



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 02, 2025

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

### AGENDA

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

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

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

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

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

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqgD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press \*9 to indicate you would like to speak and \*6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.



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

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

## **CALL TO ORDER**

## **PLEDGE OF ALLEGIANCE**

## **CITIZEN INPUT**

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

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

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

## **CONSENT AGENDA**

1. Approval of Resoluton No. 2025-009, extending a limited duration 1.0 FTE Behavioral Health Specialist I position through June 30, 2026
2. Consideration of Board Signature on letter thanking Jerry Milstead, for service on the Facility Project Review Committee
3. Consideration of Board Signature on letters thanking Mason Lacy, Sabrina Haggerty and Rachel Zakem, for service on the Bicycle and Pedestrian Advisory Committee
4. Approval of the minutes of the February 3 and 5, 2025 BOCC meetings
5. Approval of the minutes of the March 5, 2025 BOCC Meeting
6. Approval of the minutes of the March 14 and 21, 2025 BOCC Legislative Update meetings
7. Approval of the minutes of the March 21, 2025 BOCC Legislative Delegation Update

## **ACTION ITEMS**

8. **9:10AM** Proclamation: Child Abuse Awareness Month
9. **9:20AM** Proclamation: Fair Housing Month
10. **9:30AM** Courthouse Expansion Update

11. **9:50AM** Board determination whether to conduct a hearing in response to complaint by Daniel Jones against Forest View Special Road District
12. **10:00AM** Second Reading of Ordinance 2025-003 – Last Ranch Plan Amendment & Zone Change involving approximately 20.36 acres at 64994 Deschutes Market Road, Bend, and 64975 Deschutes Market Road, Bend
13. **10:05AM** Public Hearing for a Plan Amendment and Zone Change for the Bend Park and Recreation District
14. **11:20AM** Request to convert 1.0 FTE Administrative Assistant position supporting the Forensic and Acute Services program (Behavioral Health division) from limited duration to regular
15. **11:30AM** Public Health Advisory Board By-Laws Update
16. **11:45AM** BOCC Letter of Support for the Deschutes County Justice Reinvestment Preliminary Formula Grant Application for the 25-27 Biennium

#### **ACTION ITEMS**

17. **1:00PM** FY 2026 Video Lottery Fund Allocations

#### **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**



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** Approval of Resoluton No. 2025-009, extending a limited duration 1.0 FTE Behavioral Health Specialist I position through June 30, 2026

**RECOMMENDED MOTION:**

Move approval of Resolution No. 2025-009 extending a 1.0 limited duration FTE from June 30, 2025 to June 30, 2026.

**BACKGROUND AND POLICY IMPLICATIONS:**

On March 27, 2024, the Board of County Commissioners approved Deschutes County Health Services (DCHS) to accept a \$484,484 Older Adults grant from Central Oregon Health Council (COHC) and extend a 1.0 limited duration (LTD) full-time equivalent (FTE) position to June 30, 2025. DCHS projects that approximately \$239,791 of grant funds will remain at the end of fiscal year 2025 and is requesting approval to further extend the LMT FTE position through June 30, 2026.

The purpose of the funding awarded by COHC was to continue services to a population of vulnerable older adults living with mental health and substance use disorders. The funding allowed DCHS to extend a 1.0 LTD Behavioral Health Specialist (BHS) I position to provide case management, caregiver training and other support not typically covered by Medicare, as well as pre-treatment outreach and engagement services not eligible for reimbursement. By extending the position, the Behavioral Health will be able to continue this important work.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Kara Cronin, Behavioral Health Program Manager  
Cam Sparks – Budget & Financial Planning Manager



REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
OREGON

A Resolution Extending FTE \*  
Within the 2024-2025 Deschutes \* RESOLUTION NO. 2025-009  
County Budget \*  
\*

WHEREAS, the Board of County Commissioners approved an Older Adults grant from Central Oregon Health Council (COHC) on 3/27/2024 for the Health Services department, which will fund the extension of a 1.0 limited duration FTE position, and

WHEREAS, Deschutes County Policy HR-1 requires that the creation of or increase in FTE outside the adopted budget be approved by the Board of County Commissioners; now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, as follows:

Section 1. That the following position’s duration be extended:

<b>Job Class</b>	<b>Position Number</b>	<b>Type</b>	<b>Duration if Limited Duration</b>
Behavioral Health Specialist I (1160)	2906	1.0 LTD	7/1/2025 – 6/30/2026
<b>Total FTE</b>		<b>1.0 LTD</b>	

Section 2. That the Human Resources Director make the appropriate entries in the Deschutes County FTE Authorized Positions Roster to reflect the above FTE changes.

DATED this \_\_\_\_\_ day of April, 2025.

BOARD OF COUNTY COMMISSIONERS OF  
DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

ATTEST:

\_\_\_\_\_  
PATTI ADAIR, Vice-Chair

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

\_\_\_\_\_  
PHIL CHANG, Commissioner



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** Proclamation: Child Abuse Awareness 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 2025 to be Child Abuse Prevention Month**

**PROCLAMATION**

**WHEREAS**, there were over 5,200 reports of child abuse and neglect in Central Oregon last year resulting in over 2,600 investigations of child abuse and neglect; and

**WHEREAS**, we all have a responsibility, as individuals, neighbors, community members and citizens of Central Oregon to help ensure 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, philanthropic and 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 2025 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 and deserve to raise their children in a healthy environment.

DATED this 2nd Day of April 2025 by the Deschutes County Board of Commissioners.

\_\_\_\_\_  
Anthony DeBone, Chair

\_\_\_\_\_  
Patti Adair, Vice-Chair

\_\_\_\_\_  
PHIL CHANG, Commissioner

ATTEST:

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



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

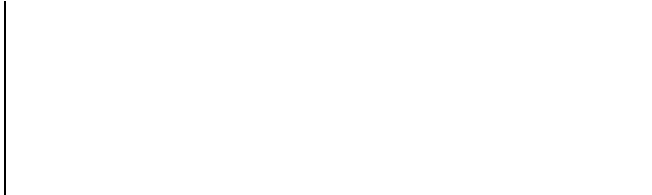
**SUBJECT:** Proclamation: Fair Housing Month

**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:**  
Tyler Neese, 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 2025 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 stats, 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 2025 as Fair Housing Month.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2025 by the Deschutes County Board of Commissioners.

\_\_\_\_\_  
Anthony DeBone, Chair

\_\_\_\_\_  
Patti Adair, Vice Chair

\_\_\_\_\_  
Phil Chang, Commissioner

ATTEST:

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





BOARD OF  
COMMISSIONERS

## AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** Courthouse Expansion Update

**RECOMMENDED MOTION:**

None.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Facilities Department will give a presentation to update the Board on the status of the Courthouse Expansion project. The update will include the work completed to date, upcoming work, and the project budget. Presentation materials are attached.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Lee Randall, Facilities Director  
Eric Nielsen, Facilities Capital Improvement Manager  
Wayne Powderly, Cumming Group  
Cory Loomis, Pence Contractors

# Facilities

## Deschutes County Courthouse Expansion Update

Board of County Commissioners Meeting

April 2, 2025







# Courthouse Expansion Update



- Recently completed and ongoing work
- Upcoming work
- Construction schedule
- Project budget



# Completed: Stair 1 Core





# Completed: Stair 2 Blindside Pour



# On-Going: Stair 2 Reinforcing & Formwork





# Completed: Elevator 2 Formwork





# Completed: Elevator 2 Pour 1





# Completed: Spread Footings





# Completed: Spread Footings





# Completed: Spread Footings & Columns





# Ongoing: Underground Plumbing





# Ongoing: Underground Electrical



# Upcoming Work

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In the coming 4 - 6 weeks...

- **Mechanical, Electrical, Plumbing Underground: Mid-March**
- **Stair 2 (east stair), Pour 2 and Pour 3: Mid-March**
- **Elevator 1 (main entry): Mid/Late-March**
- **Basement slab: Late-April**
- **Level 1 concrete decks: May**



# CONSTRUCTION TIMELINE

**Current Progress**

	2024	2025	2026
Demo, Grading, Site Utilities	Apr. '24–Oct. '24		
Permits Received	Apr. '24–Sept. '24		
Temporary Entrance Open	Jul. '24		
Building Structure		Sept. '24–Aug. '25	
Building Exterior			Aug. '25–Mar. '26
Building Interior			Aug. '25–Apr. '26
Sitework, Public Improvements			Nov. '25–Apr. '26
Existing Building Renovations			Mar. '25–Jul. '26
Final Completion			Aug. '26





# Questions?

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# Budget Update

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**Deschutes County**  
**Courthouse Expansion**  
**BUDGET STATUS REPORT**  
**Current Through: 3/19/2025**

	Budgeted Amounts		Actual Spend to Date	Remaining Balance	Comments
	Original Budget	Revised Budget			
<b>CONSTRUCTION COSTS</b>					
Cost of Work - Construction	\$ 32,510,428	\$ 37,529,793	\$ 10,295,306	\$ 27,234,487	Pence Contract (thru OCO #3)
Contractor's Contingency	\$ 1,641,965	\$ 1,641,965	\$ 52,924	\$ 1,589,041	5.51% Contractor's Contingency Remaining
Subtotal	34,152,393	39,171,758	10,348,230	28,823,528	
AJ Tucker - Demolition, Stone Salvage, and Storage	-	172,426	138,182	34,244	Pence Contract (\$34,244 credited back)
Subtotal Construction Costs	34,152,393	39,344,184	10,486,412	28,857,772	
<b>DIRECT COSTS</b>					
Architecture / Engineering / Interiors / Low Voltage	2,800,397	2,906,643	2,550,194	356,449	LRS ASAs (thru #10)
CM/GC Pre-Construction	62,040	62,040	62,040	-	Pence Contract
Land Use Attorney	50,000	30,000	-	30,000	
Land / Building Survey / TOPO	40,000	30,000	15,150	14,850	
Arborist / Tree Surgeon	9,799	-	-	-	
Historic Conservationist/Tribal Survey	20,000	-	-	-	
Geotechnical Reports and Inspections	39,197	39,197	14,200	24,997	
Commissioning	97,000	97,000	27,580	69,420	
Traffic Impact Analysis	35,000	15,000	6,500	8,500	
Hazmat Assessment / Abatement	60,000	30,000	-	30,000	
Construction Testing and Special Inspections	100,000	70,000	36,214	33,787	
Miscellaneous (Marketing, Postcards, Prints/reprographics)			1,661	(1,661)	
Unknown Additional Services Contingency	165,672	-	-	-	Moved balance to Owner Contingency 1/24/25
Subtotal Direct Costs	3,479,105	3,279,880	2,713,539	566,341	
<b>ADMINISTRATION COSTS</b>					
Project Management / Owners Representative	401,220	589,754	371,320	218,434	Cumming Contract thru ASA #3
Subtotal Administration Costs	401,220	589,754	371,320	218,434	
<b>OTHER PROFESSIONAL FEES</b>					
Miscellaneous / Insurance	78,394	69,889	69,889	-	
Subtotal Other Professional Fees	78,394	69,889	69,889	-	
<b>PERMITS AND FEES</b>					
Land Use Approval	48,996	48,996	-	48,996	Used for Plan Check and Permits
Plan Check and Permits	342,974	442,974	997,894	(554,920)	
System Development Charges (SDC's) and Engineering Review	385,320	485,320	-	485,320	Used for Plan Check and Permits
BOLI Fee	7,500	7,500	8,890	(1,390)	Used for Plan Check and Permits
Unknown Additional Permits and Fees Contingency	117,719	147,719	147,719	-	Used for Plan Check and Permits
Subtotal Permits and Fees	902,509	1,132,509	1,154,502	(21,994)	



**Deschutes County**  
**Courthouse Expansion**  
**BUDGET STATUS REPORT**  
 Current Through: 3/19/2025

	Budgeted Amounts		Actual Spend to Date	Remaining Balance	Comments
	Original Budget	Revised Budget			
<b>OWNER COSTS / THIRD PARTY CONTRACTS</b>					
FFE (incl A-V Systems / communications, fit-out)	900,000	650,000	-	650,000	Includes OJD's \$500k  Owner Contingency Remaining. 2/21/2025 - Original Budget includes amounts from previous construction contingency. All remaining Owner contingencies have been added to this line's Revised Budget. The contingency was increased with the 1/29/2025 Budget Adjustment.
External / Internal Signage	25,000	25,000	-	25,000	
Telephone / Data / Network Build	58,796	58,796	-	58,796	
Mover / Relocation / Temp Facilities/ Fairgrounds Building Rental	50,000	50,000	11,178	38,822	
Misc / Bldg & Grounds R&M / Supplies / Furn & Fixt.	-	-	51,842	(51,842)	
Travel Expenses	-	-	434	(434)	
City Services & Street Improvements & Utility Connections	215,584	165,584	25,858	139,726	
Green Energy Costs Mandated per Oregon State (1.5%)	600,000	658,457	182,250	476,207	
County Contingency	1,114,438	1,448,373	-	1,448,373	4.47%
<b>Subtotal Owner Costs / Third Party Contracts</b>	<b>2,963,818</b>	<b>3,056,210</b>	<b>271,562</b>	<b>2,784,648</b>	
<b>PROJECT TOTALS</b>	<b>\$ 41,977,438</b>	<b>\$ 47,472,426</b>	<b>\$ 15,067,224</b>	<b>\$ 32,405,202</b>	

Original Budget	\$ 42,000,000
Budget Adjustment	1,900,000 (2/21/2024)
Budget Adjustment	2,900,000 (1/29/2025)
<b>Subtotal</b>	<b>\$ 46,800,000</b>

**Courthouse Expansion Funding Sources**

Bond Proceeds	\$ 20,500,000	Revised to show net proceeds less bond issuance costs
State of Oregon Expansion	15,000,000	
State of Oregon Remodel	1,500,000	Initial transfer from State of Oregon was previously included in the Reserves line item
LATCF	4,622,145	
Interest	3,425,000	
Reserves	1,752,855	Revised to reflect State of Oregon Remodel contribution listed separately as shown above
<b>Total</b>	<b>\$ 46,800,000</b>	

**Worked tracked by County with funds from other sources**

AJ Tucker	\$ 172,426
OJD FF&E	500,000
<b>Total Budget</b>	<b>\$ 47,472,426</b>



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** Board determination whether to conduct a hearing in response to complaint by Daniel Jones against Forest View Special Road District

**RECOMMENDED ACTION:**

Following review of the Special Road District response, staff recommends that the Board of Commissioners NOT convene a hearing. The issues asserted by Mr. Jones have been adequately addressed by the District, and there is no evidence to support any of the following criteria identified in the SRD Protocol: (a) change in elector status; (b) missing Board meeting; (c) self-dealing; (d) ineptitude; (e) misappropriation of funds; (f) conduct which exposes the district to unreasonable risk of liability; or (g) disruptive behavior at Board meetings.

If the Board is in agreement with staff's recommendation, staff suggests the following Motion:

Motion to deny convening a hearing for the January 27, 2025 complaint filed against the Forest View Special Road District.

**BACKGROUND AND POLICY IMPLICATIONS:**

County staff received a complaint filed by Mr. Daniel Jones on January 27, 2025. A copy of the complaint is attached. The complaint was forwarded to the Forest View Special Road District Board for a response. A timely response was received from the District Board on February 24, 2025, a copy of which is also attached.

The very limited role of the County with regard to special road districts is to appoint board members, and when supported by the evidence, conduct hearings to consider the removal of an appointed board member. Grounds for removal of an appointed board member are limited to one or more of the following: (a) change in elector status; (b) missing Board meeting; (c) self-dealing; (d) ineptitude; (e) misappropriation of funds; (f) conduct which exposes the district to unreasonable risk of liability; or (g) disruptive behavior at Board meetings.

Second-guessing the operational decisions made by a special road district board is not within the purview of the County. Staff reviewed Mr. Jones' complaint and the response from the Forest View Special Road District. The Board adequately addressed the issues raised by Mr. Jones, and there is no evidence to support the need for a hearing on any of the above-listed enumerated grounds.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Mr. Jones  
Forest View Special Road District  
County Legal

# Special Road District Protocol

### Special Road District Board Members

Pursuant to ORS Chp. 371 the qualifications for appointment of a road district member are: (1) elector in the district; and (2) take and subscribe an oath to support the Constitution and laws of the State of Oregon and of the United States, and to well and faithfully perform the duties of office to the best of the person's knowledge and ability

ORS does not provide a specific process or basis for removal of appointed road district members. However, as the appointing authority, the BOCC has inherent powers to remove any of its appointments. The process employed by Deschutes County is as follows: upon receipt of a written complaint from an elector within the subject district, County staff sends a copy of the complaint to the district\* and directs the district to provide a written response to the County within a stated period of time. County staff reviews the response and determines whether the allegations and response merit a hearing before the BOCC. County staff then responds to both the complaining party and the district – either scheduling the hearing or explaining why no hearing will be held.

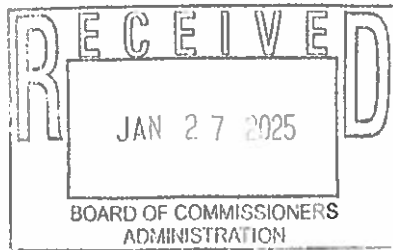
If a hearing is conducted, the BOCC will utilize the process described in ORS 215.030. That process allows that the appointing authority may remove the appointed member *only after a hearing for misconduct or nonperformance*. Removal criteria will track qualification criteria. Most relevant will be confirming "elector" status of the board member and the ability of the board member to "well and faithfully perform the duties of office to the best of the person's knowledge and ability." In addition, the BOCC will review and consider evidence of the following: (a) a change in elector status; (b) missing board meetings; (c) self-dealing; (d) ineptitude; (e) misappropriation of funds; (f) conduct which exposes the district to unreasonable risk of liability; (g) disruptive behavior at board meetings.

If an elector within the district wants to proceed with this procedure, he/she needs to send the written complaint, including all supporting evidence to the attention of County Legal. County Legal will then share the complaint and supporting evidence with the district and request a written response to same. Thereafter county staff will decide whether or not to schedule a hearing. T

\*-the transmittal could be the entire district board, or just the board president or secretary.



# Jones Complaint



January 27, 2025

Board of Commissioners of Deschutes County,

Please accept this Formal Complaint regarding Forest View Special Road District Pursuant to ORS CHP. 371. I am a elector of the district and a resident within the County.

I write this asking the Commissioners to please review this complaint with included attachments and follow the process employed by Deschutes County. I have provided a copies.

On December 17, 2024 I attended a meeting within our road district. At this meeting I asked if the chair, Larry LaRue has exceed his term limit of 3 years. He was appointed on September 19, 2018. I asked if his position expires on December 31, 2024. He responded that there was nobody else to take his position. I informed him that there was no election held within the district and that no one was ~~anyone~~ informed of his position becoming available. Furthermore an election was not held 3 years prior. I then confirmed that the other two board members have also been placed with no input ~~from~~ <sup>form</sup> the district. I provided them a formal grievance of this matter and I have attached their response. I since have confirmed with members of our district that they have never heard of an election of any type being held and instead the board appoint themselves.

I reviewed the bi-laws within our district and have confirmed they are not in compliance with articles of election, disregarding duties of individual commissioners and not holding meetings as specified in the bi-laws. They are picking what rules they would like to follow and disregarding the rest.

My original public record request submitted on 12/17/2024 has not been filled or addressed. I received confirmation of compiling my documents request only after the liaison for public record from the secretary of state contacted them on my behalf. As of yet, I have still not received any of the records I have requested. I bring this up to point out the current board is not in compliance with public record law and have a history of not providing documentation to members when requested.

On January 21, 2025 I was driving out of our district and passed board member Craig McCue's home. Larry LaRue and Tim Whitehall's (other two board members) cars were both parked in front. I took a picture of this to document this violation of public meeting law. The board was in quorum outside of a public meeting. I have confirmed that no meeting was advertised. I have since sent the board a letter regarding this violation with no response. I write this to also provide context to the disregard to state law regarding public meeting law.

My original concern regarding election law was ignored by the board. I have since written two more grievances as I am finding multiple violations of state law and our bi-laws. The board has not responded or complied.

I have other district members that have conveyed interest and concern in this matter as well.

Thank You,

Daniel Jones  
52659 Rainbow Dr.  
La Pine, Or, 97739  
(360) 496-4273

**FOREST VIEW SPECIAL ROAD DISTRICT P. O. BOX 101, La Pine Oregon**

**Agenda for December 17, 2024 Meeting**

**Larry LaRue                      Tim Whitehall                      Craig McCue**  
**Chair                                      Secretary                                      Treasurer**

**Forestview.road.district@gmail.com**

**https://sites.google.com/view/forestviewsrd/home**

Meeting will come to order at 7:30 pm in the Living Water Church meeting area on Primrose Lane.

**ROLL CALL OF DIRECTORS:** Present:

Number of neighbors present:

Neighbors Signed in:

**Offer to review the purpose of Forest View Road District public meetings-**

- Forest View Special Road District board holds public meetings to conduct business of the road district that includes: maintenance, repairs, and improvements to existing roads and right-of-ways in the district; submitting bids and maintaining contracts for road maintenance and snow removal; and managing tax funds for these purposes.
- The 3 commissioner board has voting power to determine road district business. Road district members & meeting attendees may provide the board with feedback on business and choose to serve on committees that assist the board, but *don't* make decisions regarding road district business.
- A copy of the Forest View Bylaws and Public Meeting Protocols can be requested from the district commissioners for attendees to quietly review during the meeting.

*All meeting attendees must follow the established Public Meeting Protocols. In short, all meeting attendees and board commissioners agree to the following:*

1. RESPECT- All who are attending meetings will treat each other with respect.
2. NO INTERRUPTIONS- Don't interfere with others who are observing the meeting, making comments, or the Board's ability to conduct business.
3. COMMENTS- You must sign up before the meeting. The Chair has the discretion to call on and set the order of speakers who have signed up.
4. TOPICS- Your comment topic must relate to road maintenance, snow removal, or management of funds.
5. SPEAKER NAME- Before speaking, you must state and spell your last name.
6. TIME LIMIT- Comments are limited to 3 minutes. The chair has the discretion to limit the overall time of public comment.
7. NO PERSONAL ATTACKS- Speakers are not permitted to make personal attacks on any Board member, other speaker, or member of the public.

### Special Road District Board Members

Pursuant to ORS Chp. 371 the qualifications for appointment of a road district member are: (1) elector in the district; and (2) take and subscribe an oath to support the Constitution and laws of the State of Oregon and of the United States, and to well and faithfully perform the duties of office to the best of the person's knowledge and ability

ORS does not provide a specific process or basis for removal of appointed road district members. However, as the appointing authority, the BOCC has inherent powers to remove any of its appointments. The process employed by Deschutes County is as follows: upon receipt of a written complaint from an elector within the subject district, County staff sends a copy of the complaint to the district\* and directs the district to provide a written response to the County within a stated period of time. County staff reviews the response and determines whether the allegations and response merit a hearing before the BOCC. County staff then responds to both the complaining party and the district – either scheduling the hearing or explaining why no hearing will be held.

If a hearing is conducted, the BOCC will utilize the process described in ORS 215.030. That process allows that the appointing authority may remove the appointed member *only after a hearing for misconduct or nonperformance*. Removal criteria will track qualification criteria. Most relevant will be confirming "elector" status of the board member and the ability of the board member to "well and faithfully perform the duties of office to the best of the person's knowledge and ability." In addition, the BOCC will review and consider evidence of the following: (a) a change in elector status; (b) missing board meetings; (c) self-dealing; (d) ineptitude; (e) misappropriation of funds; (f) conduct which exposes the district to unreasonable risk of liability; (g) disruptive behavior at board meetings.

If an elector within the district wants to proceed with this procedure, he/she needs to send the written complaint, including all supporting evidence to the attention of County Legal. County Legal will then share the complaint and supporting evidence with the district and request a written response to same. Thereafter county staff will decide whether or not to schedule a hearing. T

\*-the transmittal could be the entire district board, or just the board president or secretary.

## Forest View Special Road District

Response to Daniel Jones letter hand delivered 12/17/2024 at Scheduled meeting.

Mr Jones,

After reviewing your concerns, the directors contacted Deschutes County Commissioner Tony Debone and reviewed the By Laws. You are correct that a term is defined as three years. However there is not limit on how many terms a person can serve on the board. The General Provisions that are referred to in your letter, are to establish a new Special Road District. Please refer to the By Laws provided on the Forest View Special Road District for additional information.

Secretary

Tim Whitehall



12/27/2024

**FOREST VIEW SPECIAL ROAD DISTRICT**

La Pine, Oregon

**BY-LAWS**

**Article 1**

**A. Purpose**

- 1. Formulated as guideline for management of the established Forest View Special Road, Deschutes County.

**Article 2**

**A. Membership**

- 1. Any resident who is a property owner within the established boundaries of Forest View Special Road District is a fully qualified member.

**Article 3**

**A. Board of Commissioners of the Road District**

- 1. As determined by Oregon State Law, there shall be three (3) Road District Commissioners. Each Commissioner's term of office will be three calendar years, ending on December 31st." These terms will alternate, so that no two Commissioners' terms should expire in the same year.
  - a. Any member may volunteer and may serve as a Road District Commissioner, if approved by Forest View Special Road District members and appointed by the Deschutes County Commissioners.
  - b. Vacancies of the Board shall be filled by appointment by the Deschutes County Commissioners upon submitted recommendation by Forest View Special Road District Board. Appointment will be for the duration of the current term.
  - c. Recommendations for appointment to the Board shall be submitted to the Deschutes County Commissioners, from the recommendation by Forest View Special Road District Board.
  - d. Selections to guide the recommendations for appointment for the outgoing Board positions shall be held at the time of need.

## Article 4

### A. Duties of the Board of Commissioners of the Road District

1. The Board of commissioners of the Road District:
  - a. **Following the selection of a Treasurer for the District, a letter of notification, signed by any Board member, shall be sent to the Deschutes County Treasurer.**
2. The Board is responsible for maintenance, repairs and improvements to existing roads and right-of-ways within the district. Road work must be submitted for bids before the Board approves work and any work started. Exceptions:
  - a. **If emergency snow plowing is needed.**
  - b. **If the Board has a current signed contract with a road maintenance provider, bids are not required.**
3. The Board shall designate a Registered Office and a Registered Agent, as required by State Law.
4. The Board is responsible for the operations of the Road District in accordance with Oregon Revised Statutes.
5. Two Board members needed to decide if snow plowing is necessary. Proxy may be used in a Board member's absence.

### B. Duties of individual Commissioners:

1. Chairman:
  - a. **Will preside over meetings.**
  - b. **May call special meetings, if necessary.**
  - c. **Will sign checks, with one other Commissioner, to pay district bills.**
2. Secretary:
  - a. **Will record minutes of meetings.**
  - b. **Will maintain records of all correspondence.**
  - c. **Will preside over regular meetings in absence of Chairman.**
  - d. **Will make road signs for scheduled meetings, and post one week prior to meeting.**
  - e. **Sign all checks, with one other Commissioner, in absence of Chairman.**
  - f. **Submit to local newspaper: date, time and location of scheduled road meetings, two weeks in advance.**
  - g. **Update list of members living in District.**

**3. Treasurer:**

- a. Will maintain all financial records and prepare all financial reports.**
- b. Will verify all invoices received, and write checks for payment. All checks will contain invoice number or job description of work completed, and must be signed by two Commissioners.**
- c. Will prepare Treasurer's Report to be presented at each regular meeting. Reports will include:**
  - 1) Previous and current balance.
  - 2) Receipts and source of revenue.
  - 3) Disbursements of preceding month's expenses. (rev. 10/15/19- "Outstanding bills" was removed)
- d. Will submit District Budget information to the County by July 15 of each year for the coming fiscal year.**
- e. Will submit Audit Report to Secretary of State each year by Sept 30.**
- f. Will submit all other required reports to Deschutes County and to the State of Oregon.**

## **Article 5**

### **A. Contents of Minutes and Reports**

- 1. Minutes of the meetings will contain:
  - a. All motions and any business of the meeting. Treasurer's report ending balance.**
  - b. Any complaint to come before the Board, made by a property owner, which must be submitted in writing to P.O. Box 101 La Pine, OR 97739, prior to the meeting date.**
  - c. Numbers of those in attendance at the meeting recorded on sign in sheet. (rev. 10/15/19)**

## **Article 6**

### **A. Meetings**

- 1. Regular meetings will be held on the third Tuesday of each month, unless circumstances require cancellation. Cancellations, other than emergency in nature, will be announced at a regularly scheduled meeting.
- 2. Meeting place will be as agreed upon by the Board of Commissioners.



- 3. Special meetings, if needed, will be at a time and place determined by the Chairman.
  - a. **Unless of an emergency nature, notice of the meeting must be as heretofore prescribed for regular meetings.**
- 4. The presence of two (2) Commissioners at a regular or special meeting shall constitute a quorum.

**Article 7**

**A. Procedure for Recall**

- 1. A petition of recall must contain the signature of at least fifty percent of the resident members to be valid.
- 2. A petition of recall must be presented to the Board at a regular meeting.
- 3. Upon receipt of a valid petition, the Board will designate that a recall election is to be on the agenda of the next regular meeting.
  - a. **A majority vote of those present at the time of the recall election will be presented to the Deschutes County Board of Commissioners for their action.**

**Article 8**

**A. Adoption of By-Laws**

- 1. These By-Laws must receive the majority vote of the members present, to be adopted.
- 2. Proposed amendments to these By-Laws shall be presented to members present at a regular meeting thirty days prior to any action taken.
- 3. If these By-Laws in any way conflict with Oregon State Law, the State law will prevail.

**Article 9**

**A. Roberts Rules of Order (Revised) shall govern in all matters not covered in these By-laws or by State law.**

**Article 10**

**A. Residents' and drivers' responsibilities**

- 1. Use of Motor Oil on roads within the District:

- a. No one shall use motor oil on the roads of Forest View Special Road District. Any other dust retardant must have the express permission of the Road Commissioners.**
  - b. If anyone is found in violation, Law Enforcement will be notified.**
- 2. No parking of vehicles, RV's, etc. in roadway of District boundaries at any time, day or night. Law enforcement will be notified of violations.**
- 3. There will be no parking to load or unload children, within 50 feet of any stop sign or signal.**
- 4. Trees that fall onto roadway from private property shall be removed from roadway by property owner. If property owner does not remove tree(s) in timely manner, officers of Forest View Road District shall be authorized to cut tree(s) from roadway to property line.**
- 5. Easements must be clear of trees. At the discretion of the Board, trees will be removed to clear the easement, when deemed necessary.**
- 6. Any vandalism to mail boxes, paper boxes, stop signs or roads within Forest View Road District are in violation of State and Federal Law.**

Board,

Please accept this a formal grievance.

Unfortunately as I review the bi laws I realize you are not in compliance of many of the bi laws you have referred myself and the members of the district to, it is to the board's own detriment that the district has been directed to these bi laws as a form of defense regarding the election process being ignored.

I expect a specific response to this grievance and to each of my concerns. Please be aware that my attempt is to get the board to adhere to these bi laws and state legislation. Chapter 255 and 371 are both regarding election laws of this type in Oregon. When bi laws do not pertain to specifics then these laws are then applied.

1. As my original grievance stated the board is not in compliance with state election laws, nor their own bi laws regarding board appointments. Article 3a sites "Any member may volunteer and may serve as a Road District Commissioner, if approved by Forest View Special Road District members and appointed by the Deschutes County Commissioners." The district is to approve a board member prior to their appointment. The board submitted a recommendation to the county commissioners recommending Larry LaRue appointment on the same day I submitted my grievance informing the district board they were not in compliance. Then responded to my grievance pointing me to the bi laws that clearly state how you are in violation. You are in violation of Article 3 of the bi laws in its entirety. The board cannot implement 3c and ignore 3a.

2. The only reference to signs is regarded in Section 4 B2D stating "Secretary will make road signs for scheduled meetings, and post one week prior to meeting" there is nothing referencing signs being made by the district. The expensive signs you intend to purchase with our tax money are clearly not for road maintenance and not a proper use of our district's money, furthermore it is not specifically within the duties of the board.

3. 4 B2F sites "Submit to local newspaper: date, time and location of scheduled road meetings, two weeks in advance." I am unaware of any add ever ran since I have lived in the district. Please provide me with receipts showing that you are in fact adhering to this bi law.

4. 4 B2G states "Update list of members living in District." I do not believe there is an updated list of residence, nor has this duty ever been addressed or completed. I would like the updated list that is sited in this bi law.

5. Article 6, 1 states clearly "Regular meetings will be held on the third Tuesday of each month, unless circumstances require cancellation. Cancellations, other than emergency in nature, will be announced at a regularly scheduled meeting." Meetings are to be held on the 3rd Tuesday of every month. They are not to be held quarterly. Am I correct to assume that the board is receiving a monthly stipend when they are in fact not holding a monthly meeting? This is a violation of this bi law.

These bi-laws are in place to govern the Forest View Road District. They are not to be followed if you choose to. It appears there are many bi laws being ignored, yet Tim Whitfield wants to point people to them as if some form of defense. I'm sure the current board can understand my concern regarding the board's conduct at this time as it appears that not only is the board appointing themselves without the districts input, but they are also not doing the duties delegated to them within the bi laws.

I believe that upon deeper review I will find more violations, but I write this now as these are what I have found. I do not write this grievance lightly and ask the board to please adhere to their own bi laws to the betterment of the district.

Please see attached my request of public record.

Daniel Jones  
52650 Rainbow Dr, La pine, or, 97730  
(360) 496-4273  
[Danieljones1973@yahoo.com](mailto:Danieljones1973@yahoo.com)

**Public record request**

I received an email dated 1/13/25 from Forest View SRD. In it advised me of your formal public record request process and referred me to your website. I have taken the liberties to review your policy and have concluded the following.

"A request for public records that are in the custody of the district may be made by submitting a written request to the district. The district is required to allow inspection or copying of all non-exempt public records."

I had submitted my original request in writing on 12/18/24. I never received a response. Per your own policy there is nothing stating I am required to fill out your form. Public record laws have time limits, you did not provide what I had requested within the time allotted.

Please provide:

- A. Copy of my grievance dated 12/17/24.
- B. Copy of the recorded meeting from 12/17/24.
- C. Copy of the list of people in attendance at the meeting on 12/17/24.
- D. Receipts I requested in section 3 of my grievance paid to a newspaper.
- E. Copy of current residence living within our district sited in section 4 of my grievance, or proof that you have completed this task.
- F. Any addendum's filed that support the deviation from these bi laws.
- G. A copy of the letters of endorsement sent to the county commissioners placing Tim Whitehall and Craig McCue on the board.
- H. Any quotes or receipts pertaining to signs potentially or been purchased by the board for Forest View SRD.

I believe that all documentation I've requested is within "the public interest because making the record available primarily benefits the general public." So, I believe this information would qualify to have the fees waved as sited in Chapter 6 of the public records request policy. I have emails from multiple members of the district stating they also are interested in my requests. This information is not personal to me, rather I am acting as a member of the district.

Furthermore, I am happy to accept these documents in digital form which will elevate the district from any expense.

Thank You,

Daniel Jones  
 52659 Rainbow Dr, La Pine, OR, 97739  
 (360) 496-4273  
[Danieljones1973@yahoo.com](mailto:Danieljones1973@yahoo.com)

# Jones Correspondence

**David Doyle**

---

**From:** daniel jones <danieljones1973@yahoo.com>  
**Sent:** Tuesday, February 25, 2025 10:20 AM  
**To:** Board; David Doyle; Kim Riley  
**Subject:** Request for Hearing  
**Attachments:** mime-attachment.eml

Caution: External email to Deschutes County: If unexpected or unfamiliar, be cautious with links and attachments. Contact your IT Dept if unsure.

County Officials,

I am writing this as a request for a hearing in regards to the response given by Forest View Road District.

I write this due to legitimate concerns over the misguided and misuse of tax dollars that are to be used towards the maintenance and snow removal of our neighborhood. As the rhetoric I have heard regarding the duties of the districts board, they are simply to manage the road maintenance and snow removal and yet they have a history of using our funds to pay attorneys to compile frivolous documents and give unwarranted advise.

Their own response sites they sought legal advise after being contacted by Todd Albert at the Secretary of State. Their correspondence is attached and I would ask that you please take a moment to read through it in its entirety. It depicts that the board used our tax moneys to draw up a Public Record Policy a few years back. Larry LaRue was the chair at the time. The documents they paid an attorney to draft are not in compliance with State public record law, showing an ongoing waste of our funds and also providing proof that the board is not opposed to spending our tax money (meant for road maintenance and snow removal) to fight against members of our district.

I write this to please encourage the county to step in and implement the rules given to manage situations like this, if you do not I will be forced to pay an attorney and the board will hire an attorney to fight me using our tax money given to manage our roads.

The response given is not a valid defense, but more showing a clear understanding and disregard to the rules governing a board of this type.

The bi laws are put in place at the formation as rules for the district to follow, they have nothing to do with its formation. In fact the board shows that they are aware of this when they share how they now intend to change the bi laws to further allow them to reappoint themselves. The second part of their response confirms this when they then claim that the bi laws are to be followed regarding monthly meetings, but not regarding the election portion? They also disregarded the rest of my concerns in my grievance and yet have sent me a partial response to my public record request showing that they are not in compliance with the bi laws not sited in their response.

The Bi Laws are not confusing and the issue is not that they are not clear, they are simply not being followed. I write this as concern that this unelected board continues to mismanage the money & again have not been elected by the tax payers within the district.

Daniel Jones

## David Doyle

---

**From:** ALBERT Todd \* PRA <Todd.ALBERT@pra.oregon.gov>  
**Sent:** Friday, January 24, 2025 3:53 PM  
**To:** Forest View Road District  
**Subject:** RE: Public records requests of Daniel Jones

Hello and thank you for responding to my message.

I appreciate that your office took the time to create a public records policy, despite it's limited staffing. Overall, it is a clear and well spelled out policy. In reviewing it, I nevertheless had some things I wanted to point out:

- On page 1, ORS 192.410 – 505 was updated in 2017 and is now ORS 192.311 – 192.338 (although the law currently extends to ORS 192.431);
- Also on page 1, a public records requester is not required to provide their name or other identifying information. They are only required to provide a way in which to receive records. Of course, if the requester requests a public interest fee waiver, or attempts to argue that a conditional exemption does not apply to them because their request is in the public interest, then you may inquire as to their identify and any other information to the extent necessary to decide for yourself whether they have made an adequate showing of public interest; and
- On pages 2-3, Section V, *Calculation of Fees and Response*, if the district is staffed by volunteers and the public records law only permits a public body to charge fees to recoup up to its actual cost of making records available, what is the basis for the district charging labor costs for those other than its attorney?

As for Mr. Jones and his requests, you are correct that a public body may require a requester to submit their request via the manner spelled out in the public body's policy, as long as that policy is publicly posted. However, your policy merely states in Section III, *How to Make a Request*, "Public record requests may be submitted by mail or by e-mail to [forestview.road.district@gmail.com](mailto:forestview.road.district@gmail.com)", and in Section IV, *Processing a Public Records Request*, "Public record requests may be submitted by mail or by e-mail to [forestview.road.district@gmail.com](mailto:forestview.road.district@gmail.com)". Those statements in and of themselves, while requiring submission through a physical or email address, does not state that use of the form is mandatory. Furthermore, if a physical address is an option, it should be included in the policy and on the form, even though it is already on your website.

Finally, I would welcome a meeting if you believed it would be helpful to your work addressing Mr. Jones' requests or public records in general. As a two person state agency, and with the Deputy Advocate currently on leave, I certainly understand the need to work around everyone's schedules, and would be happy to find a time that works for everyone. Your attorney and/or anyone else you believe should be part of the conversation is welcome to join too.

Thanks,

Todd

Todd Albert

Public Records Advocate

Office of the Public Records Advocate

mobile: (503) 871-9036

[www.oregon.gov/pra](http://www.oregon.gov/pra)

**From:** Forest View Road District  
**Sent:** Tuesday, January 21, 2025 11:51 AM  
**To:** ALBERT Todd \* PRA  
**Subject:** Fwd: Public records requests of Daniel Jones

You don't often get email from [forestview.road.district@gmail.com](mailto:forestview.road.district@gmail.com). [Learn why this is important](#)

Good morning Mr. Albert,

We have responded to Mr. Jones letting him know we are working on his records request and hope to have a response to him in the next several days.

Thank you,

Forest View Road District  
P.O. Box 101  
La Pine, OR, 97739

----- Forwarded message -----  
**From:** Forest View Road District <[forestview.road.district@gmail.com](mailto:forestview.road.district@gmail.com)>  
**Date:** Sat, Jan 18, 2025 at 1:08 PM  
**Subject:** Re: Public records requests of Daniel Jones  
**To:** ALBERT Todd \* PRA <[Todd.ALBERT@pra.oregon.gov](mailto:Todd.ALBERT@pra.oregon.gov)>

Dear Mr. Albert,

Several years ago in a special meeting in October 2021, the board voted to hire an attorney to draw up an official records request policy and form and to represent the board in legal matters. The board brought up the finished policy and form at the December 2021 public meeting and voted to implement the policy. Since that meeting it has been posted to our website and is available to anyone. At no time has Mr. Jones submitted that form for a records request that we are aware of. We have pointed him to it on more than one occasion and his reply was that he is a member of the district and therefore does not have to comply with the records request policy. His latest reply is that he's unaware of any such website or records request policy. We replied to one of his emails with the link you see below. The policy and form is available in the upper right hand corner of the website.

<https://sites.google.com/view/forestviewsrd/home>

We believe this policy is in line with other policies in place with cities and counties. None of the public records request policies we are aware of provide for records to be copied and provided to the requestor for free as there are time and materials involved and our policy is the same.

We could set up a time to meet with you to discuss further if you would prefer. All three board members are volunteers with full time jobs so we would need to coordinate around those commitments.



Thank you,

Forest View Road District  
P.O. Box 101  
La Pine, OR, 97739

On Thu, Jan 16, 2025 at 5:35 PM ALBERT Todd \* PRA <[Todd.ALBERT@pra.oregon.gov](mailto:Todd.ALBERT@pra.oregon.gov)> wrote:

Dear members of the Forest View Special Road District,

My name is Todd Albert and I am the director of the state agency known as the Office of the Public Records Advocate. Our duties include assisting public records requesters and records custodians, such as yourself, mediate disputed public records request. We also offer guidance and advice, as well as free training, on the requirements of and best practices under the public records law. In addition, we assist public bodies create or update public records policies required by [ORS 192.324\(7\)](#). Records custodians, as well as requesters, are welcome to reach out to us at anytime for public records-related aid.

I am writing to you now because we were contacted by Mr. Daniel Jones, regarding his public records requests to your district. Mr. Jones is concerned about the district's response, and I was hoping to learn more about the status of his request from your perspective.

Thank you for your time and consideration in this matter. I look forward to your request. Finally, please note that I will be out of the office tomorrow, returning on Tuesday.

Regards,

Todd

Todd Albert

Public Records Advocate

Office of the Public Records Advocate

mobile: (503) 871-9036

## David Doyle

---

**From:** daniel jones <danieljones1973@yahoo.com>  
**Sent:** Tuesday, February 25, 2025 2:05 PM  
**To:** David Doyle  
**Subject:** Communication

Caution: External email to Deschutes County: If unexpected or unfamiliar, be cautious with links and attachments. Contact your IT Dept if unsure.

David,

I'm unsure if my comment regarding having an attorney waiting to see what happens might be confused that I have retained an attorney. I have not. I was told that legal has advised commissioners to not communicate with me, possibly this email might resolve that topic?

I am waiting to allow the county to address this matter prior to addressing this legally. I think it is clear that we have unelected board members spending our tax money currently. Pretty clear issue, but a pretty serious matter.

Daniel

**David Doyle**

---

**From:** Kim Riley  
**Sent:** Wednesday, February 26, 2025 10:49 AM  
**To:** David Doyle  
**Subject:** FW: Communication

FYI: I will not be engaging any further with him.

Kimberly Riley

Sr. Assistant Legal Counsel  
 Deschutes County Legal Counsel  
 1300 NW Wall Street, Suite 205  
 Bend, OR 97703  
 Telephone: (541) 388-6597  
 Facsimile: (541) 617-4748  
 Email: kim.riley@deschutes.org

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-----Original Message-----

**From:** daniel jones <danieljones1973@yahoo.com>  
**Sent:** Wednesday, February 26, 2025 10:48 AM  
**To:** Kim Riley <Kim.Riley@deschutes.org>  
**Subject:** Re: Communication

Caution: External email to Deschutes County: If unexpected or unfamiliar, be cautious with links and attachments. Contact your IT Dept if unsure.

Kim,

I find that very interesting. I think it's concerning that there is a deliberation on "if" the commissioners will be holding a hearing when it was just confirmed that they have been appointing board members in our special district with no election confirmation and now that they have confirmed that our board members have been self appointing themselves as if we live in a dictatorship, they want to determine "if" a hearing shall be held. Especially after the special district board claim to be intending to change the bi laws when they were never actually elected to hold their position.

I'm sure you're aware of the liability the county now holds once they have become aware of this fraud. I believe the commissioners were unaware that our board has been appointing themselves without district input, but now that has all changed.

I write this as I am not a fly on the wall and the communication I have received from David Doyle yesterday sparked concern. Then possibly poor choice in terms in your email co firms my concern.

The Rhetoric in the Special District response is not a valid explanation or defense on any of the issues in my grievance. It actually shows the lack of understanding they have regarding an entity they insist to maintain control of.

If the County does not remedy this the unelected board will continue to spend our districts tax money to pay attorneys to defend their mis appointed positions. I hope the County does not allow this to transpire.

Daniel Jones

> On Feb 26, 2025, at 8:19 AM, Kim Riley <Kim.Riley@deschutes.org> wrote:

>

> Mr. Jones,

>

> Given that there is a pending decision for the Board on whether or not to hold a hearing in this matter, it is important that they not have any additional communication with either you or the special road district board.

>

> Kimberly Riley

>

> Sr. Assistant Legal Counsel

> Deschutes County Legal Counsel

> 1300 NW Wall Street, Suite 205

> Bend, OR 97703

> Telephone: (541) 388-6597

> Facsimile: (541) 617-4748

> Email: kim.riley@deschutes.org

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>

> -----Original Message-----

> From: daniel jones <danieljones1973@yahoo.com>

> Sent: Wednesday, February 26, 2025 7:18 AM

> To: Kim Riley <Kim.Riley@deschutes.org>

> Subject: Communication

>

> Caution: External email to Deschutes County: If unexpected or unfamiliar, be cautious with links and attachments. Contact your IT Dept if unsure.

>

>

> Kim,

>

> I'm writing this email to hopefully gain some understanding to where my involvement with the county commissioners is at?

>

> A month ago I was in communication with Phil Chang via email and Patti Adair via text. Both commissioners seemed very eager to assist in the issue with my local road district, both were helpful in pointing me towards a remedy through the county.

>

> Tony DeBone even had called my private cell phone multiple times after I attended the public meeting although it seemed his intent was to hope I would drop the matter.

>

> The point I am getting at is yesterday I was informed that legal had told the commissioners to no longer speak to me. I am not understanding why? I followed a process suggested by the Commissioners and do not understand why I would be excommunicated by doing so.

>

> Could you please help me understand why the Commissioners who seemed so eager to help are now being told to no longer communicate with me?

>

> Daniel Jones

>

>

# **Forest View Special Road District Response**

**February 24, 2025**

Dave Doyle  
 Deschutes County Legal Counsel  
 1300 NW Wall St., Suite 205  
 Bend, OR 97703  
 E: [David.Doyle@deschutes.org](mailto:David.Doyle@deschutes.org)

**RE: Formal Response to Formal Complaint issued by Mr. Daniel Jones**

The Forest View Special Road District (“District”) hereby issues its formal written response to the grievances filed by Mr. Daniel Jones on or about January 27, 2025. The District responds to each of Mr. Jones’s allegations below.

**I. Term Limits and Violation of Bylaws and Election Laws**

a. Election Laws

The Deschutes Board of County Commissioners has the authority to approve recommendations to the District’s board and appoint said recommendations to the District’s board. ORS 255.005(4); ORS 255.055; ORS 371.330; ORS 371.338.

The District was formed following the review of a Petition for Formation of a Special Road District, dated October 15, 1993 (“Petition”). A copy of the Petition is attached hereto as Exhibit 1.

The Petition was approved by The Deschutes County Board of County Commissioners via Order No. 94 – 003 (“Order”). A copy of the Order is attached hereto as Exhibit 2.

While the Order does not state whether the District was to appoint or elect its board members, pursuant to ORS 371.318, it is clear that the intention of the Deschutes County Commission at the time it issued the Order was to have District board members be appointed rather than elected. This is because the Order approved the Petition which expressly stated that the board of commissioners of the District were to be appointed and comprised of three (3) commissioners. For ease of reference, please see Page 4 of 18, ¶4 of Exhibit 1.

Importantly, the Petition includes approval from Deschutes County Legal Counsel stating that the only issue that required correcting in the Petition was the legal description, which needed to be internally consistent. Deschutes County Legal Counsel required that the internal legal

description be amended at the time of hearing on the Petition. There is no mention in the Order or Petition of the District electing its board members.

The District does not have an elected board of commissioners under ORS 371.347. This is evidenced by, among other things, the Petition and Order, the three-year term limit that is outlined in statute (ORS 371.338) for appointed district board members, and the District's own Bylaws. Furthermore, the District's Bylaws state that terms end on December 31, which is also provided for ORS 371.338. If it was an elected district board, the term limits would be for four years and the terms would end on June 30, pursuant to ORS 371.349.

b. Bylaws

Mr. Jones asserts that the District is in violation of its own Bylaws because it is not complying with Article III(1)(a) of the Bylaws. However, in giving meaning to the entirety of Article III's provisions, Article III(1)(a) of the Bylaws presumably refers to the process for approving and appointing the first board members of the District at the time of the District's formation. In other words, the members of the District would get to approve a candidate who would then be appointed by the Deschutes County Commissioners. After that process, the District board is free to make recommendations to the Deschutes County Commissioners to fill positions without holding an election. That said, to the extent this provision contradicts with ORS Chapters 371 and 255, it should obviously not be given legal effect.

The remaining provisions of Article III clearly state that the Deschutes County Commissioners make appointments to fill vacancies (either before or after the expiration of a given term of service) upon receiving recommendations from the District board.

Thus, the District is not ignoring its Bylaws, it is actually abiding by them. Furthermore, as discussed above, a special road district either elects or appoints its board members. As evidenced by the Petition and Order, the majority of provisions from Article III of the District's Bylaws, and other supporting evidence, the District board should be considered an appointed board.

Mr. Jones's position that the District must hold elections is not supported by the foundational documents of the District, Oregon law, nor any other evidence. Mr. Jones, however, has revealed that the District's Bylaws (specifically Article III(1)(a)) could cause confusion among the District's members as to how the District board members are selected and appointed. Thus, the District board is considering its options to amend its Bylaws to reduce confusion and ensure greater clarity on this issue.

Furthermore, while a term of service is three (3) years pursuant to Oregon law and the Bylaws, there is nothing stating that there are term *limits*. If a volunteer board member serves their three years and wishes to volunteer for another three, the other District board members need only make a recommendation to the Deschutes County Commission for consideration and potential appointment.



In conclusion, Mr. Jones’s position that the District is violating Oregon election laws and its own Bylaws is not supported by Oregon statute, the foundational documents of the District, or any other compelling evidence.

**II. Not Holding Meetings as Required by Bylaws and State Law**

The District admits that it has not held monthly meetings, as the volunteer board determined that there was not sufficient business to discuss on a monthly basis. However, after requesting the advice of counsel, the District has realized that the Bylaws and relevant Oregon statute do require the District board to meet on a monthly basis.

The District plans to begin complying with the Bylaws and relevant Oregon law as soon as possible. The District will need to ensure it is able to find a meeting location every month that can accommodate members of the public, as they are entitled to attend regular, special, and emergency District meetings.

**III. Public Records Request**

The District is comprised of three volunteer board members who all have separate jobs outside of their volunteer duties to the District. In attempting to streamline the response process, the District requested that Mr. Jones use the Public Records Request Form that is located on the District’s website. The District later became aware that, under their Public Records Request Policy, Mr. Jones was not *required* to use the form, however it maintains that it would have streamlined the process and potentially decreased response time.

Oregon’s Public Record laws require a public body to respond to a public records request as soon as practicable. ORS 192.329(1). As explained above, the District board is entirely made up of volunteers who have professional obligations of their own. Thus, the District board engaged the services of counsel to review the District’s Public Records Request Policy and ensure the District was responding appropriately and providing non-exempt public records to Mr. Jones. Following review and compilation of the requested records, a formal response was sent to Mr. Jones along with the non-exempt requested records via certified mail on February 10, 2025. Delivery of the response and records was attempted yet unsuccessful on February 11, 2025. Mr. Jones picked the response and requested records up from the post office on February 14, 2025.

