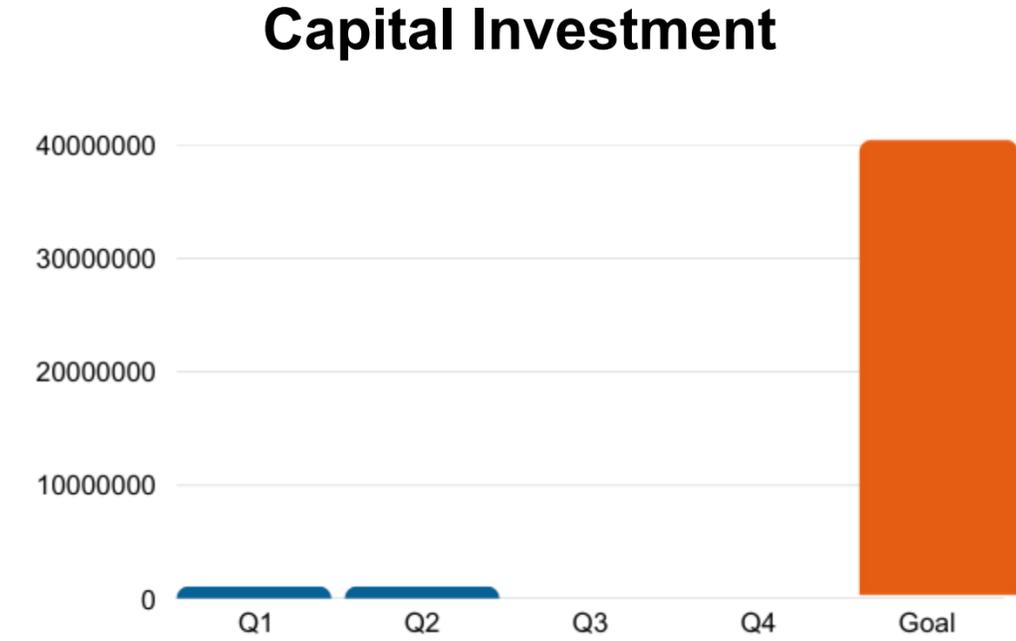
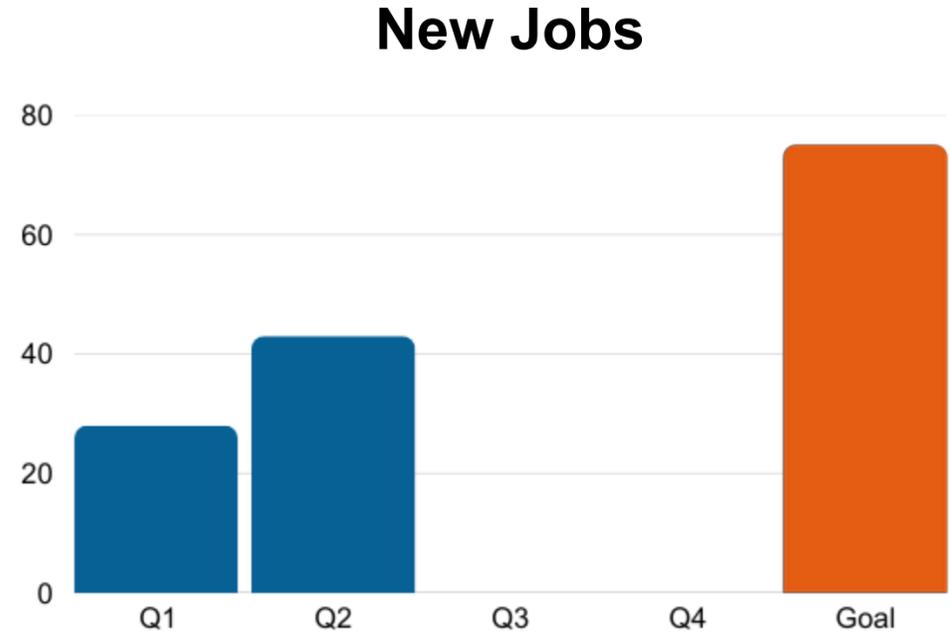
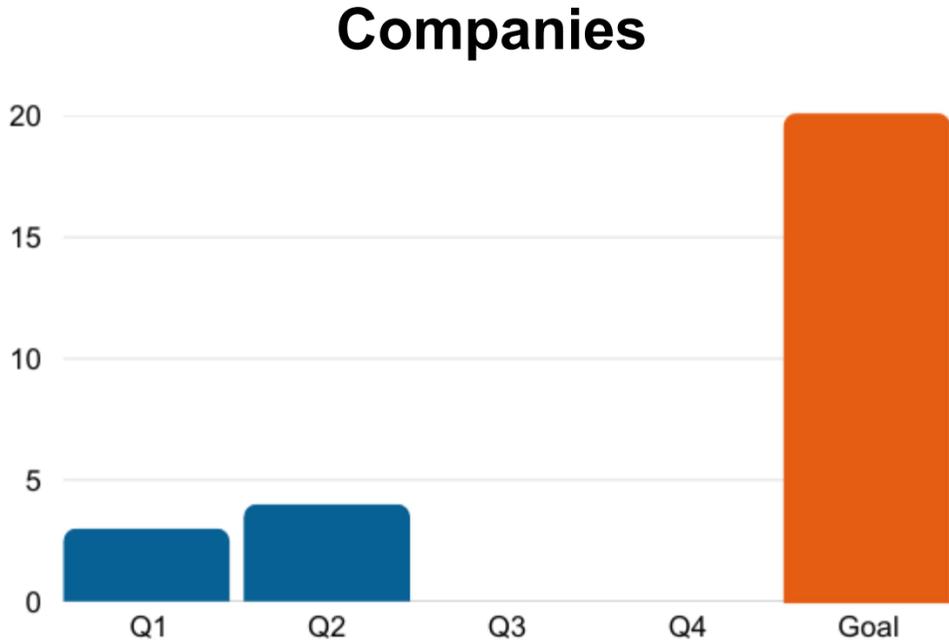
■ Move ■ Start ■ Grow

