



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 10, 2024

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

AGENDA

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

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

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

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

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

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press *9 to indicate you would like to speak and *6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.



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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

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

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

CONSENT AGENDA

- [1.](#) Approval of Chair Signature of Document No. 2024-037, a Notice of Intent to Award Contract for the Slurry Seal 2024 - Bend Maintenance Zone Project
- [2.](#) Approval of Order No. 2024-012, Setting a temporary speed limit of 35 MPH on portions of Dickey Road and Nelson Road
- [3.](#) Approval of an amendment to the contract with Kirby Nagelhout Construction Company for the Negus Transfer Station project
4. Approval of minutes of the BOCC March 27, 2024 meeting

ACTION ITEMS

5. **9:10 AM** Recognition of Eric Ballinger, Application Systems Analyst --10 years of service
- [6.](#) **9:20 AM** Public Hearing: Draft 2020-2040 Deschutes County Comprehensive Plan
- [7.](#) **10:35 AM** Public Hearing: Commercial activity in conjunction with Farm use (winery) in the Multiple Use Agricultural Zone
- [8.](#) **11:50 AM** Oregon Department of Energy Community Renewable Energy Grant Program
- [9.](#) **12:00 PM** Request to Accept Grant Funds for Wolf Depredation and Financial Compensation

LUNCH RECESS

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.

10. Executive Session under ORS 192.660 (2) (d) Labor Negotiations
11. Executive Session under ORS 192.660 (2) (e) Real Property Negotiations

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 10, 2024

SUBJECT: Approval of Chair Signature of Document No. 2024-037, a Notice of Intent to Award Contract for the Slurry Seal 2024 - Bend Maintenance Zone Project

RECOMMENDED MOTION:

Move approval of Board Chair signature of Document No. 2024-037.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Road Department prepared bid solicitation documents for the Slurry Seal 2024 - Bend Maintenance Zone Project. The project scope of work includes application of latex-modified emulsified asphalt slurry seal coat wearing surface in the Bend Maintenance Zone. The project was advertised in the Daily Journal of Commerce and The Bulletin on March 13, 2024. The Department opened bids at 2:00 P.M. on March 27, 2024.

Five (5) bids were received for this project. The bid results are as follows:

<u>BIDDER</u>	<u>TOTAL BID AMOUNT</u>
BLACKLINE, INC.	\$ 229,774.88
ONE WAY TRIGGER, LLC.	\$ 237,531.56
DOOLITTLE CONSTRUCTION, LLC	\$ 293,293.00
PAVE NORTHWEST, INC.	\$ 318,135.60
VSS INTERNATIONAL, INC.	\$ 331,325.00
Engineer's Estimate	\$ 266,963.06

This action issues a Notice of Intent to Award the contract to the apparent low bidder, BLACKLINE, INC., and allows seven days for concerned parties to protest the award. If there is no protest within the seven-day period, the contract will be awarded to the apparent low bidder. The bid tabulation, including the Engineer's estimate, is attached.

BUDGET IMPACTS:

The project cost is budgeted in the Road Capital Improvement Plan (CIP) budget for Fiscal Year 2024.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director



BOARD OF COUNTY COMMISSIONERS

April 10, 2024

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

Subject: **Notice of Intent to Award Contract**
Contract for W66143 Slurry Seal 2024

To Whom It May Concern:

On April 10, 2024, the Board of County Commissioners of Deschutes County, Oregon considered proposals for the above-referenced project. The Board of County Commissioners determined that the successful bidder for the project was BlackLine, Inc., with a bid of Two Hundred Twenty Nine Seven Hundred Seventy Four and 88/100 Dollars (\$229,774.88).

This Notice of Intent to Award Contract is issued pursuant to Oregon Revised Statute (ORS) 279C.375. Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice may submit a written protest within seven (7) calendar days after the issuance of this Notice of Intent to Award Contract to the Board of County Commissioners of Deschutes County, Oregon, at Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703. **The seven (7) calendar day protest period will end at 5:00 PM on April 17, 2024.**