The District responded as quickly as it could and, given the District’s desire to ensure it was doing its due diligence and complying with Oregon law, the response was completed “as soon as practicable.”

At the time of this grievance response, Mr. Jones has received a formal response to his records request with the non-exempt public records (that were in existence) that he requested. As such, this complaint should be considered moot. Mr. Jones offers no other evidence of his assertion that the District board has a history of not providing documentation to members when requested.

**IV. Violation of Public Meeting Laws**

Mr. Jones bases his allegation that the District was violating public meeting on his assertion that he noticed District board member cars were parked at the home of another District board member and that enough were there to constitute a “quorum.” However, the District board members are not disallowed from being in each other’s presence when they are not engaging in the public’s business and on behalf of the District. In fact, a “meeting” for the purposes of Oregon’s public meetings law is defined as the, “the convening of a governing body of a public body for which a quorum is required *in order to make a decision or to deliberate toward a decision on any matter.*” ORS 192.610(7)(a) (emphasis added).

The District board members were not engaged in any discussion relating to any public matter that concerned the District. Mr. Jones simply believes this is the case because the District board members were all present in one location. Mr. Jones has no other evidence to support this allegation, which is meritless and should be treated as such.

**V. Additional Assertions**

Finally, Mr. Jones states that, “other district members . . . have conveyed interest and concern in this matter as well[,]” in reference to his meritless complaints about non-existent violations of election law. The District board has never heard from any District members about these complaints (other than Mr. Jones) and believes there is no truth to this assertion.

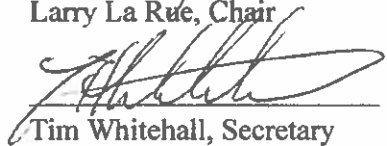
The District does not believe a hearing is warranted on these issues. That said, should Deschutes County have recommendations for or require any action of the District, the District will do its very best to implement those recommendations and/or comply with those requirements.

Respectfully,

The Forest View Special Road District Board



Larry La Rue, Chair



Tim Whitehall, Secretary



Craig McCue, Treasurer

TDC  
86

DESCHUTES COUNTY LEGAL COUNSEL

BRUCE W. WHITE  
Assistant Legal Counsel

Bww

93 NOV 16 PM 1:57  
Ext. 8593  
COUNTY CLERK

TO: Susie Penhollow  
Joan Rotsolk (w/copy of petition)

November 15, 1993

RE: Forest View Subdivision

File No.

I have reviewed the attached petition for formation of the Forest View Subdivision Special Road District and have determined that as to form and content it should be accepted for filing if there are sufficient valid signatures. Please verify the signatures of voters on the petition.

I note that the legal description is internally inconsistent and will have to be amended at the time of hearing on the petition. The economic feasibility statement is skimpy, but that issue can be debated at the hearing and by the voters at the election.

Please provide me with a copy of your certification of signatories so I will know whether to schedule a hearing before the Board of County Commissioners.



*(Give copy to Bruce 11-17-93)*

Office of the County Clerk

Administration Bldg. / 1130 N.W. Harriman / Bend, Oregon 97701  
(503) 388-6544

Mary Sue "Susie" Penhollow, County Clerk

Nov. 17, 1993

I, MARY SUE PENHOLLOW, Deschutes County Clerk, do hereby certify that the signatures on the attached 8 petitions were verified and I find that there are 32 valid signatures which represents 15% of the registered voters within the area proposed to be formed into the Forest View Subdivision Special Road District.

Dated this 17th day of November, 1993.

*Mary Sue Penhollow*  
MARY SUE PENHOLLOW

93 OCT 19 AM 9:59  
MASTERS PERIODIC  
COUNTY CLERK

October 15, 1993

Bruce White  
Deschutes County Counsel's Office  
Administration Building  
Bend, Or. 97701

Re: Forest View Sub-Division

On their behalf, please find enclosed for filing Petition for Formation of Special Road District, Economic Feasibility Statement, and Formation Bond. I have also enclosed Forest View's check in the sum of \$100.00 representing the bond payment.

Pursuant to ORS 198.748, I am forwarding a copy of this letter and enclosures to the Deschutes County Clerk.

If you have any questions or need additional information, please do not hesitate to call our Vice President, Lee VanSickle at 503-536-1227.



G. R. Cooke  
President  
Forest View Sub-Division  
52851 Wayside Loop  
La Pine, Or. 97739

Enclosures

cc: Deschutes County Clerk  
Forest View Sub-Division



PETITION FOR FORMATION  
OF  
SPECIAL ROAD DISTRICT  
(Forest View Sub Division)

To the Board of County, Commissioners  
Deschutes County, Oregon

The undersigned petitioners hereby propose formation of a special road district and in furtherance thereof do hereby join in this petition:

1. This petition is filed pursuant to ORS 198.705 to 198.955. The principal Act for Special Road Districts is ORS 371.305, et seq.

2. Said formation affects only Deschutes County, Oregon, and it affects the following districts and the principal act of each is:

- School District No. 1 - ORS 330.005 et seq
- La Pine R.F.P.D. ORS 478.001 et seq
- 911 ORS 401.015 et seq
- ESD ORS 334.005 et seq
- COCC ORS 341.003 et seq
- County Ext. - 4 H Dist.

3. The territory subject to this petition is inhabited.

4. The board of commissioners (directors) is to be appointed by the County Court and will be comprised of 3 commissioners.

5. A proposed tax base sufficient to support the services and functions described in the economic feasibility statement is the amount of \$13,000.00. The rate of taxation necessary to raise an amount of revenue equal to said proposed tax base is \$1.75 per thousand dollars of assessed value.

6. The description of the boundaries of the territory proposed to be included in the district is:

Forest View Sub Division, La Pine - Deschutes County, Oregon  
Plot #11  
Southeast one-quarter of section 29 and the Notheast one-quarter of section 32 Township 21 south, range 10 East of Willamette Meridian, Deschutes County, Oregon and the initial point is a 2 1/2" x 36" galvanized iron pipe with a 3" aluminum cap set 6" below the surface of the ground and bears S89°20'24"W 355.33' from the one-quarter corner on the East line of said section 32  
Maps 21-10-32D/21-10-32A/21-10-29D

7. The chief petitioners circulating this petition are:

Name: Don Gray  
Mailing Address: 52670 Wayside Loop  
La Pine, Oregon 97739

Name: Teresa Allen  
Mailing Address: 52730 Rainbow Drive  
La Pine, Oregon 97739

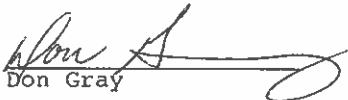
Name: Annette Minix  
Mailing Address: 52520 Primrose Lane  
La Pine, Oregon 97739

8. Petitioners request that proceedings be taken for the formation of a special road district proposed to be named Forest View Sub Division Special Road District.

9. This petition has been signed by not less than 15 owners of land or the owners of 10% of the acreage, whichever is the greater number of signers within the territory proposed to be included in the District. All signatures have been secured within 6 months of the date on which the first signature on the petition was affixed, to-wit: 10/15, 1993.

DATED This 15 day of October, 1993

Signatures of Petitioners:

  
Don Gray

  
Teresa Allen

  
Annette Minix

Landowners or Owners of Land  
ORS 198.705 (11)

"Landowner" or "owner of land" means any person shown as the owner of land on the last assessment roll; however, where such person no longer holds the title to the property, then the terms mean any person entitled to be shown as owner of land on the next assessment roll; or, where land is subject to a written agreement of sale, the terms mean any person shown in the agreement as purchaser to the exclusion of the seller; and the terms include any public agency owning land."

Economic Feasibility Statement  
Forest View Special Road District

- A. The function of the Forest View Special Road District is being formed because:
  - 1- The number of permanent residences and the more frequent visitation and increased traffic flow has placed a financial burden on the owners and the progressive deterioration of the roads.
    - a) Not all owners contribute to the sub-division for maintenance of the roads resulting in inadequate funds for maintenance.
    - b) The road district will be able to predict income so a budget for maintenance and upgrading can be accomplished.
  - 2- The road district will oversee:
    - a) Financial budget
    - b) Maintenance of roads
    - c) Upgrading the roads
    - d) Snow plowing
  
- B. No outside agency participates in any way with the services required/listed above. (A-2 a,b,c,d)

Forest View Special Road District  
Budget for First and Third Year

First Year:

1. Gravel	\$6,000.00
2. Snow Plowing	4,000.00
3. Legal Advice	500.00
4. Liability Insurance	1,000.00
5. Operations	
Phone, Stationery,Mail, Signs	500.00
6. Reserves	<u>1,000.00</u>
	\$13,000.00

Third Year:

1. Gravel	\$6,000.00
2. Snow Plowing	4,000.00
3. Legal Advice	500.00
4. Liability Insurance	1,000.00
5. Operations	500.00
6. Reserves	<u>1,000.00</u>
	\$13,000.00

As houses and improvements are added and the value of property increases, the individual assesment will decrease.



REV. 7/80

FOR SPECIAL DISTRICT FORMATION OR REORGANIZATION

FORMATION  ANNEXATION  WITHDRAWAL  DISSOLUTION

Forest View Sub-Division District

No. of precincts in district @ \$ \_\_\_\_\_ per precinct = \$ 100.00  
total deposit

PERSONS/ORGANIZATIONS PROVIDING ANY PART OF CASH/SECURITY DEPOSIT

- 1. NAME (PRINT) Don Gray  
Address 52870 wayside Loop  
City, state, zip code La Pine, Oregon 97739  
Amount of contribution \$50.00 Value of secured deposit \_\_\_\_\_
- 2. NAME (PRINT) Theresa Allen  
Address 52730 Rainbow Drive  
City, state, zip code La Pine, Oregon 97739  
Amount of contribution \$25.00 Value of secured deposit \_\_\_\_\_
- 3. NAME (PRINT) Annette Minix  
Address 52520 Primrose Lane  
City, state, zip code La Pine, Oregon 97739  
Amount of contribution \$25.00 Value of secured deposit \_\_\_\_\_

I/we hereby declare if the costs of the attempted formation, annexation, withdrawal, or dissolution of \_\_\_\_\_ district exceed the deposit, I/we will pay to the county treasurer the amount of the excess costs (ORS 196.775).

- 1. CHIEF PETITIONER *Don Gray*  
Address 52870 Wayside LP  
City, state, zip code LA-PINE OR 97739  
Telephone number 536-3764 Date 10-15-93
- 2. CHIEF PETITIONER *Theresa C. Allen*  
Address 52730 Rainbow Dr.  
City, state, zip code LaPine, OR 97739  
Telephone number 536-5014 Date 10/15/93
- 3. CHIEF PETITIONER *Annette Minix*  
Address 52520 Primrose Lane  
City, state, zip code La Pine, OR 97739  
Telephone number 536-9737 Date 10-15-93

\*Provide description of secured deposit on reverse or separate sheets. Additional contributors may be listed on separate sheets and attached.

NAME OF DISTRICT: Front View

6 of 14

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1. Patricia C. Mellott	<i>Patricia C. Mellott</i>	10/16/93	52492 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>7</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
2. Don A. Mellott	<i>Don A. Mellott</i>	10/16/93	52492 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>7</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. JIM SHILOON	<i>Jay Shiloon</i>	10/16/93	52607 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.12</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. BETTY HOUGHTON	<i>Betty Houghton</i>	10/16/93	52606 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. Robert Houghton	<i>Robert Houghton</i>	10/16/93	52606 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. RAY FROST	<i>Ray Frost</i>	10/16/93	52635 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.7</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. ARLENE FROST	<i>Arlene Frost</i>	10/16/93	52635 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.7</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. RUTH ANN GINSBACH	<i>Anthony Ginsbach</i>	10/16/93	52701 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.1</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. PAUL WALLACE	<i>Paul Wallace</i>	10/16/93	52692 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.50</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. HOWARD H. BURKS	<i>Howard H. Burks</i>	10/16/93	52721 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.04</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. GEORGIA W. BURKS	<i>Georgia W. Burks</i>	10/16/93			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.04</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. ELIZABETH D. SLATER	<i>Elizabeth D. Slater</i>	10/16/93	52910 Sunrise		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.48</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. CARL STACY	<i>Carl Stacy</i>	10/16/93	52756 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.13</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. NEIL EATON	<i>Neil Eaton</i>	10/16/93	52864 Sun Rise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.11</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

SUBSCRIBED AND SWORN to before me this 19 day of Oct 1993



I certify that I circulated this petition and every person who signed this petition did so in my presence.

04/02/2025 Item #11.

County of Deschutes  
Exhibit  
Page 10 of

NAME OF DISTRICT: Forest View

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6 of 14

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
MR. Mike Lehnart	<i>Mike Lehnart</i>	10/15	52825 Wayside	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.3	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. GEORGE H. SAMEL	<i>George H. Samel</i>	10/15	52866 Wayside LP	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.4	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. CENIA J. SAMEL	<i>Cenia J. Samel</i>	10/15	52866 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.4	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. JACK TARCOTTE	<i>Jack Tarcotte</i>	10/15	52863 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. Les Robbins	<i>Les Robbins</i>	10/15	52723 Wayside	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.3	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. CONNIE ROBINS	<i>Connie Robbins</i>	10/15	52723 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.3	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. Betty A. Baker	<i>Betty A. Baker</i>	10/15	52720 Wayside LP	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.2	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. RALPH h. BAKER	<i>Ralph h. Baker</i>	10/15	52720 Wayside LP	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.2	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. ERIC E. NORGAARD	<i>Eric E. Norgaard</i>	10/15	52760 Wayside LP	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.3	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. FARNONE M. MARGHANT	<i>Farnone M. Marghant</i>	10/15	52701 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 3	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. WILLIE BRISO	<i>Willie Briso</i>	10/15	52755 Wayside	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. DAN M. GRAY	<i>Dan M. Gray</i>	10/16	52870 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.4	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. LINDA D. GRAY	<i>Linda D. Gray</i>	10/16	52870 Wayside LP	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.4	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
MR. Betty S. Brown	<i>Betty Sue Brown</i>	10/16	15510 Emerald	same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 5	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_ 1993

Notary Public for Oregon  
My Commission Expires: 7-8-95



County of Deschutes  
I certify that I calculated this petition, and every person who signed this petition did so in my presence.  
Signature: \_\_\_\_\_  
Notary Public for Oregon

3  
9 of 14

NAME OF DISTRICT: Forest View

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
09 1. Deen Lenge	<i>Deen Lenge</i>	10/15/93	52880 WAYSIDE	70107 P into 52880 WAYSIDE	Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 3.59	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
09 2. [Name illegible]	<i>[Signature]</i>	10/15/93	52880 WAYSIDE	2107 P into	Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 3.59	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
1. LYLE W. MCEWEN	<i>Lyle W McEwen</i>	11/15/93	52467 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.02	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
1. Gloria A. McEwen	<i>Gloria A. McEwen</i>	10/15/93	52467 Sunrise Blvd		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.02	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
15. DALE F. BRADLEY	<i>Dale F Bradley</i>	10/15/93	15520 Emerald Dr		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.4	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
16. BARBARA A. KING	<i>Barbara A King</i>	10/15/93	52890 WAYSIDE		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 2	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
17. ROBERT E. KELLY	<i>Robert E Kelly</i>	10/15/93	52890 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 2	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
18. Bill Marchant	<i>Bill Marchant</i>	10/15/93	52701 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 2	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
19. RAYMOND F. RADMACHEL	<i>Raymond F Radmachel</i>	10/15/93	52770 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.39	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
20. JOHANNA H. RADMACHEL	<i>Johanna H Radmachel</i>	10/15/93	52740 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.39	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
21. RUSSELL L. COE	<i>Russell L Coe</i>	10/15/93	52737 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
22. DOROTHY A. COE	<i>Dorothy A Coe</i>	10/15/93	52737 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
23. MARGRIT KELLER	<i>Margrit Keller</i>	10/15/93	52805 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50
24. HENRY E. KELLER	<i>Henry E Keller</i>	10/15/93	52805 WAYSIDE		Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre 50

SUBSCRIBED AND SWORN to before me this 19 day of Oct 1993  
 My Commission Expires: 1-8-95  
 Notary Public for Oregon  
*[Signature]*



County of Deschutes  
 State of Oregon  
 I, \_\_\_\_\_, certify that I circulated this petition and every person who signed this petition did so in my presence.  
 Notary Public  
*[Signature]*  
 SIGNATURE

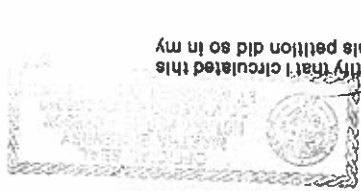
NAME OF DISTRICT: Forest View

11 of 14

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1. Glende FEGAN	<i>Glende Fegan</i>	10/16	52647 Sunrise Blvd Heping, OR	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.23	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
2. ROBERT NILES	<i>RE</i>	10/16	52656 Sunrise Blvd LAPINE, OR	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.54	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
3. Josephine NILES	<i>Josephine Niles</i>	10/16	↑ SAME	↑ SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.54	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
4. Lyndon O. Horn	<i>Lyndon O'Horn</i>	10/16	52670 Sunrise Blvd	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.112	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
5. Billie J. Horn	<i>Billie J. Horn</i>	10/16	52688 Sunrise Blvd	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.112	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
6. John D. Carraker	<i>John Carraker</i>	10/16	52693 Sunrise Blvd	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.12	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
7. Randall R. HOEN	<i>Randall R. Hoem</i>	10/16/93	52503 Sunrise Blvd	69155 Cinder Bluffe RD. Bend OR 97702	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.1	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
8. Heidi Powers	<i>Heidi A. Powers</i>	10-16-93	52886 Sunrise Blvd	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.10	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
9. Scott D Powers	<i>Scott Powers</i>	10-16-93	52806 Sunrise	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.10	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
10. Sidney S. Howze	<i>S. S. Howze</i>	10-15-93	52838 Sunrise Blvd	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.11	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
11. Beverly A. Hiffill	<i>Beverly A. Hiffill</i>	10/16/93	52900 Sunrise Blvd	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.88	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
12. Billie Wiedemich	<i>Billie Wiedemich</i>	10/16/93	52969 Shady Ln.	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.17	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
13. Walter Wiedemich	<i>WALTER WIEDERICH</i>	10/16/93	52969 Shady Ln.	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.17	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50
14. Dale Agee	<i>Dale Agee</i>	10/16/93	52923 Shady Lane	Same	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage L.11	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre 50

SUBSCRIBED AND SWORN to before me this 19 day of Oct 1993

*Martha E. Kennedy*



I, \_\_\_\_\_, certify that I calculated this petition and every person who signed this petition did so in my presence.

04/02/2025 Item #11.

County of Deschutes  
State of Oregon  
Page 13 of



NAME OF DISTRICT: Forest View Sub-Division

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1. <u>ESHA ANNETTE MINDA</u>	<u>Esha Annette Minda</u>	<u>10-18-93</u>	<u>52684 Rainbow Lane 52480 Pioneer Lane 52520 Pioneer Lane</u>	<u>52520 Pioneer Lane</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>19.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
2. <u>BEVERLY ELLEN VAN SIKK</u>	<u>Beverly E. VanSikke</u>	<u>10/18/93</u>	<u>15543 Emerald Dr. 15541 Emerald Dr</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
3. <u>LADONA T. BLAKELY</u>	<u>Ladona T. Blakely</u>	<u>10/18/93</u>	<u>15541 Emerald Dr 15541 Emerald Dr</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
4. <u>TAMA D. BROWN</u>	<u>Tama D. Brown</u>	<u>10/18/93</u>	<u>52675 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.3</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
5. <u>EARN W BROWN</u>	<u>Earn W. Brown</u>	<u>10-18-93</u>	<u>52680 RAINBOW DR.</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.3</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
6. <u>RICHARD A REEDON</u>	<u>Richard Reedon</u>	<u>10-18-93</u>	<u>LAPINE AVE 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
7. <u>SYDNEY F. BRADON</u>	<u>Sydney F. Bradon</u>	<u>10-18-93</u>	<u>SAME AS ABOVE</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
8. <u>CARL A BICKELY</u>	<u>Carl A. Bickely</u>	<u>10-18-93</u>	<u>15547 Emerald Dr.</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.6</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
9. <u>B.B. LANDERS</u>	<u>Bob Landers</u>	<u>10/18/93</u>	<u>52714 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.7</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
10. <u>GHORIA LANDERS</u>	<u>Ghoria Landers</u>	<u>10/18/93</u>	<u>52714 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>3.2</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
11. <u>LOUISE SALLYER</u>	<u>Louise Sallyer</u>	<u>10/18/93</u>	<u>52750 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.3</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
12. <u>CHARLES GILBERT SAVER</u>	<u>Charles Gilbert Saver</u>	<u>10/18/93</u>	<u>52750 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2.3</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
13. <u>BETTY H. MARSHALL</u>	<u>Betty H. Marshall</u>	<u>10/18/93</u>	<u>52750 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>6.5</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>
14. <u>JOHN MARSHALL</u>	<u>John Marshall</u>	<u>10/18/93</u>	<u>52750 Rainbow Dr L.A.P.O. = O.R. 97759</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.5</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>50</u>

SUBSCRIBED AND SWORN to before me this 20 day of Oct 1993

Maureen J. Harding



on, and every person who signed this petition did so in my presence.

Maureen J. Harding

04/02/2025 Item #11.

County of Deschutes  
Exhibit  
Page 14 of

NAME OF DISTRICT: Township Union Sub-Division

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1. DEAN R. SMITH	<i>[Signature]</i>	10/07/93	52770 RAINBOW DR	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2 1/2</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
2. Debra J Smith	<i>[Signature]</i>	10/07/93	52770 Rainbow Dr	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>2 1/2</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
3. JANEZ L KEEN	<i>[Signature]</i>	10/18/98	15586 Pinedale Ct	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
4. GEORGE D. KEEN	<i>[Signature]</i>	10/18/93	15586 Pinedale Ct	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
5. JULIUS RUFUS MINIX	<i>[Signature]</i>	10/19	52684 Rainbow Drive 52430 Primrose Ln 52520 Primrose Ln	52520 Primrose Ln	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>19.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
6. NADMI FARNWORTH	<i>[Signature]</i>	10/19	52621 Rainbow	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
7. DAVID C WALCK	<i>[Signature]</i>	10/19	15587 DEEDON DR	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
8. LEON W LARSEN	<i>[Signature]</i>	10/19	10314 CEDAR	SAME	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>1.4</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
9.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
10.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
11.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
12.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
13.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
14.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <u>    </u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

SUBSCRIBED AND SWORN to before me this 20 day of Oct 1993

Notary Public for Oregon  
My Commission Expires: 1-8-98

*[Signature]*



County of Deschutes )  
I, *[Signature]*, certify that I circulated this petition, and every person who signed this petition did so in my presence.

NAME OF DISTRICT: Forest View

	PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1.	Cynthia J. Wilson	<i>Cynthia J. Wilson</i>	10/16/93	52948 Sunrise	P.O. Box 792	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
2.	LARRY LARUE	<i>Larry Larue</i>	10/16/93	52948 Sunrise	P.O. Box 792	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
3.	VIRGIL CLARAUGH	<i>Virgil Claraugh</i>	10-14-93	52923 SHADY LAKE		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.26	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
4.	MYRTLE J. BAANEY	<i>Myrtle J. Baaney</i>	10-16-93	52934 Shady Lane		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 2.5	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
5.	Lola Carley	<i>Lola Carley</i>	10-16-93	52920 Shady Lane		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 2.4	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
6.	Stanley K. Curtis	<i>Stanley K. Curtis</i>	10/16/93	52905 Shady Ln	Box 435	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.24	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
7.	James Hampton	<i>James Hampton</i>	10/16/93	52757 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.1	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
8.	Vera M. Hampton	<i>Vera M. Hampton</i>	10/16/93	52757 Sunrise Blvd		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.1	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
9.	Gibson R Cooke	<i>B. Cooke</i>	10/16/93	52851 Wayside Ln		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 2.2	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
10.	EVELYN H. COOKE	<i>Evelyn H. Cooke</i>	10/16/93	52851 WAYSIDE LOOP		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 2.2	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
11.	JEANNIE J SANDERS	<i>Jeannie J Sanders</i>	10/16/93	52871 Way Side Ter		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
12.	MAE K. SANDERS	<i>Mae K. Sanders</i>	10/16/93	52871 Way Side Ter		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage 1.04	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
13.						Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
14.						Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

SUBSCRIBED AND SWORN to before me this 19th day of Oct 1993

*Marta Edlund*

certify that I circulated this petition, and every person who signed this petition did so in my presence.

04/02/2025 Item #11.

County of Deschutes  
State of Oregon  
Exhibit  
Page 16 of

NAME OF DISTRICT: Forest View

PRINT NAME	SIGNATURE	DATE SIGNED	PROPERTY ADDRESS	RESIDENCE ADDRESS (if different)	LANDOWNER IN DISTRICT	REGISTERED VOTER IN DISTRICT
1. <u>Clamma L. Agee</u>	<u>Tomara L. Agee</u>	<u>10-11-19</u>	<u>52923 Shady Ln.</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>111</u>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input checked="" type="checkbox"/>
2. <u>Eleanor M. Patterson</u>	<u>Eleanor Patterson</u>	<u>10-16-13</u>	<u>52917 Shady Ln</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>111</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <u>30</u>
3.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
4.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
5.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
6.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
7.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
8.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
9.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
10.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
11.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
12.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
13.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
14.					Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

SUBSCRIBED AND SWORN to before me this 19 day of Oct 1913

*Mary E. Hendry*

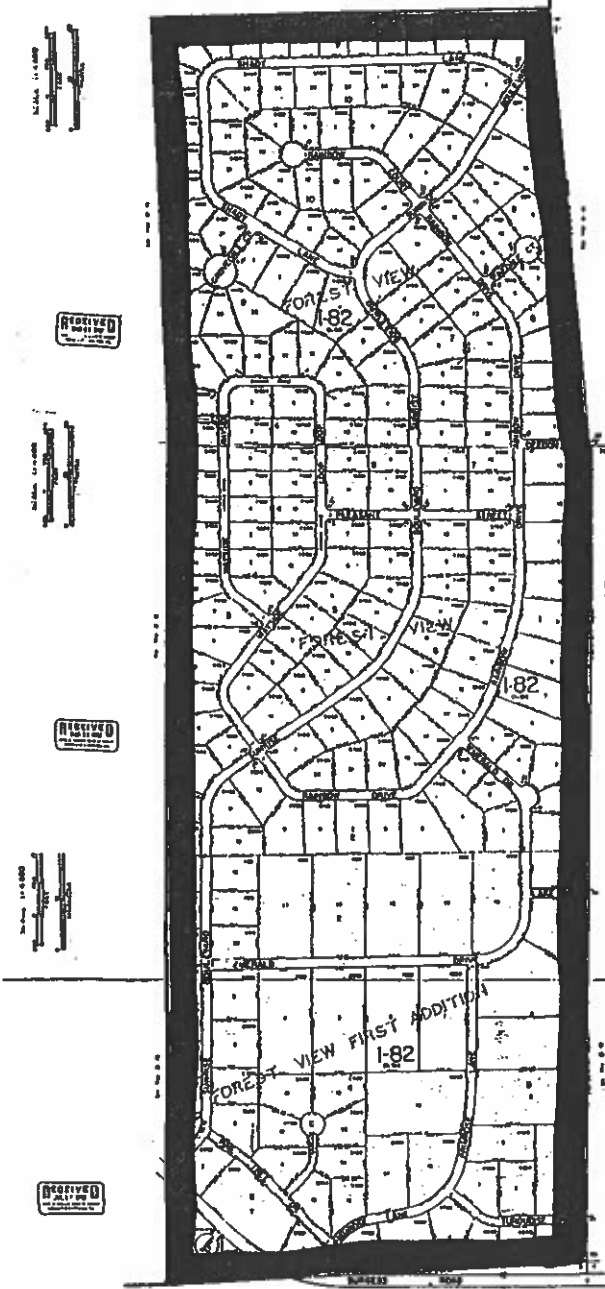


ss \_\_\_\_\_  
 County of Deschutes  
 State of Oregon  
 I, \_\_\_\_\_, do hereby certify that I circulated this petition, and every person who signed this petition did so in my presence.

DESCHUTES

21 10 29P

**PROPOSED BOUNDARIES  
FOREST VIEW SUBDIVISION  
SPECIAL ROAD DISTRICT**



94-04924

REVIEWED  
Bw  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

94 FEB -3 AM 10:26

An Order Approving the Formation \*  
of Forest View Subdivision Special \*  
Road District, and Ordering an \*  
Election on the Question \*

MARY SUE PENHOLLOW  
COUNTY CLERK

0128-1505

ORDER NO. 94-003

WHEREAS, a petition proposing the formation of Forest View Subdivision Special Road District and an initial tax base was duly filed with the Board of County Commissioners of Deschutes County, Oregon; and

WHEREAS, a public hearing was held on the petition on January 19, 1994, and continued to February 2, 1994, to hear the petition and any objections thereto, and to determine whether, in accordance with the Comprehensive Plan, applicable Land Conservation and Development Goals and the criteria prescribed by ORS 199.462 and 198.805, the affected area would be benefitted by the formation of a Special Road District; and

WHEREAS, after consideration of economic, demographic and sociological trends and projections pertinent to the proposal, past and prospective physical developments of the land that would directly or indirectly be affected by the proposal, and all other matters considered to be relevant to the petition, the Board is of the opinion that the area would be benefitted by the formation of a Special Road District; now, therefore,

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

Section 1. That the petition for formation of Forest View Subdivision Special Road District be approved.

Section 2. That the boundaries of the territory to be included in the district are as set forth in Exhibit 1, attached hereto and by this reference incorporated herein.

Section 3. That the applicable land use criteria pertinent to the proposed district, the facts found by the Board and the reasons why the Board believes those facts to bring the proposal within the requirements of the applicable land use criteria are described in Exhibit 2, attached hereto and by this reference incorporated herein.

1 - ORDER NO. 94-003 (2-2-94)

MICROFILMED  
FEB 09 1994

KEYPLACED  
FEB 4 1994



0128-1506

Section 4. That the question of special district formation and initial tax base be put on the ballot for a vote by the electors of the proposed district at the next election on which the matter can be voted on.

DATED this 2nd day of February, 1994.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

*Nancy Pope Schlangen*  
\_\_\_\_\_  
NANCY POPE SCHLANGEN, Chair

*Tom Throop*  
\_\_\_\_\_  
TOM THROOP, Commissioner

*Barry H. Slaughter*  
\_\_\_\_\_  
BARRY H. SLAUGHTER, Commissioner

ATTEST:

*Quita Mutchie*  
\_\_\_\_\_  
Quita Mutchie  
Recording Secretary

2 - ORDER NO. 94-003 (2-2-94)

**0128-1507** Exhibit 1

Page 1

**Legal Description  
of Forest View Subdivision  
Special Road District**

A land area in Township 21 S., Range 10 E.W.M., Deschutes County, Oregon, more particularly described as follows:

All of the southeast quarter of Section 29, the northeast quarter of Section 32 and the southeast quarter of Section 32 of Township 21 S., Range 10 E.W.M., which area coincides with the boundaries of the land area platted as Forest View Subdivision and Forest View Subdivision First Addition as recorded in the Deschutes County Records in Plat Cabinet A, Page 364 and Plat Cabinet A, Page 567, respectively.

DESCRIBES

21 10 297

0128-1508

Exhibit 1

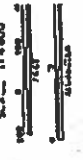
Page 2



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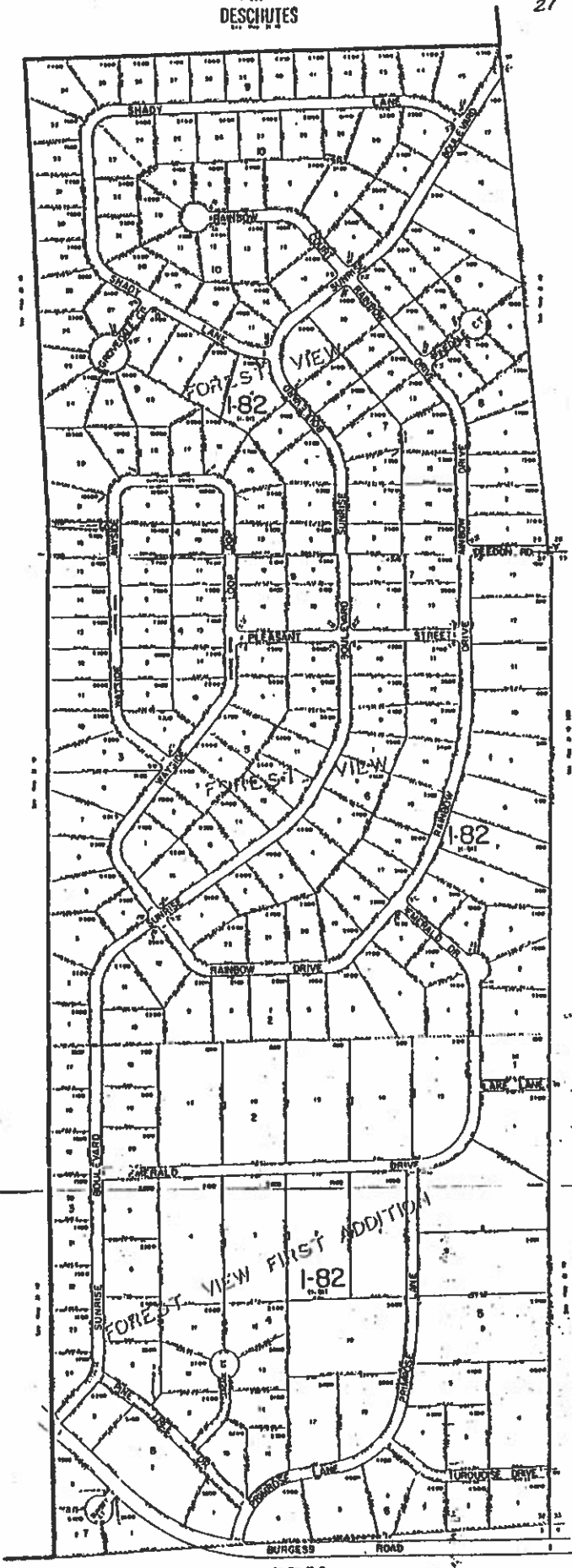


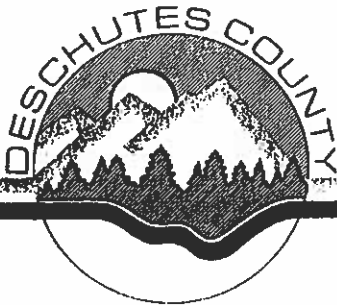
Exhibit 2  
Page 4 of 5

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NOV 30 1993

DESCHUTES CO. LEGAL COUNSEL

Community Development Department



Administration Bldg. / 1130 N.W. Harriman / Bend, Oregon 97701

(503) 388-6575

MEMORANDUM

0128-1509

Planning Division  
Building Safety Division  
Environmental Health Division

**DATE:** November 30, 1993

**TO:** Beverly Wilson, Legal Assistant, County Counsel

**FROM:** Paul Blikstad, Associate Planner *(PB)*

**RE:** Petition for formation of Forest View Subdivision  
Special Road District, file no. 16-480

The County Comprehensive Plan, which is acknowledged to be in compliance with the Statewide Planning Goals, encourages the formation of special service districts to serve rural needs.

Under the Public Facilities section of the County Comprehensive Plan, on page 97, General Policies is the following:

- 5. Deschutes County shall encourage the formation of special service districts to serve rural needs rather than becoming involved with serving those needs. The County will foster coordination and mutual planning between the County, special districts, utility companies and service corporations. This shall include trenching where appropriate.

It is clear from the Comprehensive Plan that these service districts, such as special road districts, are necessary and appropriate.

Exhibit 2  
Page \_\_\_\_\_

# **History of Appointments to Forest View Special Road District**

**History of Appointments/Reappointments the Forest View Special Road District**

<b>Appointment/Reappt. Date</b>	<b>Term Expire Date</b>	<b>Board Member</b>
1/8/25	12/31/27	Larry LaRue
1/17/24	12/31/26	Tim Whitehall
1/3/24	12/31/26	Craig McCue
12/22/21	12/31/24	Larry LaRue
12/16/20	12/31/23	Daniel Coblentz
10/28/20	12/31/23	Craig McCue
2/4/19	12/31/21	Peter Knaupp
1/16/19	12/31/20	Rebecca Yeager
12/19/18	None listed on letter	Daniel Jones
12/19/18	None listed on letter	Peter Knaupp
12/19/18	None listed on letter	Rebecca Yeager
12/5/18	12/31/20	Daniel Jones
12/5/18	12/31/22	Peter Knaupp
12/5/18	12/31/22	Rebecca Yeager
9/19/18	12/31/21	Larry LaRue
9/5/18	12/31/21	Toby Rey
12/18/17	12/31/18	Lee Wilkins
4/12/17	12/31/20	Shannon Chase
12/14/16	12/31/19	Henry Kelley
3/30/16	12/31/16	Henry Kelley
2/3/16	12/31/18	Gary Weaver
8/26/15	12/31/17	Lee Wilkins
12/29/14	12/31/17	Linda Huddleston
1/22/14	12/31/16	Clyde "Bud" Preston
1/22/14	12/31/15	Daniel Court, Sr.
1/18/12	12/31/14	Henry Kelley
12/20/10	12/31/13	Clyde "Bud" Preston
12/20/10	12/31/12	Ann Wiley
3/17/10	12/31/12	Jerry McCue
10/23/06	12/31/08	Henry Kelley
10/23/06	12/31/06	Fred Huft
10/23/06	12/31/07	Clyde "Bud" Preston





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 2, 2025

SUBJECT: Second Reading of Ordinance 2025-003 – Last Ranch Plan Amendment & Zone Change involving approximately 20.36 acres at 64994 Deschutes Market Road, Bend, and 64975 Deschutes Market Road, Bend

RECOMMENDED MOTIONS:

- 1. Move approval of second reading of Ordinance No. 2025-003 by title only.
2. Move adoption of Ordinance No. 2025-003.

BACKGROUND AND POLICY IMPLICATIONS:

The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject properties from Agricultural ("AG") to Rural Industrial ("RI"), with a corresponding Zone Change to rezone the subject properties from Exclusive Farm Use ("EFU") to Rural Industrial ("RI").

BUDGET IMPACTS:

None.

ATTENDANCE:

Anthony Raguine, Principal Planner

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 \*  
Industrial, 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 \*  
Rural Industrial. \*

ORDINANCE NO. 2025-003

WHEREAS, Last Ranch, LLC (“Applicant”), applied for changes to both the Deschutes County Comprehensive Plan Map (247-22-000574-PA) and the Deschutes County Zoning Map (247-22-000573-ZC), to change the comprehensive plan designation of the subject property from Agricultural (AG) to Rural Industrial (RI), and a corresponding zone change from Exclusive Farm Use (EFU) to Rural Industrial (RI); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on March 21, 2023, before the Deschutes County Hearings Officer and, on June 12, 2023, the Hearings Officer recommended denial unless the Applicant demonstrates the requested Comprehensive Plan Amendment and Zone Change are consistent with Statewide Planning Goal 5;

WHEREAS, pursuant to DCC 22.28.030(C), the Board of County Commissioners (“Board”) heard *de novo* the applications to change the comprehensive plan designation of the subject property from Agricultural (AG) to Rural Industrial (RI) and a corresponding zone change from Exclusive Farm Use (EFU) to Rural Industrial (RI); 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 RI, 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 RI 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 of County Commissioners as set forth in Exhibit "F" 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 "G" and, and site specific Economic, Social, Environmental, and Energy analysis, attached as Exhibit "H", each incorporated by reference herein.

Section 6. EFFECTIVE DATE. This Ordinance takes effect on the 90<sup>th</sup> day after the date of adoption.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2025 BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

\_\_\_\_\_  
PATTI ADAIR, Vice Chair

ATTEST:

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

\_\_\_\_\_  
PHIL CHANG, Commissioner

Date of 1<sup>st</sup> Reading: 19<sup>th</sup> day of March, 2025.

Date of 2<sup>nd</sup> Reading: 2<sup>nd</sup> day of April, 2025.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	X	—	—	—
Patti Adair	X	—	—	—
Phil Chang	—	X	—	—

Effective date: 1<sup>st</sup> day of July, 2025.

ATTEST

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

**Exhibit "A" To Ordinance 2025-003**

**Legal Description of Subject Property**

**LEGAL DESCRIPTION:** Real property in the County of Deschutes, State of Oregon, described as follows:

**PARCEL I :**

**THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**STARTING AT THE NW CORNER OF SAID SE1/4 NW1/4; THENCE SOUTH 89 40' EAST ALONG THE NORTH LINE OF SAID SE1/4 NW1/4, 1,084.21 FEET TO THE CENTERLINE OF THE PILOT BUTTE CANAL AS NOW LOCATED; THENCE SOUTHWESTERLY ALONG THE CENTERLINE OF SAID PILOT BUTTE CANAL AS NOW LOCATED, 1,415 FEET TO THE SOUTH LINE OF SAID SE1/4 NW1/4; THENCE NORTH 89 50'30" WEST ALONG THE SOUTH LINE OF SAID SE1/4 NW1/4, 484.6 FEET TO THE SW CORNER OF SAID SE1/4 NW1/4; THENCE NORTH 0 00', 1,330.89 FEET TO THE NW CORNER OF SAID SE1/4 NW1/4, BEING THE POINT OF BEGINNING. EXCEPTING A STRIP OF LAND HERETOFORE CONVEYED TO THE STATE OF OREGON FOR HIGHWAY PURPOSES. ALSO, EXCEPTING THEREFROM THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SW1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, LYING NORTHWESTERLY OF THE DALLES-CALIFORNIA HIGHWAY NO. 97.**

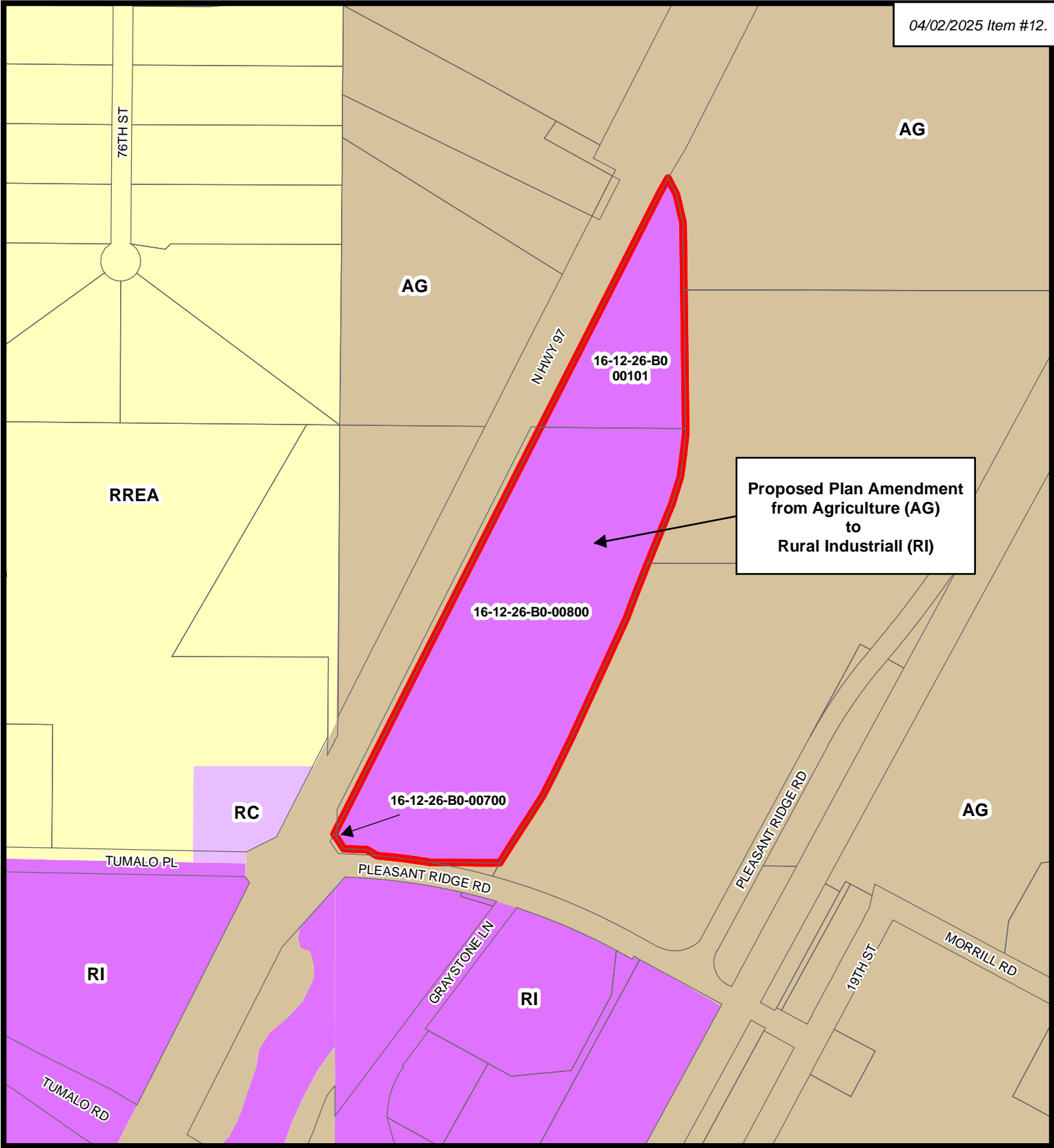
**PARCEL II:**

**THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (SW1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, LYING EASTERLY OF THE DALLES-CALIFORNIA HIGHWAY AND NORTHERLY OF THE NICHOLS MARKET ROAD.**


**PARCEL III:**

**THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 16, SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, LYING EASTERLY OF THE DALLES-CALIFORNIA HIGHWAY NO. 97 AND SOUTHERLY AND WESTERLY OF THE PILOT BUTTE CANAL.**





**NOTE: This legal description was created prior to January 1, 2008.**



**Proposed Plan Amendment  
from Agriculture (AG)  
to  
Rural Industrial (RI)**

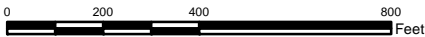
 Plan Amendment Boundary

**Comprehensive Plan**

-  RREA - Rural Residential Exception Area
-  AG - Agriculture
-  RI - Rural Industrial
-  RC - Rural Commercial

**PROPOSED  
COMPREHENSIVE PLAN**

Exhibit "B"  
to Ordinance 2025-003



March 24, 2025

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

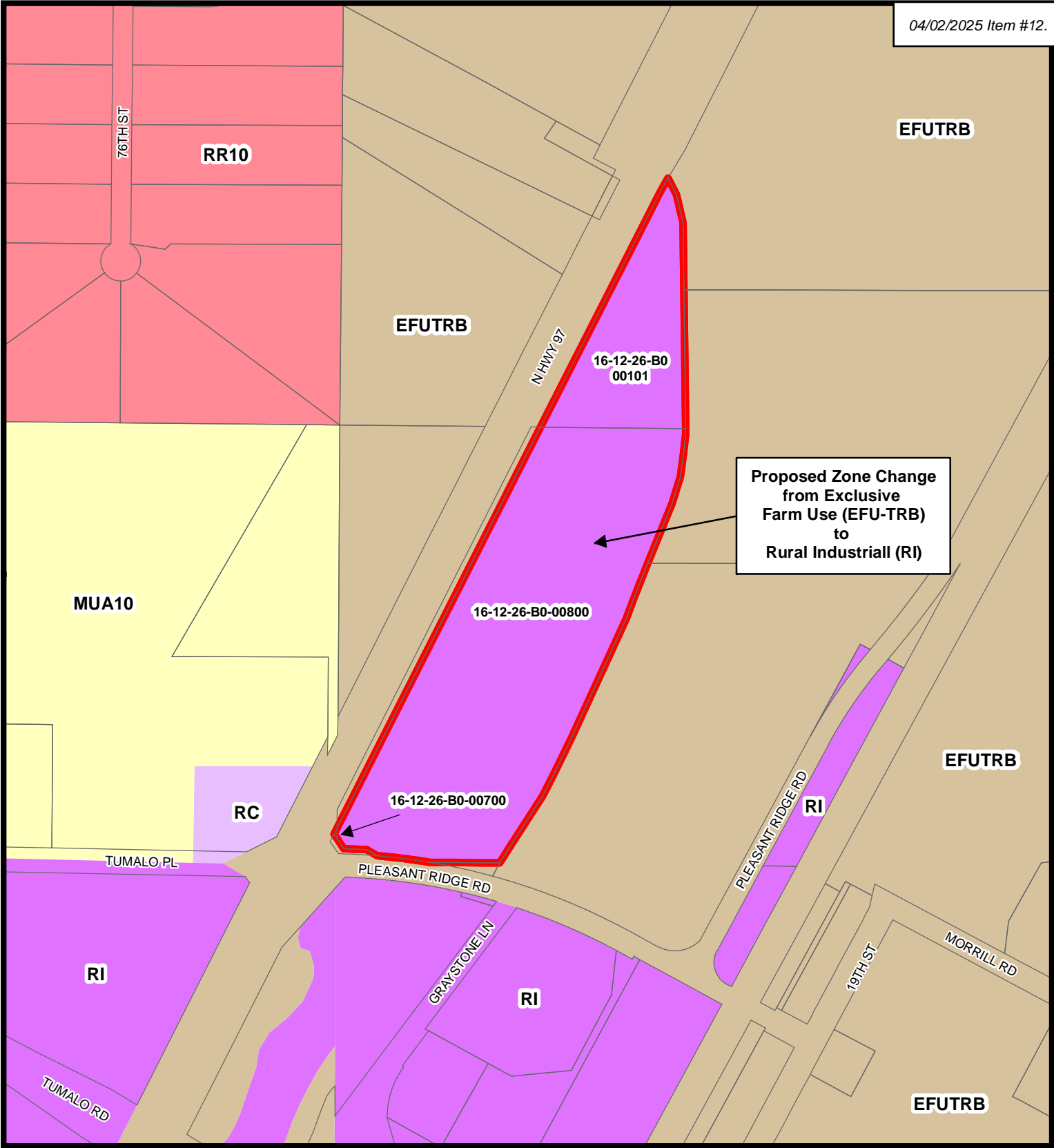
Anthony DeBone, Chair

Patti Adair, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary






Dated this \_\_\_\_ day of \_\_\_\_, 2025  
Effective Date: July 01, 2025



Proposed Zone Change  
 from Exclusive  
 Farm Use (EFU-TRB)  
 to  
 Rural Industrial (RI)

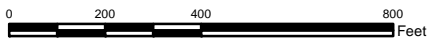
 Zone Change Boundary

**County Zoning**

-  EFUTRB - Tumalo/Redmond/Bend
-  MUA10 - Multiple Use Agricultural
-  RR10 - Rural Residential
-  RC - Rural Commercial
-  RI - Rural Industrial

**PROPOSED ZONING**

Exhibit "C"  
 to Ordinance 2025-003



March 24, 2025

BOARD OF COUNTY COMMISSIONERS  
 OF DESCHUTES COUNTY, OREGON

Anthony DeBone, Chair

Patti Adair, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary

Dated this \_\_\_\_ day of \_\_\_\_, 2025  
 Effective Date: July 01, 2025



## 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.

- 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.
- 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 amendments, adopted by the Board in Ordinance 2023-017, are incorporated by reference herein.
- BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-016, 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.