Pending Projects by Industry: FY 2025/26, Q2

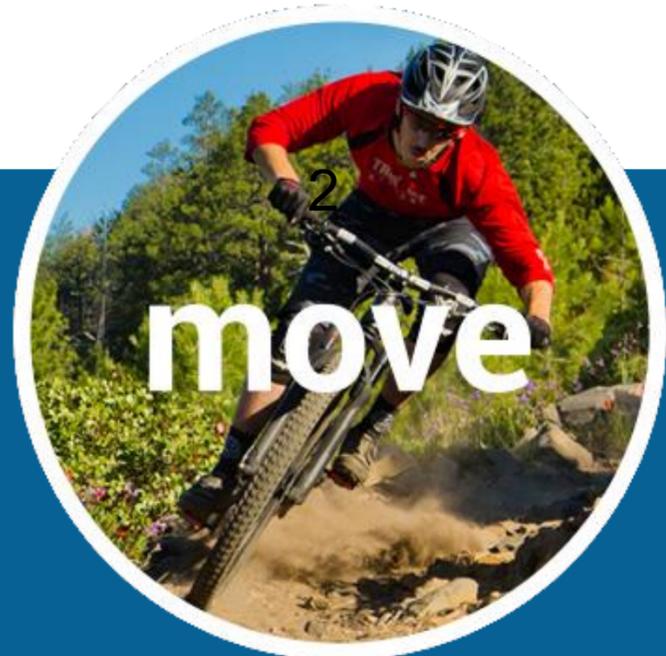
- The regional pipeline is close to evenly split between Lifestyle Products and High Technology with Advanced Manufacturing close behind
- High Technology activity resides primarily in Bend and Prineville
- Lifestyle Products industries are represented across all Central Oregon communities
- Scientific activity is occurring mainly in Bend