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

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

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

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

Sincerely,

Patti Adair, Chair

SLURRY SEAL 2024
 DESCHUTES COUNTY, OREGON
 PROJECT # W66143

BID RESULTS

BID OPENING : 2:00 PM 3/27/2024

				ENGINEER'S ESTIMATE		BLACKLINE INC. 13023 NE HWY 99, STE 7, PMB 196 VANCOUVER, WA 98686		ONE WAY TRIGGER, LLC 5960 S. LAND PARK DRIVE #250 SACRAMENTO, CA 95822	
ITEM		UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization	LS	1	\$20,000.00	\$20,000.00	\$11,000.00	\$11,000.00	\$28,000.00	\$28,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$20,000.00	\$20,000.00	\$15,000.00	\$15,000.00	\$4,000.00	\$4,000.00
3	Slurry Seal, Type II, LM CQS-1H, Bend Maintenance Zone	SQYD	87,834	\$2.58	\$226,963.06	\$2.32	\$203,774.88	\$2.34	\$205,531.56
				TOTAL =	\$266,963.06	TOTAL =	\$229,774.88	TOTAL =	\$237,531.56

SLURRY SEAL 2024
 DESCHUTES COUNTY, OREGON
 PROJECT # W66143

BID RESULTS

BID OPENING : 2:00 PM 3/27/2024

				ENGINEER'S ESTIMATE		DOOLITTLE CONSTRUCTION, INC 15 BUSINESS PARK WAY, SUITE 105 SACRAMENTO, CA 95828		PAVE NORTHWEST INC 92678 MARCOLA RD MARCOLA, OR 97454	
ITEM		UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization	LS	1	\$20,000.00	\$20,000.00	\$29,000.00	\$29,000.00	\$15,000.00	\$15,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$20,000.00	\$20,000.00	\$28,019.54	\$28,019.54	\$4,500.00	\$4,500.00
3	Slurry Seal, Type II, LM CQS-1H, Bend Maintenance Zone	SQYD	87,834	\$2.58	\$226,963.06	\$2.69	\$236,273.46	\$3.40	\$298,635.60
				TOTAL =	\$266,963.06	TOTAL =	\$293,293.00	TOTAL =	\$318,135.60

SLURRY SEAL 2024
 DESCHUTES COUNTY, OREGON
 PROJECT # W66143

BID RESULTS

BID OPENING : 2:00 PM 3/27/2024

ENGINEER'S ESTIMATE				VSS INTERNATIONAL, INC. 3785 CHANNEL DRIVE W. SACRAMENTO, CA 95691			
ITEM	UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	
1	Mobilization	LS	1	\$20,000.00	\$20,000.00	\$15,000.00	\$15,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$20,000.00	\$20,000.00	\$61,606.40	\$61,606.40
3	Slurry Seal, Type II, LM CQS-1H, Bend Maintenance Zone	SQYD	87,834	\$2.58	\$226,963.06	\$2.90	\$254,718.60
TOTAL =				\$266,963.06	TOTAL =		\$331,325.00



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 10, 2024

SUBJECT: Approval of Order No. 2024-012, Setting a temporary speed limit of 35 MPH on portions of Dickey Road and Nelson Road

RECOMMENDED MOTION:

Move approval of Order No. 2024-012.

BACKGROUND AND POLICY IMPLICATIONS:

The Deschutes County Road Department is delivering the Powell Butte Highway/Butler Market Road intersection improvement project, which includes construction of a roundabout at the intersection. Construction of the roundabout requires closure of Butler Market Road with a detour on Dickey Road and Nelson Road that will be in effect for up to five months. Due to resident concerns and an alteration in the character of Dickey Road (a collector road) and Nelson Road (a local road) by diverting Butler Market Road traffic to the detour route, Road Department staff have determined that a temporary speed limit of 35 mph is prudent.

Pursuant to ORS 810.180(8), a road authority may establish by ordinance or order a temporary designated speed for a highway that is lower than the statutory speed. The Road Department is requesting that a temporary designated speed of 35 mph be implemented on Dickey Road and Nelson Road along the detour route. The current statutory speed on Dickey Road and Nelson Road along the detour route is 55 mph.

Adoption of Order No. 2024-012 will implement a temporary designated speed of 35 mph on Dickey Road and Nelson Road along the detour route. The temporary designated speed will be in effect for the duration of the intersection improvement project, which is presently anticipated to be substantially completed by September 1, 2024.

BUDGET IMPACTS:

None

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

REVIEWED
LEGAL COUNSEL

04/10/2024 Item #2.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Setting a Temporary Speed Limit of 35 Miles Per Hour on Dickey Rd and Nelson Rd *
* ORDER NO. 2024-012
*

WHEREAS, the Deschutes County Road Department is causing for the construction of a new roundabout at the intersection of Powell Butte Highway and Butler Market Road located in Deschutes County; and

WHEREAS, the construction of the roundabout will require the installation of a temporary detour around the intersection via Dickey Road and Nelson Road to allow for continued access to Powell Butte Highway from Butler Market Road; and

WHEREAS, the Deschutes County Road Department, pursuant to the provisions of ORS 810.180(8), has determined that the implementation of the temporary detour will alter the character of the roadway to the extent that a temporary designated speed lower than the statutory speed is necessary to protect the safety of the traveling public; now, therefore

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

Section 1. That the designated speed for the following roadways be as follows:

Road Name:	Dickey Rd	Nelson Rd
Designated Speed:	35 miles per hour	35 miles per hour
From:	Milepost 0.00	Milepost 0.00
To:	Milepost 0.50	Milepost 1.01

Section 2. That the Deschutes County Road Department or its contractor shall install appropriate signs giving notice of the designated speed per ORS 810.180(8)(d).