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

HISTORY

*Amended by Ord. [2011-027](#) §10 on 11/9/2011*  
*Adopted by Ord. [2011-003](#) §2 on 11/9/2011*  
*Amended by Ord. [2011-017](#) §5 on 11/30/2011*  
*Amended by Ord. [2012-012](#) §1, 2, 3, 4 on 8/20/2012*  
*Amended by Ord. [2012-005](#) §1 on 11/19/2012*  
*Amended by Ord. [2013-002](#) §1 on 1/7/2013*  
*Repealed by Ord. [2013-001](#) §1 on 1/7/2013*  
*Amended by Ord. [2013-005](#) §1 on 1/23/2013*  
*Amended by Ord. [2012-016](#) §1 on 3/4/2013*  
*Amended by Ord. [2013-009](#) §1 on 5/8/2013*  
*Amended by Ord. [2013-012](#) §1 on 8/8/2013*  
*Amended by Ord. [2013-007](#) §1 on 8/28/2013*  
*Amended by Ord. [2014-005](#) §2 on 2/26/2014*  
*Amended by Ord. [2014-006](#) §2 on 3/15/2014*  
*Amended by Ord. [2014-012](#) §1 on 8/6/2014*  
*Amended by Ord. [2014-021](#) §1 on 11/26/2014*  
*Amended by Ord. [2015-029](#) §1 on 11/30/2015*  
*Amended by Ord. [2015-010](#) §1 on 12/21/2015*  
*Amended by Ord. [2015-021](#) §1 on 2/22/2016*  
*Amended by Ord. [2015-018](#) §1 on 3/28/2016*  
*Amended by Ord. [2016-001](#) §1 on 4/5/2016*  
*Amended by Ord. [2016-022](#) §1 on 9/28/2016*  
*Repealed & Reenacted by Ord. [2016-027](#) §1, 2 on 12/28/2016*  
*Amended by Ord. [2016-005](#) §1 on 2/27/2017*  
*Amended by Ord. [2016-029](#) §1 on 3/28/2017*  
*Amended by Ord. [2017-007](#) §1 on 11/1/2017*  
*Amended by Ord. [2018-002](#) §1 on 1/25/2018*  
*Amended by Ord. [2018-005](#) §2 on 10/10/2018*  
*Amended by Ord. [2018-008](#) §1 on 10/26/2018*  
*Amended by Ord. [2018-008](#) §1 on 10/26/2018*  
*Amended by Ord. [2018-008](#) §1 on 10/26/2018*  
*Amended by Ord. [2018-006](#) §1 on 11/20/2018*  
*Amended by Ord. [2018-011](#) §1 on 12/11/2018*

Amended by Ord. [2019-004](#) §1 on 3/14/2019  
Amended by Ord. [2019-003](#) §1 on 3/14/2019  
Amended by Ord. [2019-002](#) §1 on 4/2/2019  
Amended by Ord. [2019-001](#) §1 on 4/16/2019  
Amended by Ord. [2019-010](#) §1 on 5/8/2019  
Amended by Ord. [2019-011](#) §1 on 5/17/2019  
Amended by Ord. [2019-006](#) §1 on 6/11/2019  
Amended by Ord. [2019-019](#) §2 on 12/11/2019  
Amended by Ord. [2020-001](#) §26 on 4/21/2020  
Amended by Ord. [2020-003](#) §1 on 5/26/2020  
Amended by Ord. [2020-002](#) §1 on 5/26/2020  
Amended by Ord. [2020-008](#) §5 on 9/22/2020  
Amended by Ord. [2020-007](#) §1 on 10/27/2020  
Amended by Ord. [2020-006](#) §1 on 11/10/2020  
Amended by Ord. [2020-009](#) §4 on 11/17/2020  
Amended by Ord. [2020-013](#) §1 on 11/24/2020  
Amended by Ord. [2021-002](#) §3 on 4/27/2021  
Amended by Ord. [2021-005](#) §1 on 6/16/2021  
Amended by Ord. [2021-008](#) §1 on 6/30/2021  
Amended by Ord. [2022-001](#) §2 on 7/12/2022  
Amended by Ord. [2022-003](#) §2 on 7/19/2022  
Amended by Ord. [2022-006](#) §2 on 7/22/2022  
Amended by Ord. [2022-010](#) §1 on 10/25/2022  
Amended by Ord. [2023-001](#) §1 on 3/1/2023  
Amended by Ord. [2022-013](#) §2 on 3/14/2023  
Amended by Ord. [2023-007](#) §19 on 4/26/2023  
Amended by Ord. [2023-010](#) §1 on 6/21/2023  
Amended by Ord. [2023-018](#) §1 on 8/30/2023  
Amended by Ord. [2023-015](#) §3 on 9/13/2023  
Amended by Ord. [2023-025](#) §1 on 11/29/2023  
Amended by Ord. [2024-001](#)§1 on 01/31/2024  
Amended by Ord. [2024-003](#)§3 on 02/21/2024  
Amended by Ord. [2023-017](#)§1 on 03/20/2024  
Amended by Ord. [2023-016](#)§3 on 05/8/2024  
Amended by Ord. [2024-003](#)§3 on 05/21/2024  
Amended by Ord. [2024-012](#)§1 on 10/16/2024  
Amended by Ord. [2024-011](#)§1 on 11/18/2024  
Amended by Ord. [2024-007](#)§1 on 10/02/2024  
Amended by Ord. [2024-010](#)§1 on 01/14/2025  
Amended by Ord. [2025-001](#)§1 on 02/05/2025  
Amended by Ord. [2025-003](#)§1 on 03/19/2025

## Section 5.12 Legislative History

### **Background**

This section contains the legislative history of this Comprehensive Plan.

### **Table 5.12.1 Comprehensive Plan Ordinance History**



<b>Ordinance</b>	<b>Date Adopted/ Effective</b>	<b>Chapter/Section</b>	<b>Amendment</b>
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 II 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 DLCDD'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 Vandever 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, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
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	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.
<u>2025-003</u>	<u>3-19-25/4-2-25</u>	<u>23.01.010</u>	<u>Comprehensive Plan Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)</u>

**Exhibit "F" to Ordinance 2025-003**

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

**FILE NUMBERS:** 247-22-000573-ZC / 247-22-000574-PA

**SUBJECT PROPERTY/**

**OWNER:** Mailing Name: LAST RANCH LLC  
Map and Tax Lots: 161226B000101 / 161226B000700 / 161226B000800  
Accounts: 180410 / 132961 / 132960  
Situs Addresses: No Situs Address / 64994 Deschutes Market Road,  
Bend, OR 97701 / 64975 Deschutes Pleasant Road, Bend, OR 97701

**APPLICANT:** Mark Rubbert

**APPLICANT'S**

**REPRESENTATIVE:** Patricia A. Kliewer, MPA

**STAFF PLANNER:** Caroline House, Senior Planner  
Anthony Raguine, Principal Planner

**REQUEST:** Comprehensive Plan Amendment from Agricultural to Rural Industrial  
and Zone Change from Exclusive Farm Use ("EFU") to Rural Industrial  
("RI") 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 Brooks recommended denial in his June 13, 2023, recommendation ("Recommendation"), after a Public Hearing held on March 21, 2023. The Recommendation of denial was based on the requirements of Statewide Planning Goal 5. The Board considered the applications *de novo*, incorporating the Record below, and a public hearing before the Board was held on June 12, 2024.

On December 4, 2024, following deliberation, the Board voted 2-0 finding the applicant had met their burden of proof, and moved to approve the Comprehensive Plan Amendment and Zone Change applications on the subject property.

The Recommendation is hereby incorporated as part of this decision, including any and all Hearings Officer interpretations of the County 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 Ordinance 2025-003. The Board adds the following to the basic findings in the Recommendation.

- A. PROCEDURAL HISTORY:** A public hearing was held before a Hearings Officer on March 21, 2023, and the Recommendation was issued on June 13, 2023. The Board conducted a *de novo* hearing on June 12, 2024. The Board left the written record open until June 26, 2024, for all parties to submit new evidence and testimony; until July 3, 2024, for all parties to submit rebuttal; and until July 11, 2024, for the applicant's final argument. On July 2, 2024, prior to the close of the written record, the applicant requested an extension of the record to allow submission of additional materials related to compliance with Statewide Planning Goal 5 and the associated Economic, Social, Environmental, and Energy ("ESEE") analysis. On July 10, 2024, and pursuant to Order No. 2024-027, the Board modified the open record period. The extended written record period was left open until August 14, 2024, for all parties to submit new evidence and testimony; until September 4, 2024, for parties to submit rebuttal; and until September 18, 2024, for the applicant's final argument.

The Board rendered its oral decision after deliberation on December 4, 2024, approving the proposed Comprehensive Plan Amendment and Zone Change and modifying the Recommendation findings as described herein. This written Decision memorializes that oral decision.

- B. REVIEW PERIOD:** The subject applications were submitted on July 13, 2022, and deemed incomplete by the Planning Division on August 12, 2022. The applicant provided responses to the incomplete letter and confirmed no further information or materials would be provided in response to the County's incomplete letter on November 14, 2022. Therefore, the subject applications were deemed complete on November 14, 2022. According to Deschutes County Code 22.20.040(D)(1), the review of the proposed quasi-judicial plan amendment and zone change applications are not subject to the 150-day review period.

### III. **FINDINGS**

This Board adopts the Recommendation except as supplemented below.

#### **A. 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.

#### **B. Subject Property as “Agricultural Land” with respect to Factors**

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

**FINDING:** The Board adopts the Recommendation unanimously, 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.

A review of the seven suitability factors of OAR 660-033-0020(1)(a)(B) shows that the property alone or in conjunction with adjacent or nearby lands is not suitable for construction and maintenance uses that serve farm uses occurring elsewhere based on two or more of the seven suitability factors. The suitability factors are discussed below.

##### *Soil Fertility*

The Board finds soil fertility is not relevant to the suitability of the subject property as it relates to the on-site construction and maintenance of equipment and facilities.

##### *Suitability for Grazing*

The Board finds the grazing capability of the subject property is not relevant to the suitability of the subject property as it relates to the on-site construction and maintenance of equipment and facilities.

##### *Climatic Conditions*

The Board finds climatic conditions are not relevant to the suitability of the subject property as it relates to the on-site construction and maintenance of equipment and facilities. Given the property's access to Highway 97, climatic conditions would not

likely preclude or otherwise hinder the construction and maintenance of equipment and facilities on-site.

#### *Water Availability*

The Board finds water availability is not relevant to the suitability of the subject property as it relates to the on-site construction and maintenance of equipment and facilities.

#### *Existing Land Use Pattern*

As noted previously, there are very few farms nearby, with most of the farm uses occurring to the east of the railroad. To the south are lands zoned RI and developed with industrial uses, including a mini-storage facility; an RV and boat storage facility; and a facility for the processing, storage and distribution of masonry products. To the west is Highway 97 along with various uses including farm, residential and industrial uses.

We find that it is not an accepted farm practice in Deschutes County to engage in the construction and maintenance of farm equipment or facilities anywhere other than on the property where farm practices are occurring; at a farm equipment maintenance facility; or a factory located within an urban growth boundary or rural industrial area. In fact, the convenient access to Highway 97 and the redesignation of the subject property to RI zoning could result in a facility for the maintenance of farm equipment.

#### *Technology and Energy Inputs*

The technology and energy inputs necessary to establish a facility for construction and/or maintenance of farm equipment would be significant, though not impossible. While a business person could certainly expend the capital necessary to establish such a facility in the EFU Zone, we continue to hold to our findings in the *710 Properties* remand decision on this issue. A more appropriate location for a facility for the construction and/or maintenance of farm equipment are properties where the farm practices are occurring or a facility within an urban growth boundary or rural industrial area.

For the reasons detailed above, the Board finds the subject property is not suitable for farm use considering the factors in OAR 660-033-020(1)(a)(B).

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

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

**FINDING:** 1000 Friends presents the following arguments,

The farm practices occurring in the large block of agricultural land in which the subject property is located are not adequately identified, and there is essentially no analysis of whether the property’s agricultural zoning and exclusive farm use zoning is necessary to permit those farm practices on adjacent and nearby lands.

For these reasons, 1000 Friends concludes the application has not demonstrated compliance with OAR 660-033-0020(1)(a)(C).

Regarding identification of farm practices on the subject property and on the nearby lands, the Hearings Officer made the following findings,

The Applicant provides an exhaustive history of the site and its relationship to various farm activities. According to that history, the chain of owners for the Subject Property since 1941 has mostly consisted of retirees who were not engaged in farming. Prior to that time, there were apparently limited farming activities on the site at a time when the Subject Properties were part of larger holdings that also had farm uses. While the Subject Property does have some historical water rights, the Applicant notes that not all of those rights have been developed. Other structures were apparently used for small-scale hobby farming activities rather than for profitable farm uses. More recent uses of the site, however, included use as a roadside attraction called the “Funny Farm” which, according to the Applicant, at one point had a “hot dog eating goat.”

The Board finds the applicant has sufficiently described current and historic farm practices on the subject property, along with farm practices on adjacent and nearby farm uses. The Board notes that 1000 Friends does not identify any specific farm lands and associated farm practices which should have been identified for analysis under this standard.

Regarding the proposed change in zoning and its effect on adjacent and nearby farms, the Board again notes that there are very few farm uses in the area. Additionally, there are several constraints associated with the subject property which would make it challenging for any nearby farm to beneficially use the subject property in support of farm practices. Highway 97 lies along the entirety of the western boundary of the subject property. The Pilot Butte Canal lies along the entirety of the



eastern boundary of the subject property. Further to the east, farm uses are separated from the subject property by the railroad. Beyond these physical constraints, there is no evidence in the record to suggest that any nearby farm has an interest in using the subject property to support any nearby farm practices. Finally, a change to RI zoning would result in similar levels of development that exist in the RI zoned lands to the south and southwest. The development of these lands does not appear to have impacted the ability of the few farms in the area to continue to operate.

For the reasons stated above, the Board finds there are very few adjacent or nearby farms, and no evidence to suggest that a nearby farm would benefit from agricultural use of the Subject Property.

#### **D. Goal 5 and Conflicting Uses**

##### Statewide Planning Goal 5, OAR 660-23-0250(3)

**FINDING:** As noted previously, Hearings Officer Brooks found that the applicant did not adequately address Goal 5 and recommended denial on that basis. Hearings Officer Brooks noted that the applicant may be able to show that the County's prior Goal 5 analysis considered industrial development on the subject property or demonstrate that the new uses allowed on the subject property do not significantly affect a Goal 5 resource.

Pursuant to 660-023-0250(3), the county does not have to apply Goal 5 as part of a Post Acknowledgment Plan Amendment ("PAPA") unless the PAPA affects a Goal 5 resource. Pursuant to OAR 660-023-250(3)(b), a PAPA affects a Goal 5 resource if the PAPA would allow new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. In this case, the Goal 5 resource is the Highway 97 scenic corridor.

In response to the Recommendation of denial, the applicant submitted arguments to demonstrate that at the time of the 1992 ESEE analysis associated with the Highway 97 scenic corridor, the zoning and development standards within the scenic corridor allowed a wider variety of uses and a more intensive level of development than would be allowed under today's RI Zone.<sup>1</sup> This corridor included properties zoned RI at the time of the 1992 ESEE. For these reasons, the applicant argues that the proposed RI Zone on the subject property will not introduce new uses that would conflict with the Highway 97 scenic corridor. In the alternative, the applicant submitted an ESEE analysis to evaluate which uses in the proposed RI Zone should be allowed; which uses should be allowed with restrictions; and which uses should not be allowed.

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<sup>1</sup> Carrie Richter email dated August 14, 2024.

The Board agrees with the applicant that the proposed RI zone will not introduce new uses that would conflict with the Highway 97 scenic corridor. Consequently, the Board finds the Comprehensive Plan Amendment and Zone Change comply with Goal 5. The Board further finds that because the proposal would not introduce new conflicting uses, a site specific ESEE analysis is not required.

#### **E. Goal 6 and Protection of Air, Water and Land Resources**

##### Statewide Planning Goal 6

**FINDING:** The Board unanimously adopts the Recommendation, finding Goal 6 is satisfied. Consequently, the Board finds no exception to Goal 6 is required.

#### **F. Goal 11 and Public Facilities Plans**

##### Statewide Planning Goal 11, OAR 660-011

**FINDING:** The Board unanimously adopts the Recommendation, finding Goal 11 is satisfied. The objection in the record is not developed with enough specificity for this Board to address it. For this reason, the Board finds no exception to Goal 11 is required.

#### **G. Quasi-Judicial vs Legislative Process**

**Finding:** 1000 Friends argues that the county does not have the legal authority to remove the agricultural lands designation from a single tract of land in the EFU Zone in a quasi-judicial process. 1000 Friends further argues that redesignation of agricultural land must follow the legislative process set out at ORS 215.788, with subsequent notice of the redesignation to the Department of Land Conservation and Development (“DLCD”) pursuant to ORS 215.794.

Contrary to 1000 Friends’ argument, the Land Use Board of Appeals (“LUBA”) made the following ruling in *Central Oregon LandWatch et al. v. Deschutes County*, 330 Or App 321 (2024),

ORS 215.788 authorizes counties to conduct legislative reviews of geographic areas, and it prescribes the process that counties must follow in conducting those reviews. However, that statute does not prohibit counties from considering applications to redesignate and rezone individual properties in quasi-judicial proceedings...The board of commissioners did not misconstrue ORS 215.788 or exceed its authority in redesignating and rezoning only the subject property in a quasi-judicial process.

The Board finds the quasi-judicial process for the subject Plan Amendment and Zone Change is permitted.

**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.

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

**FILE NUMBERS:** 247-22-000573-ZC / 247-22-000574-PA

**HEARING DATE:** March 21, 2023, 6:00 p.m.

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

**APPLICANT/OWNER:** Mark Rubbert; Last Ranch, LLC

**SUBJECT PROPERTIES:** Map and Tax Lots:  
161226B000101  
161226B000700  
161226B000800

Situs Addresses:  
No Situs Address  
64994 Deschutes Market Road, Bend, OR 97701  
64975 Deschutes Pleasant Road, Bend, OR 97701

**REQUEST:** The Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the Subject Properties from Agricultural (AG) to Rural Industrial (RI) and a corresponding Zone Change to rezone the properties from Exclusive Farm Use (EFU-TRB) to Rural Industrial (RI).

**HEARINGS OFFICER:** Tommy A. Brooks

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

**I. APPLICABLE STANDARDS AND 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 18.84, Landscape Management Combining Zone (LM)  
Chapter 18.100, Rural Industrial Zone  
Chapter 18.136, Amendments  
Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan  
Chapter 2, Resource Management  
Chapter 3, Rural Growth Management  
Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR) - Chapter 660  
Division 12, Transportation Planning  
Division 15, Statewide Planning Goals  
Division 33, Agricultural Land

Oregon Revised Statutes (ORS)  
Chapter 215.010, Definitions  
Chapter 215.211, Agricultural Land, Detailed Soils Assessment

**II. BACKGROUND AND PROCEDURAL FINDINGS**

A. Nature of Proceeding

This matter comes before the Hearings Officer as a request for approval of a Comprehensive Plan Map Amendment (“Plan Amendment”) to change the designation of the Subject Properties from Agricultural (AG) to Rural Industrial (RI). The Applicant also requests approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Properties from Exclusive Farm Use (EFU-TRB) to Rural Industrial (RI). The basis of the request in the Application is the Applicant’s assertion that the Subject Properties do not qualify as “agricultural land” under the applicable provisions of the Oregon Revised Statutes or Oregon Administrative Rules governing agricultural land. Based on that assertion, the Applicants are not seeking an exception to Statewide Planning Goal 3 for the Plan Amendment or Zone Change.

B. Notices, Hearing, Record Materials

The Application was filed on July 13, 2022. Following notice from the Deschutes County Planning Division (“Staff”) that the Application was incomplete, the Applicant provided responses to the incomplete letter on November 14, 2022, and confirmed no further information or materials would be provided. Staff therefore deemed the Application to be complete as of that date.

On January 26, 2023, after the Application was deemed complete, Staff mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Properties (“Hearing Notice”). The Hearing Notice was also published in the Bend Bulletin on Sunday, January 29, 2023. Notice of the Hearing was also submitted to the Department of Land Conservation and Development (“DLCDD”).

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on March 21, 2023, opening the Hearing at 6:00 p.m. The Hearing was held in person and via videoconference, with the Hearings Officer appearing remotely. At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I invited but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

The Hearing concluded at approximately 8:17 p.m. Prior to the conclusion of the Hearing, I announced that the written record would remain open as follows: (1) any participant could submit additional materials until April 4, 2023 (“Open Record Period”); (2) any participant could submit rebuttal materials (evidence or argument) until April 11, 2023 (“Rebuttal Period”); and (3) the Applicant could submit a final legal argument, but no additional evidence, until April 18, 2023. Staff provided further instruction to participants, noting that all post-Hearing submittals needed to be received by the County by 4:00 p.m. on the applicable due date. No participant objected to the post-hearing procedures.

A representative for the Applicant submitted a document on April 18, 2023, the due date for the Applicant’s final legal argument. That document responds to some of the arguments previously raised by other participants. However, it also includes statements and attachments that were not previously in the record. Because the Applicant’s final legal argument should have included only argument and no new evidence, I have not considered any of the evidentiary materials in that submittal that were not already in the record.<sup>1</sup>

C. Review Period

Because the Application includes a request for the Plan Amendment, the 150-day review period set forth in ORS 215.427(1) is not applicable.<sup>2</sup> The Staff Report also concludes that the 150-day review period is not applicable by virtue of Deschutes County Code (“DCC” or “Code”) 22.20.040(D). No participant to the proceeding disputes that conclusion.

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<sup>1</sup> Specifically, this submittal includes: (1) a letter, dated November 29, 2015, relating to County file 247-14-000456; (2) excerpts from a soil study relating to County file PA-11-7; and (3) testimony from the Applicant regarding its attempt to offer the Subject Properties to others for agricultural use.

<sup>2</sup> ORS 215.427(7).

### III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

#### A. Staff Report

On March 7, 2023, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time (“Staff Report”).<sup>3</sup>

The Staff Report, although it expresses agreement with the Applicant in many places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicant has met the burden of proof necessary to justify the Plan Amendment and the Zone Change. Other participants objected to the Application, but did so primarily based on legal arguments and through the submittal of additional evidence that supported those legal arguments, rather than dispute the evidence provided by the Applicant and summarized in the Staff Report. As a result, much of the evidence provided by the Applicant and summarized in the Staff Report remains unrefuted.

#### B. Findings

The legal criteria applicable to the requested Plan Amendment and Zone Change were set forth in the Hearing Notice and also appear in the Staff Report. No participant to this proceeding asserted that those criteria do not apply, or that other criteria are applicable. This Recommendation therefore addresses each of those criteria, as set forth below.

##### 1. Exceptions to Statewide Planning Goals

Pursuant to ORS 197.175(2), if the County amends its Comprehensive Plan (“DCCP” or “Plan”), it must do so in compliance with Statewide Planning Goals (each a “Goal” and, together, the “Goals”). Because the Plan has been acknowledged, the Plan Amendment must adhere to the procedures for a post-acknowledged plan amendment (“PAPA”) set forth in state statutes and rules. The fundamental disputes raised in this proceeding relate to whether the Application satisfies the requirement for a PAPA and, more specifically, whether the Applicant is required to take an exception to Goal 3, Goal 5, and Goal 14. The disposition of those issues is relevant to the Applicant’s ability to show compliance with the other criteria applicable to the Plan Amendment and Zone Change. These findings will therefore address those issues first.<sup>4</sup>

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<sup>3</sup> Other than the evidence provided by the Applicant, much of the evidence in the record was submitted after the date of the Staff Report.

<sup>4</sup> COLW, during the Hearing, also stated that the Application requires an exception to Goal 6 and Goal 11. I find that neither of those arguments were presented with enough detail that allows me to address them in this Recommendation. With respect to Goal 6, COLW appears to be arguing that the Applicant cannot satisfy Goal 6 without identifying the specific uses that will be developed on the Subject Properties. However, COLW does not address the Application materials, which describe compliance with Goal 6 through the County’s acknowledged regulations in DCC Chapter 18.100. Based on the materials in the record, I find that Goal 6 is satisfied and does not require an exception. With respect to

### Goal 3 – Agricultural Lands

Goal 3 and its implementing rules protect agricultural lands for farm use.<sup>5</sup> The Applicant’s proposed Plan Amendment and Zone Change is premised on its assertion that the Subject Properties do not qualify as “Agricultural Land” under Goal 3 and its implementing rules and, therefore, do not require protection under Goal 3. Other participants in this proceeding – namely 1000 Friends of Oregon (“1000 Friends”) and Central Oregon Land Watch (“COLW”) – assert that the Subject Properties do qualify as “Agricultural Land” and, as a result, that the Plan Amendment requires the Applicant to seek an exception to Goal 3.

All participants addressing this issue rely on the language in OAR 660-033-0020(1) that defines “Agricultural Land” as follows:

*(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 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-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;*

The NRCS designation for the Subject Properties indicates they are predominantly Class I through Class VI soils. Under OAR 660-033-0020(1)(a)(A), the Subject Properties would therefore qualify as Goal 3 agricultural land. Notwithstanding that designation, the Applicant relies on an Agricultural Soils Capability Assessment (an “Order 1 soil survey”) for the Subject Properties. The expert conclusion in the Applicant’s Order 1 soil survey is that the Subject Properties consist predominantly of Class VII and

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Goal 11, COLW provided no additional detail other than the bare statement that an exception is required. Again, COLW does not refute the information in the Application addressing this Goal, and I find that, based on that information, Goal 11 is satisfied and does not require an exception.

<sup>5</sup> See, e.g., OAR 660-033-0010.



Class VIII soils that are unsuitable for farm use and, therefore, do not qualify as agricultural land under Goal 3.

1000 Friends and COLW do not dispute any of the facts or conclusions regarding the soil conditions set forth in the Order 1 soil survey. Rather, they each argue that the NRCS designation is conclusive under the Goal 3 implementing rules as a matter of law. COLW specifically argues the “Hearings Officer cannot rely on information other than the predominant NRCS land capability classification to determine whether the subject property meets LCDC’s special definition of ‘agricultural land.’”

The legal argument 1000 Friends and COLW present – that only the NRCS designation can be relied on – is contrary to other state statutes and administrative rules addressing this issue. As the Land Use Board of Appeals (“LUBA”) recently explained, “ORS 215.211 allows a site-specific analysis of soils where a person believes that such information would, compared to the information provided by the NRCS, assist a county in determining whether land is agricultural land.”<sup>6</sup> In that case, which is remarkably similar to the present case, the applicant sought a PAPA to change a property’s Plan designation from AG to RI with a corresponding zone change from EFU-TRB to RI. The applicant in that case also relied on a site-specific Order 1 soil survey prepared by a qualified soil scientist. LUBA upheld the County’s reliance on that soil survey as part of its determination that the property at issue in that case consisted predominantly of Class VII and Class VIII soils unsuitable for farming.

Based on the language in ORS 215.211 and LUBA’s acknowledgment of that statute, I find that the County is not precluded from considering the Order 1 soil survey when applying OAR 660-033-0020(1)(a)(A), as long as doing so is consistent with OAR 660-033-0030(5), which implements ORS 215.211.

I again note that, because the participants raising this issue argued that the Hearings Officer must rely only on the NRCS classification, no participant disputed the information or conclusions in the Order 1 soil survey, nor did they dispute whether the survey complies with OAR 660-033-0030(5). Even so, I find that the record shows the Applicant’s Order 1 soil survey does comply with that administrative rule, as explained in the following findings.

OAR 660-033-0030(5)(a) requires that the alternative to the NRCS include more detailed data on soil capability and be “related to the NRCS land capability classification system.” Information provided by the Applicant’s soil scientist states that the NRCS classification for the Subject Property was completed at a very broad scale and based on high altitude photography, whereas the Order 1 soil survey has more detailed data based on onsite field research. Further, the soil scientist states that the Order 1 soil survey uses the same NRCS classification system, but applies more precise mapping of soil map units with better distribution and quantification of each unit.

OAR 660-033-0030(5)(b) requires the person seeking to use the alternative soil survey to request DLCD “to arrange for an assessment of the capability of the land by a professional soil classifier who is chosen

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<sup>6</sup> *Central Oregon Land Watch v. Deschutes County*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2023-008, April 24, 2023) (“LUBA No. 2023-008”).

by the person, using the process described in OAR 660-033-0045.” The Applicant asserts this requirement is met through its coordination with DLCD, and the record includes a letter from DLCD indicating the Order 1 soil survey is consistent with the agency’s reporting requirements.

The remaining portions of this rule are procedural in nature and there is no dispute among the participants whether these procedures apply to the Application or whether the Applicant followed those procedures.

Based on the foregoing, and considering the more detailed evidence provided by the Applicant’s soil scientist against the NRCS designation of the Subject Properties, I find that that the Subject Properties do not qualify as agricultural land under Goal 3 as defined in OAR 660-033-0020(1)(a)(A). That does not end the inquiry, however, as 1000 Friends and COLW each argue that the Subject Properties qualify as agricultural land under the other sections of OAR 660-033-0020(1)(a).

Turning to OAR 660-033-0020(1)(a)(B), the Subject Properties may qualify for Goal 3 protections if they are “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.”

1000 Friends argues that the Subject Properties are currently in farm tax deferral status, have water rights, and contain certain farm structures such as a goat barn and farm implement garage. COLW provides an exhaustive list of various farm commodities that occur throughout the County and, like 1000 Friends, asserts that the Applicant has not demonstrated that the Subject Properties cannot be used for some of those purposes.

The Applicant provides an exhaustive history of the site and its relationship to various farm activities. According to that history, the chain of owners for the Subject Property since 1941 has mostly consisted of retirees who were not engaged in farming. Prior to that time, there were apparently limited farming activities on the site at a time when the Subject Properties were part of larger holdings that also had farm uses. While the Subject Property does have some historical water rights, the Applicant notes that not all of those rights have been developed. Other structures were apparently used for small-scale hobby farming activities rather than for profitable farm uses. More recent uses of the site, however, included use as a roadside attraction called the “Funny Farm” which, according to the Applicant, at one point had a “hot dog eating goat.”

Testimony opposing the Application describing how the property could be used, and the Applicant’s testimony describing how the property has been used, do not resolve this issue. Instead, OAR 660-033-0020(1)(a)(B) requires an assessment of whether the Subject Properties are “suitable for farm use as defined in ORS 215.203(2)(a)” based on the various factors set forth in this rule. To that end, only the Applicant has fully addressed those factors.

With respect to soil fertility and cattle grazing, the Applicant relies on the Order 1 soil survey to demonstrate that the soils are not fertile and that the property is unsuitable for grazing. The Applicant notes that this also makes it difficult to provide food for other non-grazing animals. With respect to

climatic conditions, the Applicant notes the limited growing season, cold temperatures, and current drought conditions also hamper farm activities. While some water for farm irrigation purposes is available, the Applicant notes that irrigating the soils on the Subject Property is not warranted in light of their low classification. The Applicant also asserts that existing land use patterns in the area are not conducive to agriculture, for example because the Subject Properties are surrounded by non-farm uses and disrupted by the transportation system.

Overall, the Applicant asserts that the technological and energy inputs required to conduct farm uses are too great, which the Applicant believes is a major reason the Subject Properties have not historically been farmed.

ORS 215.203(2)(a) defines “farm use” in part as “the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.”

Considering the factors set forth in OAR 660-033-0020(1)(a)(B), I find that it is more likely than not that the Subject Properties are not suitable for farm use as defined in ORS 215.203(2)(a). While it may be possible to conduct some farm activities on the site, that is not the same as employing the land for the primary purpose of obtaining a profit in money from those activities. The low productive soils serve as an initial limit on any profitable farm activities. As the Applicant’s soil scientist notes, even irrigating the soils found on site does not improve their quality for farm uses. The Subject Properties are relatively small, irregularly-shaped, and bisected by a rocky outcropping, compounding the difficulties associated with the soil conditions. The portion of the site with the best soils is even smaller and not large enough to support meaningful farming activities. Further, while historical use of the site is not determinative of its current suitability, it is notable that the majority of the farming activities taking place on the site occurred at a time when the Subject Properties were part of a larger tract, or were part of a residential use.

Finally, under OAR 660-033-0020(1)(a)(C), the Subject Properties may still be considered agricultural land if they include land “that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.”

1000 Friends asserts that the presence of a Central Oregon Irrigation District (“COID”) canal on the Subject Properties, which is used to convey irrigation water to other farms, demonstrates the Subject Properties qualify as agricultural land under this rule. That argument, however, is difficult to follow because it is based on the assertion that the Applicant “must address the proposed rezone’s potential impact on agricultural uses in the surrounding area based on the presence of the COID irrigation canals on and abutting the property.” This rule does not appear to impose any sort of “impacts test,” and the question is whether the Subject Properties, not a canal on the property owned by a third party, are necessary to permit farm practices on adjacent and nearby lands. In contrast, the Applicant notes that very few farm practices occur on adjacent and nearby lands, even on nearby lands that currently have a farm use designation. The Applicant was unable to identify any land that relies on the Surrounding

Properties for their farm practices. In the absence of any evidence to the contrary, I find that the Applicant has met its burden of addressing that rule provision.

Based on the foregoing, I find that the Applicant has met its burden of demonstrating the Subject Properties do not qualify as agricultural lands under Goal 3 and, as a result, an exception to Goal 3 is not required.

### **Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces**

Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a PAPA “unless the PAPA affects a Goal 5 resource.” One scenario in which a PAPA may affect a Goal 5 resource is when the “PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list.”<sup>7</sup>

COLW argues that the Plan Amendment and Zone Change is in direct conflict with a Goal 5 resource and, therefore, requires compliance with Goal 5. The Goal 5 resource COLW refers to is the County’s designation of a scenic corridor along Highway 97 between Bend and Redmond as a scenic resource.

The County regulates conflicting uses with the Highway 97 scenic resource through the application of the Landscape Management Combining Zone (“LM Zone”), which the County applies to the area that is within one-quarter mile of the highway. The Subject Properties fall within the area subject to that zone.

The Applicant does not fully respond to COLW’s Goal 5 argument. Instead, the Applicant asserts that there is no need to apply Goal 5 in light of the County’s acknowledged Plan, which contains the LM Zone. According to the Applicant, to the extent there are any conflicts with the scenic resource, those will be resolved at the time when specific development occurs and the County requires site plan approval for any structures within the LM Zone. The Applicant specifically states that “[t]he zone change and plan amendment do not trigger this provision.”

The Applicant’s argument appears consistent with prior County decisions. However, LUBA No. 2023-008 is again instructive, and it rejects the Applicant’s approach to Goal 5. In that case, LUBA explained that its prior decisions require a local jurisdiction “to apply Goal 5 if the PAPA allows a new use that could conflict with Goal 5 resources.” LUBA then directly addressed the situation presented in this case and analyzed “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.”

LUBA’s decision acknowledged that the County previously conducted the appropriate Goal 5 analysis for other RI-zoned properties and applied the LM Zone to protect the Highway 97 scenic resource from conflicting uses on those properties. However, LUBA determined that, in the absence of evidence showing the prior Goal 5 analysis considered impacts from RI-type development on all properties, that analysis did not consider whether RI uses on farm-zoned property affected a Goal 5 resource. Indeed, LUBA concluded

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<sup>7</sup> OAR 660-023-0250(3)(b).

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

Based on that LUBA decision, I find that the Applicant’s argument that Goal 5 is not applicable is incorrect. The Plan Amendment and Zone Change would allow new uses on the Subject Property that could conflict with a protected Goal 5 resource. It may be possible for the Applicant to show that the County’s prior Goal 5 analysis considered such development on the Subject Properties, or, if not, the Applicant may be able to demonstrate that the new uses allowed on the Subject Properties do not significantly affect a Goal 5 resource. However, I find that the current record does not allow me to address either option. I therefore find that I cannot recommend approval of the Application on this basis and the Applicant must address this issue further before the Application is approved.

### **Goal 14 – Urbanization**

Goal 14 and its implementing rules “provide for an orderly and efficient transition from rural to urban land use.” *See* OAR 660-015-0000(14).

COLW asserts that the Application violates Goal 14. COLW’s specific argument is that the designation of the Subject Properties to the RI zone would constitute urbanization of the Subject Properties. COLW asserts that the County must further analyze the Application and either make a determination that the Plan Amendment “does not offend the goal because it does not in fact convert rural land to urban uses, or it may comply with the goal by obtaining acknowledgment of an urban growth boundary based upon considering [sic] of factors specified in the goal, or it may justify an exception to the goal.”

The heart of this issue is whether the RI zone actually authorizes urban uses. COLW argues that this can be determined only by the application of a “*Shaffer* analysis.” The *Shaffer* analysis is a reference to *Shaffer v. Jackson County*, 17 Or LUBA 922 (1989), in which LUBA concluded that the determination of whether a use is urban or rural must be made on a case-by-case basis, considering factors discussed in that case (e.g. workforce size, dependency on resources, public facility requirements).

The flaw in COLW’s argument is that the County has already determined that all uses in the RI Zone are rural in nature. That decision was upheld on review by LUBA and the Court of Appeals. *See Central Oregon Landwatch v. Deschutes County*, \_\_ Or LUBA \_\_ (LUBA No. 2022-075, Dec. 6, 2002); *aff’d* 324 Or App 655 (2023). In that case, LUBA concluded in part:

the county correctly determined that the policies and provisions of the DCCP and DCC that apply to the RI zone are independently sufficient to demonstrate that PAPAs that apply the RI plan designation and zone to rural land are consistent with Goal 14 and that uses and development permitted pursuant to those acknowledged provisions constitute rural uses, do not constitute urban uses, and maintain the land as rural land.

LUBA addressed the same issue in LUBA No. 2023-008. In that case, LUBA reiterated its holding and rationale in an earlier case, again concluding “that the county was entitled to rely on its acknowledged RI zone to ensure compliance with Goal 14.

The two prior LUBA cases, one of which has already been affirmed by the Court of Appeals, are clear. The County’s RI zone complies with Goal 14. For that reason, I find that the Applicant has demonstrated the Application does not propose urban uses and Goal 14 is satisfied without the need to take an exception to that Goal.

2. Title 18 of the Deschutes County Code, County Zoning

Section 18.136.010, Amendments

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

The owner of the Subject Properties has requested a quasi-judicial Plan Amendment and filed an application for that purpose, together with an application for the requested Zone Change. No participant to this proceeding objects to this process. I find it appropriate to review the Application using the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

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

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

According to the Applicant, this Code provision requires a consideration of the public interest based on whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan’s introductory statement and goals. No participant to this proceeding disputes that interpretation. I also find that this is the appropriate method for applying this Code provision.

With respect to the first factor, the Applicant asserts the Application conforms to the Comprehensive Plan because it conforms to the procedural components of the Comprehensive Plan, re-designates the Subject Properties to a designation allowed by the Comprehensive Plan, does not result in the loss of resource land, and is compatible with the surrounding land uses and character of the land in the vicinity of the Subject Properties. With the exception of the assertion that no loss of resource land will result – addressed in more detail above relating to Goal 3 – no participant in this proceeding objects to the Applicant’s assertions in this regard.

With respect to the second factor, the Applicant notes that introductory statements and goals in the Comprehensive Plan are not approval criteria, and no participant to this proceeding asserts otherwise. Additionally, the Applicant identifies several Comprehensive Plan policies and goals, and then analyzes whether the Application is consistent with those policies and goals. The Applicant specifically points to some of the policies and goals in Chapter 3, Rural Growth Management, of the Comprehensive Plan. The Applicant states that the Application is consistent with those policies and goals, largely based on their reference to “Deschutes Junction”, which is the area encompassing the Subject Properties, and the historic non-resource use of that area. While some participants to this proceeding dispute the extent to which the Plan Amendment and Zone Change would “urbanize” the Subject Properties, there does not appear to be any dispute about the historical non-resource use of the Deschutes Junction area or whether the Plan Amendment and Zone Change are consistent with the goals and policies the Applicant identifies.

As explained in more detail in earlier findings, the contested issues in this proceeding address whether the Application satisfies the standards for a Plan Amendment as required by state law (e.g. whether the request requires an exception to Statewide Planning Goals 3, 5, and 14). The arguments raised in support of those contested issues do mention some policies in the County’s current Plan. However, those policies are relied on as the basis for arguing that certain exceptions are required to the Goals, and they are not presented in support of any specific argument that the Application violates Plan policies. Even so, for the same reason that the Application is consistent with the Goals (other than Goal 5), I find that the Application conforms to the Plan. Additional findings addressing Plan goals and policies are set forth later in this Recommendation.

However, because the Plan also contains goals and policies implementing Goal 5, which I have concluded has not been satisfied, I cannot conclude that the Zone Change conforms to all Plan policies, particularly those that implement Goal 5, discussed below. I therefore find that this Code provision is not satisfied unless and until the Applicant demonstrates compliance with that Goal.

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

Only the Applicant and Staff offer any evidence or argument with respect to whether the Zone Change is consistent with the purpose and intent of the RI zoning district. Unlike almost every other zoning district, DCC 18.100, which governs uses in the RI zoning district, does not contain a purpose statement. The RI zoning district, appears to implement the Rural Industrial plan designation in the Comprehensive Plan, and Section 3.4 of the Comprehensive Plan provides the following:

The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less

intensive than those allowed in unincorporated communities as defined in OAR 660-022.

As the Staff Report notes, the Subject Properties are not within existing Rural Industrial exception areas, but they are located outside unincorporated communities and urban growth boundaries. This Code section is therefore satisfied only if the Application “satisfies the requirements for a Comprehensive Plan designation change set forth by State Statute, Oregon Administrative Rules, the DCCP and the Deschutes County Development Code.”

This recommendation determines that the Application satisfies the requirements for a Plan designation change, except as it relates to Goal 5. I therefore find that this Code provision is not satisfied unless and until the Applicant demonstrates compliance with that Goal.

*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.*

Only the Applicant addresses this Code provision, and the Applicant provided the following as support for why this criterion is met:

- The Applicant has received “will serve” letters from applicable service providers.
- Public facilities and services are available to serve future industrial development.
- On-site wastewater and sewage and disposal systems can be developed to meet specific user needs.
- The proposal satisfies the Transportation Planning Rule.

The Staff Report asks the Hearings Officer to determine the scope of public services and facilities that must be reviewed as part of this Code provision. However, such a determination is likely to change on a case-by-case basis, informed in part by the zoning designation being requested. As it applies to this case, the Applicant has identified fire, police, electric power, domestic water, wastewater, and transportation as being relevant. No participant has disputed the necessity of those services or identified other services that are necessary. Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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

The Applicant states that the Applicant’s proposal is consistent with all applicable Plan goals and policies. In support of that statement, the Applicant refers to its discussion of those goals and policies as they relate to DCC 18.136.020(A). The only discussion of those goals and policies by other participants relates to their arguments that certain statewide Goals have not been satisfied. Those arguments are addressed above. Although I conclude the Application is consistent with most Plan goals and policies, for the same reasons I concluded DCC 18.136.020(A) is not satisfied, I conclude that this Code provision is not satisfied; the current record does not demonstrate that impacts on surrounding land uses will be consistent with some of the Plan’s goals and policies implementing Goal 5.



*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.*

Only the Applicant offers any evidence or argument with respect to this Code provision. According to the Applicant, the original zoning of the Subject Properties did not take into account several factors, including the low agricultural capability of the site. Further, conditions have changed over time, especially with respect to the transportation system in the area and the development of other non-resource uses. No other participant addresses this Code provision or otherwise disputes the Applicant's characterization of the change in circumstances.

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

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

The Applicant and the Staff Report identified several Plan goals and policies that may be relevant to the Application.<sup>8</sup>

#### **Chapter 2, Resource Management**

Chapter 2 of the Plan relates to Resource Management. Section 2.2 of that Chapter relates specifically to Agricultural Lands.

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

According to the Applicant, it is pursuing the Plan Amendment and Zone Change because the Subject Properties do not constitute "agricultural lands", and therefore, it is not necessary to preserve or maintain the Subject Properties as such. In support of that conclusion, the Applicant relies primarily on a soils report showing the Subject Properties consist predominantly of Class VII and Class VIII non-agricultural soils. Such soils have severe limitations for agricultural use as well as low soil fertility, shallow and very shallow soils, abundant rock outcrops, low available water capacity, and major management limitations for livestock grazing.

Other comments in the record assert that the Subject Properties qualify as agricultural land because of their NRCS classification, or because they satisfy other definitions of "agricultural land" in OAR 660-030-0020(1). Those arguments are addressed in earlier findings, which conclude the Subject Properties are not agricultural land.

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<sup>8</sup> The Applicant and Staff Report note that earlier County decisions have concluded that many Plan goals and policies are directed at the County rather than at an Applicant in a quasi-judicial proceeding. I generally agree with respect to Plan goals, which provide the context for Plan policies. Plan goals are therefore listed in this section to better explain the Plan policies that are being applied and considered. However, some of the findings below do address the goal language specifically. Where the goal language is not discussed, I have deemed that goal to not apply directly to a quasi-judicial application.

With respect to the agricultural industry, the Applicant provides an analysis of surrounding land uses and notes that the surrounding area contains mostly non-agricultural uses. Some opposing comments in the record can be construed as asserting that the conversion of this land to an industrial use has a larger impact on the agricultural industry. However, those comments presume that the Subject Properties are agricultural land. Not only are the Subject Properties not agricultural land, the Applicant has demonstrated that no other farm parcels rely on this parcel.

Based on the foregoing, I find that the Application is consistent with this Plan goal.

*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.*

The Applicant has not asked to amend the EFU subzone that applies to the Subject Properties. Instead, the Applicant requests a change under Plan Policy 2.2.3 and has provided evidence to support rezoning the Subject Properties to the RI zone.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

*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.*

The Applicant requests approval of the Plan Amendment and Zone Change to re-designate the Subject Properties from Agricultural to Rural Industrial and to rezone the Subject Properties from EFU to RI. The Applicant does not seek an exception to Goal 3 for that purpose, but rather seeks to demonstrate that the Subject Properties do not meet the state definition of “Agricultural Land” as defined in Goal 3 and its implementing rules.

The Staff Report notes that the County has previously relied on LUBA’s decision in *Wetherell v. Douglas County*, 52 Or LUBA 677 (2006), where LUBA states as follows:

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.

The facts presented in the Application are similar to those in the *Wetherall* decision and in other Deschutes County plan amendment and zone change applications. Under this reasoning, the Applicant

has the potential to prove the Subject Properties are not agricultural land, in which case an exception to Goal 3 under state law is not required.

Notwithstanding the foregoing, Policy 2.2.3 is satisfied only if the Plan Amendment is consistent with state law. As discussed in previous findings, I have concluded that the Applicant has not demonstrated compliance with Goal 5, which is a necessary requirement of the Plan Amendment. The Application is therefore not consistent with this portion of the Plan unless and until the Applicant demonstrates compliance with Goal 5.

*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.*

The Applicant assert this plan policy is not an approval criterion and, instead, provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations and that the Application is consistent with this policy. The Applicant also notes that prior County decisions interpreting this policy have concluded that any failure on the County's part to adopt Plan policies and Code provisions describing the circumstances under which EFU-zoned land may be converted to a non-resource designation does not preclude the County from considering requests for quasi-judicial plan amendments and zone changes.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan as described by the Applicant.

*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.*

This Plan policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicant proposes that the Subject Properties were not accurately designated, as discussed in more detail in the findings above. While some participants have argued that the Subject Properties should retain an agricultural designation, no participant has expressly asserted that the Application is inconsistent with this Plan policy.

Based on the earlier findings that the Subject Properties are not agricultural land, I find that the Application is consistent with Policy 2.2.13.

\* \* \*

Section 2.5 of Plan Chapter 2 relates specifically to Water Resource Policies. The Applicant has identified the following goal and policy in that section as relevant to the Application.

*Goal 6, Coordinate land use and water policies.*

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

**FINDING:** The Applicant asserts that the Applicant is not required to address water impacts associated with development because no specific development application is proposed at this time. Instead, the Applicant will be required to address this criterion during development of the Subject Properties, which would be reviewed under any necessary land use process for the site.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with Policy 2.5.24.

\* \* \*

Section 2.7 of Plan Chapter 2 relates specifically to Open Spaces, Scenic Views and Sites and is the County's implementation of Goal 5. Among the specific policies in this Section are:

*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.*

The initial Application did not address these policies, but the Applicant did provide supplemental information and argument in response to a comment from Staff.

The Applicant assert that these policies are met because the Subject Properties are not visually prominent and are relatively hidden by and lower than Highway 97 and other transportation facilities. The Applicant notes that a 100-foot setback and 30-foot height limit will ensure that any new structures will be sensitive to the LM zone.

COLW, although it did not address these policies directly, argues that the Plan Amendment is not consistent with Goal 5 because it allows new uses that may conflict with a Goal 5 resource – the scenic corridor along Highway 97. I find that these issues are related and, therefore, consider COLW's argument applicable to these policies.

The Applicant responds to that argument by relying on the County's application of the LM zone as the protection for that resource. The findings above, however, conclude that the current record is not sufficient to demonstrate compliance with Goal 5.

Only the Applicant addresses whether the Application will allow development that is "sensitive to" scenic resources. Based on the Applicant's unrefuted evidence and argument, I find that the Application is consistent with Policy 2.7.5.

However, I do not arrive at the same conclusion for Policy 2.7.3. For the same reasons set forth in the earlier findings relating to Goal 5, I find that the Application is not consistent with policy 2.7.3. The policy

requires the County to support efforts to identify and protect scenic resources. The County has identified the scenic corridor along Highway 97 as a scenic resource. That resource is protected through the County’s application of the LM zone. That protection, however, was put into place in the context of the Subject Properties being zoned for farm use rather than industrial uses. The Applicant must demonstrate that the County can continue to protect that inventoried resource with the Plan Amendment. It is not clear from the record if the LM Zone protects the resource with the Plan Amendment.

\* \* \*

Chapter 3 of the Plan relates to Rural Growth. Within that chapter, Section 3.4 relates specifically to Rural Industrial uses. The Applicant and Staff have identified the following language in that section as relevant to the Application.

*In Deschutes County some properties are zoned Rural Commercial and Rural Industrial. The initial applications for the zoning designations recognize uses that predated State land use laws. However, it may be in the best interest of the County to provide opportunities for the establishment of new Rural Industrial and Rural Commercial properties when they are appropriate and regulations are met. Requests to re-designate property as Rural Commercial or Rural Industrial will be reviewed on a property-specific basis in accordance with state and local regulations.*

...

*Rural Industrial*

*The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.*

The language in this portion of the Plan is addressed in findings above relating to DCC Section 18.136.020(B). Those findings are incorporated here by this reference.<sup>9</sup>

\* \* \*

Section 3.4 of Plan Chapter 3 relates to the County’s goals for its rural economy.

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<sup>9</sup> The Staff Report also identifies Policy 3.4.36 as applicable. That policy simply states that properties for which it can be demonstrated Goal 3 does not apply may be considered for the RI designation under the Plan. Because I have concluded that the Subject Properties are not agricultural land and do not qualify for Goal 3 protections, the Application is consistent with that policy and the County can consider applying the RI designation.

*Goal 1, Maintain a stable and sustainable 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.*

...

*Policy 3.4.3 Support a regional approach to economic development in concert with Economic Development for Central Oregon or similar organizations.*

Addressing these policies, the Applicant asserts that the rural industrial designation will maintain a stable and sustainable rural economy that is compatible with a rural lifestyle. In support of that argument, the Applicant notes the potential number of jobs that can occur on the Subject Properties, some of which can be held by rural residents. No participant refutes the Applicant’s evidence or argument in this regard.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with these policies.

*Lands Designated and Zoned Rural Industrial*

...

*Policy 3.4.23 To assure that urban uses are not permitted on rural industrial lands, land use regulations in the Rural Industrial zones shall ensure that the uses allowed are less intensive than those allowed for unincorporated communities in OAR 660-22 or any successor.*

Whether the Plan Amendment and Zone Change would allow urban uses is the same issue raised in COLW’s arguments that an exception to Goal 14 is required. Those arguments are addressed in more detail in the findings above relating to Goal 14. Those findings are incorporated here and, based on those findings, I find the Application is consistent with this Plan policy.

*Policy 3.4.27 Land use regulations shall ensure that new uses authorized within the Rural Industrial sites do not adversely affect agricultural and forest uses in the surrounding area.*

The Applicant asserts that there are no forest uses in the surrounding area, and that assertion is unchallenged by any participant.

The Applicant addresses the agricultural component of this Plan policy by asserting that the Plan Amendment and Zone Change do not have an adverse effect on agricultural uses in the surrounding area. The Applicant notes there is one hobby farm nearby, and a nearby parcel with apple trees. The Applicant consulted with the owners of both properties, each of which indicated the Applicant’s proposal will not

adversely affect them. The Applicant states it has also done an exhaustive inventory of uses within half mile of the site and found no conflict with any agricultural uses. No participant to this proceeding asserts this policy is not met or otherwise refutes the evidence the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this Plan policy.

*Policy 3.4.28 New industrial uses shall be limited in size to a maximum floor area of 7,500 square feet per use within a building, except for the primary processing of raw materials produced in rural areas, for which there is no floor area per use limitation.*

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*Policy 3.4.31 Residential and industrial uses shall be served by DEQ approved on-site sewage disposal systems.*

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*Policy 3.4.32 Residential and industrial uses shall be served by on-site wells or public water systems.*

The Applicant asserts that these policies are codified in Chapter 18.100 governing the RI Zone and are implemented through those provisions. The Applicant also notes that the current residential and future industrial uses are already being served by and will be served by a public water system. No participant to this proceeding asserts this policy is not met or otherwise refutes the evidence the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with these policies.

\* \* \*

Section 3.5 of Plan Chapter 3 relates to natural hazards. Goal 1 of that section is to “protect people, property, infrastructure, the economy and the environment from natural hazards.” Addressing this Plan goal, the Applicant notes that there are no mapped flood or volcano hazards on the Subject Properties and that there is no evidence of increased risk from hazards from wildfire, earthquake, or winter storm risks. No participant to this proceeding asserts this goal is not met or otherwise refutes the evidence or argument the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

\* \* \*

Section 3.7 of Comprehensive Plan Chapter 3 relates specifically to Transportation. The Applicants and Staff have identified the following goal and policy in that section as relevant to the Application.

*Appendix C – Transportation System Plan  
ARTERIAL AND COLLECTOR ROAD PLAN*

...