Cumulative "Move" Done Deals FY 2025/26



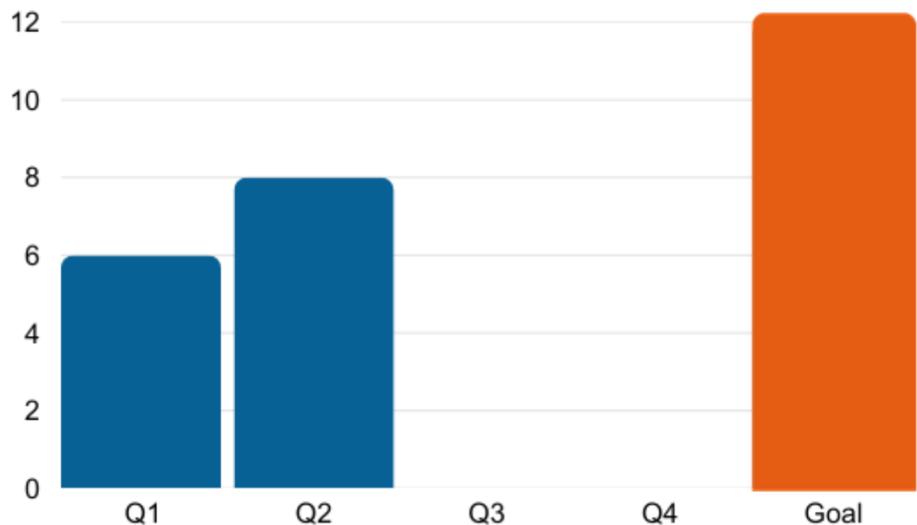
Actual Goal



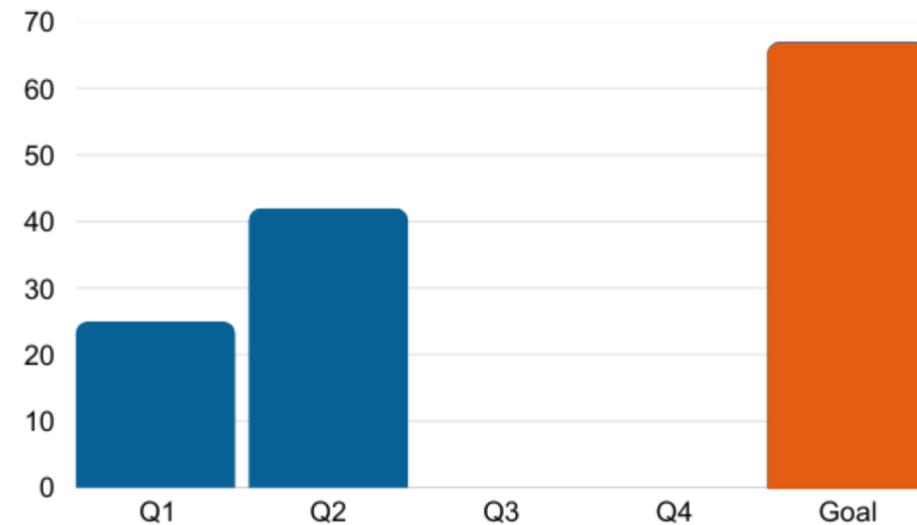
Some of the Companies

Cumulative "Start" Done Deals FY 2025/26

New Ventures Started



Jobs Created by New Ventures



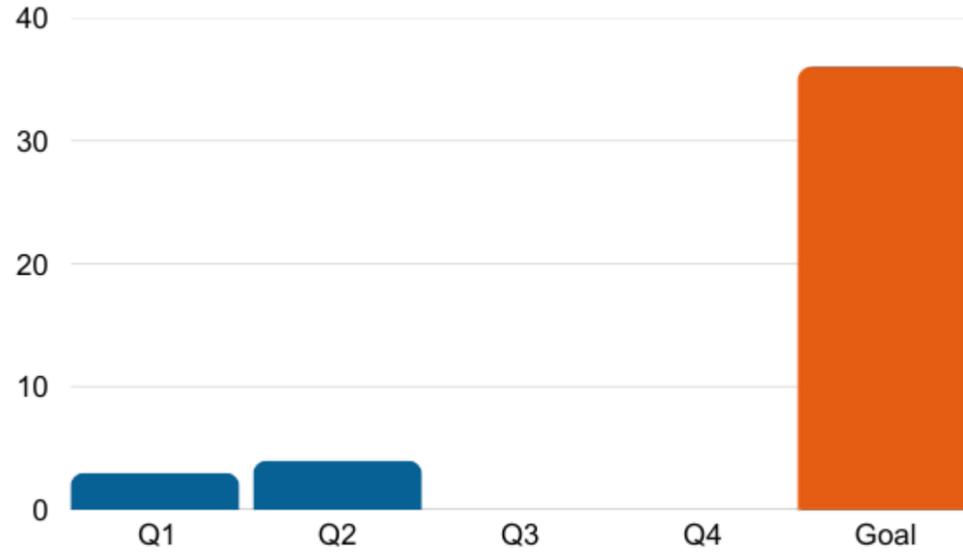
Actual Goal