Section 3. That the signs installed pursuant to this order comply with the provisions of ORS 810.210.

Section 4 That this speed zone will be in effect upon signature of the Board of County Commissioners and will terminate upon final completion of the roundabout project.

Section 5. That this Order shall be recorded in the office of the Deschutes County Clerk.

DATED this _____ day of _____, 2024.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

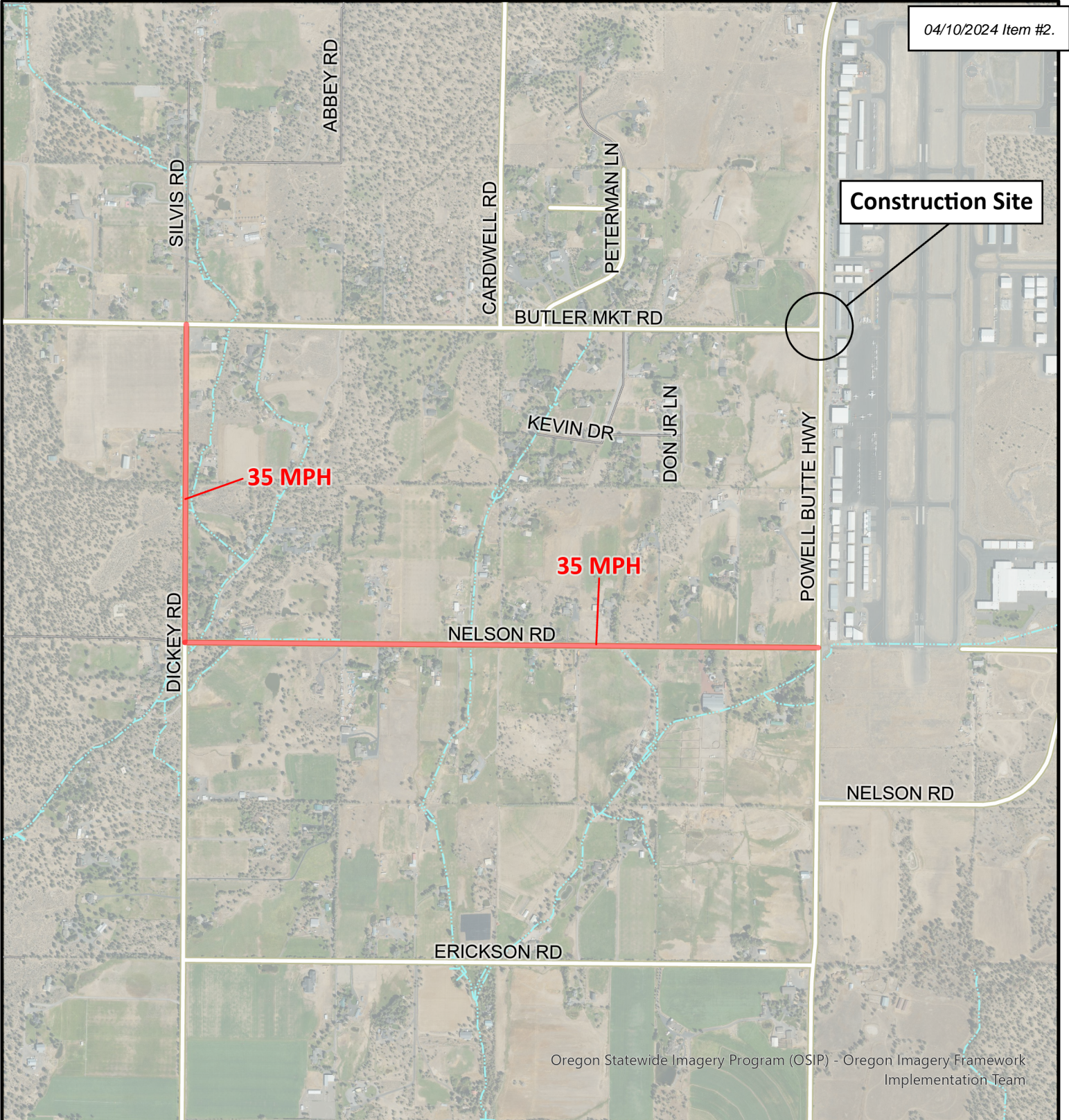
PATTI ADAIR, CHAIR

ATTEST:

ANTHONY DEBONE, VICE CHAIR

Recording Secretary

PHIL CHANG, COMMISSIONER



Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team

LEGEND

- Temporary Speed Zone
- County Routes
- Road Centerlines
- - - Canals



ROAD DEPARTMENT

TEMPORARY SPEED ZONE DICKEY RD and NELSON RD

DATE:
4/02/24

SCALE:
N.T.S.

DRAFTER: R. PINKSTON
REVIEWED BY: C. SMITH



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April, 10 2024

SUBJECT: Approval of an amendment to the contract with Kirby Nagelhout Construction Company for the Negus Transfer Station project

RECOMMENDED MOTION:

Move approval of Document No. 2024-291 amending the contract with Kirby Nagelhout Construction Co. relating to change orders and extension of the completion date for the Negus Transfer Station project (Document No. 2022-732).

BACKGROUND AND POLICY IMPLICATIONS:

In June 2022, the Department of Solid Waste issued an Invitation to Bid for improvements to the Negus Transfer Station in Redmond. The project includes the addition of scale facilities, the construction of an enclosed transfer station building for receiving and reloading of solid waste for transport to Knott Landfill, and the construction of support infrastructure (roads, utilities, water storage tank, etc.). The contract was awarded to Kirby Nagelhout Construction Company, Inc. in the amount of \$16,859,428.00 on August 22, 2023.

The amendment bundles a multitude of project change orders including the back filling of 7,225 tons of structural fill due to waste excavation, significant modifications to the Hel-core trench/storm drain causing delays in concrete slab work, additional fencing at the scalehouse and gates in perimeter fencing for site access, push wall painting and endcap welding, grading changes at the scalehouse to resolve elevation conflicts, interior ceiling access panels and room signage, water filtration system to resolve stagnant water issue, electrical wiring changes for safety gate motors and coiling door height changes.

Delays in shipping of the backup generator needed for final electrical inspection resulting in completion date extension to June 30, 2024.

BUDGET IMPACTS:

Additional \$417,272.72 to overall project cost from FY24 Solid Waste Capital Projects fund 613.

ATTENDANCE:

Tim Brownell, Solid Waste Director

For Recording Stamp Only

AMENDMENT TO DESCHUTES COUNTY CONTRACT NO. 2022-732

DOCUMENT NO. 2024-291

THAT CERTAIN AGREEMENT, Deschutes County Contract No. 2022-732 dated August 29, 2022, by and between DESCHUTES COUNTY, a political subdivision of the State of Oregon, (“County”), and Kirby Nagelhout Construction Company (“Contractor”), is amended, effective upon signing of all parties, as set forth below. Except as provided herein, all other provisions of Contract No. 2022-732, as applicable, remain the same and in full force.

The above-identified Contract No. 2022-732 is amended as follows:

AGREEMENT:

Contract No. 2022-732 is amended as follows:

1. General Requirements: Division 1 Section B is amended to provide a new completion date of June 30, 2024. See attached Exhibit 1.
2. General Conditions: Section 12 Subpart H, Liquidated Damages is amended to provide a new completion date of June 30, 2024. See attached Exhibit 2.
3. Change Order. PCCO #005 is accepted and approved. See attached Exhibit 3.
4. Except as provided herein, and as applicable, the terms of Contract No. 2022-732 shall remain in full force.

I have read this Contract including the attached Exhibits. I understand this Contract and agree to be bound by its terms.

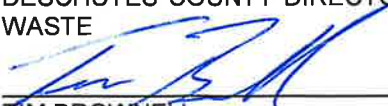
DATED April 2, 2024


CONTRACTOR By: Kenny Tyler

Dated this 3rd of April, 2024

Dated this _____ of _____, 20__

DESCHUTES COUNTY DIRECTOR OF SOLID WASTE


TIM BROWNELL

PATTI ADAIR, Chair, County Commissioner

ANTHONY DeBONE, Vice Chair, County Commissioner

PHIL CHANG, County Commissioner

EXHIBIT 1

(To Amendment No. 2024-291)

Division 1: General Requirements

Section 01010 - Summary of the Work

A. General Statement and Extent of Work. The work to be performed under these Contract Documents consists of furnishing all labor, materials, tools, and equipment necessary for the construction of the Negus Transfer Station Improvements Project. The project site is at 2400 NE Maple Avenue in Redmond, Oregon.