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

*Policy 4.1 Deschutes County shall:*

- a. Consider the road network to be the most important and valuable component of the transportation system; and*
- b. Consider the preservation and maintenance and repair of the County road network to be vital to the continued and future utility of the County’s transportation system.*

...

*Policy 4.3 Deschutes County shall make transportation decisions with consideration of land use impacts, including but not limited to, adjacent land use patterns, both existing and planned, and their designated uses and densities.*

*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.*

The Applicant asserts that the Application is consistent with these policies. In support of that assertion, the Applicant relies on a Transportation Impact Analysis (“TIA”) prepared by a transportation engineer. The County’s Senior Transportation Planner reviewed the TIA, which the Applicant notes constitutes the County’s consideration of land use impacts and roadway function, classification, and capacity. No participant to this proceeding asserts these goals and policies are not met or otherwise refutes the evidence or argument the Applicant relies on.<sup>10</sup>

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

\* \* \*

Section 3.10 of Plan Chapter 3 contains provisions for “Area Specific Policies.”

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<sup>10</sup> The Staff Report notes that the County previously denied an application on the Subject Properties based in part on certain traffic impacts. Staff requests the Hearings Officer address whether that prior decision has any bearing on the present Application. I find that it does not. As noted by the County’s Senior Transportation Planner, that decision predates various transportation improvements the County made on Highway 97. The Applicant can rely on the more recent TIA that is based on the transportation system as it currently exists.



*Goal 1, Create area specific land use policies and/or regulations when requested by a community and only after an extensive public process.*

...

*Deschutes Junction*

*Policy 3.10.5 Maximize protection of the rural character of neighborhoods in the Deschutes Junction area while recognizing the intended development of properties designated for commercial, industrial and agricultural uses.*

The Applicant addresses this Plan policy with a detailed description of the history, previous owners, surrounding uses and the transportation system of the Deschutes Junction area. The Applicant asserts that the Plan Amendment and Zone Change is consistent with how the Deschutes Junction area has developed and the rural character of that particular area. No participant to this proceeding asserts these goals and policies are not met or otherwise refutes the evidence or argument the Applicant relies on.<sup>11</sup>

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

*4. Oregon Administrative Rules*

In addition to the administrative rules discussed in the findings above relating to Goal 3, Goal 5, and Goal 14, the Applicant and the Staff Report identify and address several administrative rules as potentially applicable to the Application. No other participant in this proceeding identified other applicable rules.<sup>12</sup>

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<sup>11</sup> The Staff Report also identifies Policies 3.10.6 through 3.10.8 as potentially relevant and asks the Hearings Officer to determine either if the policies apply or if they are satisfied. Policy 3.10.6 and 3.10.7 require the County to review impacts to the transportation system. The County has done that through the review of the Applicant’s TIA. Policy 3.10.8 requires the County to review other policies and initiate a Deschutes Junction Master Plan. I find that policy to be directed solely to the County and not applicable to a quasi-judicial land use application.

<sup>12</sup> Some administrative rules the Applicants address, or which appear in the Staff Report, have been omitted from this Recommendation where the rule does not expressly impose an approval criterion.

OAR 660-006-0005

- (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.*

The Applicant asserts that the Subject Properties do not qualify as forest land and, therefore, the administrative rules relating to forest land are not applicable.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this administrative rule.

OAR 660-033-0030

- (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.*

This Recommendation finds that the Subject Properties do not qualify as agricultural land as defined by administrative rule, and they are not suitable for farming. Based on the foregoing, I find that the administrative rules do not require the Subject Properties to be inventoried as agricultural land. This conclusion, however, does not alter other findings in this Recommendation relating to the process for

redesignating the Subject Properties and the requirement to demonstrate the Plan Amendment is consistent with Goal 5.

OAR 660-012-0060

- (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.*

This administrative rule is applicable to the Plan Amendment because it involves an amendment to an acknowledged comprehensive plan. The Applicant asserts that the Plan Amendment will not result in a significant effect to the transportation system. In support of that assertion, the Applicant submitted its TIA (and supplemental information), discussed above. No participant to this proceeding disputed the information in the TIA or otherwise objected to the use of that information. The County Transportation Planner agreed with the TIA's conclusions as supplemented.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application satisfies this administrative rule.

- (2) *If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.*
- (a) *Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- (b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
- (c) *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
- (d) *Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*
- (e) *Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:*
- (A) *The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;*

- (B) *The providers of facilities being improved at other locations provide written statements of approval; and*
- (C) *The local jurisdictions where facilities are being improved provide written statements of approval.*

While the Applicant's TIA concludes that the Plan Amendment and Zone Change would not have a significant effect on the transportation system, that analysis appears to be premised on various recommendations. As stated in the TIA:

1. It is recommended that right of way dedications along Pleasant Ridge Road be provided to the County standard as part of any future development application. County standards identify a 60-foot standard for Collectors.
2. The existing driveway onto Pleasant Ridge Road may require relocation to support realignment of Graystone Lane's connection to Pleasant Ridge Road. The need for access relocation should be addressed as part of any future land use application and coordinated with the County's transportation planning and engineering departments. An approved approach permit is required by the County for property access.
3. At the time of future property development transportation system development charges will be applied, based on the specific use, to help fund regional transportation system improvements.

Although these findings conclude that the record as a whole does not support approval of the Application, the County Board may arrive at a different conclusion. If it does, I recommend the Board incorporate the recommendations from the TIA in any final decision.

*Statewide Planning Goals and Guidelines*

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicant asserts the Application is consistent with all applicable Goals and Guidelines. Except for Goal 3, Goal 5, Goal 6, Goal 11, and Goal 14, which are addressed in more detail in earlier findings, and in the absence of any counter evidence or argument, I adopt the Applicants' position on the remaining Goals and find that the Plan Amendment and Zone Change are consistent with the applicable Goals and Guidelines as follows:

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

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

**Goal 4, Forest Lands.** Goal 4 is not applicable because the Subject Properties do not include any lands that are zoned for, or that support, forest uses.

**Goal 7, Areas Subject to Natural Disasters and Hazards.** here are no mapped flood or volcano hazards on the subject property. Wildfire, earthquake, and winter storm risks are identified in the County’s DCCP. The subject property is not subject to unusual natural hazards nor is there any evidence in the record that the proposal would exacerbate the risk to people, property, infrastructure, the economy, and/or the environment from these hazards on-site or on surrounding lands.

**Goal 8, Recreational Needs.** The property is not a recreational site. The proposed plan amendment and zone change do not affect recreational needs, and nonspecific development of the property is proposed. Therefore, the proposal does not implicate Goal 8.

**Goal 9, Economy of the State.** This goal is to provide adequate opportunities throughout the state for a variety of economic activities. The Applicant asserts that the proposed plan amendment and zone change are consistent with this goal because it will provide opportunities for economic development in the county in general, and in the Deschutes Junction area in particular, by allowing the property to be put to a more productive use.

**Goal 10, Housing.** There are already two houses on site, which can be used, adaptively reused or demolished. The proposed plan amendment and zone change will not affect existing or needed housing and Goal 10 is not applicable.

**Goal 12, Transportation.** This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.

**Goal 13, Energy Conservation.** The Applicant's proposal, in and of itself, will have no effect on energy use or conservation since no specific development has been proposed in conjunction with the subject applications. The record shows that providing additional economic opportunities on the subject property may decrease vehicle trips for persons working in the Deschutes Junction area, therefore conserving energy.

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

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**IV. CONCLUSION**

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

Dated this 12<sup>th</sup> day of June 2023



Tommy A. Brooks  
Deschutes County Hearings Officer



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 2, 2025

SUBJECT: Public Hearing for a Plan Amendment and Zone Change for the Bend Park and Recreation District

RECOMMENDED MOTION:

PUBLIC HEARING - CONTINUATION

- Move to continue both the oral and written portions of the hearing to [Month, Day, Year].

PUBLIC HEARING - CLOSE ORAL, OPEN RECORD PERIOD

- Move to close the oral portion of the hearing, leave the written record open for XX days.
- Move to close the oral portion of the hearing, leave the written record open for XX days and schedule deliberations for a date to be determined.

PUBLIC HEARING - CLOSE HEARING, DELIBERATIONS

- Move to close the public hearing and begin deliberations.
- Move to close the public hearing and set a date and time for deliberations on a date to be determined.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners will conduct a Public Hearing on April 2, 2025 to consider a request for a Plan Amendment and Zone Change (file nos. 247-25-000404-PA, 405-ZC) for approximately 279 Acres. The property is located southeast of the City Bend and is accessed by Rickard Road.

BUDGET IMPACTS:

None

ATTENDANCE:

Nathaniel Miller, Associate Planner
Jacob Ripper, Principal Planner





MEMORANDUM

TO: Board of County Commissioners
FROM: Nathaniel Miller, AICP, Associate Planner
DATE: April 2, 2025
SUBJECT: Public Hearing for a Plan Amendment and Zone Change (File nos. 247-24-000404-PA, 405-PA).

The Board of County Commissioners ("Board") will conduct a Public Hearing on April 2, 2025, to consider a request for a Comprehensive Plan Amendment and Zone Change (File nos. 247-24-000404-PA, 247-24-000405-ZC). The subject property is located southeast of the City of Bend and is approximately 279 acres. The property is addressed at 60725 Arnold Market Road, Bend. A location map is included as Attachment A.

I. BACKGROUND

The applicant and property owners, Bend Park & Recreation District (BPRD), requests approval of a Comprehensive Plan Amendment to change the designation of the subject property (+/- 279 Acres) from Agricultural (AG) and Surface Mining (SM) to Rural Residential Exception Area (RREA).

The applicant also requests a corresponding Zone Change to rezone the subject property from Exclusive Farm Use - Tumalo/ Redmond/ Bend subzone (EFU-TRB) & Surface Mining (SM) to Rural Residential (RR10). The property is comprised of approximately 105 acres of SM Zone and 174 acres of EFU Zone. The applicant asks that Deschutes County change the zoning and the plan designations because the subject property does not qualify as "agricultural land" under Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) definitions, and there are no active mining operations at the former surface mine site. Further, the Applicant argues that no exception to Statewide Planning Goal 3, Agricultural Land, is required because the subject property is not agricultural land.

The Applicant submitted a soil study, which was prepared by a certified soils scientist and soil classifier. The purpose of this soil study was to inventory and assess the soils on the subject property and to provide more detailed data on soil classifications and ratings than is contained in the NRCS soils maps. The soil study determined the subject property contains approximately 66 percent Land

Capability Class 7 and 8 nonirrigated soils. According to the soil study, the subject property is comprised of soils that do not qualify as Agricultural Land<sup>1</sup>.

Staff notes the subject property has no history of agricultural use. According to the application material there are 18.13 acres of waters rights but no irrigation infrastructure. The Applicant intends to transfer the water rights to Tax Lot 300. No comment was received from Arnold Irrigation District.

Pertaining to the Surface Mine zoning, the property is the former "Rose Pit" mine site (ref. Site 392). According to the application materials, mining operations were terminated in 2005, and it has been in a reclamation process since. Oregon Department of Geology and Mineral Industries (DOGAMI) files for this site have been closed since 2011. The reclamation activities were recently acknowledged and revised through file No. 247-23-000709-MC.

## **II. PUBLIC COMMENTS**

Five written comments in opposition were submitted in advance of the Hearing Officer hearing on November 12, 2024. The comments in opposition to the proposal highlight concerns of increased traffic and density, and one comment questioned the approvability of the application. Two members of the public provided oral testimony at the hearing, one in favor and one in opposition.

The comment questioning the approvability of the application stated concerns of the Burden of Proof successfully meeting the applicable criteria.

Staff also talked with seven other members of the public who had questions about the application and proposed rezone. After this initial contact, no comments were received.

Two comments in opposition were received after the recommendation of the Hearings Officer was issued.

All comments and materials are included in the electronic record.

## **III. HEARINGS OFFICER RECOMMENDATION**

The Deschutes County Hearings Officer held a public hearing on November 12, 2024. The applicant's legal representation provided testimony in the hearing.

On January 8, 2025, the Hearings Officer issued a recommendation of approval for the proposed Plan Amendment and Zone Change.

## **IV. BOARD CONSIDERATION**

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

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

The record is available for inspection at the following link: <https://www.deschutes.org/cd/page/247-24-000404-pa-405-zc-bend-park-and-recreation-district-bprd-comprehensive-plan-amendment>

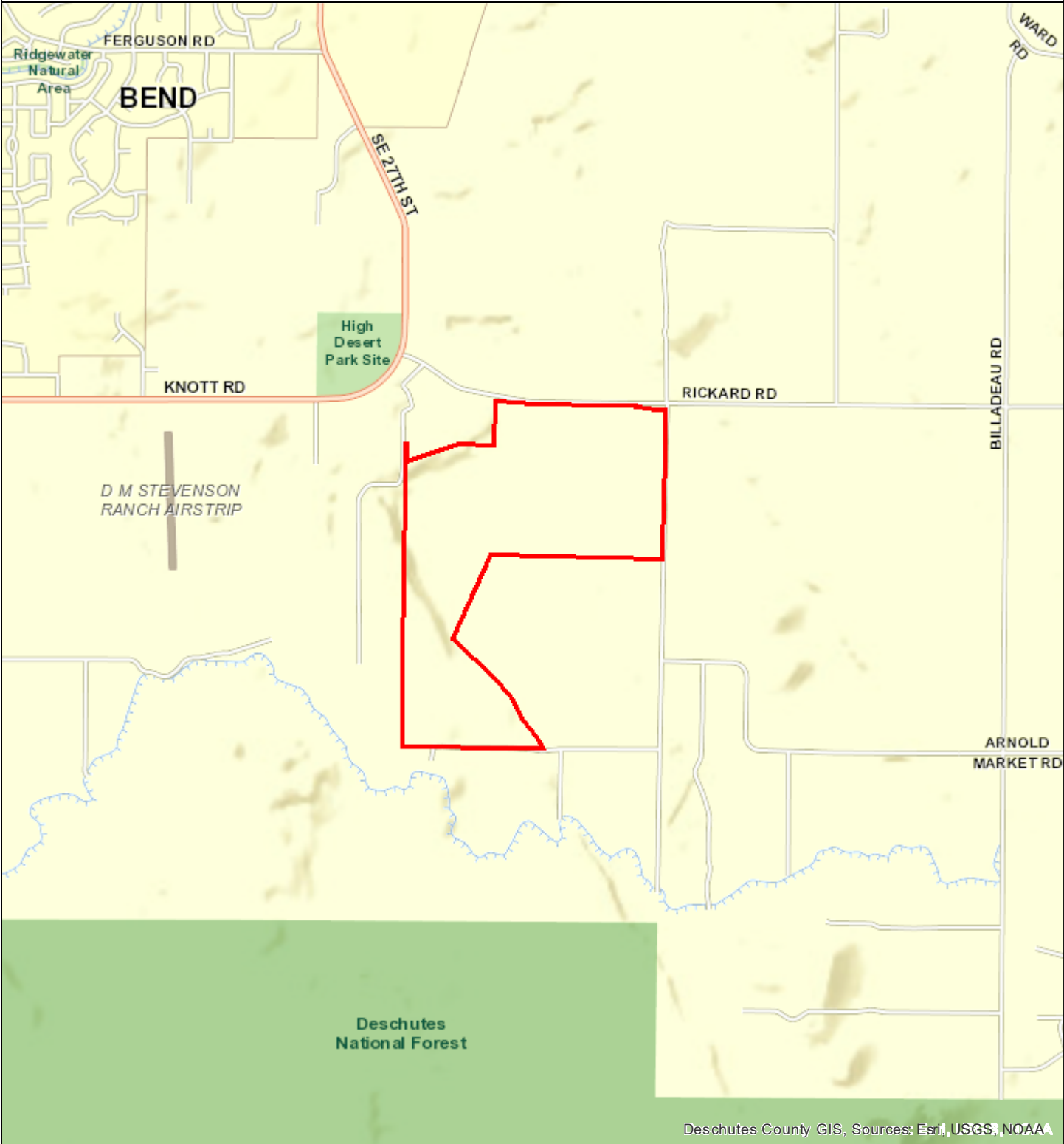
**V. NEXT STEPS**

Based on direction received from the Board and testimony at the Public Hearing, Staff will prepare for deliberations.

- Attachment A:** Location Map
- Attachment B:** City of Bend Urban Growth Boundary
- Attachment C:** Surrounding Area Zoning Map
- Attachment D:** Hearing Officer Recommendation

# File: 247-24-000404-PA, 405-ZC

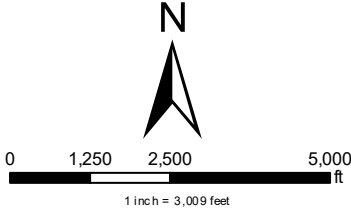
Situs Address: 60725 ARNOLD MARKET RD, BEND, OR 97701



Deschutes County GIS, Sources: Esri, USGS, NOAA



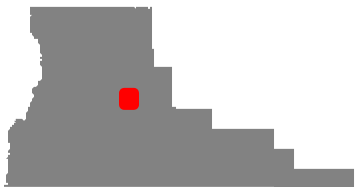
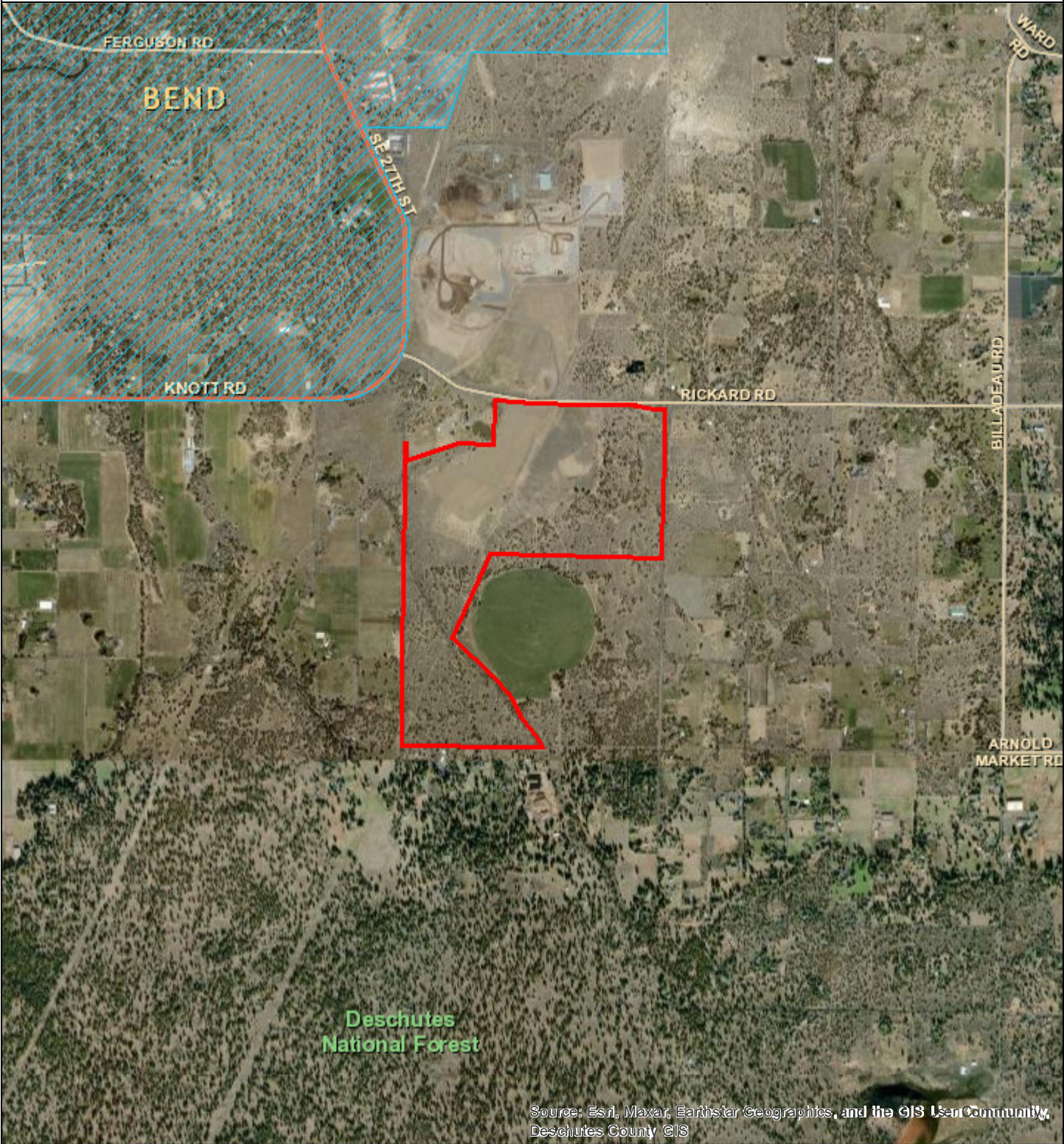
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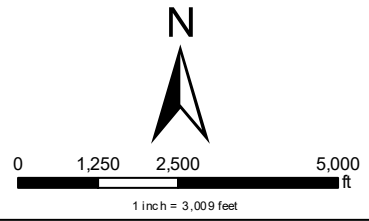


# File: 247-24-000404-PA, 405-PA

Bend UGB - Site Address: 60725 Arnold Market Road



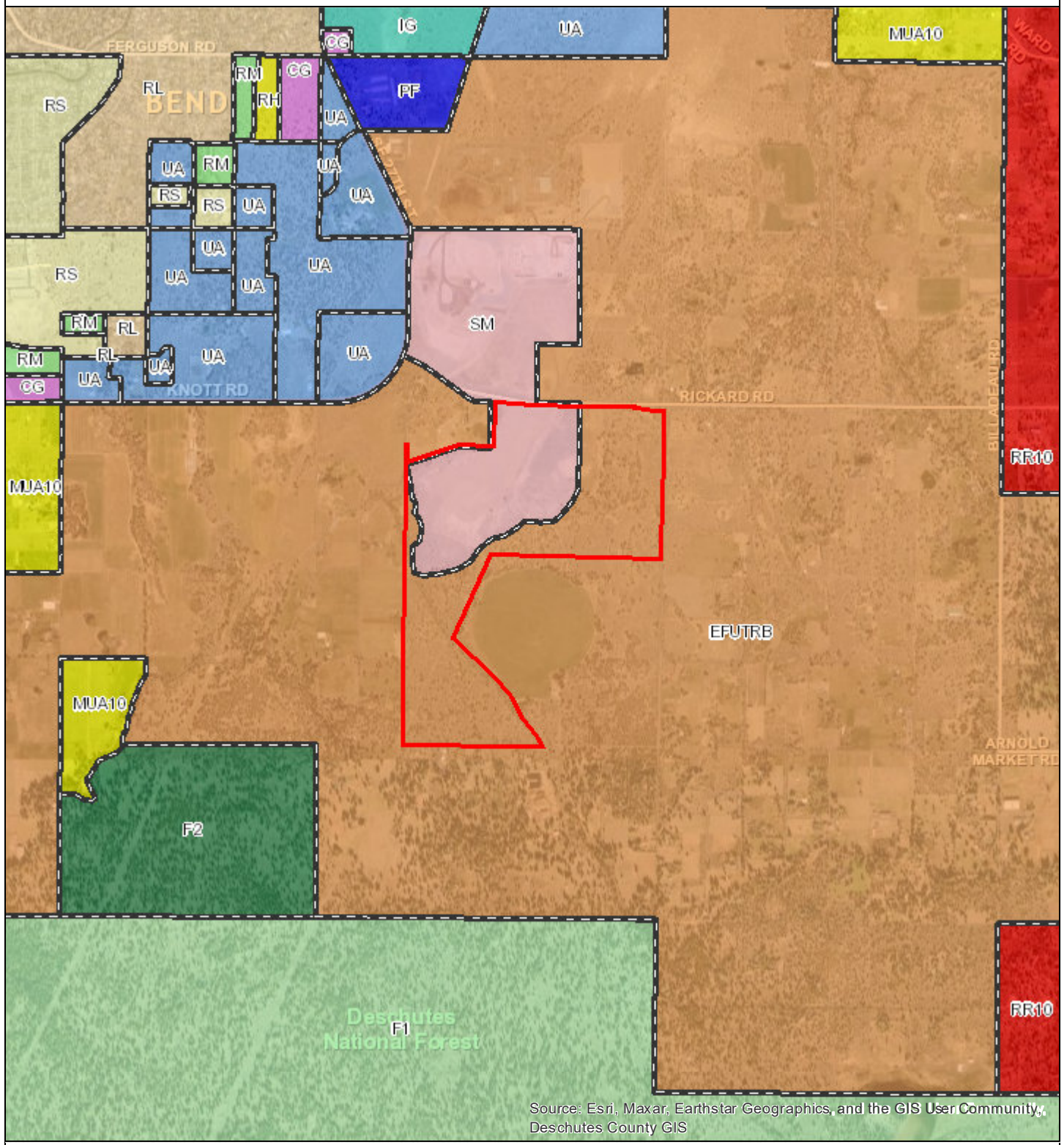
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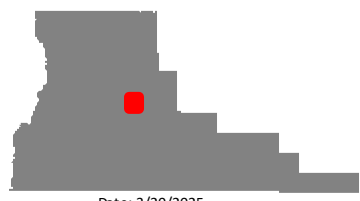


# File: 247-24-000404-PA, 405-PA

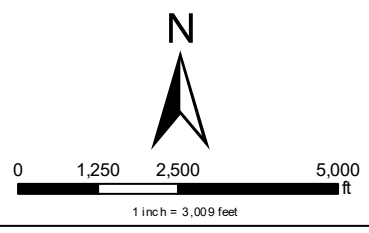
Zoning - Site Address: 60725 Arnold Market Road



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



Date: 3/20/2025



## HEARINGS OFFICER RECOMMENDATION

**FILE NUMBERS:** 247-24-000404-PA, 247-24-000405-ZC

**SUBJECT PROPERTY/  
OWNER:** Mailing Name: BEND PARK & RECREATION DISTRICT  
Map and Taxlot: 1812230000200  
Account: 112113  
Situs Address: 60725 ARNOLD MARKET RD, BEND, OR 97701

**APPLICANT:** Bend Park & Recreation District (BPRD)

**ATTORNEY:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702

**REQUEST:** The Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject property (+/- 279 Acres) from Agricultural (AG) and Surface Mining (SM) to Rural Residential Exception Area (RREA). The Applicant also requests a corresponding Zone Change to rezone the subject property from Exclusive Farm Use – Tumalo/ Redmond/ Bend subzone (EFU-TRB) & Surface Mining (SM) to Rural Residential (RR10).

**STAFF CONTACT:** Nathaniel Miller, AICP, Associate Planner  
Phone: 541-317-3164  
Email: [Nathaniel.Miller@deschutes.org](mailto:Nathaniel.Miller@deschutes.org)

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

**WEBPAGE:** <https://www.deschutes.org/cd/page/247-24-000404-pa-405-zc-bend-park-and-recreation-district-bprd-comprehensive-plan-amendment>

**HEARINGS OFFICER:** Gregory J Frank

**I. APPLICABLE CRITERIA**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:  
Chapter 18.04, Title, Purpose, and Definitions  
Chapter 18.16, Exclusive Farm Use Zones (EFU)  
Chapter 18.52, Surface Mining Zone (SM)  
Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)  
Chapter 18.60, Rural Residential Zone (RR10)  
Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan  
Chapter 2, Resource Management  
Chapter 3, Rural Growth Management  
Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR), Chapter 660  
Division 12, Transportation Planning  
Division 15, Statewide Planning Goals and Guidelines  
Division 23, Procedures and Requirements for Complying with Goal 5  
Division 33, Agricultural Land

Oregon Revised Statutes (ORS)  
Chapter 215.010, Definitions  
Chapter 215.211, Agricultural Land, Detailed Soils Assessment

**II. FINDINGS AND 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”). These Preliminary Findings are intended to provide an overview of the COLW issues, discussion of relevant laws/rules related to those issues and the Hearings Officer’s legal interpretation of various sections of the Deschutes County Code (“DCC”) and State statutes/regulations as relevant to the identified COLW issues. The Hearings Officer incorporates these Preliminary Findings as additional findings for relevant approval criteria.

**2. Reclamation of SM Zoned Land**

COLW stated that the Applicant’s proposal in this case must be denied because it failed to meet the following:



*“the SM zone may only be terminated and rezoned once the mining site has been reclaimed in accordance with the reclamation plan approved by DOGAMI or the reclamation provision of DCC 18.”* (COLW, 11/12/2024, page 3)

It appears that COLW SM termination argument is twofold: First, COLW argued that the SM zoned property in this case did not meet Oregon Department of Geology and Mineral Industries (“DOGAMI”) requirements. Second, COLW argued that the SM zoned property did not meet DCC Title 18 requirements. The Hearings Officer shall address both COLW arguments.

The Hearings Officer takes note of Deschutes County decision 247-23-000709-MC (hereafter the “Modified Reclamation Plan Decision”). The stated purpose of the Modified Reclamation Plan Decision was to

*document existing site conditions, clarify the obligations in the reclamation plan, to identify the remaining items to be completed and to modify and remaining reclamation requirements through an Amended Reclamation Plan.*

The Modified Reclamation Plan Decision also stated that

*the applicant’s proposed modification plan would replace an outdated, unrealistic reclamation plan under SP-92-98 with a specific plan that complies with current county and DOGAMI standards and that will have minimal impact on surrounding properties.*

The Hearings Officer also takes note of DCC 18.52.200 A. This section of the DCC states:

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

The Hearings Officer finds that DCC 18.52.200 A contains the word “or” inserted between the DOGAMI reclamation requirement and the DCC 18 reclamation requirement. The Hearings Officer finds that *if* either the DOGAMI “or” DCC 18 reclamation requirement is met *then* the DCC reclamation requirements of DCC 18.52.200 A are satisfied.

The Hearings Officer first addresses the COLW argument that alleges that the Subject Property has not been reclaimed in accordance with DOGAMI requirements. Initially, the Hearings Officer finds COLW offered no authoritative evidence or legal support that the SM zoned portion of the Subject Property failed to meet DOGAMI reclamation requirements. COLW focused its comments on the bare fact that only partial reclamation had been accomplished not how partial reclamation failed to meet DOGAMI requirements.

The Hearings Officer next takes note of findings included in the Modified Reclamation Plan Decision. The following are specific references to the satisfaction of DOGAMI reclamation requirements found in the Modified Reclamation Plan Decision:

*Attached hereto as Exhibit 4 is a Memo dated October 14, 2011 from Robert Huston, Natural Resource Specialist with DOGAMI to the owner of the subject property indicating 'Reclamation has been completed' and "[a]ll obligations to the State of Oregon have been fulfilled, and the file has been closed." [finding for DCC 18.52.080 B., page 11 of 21]*

*Correspondence from DOGAMI in the record as Exhibit 4 demonstrates DOGAMI is satisfied with the site reclamation and has closed the file. [findings for DCC 18.52.130 A., page 18 of 21]*

The Hearings Officer finds, based upon the evidence in the record, that the DOGAMI reclamation requirement in DCC 18.52.200 A has been met. While the Hearings Officer finds that the satisfaction of the DCC 18.52.200 A. DOGAMI requirement is dispositive, the Hearings Officer also addresses the Title 18 requirement.

COLW provided the following comments related to the DCC 18.52.200 Title 18 requirement:

*At issue is whether the site reclamation has been completed in accordance with the 2023 Amended Reclamation Plan. The answer is no. The Amended Reclamation Plan approved by the County created a series of reclamation conditions contingent upon future BPRD development plans. Because BPRD has not yet redeveloped the property, these reclamation goals have not been achieved. For example, in reference to revegetation, the Amended Reclamation Plan provides- 'Based upon existing soil conditions some additional re-vegetation is proposed primarily within a 14.5-acre area that was not previously reclaimed in the southernmost portion of the site.' Application Materials, p. 272. This revegetation has not occurred. Another plan condition is similarly incomplete, noting that the '[t]he original DOGAMI reclamation plan (circa 1992) also called for reseeding with Crested Wheat, which may also be incorporated into future BPRD re-vegetation plans. Final reclamation grading work will minimize disturbance in those areas that have been revegetated. Natural re-vegetative processes are expected to continue and will be supplemented with additional re-vegetation work included with future BPRD development plans.' Application Materials, p. 272. The Amended Reclamation Plan also requires grading of the property and the distribution of stockpiled topsoil. Application Materials, p. 271-272. Other plan conditions will be completed in the future, providing simply that reclamation activities are 'To be determined based upon future BPRD development plans.' Application Materials, p. 272-273.*

*What is more, there appears to be no argument that the reclamation has been completed. In their burden of proof, the applicant admits that 'mining at the site ceased in 2005 and it has remained in a partial state of reclamation since that time.' (emphasis added) Application Materials, p. 25. An admission that reclamation work is incomplete is problematic for the applicant. A property in a state of partial reclamation cannot be considered 'reclaimed' as required under county code to rezone the subject property. DCC18.52.200.*

*Moreover, the 2023 Amended Reclamation Plan explicitly requires complete reclamation prior to an application for a re-zone. "C. Previous Site Plan Review Conditions" provides that 'unless explicitly modified by this decision, the previous conditions of approval in SP-92-98 shall remain in effect.' Application Materials, p. 85. Condition 11 of SP-92-98 (as modified) provides that the 'Developer shall apply to Deschutes County to rezone the subject property after the site has been reclaimed in*

*accordance with the amended reclamation plan approved by the County.’ Application Materials, p. 73. Condition 11 clearly and explicitly states that the developer shall apply for the rezone after the site has been reclaimed. Here, in the Applicant’s own words, the property is in a ‘partial state of reclamation’. Application Materials, p. 25. As a result, the property is ineligible for rezoning because it has not been reclaimed in accordance with the Amended Reclamation Plan approved by the County.*

The Hearings Officer believes the most important issue raised by COLW in the above-quoted comments is:

*Because BPRD has not yet redeveloped the property, these reclamation goals have not been achieved.”*

Applicant responded to COLW’s above-quoted comments (Final Argument, 12/9/2024, page 2) as follows:

*The Amended Reclamation Plan was approved by the County via the Modification of Conditions Decision, Exhibit 4 [footnote omitted] The Modification of Conditions Decision specifically recognized the existing site conditions, the incorrect information relied on to create the SP-92-98 conditions, and modified the reclamation requirements to reflect actual site conditions and allow for remaining topsoil to be applied and revegetation contemporaneously/concurrently with park development, as described in the Amended Reclamation Plan.*

The Hearings Officer interprets the COLW reclamation plan argument to require all (100%) reclamation duties to be completed prior to the approval of a Comprehensive Plan Amendment and/or zone change for the Subject Property and/or the development of the Subject Property. Applicant argues that reclamation duties may be completed at a later time such as after approval of the application in this case and during Applicant’s development process. The Hearings Officer reviewed the Amended Reclamation Plan and the Findings and Decision for case 247-23-000709-MC. The County, in the Findings and Decision for 247-23-000709-MC, added a condition stating that *“Developer shall complete site reclamation in accordance with the 2023 Amended Reclamation Plan approved by the County.”* The Hearings Officer finds the Amended Reclamation Plan establishes reclamation obligations related to the Subject Property. The Amended Reclamation Plan includes the following statement:

*“Approximately 26,000 yd<sup>3</sup> of silty-sand topsoil from 5 on-site stockpiles will be distributed throughout the site, as needed, to support the -revegetation contemporaneously with future site development.” (Section 9, page 4 of 10)*

The Hearings Officer finds the Amended Reclamation Plan clearly anticipates reclamation activities to occur during Applicant’s development process; a time following approval of the application in this case. The Hearings Officer finds *no* clear language in the Amended Reclamation Plan that would support COLW’s argument that all (100%) reclamation activities be completed prior to approval of an application for a Comprehensive Plan and/or zone change approval. The Hearings Officer finds COLW’s argument that one or more sections of SP-92-98 remains relevant to this case and provides a basis for denial is not persuasive.

### 3. Park Use Allowed in EFU Zone

COLW argued that Applicant's current proposal

*to amend the comprehensive plan from Agricultural designation to Rural Residential Exception Area (RREA) is unnecessary because the sought use of a public park is conditionally allowed in agricultural zones.*

The Hearings Officer finds this COLW argument is legally unsupportable. The Hearings Officer does not disagree with COLW that park use is permitted as a conditional use in the EFU zone. However, the Hearings Officer finds COLW failed to cite any relevant section of the DCC or any state law/regulation that precludes the Applicant from filing this application. The Hearings Officer finds Applicant, in this case, exercised its legal discretion to select an application avenue that it believes best meets its development goals. The Hearings Officer finds it common that a specific land use may be allowed in multiple zoning designations; here parks are allowed, for example, in EFU, MUA, RREA, F-1 and other zones.

An Applicant has the right to determine what land use application to file and the Hearings Officer is allowed only to consider the relevant approval criteria for that application. Thereafter, the Hearings Officer must, based upon the evidence and argument in the record, determine if the application meets relevant approval criteria. In this case COLW did not provide the Hearings Officer substantial evidence or persuasive argument that its "unnecessary" argument (as quoted above) is based upon a relevant approval criterion.

### 4. Public Interest (DCC 18.136.020)

COLW argued, that

*Pursuant to DCC 18.136.020, the application for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property.*

DCC 18.136.020 C. states:

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

The Hearings Officer takes exception to COLW's inclusion of the word "best" in its above-quoted statement. DCC 18.136.020 does not include the word "best." The Hearings Officer finds that an applicant's burden is to demonstrate that a proposed zone change will serve the public health, safety and welfare considering the factors in subsections 1. and 2.

The Hearings Officer takes notice of the following facts: First, the Applicant is the parks district for Bend and has publicly announced that the Subject Property will be used for park purposes and second, the Amended Reclamation Plan and Modification and Decision for 247-23-000709-MC are founded upon and approved for the eventual use of the Subject Property's use as a park. The Hearings Officer finds the use proposed through this application is the development of a public park.

The Hearings Officer finds Applicant's proposed park use serves the public health, safety and welfare of the nearby and surrounding land uses. The Hearings Officer finds no evidence in the record that public services will not be available when the Subject Property is developed even if for residential purposes. The Hearings Officer finds, based upon evidence in the record, that impacts on surrounding land uses will be consistent with the specific goals and policies contained in the Comprehensive Plan.

## B. General Findings

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

#### Chapter 18.52, Surface Mining Zone Section 18.52.200 Termination Of The Surface Mining Zoning And Surrounding Surface Mining Impact Area Combining Zone

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

**FINDING:** The Hearings Officer incorporates Preliminary Findings for Reclamation (Section II, A. 1. **Reclamation of the SM Zoned Land**) as additional findings for this section.

Applicant's Burden of Proof states:

*This standard requires that Site No. 392 be 1) fully or partially mined, 2) no longer contain a significant resource, and 3) reclaimed in accordance with the reclamation plan approved by DOGAMI. The first two prongs are addressed in the responses to OAR 660-023-0180, which sets out the standards for determining whether an aggregate resource is significant. In the 2010 Decision, the County found the applicant met the first two prongs of this test based on Page 9 of 50 247-24-000404-PA, 405-ZC the evidence in the public record from the pit operator that the mine was closed in 2005 because all the usable material had been removed and that there is not a significant resource of fill material remaining on site. See Decision of the Deschutes County Hearings Officer, PA10-5; ZC-10-3, pg. 11. Furthermore, the Wallace Group Surface Mine Reclamation Evaluation, dated September 15, 2023 (Exhibit 8), which was submitted in support of the recent County Decision approving a modified Reclamation Plan for the subject property, 247-23-00079-MC, attached hereto as Exhibit 4 substantiates the evidence that the majority of the fill material has been removed and the site no longer contains a significant resource. The ESEE for site 392 is attached as Exhibit 9. The site was listed as significant for the presence of fill*

*material (sand and gravel) and not for aggregate. Mining at the site ceased in 2005 and it has remained in a partial state of reclamation since that time. All DOGAMI files for Site 392 have been closed since 2011. (Exhibit 10).*

*The mining element of the Comprehensive Plan does not identify a subsequent use for Site No. 392 and subsequent uses are not identified in the ESEE analysis for Site No. 392 adopted by the County. The Hearings Officer in the 2010 Decision questioned the requirement that the original topsoil be retained and replaced as being an indication the subsequent use may be for agriculture. However the Wallace Group Report demonstrates the amount of fill and topsoil originally thought to be present was not accurate and was relied upon as the evidentiary basis to modify the reclamation requirement based on existing and accurate site conditions. The evidence submitted herein and in the Modification Decision establishes the soils for the entire site are predominantly Class 7 and 8 and were improperly classified under NCRS mapping in 1992 at the time the Site Plan decision and reclamation requirements were originally imposed. Because the property does not meet the definition of Agricultural land, the Applicant proposes rezoning the property to RR-10 to allow its use in conjunction with the adjoining property to be master planned as a public park.*

Staff (Staff Report, page 10 of 50) concurred with the Applicant's analysis and concluded that the proposal complied with the above criterion.

The Hearings Officer, consistent with the incorporated Preliminary Findings (II.A.2 **Reclamation of SM Zoned Land**) finds that there is substantial evidence in the record to demonstrate that mining no longer occurs at the Subject Property. The Hearings Officer finds the Amended Reclamation Plan and the Findings and Decision for 247-23-000709-MC are the controlling documents related to reclamation at the Subject Property. The Hearings Officer finds DOGAMI reclamation requirements are met/satisfied. The Hearings Officer finds that the reclamation requirements of DCC 18 will be met consistent with the Amended Reclamation Plan and Findings and Decision for 247-23-000709-MC.

The Hearings Officer finds the application in this case meets the requirements of this criterion.

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

**FINDING:** The Burden of Proof states:

*The applicant proposes to remove the SMIA overlay zone associated with Site No. 392 concurrent with the rezone because protection for Goal 5 resources will no longer be necessary.*

Staff (Staff Report, page 10 of 50) concurred with the Applicant's analysis. The Hearings Officer concurs with Applicant and Staff comments. The Hearings Officer finds that the applicable standards for rezoning are addressed herein.

**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, also the property owner, has requested a quasi-judicial plan amendment and filed the applications for a plan amendment and zone change. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

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

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

**FINDING:** The Burden of Proof states:

*Per prior Hearings Officers decisions for plan amendments and zone changes on resource zoned property, this paragraph establishes two requirements: (1) that the zone change conforms to the Comprehensive Plan; and (2) that the change is consistent with the plan's introductory statement and goals. Both requirements are addressed below:*

**1. Conformance with the Comprehensive Plan:** *The applicant proposes a plan amendment to change the Comprehensive Plan designation of the subject property from Surface Mine and Agriculture to Rural Residential Exception Area. The proposed rezoning from SM and EFU-TRB to RR-10 will need to be consistent with its proposed new plan designation.*

**2. Consistency with the Plan's Introductory Statement and Goals.** *In previous decisions, the Hearings Officer found the introductory statement and goals are not approval criteria for the proposed plan amendment and zone change. [footnote states: Powell/Ramsey decision (PA-14-2 / ZC-14-2) and Landholdings decision (247-16-000317-ZC / 318-PA).] However, the Hearings Officer in the Landholdings decision found that depending on the language, some plan provisions may apply and found the following amended comprehensive plan goals and policies require consideration and that other provisions of the plan do not apply as stated below in the Landholdings decision:*

*"Comprehensive plan statements, goals and policies typically are not intended to, and do not, constitute mandatory approval criteria for quasi-judicial/and use permit applications. Save Our Skyline v. City of Bend, 48 Or LUBA 192 (2004). There, LUBA held:*

*'As intervenor correctly points out, local and statutory requirements that land use decisions be consistent with the comprehensive plan do not mean that all parts of the comprehensive plan necessarily are approval standards. [Citations omitted.] Local governments and this Board have frequently considered the text and context of cited parts of the comprehensive plan and concluded that the alleged comprehensive plan standard was not an applicable approval standard. [Citations omitted.] Even if the comprehensive plan includes provisions that can operate as approval standards, those standards are not necessarily relevant to all quasi-judicial land use permit applications. [Citation omitted.] Moreover, even if a plan provision is a relevant standard that must be considered, the plan provision might not constitute a separate mandatory approval criterion, in the sense that it must be separately satisfied, along with any other mandatory approval criteria, before the application can be approved. Instead, that plan provision, even if it constitutes a relevant standard, may represent a required consideration that must be balanced with other relevant considerations. [Citations omitted.]'*

*LUBA went on to hold in Save Our Skyline that it is appropriate to 'consider first whether the comprehensive plan itself expressly assigns particular role to some or all of the plan's goals and policies.' Section 23.08.020 of the county's comprehensive plan provides as follows:*

*The purpose of the Comprehensive Plan for Deschutes county is not to provide a site-specific identification of the appropriate land uses which may take place on a particular piece of land but rather it is to consider the significant factors which affect or are affected by development in the county and provide a general guide to the various decision which must be made to promote the greatest efficiency and equity possible, which managing the continuing growth and change of the area. Part of that process is identification of an appropriate land use plan, which is then interpreted to make decision about specific sites (most often in zoning and subdivision administration) but the plan must also consider the sociological, economic and environmental consequences of various actions and provide guidelines and policies for activities which may have effects beyond physical changes of the land (Emphases added.)*

*The Hearings Officer previously found that the above-underscored language strongly suggests the county's plan statements, goals and policies are not intended to establish approval standards for quasi-judicial/and use permit applications. In Bothman v. City of Eugene, 51 Or LUBA 426 (2006), LUBA found it appropriate also to review the language of specific plan policies to determine whether and to what extent they may in fact establish decisional standards. The policies at issue in that case included those ranging from aspirational statements to planning directives to the city to policies with language providing 'guidance for decision making' with respect to specific rezoning proposals. In Bothman LUBA concluded the planning commission erred in not considering in a zone change proceeding a plan policy requiring the city to '[r]ecognize the existing general office and commercial uses located \* \* \* [in the geographic area including the subject property] and discourage future rezonings of these properties.' LUBA held that:*

*'\* \* \* even where a plan provision might not constitute an independently applicable mandatory approval criterion, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant considerations, pursuant to ordinance provisions*



that require \* \* \* consistency with applicable plan provision.' (Emphasis added.)

The county's comprehensive plan includes a large number of goals and policies. The applicant's burden of proof addresses goals for rural development, economy, transportation, public facilities, recreation, energy, natural hazards, destination resorts, open spaces, fish and wildlife, and forest lands. The Hearings Officer finds these goals are aspirational in nature and therefore are not intended to create decision standards for the proposed zone change."

Hearings Officer Karen Green adhered to these findings in the Powell/Ramsey decision (file nos. PA-14-2/ZC-14-2), and found the above-referenced introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. This Hearings Officer also adheres to the above findings herein. Nevertheless, depending upon their language, some plan provisions may require "consideration" even if they are not applicable approval criteria. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192, 209 (2004). I find that the following amended comprehensive plan goals and policies require such consideration, and that other provisions of the plan do not apply:"

The comprehensive plan goals and polices that the Landholdings Hearings Officer found to apply include the following . . .

The present application is nevertheless consistent with the introductory statement because the requested change, as demonstrated herein, is consistent with State law and County plan provisions and zoning code provisions implementing the Statewide Planning Goals.

The Hearings Officer finds that the Applicant utilized the above-quoted analysis, as well as analyses provided in prior Hearings Officers' decisions, to determine and respond to only the Comprehensive Plan Goals and policies that apply. Staff (Staff Report, page 13 of 50) concurred with the Applicant's analysis and the Hearings Officer concurs with Applicant and Staff that the above provision shall be met based on Comprehensive Plan conformance as demonstrated in subsequent findings.

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

**FINDING:** The Burden of Proof states:

The applicant is proposing to change the zone classification from SM and EFU to RR-10. Approval of the application is consistent with the purpose of the RR-10 zoning district, which is stated in DCC 18.60.010 as follows:

**18.60.010 Purposes**

The purposes of the Rural Residential Zone are to provide rural residential living environments; to provide standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources; to manage the extension of public services; to provide for public review of nonresidential uses; and to

*balance the public's interest in the management of community growth with the protection of individual property rights through review procedures and standards.*

*The subject property is not suited to full-time commercial farming as discussed in the findings above. The RR-10 zone will allow property owners to engage in recreational uses, hobby farming, and redevelop the property in conjunction with the adjacent lands under a park Master Plan. The low-density of development allowed by the RR-10 zone will conserve open spaces and protect natural and scenic resources. In the Landholdings case, the Hearings Officer found:*

*I find that the proposed change in zoning classification from EFU is consistent with the purpose and intent of the MUA-10 zone. Specifically, the MUA-10 zone is intended 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. Approval of the proposed rezone to MUA-10 would permit applications for low-density development, which will comprise a transition zone between EFU rural zoning, primarily to the east and City zoning to the west.*

Staff (Staff Report, page 14 of 50) requested the Hearings Officer make specific findings for this criterion. The Hearings Officer incorporates the findings for Goal 14 as additional findings for this policy. The Hearings Officer finds Applicant's above-quoted statement is consistent with the intent of this policy. Based upon the incorporated findings and the Applicant's statements contained in the Burden of Proof the Hearings Officer finds this policy is met.

**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 Burden of Proof states:

*Necessary public facilities and services are available to serve the subject property. Transportation access to the property is available from Rickard Road to the north, Arnold Market Road to the east, Back Alley to the south and Bobcat Road to the west.*

*The Transportation Study prepared by Joe Bessman of Transight Consulting (Exhibit 12) submitted herewith establishes that considering the most intense residential scenario (clustered or planned units on 5-acre equivalent lots) the site would generate about 175 additional weekday daily trips, including about 29 more trips during the weekday p.m. peak hour. Comparatively, if the site were developed as a public park, the daily trips would be reduced, but a small increase in weekday p.m. peak hour trips could be generated. Again, with the current approval for a Surface Mining operation the type of trips would change, and passenger cars would have much less impact on the system than aggregate trucks. The study includes operational analysis of the SE 27th Street / SE Rickard Road intersection. Table 5 of the report, as set forth below, shows that within each of the scenarios the SE 27th Street / SE Rickard*

Road intersection performs acceptably per the adopted City of Bend Standards.

**Table 5. Intersection Operational Results Summary, Weekday PM Peak Hour**

Scenario	Jurisdiction/ Standard	LOS	v/c Ratio	Delay (s)	95 <sup>th</sup> % Queue (ft)	Acceptable?
Existing Zoning (Figure 5 Volumes)	City of Bend Peak Hour v/c Ratio <1.0	WB: LOS E	WB: 0.67	WB: 35.5 s	WB: 125 ft	✓
#1: Outright Uses		WB: LOS E	WB: 0.66	WB: 35.8 s	WB: 125 ft	✓
#2: Conditional Uses		WB: LOS E	WB: 0.71	WB: 40.3 s	WB: 125 ft	✓
#3: Park Use		WB: LOS E	WB: 0.67	WB: 36.5 s	WB: 125 ft	✓

*The property receives police services from the Deschutes County Sheriff. It is in Rural Fire Protection District #2. Neighboring properties contain residential uses, which have water service from a municipal source or wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.*

Applicant provided evidence related to traffic impacts. County transportation staff reviewed Applicant’s traffic analysis and concurred with the Applicant’s assumptions, methodology and conclusions. The Hearings Officer finds no evidence in the record to dispute the Applicant’s traffic analysis and concludes that the proposed zoning will serve the public health, safety and welfare considering traffic impacts. Applicant noted that the Subject Property is served by the Deschutes County Sheriff, and is in Rural Fire Protection District #2. Applicant also noted that the Subject and immediately surrounding area are served by either a municipal water source or by wells and that electrical and telephone services are available. Applicant stated that the Subject Property, including many nearby properties are served by on-site sewage disposal services.

The Hearings Officer finds evidence in the record that public services to serve the Subject Property, in the event this application is approved, are available. The Hearings Officer finds no evidence is in the record suggesting public services will not be available to the Subject Property if rezoned as requested by Applicant.

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

**FINDING:** The Burden of Proof states (pages 22 & 23):

*The RR-10 zoning is consistent with the specific goals and policies in the comprehensive plan discussed above. The RR-10 zoning allows rural uses consistent with the uses of many other properties in the area of the subject property. In addition, the RR-10 zoning provides a proper transition zone from the City, to rural zoning, to EFU zoning.*

*The zone change will not impose new impacts on the EFU-zoned land adjacent to or nearby the subject property because many of those properties are residential properties, hobby farms, already developed with dwellings, not engaged in commercial farm use, are idle, or are otherwise not suited for farm use due to soil conditions, topography, or ability to make a profit farming. The historic use of the property for surface mining created greater impacts to surrounding properties than the proposed RR-10 zoning would allow.*

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

Staff requested that the Hearings Officer make specific findings for this criterion. The Hearings Officer reviewed the Applicant's submittals (Burden of Proof, Supplemental Burden of Proof, Open-record evidence submission and Final Argument). The Hearings Officer finds that Applicant did identify and provide extensive evidence related to comprehensive plan policies related to Applicant's assertion that the Subject Property was not agricultural land. The Hearings Officer finds Applicant's evidence related to other "relevant" Comprehensive Plan goals/policies was less comprehensive. However, the Hearings Officer finds that Applicant met the minimum standard in providing evidence that its proposal will create minimal impacts. The Hearings Officer finds Applicant's proposal, in this case, sufficiently addresses this policy.