Some of the Companies

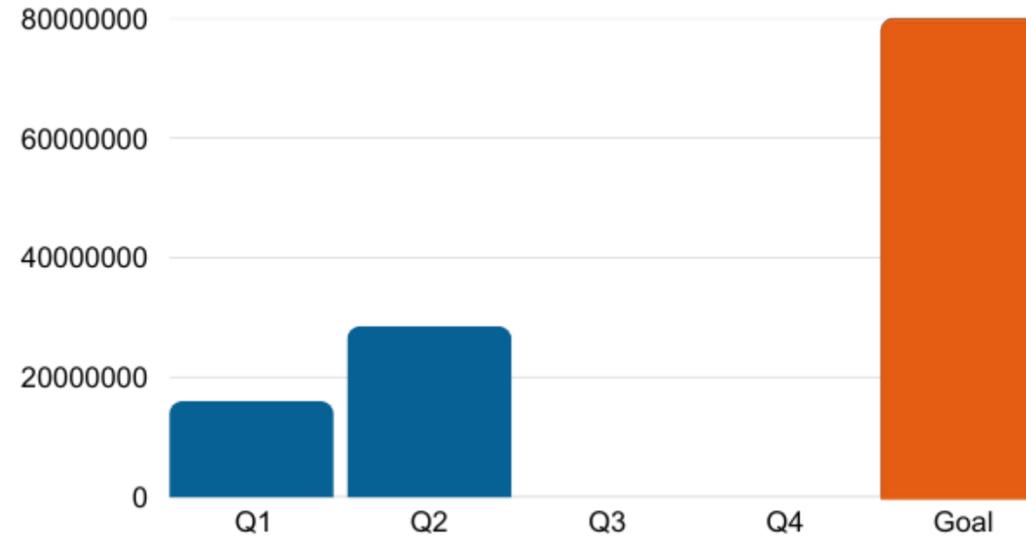


Cumulative "Grow" Done Deals FY 2025/26

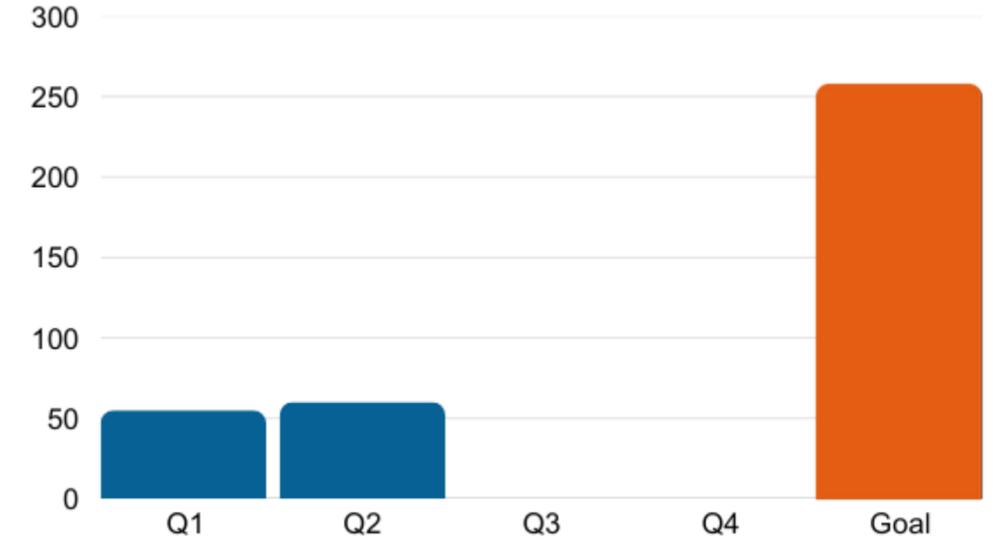
Companies



Cumulative Capital Investment: Progress to Goal



Jobs Created by Grow Companies



Actual Goal



Some of the Companies



BLACKSTRAP