The work shall be performed in a workmanlike manner, complete and usable as required by the Drawings and these specifications. The work is to be constructed for Deschutes County, herein defined as the Owner.

The general work to be performed for the Negus Transfer Station Project includes, but is not limited to, the following major items:

- Site work including road, storm drainage and utility construction
- Truck scale facilities construction (scales and scalehouse)
- Construction of transfer station building and related facilities (Pre-engineered metal building has been purchased by the owner)

B. Time of Completion and Liquidated Damages. Performance of the work to be done under the Contract shall be commenced within ten (10) calendar days after receipt of written notice to proceed by the Contractor, unless later commencement of the work is authorized by the Engineer. The Contractor shall complete all work items on or before ~~January 12 April~~ **June 30, 2024**. For each calendar day after this date that the work remains uncompleted, the Contractor shall pay to the Owner five hundred dollars (\$500) per calendar day as liquidated damages.

Such amounts shall be a reimbursement to the Owner for damages which the Owner will have sustained by reason of such delayed completion. Damages so liquidated are understood to include the additional cost to the Owner for engineering supervision, observation of construction, interest charges and overhead.

C. Excess Work Hours. If the Contractor wishes to work at such a time of the day which is during the period other than the regular business hours of the County, including at night, between sunset and sunrise, or on a Saturday, Sunday, or legal State holiday, he shall make a written request for construction monitoring services during such period. If such a request is made and granted, the Contractor shall notify the Engineer not less than twenty-four (24) hours in advance of the time when such monitoring services are required.

D. Project Coordination. It shall be the responsibility of the Contractor to coordinate all work to be performed under this Contract. This coordination shall encompass all work to be performed by the Contractor, Contractor’s subcontractors, the Owner, and any public utilities which may be involved.

E. Access to the Work. The Contractor shall provide access to the work as may be required by the Owner or Engineer. The Contractor also shall provide access to the work for representatives of local, state, and federal agencies as may be required for inspection of the

EXHIBIT 2

(To Amendment No. 2024-291)

- G. The passage of this Contract expiration date shall not extinguish or prejudice the County's or Contractor's right to enforce this Contract with respect to any default or defect in performance that has not been cured.
 - H. **LIQUIDATED DAMAGES.** It is impractical to determine the actual damages that the County would sustain in the event the project is not completed by ~~January 12 April 1~~ **June 30, 2024**. Therefore, the Contractor shall pay to the County, not as a penalty, but as liquidated damages, **\$500 per calendar day**, or any portion thereof, for each day in which the project is not completed by such date.
 - I. County's remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
13. **Contractor's Tender Upon Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had this Contract been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the work.
14. **Work Standard.** Contractor shall be solely responsible for and shall have control over the means, methods, techniques, sequences and procedures of performing the work, subject to the plans and specifications under this Contract and shall be solely responsible for the errors and omissions of its employees, subcontractors and agents. For goods and services to be provided under this contract, Contractor agrees to:
- A. Perform the work in a good, workmanlike, and timely manner using the schedule, materials, plans and specifications approved by County;
 - B. Comply with all applicable legal requirements;
 - C. Comply with all programs, directives, and instructions of County relating to safety, storage of equipment or materials;
 - D. Take all precautions necessary to protect the safety of all persons at or near County or Contractor's facilities, including employees of Contractor, County and any other contractors or subcontractors and to protect the work and all other property against damage.
15. **Hold Harmless.** To the fullest extent allowed by law Contractor shall indemnify, save harmless and defend the County from and against all claims, suits or actions for damages, costs, losses and expenses arising from Contractor's torts, as the term "tort" is defined in ORS 30.260(8).
16. **Contractor Not An Agent of County.** It is agreed by and between the parties that Contractor is not carrying out a function on behalf of County, and County does not have the right of direction or control of the manner in which Contractor delivers services under this agreement or exercise any control over the activities of Contractor.
17. **Partnership.** County is not, by virtue of this Contract, a partner or joint venturer with Contractor in connection with activities carried out under this Contract, and shall have no obligation with respect to Contractor's debts or any other liabilities of each and every nature.