**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:** COLW (11/12/2024, page 5) argued that this criterion was not satisfied. COLW stated the following:

*DCC18.136.020(D) requires the applicant to show that there has been a mistake in the initial zoning or a change in circumstances since the property was last zoned to justify such a rezone. Here, there is no initial mistake or change in circumstances that would justify a rezoning to RR-10.*

*1. Mistake: As the 2010 Hearings Officer Decision has already determined, zoning the relevant 91 acres*

*for surface mining was not a mistake, nor was a mistake made in zoning the remainder of the property EFU under PL-15 in 1979. "As an initial matter, Staff concluded that there was not a mistake made in either the decision to zone the 91 acres for surface mining, nor a mistake in zoning the remainder of the property exclusive farm use under PL-15 in 1979. Staff also speculated that the land holding was large, and the 450 or so acres would likely not have qualified for a rural residential exception area in 1979 because there was little development in the area and there was no evidence that the property was committed to any development proposal. The Hearings Officer agrees." Exhibit 1, 2010 Hearings Officer Decision p. 20.*

Applicant, in its Burden of Proof states (pages 23 & 24):

*In 1979, Deschutes County adopted its first comprehensive plan and zoning ordinance that implemented the Statewide Land Use Planning Goals. The County's comprehensive plan map was prepared prior to the USDA/NRCS's publication of the "Soil Survey of Upper Deschutes River Area, Oregon." This study replaced a prior study that provided very general information about soils. This Soil Survey of the Upper Deschutes River Area is more comprehensive than the prior soils mapping publication but it continues to provide only general soils information rather than not an assessment of soils on each parcel in the study area.*

*When the County first implemented the Statewide Goals, it applied resource zoning using a broad brush. All undeveloped rural lands were assumed to be resource land. Then-existing developed rural lands not suited for resource use were granted exceptions to the Goals that protect resource lands. The County allowed landowners a brief period of time after adoption of PL-15 (1979) to petition the County to remove nonresource properties from resource zone protections but made no effort to determine whether lands might be nonresource lands that do not merit the imposition of stringent land use regulations that protect rural resources – typical farm and forest resources.*

*The EFU zoning designation was likely based on the best soils data that was available to the County at the time it was originally zoned, during the late 1970's, when the comprehensive plan and map were first adopted and when agricultural zoning was applied to land with no history of farming. [footnotes 3 and 4 state the following:*

*<sup>3</sup>Mr. Gallagher's soils analysis report for the subject property determined that the subject property was previously mapped by the USDA-SCS Soil Survey of the Deschutes County Area and compiled by NRCS into the Web Soil Survey. The property was previously mapped at 1:20,000 scale, which is generally too small a scale for detailed land use planning and decision making, according to Mr. Gallagher.*

*<sup>4</sup>Source: Agricultural Lands Program, Community Involvement Results, Community Development, Deschutes County. June 18, 2014]*

The Hearings Officer incorporates as additional findings for this criterion, the findings (set forth later in this recommendation) for *Chapter 2, Resource Management, Section 2.2, Goal 1, Preserve and Maintain Agricultural Lands and Industry* and the findings for *Oregon Administrative Rules Division 33-Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands*. The Hearings Officer rejects COLW's assertion that the 2010 Hearings Officer decision referenced in the quoted material above

is determinative in this case.

The Hearings Officer finds the evidence provided in the record of this case is persuasive that the *initial* EFU zoning was based upon generalized soils mapping data and that the evidence (Applicant's soil study/analysis) in this case more accurately and precisely identified soil characteristics at the Subject Property. The Hearings Officer finds that the *initial* designation of EFU for the Subject Property was a mistake.

In the alternative, the Hearings Officer considers whether there has been a change in circumstances since the property was last zoned. COLW argued that this criterion was not met because there was not change in circumstances. COLW (11/12/24, page 5) stated the following:

*No change in circumstances, especially regarding the EFU-zoned portion of the property, can justify a rezone of the property.*

*The applicant has alleged that the soils have changed. Application Materials, p. 40. This is not true. The soils are the same agricultural soils that were properly mapped and zoned previously. Both the DOGAMI reclamation permit and the 2023 Amended Reclamation Plan required that the top soil initially stripped from the property be the same top soil that is restored to the property. In areas zoned EFU and not impacted by surface mining activity, the soil is the same.*

*The applicant also alleges that the viability of commercial farming has significantly changed based on water availability. This is unconvincing for several reasons. First, the subject property derives its water rights from Arnold Irrigation District (Arnold). Arnold holds water rights that are relatively senior within the basin and at minimal risk of being undeliverable. Second, many farm uses, including livestock grazing, do not necessarily require irrigation.*

Applicant, in its Burden of Proof (pages 24 & 25) stated the following:

*There has clearly been a change in circumstances since the property was last zoned in the 1970s:*

*Soils: New soils data provided in Mr. Gallagher's soils report shows the property does not have agricultural soils.*

*Surface Mining Complete: The Wallace Group Report (Exhibit 8) and Amended Reclamation Plan (Exhibit 11) approved by the County in 2023 established mining on the property is complete and the remaining reclamation activities can be completed in conjunction with the site development and master plan for a public park.*

*Farming Economics and Viability of Farm Uses: The economics of farming and the viability of commercial farm uses in Deschutes County have significantly changed. Making a profit in farming has become increasingly difficult, particularly on parcels that are relatively small for livestock grazing and that have inadequate soils or irrigation for raising crops such as the subject property. The reality of the difficulties agricultural producers face in Deschutes County is demonstrated below in the stakeholder interview of the Deschutes County Farm Bureau in the County's 2014*

Agricultural Lands Program, Community Involvement Results:

*Today's economics make it extremely difficult for commercial farmers in Deschutes County to be profitable. Farmers have a difficult time being competitive because other regions (Columbia Basin, Willamette Valley) produce crops at higher yields, have greater access to transportation and*

*Decline in Farm Operations: The number of farm operations have steadily declined in Deschutes County between 2012 and 2017, with only a small fraction of farm operators achieving a net profit from farming in 2017. Since the property was zoned, it has become evident that farm uses are not viable on the subject property. The economics of farming have worsened over the decades making it difficult for most Deschutes County property owners to make money farming good ground and impossible to earn a profit from attempting to farm Class 7 and 8 farm soils. In 2017, according to Table 4 of the 2017 US Census of Agriculture, Exhibit 13, only 16.03% of farm operators achieved a net profit from farming (238 of 1484 farm operations). In 2012, the percentage was 16.45% (211 of 1283 farm operations). In 2007, according to the 2012 US Census of Agriculture, that figure was 17% (239 of 1405 farm operations). Exhibit 14. The vast majority of farms in Deschutes County have soils that are superior to those found on the subject property. As farming on those superior soils is typically not profitable, it is reasonable to conclude that no reasonable farmer would purchase the subject property for the purpose of attempting to earn a profit in money from agricultural use of the land.*

*Population Changes; Encroaching development: The population of Deschutes County has, according to the US Census, increased by 336% between 1980 when the County's last zoned this property and 2021 from 62,142 persons to 209,266 persons. The supply of rural residential dwelling lots has been diminishing in the same time period. Encroaching development east of Bend's Urban Growth Boundary has brought both traffic and higher density residential uses and congestion to the area, and within a mile of the subject property.*

*The above analysis regarding the completion of surface mining, the farming economics, viability of farm uses, decline in farm operations, and changing population data and encroaching development demonstrates that a change in circumstances has occurred since the property was last zoned. In addition, Mr. Gallagher's soil assessment confirms that the subject property does not have agricultural soils.*

COLW's asserted that Applicant claimed that the "soils have changed." COLW referenced stockpiled soil that will be used to re-cover a portion of the mining section of the Subject Property as basis for Applicant's alleged claim that the "soils have changed." This COLW claim is not supported by evidence in the record.

The Hearings Officer reviewed Applicant's soil analysis carefully and concluded that Applicant's soil professional located test/bore pits throughout the Subject Property. The Hearings Officer finds the test/bore pits locations fairly and accurately provided representative results which can be relied upon in meeting the legal requirements of relevant state law/regulations.

The Hearings Officer finds the "changed circumstances" factors discussed in the Applicant's above-

quoted statements best address the changed circumstances portion of this approval criterion. The Hearings Officer concurs with Applicant that there have been changes in circumstances since the Subject Property was last zoned.

The Hearings Officer finds this criterion is met.

## **Deschutes County Comprehensive Plan**

### **Chapter 1, Comprehensive Planning**

#### Section 1.3, Land Use Planning

#### **Goal 1, Maintain an open and public land use process in which decisions are based on the objective evaluation of facts.**

**FINDING:** The Applicant's proposal in this case is being evaluated based on an objective review of compliance with Statewide Planning Goals, Deschutes County Comprehensive Plan policies, and Oregon Administrative Rules. A public hearing was held before a Hearings Officer on November 12, 2024, and members of the public were given an opportunity to attend and testify at that hearing. Pursuant to DCC 22.28.030, the Board of County Commissioners will take final action on the application and may choose to either adopt the Hearings Officer findings or conduct their own hearing. This Comprehensive Plan Amendment and Zone Change application will be evaluated through an open process that allows for public input and follows Deschutes County's Procedures Ordinance. The Hearings Officer finds that within each of the steps described above, there is an open and public process that is based on an objective evaluation of facts. The Hearings Officer finds that this criterion will be met.

### **Chapter 2, Resource Management**

#### Section 2.2 Agricultural Lands

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

**FINDING:** Applicant provided the following comments specifically related to Goal 1:

*The applicant is pursuing a plan amendment and zone change on the basis that the subject property does not constitute "agricultural lands", and therefore, it is not necessary to preserve or maintain the subject lands as such and this goal does not apply. In the Landholdings decision (and the Powell/Ramsey decision) the Hearings Officer found that Goal 1 is an aspirational goal and not an approval criterion.*

The Hearings Officer finds that COLW did not clearly address the import of Goal 1 (approval criterion or aspirational). Further, the Hearings Officer finds, consistent with prior decisions/recommendations, that Goal 1 is aspirational. However, despite Goal 1 being considered aspirational and not a relevant approval criterion, the Hearings Officer (in the alternative) provides



the following findings.

Issues related to this Goal 1 were extensively covered by the Applicant and COLW. The issues raised by Goal 1 are interwoven with other relevant Goals and State laws/regulations and policies and DCC approval criteria. The Hearings Officer intends to address comprehensively many of the issues related to the determination of whether the Subject Property is "Agricultural Land" in this section and will incorporate and supplement these findings in later relevant Goals and approval criteria.

Applicant asserts that the Subject Property is not "Agricultural Land" and COLW that the Subject Property is, based upon the factual evidence and relevant law, "Agricultural Land." The Hearings Officer provides the following "Soils" and "Agricultural Land" findings.

### **Soils.**

COLW provided extensive comments related to "soils" (11/12/2024, pages 6-9). Those comments follow:

*ORS 215.211(1) allows a person to provide more detailed soil information to the county to the extent that it would "assist a county to make a better determination of whether land qualifies as agricultural land." Here, the applicant's soil survey should not be relied upon by the county because it is deficient for several reasons.*

*First, the applicant's soil study varies so substantially from the existing NRCS data as to be unbelievable. The applicant's soils report ("Gallagher Report") asserts that the subject property is predominantly class VII and VIII soils, finding that "the combined percentage of Class 7 and 8 non-high value farmland soils is 66 percent (183 acres)." Application Materials, Page 91. This is a surprising departure from the NRCS soils information on file. Existing NRCS data shows that there are no class VII and VIII soils on the property. Instead, the entire property consists of exclusively class VI or below soils, including substantial acreage which would be class III soil if irrigated. Application Materials, p. 94. Put another way, according to NRCS data, far from containing 66% nonagricultural soils, the subject property consists entirely of the best agricultural soils available for farm use in the region.*

*DLCD has previously noted in 2010 that it is "surpris[ing] that the NRCS data would be off to such an extent." Exhibit 1, p. 6. LandWatch agrees. Such a discrepancy seems hard to reconcile, especially considering that another independent soil scientist found that "[t]he NRCS soil survey on this study area was reviewed on-site and determined to be accurate at the time of mapping." (emphasis added) Exhibit 4, p. 5. The Borine Soil Study at Exhibit 4 was provided to the County during the 2010 failed attempt to rezone the subject property to rural residential.*

*The second reason that the Gallagher Report is unreliable is the creation of a new "Mined Land and Filled" (MF) soil mapping unit within the subject property. Application Materials, p. 94. The MF mapping unit is the "reclaimed" area where mining excavation took place. The Gallagher Report revised the 68 acres (24%) within the MF mapping unit to a land capability class of VII and declared it non-suitable for farm use. Application Materials, p. 91. As a reminder, the 2023 Amended Reclamation Plan was approved based on findings that the surface mined area was presently covered with 6-12 inches of*

27A Clovekamp sandy loam soil. Application Materials, p. 270. As a result, the revision of the MF mapping unit to Class VII soil is hard to reconcile with the Amended Reclamation Plan because it suggests that the agricultural-quality topsoil was either never restored, or the Gallagher Report is misleading.

The creation of a revised nonagricultural soil mapping unit in the reclaimed mining area by a private soil study was similarly problematic during the 2010 failed attempt to rezone the property. LandWatch notes that in the Hearings Officers' 2010 Decision denying the previous rezone attempt, the County HO stated that they could not "recommend that the 91 acre former surface mine be counted in the ratio of agricultural land to nonagricultural land to determine predominance under OAR 660- 003-0020(1)(a)(A)." Exhibit 1, p. 21-22. The 2010 County HO reasoned that based on evidence in the record, either (1) conditions of reclamation requiring the restoration of 27A Clovekamp Loamy sand to the former surface mine area had not been adhered to; or (2) the conditions were adhered to and the former surface mine area is properly covered with a layer of Class VI nonirrigated/Class III irrigated High-Value agricultural soil. Exhibit 1, p. 22. In either case, the circumstances would not allow the subject property to be rezoned consistent with Goal 3 and OAR 660- 033- 0020(1)(a)(A). Exhibit 1, p. 22. Moreover, the HO observed that based on the 1992 ESEE analysis for SP-92-98, there is a "strong inference that the surface mine could be reclaimed and used consistent with its former agricultural land status after mining was completed." Exhibit 1, p. 23. The 2010 decision concluded, "For this reason alone, the Hearings Officer cannot recommend approval of this application." Exhibit 1, p. 23.

The reasoning behind the 2010 HO denial remains persuasive. Based on the Gallagher Report, it is apparent that the MF mapping unit has not been properly reclaimed to its prior agricultural capability and therefore, should not be counted into the ratio of agricultural to nonagricultural land for the purposes of analysis under OAR 660-003-0020(1)(a)(A). The Gallagher Report describes various individual sample sites within MF mapping unit as "v. compacted," "extremely compacted," and "2-3 layers in compacted fill". Application Materials, p. 120. Other sample sites in the MF mapping unit contain "asphalt chunks," "chunks concrete," and "pea gravel". Application Materials, p. 109, p. 120, p. 123. Site 168 on the property is described as having been "eroded to bedrock on surface", and that it has been either "eroded or dug channel, all rocks." Application Materials, p. 128. Site 3 within the MF mapping unit does not contain any sort of sampling at all, and instead simply notes that there is a "Steep sided sand pile" and "stockpiled top soil". Application Materials, p. 109. Site 11 is described as a "Rock Pile" with notes providing that there was "only rock on surface". Application Materials, p. 110. Overall, of the 38 sample sites occurring in the MF mapping unit, 32 resulted in "refusal" which is to say termination of a borehole if the hammer does not advance more than six inches after fifty blows.[footnote omitted] Figure 1. Other test sites on the subject property, with the appropriate amount of agricultural soils, resulted in refusal less than 10% of the time. Figure 1. This suggests that the extent to which "soil" within the "reclaimed" area is compacted is the result of neglect by the property owner or that 6-12 inches of 27A Clovekamp soil was not restored at all.

**Figure 1: Gallagher Report Test Sites resulting in "Refusal"**

	Total Number	Number resulting in "refusal"	Percentage of sites resulting in "refusal"
Sample Sites Revised to MF	38	32	84%

Other Sample Sites	194	15	17%
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*If the 68 acres (24%) within the MF mapping unit was considered class VI soil or better (consistent with the NRCS information), when combined with the other 96 acres (35%) of Class III irrigated/class VI non-irrigated soil, the subject property would be predominantly soils suitable for agriculture under OAR 660-033-020(1)(a)(A). LandWatch respectfully requests the Hearings Officer to find that the subject property is agricultural land based on the fact that it is predominantly (>59%) Class III irrigated/Class VI non-irrigated soils.*

The Hearings Officer accepts COLW's comments as lay observations but not as expert testimony. The Hearings Officer finds COLW did not provide persuasive authoritative evidence disputing the Applicant's professional soil expert's evidence or analysis.

Applicant's Burden of Proof states:

*As demonstrated in this application, the subject property does not constitute "agricultural land" and therefore, is not necessary to preserve and maintain the County's agricultural industry. Mr. Gallagher's soils assessment demonstrates that the subject property consists predominantly (66%) of Class 7 and 8 non-agricultural soils.*

*According to Mr. Gallagher, these soils have severe limitations for agricultural use of the subject property. The soils found on the subject property are low fertility, being ashy sandy loams with a low cation exchange capacity (CEC) of 7.5 meq/100 gm and organic matter is very low for Gosney 0.75% and low for Deskamps 1.5%. These soils do not have a large capacity to store soil nutrients especially cations, and nitrogen fertilizers readily leach in sandy soils. The soil depth is further limiting because it limits the overall volume of soil available for plant roots and limits the size the overall soil nutrient pool. Additionally, the soil available water holding capacity is very low for Gosney and Henkle less than 1.8 inches for the whole soil profile, and for the very shallow soils it is half this much. The Deskamps soils have only about 2 to 4 inches AWHC for the entire profile. The combination of low fertility and low AWHC translate into low productivity for crops. NRCS does not provide any productivity data for non-irrigated crops on these soils. This site does not have water infrastructure for irrigation so the productivity is lower.*

*According to Mr. Gallagher the subject property is not suited for livestock grazing on a commercial scale. The soils here have major management limitations including ashy and sandy surface texture. The majority of the area has soils that are very shallow to shallow with many rock outcrops and very stony to extremely stony surface which makes seeding impractical with conventional equipment. The mined and filled area has low available water holding capacity and from the barren cover on the surface and very compacted subsoil they also have low potential for forage production.*

*Wind erosion is a potential hazard and is moderately high when applying range improvement practices. Because the soil is influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated. Pond development is limited by the soil depth. The restricted soil depth limits the choice of species for range seeding to drought-tolerant varieties. Further, range seeding with ground equipment is limited by the rock fragments on the surface. The*

*areas of very shallow soils and rock outcrop limit the areas suitable for grazing and restrict livestock accessibility.*

*Based on the revised Order-1 map the annual productivity in a normal year is about 74 tons annual range production for the entire property. This is lower (50 tons) for an unfavorable year and higher (98 tons) for a favorable year. The animal use months (AUMs) for this property is about 163 (based on the revised soil map and a monthly value of 910 pounds forage per 1 AUM equivalent to pounds per cow calf pair). This model assumes the cow's take to be 25% of annual productivity in order to maintain site productivity and soil health (NRCS 2009). This limits the grazing to 14 cow calf pairs for 12 months in a normal year and fewer 9 cow calf pairs in unfavorable year and more 18 in a favorable year. This is not at an economical cattle production scale because the productivity of the land is too poor and is not conducive to rangeland improvements.*

The Hearings Officer finds Applicant's soil study/report represents a soil analysis conducted by a qualified expert/professional. The Hearings Officer finds that Applicant's soil study/report professionally and accurately reflects the soil characteristics on the Subject Property. The Hearings Officer finds overall the Subject Property consists predominantly (66%) of Class 7 and 8 non-agricultural soils.

### **Agricultural Lands**

COLW disputed Applicant's claim that the Subject Property is "Agricultural Land" as that phrase is defined in relevant law (Hearing testimony of Robin Hawakawa and record submissions dated 11/12/24 and 12/3/24). Applicant responded to each of COLW's "Agricultural Land" arguments in a thorough and comprehensive manner in its Final Argument (12/9/24). The Hearings Officer finds that Applicant's Final Argument comments are persuasive. Rather than attempt to summarize or characterize (or mischaracterize) Applicant's Final Argument statements the Hearings Officer includes Applicant's Final Argument statements related to "Agricultural Land" (including discussion of "farm unit") in full. Those comments follow for multiple pages:

#### *A. Background*

*COLW conflates any agricultural activity with "farm use," which is a defined term and the central component of the determination of whether land is "agricultural land" as used in Goal 3 and the administrative rules. COLW likewise conflates EFU zoned and irrigated land with "agricultural land," again which is a defined term with distinct components the subject property lacks.*

*The relevant definitions for the analysis are as follows:*

**"Agricultural land"** *is land which 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 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-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;"*

*OAR 660-033-0020(1)(a)." Emphasis added.*

**"Farm use" is:**

*"The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (Lands not eligible for special assessment) (3) or 321.824 (Lands not eligible for special assessment) (3)."*

*ORS 215.203(2)(a). Emphasis added.*

**"Farm unit" is:**

*"[T]he contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.*

*ORS 215.203. Emphasis added.*

*To qualify as "agricultural land" in Central Oregon, the land must be composed predominantly of Class 1-6 soils or it must be suitable for farm use, which means it must be capable of being farmed for a profit. As is evident from the local nonresource cases, it is rare to have land in Central Oregon that does not have predominantly Class 1-6 soils and that can be farmed for a profit. The present case is*

no exception as demonstrated by the evidence in the record.

#### *B. Nonresource Process—Definition of Agricultural land*

OAR 660-033-0030 requires that “all land defined as ‘agricultural land’ in OAR 660-0330020(1) be inventoried as agricultural land.” As is relevant here, OAR 660-033-0020(1)(a)(A) defines “agricultural land” to include soils classified predominantly Class I-VI soils in Eastern Oregon.[footnote omitted] The Property would meet this definition under the NCRS soil map but this classification is not controlling when, as here, a more detailed soils analysis is provided. Both Statewide Goal 3 and ORS 215.211 allow the county to utilize information provided by a more detailed soil study to provide a better determination of whether land is “Agricultural Land” than provided by the NCRS soils survey. The soil study provided by the Applicant confirms the property is predominantly Class 7 and 8 soils and is the only evidence in the record other than the NCRS map, which is based on a scale of 1:20,000 and provides only a generalized map of soils in the area, not the detailed site-specific analysis provided by the Applicant.

COLW argues the soil study submitted by the Applicant’s certified soils examiner and certified by DLCD is somehow deficient because it varies significantly from the NCRS data and because it determined the soils in the mined area were poor and not Class 1-6, as was presumed when the original site plan for the mine was approved in 1998. None of COLW’s arguments or speculation about the soil study are sufficient to undermine the study or the qualifications of the soils examiner. It is neither surprising nor uncommon for the site specific study, which includes 232 samples from combined soil test pits, soil borings and surface observations to vary from the more generalized, non-site specific NCRS maps based on a 1:20,000 scale. Furthermore, the lack of agricultural soils in the mined area is also not surprising nor suspicious based on the site conditions discovered subsequent to the 1998 site plan and the bulk of evidence in the record substantiating the lack of agricultural soils.

OAR 660-033-0020(1)(a)(B) and (C) then expands the definition of “Agricultural Land” to include:

*(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.*

OAR 660-033-0020(1)(a)(C) is addressed in more detail below, however it is important to note that even when the “considerations” found in sub (B) point towards the Property being suitable for “farm use,” none of the considerations, on their own, are determinative and all are qualified by the term “farm use as defined in ORS 215.203(2)(a)[.]” OAR 660-033-0020(1)(a)(B).

In relevant part, ORS 215.203(2)(a) states that:

*“‘farm use’ means the current employment of land for the primary purpose of obtaining a profit*

*in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.*

*Emphasis added.*

*What is clear in this definition is that “farm use” (as it is used in Oregon law) requires more than just having a cow or horses, growing a patch of grapes, or having a passion for rural living. What the law requires is that the land be used for “the primary purpose of obtaining a profit in money[.]” ORS 215.203(2)(a). In that, the law is clear.*

*Oregon courts have consistently addressed profitability as an element of the definition of “agricultural land.” In Wetherell v. Douglas County, 342 Or 666 (2007), the Oregon Supreme Court held that profitability is a “profit in money” rather than gross income. In Wetherell, the Court invalidated a rule that precluded a local government from analyzing profitability in money as part of this consideration. Id. At 683. As may be helpful here, the Court stated:*

*“We further conclude that the meaning of “profitability,” as used in OAR 660033-0030(5), essentially mirrors that of “profit.” For the reasons described above, that rule’s prohibition of any consideration of “profitability” in agricultural land use determinations conflicts with the definition of “farm use” in ORS 215.203(2)(a) and Goal 3, which permit such consideration. OAR 660-0330030(5) is therefore invalid, because it prohibits consideration of “profitability” The factfinder may consider “profitability” which includes consideration of the monetary benefits or advantages that are or may be obtained from the farm use of the property and the costs or expenses associated with those benefits, to the extent such consideration is consistent with the remainder of the definition of “agricultural land” in Goal 3.*

*Finally, the prohibition in OAR 660-033-0030(5) of the consideration of “gross farm income” in determining whether a particular parcel of land is suitable for farm use also is invalid. As discussed above, “profit” is the excess or the net of the returns or receipts over the costs or expenses associated with the activity that produced the returns. To determine whether there is or can be a “profit in money” from the “current employment of [the] land \* \* \* by raising, harvesting and selling crops[.]” a factfinder can consider the gross income that is, or could be, generated from the land in question, in addition to other considerations that relate to “profit” or are relevant under ORS 215.203(2)(a) and Goal 3.*

*We therefore hold that, because Goal 3 provides that “farm use” is defined by ORS 215.203, which includes a definition of “farm use” as “the current employment of land for the primary purpose of obtaining a profit in money[.]” LCDC may not preclude a local government making a land use decision from considering “profitability” or “gross farm income” in determining whether land is “agricultural land” because it is “suitable for farm use” under Goal 3. Because OAR 660-033-0030(5) precludes such consideration, it is invalid. Emphasis added. Id., at 681-683.*

*COLW argues that the Property is suitable for farm use because other properties in the surrounding area have irrigated land and appear to be engaged in some form of agricultural activity. However, the*

fact of the matter is that most Deschutes County EFU properties simply cannot meet this state definition because the land cannot be put to profitable use. The 2017 Census of Agriculture [footnote omitted] (**Exhibit 13**) makes it clear that most farms in the area lose money – a lot. And, while it is the Applicant's burden to show it meets the applicable criteria, the applicable criteria do not ask the Applicant to prove that no agricultural use could ever occur on the Property. The Applicant need only demonstrate that no reasonable farmer would attempt to make a “farm use” as that term is defined by ORS 215.203 – for the primary purpose of obtaining a profit. In essence, the applicant need only prove that the land is not suitable for farm use because it cannot make a profit from engaging in agricultural activities on the subject property. The Applicant has done so through the evidentiary submissions in the original application materials and as supplemented with the testimony of the farmer growing hay under the pivot on the adjacent parcel, Ethan O'Brien, **Exhibit 22**, and a local farmer/rancher Rand Campbell, **Exhibit 23**.

COLW's continued reference to TL300 being engaged in “commercial farm use” and being forced out of agricultural production is disingenuous and not supported by the evidence in the record. COLW offers its unsubstantiated opinions about the testimony of the two independent local farmers/ranchers about the unsuitability of the subject property for farm use with a complete lack of evidentiary support. These speculative arguments are not evidence and are insufficient to undermine the actual experience of the farmers and their first-hand experiences and impressions of the land based on their years of experience conducting viable commercial farm operations in Central Oregon.

### C. Suitability Factors

(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;

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

Broken apart individually, this leaves the decision maker with the following considerations:

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

This list of considerations is just that: considerations. None of them are determinative of whether a property is suitable for farm use. As is described on pages 30-34 of the original application materials, and pages 8-11 of the Soil Assessment, Exhibit 6, [footnote – summarized mistaken labeling of Exhibits] and further supported below, each of these considerations, on balance, can reasonably determine that the Property is not suitable for farm use.



### **a. Soil Fertility**

*The Property, as already established, has shallow, rocky soils. COLW argues that the Property will become suitable under the "soil fertility" consideration once reclamation has properly occurred. COLW is wrong. It is established in the Reclamation Evaluation and the Amended Reclamation Plan, there is 6-12 inches of topsoil over reclaimed wasterock. Even with the additional topsoil, the property will not be suitable for farm use without significant expenditure as established in the testimony of Ethan O'Brien, Exhibit 22, and Rand Campbell, Exhibit 23. COLW opines that once reclaimed, the property could be suitable for farm use. However, it is not substantial evidence for COLW to simply argue that there must be some agricultural use that may be made on the property. It is substantial evidence that the Applicant has submitted testimony of 2 farmers and ranchers, both of whom are familiar with and have been onsite, testifying that they would not attempt to establish such uses on the Property, or, that other cost concerns make it infeasible. COLW has submitted no actual evidence to the contrary and it is insufficient to merely attempt to poke holes in the Applicant's evidence as opposed to offering evidence to support its own position. See *May Trucking Co. v. Dept. of Transportation*, 203 Or App. 564, 572-573, 126 P.3d 695, 700-701 (2006).*

*Furthermore, the Applicant's DLCD-accepted Soil Study that was prepared by Mr. Andy Gallagher, Red Hills Soils, contains several notable findings within the Soil Study. For example, Mr. Gallagher found:*

*"Important soil properties affecting the soil fertility and productivity of the soils are very limiting to crop production on this parcel. The soils here are low fertility, being ashy sandy loams with a low cation exchange capacity (CEC) of 7.5 meq/100 gm and organic matter is very low for Gosney 0.75% and low for Deskamps 1.5%. These soils do not have a large capacity to store soil nutrients especially cations, and nitrogen fertilizers readily leach in sandy soils. The soil depth is further limiting because it limits the overall volume of soil available for plant roots and limits the size the overall soil nutrient pool. Additionally, the soil available water holding capacity is very low for Gosney and Henkle less than 1.8 inches for the whole soil profile, and for the very shallow soils it is half this much. The Deskamps soils have only about 2 to 4 inches AWHC for the entire profile. The combination of low fertility and low AWHC translate into low productivity for crops. NRCS does not provide any productivity data for non-irrigated crops on these soils." **Exhibit 6**, page 8.*

*These findings are further supported by the experience of Ethan O'Brien in farming of the adjacent parcel under the pivot who testified that the parcel, even when irrigated, was not worth farming based on a number of factors affecting the fertility including soil capacity, expense of soil amendments, spraying, seeding, etc. **Exhibit 22**. Likewise, Rand Campbell corroborated these findings based on his experience farming and ranching in Central Oregon and his onsite assessment of the subject property. Mr. Campbell found even if the mined area were improved with additional topsoil, the cost to purchase water and improve the land with irrigation facilities would far outweigh any anticipated profit given the low productivity of the land.*

### **b. Suitability for Grazing**

*COLW argues that the Property is suitable for grazing, if not by itself than in conjunction with other lands, seasonally. COLW is incorrect. Suitability for grazing was addressed in the Soil Assessment,*

pages 8-9, **Exhibit 6**, and again in the onsite assessment conducted by Rand Campbell, a Central Oregon farmer and rancher. **Exhibit 23**. Mr. Campbell found the soil condition and topography were not suitable for grazing considering the necessary costs to improve the soil for crop production sufficient to graze livestock. Ethan O'Brien corroborated this testimony based on his own experience and agreed no reasonable farmer would undertake the expense to improve this property to permit livestock grazing given the low productivity of the land. **Exhibit 22**.

### **c. Climatic Conditions**

The climatic conditions were addressed in the Soil Assessment, pages 9-10, Exhibit 6 and corroborated by the testimony of both local farmers. The bottom line is this: the climatic conditions on the Property do not make it suitable for farm use. This is because the Property receives very little precipitation such that the growing season is very short and the cultivation of crops or forage is extremely limited.

### **d. Existing and Future Availability of Water for Farm Irrigation Purposes**

The question of whether water is available necessary implicates whether, if irrigated, the Property could viably support an irrigated agriculture farm use. It cannot. Soils on the property are predominantly Class 7 and 8 based on 232 samples from combined soil test pits, soil borings and surface observations. Oregon case law establishes that it is reasonable to look at nearby farm properties for what are accepted farming practices in the area. The only irrigated agriculture in the area includes the raising of hay and grass crops and, almost all of these neighboring farms have testified that they have been unable to make a profit in money, despite having access to irrigation water. **Exhibit 19**.

Moreover, the cost of providing additional irrigation water and the required infrastructure is cost prohibitive and no reasonable farmer would attempt to do so. **Exhibits 20-23**.

### **e. Existing Land Patterns**

Applicant has provided extensive information related to the various non-farm uses in the area. **Exhibit 19**. The Applicant attempted to contact every EFU-zoned property identified by COLW as being irrigated and engaged in some agricultural activity. Many of the commenters themselves live on properties that have received approvals for non-farm dwellings. This is relevant only to show that existing land use patterns in the area are not dissimilar from the proposed designation here, that is, rural residential use. This evidence also demonstrates that rural residential uses have been established in the area without any measurable harm to area agricultural uses.

Applicant has also shown that the vast majority of surrounding privately owned properties are either not engaged in any farm use or are engaged in some agricultural activity with small amounts of irrigated land but not making a profit as a working farm. This information shows that the surrounding land use pattern is clearly characterized by non-farm and non-agricultural uses that exist in harmony with area rural and agricultural activities.

### **f. Technological and Energy Inputs Required**

As has already been discussed in detail, the test is whether the land itself can support a particular farm use. It cannot. This consideration then includes additional costs outside of the already prohibitive cost of purchasing irrigation water. **Exhibits 20 and 21.** This includes specialized equipment or structures to establish a legitimate farm use, including bringing power to the property, drilling wells and installing pumps, purchasing and installing irrigation equipment and using electricity to power pumps to obtain water from wells. It would also include the costs of developing breeding facilities for farm animals. All of these improvements would require significant financial expense, as testified in writing by two professional ranchers/farmers. **Exhibits 22 and 23.**

### **g. Accepted Farm Practices**

COLW argues that there is “agricultural activity occurring in the area” but that is not the test. The test is whether there is a “farm use” as that term is defined in ORS 215.203(2)(a). As explained in *Wetherell*, the definition of “farm use” is related to that established under the taxation code found at ORS 308A.056. *Wetherell*, at 681. ORS 308A.056 also defines “accepted farm practice” as “a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a profit in money and customarily utilized on conjunction with farm use.”

As it may pertain to the availability of irrigation water, in the *Aceti* case, LUBA accepted the County’s finding that it is not an accepted farming practice in Central Oregon to irrigate and cultivate Class VII and VIII soils.

No other party has credibly argued that an accepted farm practice could be initiated on the Property.

### **D. OAR 660-033-0020(1)(a)(C)**

For the purposes of Goal 3, “agricultural land” includes “[l]and that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.” OAR 660-0330020(1)(a)(C). LUBA has explained what that means, explaining that:

“in order to be ‘agricultural land’ under OAR 660-033-0020(1)(a)(C), ‘there must be some connection between the subject property and adjacent or nearby farm practices, such that the subject property must remain as ‘agricultural land’ in order to permit such practices on other lands to be undertaken.” *Emphasis in original.*

*Central Oregon LandWatch et al v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA No. 2023-006/009, slip op 57-58)(hereinafter “LUBA 710 Decision”) quoting *Wetherell v. Douglas County*, 50 Or LUBA 167, 190-91 (2005).*

In further explaining the rule, LUBA discusses the case of *Walker v. Josephine County*, 60 Or LUBA 186 (2009) in which it held that in determining whether “resource use of the subject property [was] necessary to permit the farm and forest practices on nearby BLM land, including operation of the BLM’s seed orchard” and stated that the “possibility that certain potential uses might cause some conflicts with the existing farm and forest uses [did] not demonstrate that the subject property [was]

necessary for continued farm and forest operations.” 60 Or LUBA at 19293.

In the LUBA 710 Decision, LUBA then stated that:

*“OAR 660-033-0020(1)(a)(C) asks not only whether the land itself is necessary to permit farm practices on adjacent or nearby lands but, also, whether the land’s resource designation and zoning, and the presumed lack of impacts or conflicts with farming on adjacent or nearby lands, are necessary to permit farm practices on adjacent or nearby lands.” LUBA 710 Decision, slip op 59.*

*More simply stated, the test is whether or not the existing designation of the property and its presumed lack of impacts is necessary for nearby and adjacent farm practices. In this case, the “impacts” that have been identified are water, traffic, and nuisance or trespass.*

*Before addressing potential impacts, however, it is important to further frame the test as to what is “necessary” under the rule. The Court of Appeals said it best:*

*“we note that we also agree with LUBA that ‘necessary to permit farm practices on adjacent or nearby agricultural lands’ is a ‘high standard.’ Webster’s Third New Int’l Dictionary 1510 (unabridged 2002) (‘necessary’ means ‘whatever is essentially for some purpose’ and ‘things that must be had’). That is, we do not understand land to be agricultural land under OAR 660-033-0020(1)(a)(C) merely because its designation as such would merely be ‘useful’ or ‘desirable’ for nearby farm practices. Rather, for ‘land’ to be agricultural land under OAR 660-033-0020(1)(a)(C), that land, considering its resource designation and zoning, must truly be necessary to adjacent nearby farm practices.” Emphasis added. Central Oregon LandWatch et al v. Deschutes County, 33 Or App 321, 333 (2024).*

*The subject property has no history of farm use and has been in mining use or post-mining use since the early 1990s. Contrary to the assertions of COLW, the property line adjustment between the subject property (TL200) and the adjacent parcel (TL300) completed in 2016 was to separate the property being put to agricultural use (TL300) from the nonagricultural use subject property. This is further supported by the Arnold piping project which stubbed irrigation to TL300 and not to the subject property. And it is corroborated by the testimony of Ethan O’Brien, Exhibit 22, who testified he has never farmed the subject property, sees no evidence it has ever been farmed, and would not farm or otherwise use the subject property in his operation. The historical nonagricultural purposes establishes it is not necessary for any farm practices to be undertaken on adjacent lands. This is further corroborated by the testimony of the land owners in the area engaging in agricultural activities. Exhibit 19.*

#### **E. OAR 660-033-0020(1)(b) – Farm Unit**

*This provision provides:*

*“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.” Emphasis added.*

*The important consideration for the above language is the lands must be a part of a farm unit for this requirement to be implicated. Farm unit is defined as “the contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.” The present case does not involve a farm unit as the subject property is not currently being used for a farm use and there is no evidence it ever has been. It therefore does not constitute land intermingled with higher value lands “within a farm unit” as described by the rule quoted above. As demonstrated by the testimony of both farmers/ranchers familiar with the property, it is not productive land, shows no evidence of having been farmed, and has not been used as a part of the existing operation on TL300.*

*COLW’s argument that the subject property is a part of a farm unit is patently false and not supported by the evidence in the record. The lot line adjustment they cite to as evidence the properties were “jointly managed for agriculture” shows exactly the opposite. The lot line application materials show that the subject property was being separated from TL300 because TL300 was being used for agricultural purposes, although at a loss, COLW Ex 5, p. 5 and therefore not “farm use”; and the area which now makes up TL200 (the subject property) was not. The testimony of Ethan O’Brien and Rand Campbell further supports the fact that the subject property has not been used as a part of any farm use on the adjacent parcel, or any other parcel.*

*Likewise, the exhibits COLW cites to in support of their incorrect narrative that the property could be farmed profitably (see COLW Dec 3 letter, pg. 4) do not support the conclusion. There is no evidence that the numbers on COLW EX 5, p. 17 include any portion of the subject property. In fact, those income numbers are from 2008-2010 when the Reclamation Evaluation establishes that 70-90 acres of the subject property was being mined up to 2005 and incrementally reclaimed through 2010, **Exhibit 8**, page 10, which was verified by DOGAMI in 2011. Exhibit 10. Lastly, the numbers COLW cites to in support of its claim the subject property could be farmed profitably in conjunction with TL300 were submitted by the applicant in that case to support its position that the farm activities operate “at a consistent loss.” COLW **Exhibit 5**, pg. 5. This fact is confirmed by the testimony of both farmers familiar with the subject property and what it takes to make a profit farming in Central Oregon.*

### **End of Applicant’s Final Argument “Agricultural Land” Comments**

The Hearings Officer, as noted above, finds the Applicant’s above-quoted “Soils” and “Agricultural Land” comments correctly connect the evidence in the record to an appropriate interpretation of relevant laws. The Hearings Officer takes note that COLW (12/9/24, pages 2 through 6) argued that emails from Ethan O’Brien and Rand Campbell are “not conclusive to prove the subject property is not suitable for farm use.” The Hearings Officer agrees with COLW that the O’Brien and Campbell comments are not *conclusive* with respect to whether the Subject Property is suitable for farm use. However, the Hearings Officer does find that the O’Brien and Campbell comments can be considered in this case. The Hearings Officer finds the O’Brien and Campbell comments constitute substantial evidence that the Subject Property is not suitable for farm use.

The Hearings Officer finds the above-quoted Applicant Final Argument comments and the sections of the Burden of Proof cited by Staff (Staff Report, pages 33 through and including 39) adequately

address each COLW argument raised in oral testimony at the Hearing and in record submissions (11/12/24 and 12/9/24). The Hearings Officer finds that the Subject Property is not “Agricultural Land” as defined by relevant law. The Hearings Officer finds, to the extent it could be considered relevant, this policy is satisfied.

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

**FINDING:** The Applicant did not ask to amend the subzone that applies to the Subject Property; rather, the Applicant requested a change under Policy 2.2.3 and has provided evidence to support rezoning the Subject Property to RR-10.

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

**FINDING:** The Hearings Officer adopts as additional findings for this Policy the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands*.

The Applicant requested approval of a plan amendment and zone change to re-designate the property from Agricultural to Rural Residential Exception Area and rezone the property from EFU to RR-10. The Applicant did not seek an exception to Goal 3 – Agricultural Lands, but rather to demonstrate that the Subject Property does not meet the state definition of “Agricultural Land” as set forth in Statewide Planning Goal 3 (OAR 660-033-0020). The Hearings Officer found, in the referenced incorporated and adopted findings, that the Subject Property is not “Agricultural Land” as described in relevant law. The Hearings Officer notes that the Land Use Board of Appeals (“LUBA”) allowed this approach in *Wetherell v. Douglas County*, 52 Or LUBA 677 (2006), where LUBA states, at pp. 678-679:

Applicant, in its Burden of Proof provided the following comments related to this Policy:

*Deschutes County has allowed this approach in previous Deschutes County Board and Hearings Officer’s decisions as previously cited and summarized herein. Additionally, the Land Use Board of Appeals (LUBA) allowed this approach in Wetherell v. Douglas County, 52 Or LUBA 677 (2006), where 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).*

*LUBA's decision in Wetherell was appealed to the Oregon Court of Appeals and the Oregon Supreme Court but neither court disturbed LUBA's ruling on this point. In fact, the Oregon Supreme Court changed the test for determining whether land is agricultural land to make it less stringent. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007). In that case, the Supreme Court stated that:*

*"Under Goal 3, land must be preserved as agricultural land if it is suitable for "farm use" as defined in ORS 215.203(2)(a), which means, in part, "the current employment of land for the primary purpose of obtaining a profit in money" through specific farming-related endeavors." Wetherell, 342 Or at 677.*

*The Wetherell court held that when deciding whether land is agricultural land "a local government may not be precluded from considering the costs or expenses of engaging in those activities." Wetherell, 342 Or at 680. The facts presented in the subject application are sufficiently similar to those in the Wetherell decisions and in the above-mentioned Deschutes County plan amendment and zone change applications. The subject property is primarily composed of Class 7 and 8 nonagricultural soils making farm-related endeavors not profitable. This application complies with Policy 2.2.3.*

Staff, in the Staff Report (page 22), stated that:

*Staff agrees that the facts presented by the Applicant in the Burden of Proof for the subject application are similar to those in the Wetherell decisions and in the aforementioned Deschutes County plan amendment and zone change applications. The Applicant provided evidence in the record addressing whether the property qualifies as non-resource land. Therefore, the Applicant has the potential to prove the property is not agricultural land and does not require an exception to Goal 3 under state law.*

The Hearings Officer concurs with Applicant's above-quoted analysis and Staff's conclusions. The Hearings Officer finds this application 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:** This plan policy provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. Staff concurred with the County's previous determinations in plan amendment and zone change applications, and concluded that the 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. The Hearings Officer agrees with Staff's interpretation.

**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:** This plan policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicant proposed that the Subject Property was not accurately designated as demonstrated by the soil study, Applicant’s Burden of Proof and Final Argument. The Hearings Officer adopts as additional findings for this Policy the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands*.

The Hearings Officer finds Applicant identified and accurately designated the Subject Property as not being “Agricultural Land” under relevant law.

Section 2.3, Forests

**FINDING:** The Subject Property has a Comprehensive Plan designation of Surface Mine and Agriculture and is therefore not categorized as forest land. The Hearings Officer finds forest land policies do not apply.

Section 2.4 Goal 5 Overview Policies

**Goal 1 Protect Goal 5 Resources**

**FINDING:** The Hearings Officer adopts as additional findings for this Goal the findings for *Preliminary Issues, Reclamation* (Section II, A. 2.)

The Hearings Officer finds that the surface mine site has concluded all mining activities. Individual resources within this section are addressed independently.

**Policy 2.4.4 Incorporate new information into the Goal 5 inventory as requested by an applicant or as County staff resources allow.**

**FINDING:** The Hearings Officer adopts as additional findings for this Goal the findings for *Preliminary Issues, Reclamation* (Section II, A. 2.)

The Burden of proof states:

*This application provides new information supporting rezoning of Site No. 392 and removal of Site No. 392 from the County’s Surface Mining Mineral and Aggregate Inventory (Comprehensive Plan Table 5.8.1). Mining of the subject property ceased in 2005, DOGAMI closed its file in 2011 and the County recently approved an Amended Reclamation Plan (Exhibit 11 to allow any remaining reclamation to be conducted in conjunction with the master planning and redevelopment of the site as a public park. (Exhibit 4). Furthermore, the Gallagher Report demonstrates the site does not contain a significant Goal 5 resource based on the quantity, quality, and location of the resource and was never subject to a DOGAMI approved reclamation plan.*



The Hearings Officer concurs with the Applicant's analysis.

Section 2.5, Water Resources Policies

**Goal 6, Coordinate land use and water policies.**

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

**FINDING:** The Applicant has not proposed a specific development application at this time. Therefore, the Applicant is not required to address water impacts associated with development. Rather, the Applicant will be required to address this criterion during development of the Subject Property, which would be reviewed under any necessary land use process for the site (e.g. conditional use permit, tentative plat). The Hearings Officer finds that this criterion does not apply to the subject application.

Section 2.6, Wildlife

**FINDING:** The Hearings Officer finds that there are no Goal 5 listed wildlife species present on the Subject Property, based on the Goal 5 inventory nor threatened or endangered species. The Hearings Officer finds that there is no identified wildlife habitat on the Subject Property.

Section 2.7, Open Spaces, Scenic Views and Sites

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

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

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

**FINDING:** The Burden of Proof states:

*As the County Hearings Officer recently ruled in a similar file under Deschutes County File Nos. 247-21-001043-PA, 247-21-001044-ZC, these policies are fulfilled by the County's Goal 5 program. The County protects scenic views and sites along major rivers and roadways by imposing Landscape Management (LM) Combining Zones to adjacent properties. There is no LM combining zone applicable to the subject property, nor is the subject property identified as a Goal 5 resource for Open Space or Scenic Views/Site<sup>5</sup> [footnote <sup>5</sup> is set forth immediately below] Furthermore, no new development is proposed under the present application. These plan provisions are not applicable to consideration of the proposed zone change and plan amendment.*

Footnote <sup>5</sup> SM site 392 is listed on the County's Surface Mining Mineral and Aggregate inventory. The present application, together with the previously approved Amended Reclamation Plan, establishes the necessary basis for removal of the site from the inventory and rezoning for a subsequent use.

The Hearings Officer concurs with the Applicant's above-quoted analysis.

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 2.10.1 Goal 5 mining inventories, ESEEs and programs are retained and not repealed.**

**Policy 2.10.2 Cooperate and coordinate mining regulations with the Oregon Department of Geology and Mineral Industries.**

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

**Policy 2.10.4 Review surface mining codes and revise as needed to consider especially mitigation factors, imported material and reclamation.**

**Policy 2.10.5 Review surface mining site inventories as described in Section 2.4, including the associated Economic, Social, Environmental and Energy (ESEE) analyses.**

**Policy 2.10.6 Support efforts by private property owners and appropriate regulatory agencies to address reclamation of Goal 5 mine sites approved under 660-016 following mineral extraction.**

**FINDING:** Applicant's Burden of Proof states:

*The present application asks the County to rezone Site No. 392 from SM to RR-10 because it no longer has a significant mineral resource and will be reclaimed in accordance with the Amended Reclamation Plan (Exhibit 11) approved by the County in 2023. The subject property should be rezoned for a subsequent use consistent with the surrounding uses as it is underutilized and ready for a subsequent use outside of the SM zone. The Applicant proposes the SMIA zone associated with Site No. 392 also be removed.*

Staff provided the following comments:

*Staff concurs with this analysis but requests the Hearings Officer modify as they see fit. Staff notes that Policy 2.10.4 is not addressed by the applicant in the Burden of Proof. However, no amendment is proposed to the provisions of the Surface Mining Zone or the Surface Mining Impact Area Combining*

Zone.

The Hearings Officer finds Applicant's comments, as quoted above, adequately address these policies. The Hearings Officer concurs with Staff's comment that no amendment is proposed to the provisions of the Surface Mining Zone or Surface Mining Impact Area Combining Zone. The Hearings Officer finds these policies, as relevant, are met.

### **Chapter 3, Rural Growth**

#### Section 3.2, Rural Development

#### **Growth Potential**

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

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

**FINDING:** This section of the Comprehensive Plan does not contain Goals or Policies, but does provide the guidance above. The Applicant provided the following response to this section in its Burden of Proof:

*The above part of the plan is not a plan policy and is not an applicable approval criterion but rather an explanation of how the County calculated expected growth. As shown above, the County's Comprehensive Plan provisions anticipate the need for additional rural residential lots as the region continues to grow. This includes providing a mechanism to rezone surface mine lands which have been fully mined and reclaimed as well as farm lands with poor soils to a rural residential zoning designation. While this rezone application does not include the creation of new residential lots, the applicant has demonstrated the subject property is comprised of poor soils that are adjacent to rural residential uses and is near (within ½ mile) of the City limits of Bend.*

*Rezoning the subject property to RR-10 to facilitate its redevelopment with recreational uses, including a public park is consistent with this criterion, as it will provide for an orderly and efficient transition from the Bend Urban Growth Boundary to rural and agricultural lands. Additionally, it will link the non-productive lands of the subject property with existing rural and urban development and street systems, furthering the creation a buffer of RR-10 zoned land along the City's southeastern boundary where the quality of soils are poor and the land is not conducive for commercial agriculture.*

Staff provided the following comments:

*Staff notes this policy references the soil quality, which staff has discussed above. Staff requests the Hearings Officer make specific findings on this topic.*

The Hearings Officer adopts as additional findings for this section the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands*. The Hearings Officer finds the soil quality of the Subject Property can fairly be characterized as “poor.” The characterization of the Subject Property as having “poor” quality soil qualifies the Subject Property to be rezoned as rural residential.