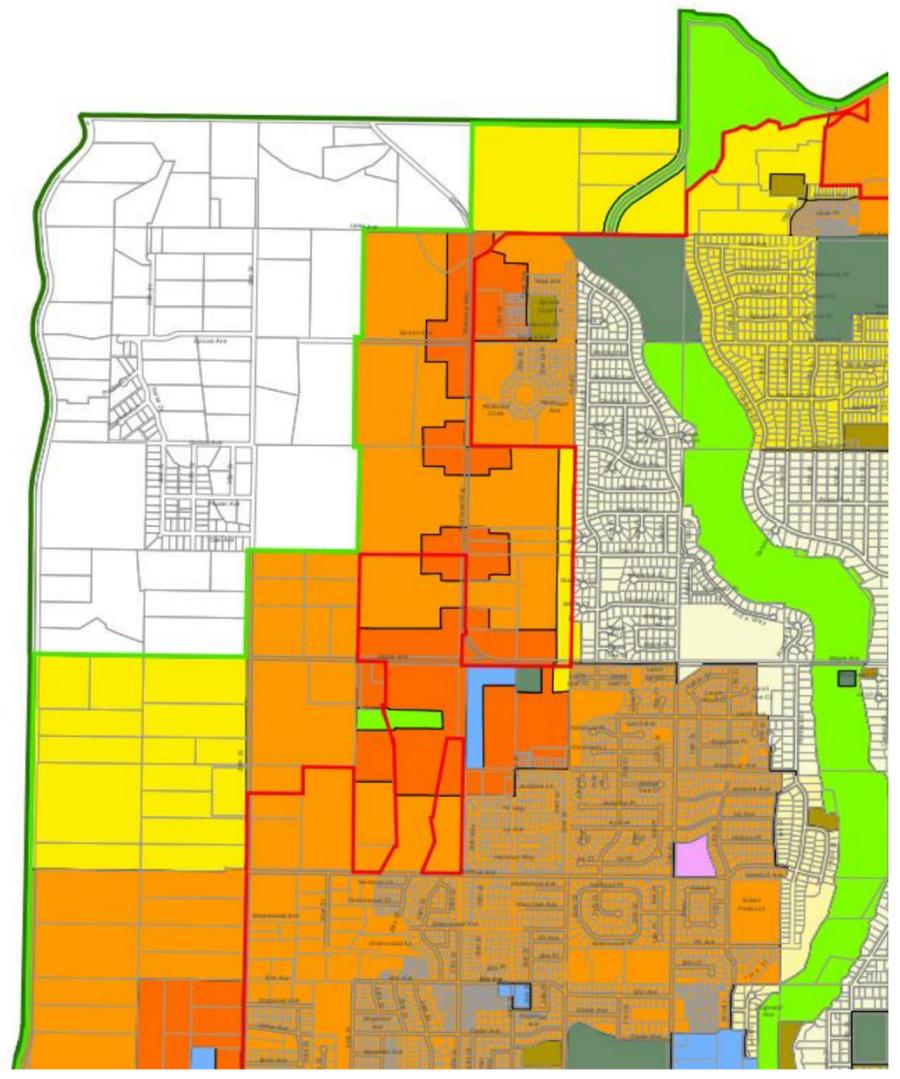
“Table Setting” and Advocacy Efforts



Central Oregon Innovation Hub



Central Oregon Air Service Team



City Limits
 Urban Growth Boundar
 Urban Area Reserve

Land Use Think Tank
Employment and Housing Supply

- Innovation
- Air Service Development
- Advocacy
- Land Use
- Strategic Planning