EXHIBIT 3

(To Amendment No. 2024-291)



PCCO #005

Kirby Nagelhout Construction Co.
63049 Lower Meadow Dr.
Bend, Oregon 97701
Phone: (541) 389-7119

Project: 1695 - Negus Transfer Station
2400 Northeast Maple Ave
Redmond, Oregon 97756

Prime Contract Change Order #005: Owner Change Order #05

TO:	Deschutes County 117 NW Lafayette Avenue Bend, Oregon 97701	FROM:	Kirby Nagelhout Construction Company 20651 NE High Desert Lane Bend, Oregon 97701
DATE CREATED:	3/11/2024	CREATED BY:	Kenny Tyler (Kirby Nagelhout Construction Company)
CONTRACT STATUS:	Approved	REVISION:	0
DESIGNATED REVIEWER:		REVIEWED BY:	
DUE DATE:		REVIEW DATE:	03/11/2024
INVOICED DATE:		PAID DATE:	
SCHEDULE IMPACT:		EXECUTED:	No
REVISED SUBSTANTIAL COMPLETION DATE:		SIGNED CHANGE ORDER RECEIVED DATE:	
CONTRACT FOR:	1695:	TOTAL AMOUNT:	\$417,272.72

DESCRIPTION:
CE #016 - Reconcile Fill Cost for Trash Removal

ATTACHMENTS:

POTENTIAL CHANGE ORDERS IN THIS CHANGE ORDER:

PCO #	Title	Schedule Impact	Amount
016	CE #016 - Reconcile Fill Cost for Trash Removal		\$174,313.06
018	CE's 18, 30, 46, 49 & 51		\$23,965.93
037	CE #037 - RFI-090 Scales and Scale House Drawings		\$45,600.28
055	CE's 55, 56, 59 & 64		\$24,589.68
065	CE's 65, 66, 67, 69 & 71		\$23,106.33
062	CE #062 - RFI-133 Hel-Core Trench Drain		\$82,665.85
070	CE's 70, 74 & 77		\$23,167.79
078	CE #078 - Paint Push Walls		\$19,863.80
Total:			\$417,272.72

CHANGE ORDER LINE ITEMS:

PCO # 016: CE #016 - Reconcile Fill Cost for Trash Removal

#	Budget Code	Description	Amount
1	2-200.S Excavation & Grading	Added Structural Fill due to Unknown Trash Pile	\$158,466.42
Subtotal:			\$158,466.42
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$15,846.64
Grand Total:			\$174,313.06

PCO # 018: CE's 18, 30, 46, 49 & 51

#	Budget Code	Description	Amount
1	5-100.S Steel Fabrication	Added L4x4x1/4 Lintels	\$1,207.50
2	9-250.S Gypsum Drywall.Subcontracts	In-Fill Framing for Mechanical Louver Changes	\$873.00



PCCO #005

#	Budget Code	Description	Amount
3	8-110.S Hollow Metal Door Frames.Subcontracts	Supply and Install Flashing & Louvers	\$1,035.00
4	13-121.P Metal Building Roofing.Purchase Orders	Engineering, Calcs and Material Added per Category IV Requirements	\$6,625.00
5	13-121.M Metal Building Roofing.Material	Shipping	\$2,800.00
6	8-330.S Coiling Doors & Grilles	Add 3" to Coiling Doors	\$1,790.80
7	2-200.S Excavation & Grading	CMP Culvert Add on Entry Road	\$4,688.41
8	2-510.S Asphalt Paving	Added 90sf of Asphalt Paving	\$2,767.50
Subtotal:			\$21,787.21
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$2,178.72
Grand Total:			\$23,965.93

PCO # 037: CE #037 - RFI-090 Scales and Scale House Drawings

#	Budget Code	Description	Amount
1	2-200.S Excavation & Grading	Revised Grades at Scale & Rock Excavation	\$27,594.25
2	2-830.S Chainlink Fencing	Added 145lf of Fencing	\$13,860.55
Subtotal:			\$41,454.80
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$4,145.48
Grand Total:			\$45,600.28

PCO # 055: CE's 55, 56, 59 & 64

#	Budget Code	Description	Amount
1	9-250.S Gypsum Drywall.Subcontracts	Install New Access Panels	\$4,190.00
2	10-200.M Louvers & Grilles.Material	Procure Access Panels	\$934.95
3	5-100.S Steel Fabrication	Fabricate & Install Height Limit Barriers	\$13,934.55
4	3-010.S Concrete Subcontractors	Added (2) Kiosk Post Bases	\$1,115.50
5	5-100.S Steel Fabrication	Repurpose Existing Gate and Install in New Fence	\$2,179.25
Subtotal:			\$22,354.25
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$2,235.43
Grand Total:			\$24,589.68