Section 3.3, Rural Housing

**Rural Residential Exception Areas**

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

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

**FINDING:** The Applicant provided the following response to this provision in the Burden of Proof:

*Prior Hearings Officer’s decisions have found that Section 3.3 is not a plan policy or directive.[footnote references prior decisions/recommendations] Further, no goal exception to Statewide Planning Goal 3 is required for the rezone application because the subject property does not qualify as farm or forest zoning or agricultural lands under the statewide planning goals. The County has interpreted the RREA plan designation as the proper “catchall” designation for non-resource land and therefore, the Rural Residential Exception Area (RREA) plan designation is the appropriate plan designation to apply to the subject property.[footnote 7 included, in full, below]*

*Footnote 7:*

*The Hearings Officer’s decision for PA-11-17/ZC-11-2 concerning this language of Section 3.3 states:*

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 findings below explain that the applicant has been successful in demonstrating that the subject property is composed predominantly of nonagricultural soil types. 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. As such, the application does not seek to convert "agricultural/and" 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 reasons, 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, the Hearings Officer concludes that the applicant is not required to obtain an exception to Goal 3.**

There is one additional related matter which warrants discussion in connection with this issue. It appears that part of Staff's hesitation and caution on the issue of whether an exception might be required is rooted in the title of the Comprehensive Plan designation that would ultimately apply to the subject property – which is "Rural Residential Exception Area." There appears to be seven countywide Comprehensive Plan designations as identified in the plan itself. These include "Agriculture, Airport Development, Destination Resort Combining Zone, Forest, Open Space and Conservation, Rural Residential Exception Area, and Surface Mining." Of the seven designations, only rural Residential Exception Area provides for associated zoning that will allow rural residential development. **As demonstrated by reference to the Pagel decision discussed above, there appears to be instances in which rural residential zoning has been applied without the underlying land necessarily being identified as an exception area.** This makes the title of the "Rural Residential Exception Area" designation confusing and in some cases inaccurate, because no exception is associated with the underlying land in question. However, it is understandable that since this designation is the only one that will allow rural residential development, that it has become a catchall designation for land types that are authorized for rural residential zoning. That is the case with the current proposal, and again, for the same reason set forth in the Hearings Officer Green's decision in Pagel, I cannot find a reason why the County would be prohibited from this practice. (emphasis added).

I find that Deschutes County has interpreted the RREA plan designation as the property "catchall" designation for non-resource land. As a result, the Hearings Officer finds that the RREA plan designation is the appropriate plan designation for the subject property.

The Hearings Officer finds the above-quoted Applicant statement (including footnotes) fairly and accurately reflect the law as applied to Section 3.3, Rural Housing, Rural Residential Exception Areas.

Section 3.7, Transportation

**Appendix C – Transportation System Plan  
ARTERIAL AND COLLECTOR ROAD PLAN**

...

**Goal 3. Mobility and Connectivity: Promote a multimodal transportation system that moves people and goods between rural communities and Sisters, Redmond, Bend, La Pine, and other key destinations within the County as well as to the adjacent counties, Central Oregon, and the state.**

**FINDING:** This goal 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.

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

...

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

**FINDING:** This Goal 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 OAR 660-012, also known as the TPR, as described below in subsequent findings.

**OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

**Division 6, Goal 4 – Forest Lands**

OAR 660-006-0005, Definitions

**(7) “Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:**

- (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and**
- (b) Other forested lands that maintain soil, air, water and fish and wildlife resources.**

**FINDING:** Applicant’s Burden of Proof states:

*The subject property and surrounding areas do not include any lands that are suited for forestry operations. Goal 4 says that forest lands “are those lands acknowledged as forest lands as of the date*

*of adoption of this goal amendment.” The subject property does not include lands acknowledged as forest lands as of the date of adoption of Goal 4. Goal 4 also says that “where\*\*a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.” This plan amendment does not involve any forest land. The subject property does not contain any merchantable timber and is not located in a forested part of Deschutes County. The subject property is not zoned for forest lands, nor are any of the properties within a 3.5mile radius.*

*The subject property does not contain merchantable tree species and there is no evidence in the record that the property has been employed for forestry uses historically. The soil mapping unit on the subject property does not contain wood fiber production capabilities and the subject property does not qualify as forest land.*

The Subject Property is not zoned for forest lands, nor are any of the adjacent properties. Staff noted (Staff Report, page 29) that forest zoning is present on lands to the southwest and directly south of the Subject Property. The Subject Property does not contain merchantable tree species and there is no evidence in the record that the Subject Property has been employed for forestry uses historically. The Hearings Officer finds that the Subject Property does not qualify as forest land.

**Division 23 - Procedures and requirements for Complying with Goal 5**

OAR 660-023-0180, Mineral and Aggregate Resources

**(2) Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgement plan amendment (PAPA) or at periodic review as specified in section (9) of this rule. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:**

- ...
- (b) Local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable, rather than OAR 660-023-0030(4), in determining whether an aggregate resource site is significant;**

**FINDING:** The Burden of Proof states:

*Under OAR 660-023-010, the term “post acknowledgement plan amendment” (PAPA) encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. In the Stott (PA-98-12/ZC-98-6) and Kimble (PA-07-2/ZC-07-2) decisions, the Hearings Officer held that a plan amendment and zone change to “de-list” and rezone an inventoried surface mining site constitutes a PAPA, and therefore the provisions of OAR 660-023-0180 concerning mineral and aggregate resources apply to such an application to the extent they reasonably can be applied to a decision to remove a site from the County’s adopted inventory.*

The proposed amendment constitutes a PAPA as outlined in the Stott and Kimball decisions. A determination of significance is required to de-list a Goal 5 aggregate resource. The thresholds for significance are addressed in the responses to OAR 660-023-0180(3) and (4), below.

The Hearings Officer takes note of Applicant’s above-quoted statement and shall address sections (3) and (4) below.

**(3) An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section, except as provided in subsection (d) of this section:**

**(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;**

**FINDING:** The Burden of Proof states:

*The County’s Goal 5 inventory indicates that Site No. 392 contains the following:*

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
392	181223-00-00300	Rose	Rock	10 M Est.	Mixed	
392	181223-00-00300	Rose	Dirt	7.5 M	Good	

\*Quantity in cub [sic] yards

*The County’s Goal 5 mineral and aggregate inventory lists site 392 as a sand and gravel site and the findings in the ESEE establish the County did not find the aggregate resource on site worthy of protection. The ESEE further acknowledges the mining use is transitional and the site could be rezoned for other uses where the mining use is complete. The ESEE does not specify, and in fact is silent as to, a subsequent zoning designation. The DOGAMI files for the subject property have been closed since 2011.*

The Hearings Officer finds Applicant’s statement and analysis is credible and reflects relevant law.

**(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or**

**FINDING:** No lower threshold has been established by Deschutes County.

**(c) The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.**



**FINDING:** The Burden of Proof states:

*Site No. 392 is included in the County's inventory for the sand and gravel resource not for aggregate. This criterion does not apply.*

The Hearings Officer concurs with the Applicants' analysis.

**(d) Notwithstanding subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:**

**(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on June 11, 2004; or**

**(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:**

- (i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;**
- (ii) 25 feet in Polk, Yamhill, and Clackamas counties; or**
- (iii) 17 feet in Linn and Benton counties.**

**FINDING:** The Burden of Proof states:

*The criterion does not apply. The subject property does not contain any Class I, Class II, or Unique soils as confirmed by the Wallace Group Report (Exhibit 8) and Amended Reclamation Plan (Exhibit 11), as well as the Site-Specific Soil Survey that was conducted by Certified Soil Scientist, Andy Gallagher and has been submitted to the Department of Land Conservation and Development (DLCD) in accordance with OAR 660-033-0045(6)(a) (Exhibit 6). Staff concurs with the applicant's analysis.*

The Hearings Officer concurs with Applicant's analysis.

**(4) Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:**

**FINDING:** The Burden of Proof states:

*The criterion does not apply. Site No. 392 is not identified as agricultural lands on the acknowledged Deschutes County Comprehensive Plan map, and it has not been farmed or used in conjunction with any farming operation. The study conducted by Mr. Gallagher confirms the site is composed*

predominantly of Class 7 and 8 soils and therefore does not meet the definition of agricultural land. (Exhibit 6).

The Hearings Officer concurs with the Applicant's analysis.

### **Division 33 - Agricultural Lands & Statewide Planning Goal 3 - Agricultural Lands;**

OAR 660-015-0000(3)

**To preserve and maintain agricultural lands.**

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

**FINDING:** The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section.

OAR 660-033-0020, Definitions

**For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply: (1)(a) "Agricultural Land" as defined in Goal 3 includes:**

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

**FINDING:** The Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Hearings Officer also found persuasive Applicant's Burden of Proof statements as set forth in the Staff Report (pages 33 through and including 45). Based upon the incorporated findings the Hearings Officer finds that the Subject Property is comprised predominantly of Class 7 and Class 8 soils. The Hearings Officer finds that the Subject Property is not "Agricultural Land" as defined in OAR 660-033-0020(1)(a)(A) above.

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

**farming practices; and**

**FINDING:** The Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Hearings Officer also found persuasive Applicant's Burden of Proof statements as set forth in the Staff Report (pages 33 through and including 38).

Based upon the incorporated findings the Hearings Officer finds that the Subject Property is comprised predominantly of Class 7 and Class 8 soils and based upon the factors identified in (B) above that the Subject Property is not "Agricultural Land" and not "suitable for farm use" as defined by ORS 215.203(2)(a).

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

**FINDING:** The Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Hearings Officer also found persuasive Applicant's Burden of Proof statements as set forth in the Staff Report (page 39).

Staff (Staff Report, page 39) concurred with the Applicant's analysis and finds no feasible way that the Subject Property is necessary for the purposes of permitting farm practices on any nearby parcels. The Hearings Officer finding that the Subject Property is not necessary for purposes of permitting farm practices on any nearby parcels is based in part on poor soil quality and existing development on surrounding EFU properties.

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

**FINDING:** The Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land" and by extension not part of a "farm unit." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Hearings Officer also finds persuasive the Applicant's Burden of Proof statements included by Staff in the Staff Report (Staff Report, pages 39 and 40). Staff included the

following Burden of Proof comments:

*The subject property is not, and has not, been a part of a farm unit that includes other lands not currently owned by the applicant. The property has no history of farm use and contains soils that make it unsuitable for farm use and therefore, no basis to inventory the subject property as agricultural land.*

*Goal 3 applies a predominant soil type test to determine if a property is "agricultural land." If a majority of the soils are Class 1-6 in Central or Eastern Oregon, it must be classified "agricultural land." Case law indicates that the Class 1-6 soil test applies to a subject property proposed for a non-agricultural plan designation while the farm unit rule looks out beyond the boundaries of the subject property to consider how the subject property relates to lands in active farming in the area that was once a part of the area proposed for rezoning. It is not a test which requires that 100% of soils on a subject property be Class 1-6.*

*The farm unit rule is written to preserve large farming operations in a block. It does this by preventing property owners from dividing farmland into smaller properties that, alone, do not meet the definition of "agricultural land." The subject property is not formerly part of a larger area of land that is or was used for farming operations and was then divided to isolate poor soils so that land could be removed from EFU zoning. As demonstrated by the historic use patterns and soils reports, it does not have poor soils adjacent to or intermingled with good soils within a farm unit. The subject property is not in farm use and has not been in farm use of any kind. It has no history of commercial farm use and contains soils that make the property generally unsuitable for farm use as the term is defined by State law. It is not a part of a farm unit with other land.*

*The subject property is predominately Class 7 and 8 soils and would not be considered a farm unit itself nor part of a larger farm unit based on the poor soils and the fact that it has not been used in conjunction with any adjacent farm properties.*

*As shown by the soils assessment conducted by Mr. Gallagher, the predominant soil type found on the subject property is Class 7 and 8, nonagricultural land (66%). The predominance test says that the subject property is not agricultural soil and the farm unit rule does not require that the Class 7 and 8 soils that comprise the majority of the subject property be classified as agricultural land due to the presence of a small amount of Class 6 soils on the subject property that are not employed in farm use and are not part of a farm unit. As a result, this rule does not require the Class 7 and 8 soils on the subject property to be classified agricultural land because a minority of the property contains soils rated Class 6.*

The Hearings Officer, based upon the incorporated findings and the Applicant's above-quoted Burden of Proof statements, that the Subject Property does not include 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.

**(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.**

**FINDING:** The Subject Property is not within an acknowledged urban growth boundary or land within acknowledged exception areas for Goals 3 or 4.

OAR 660-033-0030, Identifying Agricultural Land

**(1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.**

**(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).**

**FINDING:** The Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land" and by extension not part of a "farm unit." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The soil study produced by Mr. Gallagher focuses on the land within the Subject Property and the Applicant provided responses indicating the Subject Property is not necessary to permit farm practices undertaken on adjacent and nearby lands. The Hearings Officer finds that the Subject Property is not "Agricultural Land" based upon the incorporated findings and that the Subject Property is not necessary to permit arm practices undertaken on adjacent and/or nearby lands.

**(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 Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land" and by extension not part of a "farm unit." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings

for this section. The Hearings Officer attached no significance to the ownership of the Subject Property or adjacent parcels in considering whether or not the Subject Property was “suitable for farm use” or “necessary to permit farm practices to be undertaken on adjacent or nearby lands.”

**(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 Applicant’s stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not “Agricultural Land” and by extension not part of a “farm unit.” The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section.

Applicant’s Burden of Proof states:

*Attached as Exhibit 6 is a more detailed agricultural soil assessment related to the NRCS land capability classification system conducted by Andy Gallagher, a Certified Professional Soil Scientist authorized by the Department of Land Conservation and Development (DLCD).*

*The soils assessment prepared by Mr. Gallagher provides more detailed soils information than contained on the Web Soil Survey operated by the NRCS, which provides general soils data at a scale generally too small for detailed land use planning and decision making. Mr. Gallagher’s soils assessment report provides a high intensity Order-1 soil survey and soils assessment – a detailed and accurate soils assessment on the subject property based on numerous soil samples – to determine if the subject property is “agricultural land” within the meaning of OAR 660-033-020. Mr. Gallagher’s Order-1 soil survey is included as evidence in the application to assist the County in making a better determination of whether the subject property qualifies as “agricultural land.”*

*As explained in Mr. Gallagher’s report, the NRCS soil map of the subject property shows three soil mapping units, 27A Clovkamp loamy sand 0 to 3% slopes, 155C Wanoga sandy loam 0 to 15% slopes, 157C Wanoga-Fremkle-Rock outcrop complex 0 to 15% which is estimated to be 35 percent Wanoga, 30 percent Fremkle and 20 percent Rock Outcrop. The more detailed Order-1 survey conducted by Mr. Gallagher included 232 samples from combined soil test pits, soil borings and surface observations of bedrock outcrops. The results of the previous and revised soils mapping units with land capacity class are provided in the Table 1 below from Mr. Gallagher’s report:*

**TABLE 1...PREVIOUS AND REVISED SOIL MAPPING UNITS WITH LAND CAPABILITY CLASS.**

Previous Map Symbol	Revised Map Symbol	Soil Series Name	Capability Class	Previous Map*		Revised Map	
				Ac	-%-	Ac	-%-
27A	--	Clovkamp	6	111	40	0	0
155C	--	Wanoga sandy loam	6	10	4	0	0
157C	--	Wanoga-Fremkle-Rock outcrop	6 (80%) 8 (20%)	158	56	0	0
--	GR	Gosney-Henkle-Outcrop	7 (%) 8 (%)	0	0	115	42
--	WD	Wanoga-Deskamp complex	6	0	0	96	34
--	MF	Mined and Filled Area	7	0	0	68	24
Total				279	100	279	100

*Based on the findings and analysis of the Order-1 soil survey and soil assessment, Mr. Gallagher made the following summary and conclusions in determining whether the subject property is agricultural land:*

*Soils were remapped in a high intensity (Order-1) soil survey 279.25-acre tract currently zoned partly SM and partly EFU. Previously this area was mapped as Clovkamp loamy sand in the basin, Wanoga-Fremkle-Rock outcrop and Wanoga sandy loam were mapped in the surrounding wooded rangelands and hillsides. These collectively range from Land Capability Class 6 to Class 8 with a predominance of Class 6 high-value farmland.*

*In the revised Order-1 soil mapping soils were reclassified and remapped as predominantly Class 7 and 8, based on 232 samples from combined soil test pits, soil borings and surface observations of bedrock outcrops. Most of the area formerly mapped Clovkamp by NRCS was mined and then filled and graded so that most of it (68 acres, 24 percent of total parcel) is made-land that is Class*

7 based on stoniness and low AWHC remapped as ML. There are 115 acres (42 percent of total parcel) of shallow and very to extremely stony, very shallow and rock outcrop that are remapped as GR unit. These two units of Class 7 and 8 land are 183 acres combined. The remaining acres 96 acres (34 percent of total parcel) are remapped as Class 6 and include mostly Deskamp and Wanoga soils. Based upon the findings of this Order-1 soil survey, the subject parcel is predominantly, 66 percent (183 acres), Class 7 and 8 soils and therefore is not "agricultural land" within the meaning of OAR 660033-0020(1)(a)(A).

The soil mapping and on-site studies also show the subject property is not agricultural land within the meaning of OAR 660-033-0020(1)(b) as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit. There is no clear evidence that the Capability Class 6 non-irrigated soils on the subject property were farmed or utilized in conjunction with any farming operation in the past.

With few exceptions the Wanoga soils exist in irregularly shaped pockets interspersed with short steep slopes, rocky, shallow soils creating severe limitations for any agricultural use either alone or in conjunction with other lands.

As previously discussed, the State's agricultural land rules, OAR 660-033-0030, allow the county to rely on the more detailed soil capability analysis prepared by Mr. Gallagher. The applicant has submitted the soils assessment to DLCD for review of the soils assessment and will submit the certification as a condition of approval. Based on the Order-1 soils report, the subject property is not "agricultural land."

The Hearings Officer finds that Applicant's professional soil study/analysis provides more detailed and site specific soils information than contained in the NRCS Web Soil Survey. NRCS sources provide general soils data for large units of land. The Applicant's soil study/analysis provided detailed and accurate information about individual parcels based on numerous soil samples taken from the Subject Property. The Applicant's soil study/analysis is related to the NRCS Land Capability Classification ("LLC") system that classifies soils class 1 through 8 and provided ratings for each soil type based on rules provided by the NRCS.

According to the NRCS Web Soil Survey tool, the Subject Property contains a mix of 157C (GosneyRock Outcrop-Deskamp complex), 27A (Clovkamp loamy sand) 155C (Wanoga sandy loam). The Hearings Officer finds that the Gallagher soil study meets the requirements of these sections and allows the Hearings Officer to rely upon the Gallagher soil study conclusions.

**(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 Applicant's stated reason for not requesting an exception to Goal 3 is based on the premise that the Subject Property is not "Agricultural Land" and by extension not part of a "farm unit." The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan*,



Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry and also the findings for Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands as additional findings for this section.

The Burden of Proof states:

*The applicant is seeking approval of a non-resource plan designation and zone on the basis that the subject property is not agricultural land. The recognition of the nonresource process to rezone lands which do not qualify as resource lands and therefore do not implicate the protections of the resource designations under the Statewide Planning Goals is well established under state law and local Deschutes County code provisions and land use decisions. Attached as Exhibit 16 is the County Comprehensive Plan Section 5.12 detailing the plan amendment, zone changes under the nonresource process which have occurred since 2011. In 2016, the County specifically adopted Ordinance 2016-005, Exhibit 17, which included Policy 2.2.3 recognizing the process and explicitly authorizing comprehensive plan and zoning map amendments, including nonresource lands, for EFU properties. The findings included in the Comprehensive Plan text at 3.3 specifically provide that “[a]s of 2010 any new Rural Residential Exception Areas need to be justified through initiating a non-resource 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.”*

The Hearings Officer, based upon the incorporated findings and the Applicant’s Burden of Proof statement above, finds the Subject Property is not “Agricultural Land” as defined and described by relevant laws.

**(d) This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.**

**FINDING:** The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Applicant submitted a soil study dated May 24, 2024. Applicant’s soil study/analysis was submitted to DLCD in conformance with ORS 215.211. Staff received acknowledgement from Hilary Foote, Farm/Forest Specialist with the DLCD, on October 9, 2024, that Applicant’s soil study/analysis was complete and consistent with DLCD’s reporting requirements. The Hearings Officer finds this criterion to be met based on Applicant’s soil study/analysis and that soil study/analysis was submitted and confirmed by DLCD to be complete and consistent with relevant laws/rules.

**(e) This section and OAR 660-033-0045 authorize a person to obtain additional information**

**for use in the determination of whether land qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.**

**FINDING:** The Hearings Officer incorporates the findings for *Deschutes County Comprehensive Plan, Chapter 2, Resource Management Section 2.2 Agricultural Lands Goal 1, Preserve and Maintain Agricultural Lands and the Agricultural Industry* and also the findings for *Oregon Administrative Rules Division 33- Agricultural Lands & Statewide Planning Goal 3 – Agricultural Lands* as additional findings for this section. The Applicant has provided a DLCD certified soil study/analysis as well as NRCS soil data. The Hearings Officer finds the Applicant has demonstrated compliance with this provision.

### **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 Applicant provided the following response in the submitted Burden of Proof:

*Attached as Exhibit 11 is a transportation impact analysis memorandum dated June 18, 2024 prepared by traffic engineer, Joe Bessman, PE. Mr. Bessman made the following key findings with regard to the proposed zone change and concluded that a significant affect does not occur with the proposed rezone:*

- Rezoning of the approximately 279-acre "Rose Pit" property from Surface Mining and Exclusive Farm Use to Rural Residential results in a small increase in the trip generation potential of the property. A slightly higher difference occurs in consideration of conditionally allowed uses (such as the use of the density bonus or provision of a future park). Conservatively, these analysis scenarios were also included within this review.*
- The small increase in trips could impact the Rickard Road corridor or the SE 27th Street/Rickard Road intersection. An operational assessment was prepared to determine whether these locations operate adequately with the proposed rezone, using each of the potential trip generation scenarios.*
- The assessment shows that even with the inclusion of conditional uses the Rickard Road segment and SE 27th Street/Rickard Road intersection will continue to operate acceptably. As the impacted facilities can continue to meet adopted performance standards, a significant impact does not occur with this rezone.*
- Coordination of this rezone application with the City of Bend will be required by the Transportation Planning Rule.*

*Based on the traffic analysis and findings by Mr. Bessman, the application complies with the County transportation code requirements, transportation system plan and the TPR.*

The Applicant submitted a traffic study (Exhibit 12) dated June 18, 2024, prepared by Joe Bessman of Transight Consulting LLC. As noted in the agency comments section above, the County Transportation Planner, agreed with the report's conclusions. The Hearings Officer, based upon Applicant's traffic study and analysis, finds that the proposed plan amendment and zone change will be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. The Hearings Officer finds, based upon the Applicant's traffic study and analysis, that the proposed zone change will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system.

The Hearings Officer finds, considering the Applicant's traffic study/analysis, along with the above-quoted Applicant comments, that approval of the application in this case will not significantly affect an existing or planned transportation facility. The Hearings Officer finds Applicant's traffic analysis and findings comply with the County transportation code requirements, transportation system plan and the TPR.

The proposed plan amendment would change the designation of the Subject Property from AG to RREA and change the zone from EFU to RR10. The Applicant is not proposing any land use development of the property at this time.

The Hearings Officer finds, based upon the County Senior Transportation Planner's comments and

Applicant's traffic study and analysis from Transight Consulting LLC, the application in this case complies with the Transportation Planning Rule.

## **Division 15, Statewide Planning Goals**

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

**FINDING:** The Statewide Planning Goals and the Applicant's responses from Applicant's Burden of Proof are outlined below:

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

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

**Goal 3, Agricultural Lands.** *The applicant has shown that the subject property is not agricultural land because it is comprised predominantly of Class 7 and 8 soils that are not suitable for farm use. Therefore, the proposal is consistent with Goal 3.*

**Goal 4, Forest Lands.** *Goal 4 is not applicable because the subject property does not include any lands that are zoned for, or that support, forest uses. Forest land is defined by OAR 660005-0010 as lands suitable for commercial forest use protection under Goal 4, which are identified using NCRS soil survey maps to determine average annual wood fiber production figures. The NCRS maps for the subject property map it with soil mapping units 27A, 155C and 157 C. The NCRS Soils Survey for the upper Deschutes River lists all soils mapped by its survey that are suitable for wood crop production in Table 8 (Exhibit 18). None of the soils mapped on the subject property are listed in Table 8 as suitable for wood crop production.*

**Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** *The subject property does not contain any inventoried Goal 5 resources.*

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

**Goal 7, Areas Subject to Natural Disasters and Hazards.** *According to the Deschutes County DIAL property information and Interactive Map the entire Deschutes County, including the subject property, is located in a Wildfire Hazard Area. The subject property is also located in Rural Fire Protection District #2. Rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation. Any*

future development of the property would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.

**Goal 8, Recreational Needs.** This goal is not applicable because no development is proposed and the property is not planned to meet the recreational needs of Deschutes County. Therefore, the proposed rezone will not impact the recreational needs of Deschutes County. Goal 9, Economy of the State. This goal does not apply to this application because the subject property is not designated as

**Goal 9 economic development land.** In addition, the approval of this application will not adversely affect economic activities of the state or area.

**Goal 10, Housing.** The County's comprehensive plan Goal 10 analysis anticipates that farm properties with poor soils, like the subject property, will be converted from EFU to MUA-10 or RR-10 zoning and that these lands will help meet the need for rural housing. The planned regional park will serve the surrounding rural community and approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County comprehensive plan.

**Goal 11, Public Facilities and Services.** The approval of this application will have no adverse impact on the provision of public facilities and services to the subject site.

**Goal 12, Transportation.** This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.

**Goal 13, Energy Conservation.** The approval of this application does not impede energy conservation. The subject property is located within 1 mile from the city limits of Bend. If the property is developed with additional residential dwellings in the future, providing homes in this location as opposed to more remote rural locations will conserve energy needed for residents to travel to work, shopping and other essential services provided in the City of Bend. If the property is developed with the regional park, as planned, it will provide recreational opportunities in close proximity to rural and urban residences, thereby conserving energy and vehicle miles traveled.

**Goal 14, Urbanization.** This goal is not applicable because the applicant's proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The RR-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The compliance of this zone with Goal 14 was recently acknowledged when the County amended its comprehensive plan. The plan recognizes the fact that the MUA-10 and RR zones are the zones that will be applied to lands designated Rural Residential Exception Areas.

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

Staff (Staff Report, page 29) generally accepted the Applicant's responses and finds compliance with the applicable Statewide Planning Goals had been effectively demonstrated. Staff did take note of public comments concerning potential loss of farmland, increased rural density, and traffic. Staff stated that these comments detail concerns related to specific potential use patterns.

Staff concluded that the overall proposal appears to comply with the applicable Statewide Planning Goals for the purposes of this review. Further, Staff indicated that issues related to a specific future development will be addressed at that time. The Hearings Officer concurs with Staff's summary comments related to statewide goals.

The Hearings Officer takes note that COLW alleged that the application in this case somehow violates or is not consistent with Goal 14. The Hearings Officer includes COLW's comments related to Goal 14 (11/12/24, pages 17 and 18) below:

*In its Curry County decision, the Oregon Supreme Court established a series of factors used to assess whether a particular land use change qualifies as urban or rural for purposes of Goal 14 compliance. 1000 Friends of Oregon v. Land Conservation & Development Commission ("Curry County"), 301 Or 447, 474 (1986); Oregon Shores Conservation Coalition v. Coos County, 55 Or LUBA 545, 550 (2008); 1000 Friends of Oregon v. Josephine County (Marvin I), \_\_ Or LUBA\_\_, slip op at 25 (LUBA No. 2021-116, June 2, 2022). These factors must be considered holistically rather than in isolation from one another. Oregon Shores, 55 Or LUBA 545, 556. LUBA summarized the Curry factors in Oregon Shores, 55 Or LUBA at 550: "(a) the size of the area in relationship to the developed use (density); (b) its proximity to an acknowledged UGB and whether the proposed use is likely to become a magnet attracting people from outside the rural area; and (c) the types and levels of services which must be provided to it." Here, under the Curry County factors, the proposed PAPA decision, if approved, would violate Goal 14 by allowing urban population outside of a UGB and undermining the effectiveness of an established UGB.*

**a. Density** *The application proposes to rezone the subject property to allow greatly increased residential density. Under RR-10 zoning, Deschutes County Code allows either a 10 acre minimum lot size, or 5-acre equivalent density for planned and cluster developments within one mile of the UGB:*

*"Minimum lot size shall be 10 acres, except planned and cluster developments shall be allowed an equivalent density of one unit per 7.5 acres. Planned and cluster developments within one mile of an acknowledged urban growth boundary shall be allowed a five-acre minimum lot size or equivalent density. For parcels separated by new arterial rights of way, an exemption shall be granted pursuant to DCC 18.120.020." (DCC 18.60.060(C))*

*In a planned developments, there is no minimum lot size:*

*"The minimum lot area, width, frontage and yard requirements otherwise applying to individual buildings in the zone in which a planned development is proposed do not apply within a planned development. An equivalent overall density factor may be utilized in lieu of the appropriate minimum lot area." (DCC 18.128.210(D)(3))*

*In this way, should the re-zone be approved, up to 56 rural residences could be conditionally permitted on the subject property with no consideration of Goal 14. This is an urban level of density.*

**b. Proximity to UGB and magnet for attracting people** *The subject property is about one mile from the City of Bend UGB and will become a magnet for attracting urban population outside the UGB. The allowed uses in the RR-10 zone will both attract people who would otherwise reside in the UGB, and attract people who could reside on the subject property into the UGB for urban services. Both outcomes will undermine the effectiveness of the UGB in violation of Goal 14.*

**c. Types and levels of services** *The proposed rezoning is also likely to make the potential residents of a new neighborhood in the RR-10 zone reliant on urban public services and infrastructure. The “types and levels of services” that will be provided to the subject property will nearly all be from urban service providers. Oregon Shores Conservation Coalition v. Coos County, 55 Or LUBA 545, 550 (2008). Future residents will attend urban schools, ride urban public transit, visit urban libraries, use urban healthcare services, rely on urban public safety services, and patronize urban commercial services. Just like the first two Curry County factors, this also frustrates and undermines the effectiveness of the UGB in violation of Goal 14.*

*The increase in density, proximity to a UGB and potential to undermine the effectiveness of the UGB, and reliance of urban services all point toward the decision urbanizing rural land in violation of Goal 14 in the absence of an exception to Goal 14.*

Applicant (Final Argument, pages 15 through and including 17) provided the following response to COLW’s Goal 14 arguments:

*In section XI of its November 12 letter, COLW argues that the application does not comport with Statewide Planning Goal 14. However, COLW’s analysis is predicated entirely under what are often referred to as the Curry County factors derived from 1000 Friends of Oregon v. Land Conservation & Development Commission, 301 Or 447, 474, 724 PO2d 268 (1986) (“Curry County”).[footnote omitted] Although helpful when determining if a use is “rural” versus “urban,” not ever Goal 14 issue turns on that nuanced distinction. In this case, COLW’s argument ignores that the Curry County factors were not the dispositive Goal 14 analysis in three similarly-situated cases arising out of Deschutes County, two of which reached the Court of Appeals. Central Oregon LandWatch v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA No 2023-006/009, July 28, 2023) (slip op at 80-84), *aff’d*, 330 Or App 321, 543 P3d 736 (2024) (concerning the RR-10 zone); Central Oregon LandWatch v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA No 2023-008, April 24, 2023) (slip op at 12) (concerning the Rural Industrial zone); Central Oregon LandWatch v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA No 2022-075, Dec 6, 2022) (slip op at 17-18), *aff’d* without opinion, 324 Or App 655 (2023) (concerning the Rural Industrial zone).*

*In another Deschutes County case, COLW raised essentially the identical Curry County factor density argument as raised herein to try and compel the County to adopt a Goal 14 exception as a prerequisite to approving that map amendment / zone change application. See Central Oregon LandWatch v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA No 2023-049, February 15, 2024), *aff’d*, 333 Or App 263 (2024) (concerning the MUA-10 zone). Although mostly decided on preservation grounds, both LUBA and the Court of Appeals directly addressed and rejected COLW’s undeveloped density argument. *Id* (slip op at 23; slip op at \*2).*

*In short, COLW’s Goal 14 argument entirely misses the mark because it fails to address that the RR-10*

zone was acknowledged by DLCD as consistent with Goal 14. In the aforementioned cases, both LUBA and the Court of Appeals confirmed that such an acknowledgement means in this case that all uses allowed in the RR-10 zone are “rural,” therefore not prompting or requiring any further Goal 14 inquiry. As a party in all of the above-cited matters, it is further notable that COLW is yet again recycling tired Goal 14 arguments without citing or distinguishing any of the aforementioned cases.

While not conceding that an analysis of Goal 14, Urbanization is required, we provide one below.

The RR-10 zoning district does not authorize urban development that violates Statewide Goal 14. DCCP Chapter 1, Section 1.3 p. 15 (Definitions) says that RREAs provide opportunities for rural residential living; not urban living that violates Goal 14. A review of the factors identified by the Supreme Court in Curry County all confirm that the zoning district does not allow urban development

### **i. Density**

The RR-10 imposes a maximum density of 1 dwelling per 10 acres. The only exception is that a higher density may be allowed in planned or cluster developments not burdened by the WA overlay zone; but only if such development complies with the County’s conditional use criteria, comprehensive plan and rules that require the dedication of 65% open space. The large open space areas created by this type of development create large areas that maintain the rural character of the parent parcel. The maximum density for properties like the subject property is one house per 7.5 acres. This is not an urban density. Such a density would never be allowed in any urban residential zoning district other than a reserve or holding zone. For instance, in the City of Bend, a density of 1.1 dwellings per acre is the lowest density allowed for an urban residential district. This density is allowed only for areas not served by sewer. For properties served by sewer, a minimum density of 4.0 dwellings per one acre is required.

In Curry County, the Supreme Court accepted the concession of 1000 Friends a density of one house per ten acres is generally “not an urban intensity.” COLW argues that the comprehensive plan requires a 10-acre minimum parcel size. If they are correct, this minimum will apply during a review of any subdivision on the subject property and assure that development is “not an urban intensity.” Furthermore, in Curry County, 1000 Friends argued that densities greater than one dwelling per three acres (e.g., one dwelling per one or two acres) are urban.

The density allowed by the RR-10 zone in a planned development is 2.5 times less dense. For a standard subdivision, the density allowed (1 house per 10 acres) is over 3 times less dense. The density of the RR-10 zone is not, as claimed by COLW, 8 times greater than the density allowed in the EFU-zone. Deschutes County’s EFU zone allows for non-irrigated land divisions for parcels as small as 40 acres that create two nonfarm parcels (1:20 acres density). It also allows for 2-lot irrigated land divisions that, in Deschutes County, can occur on parcels less than 30 acres in size (23 acres irrigated, no minimum lot size for the nonfarm parcel) that result in a density of one house per less than 15 acres.



**ii. Lot Size**

*The RR-10 zoning district requires a minimum lot size of one house per ten acres. An exception to the minimum lot size is allowed only if 65% of the land being divided is dedicated as open space and a maximum density of 1 dwelling per 7.5 acres is achieved on the subject property.*

*The EFU zone that applies to the subject property imposes no minimum lot size for new nonfarm parcels. DCC 18.16.055. The only exception is that 5-acre minimum is required for non-irrigated land divisions of properties over 80 acres in size. DCC 18.16.055(C)(2)(a)(4). The EFU zone requires that other nonfarm uses be on parcels that are “no greater than the minimum size necessary for the use.”*

*Lot size by itself is not determinative of urban vs. rural use, this is particular true given that irrigated land division may result in lots of only 5-acres. Although not relevant to this Application, OAR 660-004-0040 contemplates lot sizes as small as two acres in rural residential areas.*

**iii. Proximity to Urban Growth Boundaries**

*The County’s zoning map shows that the subject Property is less than 1 mile from the City of Bend UGB. As recognized by COLW, the planned regional park is allowed on EFU lands. The zone change to allow park development on the former SM lands and unproductive EFU lands will therefore not have the effect of drawing residents outside of the City for services since those services are allowed without the change. The magnet effect was an issue of concern to the Oregon Supreme Court in the Curry County case. LCDC currently strictly limits the size of magnet uses in the EFU zoning district if they are within 3 miles of an urban growth boundary by OAR 660-033-0130(2) and Table OAR 660-033-0120, thereby addressing the proximity issue.*

**iv. Services**

*Sewer service is prohibited by Goal 11. An increase in the density of development is not allowed if a public water system is developed to serve the subject Property. The plan is to use septic systems and well water to serve the park development.*

**v. Conclusion of Factors**

*In totality, none of the above-factors indicates that the Applicant’s rezone request implicates Goal 14. As discussed at the Hearing, the Property already qualifies for the regional park given the existing requirements in the Code and state law. Applicant’s proposal would increase the flexibility to permit additional structures in the park, but not to urban levels. Instead, approval of the proposal will enable the land to remain in a rural state, and to avoid the haphazard land use patterns that could otherwise result from serial non-farm dwelling applications.*

This Hearings Officer notes that he has considered essentially the same COLW Goal 14 argument in prior plan/zone change recommendation cases. (See, for example, Hearings Officer recommendation for cases 247-22-000436-ZC/247-22-000443-PA/247/23/000651-MA) This Hearings Officer has consistently found that a Comprehensive Plan change from AG to RREA and a

zone change from EFU to RR-10 does not **require** a Goal 14 exception. The Hearings Officer appreciates that each case is unique and that in certain instances a contrary decision could result.

The Hearings Officer takes note that LUBA has held that that the RR-10 zone is a “rural zone.” (See, for example, *Central Oregon LandWatch v. Deschutes County*, LUBA 2023-006 (2023).<sup>1</sup> Applicant’s perspective is that “COLW’s Goal 14 argument entirely misses the mark because it fails to address that the RR-10 zone was acknowledged by DLCD as consistent with Goal 14.”

The Hearings Officer notes that the Comprehensive Plan RREA designation describes rural (not urban) use of land. The purpose section for the RR-10 zone (DCC 18.60.010) states the following:

*The purposes of the Rural Residential Zone are to provide rural residential living environments; to provide standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources; to manage the extension of public services; to provide for public review of nonresidential uses; and to balance the public's interest in the management of community growth with the protection of individual property rights through review procedures and standards.*

The Hearings Officer finds the Applicant’s discussion and analysis quoted above to be persuasive. The Hearings Officer finds COLW’s discussion and analysis quoted above is not persuasive. The Hearings Officer finds Applicant’s discussion and analysis correctly reflect the current status of Goal 14 law and that Applicant appropriately applied such law to this case. The Hearings Officer finds no Goal 14 exception is required in this case.

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<sup>1</sup> *Central Oregon LandWatch v. Deschutes County*, LUBA 2023-006 (2023), “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 DLDC’s acknowledgement 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 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.”

**III. CONCLUSION AND RECOMMENDATION:**

The Hearings Officer finds that the Applicant has met the burden of proof necessary to justify changing the Plan Designation from Agricultural (AG) and Surface Mining (SM) to Rural Residential Exception Area (RREA) and Zoning of the Subject Property from Exclusive Farm Use - Tumalo/Redmond/Bend subzone (EFU-TRB) & Surface Mining (SM) to Rural Residential (RR-10) by 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 Oregon statutory and regulatory law.

The Hearings Officer recommends approval of the Applicant’s proposal.

**DESCHUTES COUNTY HEARINGS OFFICER**



Gregory J. Frank  
Deschutes County Hearings Officer



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** Request to convert 1.0 FTE Administrative Assistant position supporting the Forensic and Acute Services program (Behavioral Health division) from limited duration to regular

**RECOMMENDED MOTION:**

Move approval of Resolution No. 2025-008 to convert 1.0 limited duration FTE to a regular FTE position within the Health Services Fund.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Forensic and Acute Services (FAS) Program, under Deschutes County Behavioral Health, provides services to individuals who are involved with the criminal justice system as a result of their mental illness. FAS is a newly formed program streamlining acute care and forensic services under one manager with the goal of creating efficiencies and improving outcomes. Teams within this program provide statutorily required services to individuals who are typically mandated to engage in behavioral health treatment. One of the target populations is individuals who are unable to Aid & Assist in their own defense to criminal charges. This client group has increased 137% in Deschutes County over the past five years, and statewide these cases are now largely responsible for the overcrowding of the Oregon State Hospital.

In 2024, Deschutes County Health Services was selected to participate in a pilot program funded by the Oregon Health Authority (OHA), focused on increasing engagement with individuals placed at the Oregon State Hospital (OSH) who are unable to Aid & Assist. Health Services received \$1 million in pilot program funding and added 2.0 limited duration FTE through June 30, 2025. There is projected to be \$293,000 of unspent Community Navigator funds as of June 30, 2025, and Behavioral Health is requesting to convert 1.0 limited duration FTE to regular (Administrative Assistant, position #3393). This position is a vital support role for the FAS program, and it tracks and completes multiple statutorily required data reports to OHA, while providing administrative coordination that allows the program to effectively provide services to the community. The position will be funded in Fiscal Year 2026 through Community Navigator pilot unspent funds and with CCBHC PPS in future years.

**BUDGET IMPACTS:**

This position is currently funded through June 30, 2025 via OHA Community Navigator funds. If approved to be a regular FTE, the position will be funded by Community Navigator funds and Certified Community Behavioral Health Clinic Medicare reimbursements in Fiscal Years 2026 and 2027. A budget adjustment for FY 2025 is not needed.

**ATTENDANCE:**

Evan Namkung, Program Manager, Deschutes County Behavioral Health  
Cheryl Smallman, Business Office, Deschutes County Health Services  
Cam Sparks – Budget & Financial Planning Manager

REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
OREGON

A Resolution Increasing \*  
FTE Within the 2024-25 \* RESOLUTION NO. 2025-008  
Deschutes County Budget \*

WHEREAS, the Deschutes County Health Services department presented to the Board of County Commissioners on March 26, 2025 with regards to converting a 1.00 limited duration Administrative Assistant FTE to a 1.00 regular Administrative Assistant FTE, and

WHEREAS, Deschutes County Policy HR-1 requires that the creation of or increase in FTE outside the adopted budget be approved by the Board of County Commissioners; now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, as follows:

Section 1. That the following FTE be added to the FY 2024-25 Deschutes County Budget

Job Class	Position Number	Type	Effective Hiring Date	FTE
Administrative Assistant (9035)	3393	Limited Duration	LTD ends 6/30/2025	-1.00
Administrative Assistant (9035)	3393	Regular	7/1/2025	1.00
<b>Total FTE</b>				<b>0.00</b>

Section 2. That the Human Resources Director make the appropriate entries in the Deschutes County FTE Authorized Positions Roster to reflect the above FTE changes.

DATED this \_\_\_\_\_ day of April 2025.

BOARD OF COUNTY COMMISSIONERS OF  
DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

ATTEST:

\_\_\_\_\_  
PATTI ADAIR, Vice-Chair

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

\_\_\_\_\_  
PHIL CHANG, Commissioner



**BOARD OF  
COMMISSIONERS**

**AGENDA REQUEST & STAFF REPORT**

**MEETING DATE:** April 2, 2025

**SUBJECT:** Public Health Advisory Board By-Laws Update

**RECOMMENDED MOTION:**

Move approval of the updated by-laws for the Public Health Advisory Board.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Public Health Advisory Board (PHAB) periodically updates its By-Laws to better serve Deschutes County Public Health and the Deschutes County Board of County Commissioners. These updates improve strategic and operational functions with the aim of making PHAB more effective in improving the health of Deschutes County residents.

The majority of substantive updates made to the By-Laws occur in Article V, Membership. PHAB members identified a need to be more strategic and deliberate in creating a robust committee through improved member expertise and experience related to local public health. Also, member expectations have been more clearly defined and a new recruitment process for membership has been created. The updates have been reviewed and approved by Public Health Leadership, as well as County Legal.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Tom Kuhn, Project Manager, Health Services  
Rob Ross, MD, PHAB Chair  
Colleen Sinsky, PHAB Vice-Chair





# Deschutes County Health Services

## Public Health Advisory Board By-Laws

### Mission Statement:

To promote and protect the health and safety of our community.

### **BY-LAWS**

#### **Article I**

#### NAME AND ADDRESS

The name of this body shall be the Deschutes County Public Health Advisory Board (“PHAB”). The permanent address for the Board will be 2577 NE Courtney Drive, Bend, Oregon 97701. PHAB shall carry out its responsibilities consistent with ORS 431.447.

#### **Article II**

#### PURPOSE

PHAB is established to enhance community relations with Deschutes County Health Services (DCHS), to increase public knowledge about public health issues, and to assist in the betterment of services provided by DCHS. PHAB also advises the Board of County Commissioners (BOCC) concerning matters of public health and the operation of the public health system.

#### **Article III**

#### RESPONSIBILITIES

PHAB’s responsibilities include providing advice, leadership and guidance in support of the DCHS’s Public Health mission.

PHAB shall:

- A. Inform the Board of County Commissioners, the County Administrator, and DCHS Leadership about emerging public health threats, legislation, and health issues in need of attention. Take action only when in alignment with or directed by the BOCC.

- B. Work cooperatively with the Behavioral Health Advisory Board and other DCHS advisory groups to find synergies in health topic advocacy and collaborate when possible.
- C. Promote the public health programs, services and educational opportunities provided by DCHS within the community.
- D. Participate in developing and endorsing the priorities and services provided or sponsored by DCHS, including but not limited to health assessment review, health improvement plan development, and strategic planning.
- E. Assist DCHS in advocating for Public Health Modernization, implementing best practices, increasing community engagement, and fulfilling any necessary requirements.
- F. Recommend advocacy positions for the resources necessary to assure the provision of essential public health functions. This includes, but is not limited to supporting Public Health budget requests made during the Deschutes County annual budget process.
- G. Monitor health status indicators that will help to identify community health problems and work towards identifying recommended solutions t for the BOCC and DCHS Leadership.
- H. Determine priorities that arise in the community in order to be relevant, timely, and responsive.
- I. Follow DCHS established communication protocol when acting as a PHAB Member in communicating with the BOCC, the County Administrator, and Legislature.
- J. Actions to be taken by PHAB will include, but are not limited to:
  1. Provide relevant information and when appropriate, recommendations to the Board of County Commissioners through presentations and informational letters.
  2. Advocate on legislation that may impact public health.
  3. Write letters of support for vetted grant applications and programs that will positively impact public health.
  4. Respond with appropriate action on information and requests presented to PHAB by persons who are well informed on public health matters, including those brought by PHAB Members.
  5. Support and amplify public awareness campaigns from DCHS, when requested.
  6. Support interagency efforts related to public health promotion.
  7. Acknowledge individuals and organizations in Deschutes County who demonstrate excellence in Public Health through the annual Health Heroes Awards.
  8. Other tasks as requested by the BOCC and DCHS.

## Article IV

## MEETINGS

### Section I. Regular Meetings:

PHAB will endeavor to meet monthly, and at least once per calendar quarter. The PHAB Chairperson, in consultation with the PHAB Coordinator, may call other meetings as necessary. Meetings will be held virtually or in a conference room accessible to PHAB members and the general public.

### Section II. Special Meetings or Work Sessions:

Special meetings and work sessions may be called by the PHAB Chairperson. Public law requires that members of PHAB and the press receive written notice at least 24 hours prior to holding such a meeting.

From time to time, PHAB may meet in Executive Session upon motion by any member of PHAB. When an Executive Session is called, all non-PHAB Members will be excused.

### Section III Quorum:

A majority of PHAB members, including those in actual attendance as well as those attending by proxy, shall constitute a quorum necessary for the transaction of any and all business of PHAB.

### Section IV Minutes:

PHAB shall cause minutes of all meetings to be prepared and approved in accordance with Oregon Public Meetings law. Health Services Department staff shall prepare, maintain and have available minutes of PHAB meetings, including, without limitation, a recording of all motions and subsequent actions. Announced conflicts of interest shall be noted.

### Section V. Voting:

Each PHAB member shall have one vote. Any matter coming before PHAB shall be decided through voting by a majority of members, either physically present, through virtual platforms, or by proxy. While personal attendance is always preferred, each member is entitled to one vote. Members must declare potential conflicts of interest under consideration and will abstain from voting on issues related to conflict of interest as determined by the membership.

Proxy voting is permitted upon any issue which has been included in the notice of the meeting. Members who are present are limited to not more than one absent member's proxy, in addition to their own vote. Members who choose to vote by proxy shall notify the PHAB chair, PHAB Coordinator, or PHAB member to whom the proxy is assigned via email prior to the meeting. Such votes will be documented in meeting minutes. If the matter is not voted on at the meeting for which it was noticed, then all proxies for such matter shall be deemed to have expired.

### Section VI. Notice of Meetings:

Notice of regular and special PHAB meetings shall be posted online at <https://www.deschutes.org/>. This will include the time, date, and physical or virtual location of the meetings, as well as any documentation relevant to the meetings and PHAB.

Unless in Executive Session, all meetings are public and will offer opportunities for public comment (at discretion of PHAB Chair) and listening to PHAB deliberations.

**Article V**

**MEMBERSHIP**

**Section I. Qualifications & Representation:**

In order to be strategic and deliberate in creating a robust PHAB, as well as strengthen member expertise and experience related to local public health, PHAB has designated the following 15 Deschutes County specific “Seats” to be used in defining membership composition and needs:

- Central Oregon Health Council (COHC)
- Coordinated Care Organization (CCO)
- Community Based Organization (1)
- Community Based Organization (2)
- Dental Provider
- Federally Qualified Health Center (FQHC) (1)
- Federally Qualified Health Center (FQHC) (2)
- Health Systems (local)
- Higher Education
- K-12 Education
- Medical Provider (Private Physicians/Clinic)
- Member at large (1)
- Member at large (2)
- Member at large (3)
- Public Safety (emergency response, law enforcement, fire)

PHAB will strive to maintain between eleven (11) and fifteen (15) members at all times, with a minimum of nine (9) members needed to conduct official business. In the event that PHAB membership drops below eleven (11) members, a recruitment process will be held to fill any vacant seats available at that time. Recruitments may also take place based on need with approval from PHAB membership, even if membership is between eleven (11) and fifteen (15) members.

All current PHAB members serving prior to these updated By-Laws update will be reassigned to the seat that most closely aligns with their profession, expertise, or employment. Only one member of the same organization is permitted to serve on the PHAB at the same time, regardless of designated seat, unless they were already serving prior to this update.

If a PHAB member leaves the professional field associated with their designated seat, they will no longer be eligible to serve on the board unless a vacant seat aligns with their new profession. Reassignment requires PHAB Membership review and BOCC approval. A change from one employer to another, which is still applicable to the Seat held is permissible, however, the PHAB Coordinator and Chairs should be notified immediately in writing when this occurs.

The membership should attempt to reflect the professional and public interests of the County, as well as its varying age, race, gender, identity, ethnic, socioeconomic, geographic composition. Members shall serve without remuneration.

**Section II. Recruitment:** Recruitments will be performed through the Deschutes County Public Information Officer and staff, in the form of a news release distributed through a number of media channels which delineates which seats are being recruited. Instructions on how to apply will be included in the news release. Following a three-week recruitment period, PHAB may close the recruitment if they feel there are a sufficient number of qualified applicants to choose from, or may extend it for another three weeks and continue media recruitment if there are an insufficient number of qualified applicants. During the recruitment period, any potential applicants will be invited to attend a PHAB meeting in order to introduce themselves and observe.

Following the close of a successful recruitment process, the PHAB Development Workgroup will convene and review applications received. The workgroup will develop a uniform scoring mechanism to evaluate applications and then create a list of applications recommended for PHAB Membership. The top candidates will be interviewed by PHAB Chairs, who will present final recommendations to PHAB for approval. This may be done at a PHAB meeting if time permits, or done through e-mail. Once there is consensus by PHAB that an applicant should be recommended for membership, the PHAB Chairs will submit a letter of recommendation to the Commissioners for consideration of approval or denial of PHAB membership. Upon Commissioner approval, the new member will be notified of their appointment to the PHAB and complete orientation with the PHAB Coordinator.

**Section III. Ex-Officio Members:**

In addition to the appointed PHAB members, the BOCC shall appoint, from among themselves, one member to serve as liaison to the PHAB who is expected but not required to attend at least two (2) PHAB meetings each calendar year.

Additionally, the Public Health Director of the Health Services Department and the County Health Officer will be Ex-officio members of PHAB. Ex-officio members do not have voting rights. PHAB may appoint other Ex-officio members as appropriate.

**Section IV. Attendance and Participation:**

PHAB members shall endeavor to attend all meetings in person. Three (3) consecutive unexcused absences shall constitute grounds for removal. Members who are absent for three (3) meetings and do not respond to contacts made by the PHAB Coordinator will automatically be removed from the board. PHAB members who need to take a leave of absence from meeting attendance may do so provided they notify the PHAB Chair and Coordinator in advance, if possible, and provide an approximation of the duration of the leave. The PHAB Chair and Coordinator will then notify the entire board that this leave

of absence has been requested. The member requesting leave should do their best to keep PHAB informed of their anticipated return to the board.

PHAB members will be expected to fully participate in meetings to the best of their ability. In addition to regularly attending meetings, members should participate in at least one work group or other PHAB activities outside of monthly meetings.

Section V. Removal:

Any member may be removed whenever the best interests of the DCHS or PHAB is not served.

Grounds for removal from PHAB include without limitation, taking a position that is in conflict with the mission of PHAB and/or DCHS, or having three (3) absences from PHAB meetings without prior notification to PHAB Coordinator and/or Chair as outlined in Article V Section IV.

The member whose removal is placed in issue shall be given prior notice of his/her proposed removal and a reasonable opportunity to appear and be heard at a meeting of PHAB. A member may be removed pursuant to this section by not less than two-thirds (2/3) of the total number of members then serving on PHAB, or by majority vote of the BOCC.