“Table Setting” and Advocacy Efforts

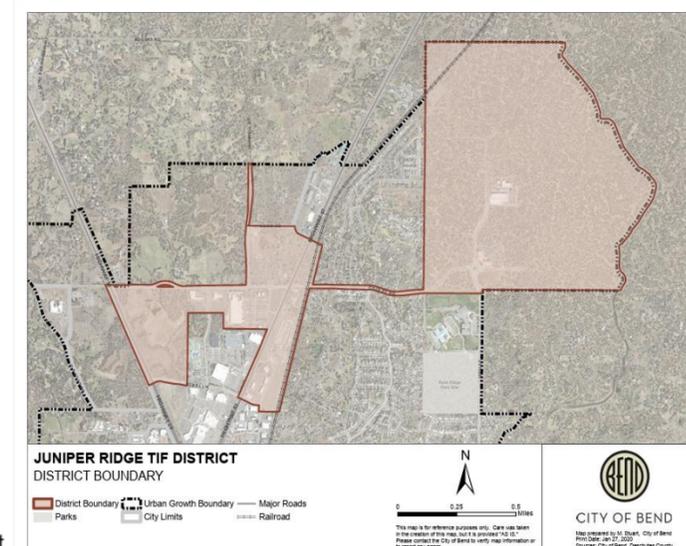
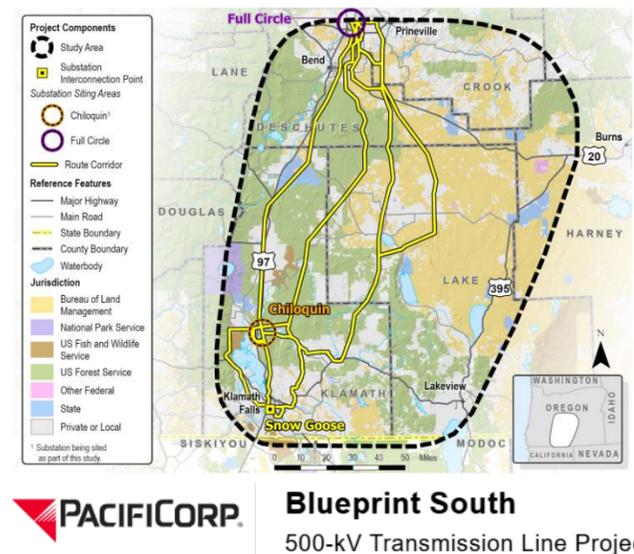
Prineville manufacturing plant closing resulting in massive job losses

Published 4:00 pm Wednesday, June 25, 2025

By Jason Chaney



Business Response Network



Regional Large Lot, Infrastructure Advocacy



Training and Workforce Development

- Workforce Solutions
- Advocacy – State Legislature
- Large Lot Development
- Infrastructure

Awards & Accolades

BEND-REDMOND MSA
#4
 BEST **PERFORMING** SMALL **CITIES** U.S.A.
 Milken Institute
 2026

DESCHUTES COUNTY
#1
 SMALL **BUSINESS OWNERS** OREGON
 Smartasset
 2024

BEND
#7
 BEST SMALL CITIES TO **START A BUSINESS** U.S.A.
 WalletHub
 2025

BEND
#1
 BEST **JOB MARKETS** U.S.A.
 Smart Asset
 2025

BEND
#4
 BEST **TOWNS TO VISIT** U.S.A.
 CNN
 2025

BEND
#8
 MOST **DYNAMIC METROS** U.S.A.
 Heartland Forward Report
 2024

BEND
#1
 PRIME WORKFORCE & **ECONOMIC STRENGTH** OREGON
 Area Development
 2024

BEND-REDMOND MSA
#1
 GROWTH, PROSPERITY, INCLUSION **MID-SIZED METROS** U.S.A.
 Brookings
 2025

BEND
#1
 MOST **STARTUPS PER CAPITA** U.S.A.
 TheStreet
 2023



Stay Informed

[Economic and Revenue Forecasts, Oregon Office of Economic Analysis](#)

[Beacon Appraisal Group, Beacon Report and Market Overview](#)

[Compass Points Commercial and Industrial Market Report](#)

[Central Oregon Economic Indicators \(OED\)](#)

[Statewide Economic Data](#)

[Redmond Airport Flight Statistics](#)

[Central Oregon's Childcare Supply Dashboard](#)