PCO # 065: CE's 65, 66, 67, 69 & 71

#	Budget Code	Description	Amount
1	16-100.S Electrical	New Light in Attic Space	\$1,193.87
2	10-400.M Interior Signage.Material	Added Signage at Interior	\$2,430.00
3	10-400.L Interior Signage.Labor	Install Room Signs	\$1,135.00
4	2-200.S Excavation & Grading	Added Yard Hydrant per RFI-057	\$10,797.38
5	5-100.S Steel Fabrication	Added Push Wall End Caps	\$2,449.50
6	2-830.S Chainlink Fencing	Added 20' Gate	\$3,000.00
Subtotal:			\$21,005.75
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$2,100.58
Grand Total:			\$23,106.33

PCO # 062: CE #062 - RFI-133 Hel-Core Trench Drain

#	Budget Code	Description	Amount
1	2-200.S Excavation & Grading	Vac Truck to Expose Trench Drain	\$14,220.72
2	9-900.S Painting & Finishing	Sealing of Trench Drain per RFI Detail	\$8,742.00
3	2-520.S Concrete Sidewalk & Paving Sub	Concrete Blankets due to Hel-Core Trench Drain Details Schedule Delay	\$28,314.05



PCCO #005

#	Budget Code	Description	Amount
4	3-010.S Concrete Subcontractors	Bury Hel-Core Pipe in Concrete	\$23,874.00
Subtotal:			\$75,150.77
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$7,515.08
Grand Total:			\$82,665.85

PCO # 070: CE's 70, 74 & 77

#	Budget Code	Description	Amount
1	8-330.S Coiling Doors & Grilles	Added Coiling Door Openers	\$1,847.00
2	5-100.S Steel Fabrication	Added 3" x 4" x 1/4" Angle Iron	\$2,806.00
3	9-900.S Painting & Finishing	Paint Angle Iron	\$2,597.00
4	16-100.S Electrical	Change of Power for Push Pit Operators	\$13,811.63
Subtotal:			\$21,061.63
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$2,106.16
Grand Total:			\$23,167.79

PCO # 078: CE #078 - Paint Push Walls

#	Budget Code	Description	Amount
1	9-900.S Painting & Finishing	Paint Push Walls	\$18,058.00
Subtotal:			\$18,058.00
OH&P, Insurance, Bond (10.00% Applies to all line item types.):			\$1,805.80
Grand Total:			\$19,863.80

The original (Contract Sum)	\$16,859,428.00
Net change by previously authorized Change Orders	\$605,081.09
The contract sum prior to this Change Order was	\$17,464,509.09
The contract sum will be increased by this Change Order in the amount of	\$417,272.72
The new contract sum including this Change Order will be	\$17,881,781.81
The contract time will not be changed by this Change Order.	

Jeff Shepherd (Civil and Environmental Consultants)

Deschutes County

Kirby Nagelhout Construction Company

117 NW Lafayette Avenue
Bend, Oregon 97701

20651 NE High Desert Lane
Bend , Oregon 97701

Jeff A. Shepherd 03/11/2024
SIGNATURE DATE

SIGNATURE DATE

[Signature] 03/11/2024
SIGNATURE DATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/28/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Anchor Insurance and Surety, Inc PO Box 2808 Portland OR 97208	CONTACT NAME: Lisa Steele PHONE (A/C, No, Ext): 503-224-2500 FAX (A/C, No): 503-224-9830 E-MAIL ADDRESS: lsteele@anchorias.com														
INSURED Kirby Nagelhout Construction Co. 20651 NE High Desert Ln Bend OR 97701	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : Travelers Property Casualty Co. of America</td> <td style="text-align: center;">25674</td> </tr> <tr> <td>INSURER B : SiriusPoint Specialty Insurance Corporation</td> <td style="text-align: center;">16820</td> </tr> <tr> <td>INSURER C : SAIF Corporation</td> <td style="text-align: center;">36196</td> </tr> <tr> <td>INSURER D : Phoenix Insurance Company</td> <td style="text-align: center;">25623</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Property Casualty Co. of America	25674	INSURER B : SiriusPoint Specialty Insurance Corporation	16820	INSURER C : SAIF Corporation	36196	INSURER D : Phoenix Insurance Company	25623	INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A : Travelers Property Casualty Co. of America	25674														
INSURER B : SiriusPoint Specialty Insurance Corporation	16820														
INSURER C : SAIF Corporation	36196														
INSURER D : Phoenix Insurance Company	25623														
INSURER E :															
INSURER F :															