**Article VI**

TERMS OF OFFICE AND VACANCIES

Section I. Term and Length of Service:

PHAB members shall serve staggered terms of office and be assigned a position number with expiration date to assure even rotation. A full term is three (3) years. The Founding PHAB will be assigned initial terms of 1, 2, or 3 years by the Board of County Commissioners in order to initiate staggered rotation.

After a Founding member finishes his or her initial term, they may apply for nomination for a second term. A member appointed to serve the unexpired term of another member shall begin their membership on the first day of the month immediately following the date it is approved. Regular terms shall begin and expire on September 1. A member may not initiate a new term on PHAB if the member has already served for 10 years or more.

Section II. Vacancies:

A vacancy occurs when a PHAB member’s term expires, or when a PHAB member moves out of the service area, dies, resigns, or is removed from PHAB. When a vacancy occurs, PHAB will initiate a recruitment process as outlined in in Section II. Recruitment.

**Article VII**

OFFICERS

Section I. Officers:

PHAB shall elect a Chairperson and Vice-Chairperson each to serve a two-year term which can be renewed for a third year upon the consent of PHAB and acceptance of the nominee. In addition, The Vice-Chairperson shall be eligible for election to the Chair after Chairperson's term ends or they resign. If no other candidates come forward expressing interest in the Chair position, the Vice-Chair may become Chair upon the consent of PHAB. In the event of a Chair resignation, the Vice-Chair may assume the Chair position upon consent of PHAB, and finish the resigning Chair's term of office or request a full two year term.

## Section II. Elections:

Elections of new officers shall take place prior to the end of the calendar year with the new term beginning at PHAB's first regular meeting in January. Terms will begin and end January 1, unless the election took place after such date, in which case the term will begin immediately or when feasible. In the event that nominations for Officer positions are not received by the scheduled election, a six (6) month extension will be offered to the current officer. In the event that only one nominee is available for an Officer position, PHAB may elect that nominee through consensus.

## Section III. Duties:

Duties of the officers are as follows:

### 1. Chair:

- a. Shall prepare the agenda with the assistance of PHAB Coordinator.
- b. Shall conduct the meeting in accordance with parliamentary procedure and comply with the rules and regulations of County and State with regard to public meetings.
- c. May call special meetings of PHAB as are necessary.
- d. Shall serve as an Ex-Officio member of all committees.
- e. Shall sign off on advocacy position letters and present to the BOCC when needed.

### 2. Vice-Chair:

- a. Shall assist the Chair as needed.
- b. Shall serve as Chairperson during such time as the Chair is absent or unable to serve.
- c. Shall sign off on advocacy position letters and present to the BOCC when needed.

## **Article VIII**

### COMMITTEES

## Section I. Standing Committees:

PHAB shall appoint standing committees and their membership at its discretion. Membership may include PHAB members, staff, and other community members at the discretion of PHAB.

## Section II. Executive Committee:

The Executive Committee shall be comprised of the Chairperson, Vice-Chairperson, and the PHAB Coordinator. The Executive Committee shall have the authority to act on behalf of the entire PHAB for matters of routine business, but shall report to the entire PHAB its actions as reflected in carefully

maintained minutes. The Health Services PHAB Coordinator shall be a non-voting member of the Executive Committee.

Section III. Subcommittees:

Subcommittees may be established by PHAB as needed and may consist of additional individuals from the community chosen for their expertise and knowledge and concern about a specific issue or a field of endeavor. Once a Subcommittee has completed all assigned tasks and reported same to the PHAB, it shall expire.

Section IV. Public Meetings:

All Committee meetings shall be open to the public.

**Article IX**

CONFLICT OF INTEREST

No PHAB member shall be an employee of Deschutes County Health Services Public Health or an immediate family member of an employee. An exception is allowed for individuals who serve in an on-call, temporary, or limited duration capacity with DCHS.

**Article X**

PARLIAMENTARY AUTHORITY

Meetings shall be conducted using the general guidelines of Robert’s Rules of Order.

**Article XI**

**OREGON PUBLIC RECORDS AND MEETINGS LAWS**

As a public body under the laws of the State of Oregon, the PHAB is subject to ORS 192.311 to .478 (Public Records) and ORS 192.610 to .705 (Public Meetings).

**Article XI**

ADOPTION, AMENDMENT

PHAB shall review, revise, and recommend approval and adoption of these By-Laws. After PHAB approval, the By-Laws shall be delivered to the Board of County Commissioners for final approval and formal adoption.





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** BOCC Letter of Support for the Deschutes County Justice Reinvestment Preliminary Formula Grant Application for the 25-27 Biennium

**RECOMMENDED MOTION:**

Move to authorize Chair signature of a letter supporting an application for an Oregon Justice Reinvestment Program preliminary formula grant.

**BACKGROUND AND POLICY IMPLICATIONS:**

House Bill 3194, passed by the Oregon Legislature, aimed to control prison growth by investing in local criminal justice systems. The funding began in the 13-15 biennium and has continued since that time. Deschutes County, in collaboration with LPSCC agencies, has applied for and received grant funds every cycle.

Justice Reinvestment has focused on two major goals: safe prison bed reduction for individuals with prison-eligible drug, property and driving crimes; and reduction in recidivism for clients on supervision for JRP eligible crimes. While doing this the focus has also been on ensuring public safety and holding clients accountable. Funding for the 25-27 biennium will sustain efforts that have already shown impacts in both areas.

The Deschutes County Justice Reinvestment Program (JRP) supervises clients who receive a "downward departure" sentence as well as clients on early release from prison through Short-Term Transitional Leave or the Alternative to Incarceration Program. The JRP program aims to safely and effectively supervise clients in the community based on their criminogenic risk and needs. In addition to supervision, clients receive risk and needs assessments, case management with an emphasis on structured skill building, and support for cognitive-based therapy. Staff works to connect clients to treatment based on their risk needs profile and further helps to reduce basic needs barriers such as housing and transportation. This program has worked closely with the District Attorney's office over the years.

Part of the JRP grant program is that 10% of funds awarded to Deschutes County are for

victims services agencies. In the past, this has included Mary's Place, CASA, KIDS Center, JBARJ Anti-Trafficking Project, and In Our Backyard. The LPSCC will run a grant application and review process for these funds.

Staff requests that the Board approve a letter of support for the preliminary grant application, which has been reviewed and approved by LPSCC.

**BUDGET IMPACTS:**

A budget has not been released in terms of the amount of funds available for Deschutes County—those figures will be available once the legislative session has concluded. Staff anticipates a similar allocation to the last biennium. For the 2023-2025 biennium, the County received \$1,695,269 for FTE and services connected to formula funding. This did not include supplemental and other competitive funds.

**ATTENDANCE:**

Trevor Stephens, Business Manager

**Deschutes County Justice Reinvestment  
Preliminary Grant Application  
Due April 18, 2025**

**Cover Sheet**

- LPSCC Chair Contact Information
- Applicant Contact Information
- Fiscal Contact Information

**Consultation of Data Dashboards**

1. Has your county's prison usage increased over the past 12 months or exceeded your historic baseline? If yes, please identify local factors contributing to this trend (150 word Limit).
  - [Link to CJC](#)
  - Over the past 12 months, Deschutes County prison usage has fluctuated but remains well below our historic baseline. As of December 2023, we recorded 814 months, reached a low of 659 months in September 2024, and then rose to 988 months in December 2024 (the most recent data available on the JRP prison usage chart). Our historic baseline is 1,727 months, and the December 2024 figure represents 57% of that baseline.
  
2. Has three-year incarceration recidivism increased in your county in the latest data year or since 2013? If yes, please explain local factors contributing to this trend (150 word limit)
  - [Link to CJC](#)
  - Deschutes County's most recent recidivism rate for incarceration is lower than pre-JRP rates from 2014. Over the past 12 months, the incarceration rate has fluctuated, from 17.8% for the 1st cohort of 2017 to 17.1% for the 1st cohort of 2021. While these rates are higher than the statewide averages for the same cohorts, Deschutes County has historically had higher rates. However, there has been no significant increase compared to pre-JRP levels. We continue to monitor recidivism rates and are implementing evidence-based supervision techniques that research shows directly impact a client's likelihood to recidivate. We use Cognitive Behavioral Therapy (CBT) through MRT with male clients and Moving On with female clients. We have also implemented gender-responsive caseloads. Our Parole and Probation Officers (PPOs) utilize core correctional practices, Carey guides, Motivational Interviewing, and other skills-based interventions to address the specific criminogenic risks and needs of our clients.

3. How does your Justice Reinvestment-funded programming address racial disparities or other disparities in historically underserved communities (150 Word Limit)?
  - Our JRP program addresses disparities affecting historically underserved communities through effective supervision, adherence to risk, needs, and responsivity principles, and maintaining manageable caseloads for consistent, fair responses. Supervision is based on validated risk and needs assessments, with an emphasis on building rapport and trust during initial visits. This helps clients share their experiences, including their racial, ethnic, and gender identities, allowing us to connect them with services that meet their responsive needs. Since 2020, a community-based advisory committee has provided feedback on our processes and services. Through this, we've partnered with community organizations offering additional support and recently launched partnerships with peer mentor recovery services specializing in culturally responsive support. We continue to work on our equity plan, developed with the District Attorney's office, including joint training on implicit bias for LPSCC leadership. Additionally, we've introduced a gender-responsive caseload for Spanish-speaking clients.

### **Proposed Grant Program**

1. Program Name: Deschutes County Justice Reinvestment Program
2. Was this program a part of 21-23 Justice Reinvestment funded program?
  - Yes
3. What type of program is this?
  - Downward Departure
4. Provide a summary of the program's purpose and key activities (200 words or less).
  - The Deschutes County Justice Reinvestment Program (JRP) focuses on reducing prison usage and recidivism while ensuring public safety. Clients are assessed using the LSCMI or WRNA and supervised based on their criminogenic risk and needs. Supervision includes core correctional practices, structured skill-building, and cognitive-based programming. JRP refers clients to outside providers for treatment and offers barrier-reduction services, including housing, clothing, DMV IDs, and other supports. The program collaborates with local treatment providers to ensure clients have access to substance use disorder (SUD) treatment, Medication-Assisted Treatment (MAT), or other services as needed. Internally, JRP offers cognitive behavioral therapy (CBT) services, including MRT for men and Moving On for women.
  - JRP also provides gender-specific caseloads and has recently introduced a Spanish-speaking, culturally responsive caseload to better meet the needs of diverse clients. The program prioritizes small caseloads for high-risk clients, particularly those on Downward Departure, providing intensive supervision and

support such as sober housing, case-managed transitional housing, SUD treatment, and transportation assistance. To address public safety concerns in early release or downward departure cases, JRP emphasizes early, accurate assessments, case management based on risk and needs, frequent contact to monitor compliance and safety, random urine analysis testing, and access to cognitive-based and other treatments.

5. Which of the goals of the Justice Reinvestment Program does this program meet (100 word limit)?
  - The Deschutes County Justice Reinvestment Program (JRP) aims to reduce prison usage and recidivism while ensuring public safety and holding individuals accountable. By assessing defendants' criminogenic risk and needs, JRP provides tailored supervision, including cognitive-based programming, specialized services, and intensive supervision for high-risk clients. The program uses evidence-based techniques like Motivational Interviewing, CBT, and Core Correctional Practices, and offers support such as sober housing, transportation, and treatment referrals. Small caseloads, frequent contact, and case management ensure public safety and client accountability. JRP's success in reducing prison usage, combined with targeted interventions and local treatment support, helps reduce recidivism and improve client outcomes.
  
6. Target Population: Identify the target populations(s) this program serves including underserved groups as defined in HB 3064 (2019).
  - The Deschutes County Justice Reinvestment Program (JRP) specifically targets individuals involved in drug, property, and driving offenses who are eligible for a downward departure and can be safely supervised in the community instead of prison. The program also accepts participants from the Alternative to Incarceration Program (AIP) and those on Short-Term Transitional Leave (STTL), with both groups split among all caseloads but prioritized for JRP resources. These resources include transitional and sober housing to support successful community reintegration. JRP serves individuals across all gender identities, races, ethnicities, and historically underserved communities, focusing on medium and high-risk clients.
  
7. Gender Identity
  - All
  
8. Race/Ethnicity
  - All
  
9. Other Historically Underserved Communities
  - Women
  - Socioeconomically Disadvantaged

10. What risk levels does your program serve?
- Medium to Very High (LSCMI)
  - Moderate to High (WRNA)
  - Does your program mix risk levels?
    - Low risk are on our case bank and our not generally included in services such as CBT groups.
11. Which crime types does this program serve? Select all that apply.
- Driving Offenses (generally ORS chapters 811, 813)
  - Property Offenses (generally ORS chapters 164, 165)
  - Drug Offenses (generally ORS chapters 471, 475)
  - Other: We take a look at all STTL and AIP candidates and if we can safely place them in the community, we will accept them regardless of crime type.
12. Which, if any assessment does this program use?
- PSC
  - LS/CMI
  - WRNA
  - TCU
  - URICA
13. Briefly describe how the above assessments are used in your program.
- The client begins with a Defendant Assessment Report, which includes the PSC, LSCMI/WRNA, URICA, and TCU, along with narratives about past supervision and criminal history information along with an outline of what supervision would look like for this client.
  - Once clients enter supervision, the PSC and LSCMI/WRNA are used to determine caseload placement, the level of supervision, and identify the top criminogenic needs to focus on during case management. This is all tracked using the behavior change plan module in OMS.
14. Has this program received a Corrections Program Checklist or the George Mason University Risk-Need-Responsivity Evaluation in the last 10 years?
- The entire program has not, but specific aspects of the program have.
  - Most recently, our internal MRT program underwent the George Mason review in December of 2022. We received a score indicating high adherence to evidence-based practices, with no major structural changes recommended. In addition, one of our main treatment providers has passed a CPC assessment in the last five years.

15. How does your program meet the legal definition of culturally responsive services as defined in SB 1510 (2022) (150 word limit)?
- Deschutes County is committed to providing culturally responsive supervision, treatment, and resources for individuals on community supervision, particularly those from Black, Indigenous, Latinx, and Asian/Pacific Islander communities. The county collaborates with community conversation group quarterly to target specific needs from our equity assessment. Additionally, Deschutes County partners with First Light, a culturally responsive peer mentor provider, to offer culturally appropriate peer support for recovery. The county also uses gender-responsive caseloads and has a Spanish-speaking culturally responsive caseload. Through these partnerships and targeted support, Deschutes County strives to reduce racial disparities, enhance outcomes, and ensure individuals receive the services they need to thrive.

### **Eligibility Requirements**

1. Does the county consider and accept short-term transitional leave candidates as appropriate?
  - a. Yes
2. Does the county or county partners provide assistance to clients enrolling in the Oregon Health Plan?
  - a. Yes

### **Planning and Implementation**

1. Describe the partnerships that will support your county's effort to achieve Justice Reinvestment goals.
  - Deschutes County's JRP program is built on partnerships at individual, community, organizational, and systemic levels. Staff foster professional relationships with justice-involved individuals, teaching personal accountability and supporting behavior change. Community members, including families and employers, witness and share the success of individuals maintaining sobriety and employment. The Parole & Probation division engages in ongoing Community Conversations with marginalized communities to share experiences and feedback. At the organizational level, the Parole & Probation division and District Attorney's Office meet regularly to coordinate on JRP programming. At the systemic level, the Local Public Safety Coordinating Council oversees the program's impact on recidivism, prison utilization, and public safety, ensuring it aligns with evolving laws and trends.
2. How does your county incorporate input from historically underserved communities and community partners in the design, implementation, and review of the Justice Reinvestment program?

- Deschutes County has fostered a committed community-based partnership through the Community Conversation group, which has been active since 2020. The group consists of community members advocating for marginalized cultural, racial, and ethnic communities, and county staff members. They meet quarterly using a restorative practice circle to build trust, discuss JRP and other justice programming, and address racial and ethnic disparities in the local justice system. The group has helped with implementation of culturally responsive services in the form of mentorship and helped coordinate the leadership Implicit Bias Training. Community Conversation has improved trust, innovation, and equity within the justice system and will continue to evolve, addressing emerging challenges and informing future strategies.
3. How will the county select which community-based victim service providers will be awarded funds? Will the County run a competitive process?
    - We will issue a request for grant proposals, and a committee from LPSCC will be formed to review the submissions. This committee will make a recommendation to LPSCC on how to allocate the award based on the 10% distribution. We will follow the framework provided by the CJC for the requirements of Victim Services Providers in the grant proposal process.

**Evaluation Plan**

4. How will your county meet the evaluation requirement for this proposal?
  - Remit 3% of the funds awarded to the CJC’s statewide evaluation budget.
5. What is your suggested research topic for the CJC to study?

**2025-2027 Competitive Grant**

6. Would you like to opt in for the Competitive grant?
  - Yes, we intend to apply and be considered for funding.

**Letter of Support from LPSCC**

**Letter of Support from BOCC**

**Statement of Commitment from District Attorney**

**Statement of Commitment from Presiding Judge**

**Statement of Commitment from Community Corrections**





BOARD OF COUNTY COMMISSIONERS

April 18<sup>th</sup>, 2025

Oregon Criminal Justice Commission

885 Summer St. NE

Salem, OR 97301

Oregon Criminal Justice Commission,

On behalf of the Deschutes County Board of Commissioners, I would like to convey our support for the FY 25-27 Justice Reinvestment Preliminary Formula Grant Application submitted by Deschutes County Community Justice. We are excited that Deschutes County is part of the efforts to meet the goals of Justice Reinvestment and understand the collective effort that is required by our community partners and local agencies.

We support the efforts to sustain and build on the JRP program model.

Anthony DeBone

Chair

Deschutes County Board of County Commissioners



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 2, 2025

**SUBJECT:** FY 2026 Video Lottery Fund Allocations

**RECOMMENDED MOTION:**

N/A

**BACKGROUND AND POLICY IMPLICATIONS:**

Each year, commissioners review anticipated revenue from the County's portion of video lottery proceeds for the upcoming fiscal year and develop an expenditure plan that has historically included funding for economic development activities, support for County core services, support for other organizations, and grant programs.

In order to maintain a healthy contingency and fund balance for FY 26 and future years, staff continue to recommend that the Board allocate FY 26 funds that align with expected FY 26 revenue. In FY 26, staff anticipate that the County will receive \$1,400,000 in revenue from video lottery proceeds.

**BUDGET IMPACTS:**

Planned expenditures will be included in the FY 2026 budget.

**ATTENDANCE:**

Jen Patterson, Strategic Initiatives Manager

March 17, 2025

Deschutes County Board of Commissioners  
 1300 NW Wall Street, 2<sup>nd</sup> Floor  
 Bend, OR 97703

**RE: Economic Development for Central Oregon Budget Request of \$350,886**

Dear County Commissioners and Budget Committee,

On behalf of Economic Development for Central Oregon (EDCO), I am writing to request general operating funds in the amount of \$337,458 for the 2025-26 fiscal year (an increase of \$16,069 from last fiscal year), which will provide ongoing support of EDCO’s strategic plan and mission to create a diversified local economy and a strong base of middle-class jobs in Central Oregon.

Last fiscal year Deschutes County approved our request for a 5% increase in funding in support of our \$2.1 million dollar budget (up 10% from the prior fiscal year, not including added local programs). This year, we are asking for the same 5% increase to support our growing expenditures related to materials, services, rent, and a conservative cost of living adjustment (COLA) related to the Consumer Price Index (CPI) and inflationary rates of 3.8% (YOY for February 2025). We feel our request is reasonable and prudent, as we’ve been able to offset other budget increases through the success of our private sector funding efforts, noted in the “Leveraged Funding” section.

In addition to the operating funds requested above, we respectfully request that the County consider an investment of \$10,000 to support the launch of a new Customer Relationship Management (CRM) database. Due to the lack of an off-the-shelf solution that meets our specific needs, EDCO leveraged in-house expertise to develop a tailored platform capable of efficiently tracking economic development activities. Existing CRM solutions, such as Salesforce, are not only cost-prohibitive but also fail to adequately capture the unique metrics and efforts required by economic development organizations. To date, we have utilized private sector funding to cover the development costs of this platform. We now seek the County’s assistance in offsetting a portion of expenses related to the implementation and optimization of this crucial tool. This brings the increase of the **total funding ask for operations and CRM for FY 2025-2026 to \$26,069**. We’ll provide additional details to the system during our Budget Committee presentation in April.

As requested, we have built in funding needs related to table sponsorships for regional Annual Luncheons, as applicable. The table below breaks down the current and proposed 2025-26 request.

Program	Deschutes County FY 2024-2025 Investment (less Luncheon tables)	FY 2025-2026 Annual Luncheon table sponsorships	# of Luncheon Seats	EDCO Program Support - Deschutes County FY 2025-2026 (proposed 5% increase)	Total FY 2025-2026 Request
Sunriver-La Pine	\$40,472	\$600	6 seats	\$42,496	\$43,096
Sisters Country	\$40,472	NA		\$42,496	\$42,496
Redmond (REDI)	\$17,346	\$1,200	8 Seats	\$18,213	\$19,413
Bend	\$17,346	NA		\$18,213	\$18,213
Venture Catalyst	\$46,253	NA		\$48,566	\$48,566
Regional Office	\$159,500	\$1,628	10 Seats	\$167,475	\$169,103
CRM Support	\$0	NA		NA	\$10,000
<b>Total:</b>	<b>\$321,389</b>	<b>\$3,428</b>		<b>\$337,458</b>	<b>\$350,886</b>

Note: Sunriver-La Pine program funds are passed through EDCO to the City of La Pine apart from a nominal administrative charge to provide software and staff support for the position.

EDCO focuses primarily on helping companies create jobs by doing the following, which brings in new wealth and helps the overall economy grow:

**MOVE.** Guide employers outside the region through the relocation process as a resource for regional data, incentives, talent, site selection, and more.

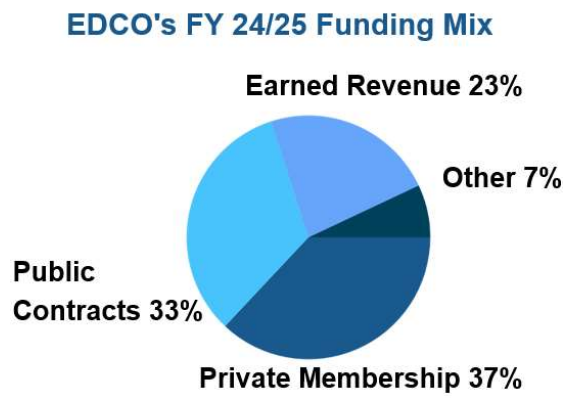
**START.** Mentor and advise scalable young companies from concept to exit on issues such as access to capital, critical expertise and strategy.

**GROW.** Partner with local traded-sector companies (those exporting products/services out of the region and importing wealth into the community) to help them grow and expand.

**Leveraged Funding**

For decades, Deschutes County has been a key partner in the work of economic development both through its own operations and through contracting with EDCO for business development services to enhance and support the local business climate. By partnering with EDCO to allocate state lottery funding dedicated to economic development efforts, the County benefits from:

- Lower personnel and benefit overhead costs,
- EDCO’s 501(c)6 business organization status, which leverages private sector funding, further augmenting public sector funding (see funding mix below), and
- EDCO’s proven track record of success, efficiency and effectiveness in fostering job growth, industry diversification and strategic initiatives that pave the way for sensible growth.



Investment from Deschutes County leverages more than \$6 dollars of outside funding for every \$1 spent in the form of private memberships, local and state contributions and earned revenue. In this way, public dollars are augmented to achieve better results and measurably improve the local and regional economy. Partnerships like these help us deliver results, which are garnering nationwide recognition. The region consistently receives high marks in the U.S. for economic performance and job creation from The Milken Institute, including #1 rankings for small metros four out of the past eight years (ranked 4<sup>th</sup> in 2025), and consistently high ranking with Forbes, Entrepreneur, WalletHub, and Heartland Forward as standout places where jobs are being created and sustained.



**Scope of Work**

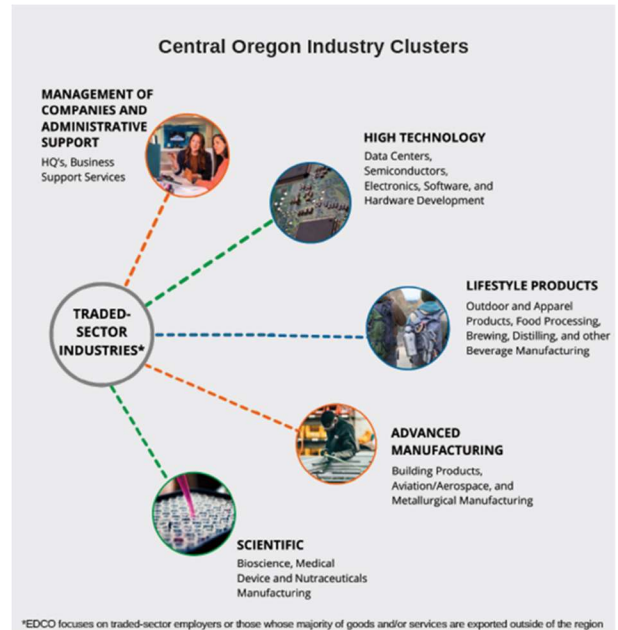
EDCO will continue to deliver comprehensive local economic development programs in coordination with Deschutes County and local communities. Services will include, but are not limited to, marketing, recruitment, retention/expansion, strategic initiatives (i.e., air service, the

Central Oregon Innovation Hub, etc.), management of incentive programs, and further formation of public/private partnerships. EDCO will monitor programs and systems that directly impact local companies' abilities to succeed and will encourage and support local entrepreneurship by providing a mentoring network and facilitating access to equity/growth capital among other things.

EDCO will administer enhanced economic development efforts by hiring and retaining the staff necessary to support individual communities. For its investment, Deschutes County receives seven FTE and a relative distribution of five additional staff delivering EDCO's mission.

**Strategic Plan**

EDCO's existing strategic plan (FY 22/23-24/25) includes information on target industry sectors, business development strategies, workforce development initiatives, advocacy, and table setting efforts, and is available for review [here](#). Efforts are underway to develop our next strategic plan (FY 25/26-27/28), a process with which County Commissioners and staff have been and will continue to be involved.



**Return on Investment (ROI)**

The organization leverages many tools and resources to accomplish the work to promote investment and job creation on the high desert. One of those tools under EDCO's supervision is the Enterprise Zone program. On behalf of the Deschutes County Board of Commissioners, a sponsor of the three enterprise zones within the County, EDCO markets, provides technical assistance for and administratively manages these zones to help companies during times of expansion and relocation. EDCO also provides these services to Jefferson and Crook Counties.

Presently EDCO is managing 53 active authorizations in Deschutes County that utilize the enterprise zone, which accounts for 20-30% of our Area Director's efforts and time. Over \$370 million will be invested and 664 jobs will be created based upon these companies' enterprise zone authorization forms. The impending ROI for these investments, based on the 29x formula from the [2022 Property Tax Impact Study](#) commissioned by Business Oregon, is over \$10.7 billion in Deschutes County alone. The 53 active authorizations in Deschutes County represent over 74% of the enterprise zone activity in the entire region.

In addition to the enterprise zone program, EDCO plays an active role, with support from Deschutes County staff, in the administration of the Deschutes County Economic Development Forgivable Loan Fund (DCEDLF) program. This important tool provides a monetary incentive for job creation to growing traded-sector companies, encouraging additional capital investment in the County. To date this program has helped more than 30 companies create over 1,500 traded-sector jobs since its inception.

EDCO provides the following services to help the County execute this successful incentive:

- Marketing to applicable businesses
- Application assistance

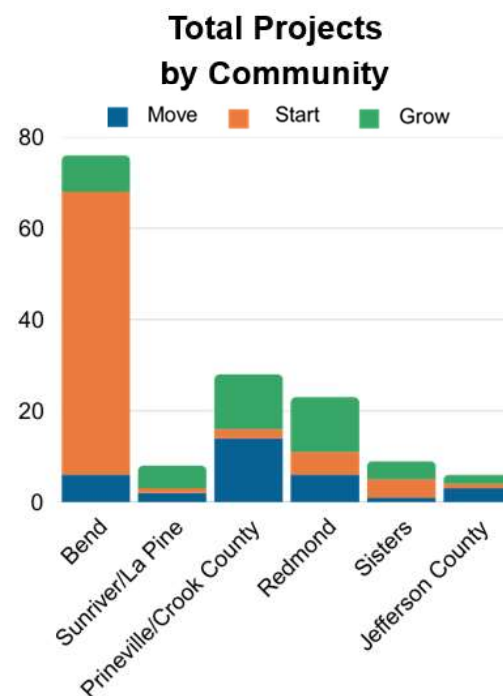
- Compensation verification
- Coordination and management of the due diligence committee
- Formation of staff reports and recommendations
- Draft loan agreements
- Quarterly reporting documentation
- Oversight of conversion process

EDCO believes programs like the Enterprise Zone and the Forgivable Loan Fund are critical and help set the region apart when competing for private sector investment. We are pleased to include management of them as part of our service.

### Creating a Diversified Local Economy

EDCO works tirelessly to champion a sustainable economy in Deschutes County and throughout the region. Our efforts are focused on building a robust pipeline of company projects that promise long-term stability and growth. Presently we are working with 126 company “projects” who are planning on investing over \$1.23 billion in Deschutes County, which could create as many as 3,558 new traded-sector jobs. This graph illustrates the diverse composition of our pipeline, showcasing our comprehensive “move-start-grow” strategy throughout Central Oregon.

It is no secret that labor shortages, exacerbated by both housing and childcare affordability, are negatively impacting economic growth. Labor shortages are also impacting the availability and rising costs of raw materials related to “bricks and mortar” for companies trying to grow in or move to Central Oregon. Add escalated interest rates as the Federal Reserve has worked to curb inflation and it’s clear there are numerous headwinds facing EDCO’s work. That said, our commitment to fostering business development by building relationships one CEO at a time has and will continue to yield results. Given these and other challenges, economic uncertainty is alive and well, and it is more important than ever to invest in economic development.



EDCO’s board and staff applaud the Commission and the Deschutes County management team for the vision to sustain and enhance support for economic development services. We believe this proposal represents a cost-effective strategy that broadly supports communities within Deschutes County and leverages both private and public investment in economic development.

I welcome the opportunity to address any questions you may have, and we sincerely appreciate your consideration of EDCO’s request.

Respectfully,

Jon Stark  
EDCO Chief Executive Officer



## MEMORANDUM

**Date:** March 17, 2025

**TO:** Deschutes County Board of Commissioners

**FROM:** Sunriver Area Chamber of Commerce Executive Director Kristine Thomas

**RE:** Fiscal Year July 1, 2025 to June 30, 2026 Budget Request

The Sunriver Area Chamber of Commerce kindly requests \$45,000 from the Deschutes County Commissioners to fund the chamber's daily operations.

The chamber values its partnership with Deschutes County to work collaboratively to assist Sunriver area businesses in numerous ways. The chamber provides a vital role in coordinating communications between the local businesses and nonprofit organizations; serves on the Newberry Regional Partnership working board to help plan the future of South Deschutes County; and supports businesses by providing resources and ideas to help them achieve their goals.

The chamber collaborates with its partners including The Village at Sunriver, Visit Central Oregon, Sunriver Resort, SHARC, Alpine Entertainment, Sunriver Owners Association and other organizations to coordinate events and shop local campaigns in Sunriver. The chamber currently serves as the coordinator bringing the above organizations together to plan the first Sunriver Oktoberfest in September 2025.

Since starting as executive director, I have taken great stride in recruiting new members and maintaining current members by showing the value of being a chamber member. Here is some of the work done by the chamber from July 1, 2024 to present:

- Current work and projects:
  - Publishes two weekly newsletters
  - Promotes businesses and nonprofit organizations via its social media
  - Meets individually with businesses to discuss their concerns and provide assistance
  - Work began on the third annual 2025 Sunriver Saturday Market, to be held on the last Saturday of the month from May to September. Supports more than 45 small businesses in Central Oregon
  - Creates the content and publishes the Sunriver Magazine
  - Planning the third annual Career Exploration Lunch for middle school students at Three Rivers and La Pine Middle schools on May 6



- Serve on the working board for the Newberry Regional Partnership
- Working with Sunriver Owners Association, SHARC, The Village at Sunriver, businesses in the Sunriver Business Park, Sunriver Resort, Sunriver Brewing Co. and others to host the first Sunriver Oktoberfest last weekend in September as a way to support businesses during the slow season
- Projects completed since July 1, 2025
  - Putt Putt Golf Tournament to raise funds for annual career lunch
  - Food drives/Shop Sunriver campaigns to benefit Care & Share, the local food pantry
  - Pumpkin Carving Contest – a Shop Sunriver event
  - Planned and hosted the Annual State of South Deschutes County Breakfast with the La Pine Chamber of Commerce
  - Volunteered to assist various nonprofit organizations including Care & Share, the La Pine Chamber of Commerce, SLED, Sunriver Music Festival and Sunriver Women’s Club
  - Second annual Sunriver Saturday Market and the first Sunriver Saturday Holiday Market

None of this work would be possible without the support of Deschutes County. The grant provides the foundation for the chamber to do its work.

The chamber’s finance committee has carefully reviewed its financial needs and developed a budget request of \$45,000 for the fiscal year 2025-2026, the same amount it received for its 2024-25 fiscal year.

The request will allow the chamber to continue to offer the services mentioned earlier, including business development, education and training, and advocacy. The grant allows the chamber to continue to offer traditional services that our local businesses, visitors, and our community have come to expect from our chamber, such as business referrals, and providing promotional information about Sunriver’s special amenities, recreational opportunities, and events and activities.

In summary, the Sunriver Area Chamber of Commerce total budget request is as follows:

Continued Baseline Support: \$45,000

**TOTAL REQUEST: \$45,000**

We are available anytime to discuss this proposal in additional detail and to answer any questions you might have. Our chamber office number is 541-593-8149 or you can email Executive Director Kristine Thomas at [exec@sunriverchamber.com](mailto:exec@sunriverchamber.com). Thank you for considering this request.



**Sunriver Area Chamber of Commerce Board of Directors:**

**Executive Board of Directors**

Thomas Samwel, Sunriver Resort – President

Aaron Schofield, First Interstate Bank – Board Treasurer

Brandy Odekirk, Central Oregon IT – Secretary

**Board Members**

Deschutes County Commissioner Patti Adair

Travis Downing – Sunriver Brewing Co.

Keith Kessariss – Sunriver Owners Association - Board member

Kelly Winch – Cascade Sotheby's International Realty

Two open board members positions – one reserved for Sunriver’s new police chief and one currently being recruited



**Date:** March 3, 2025

**To:** Deschutes County Board of Commissioners

**From:** Sisters Area Chamber of Commerce Finance Committee, FY 2025 Funding Request

The Sisters Area Chamber of Commerce respectfully requests financial support from the Deschutes County Board of Commissioners. The Sisters Chamber values its partnership with Deschutes County to provide assistance to Sisters area businesses while we work to create and maintain jobs in Western Deschutes County. We have businesses in Sisters Country which encompass not only those in the city limits but the business sectors that operate outside the city limits in Western Deschutes County.

Our past partnerships with the county include providing grant funding and emergency services distributed directly to businesses and the community, promotional campaigns and events that helped alleviate economic disruptions due to decreases in economic activity and the sluggish economy in Western Deschutes County.

More than ever, the Chamber must continue to play a vital role in coordinating communications between businesses, nonprofit organizations, government and serve as a liaison and advocate to address the need for housing, public transportation, childcare, workforce development and provide additional critical support to businesses.

If our funding request is approved, the Chamber will continue business services, marketing campaigns, promotions, events, and we will also work with regional partners to coordinate and advocate for services in Sisters Country. Regional partners include COIC as we have served on the Broadband Action Team committee, State Chamber advocacy, VCO Board of Directors, Central Oregon Chambers and we also continue to support businesses and their employees looking to relocate to the Sisters area, both inside and outside the city limits.

The Chamber's plans for 2025 include providing business services, advocacy, member, workforce marketing programs and events that strengthen the economy in Western Deschutes County. The Chamber can only achieve its goals and provide services to Sisters area businesses, nonprofits and social service agencies with financial support from Deschutes County.

The Chamber's Finance Committee has carefully reviewed its financial needs and developed a budget request of \$135,000 for the fiscal year 2025. This will allow us to maintain our baseline operations while increasing the scope of our marketing campaigns, member services, promotion through our website, social media platforms and assist businesses and non-profits in the Sisters area to serve our community county-wide.

These funds will allow us to continue to offer the services mentioned earlier, including business development, education, training, and advocacy. We will also continue to offer traditional services that our local businesses and our Sisters area community have come to expect from the Chamber, such as business referrals, providing promotional information about Sisters amenities, recreational opportunities, supporting and producing events and activities that stabilize our economy.

Through the use of both social and traditional media, and other strategies, we have been able to create effective programs directed at businesses, residents and visitors that provide direct support to businesses and the community.

If awarded the grant, the Chamber will use the funds for baseline support, the Sisters Harvest Faire and promoting business. This will be beneficial to the county as the Sister Harvest Faire brings 10,000 people to the region during the shoulder season when the businesses are suffering the most. The Chamber plans to continue partnering with local organizations and supporting local businesses, non-profit events, other organizations and the community.

In summary, the Sisters Area Chamber of Commerce total budget request is as follows:

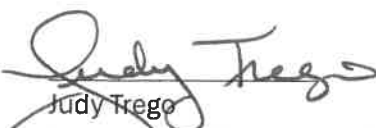
2025 Baseline Support Request:	\$100,000
Harvest Faire Event Expense:	\$20,000
Promotional Campaigns	\$15,000
<b>TOTAL REQUEST:</b>	<b><u>\$135,000</u></b>

Concerning the source of funding for the Chamber request for Fiscal Year 2025, we will leave that to the discretion of the county, recognizing that most economic development allocations come from the Video Lottery Fund, or the Transient Room Tax.

We are available anytime to discuss this proposal and to answer any questions you might have. Please call or email our Financial Officer, Turi Shergold at [turi@sisterscountry.com](mailto:turi@sisterscountry.com) or call her cell at 541-410-9513. Thank you for considering this request.

**Sisters Area Chamber of Commerce Board of Directors Finance Committee:**

- Beverly Garcia, Manager Five Pine Lodge and Conference Center, Chamber Board President
- Judy Trego, CEO, Sisters Area Chamber of Commerce, President, Sisters Community Foundation
- Turi Shergold, Financial Officer, Sisters Area Chamber of Commerce, Non-Voting Board Member
- Rochelle Johnson, Branch Manager, Washington Federal Bank, Chamber Vice President
- Marc Madron, Commercial Lending Manager, Mid-Oregon Credit Union, Chamber Board Treasurer



Judy Trego  
Sisters Area Chamber of Commerce, CEO

Deschutes Cultural Coalition  
P.O. Box 2094  
Bend, OR 97709

Commissioner Patti Adair  
Commissioner Phil Chang  
Commissioner Tony DeBone  
Deschutes County  
1300 NW Wall Street  
Bend, OR 97701

March 18, 2025

Dear Deschutes County Commissioners:

On behalf of the Deschutes Cultural Coalition, a local funding and cultural support program of the state's Oregon Cultural Trust, we respectfully request a financial allocation of \$25,000 from the Oregon Lottery Fund to provide essential operating support for nonprofit arts and culture organizations in Deschutes County.

Your support comes at a critical time. The state of our nation's economy is in flux, creating uncertainty in the market and in the public mind. As with the pandemic, when individual pocketbooks tighten in anticipation of, or reaction to, a serious downturn in the market and increasing grocery prices, individual donations to arts and culture are re-allocated to essential social services. In Deschutes County we have seen this scenario play out during the recession and during the pandemic. Thanks to your previous support, our county cultural organizations are stabilizing after the pandemic. However, it should be noted that any reserves the organizations lost during the pandemic have yet been fully restored. Opening the doors to the public is the priority. A downturn in private donations will potentially have a more adverse effect on operational stability.

Please consider this FY 2025-26 request for \$25,000 to DCC to continue supporting arts organizations in Deschutes County.

The DCC agrees to work with the county administration to ensure the county receives proper messaging credit and to submit any necessary reports. The DCC is a 501(c)(3) non-profit organization EIN 88-1650979.

We thank you again for your appreciation of and support for the arts!

Sincerely,  
*Cate O'Hagan*  
Cate O'Hagan  
President, DCC  
[CateMarieOhagan@gmail.com](mailto:CateMarieOhagan@gmail.com)  
541.588.0166 Cell

*Eric Sande*  
Eric Sande  
Treasurer, Deschutes Cultural Coalition  
[Eric@VisitRedmondOregon.org](mailto:Eric@VisitRedmondOregon.org)  
Executive Director, Redmond Chamber of Commerce  
541.749.0738 Cell



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March 17, 2025

RE: Special Project Grant Recipient for Deschutes Basin Water Collaborative

Dear Deschutes County Board of Commissioners:

The Deschutes River Conservancy (DRC) and the Central Oregon Intergovernmental Council (COIC) respectfully request continued support for the Deschutes Basin Water Collaborative (DBWC) as a Special Project Grant Recipient.

Water security is a critical and ongoing issue in Deschutes County, and the Deschutes Basin Water Collaborative is the forum where all interests work together to ensure the water needs of farms, cities, and rivers can be met into the future. The DBWC consists of a 46-member Working Group that serves as the decision-making body; all decisions are made by consensus. The Collaborative's focus is on creating a Comprehensive Basin Water Management Plan for the Upper Deschutes Basin (The Plan) consistent with the State's Integrated Water Resources Strategy and the guidelines set forth in the State's Place-Based Planning Framework.

This year, the DBWC is working on creating a consensus-based implementation plan (Chapter 5 of The Plan), which will include projects and programs aimed at meeting instream and out-of-stream water needs. Creating an implementation plan with a considerable level of detail involves working through many complex water management issues with a wide variety of stakeholder groups; conflict management is inherently part of this process. Although consensus-based planning is not quick or easy to achieve, agreements made through collaborative process are lasting and durable, and hence worth the upfront time investment. The DBWC will continue to facilitate conversations between key stakeholders to achieve consensus on water management strategies that benefit all interested parties.

Furthermore, this year, in addition to coordinating the DBWC Working Group and the Planning Team, Deschutes River Conservancy (DRC) and Central Oregon Intergovernmental Council (COIC) will be convening a new Groundwater Management Subcommittee. This subcommittee will focus on developing a shared understanding of the status of and impacts to groundwater resources in the Upper Deschutes Basin to identify data/information gaps and the analyses needed to help address those gaps to inform future groundwater management strategies; this information will be added to the Chapter 5 implementation plan.

With the support of Deschutes County, the DBWC has made significant progress on developing the Plan. Chapters 1 through 4, describing the planning process, the basin's water resources, the existing

needs/demands, and the potential solutions, have been drafted and reviewed by the Working Group. Meanwhile, basin partners continue to build trust and move strategies forward. The work of the DBWC is well-known and well-respected, which is already paying dividends in state and federal funding for project implementation.

We greatly appreciate Deschutes County’s support, both in funding the collaborative, as well as providing consistent participation, including leadership in the co-chair position. Continued support as a Special Project Grant Recipient would ensure continued progress in the DBWC and would leverage other funding sources. We respectfully request \$30,000 in County investment to continue this work in 2025 and beyond.

Thank you for your consideration and we are happy to provide more information or answer any questions.

Best,



Kate Fitzpatrick

Executive Director  
Deschutes River Conservancy

  
Scott Aycock

Community and Economic Development Director  
Central Oregon Intergovernmental Council

Dear County Commissioners Adair, Chang, and DeBone,

I am writing to you on behalf of the Deschutes Collaborative Forest Project (DCFP) to request \$20,000 of Special Project Grant funding for Fiscal Year '26 (FY26). The DCFP is uniquely situated to benefit Deschutes County by building social consensus and reducing barriers to forest restoration and wildfire resilience work throughout the Deschutes National Forest (DNF). Holistic restoration work at scale ultimately protects people, property, the environment, and the Central Oregon economy.

Thank you again for your funding support in FY25. Among many other accomplishments, last year's funding supported the completion of two monitoring projects in conjunction with the West Bend Prescribed Fire Project. The lessons learned from these DCFP-led monitoring efforts will improve impacts of prescribed fire application at scale, improve smoke modelling efforts and the associated operational decision-making, and inform public messaging specifically geared towards reducing community smoke exposure. The Pilot Project was ultimately a huge success in terms of acres treated, social license developed, research completed, and potential negative public health outcomes mitigated.

If awarded this year, Deschutes County Special Project Grant funds will two bodies of work which build on successes from previous years:

- 1) Work with local community members to develop and maintain social license for active forest restoration work through public engagement and;
- 2) Build consensus amongst diverse community representatives on active forest management to reduce the potential for community conflict.

County dollars not only support DCFP projects and initiatives, they are also critical in bringing state and federal dollars to the region to support active forest management. Continued support of the DCFP will be amplified by federal and state funds directly benefiting Deschutes County communities, ecosystems, and industries.

The projects that the Deschutes Collaborative Forest Project will pursue with the support of Deschutes County funding will expand the ability of local land managers to appropriately implement restoration and fuels reduction work by ensuring there is adequate social support. This means that conflicts and tradeoffs are solved in meeting rooms and on field trips rather than in Deschutes County courtrooms. Ultimately, the work the DCFP is set up to accomplish reduces the risk of severe wildfire which threatens communities and infrastructure, protects watershed function critical to water supply, enhances recreational opportunities which bring substantial economic benefits to the region, and supports local jobs crucial to our communities.

Thank you very much for your consideration and continued support.

Sincerely,



Jacob Fritz  
Program Manager  
Deschutes Collaborative Forest Project

**FR1ENDS** of the  
**CH1LDREN**  
**Central Oregon**

March 17, 2025

Dear Deschutes County Administrators and Board of Commissioners:

Thank you for considering this Special Project request from Friends of the Children Central Oregon. Our mission is to impact generational change by empowering youth who are facing the greatest obstacles through relationships with professional mentors – 12+ years, no matter what. Through our ground-breaking approach, we employ salaried, trained professional mentors (*Friends*) whose full-time job is to ensure the educational success, social development, and well-being of traumatized children in our community. We currently have capacity to serve 96 children, aged 5 to 11 years of age, and their families in Central Oregon; 100% have experienced poverty, 55% are living in a rural area, 10% are experiencing foster/kinship care, and each child has had six or more Adverse Childhood Experiences.

In fall of 2023, Friends-CO launched a five-year strategic plan to grow the number of youth enrolled in our program to 128, sustaining our services in La Pine while building youth-centered relationships throughout Central Oregon. We are pleased to share that in the past two years, we have enrolled 31 kindergarten-age children; sixteen of these children are residents of the rural community of La Pine. By Spring 2025, we will have completed the selection process of our newest cohort and enrolled an additional 16 youth and families.

Friends-CO is committed to providing children facing tremendous barriers with relationships, resources, and resilience to thrive, with a specific focus on engaging rural youth. Rural communities, which already faced significant disparities compared to urban settings, experienced additional challenges through virtual learning such as more limited technology access and availability of caregiver support, combined with recent increases in housing expenses and skyrocketing inflation. Expanding services to reach more youth in La Pine is a key strategic priority next year.

Deschutes County funding will provide catalytic support over the next year, enabling us to enroll our second cohort of kindergarten-age children in South Deschutes County, from Three Rivers to La Pine. During the grant period, we will complete a selection process to identify 16 children and their families and hire two new Professional Mentors to provide consistent and comprehensive one-on-one support that addresses each child’s unique experiences and individual needs, supporting their long-term physical and emotional health, and breaking generational cycles of poverty, abuse and violence.

We respectfully request \$20,000 in funding from Deschutes County to support continued growth expansion to these rural communities. In partnership, we will work tirelessly to fill the gaps in service, meeting our youth where they are at, while ensuring access to resources. We appreciate your time and consideration and look forward to speaking with you in more detail about this initiative. Together, we can make generational change.

Respectfully submitted,



Rachel Cardwell  
Executive Director





Date: March 18, 2025  
To: Deschutes County Board of Commissioners  
From: Newberry Regional Partnership and COIC

**RE: Request for Fiscal Year 2025-26 Video Lottery Funds Allocation**

The Newberry Regional Partnership (NRP) requests \$10,000 from Deschutes County to support the implementation of the 2025-2030 Newberry Country Strategic Action Plan, recently completed in February 2025. Implementation includes supporting NRP's Action Teams to initiate projects identified in the Strategic Action Plan. The funds requested will be used for securing meeting spaces, catering for events and meetings, meeting supplies, and outreach materials.

**NRP Background**

Newberry Regional Partnership was developed in 2023 by a group of public organizations and private citizens with the goal of developing a long-range plan for growth in South Deschutes County and North Klamath County. The Partnership includes individuals representing City of La Pine, Sunriver and La Pine Chambers of Commerce, Sunriver Owners Association, La Pine-Sunriver Habitat for Humanity, Deschutes County Community Development, St. Charles, Oregon Community Foundation, La Pine Community Health Center, Sunriver La Pine Economic Development, Vic Russell Construction, Inc., First Interstate Bank, Sunriver Women's Club, South County Collaborative, Deschutes County Sheriff's Office, Midstate Electric, Sunriver Resort, VisitBend, and the La Pine Rural Fire Protection District.

NRP grew from a need for community members both within and outside of La Pine's limits to express their concerns and visions for their community's future, and to provide a path for civic engagement and education. La Pine is the newest incorporated city in Oregon and second-fastest growing city in both the State and Central Oregon. Residents understand the need for community-led action and have proven to be energized around making their community a better place for everyone to live and work during this time of immense growth and change. Since 2023, NRP has worked to address these concerns and channel community energy with limited funding through an extensive engagement process, including the community survey, Civic Engagement Series, and focus groups. This work provided a solid foundation for a comprehensive, community-led Strategic Action Plan.

COIC and NRP contracted with consultants Steven Ames and Steve Maher in May 2024, and over the past nine months the project team undertook a major strategic planning effort. The team analyzed and summarized previously collected community input, conducted site-visits in South County, drafted strategy ideas, conducted a community poll based on specific strategy ideas, crafted community vision and values statements, finalized the strategies, and hosted the Newberry Country Action Summit in November. This process ensured that community input and vision was the central structure to the SAP. After an in-depth review process with key stakeholders and partners, the plan is finalized and ready for implementation. The SAP is organized into seven focus areas, Resilient, Livable, Sustainable, Thriving, Prosperous, Inspired, and Vibrant. Each has a vision statement that sets the intention for the community and guides the strategies.

During the development of the Strategic Action Plan, NRP worked on becoming an official non-profit. NRP is registered with the State and is waiting to hear back from the IRS on the status of its 501(c)3 tax-exemption application. Over the past two years, NRP has solidified itself as a hub for civic engagement, cross-organizational collaboration, and community-led action in the region.

### **NRP Organizational Structure**

NRP's Board of Directors guides and facilitates the work of the organization. They are guided by NRP's values of collaboration, transparency, and community-based leadership. The NRP Working Group is composed of the regional representatives mentioned above. They have been an integral part of NRP's work, advising the direction of the organization, assisting with facilitating community meetings, and reviewing the SAP and recommending its adoption. NRP's Action Teams are centered around the seven focus areas identified in the Plan. They will serve as the lead implementors of specific SAP projects and initiatives and are organized around individual strategies and the plan's seven focus areas.

### **Project Description**

Implementing the identified Strategies requires continued collaboration between NRP's Working Group, its Action Teams, and the community at-large. NRP is a volunteer-run organization and has graciously received funding from many partners, including The Ford Family Foundation, OCF, COIC, Deschutes County, the City of La Pine, St. Charles, Habitat for Humanity, and the Roundhouse Foundation. At present, NRP requires resources to support the implementation of the Strategies, which are often complex, multifaceted collaborative efforts that will require time to implement. NRP has found that making progress on these types of initiatives requires regular collaboration in-person, with key parties present. Deschutes County's support in moving these strategies forward will have a direct impact on the well-being of South Deschutes County residents. In 11 of the plan's 27 strategies, Deschutes County is identified as a Lead Partner, a title that is not binding, but does represent the immense potential for the County's collaboration with the plan's implementation. The 11 strategies include:

#### Resilient Newberry: Plan for Wildfire & Public Safety

- R.1 Expand Funding and Education for Wildfire Preparedness and Prevention.
- R.2 Coordinate Efforts to Address Illegal Camping on Public Lands.
- R.3 Investigate Improvement to Wildfire Evacuation Routes and Signage.

#### Livable Newberry: Plan for Growth, Planning, and Infrastructure

- L.1 Implement Traffic Safety Improvements for Major Roads, Arterials, and Access to Highway 97.
- L.4 Improve Cell Tower Capacity and Internet Access across Newberry Country.

#### Sustainable Newberry: Plan for Environment, Natural Resources, and Outdoor Recreation

- S.1 Assist Property Owners in Retrofitting Septic Systems.
- S.2 Clean Up Trash and Garbage from Forested Areas.
- S.4 Expand Curbside and Drop-Off Recycling Services in Sunriver, Three Rivers and La Pine Areas.

Thriving Newberry: Plan for Health, Wellness, and Human Services

- T.3 Expand Behavioral Health Services throughout Newberry County.
- T.5 Coordinate with Regional Partners to Stabilize Unhoused Populations.

Prosperous Newberry: Plan for Jobs and Economic Development

- P.2 Develop Affordable and Workforce Housing and Supportive Infrastructure for Working Families.

NRP looks forward to further collaboration with Deschutes County to identify how to best prioritize and structure the implementation of the strategies. Multiple Action Teams have begun working without funding on these strategies in coordination with the County, including R.1, R.2, and S.2. These teams demonstrate that this motivated community of residents and partners need additional support to deepen their impact. This funding will support implementation by providing seed funding for projects which would include purchasing supplies and equipment, hosting community meetings, and working with donors to leverage additional funds.

There is an undeniable desire for community-led action in South Deschutes County. As partners in community development, NRP is eager to seize this opportunity to make sustainable positive changes in South Deschutes County for the good of future generations.

The Newberry Regional Partnership thanks the Deschutes County Commissioners for their consideration of their proposal and look forward to working with the Commissioners in the future.



Geoff Wullschlager, Board President, Newberry Regional Partnership  
City Manager, City of La Pine



Julia Baumgartner, Board Secretary, Newberry Regional Partnership  
Community Development Programs Manager, COIC Community & Economic Development



Nicholas Tierney, Board Treasurer, Newberry Regional Partnership  
Program Coordinator, COIC Community & Economic Development



Date: March 18, 2025  
To: Deschutes County Board of Commissioners  
From: Newberry Regional Partnership and COIC  
  
**RE: Request for Fiscal Year 2025-26 Video Lottery Funds Allocation**

Attachments:

Attachments included with this proposal are as follows:

1. NRP Organizational Budget
2. NRP 2025-2030 Strategic Action Plan

<b>Newberry Regional Partnership</b>		<b>July 2025 - June 2026</b>
<b>INCOME</b>		
	<b>Amount</b>	<b>Status</b>
<b>Grants</b> <i>(committed, planned, pending)</i>		
The Ford Family Foundation	\$10,000	Committed
Oregon Community Foundation	\$15,000	Planned - requesting in fall
Roundhouse Foundation	\$30,000	Planned - requesting in June
St. Charles Health Systems	\$15,000	Planned - will apply at future date
Deschutes County	\$10,000	Planned - this request
City of La Pine	\$10,000	Planned - requesting in May
Reser Family Foundation	\$10,000	Planned - process of applying
Midstate Roundup	\$2,500	Planned - process of applying
Ist Interstate Foundation	\$10,000	Planned - process of applying
Rotary of la Pine Sunriver	\$5,000	Planned - will apply at future date
<b>Community Support</b>		
Sponsorships		TBD
<b>In Kind Support</b>		
Sunriver Owners Association (SROA) - facility space for community meetings	\$3,000	Committed
COIC Rural Community Building staff time	\$10,000	Planned
<b>TOTAL INCOME</b>	<b>\$130,500</b>	

<b>EXPENSE</b>		
<b>Program Operations</b>		
NRP Community Coordinator (Consultant)	\$72,000	<b>28 hours/week @ \$50/hour</b>
Community Final Celebration - part of Strategic Plan, provision of food and childcare	\$5,500	
Legal/CPA fees	\$6,000	
Community outreach - community website, promotional materials (mailers, flyers, paid social media) for engagement with Strategic Action Planning	\$15,000	
Bookeeping and tax prep	\$7,000	
Strategic Action Plan Implementation - seed money for community projects	\$30,000	\$10,000 from Deschutes County would fund this line item

Organizational development - staff, advisory groups, facilities, consultants, grants/donations	\$20,000	
Programming - hosting community meetings, speaker series	\$10,000	
Admin costs	\$3,500	
<b>TOTAL EXPENSE</b>	<b>\$169,000</b>	



## BETHLEHEM INN Emergency Meal Program

<b>2024-25 Award</b>	\$42,500 (5% of projected budget)
<b>Amount Requested 2025-26</b>	\$45,000 (5% of projected budget)

"Inn staff and residents are grateful for the County's support of our Meal Program, which is vital to residents' health. Food insecurity leads to negative health outcomes, making access to nutritious meals essential for Inn participants as they work toward stability and independence."

### Community Need

We respectfully request BOCC grant funding to sustain our Meal Program, ensuring the continued delivery of nutritious meals. As a leading emergency shelter provider, the Inn serves as a critical safety net for economically disadvantaged adults and families struggling with rising food costs. Without this essential service, these individuals face a greater risk of chronic poverty and malnutrition, with few alternatives available.

The demand for our services continues to grow as more adults and families experience income loss, housing instability and financial hardship. Many turn to the Inn for support. Addressing extreme hunger and nutrition-related health issues is vital, as poor nutrition can impair cognitive function, making it even more difficult for homeless individuals to secure and maintain employment.

### Impact of Current Investment

Funding supports .70 FTE of Kitchen Manager's wages to oversee the Inn's Meal Program in Bend and Redmond, which includes the training and oversight of volunteers in the preparation and service of 100,000 meals for 1,000 people.

During the period of July 1, 2024, to January 15, 2025, **589 volunteers** worked **2,377 hours** helping to serve **60,009 meals** to **597 residents**.

### Request for Funding

Bethlehem Inn respectfully requests \$45,000, maintaining a funding level that represents 5% of the total Meal Program budget. These funds will support wages for .75 FTE Kitchen Manager, who will oversee the Inn's Meal Program, including volunteer training and supervision in the preparation and delivery of approximately 120,000 meals to an estimated 1,100 children and adults next year. Matching funds will supplement the additional revenue needed to cover meal program expenditures, ensuring the successful implementation of this initiative.



## BETHLEHEM INN Emergency Meal Program

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

Yes

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

<b>Contract Agreements:</b>	<b>Amount</b>	<b>Intended Use of Funds</b>
Deschutes County Parole & Probation	\$6,706.87/month	7 beds per night
Deschutes County Behavioral Health:		
EASA	\$5,931/month	3 beds per night
Forensic Services	\$5,748.75/month	3 beds per night





## COURT APPOINTED SPECIAL ADVOCATES OF CENTRAL OREGON CASA

<b>2024-25 Award</b>	\$35,000 (8% project funding)
<b>Amount Requested 2025-26</b>	\$40,000

“With over 30 years of K-12 educational experience, I have witnessed firsthand the positive impact that one caring adult can have on a child's life, especially when the child has a history of adverse childhood experiences (ACES). The work of CASA provides support and trust for children at a time when they need it most.” - Jim Boen, Educator and CASA Board Member

### Community Need

CASA of Central Oregon recruits, trains, supervises and supports volunteers to become Court Appointed Special Advocates (CASAs) to advocate for the best interests of children who have experienced abuse or neglect and are placed in the foster care system in Deschutes County. Once a child is in foster care, decisions about the child are made by case workers and a judge. CASAs get to know everyone in the child’s life and advocate for the child in the courtroom and the community. CASA is mandated by Oregon law to serve all children in foster care but are only funded by the state to serve about 18% of children in Deschutes County.

The number of children in foster care is increasing. In 2024, 331 children spent time in foster care, up from 275 children in 2019. In 2023, 139 CASA volunteers advocated for children in Deschutes County, up from 119 volunteers in 2019. Our organization consistently serves about 85% of children in foster care, compared to the state average of 55%.

### Impact of Current Investment

Funding to be used to support 7% of .8 FTE Program Director and 3.75 FTE Program Coordinators who support approximately 40 volunteers, who will advocate for over 100 children. From July 1, 2024, to February 20, 2025:

- **268 unduplicated Deschutes County children spent time in foster care,**
- **CASA had 120 active volunteers, and**
- **226 children had an assigned CASA (approximately 84%)**

### Request for Funding

CASA respectfully requests \$40,000 for FY 25-26 to fund .6 FTE of a Program Coordinator position. This calculation is a competitive living wage and benefits for a college-educated Program Coordinator to give individual support to each volunteer as they navigate the complex child welfare and legal systems and provide high quality advocacy for children. National studies have shown the CASAs are effective. Children with CASAs tend to fare better during their time in foster care: 1) do better in school; 2) receive more needed services; 3) less likely to re-enter foster care; 5) report higher levels of hope and optimism about the future compared to children who do not have a CASA.



# COURT APPOINTED SPECIAL ADVOCATES OF CENTRAL OREGON CASA

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

yes

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025 below:

<b>Contract Agreements:</b>	<b>Amount</b>	<b>Intended Use of Funds</b>
Deschutes County Justice Reinvestment Victim Services Grant	\$44,084.67 for the 23-25 biennium	Recruit, Train, and Support CASA Volunteers



## COUNCIL ON AGING OF CENTRAL OREGON Volunteer Coordination of Meals on Wheels & Congregate Dining

<b>Council on Aging 2024-25 Award</b>	\$42,500 (3.7% project funding)
<b>Amount Requested 2025-26</b>	\$50,000

*"Following a complex foot surgery in May, inpatient rehabilitation, and caregiving for a month at home, I spent the last month at home alone as I gradually have regained independence. I was unable to drive or grocery shop wearing a large orthopedic boot. Going from wheelchair to walker and now to using a cane, preparing meals was also not possible. I requested Meals on Wheels meal deliveries. This has been a tremendous help, a very positive experience."* – Sharon, Meals on Wheels client, 2024

**Community Need** Nearly 24% of the Central Oregon population is over the age of 60, with approximately 20% of this aging population at or below the poverty level. Our Meals on Wheels program is critical to meeting the nutritional needs of older adults in Deschutes County. Providing proper nutrition to those struggling with age and disabilities decreases falls and hospital visits, and increases stay in their homes. Our Nutrition programs in Deschutes County for the *first 6 months of the fiscal year* have served 1,543 individuals (60+ seniors); and our goal was 1,200 for the year.

**Impact of Current Investment:** 25,000 volunteer hours for delivery of 120,000 Meals on Wheels and congregate dining meals for 1,200 unduplicated individuals.

In the period of July 1, 2024, to February 28, 2025, COA coordinated 18,135 volunteer hours. From July 1, 2024, to January 15, 2025, COA served 70,165 meals and 1,543 Individuals.

**Request for Funding** We respectfully request \$50,000 for FY2025-26 to help cover volunteer expenses and meet our food provision for Meals on Wheels and Congregate Dining. This will help us avoid large-scale waitlists and caps on new seniors joining our programs in the face of inflationary food costs and cuts in federal assistance (SNAP). Since finishing and reopening our Central District Senior Services Hub, we have expanded our offerings to three days a week of community dining, with better meal variety.

Older Americans Act funding is not in the current Continuing Resolution and likely not in the new upcoming Congressional budget. We must secure the resources that your investment provides to continue to feed hot, nutritious meals. The Deschutes County Service Partner Agreements are critical to leveraging other non-governmental funding sources to meet the increasing costs of food, fuel and wages in Deschutes County.



### COUNCIL ON AGING OF CENTRAL OREGON Volunteer Coordination of Meals on Wheels & Congregate Dining

#### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

YES

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds
Health Equity/Emergency Mini Grant	\$24,944	Supplies, surge staffing, and operational costs of remaining open and/or opening during non-regular days or hours (e.g. weekends), depending upon emergency climate/weather needs for the community's seniors.



## CENTRAL OREGON VETERANS AND COMMUNITY OUTREACH Homeless Outreach Coordinator

<b>2024-25 Award</b>	\$30,000 (15% of project funding)
<b>Amount Requested 2025-26</b>	\$30,000

Cole, a Vietnam Veteran, has been living homeless in an RV in Deschutes County for many years. During COVO’s camp outreach contact was made; he was connected to Deschutes County’s Veteran Peer specialist and COVO’s SSVF program for Veterans, who connected him with HUD-VASH and is helping with his housing search. Brady, an Army veteran, was discovered living homeless in an RV just north of Bend during a camp outreach run. He had recently come here from out of state. He was referred to COVO’s SSVF team, enrolled in SSVF, and is on his way to being housed.

**Community Need** In 2024 COVO served a total Outreach Program client count of 1,256 with 7,250 contacts - 3,680 in our Outreach Center and 3,570 in homeless camp outreach efforts. This was a 4.5 percent increase from the year prior. Despite an ever-increasing effort by COVO and other service providers, the number of people living unsheltered remains high in Deschutes County. We increased our trash services, with County grant support, removing 78,840 pounds of trash from homeless camps in Deschutes County. COVO is a key partner in the Homeless Leadership Coalition (HLC)/ Central Oregon Continuum of Care (CoC), serving on HLC committees, participating in all Coordinated Entry System case management and the Point in Time Count, and a member of the Multi-Agency Coordination (MAC) Group utilizing funds in our CoC. In 2024 Central Oregon Veterans Village, a partnership with Deschutes County, Bend Heroes Foundation and others, increased to 22 cabins for homeless Veterans identified through our Outreach and community partners. In 2025-26 three priorities are to increase outreach to less accessible areas of Deschutes; serving age 65+ persons experiencing or at risk for homelessness; and increase services to women Veterans.

**Impact of Current Investment** Provide .6 FTE (of 1.0 FTE) Outreach Coordinator position. In the period of July 1, 2024, to January 15, 2025, COVO:

- Made 1,865 contacts with homeless/low-income people at the Outreach Center;
- Contacted 2,055 people in camps;
- Contacted 137 individuals in less accessible areas of Deschutes County;
- Coordinated 943 volunteer hours; and
- Removed 57,420 pounds of trash from camps

**Request for Funding** COVO respectfully requests \$30,000 for FY25-26 to fund a portion of the outreach coordinator who oversees camp and street outreach efforts and trains and supports outreach volunteers. The coordinator works with community partners to facilitate services to individuals and enhance collaborative efforts for best serving the homeless population in Deschutes County. Key partners in outreach include but are not limited to Deschutes County Homeless Outreach Services Team, Stabilization Center, Mosaic Medical Mobile Clinic, Shepherd’s House, REACH, VA HUD-VASH and more.



## CENTRAL OREGON VETERANS AND COMMUNITY OUTREACH Homeless Outreach Coordinator

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

We can invoice for reimbursement for Veteran Village costs up to \$100,000 per year.

\$2,000 granted from Deschutes County Solid Waste for Knott Landfill disposal fees to dump trash from homeless camps in Deschutes County. Trash is collected every other week on regular camp outreach days, and through the week the COVO trash trailer is parked for 2 hours at selected camps to load trash. The individual campers need to be regular clients of our Outreach who agree to the safety rules set by COVO. The \$2,000 grant was spent by December 2024.

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds
Deschutes County Property Mgmt.	Up to \$100,000	Veterans Village costs only-reimbursement process
Deschutes County Solid Waste	\$2,000	Landfill costs for disposal of trash from homeless camps



## FAMILY ACCESS NETWORK Elton Gregory Middle School FAN Advocate Project

<b>2024-25 Award</b>	\$17,500 (37% project funding)
<b>Amount Requested 2025-26</b>	\$17,500

“Our family has just gone through a financial hardship recently. My advocate has been so amazing and helpful. I was uncomfortable asking for help, and she made me feel very comfortable and unapologetic.” - Local FAN parent

### Community Need

FAN has been working with Central Oregon families for over 32 years. In this time, we have served more than 191,000 children and family members and continue to serve nearly 8,000 people each year. Our FAN advocates work closely with children and families directly in schools, breaking down barriers, so students can attend school well rested, well fed and ready to learn.

The 2024 Oregon Financial Wellness Scorecard reports that more than one in three Central Oregonians allocate over 30% of their income towards rent or mortgage, qualifying them as rent-burdened. And one in six children face food insecurity (2025 State of Oregon’s Children). FAN tackles these barriers by listening to families without judgement and building relationships with children and families as they provide services to ensure children are able to attend school each day.

**Impact of Current Investment** - Grant supports .40 FTE of the FAN advocate at Elton Gregory Middle School to connect children and family members to basic-need resources.

- In the period of July 1, 2024, to January 15, 2025, FAN **connected 330 individuals to basic-need resources** at Elton Gregory Middle School.
- During the fall client survey, **100% of families reported that FAN improved their situation, and 88% reported that FAN helped their student attend/stay in school**

### Request for Funding

FAN is committed to ensuring that children and family members facing poverty-related barriers have access to basic-need resources so kids can thrive in school and life. Deschutes County funding helps us accomplish this goal. Through a dedicated FAN advocate, a child or parent is connected to essential resources such as food, shelter, heating, and more. Advocates are placed directly in the schools to ensure families can connect with a friendly and knowledgeable person in a convenient space. Advocates serve as a one-stop connection to crucial resources, working closely with community partners. We are only able to accomplish this work with the strength of more than 100 local partners, allowing our FAN advocates to swiftly and efficiently help families navigate the local social service system without shame or judgment.



## FAMILY ACCESS NETWORK Elton Gregory Middle School FAN Advocate Project

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

Yes

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds
Discretionary grant	1,000	Sponsorship for April 2025 FANraiser luncheon





## KIDS CENTER Child Abuse Medical Evaluation Project

**2024-25 Award** \$30,000 (6% of project funding)  
**Amount Requested 2025-26** \$30,000

“The need for the child abuse medical and forensic evaluations that KIDS Center provides continues to grow at a significant pace. In 2024, KIDS Center provided these services to 489 children, a 4% increase over 2023. This continues the trend we’ve experienced over the past few years, with the number of children served annually increasing 12% since 2019. Deschutes County’s continued population growth combined with the life stressors experienced by many families continue to result in increased demand for these essential services. The support KIDS Center receives from Deschutes County plays a crucial role in enabling us to meet this demand and provide the necessary medical and forensic evaluations for children, families and the many community partners in the public sector who rely on our specialized services. Thank you for your ongoing, vital support.” – *Gil Levy, Executive Director*

**Community Need:** KIDS Center serves all children (birth to 18 years of age) who are suspected victims of physical or sexual abuse, neglect, drug endangerment, and witnessing domestic violence. We are also the regional Designated Medical Provider (DMP) for medical evaluations for children referred by law enforcement and other community partners. Due to our county’s ongoing population growth, the need for our services continues to increase steadily.

- In 2024, KIDS Center provided child abuse evaluation services for 489 children, a record number for any calendar year since our inception. Of those, 336 were from Deschutes County.
- In addition, our medical examiners conducted comprehensive case reviews for 102 Deschutes County children who were initially seen by another medical provider in hospitals or other settings, ensuring that each of these children are thoroughly assessed by a pediatric specialist trained in child abuse evaluation.

**Impact of Current Investment:** This grant supports 0.18 FTE (of 1 FTE) Medical Examiner to perform medical evaluations on children 0-18 who are suspected victims of child abuse and/or neglect. In the period of July 1, 2024, to January 15, 2025, Kids Center Examiners:

- Performed medical assessments/physical exams for 149 children;
- Provided consultations on 12 hotline calls; and
- Performed 66 case reviews for children originally seen in medical settings.

**Request for Funding:** Medical examinations are a crucial part of every child abuse evaluation provided by KIDS Center. Our medical examiners have specialized training to determine whether injuries or conditions may have been caused by abuse. They document their findings in evaluation reports and, if necessary, provide testimony in court as part of criminal proceedings. Additionally, our medical examiners play a key role in reassuring children about their health and their ability to recover from traumatic experiences, helping them take the first steps in their healing journey.



# KIDS CENTER Child Abuse Medical Evaluation Project

## Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

Yes

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

<b>Contract Agreements:</b>	<b>Amount</b>	<b>Intended Use of Funds</b>
Deschutes County Sheriff's Office	\$40,000.00	Support for child abuse evaluations.
Deschutes County JRI Funds	\$13,658.14	Intake and access to child evaluation services.



## J Bar J Youth Services (JBJYS) CASCADE YOUTH & FAMILY CENTER Runaway & Homeless Youth Emergency Shelter Project

<b>2024-25 Award</b>	\$20,000 (3% project funding)
<b>Amount Requested 2025-26</b>	\$20,000

"The shelter gave me a safe place to stay when I had nowhere else to go. They helped me find a job, get back into school, and believe in myself again." *LOFT client*

"Every young person who walks through our doors has potential, and our shelter gives them the stability and support they need to see it in themselves. Seeing them find hope, gain confidence, and take steps toward a brighter future is why we do this work." *LOFT Case Manager*

**Community Need** JBJYS’s goal is to provide shelter services to the most vulnerable youth, while reducing risk and working to end chronic homelessness. The need for youth shelter continues to increase, despite efforts. To address this need, JBJYS opened a third shelter in 2024, increasing capacity by 42% (total 37 beds). Homeless youth services are largely funded by federal and state grants. Two of JBJYS’s largest shelters (The LOFT & Grandma’s House) have grants ending in 2025. Future federal funding is uncertain at this time. Deschutes County funding is especially important this year, as the total number of unhoused in Central Oregon has increased by 64% since 2021 (Point in Time Count data: 1,098 – 2021; 1,799 – 2024). Almost 20% of those affected are youth under the age of 24. The following are data for children and youth (under 25):

- The total homeless under the age of 24 in Central Oregon in 2024 was 328, an increase of 24%. Since 2021 (265 - 2021; 328 – 2024).
- Approximately 50% of youth under the age of 25 are living unaccompanied (156).
- Central Oregon continues to be identified as one of the nation’s CoCs with the highest percentage of unaccompanied, homeless youth who are living unsheltered (80%).

Service totals for 2024 include:

- Shelter: 10,937 nights of shelter were provided to 168 youth (all shelter programs) – a 63% increase in the number of bed nights over 2023. Bed capacity increased by 42%.
- Street Outreach (basic needs): 208 youth (1,427 duplicated contacts); 1,441 hours
- 101 human trafficking victims (sex & labor) identified and served - most homeless youth

**Impact of Current Investment** Provide support for .40 (of 6.5 FTE) to support The LOFT, shelter for youth, crisis intervention, and family mediation services across all Deschutes County locations.

From July 1, 2024, through January 15, 2025:

- **67** unduplicated youth received services;
- **41** youth accessed emergency shelter; and
- **28** youth have transitioned with **86% of transitions marked as successful.**

**Request for Funding** In 2025-2026, funding will provide a .30 FTE Case Manager. This position provides essential case management services for youth seeking shelter at The LOFT. Funding this year is especially critical for sustaining shelter capacity.



### J Bar J Youth Services (JBJYS) CASCADE YOUTH & FAMILY CENTER Runaway & Homeless Youth Emergency Shelter Project

#### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025? No

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds



# LATINO COMMUNITY ASSOCIATION Healthy Families & Family Empowerment Programs

<b>2024-25 Award</b>	\$35,000 (4.5% project funding)
<b>Amount Requested 2025-2026</b>	\$45,000

*“A friend told me about LCA. Their team helped me obtain OHP for my children and me. They are also supporting me with immigration services to address my asylum case. Additionally, they have guided me in obtaining an ITIN and preparing the tax process to fulfill my family tax responsibilities.” -Carmen*

**Community Need:** The Latine population in Deschutes County makes up 9.3%, and LCA is the only organization in Central Oregon focused on supporting this community, both established and recent. Our offices in Redmond and Bend serve more than 76% of our total clients across the region. LCA provides vital assistance with: **a) access to healthcare** through OHP enrollment and guidance, **b) obtaining ITIN and tax filing services**, **c) community workshops and referrals** to essential services such as housing, business startup, immigration rights, and access to food, and **d) citizenship classes and tutoring** to help clients prepare for exams and strengthen their family and socio-emotional stability.

### Impact of Current Investment

Provide funding for 5% of 9.5 FTE supporting the Healthy Families and Family Empowerment Programs. During the period of July 1, 2024, through January 15, 2025:

- 293 clients were assisted with OHP/SHIBA health insurance enrollment and health system navigation;
- 2,701 clients received information and/or referrals to achieve service goals;
- 8 community resource workshops were held; and
- 18 clients received citizenship assistance/tutoring.

### Request for Funding

We are requesting \$45,000 to assist more than 3,000 Latine individuals who need support to integrate and contribute to the prosperity of Deschutes County. The increase in funding from 2024-2025 is due to the expectation that, given the adverse migration context, more clients will seek to expand their access to services that they may have previously considered non-urgent, such as OHP enrollment, ITIN numbers, tax filing, and even citizenship classes, in order to ensure their legal stay in the country.

We want individuals to improve their quality of life and the future of their children, to receive vital quality services that are culturally appropriate and relevant to their needs. From LCA, we join the efforts of Deschutes County to ensure the health and socio-economic well-being of all its residents, within a framework of inclusion, resilience, and prosperity.



## LATINO COMMUNITY ASSOCIATION Healthy Families & Family Empowerment Programs

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

Yes

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds
DCHS & LCA Healthy Families Contract	\$7,000	Support for partnership between DCHS and LCA's Healthy Families program to provide connection, communication, and outreach and education with the Latinx community



## MOUNTAINSTAR FAMILY RELIEF NURSERY Therapeutic Early Childhood Classroom and Outreach Projects

<b>2024-25 Award</b>	\$21,600 (2% of project funding)
<b>Amount Requested 2025-26</b>	\$21,600 (2% of project funding)

*My family has benefited from MountainStar’s program for 7 years, with three young daughters. As new parents, we lacked a support system, and MountainStar was the first place I felt safe leaving my children. They provided essential supplies and resources, therapeutic classrooms, and emotional support – all in a nonjudgemental way. The staff’s empathy and encouragement have boosted my confidence as a parent, helping our family achieve our goals. As our youngest child graduates from the program, we are feeling bittersweet. I will never forget where we started and the growth we have made because MountainStar was with us every step of the way. – Redmond program parent*

### Community Need

Deschutes County Data:

- There has been a dramatic increase in the number of children in DHS/Child Welfare.
- In 2023, there were 375 founded cases of abuse. There were 13.1 (per 1,000) children who were victims of abuse and neglect compared to 11.1 (per 1,000) in 2020. Statewide, 36.5% of child abuse and neglect victims were ages 5 and under (*Oregon DHS 2023 Child Welfare Databook*).

MountainStar Data:

- Average of 14 “family stressors” (such as mental health or substance abuse issues, housing or food insecurity) which can increase the likelihood of child abuse and neglect.
- Parents have an average Adverse Childhood Experiences (ACE) score of 6 (ACE score scale is 0-10). An ACE score of 4 or more predicts adverse long-term health outcomes such as increased chronic disease state, mental illness and addiction disorders, learning disabilities, and behavioral disorders.
- 93% of our client families live in poverty and 100% meet the OR state definition of at-risk.

**Impact of Current Investment** Grant supports 8.3% (of 3.0 FTE) Program Managers in our Relief Nursery Therapeutic Early Childhood programs in Bend, Redmond, and La Pine.

During the period of July 1, 2024, to January 15, 2025:

64 children were enrolled across Deschutes County;

81% of children met or exceeded expectations for social-emotional development; and

783 hours of therapeutic classroom service hours were provided.

### Request for Funding

Funding will support 8% of wages and associated payroll costs for Program Managers in our Relief Nursery Therapeutic Early Childhood programs in Bend, Redmond, and La Pine (3.0 FTE). Funding will support programs and needs in Southern, Central, and Northern Deschutes County. The total program costs for these three sites are over \$1 million.



## MOUNTAINSTAR FAMILY RELIEF NURSERY Therapeutic Early Childhood Classroom and Outreach Projects

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

Yes.

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

<b>Contract Agreements:</b>	<b>Amount</b>	<b>Intended Use of Funds</b>
Discretionary Grants Program	\$500.00	Program supplies for Bend and Redmond centers





# SAVING GRACE Mary's Place Supervised Visitation & Safe Exchange Center

<b>2024-25 Award</b>	\$30,000 (5% project funding)
<b>Amount Requested 2025-26</b>	\$40,000 (5% project funding)

"Using Mary's Place has significantly increased my feelings of safety and that of my children."  
 "I will be forever thankful for Mary's Place providing a safe stress-free environment for my daughter and I to do exchanges." "I'm so glad this resource exists and wish it could be expanded." "I wish every city/county had a Mary's Place for safe exchanges. Thank you."  
 Mary's Place clients.

**Community Need:**

In calendar year 2024:

- Saving Grace, the sole domestic violence (DV) and sexual assault agency serving Deschutes County served 933 survivors with 14,529 services including safety planning, emergency shelter and legal advocacy and responded to 2,355 helpline calls.
- Deschutes County law enforcement conducted 226 high-lethality (LAP) screens at the scene of DV calls and determined 169 victims were at high risk of being killed.
- 504 restraining orders and 304 stalking orders were filed in Deschutes County Circuit Court. The majority of families using MP are referred by the court in connection with restraining orders and high-risk custody cases.

**Impact of Current Investment** July 1, 2024, through January 31, 2025: Provided .33 FTE of 1 FTE to supervise 6 FTE staff who provide supervised visits, safe exchanges, case management and advocacy services for families that have experienced domestic violence, sexual assault, stalking and/or child sexual abuse. In this time period, Mary's Place:

- Facilitated and supervised 927 visits and exchanges;
- Served 57 new and continuing families (unduplicated)
- Reports 96% of victim survey respondents have an increased feeling of safety.

**Request for Funding**

Mary's Place (MP) is the only program providing free, trauma-informed, domestic violence intervention-specific supervised visitation and safe exchange for Deschutes County citizens. Mary's Place fills a vital role in public safety by protecting adult victims and children from experiencing further violence and trauma during parenting time.

- These funds are going to provide .49 FTE of 1 FTE to supervise 5.8 FTE staff who provide supervised visits, safe exchanges, case management and advocacy services
- Saving Grace is facing a 10% increase in medical/dental benefit costs in FY 2025-26.
- Some of Saving Grace's funds that have supported program staff are ending, and we are still actively working on finding replacement.
- Due to high demand via court referrals to Mary's Place and limits of staffing and the facility, MP consistently maintains an average waitlist of 12-15 families.



## SAVING GRACE Mary's Place Supervised Visitation & Safe Exchange Center

### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025?

YES

If yes, please list all Deschutes County grants received (or scheduled to receive / applied for) from July 1, 2024, through June 30, 2025, below:

<b>Contract Agreements:</b>	<b>Amount</b>	<b>Intended Use of Funds</b>
Deschutes Co Document Number # 2024-519, OJD Mediation/ Conciliation Distribution	\$94,366	Mary's Place Supervised Visits & Exchanges
VAWA-C-2023-DeschutesCo.DAVAP-00015 Nonprofit Subaward	\$11,198	Sexual Assault Response Team best practice assessment and sexual assault case review work
Deschutes Co Subgrant Document No 2022-314, ended 09/30/2024	\$43,407	Lethality Assessment/Law Enforcement Liaison Personnel
Deschutes Co Services Contract No 2024-151 – Justice Reinvestment	\$63,677.85	Mary's Place Supervised Visits & Exchanges



## REDMOND SENIOR CENTER Food for Meals on Wheels & Congregate Meals Project

<b>2024-25 Award</b>	\$12,000.00 (5% project funding)
<b>Amount Requested 2025-26</b>	\$15,000.00 (2% of project funding)

*“My husband died last year, and I lost his pension, and my bills are going up. I try to get to the Center lunch but most days I can’t make it because of my arthritis. Getting Meals on Wheels gives me good food and the lady that delivers it makes my day! I wish I had more money to donate to the Senior Center for all of the good work they do for me and other old people.”  
From an 82-year old lady.*

**Community Need** The greater Redmond area (Redmond, Alfalfa, Eagle Crest, Crooked River Ranch, Terrebonne, and parts of Powell Butte) is growing at an unprecedented rate. By December 2025, 35% of the population will be 50 and older. We project that we will serve 45,500 meals by June 30, 2026.

Our “Meal Services Program (MSP)” includes Meals on Wheels delivered to living sites and a daily meal served at the Senior Center, which has a rich history of serving older adults in our area. Since 2023, participation in the MSP has doubled. Given the more robust level of activities and events held at the Center and the growing population, we expect continued participation growth.

We face critical issues: increased demand for MSP, escalating food costs, the need for more MSP volunteers, and increased federal compliance documentation, which placed the demand for more staff time and expertise. Fundraising efforts, including donations, grants, and in-kind support, are more critical as food and labor costs increase.

Our 2025-26 focus is:

1. *Increasing Number of Meals Served* – With our commercial kitchen renovation completed, we will expand the number of meals served and our volunteer base.
2. *Supporting Increasing Food Costs* –Our board/staff are accelerating securing public and private funds through grants, fundraising events, and donations.

**Impact of Current Investment** Service Partner funds contribute 6% of the program’s food and supplies costs. In the period of July 1, 2024, through January 15, 2025:

- 12,852 were delivered via Meals on Wheels, and
- 4,202 meals were provided in congregate dining

### Request for Funding

We respectfully request a \$15,000 grant to purchase food for our “Meals on Wheels” Program. By June 30, 2026, we plan to serve 45,500 meals to older adults, representing 30% of Redmond’s population. Our dedicated team of volunteers, staff, and board of directors is committed to meeting our seniors' nutrition and socialization needs. Your funding is instrumental in addressing rising food costs and growing the senior population.



### REDMOND SENIOR CENTER Food for Meals on Wheels & Congregate Meals Project

#### Other Deschutes County Funding

Did you receive or are you scheduled to receive any other funding from Deschutes County from July 1, 2024, through June 30, 2025? No.

If yes, please list all Deschutes County grants received (or scheduled to receive/applied for) from July 1, 2024, through June 30, 2025, below:

Contract Agreements:	Amount	Intended Use of Funds



**UPPER DESCHUTES**  
WATERSHED COUNCIL

March 11, 2025

RE: Request to Deschutes County Commissioners for Service Partner Grant Funding for Upper Deschutes Watershed Council for FY26

Dear Deschutes County Commissioners:

Thank you for your ongoing support for our programs at the Upper Deschutes Watershed Council (UDWC). UDWC is now serving the Central Oregon community for the 28<sup>th</sup> year in 2025 after being formed in partnership with Deschutes County back in 1997. I look forward to sharing my annual presentation with you later in 2025. During this current fiscal year, the UDWC is receiving \$20,000 as part of Deschutes County's Service Partner Grant Program. This annual funding is an extremely important component that supports our staffing and operations. As you know, UDWC leverages the funding from Deschutes County and brings additional public and private dollars to the Upper Deschutes watershed through our work. As an example, total revenue for our work in FY24 was \$2.2M with 41% coming as federal funding, 13% as state funding, and 44% being non-governmental grants or donations. In FY25, our proposed budget was \$1.5M, where we are again bringing federal, state and private dollars to Deschutes County through our work.

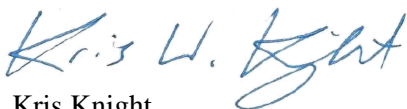
Funds from Deschutes County supports our staffing and operational costs, allowing UDWC to complete restoration projects, monitor the health of our streams and rivers, and to accomplish valuable education programs for K-12 students and community members about the importance of our rivers and streams. Most all of our programs require multiple grants or funders. Some highlights from the current fiscal year include:

- UDWC in FY25 has raised state and federal funding to complete an engineering design for a fishway to allow fish to pass upstream at the Mirror Pond Dam. UDWC has raised ~\$400,000 from the Oregon Watershed Enhancement Board and federal funding through Oregon Department of Fish and Wildlife to complete the engineering design which will be completed in 2025 and 2026. A story about this project can be found here: [https://www.bendbulletin.com/localstate/bend/funding-secure-for-mirror-pond-dam-fish-passage-design-phase/article\\_e49bacda-d9eb-11ef-b36d-bfba78b65816.html](https://www.bendbulletin.com/localstate/bend/funding-secure-for-mirror-pond-dam-fish-passage-design-phase/article_e49bacda-d9eb-11ef-b36d-bfba78b65816.html)
- UDWC led an effort at Creekside Park in Sisters to dedicate a memorial for Andrew Dutterer, a colleague from the Oregon Watershed Enhancement Board that was killed in car accident. The memorial includes interpretive signs that tell the story about the history of restoring Whychus Creek over the past two decades. A story about the memorial project can be found here: <https://www.nuggetnews.com/story/2024/07/24/news/andrew-dutterer-memorial-dedicated/36708.html>
- UDWC continued tree thinning efforts around the Sisters area in FY25 to reduce risk of wildfire around the Sisters area on private lands, and hauled away those cut trees for Whychus Creek restoration work.

- UDWC launched a project in partnership with Gilchrist Forest Products just outside of Deschutes County, in Klamath County, to assess fish passage opportunities at the Gilchrist Mill Pond Dam on the Little Deschutes River. A fish ladder that was installed in the 1980s has worn out and is no longer functioning. UDWC received grant funding from Oregon Watershed Enhancement Board to assess different options for restoring the ability for fish to pass the dam, which is currently underway.
- In FY25 we have continued to work with public and private schools offering K-12 students the opportunity to learn about their local rivers and streams and take field trips to these rivers and streams to learn about local water resources. Highlights included launching a new “One Water” program with the City of Bend that involves educating 5<sup>th</sup> grade and high school students about the source of their water, where water goes after it leaves their home, stormwater management, and components of a healthy watershed. Also, in the spring of 2025, we will be working with Three Rivers School in Sunriver and La Pine schools to learn about the Deschutes River, the Little Deschutes River, and Paulina Creek.
- UDWC continued our partnership with Central Oregon Community College’s Continuing Education Program offering adult watershed education sessions and watershed tours. In FY25 are putting on two five-part classes about both the Metolius watershed and the Upper Deschutes watershed along with tours of each watershed. Approximately 100 attendees will attend these courses to learn about their “home waters”.
- UDWC also again put on the annual Deschutes River Clean-up held on July 27, 2024: [https://www.bendbulletin.com/localstate/annual-deschutes-river-cleanup-to-tug-up-trash-this-weekend/article\\_36f9ff72-492d-11ef-8dec-274ad98c1586.html](https://www.bendbulletin.com/localstate/annual-deschutes-river-cleanup-to-tug-up-trash-this-weekend/article_36f9ff72-492d-11ef-8dec-274ad98c1586.html) . In an attempt to avoid wildfire smoke later in the summer, UDWC will move up the annual clean-up in 2025 which will be held June 28, 2025.
- You can view our annual report for 2024 at the following link: <https://www.upperdeschuteswatershedcouncil.org/wp-content/uploads/2024/11/UDWC-Annual-Report-2024-Compressed-2.pdf>

Funding from the Service Partner Grant from Deschutes County helps leverage funding for all the projects described above by supporting UDWC staff and our operations costs. We greatly appreciate the financial support from the Deschutes County Service Partner Program, and even more so in a time when there is uncertainty regarding federal funding. We respectfully request continued support by funding a \$20,000 Service Partner Grant to Upper Deschutes Watershed Council for FY26.

Sincerely,



Kris Knight  
Executive Director  
Upper Deschutes Watershed Council



**Request for \$50,000 in Video Lottery funds for fuel reduction grants**

**Program:**

The County's Fuel Reduction Grant Program is designed to assist communities with specific, short-term projects related to reducing fuels and improving defensible space in Deschutes County.

Preference will be given to communities or neighborhoods that are working to be recognized as a Firewise USA™ site or are currently recognized as a Firewise USA™ site and are proposing projects consistent with their Firewise action plan and community assessment.

Applicants must be working at the neighborhood or community scale (individual property owners are not eligible) to reduce wildfire risks.

A wide range of activities may be eligible for funding, including, equipment rental, supplies needed for community work parties, contracting out roadside chipping, fuel reduction or defensible space, and debris disposal fees.

Requests for regular maintenance (i.e. pine needle raking and removal) and ongoing operational funding that cannot be sustained beyond the grant period are discouraged.

**Funding:**

In the Fall of 2024, there were a total of 20 applicants for fuel reduction grants, of which 41 were awarded. Total amounts awarded ranged from \$1,000-\$5,000. The total "ask" from all the applicants was \$250,020, which speaks volumes for the program and success of the programs in Deschutes County. A total of 63 communities have been awarded through lottery and other funded fuel reduction grants since 2022. We leverage lottery funds to acquire other agreements like the BLM Community Fire Assistance Agreement and the Buttes 2 Basin Joint Chiefs Agreement. We are hopeful that the BOCC will continue to support this effort.

Thank you for being an advocate for this valuable funding.

Deschutes County Natural Resources  
61150 SE 27th Street  
Bend, OR 97702





03/18/25

## Esteemed Deschutes County Board of Commissioners,

As the Regional Executive Director at United Way of Central Oregon (UWCO), I want to first thank you for the ongoing partnership between Deschutes County and UWCO. The video lottery revenue allocation you entrust to UWCO plays a critical role in supporting emergency food, shelter, and clothing service delivery in our County.

This letter is to request video lottery funding from Deschutes County for United Way's Emergency Food & Shelter Grants (EFSG). I am respectfully advocating for UWCO to receive a larger allocation from the Deschutes County video lottery revenue than usual. This is because the usual federal FEMA Emergency Food & Shelter Program (EFSP) funding that the Deschutes County video lottery funds have historically allowed us to leverage is on hold pending review.

Video lottery funds allow UWCO to provide emergency food, shelter, and clothing to our neighbors in Deschutes County. **These emergency services are essential to workforce stabilization and therefore to economic development.** For this reason, UWCO is requesting \$160,000 from the County this year.

UWCO's Emergency Food and Shelter Grants (EFSG) are funded by state video lottery revenue based on your allocation decision. Funds allocated to UWCO's EFSG process are put to the highest and best use throughout Deschutes County. UWCO employs a vetted, rigorous, needs-based process utilizing a Local Board made up of local experts to review proposals from local agencies that provide emergency food, shelter, and clothing to our workforce, ensuring that resources are directed towards the most impactful, efficient, and reputable efforts.

Year after year, we have consistently and reliably deployed these funds to serve our community's most vulnerable, retaining only a 2% administrative fee. **The community members who access these emergency services are the essential workers we encounter every day: people who are working hard, sometimes more than one job, but still unable to make ends meet—for themselves or for their children.**

UWCO is also the trusted agency leading the deployment of resources that the U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) has made available to support similar services in Deschutes, Crook, and Jefferson Counties through the Emergency Food and Shelter Program (EFSP). We follow the identical process for EFSP as we do for allocating state video lottery revenue in Deschutes County, and have a longstanding, vetted, reputable process for reviewing proposals and deploying these resources.

On January 27, the Office of Management and Budget (OMB) released a memorandum to federal agencies requiring a temporary pause on all activities related to obligation or disbursement of all Federal financial assistance and other relevant agency activities that may be implicated by recent Executive Orders (EOs).



Although OMB rescinded the memo, EFSP has not been allowed to release payments to local service providers. The program is being reviewed within FEMA to ensure it complies with the EOs and the DHS guidance and payments are on hold until approval has been received from FEMA. There is no information on that timeline.

This action has prompted us to increase our request to Deschutes County to make up for the loss of FEMA funds. Historically, with the exception of last year, we received approximately \$80,000 from FEMA's ESFP and \$80,000 from Deschutes County video lottery revenue. County funds allowed us to fund agencies that delivered essential services but might not be good candidates for the federal funding due to stringent reporting requirements.

**With \$160,000 in funding from the County, UWCO will be able to continue to award the same amount of funding to agencies throughout Deschutes County as we have been doing year-over-year.** Additional support from the County will allow us to ensure adequate funding to agencies serving those most in need, using a trusted vetting process with a *very* low administrative fee.

Historically, UWCO has run the two grantmaking processes concurrently, using the same Board of local experts. However, this year, we waited until the last minute to see if the federal funds for EFSP Phase 42 would become available, which was originally anticipated earlier in 2025. Now that we are confident that the federal funds will not be available before the end of June 2025, we are decoupling the two award processes for the first time in our history and will be running the Deschutes County video lottery fund Emergency Food & Shelter Grants (EFSG) process independent of the federal process.

The reason we are asking for \$160,000 is to ensure that the same amount of funding is available next year to nonprofits delivering critical emergency food and shelter services to help ensure community needs are being met. This year's video lottery funding allocation process will ensure that UWCO **does not** fund the same programs that are directly funded by the County. By maintaining these complementary funding streams, Deschutes County ensures a holistic approach to community support—addressing both immediate needs and long-term stability.

**These funds are feeding people, keeping them in their homes, and protecting our most vulnerable.** For the 2024 grant cycle, as in years past, funds were deployed to bolster the provision of emergency food (served meals, home delivered meals, and food purchases), shelter (mass and other shelter, and rent and mortgage assistance), supplies and equipment (diapers, feminine hygiene products, PPE, cleaning supplies, and small equipment), utilities (gas, electric, water, sewer, heating oil, firewood, coal, and propane), and clothing for our low-income neighbors, including children, veterans, homeless, and food insecure neighbors.

**The use of video lottery funds for the EFSG process is efficient, providing a lower-overhead option to provide**

**these services, and unduplicated, having virtually no overlap with "Service Partner" agencies.** Additionally, in recognition of the Board of County Commissioners' interest in funding fuels reduction, there is room to discuss expanding UWCO's EFSG process to include other areas, such as disaster mitigation and recovery, including wildfire.

UWCO's request for an increase in funding is due to the extenuating circumstances now facing institutions and nonprofits nationwide—which are beyond our control. It is our goal, as in past years, to direct consistent resources towards maintaining our workforce integrity and to help ensure no disruption in services. Each year, UWCO implements a low-overhead, reputable, consistent, and vetted process to deploy video lottery funds that protect our County's most vulnerable citizens and help ensure that Deschutes County has a stable, fed, sheltered, clothed, and protected workforce and community.

Thank you for your time and consideration,

A handwritten signature in blue ink that reads "Diana". The script is cursive and fluid.

Diana Fischetti

Regional Executive Director at United Way of Central Oregon

Estimated Beginning Net Working Capital	\$ 1,088,300.00
State Video Lottery Revenue Anticipated	\$ 1,400,000.00
ISF Fees3	\$ (39,930.00)
Grant Program Administration	\$ (7,000.00)
Contingency	\$ (1,300,000)
<b>Total Resources Available</b>	<b>\$ 1,141,370.00</b>
<b>Remaining Balance</b>	<b>\$ 1,141,370.00</b>

PROGRAM	FY 2025 ALLOCATIONS	FY 2026 REQUESTS	% Change	FY 2026 ALLOCATIONS	NOTES
<b>Economic Development</b>					
EDCO Regional Capacity / Operational Support	\$ 161,128.00	\$ 169,103.00	5%	\$ -	
Local Capacity: Bend	\$ 17,346.00	\$ 18,213.00	5%	\$ -	
Local Capacity: Sunriver/La Pine	\$ 41,072.00	\$ 43,096.00	5%	\$ -	
Local Capacity: Redmond	\$ 18,246.00	\$ 19,413.00	6%	\$ -	
Local Capacity: Sisters	\$ 40,472.00	\$ 42,496.00	5%	\$ -	
Venture Catalyst Program	\$ 46,253.00	\$ 48,566.00		\$ -	
Customer Relationship Management Database (NEW)	\$ -	\$ 10,000.00	100%	\$ -	
<b>Sub-Total</b>	<b>\$ 324,517.00</b>	<b>\$ 350,887.00</b>	<b>8%</b>	<b>\$ -</b>	

<b>Support for County Core Services</b>					
Series 2023 Jail Expansion Debt Service	N/A	\$ 259,000.00	NEW	\$ -	Matures in 2038.
Environmental Health Fee Subsidy	\$ 250,000.00	\$ 208,770.00	-16%	\$ -	Funding at the requested amount incorporates a 5% EH fee increase. Alternative options are: 1. Funding at \$242,274 which would incorporate a 3% EH Fee increase 2. Funding at \$175,259 which would incorporate a 7% EH Fee increase
Series 2019 Jamison Property Debt Service	N/A	\$ 220,000.00	NEW	\$ -	Matures in 2028.
<b>Sub-Total</b>	<b>\$ 250,000.00</b>	<b>\$ 687,770.00</b>	<b>175%</b>	<b>\$ -</b>	FY 25 total included one time funding projects: Fair & Expo Master Plan and DA's Office Remodel Design for a total funding amount in this category of \$500,000. Actual % change is 37%

<b>Chamber Support</b>					
Sunriver Chamber Baseline Support	\$ 45,000.00	\$ 45,000.00	0%	\$ -	
Sisters Chamber	\$ -	\$ 135,000.00	NEW	\$ -	\$100,000 for Baseline Support, \$20,000 for Harvest Faire Event, and \$15,000 for Promotional Campaigns.
<b>Sub-Total</b>	<b>\$ 45,000.00</b>	<b>\$ 180,000.00</b>	<b>300%</b>	<b>\$ -</b>	

<b>Special Projects Support</b>					
Shop-with-a-Cop Program	\$ 2,500.00	\$ 2,500.00	0%	\$ -	
Deschutes Cultural Coalition	\$ 15,000.00	\$ 25,000.00	67%	\$ -	Request at the FY 23 and 24 funding levels.
Deschutes Basin Water Collaborative	\$ 15,000.00	\$ 30,000.00	100%	\$ -	\$15,000 increase requested to continue progress on water management plan and leverage state and local dollars.
Deschutes Collaborative Forest Project	\$ 10,000.00	\$ 20,000.00	100%	\$ -	Request at the FY 23 and 24 funding levels.
Friends of the Children	\$ 12,500.00	\$ 20,000.00	60%	\$ -	Request at the FY 23 and 24 funding levels.
Newberry Regional Partnership	\$ 5,000.00	\$ 10,000.00	100%	\$ -	
<b>Sub-Total</b>	<b>\$ 60,000.00</b>	<b>\$ 107,500.00</b>	<b>79%</b>	<b>\$ -</b>	

**Service Partners**

Bethlehem Inn - Volunteer Coordination of Emergency Meals	\$ 42,500.00	\$ 45,000.00	6%	\$ -	\$2,500 increase requested to maintain funding level that represents 5% of the total Meal Program Budget.
Court Appointed Special Advocates (CASA)	\$ 35,000.00	\$ 40,000.00	14%	\$ -	\$5,000 increase requested to support a competitive living wage and benefits for Program Coordinator.
Central Oregon Council on Aging (COCO) - Meals on Wheels and Congregate Dining	\$ 42,500.00	\$ 50,000.00	18%	\$ -	\$7,500 increase requested to support volunteer expenses and meet food provisions.
Central Oregon Veterans' Outreach (COVO) - Homeless Outreach Coordinator	\$ 30,000.00	\$ 30,000.00	0%	\$ -	
Family Access Network (FAN) - Juniper Elementary FAN Advocate Project	\$ 17,500.00	\$ 17,500.00	0%	\$ -	
KIDS Center - Child Abuse Medical Evaluation Project	\$ 30,000.00	\$ 30,000.00	0%	\$ -	
J-Bar-J / Cascade Youth and Family Services	\$ 20,000.00	\$ 20,000.00	0%	\$ -	
Latino Community Association - Healthy Families & Family Empowerment Programs	\$ 35,000.00	\$ 45,000.00	29%	\$ -	\$10,000 increase to assist 3,000+ Latine individuals.
MountainStar Family Relief Nursery - Therapeutic Early Childhood Classroom and Safety Net Projects	\$ 21,600.00	\$ 21,600.00	0%	\$ -	
Saving Grace- Mary's Place Supervised Visitation & Safe Exchange Center	\$ 30,000.00	\$ 40,000.00	33%	\$ -	\$10,000 increase requested due to 10% increase in medical benefit costs and loss of other funding sources.
Redmond Senior Center - Meals on Wheels & Congregate Meals Project	\$ 12,000.00	\$ 15,000.00	25%	\$ -	\$3,500 increase requested due to growing senior population and rising food costs.
Upper Deschutes Watershed Council	\$ 20,000.00	\$ 20,000.00	0%	\$ -	
<b>Sub-Total</b>	<b>\$ 336,100.00</b>	<b>\$ 374,100.00</b>	<b>11%</b>	<b>\$ -</b>	

**Grant Programs**

Fuels Reduction Grant Program	\$ 50,000.00	\$ 50,000.00	0%	\$ -	
Discretionary Grants	\$ 22,500.00	\$ 22,500.00	0%	\$ -	
Fundraising Grants	\$ 7,500.00	\$ 5,000.00	-33%	\$ -	
Event Sponsorship	\$ 10,000.00	\$ 7,500.00	-25%	\$ -	Economic development events that come up throughout the year (SLED, EDCO, COVO, COBA, What's Brewing, etc.).
United Way of Central Oregon -Emergency Food, Clothing, and Shelter	\$ 60,000.00	\$ 160,000.00	167%	\$ -	Fund increase is due to loss of Federal Funding (FEMA Grant).
<b>Sub-Total</b>	<b>\$ 150,000.00</b>	<b>\$ 245,000.00</b>	<b>63%</b>	<b>\$ -</b>	

<b>TOTAL REQUIREMENTS</b>	<b>\$ 1,165,617</b>	<b>\$ 1,945,257.00</b>	<b>67%</b>	<b>\$ -</b>	Actual % request from FY '25 allocations difference is 37% (FY '25 funded two one-time County Core Service projects totaling \$250,00 which is not represented in cell "B 64").
<b>REMAINING BALANCE</b>				<b>\$ 1,141,370.00</b>	