423 00084

REC'D FEB 28

COVERAGES CERTIFICATE NUMBER: 1222778903 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	CO-1T209421	3/1/2024	3/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 WA STOP GAP \$ 1,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	810-2T136065	3/1/2024	3/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	CUP-1T247787	3/1/2024	3/1/2025	EACH OCCURRENCE \$ 20,000,000 AGGREGATE \$ 20,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	754452	10/1/2023	10/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER OR E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional & Pollution Liab			CPPL-S0001003	3/1/2024	3/1/2025	Occurrence/Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Contract# 2022-732

Certificate holder and all other entities are additional insureds when specified by written contract. Coverage is primary & non-contributory and includes waiver of subrogation when required by written contract. All subject to the terms, conditions and exclusions of the policies. Endorsements attached: CGD246 04/19, CGT100 02/19, CGD316 02/19, CAT353 02/15 and CAT499 02/16.

Umbrella Excess Liability applies over General Liability, Auto Liability, and Employers Liability.
 RE: Negus Transfer Station Improvements Project
 Additional insured as required by contract: Deschutes County, its officers, agents, employees, and volunteers

CERTIFICATE HOLDER Deschutes County Services Solid Waste Department 61050 SE 27th St Bend OR 97702	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	--

www.saif.com



Carrier no: 20001

Endorsement no: WC000313
(Ed. 430B)

SAIF policy: 754452 Kirby Nagelhout Construction Co

Waiver of Our Right to Recover from Others Endorsement

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Description: Negus Transfer Station Improvements Project #2022-732

Contractor name: Deschutes County Services

Address: 61050 SE 27th Street
Bend
Oregon
97702

This endorsement does not alter the rights of an injured worker to pursue recovery from another party or SAIF to receive a statutory share of recoveries by an injured worker, even from the party listed in the schedule.

For each contract subject to this endorsement, the premium charge is one quarter of one percent (.25%) of the manual premium for this policy subject to a maximum of one (1) percent.

Effective date: October 1, 2022

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Countersigned October 1, 2022 at Salem, Oregon

WC000313
(Ed. 430B)

Chip Terhune
President and Chief Executive Officer

400 High Street SE
Salem, OR 97312
P: 800.285.8525
F: 503.373.8020

Carrier: Phoenix Insurance Company

Policy Number: CO-1T209421

Insured: Kirby Nagelhout Construction Co.

REC'D FEB 28

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED
(Includes Products-Completed Operations If Required By Contract)**

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

- a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.
- b. The insurance provided to such additional insured does not apply to:

- (1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
- (b) Supervisory, inspection, architectural or engineering activities.

- (2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

- c. The additional insured must comply with the following duties:

- (1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:
 - (a) How, when and where the "occurrence" or offense took place;
 - (b) The names and addresses of any injured persons and witnesses; and
 - (c) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- (2) If a claim is made or "suit" is brought against the additional insured:

COMMERCIAL GENERAL LIABILITY

- (a)** Immediately record the specifics of the claim or "suit" and the date received; and
 - (b)** Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.
- (3)** Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- (4)** Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

REC'D FEB 28

COMMERCIAL GENERAL LIABILITY

4. Other Insurance

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as described in Paragraphs **a.** and **b.** below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph 5. of Section III – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph 4. of Section III – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;
- (iii) Any risk retention group; or
- (iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph **c.** below, insurer means a provider of insurance.

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below, except when Paragraph **d.** below applies.

b. Excess Insurance

- (1) This insurance is excess over:
 - (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

- (ii) That is insurance for "premises damage";

- (iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

- (iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph 4. of Section II – Who Is An Insured, except when Paragraph **d.** below applies; or

- (v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph 5. of Section II – Who Is An Insured, except when Paragraph **d.** below applies.

- (b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.

- (2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

- (b) The total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

COMMERCIAL GENERAL LIABILITY

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

CARRIER: Phoenix Insurance Company

POLICY NUMBER: CO-1T209421

INSURED: Kirby Nagelhout Construction Co.

REC'D FEB 28

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. Who Is An Insured – Unnamed Subsidiaries
- B. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations
- C. Incidental Medical Malpractice
- D. Blanket Waiver Of Subrogation
- E. Contractual Liability – Railroads
- F. Damage To Premises Rented To You

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. An organization other than a partnership, joint venture or limited liability company; or
 - b. A trust;
- as indicated in its name or the documents that govern its structure.

B. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

COMMERCIAL GENERAL LIABILITY

C. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph b. of the definition of "occurrence" in the DEFINITIONS Section:

b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide:

(a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician or paramedic; or

(b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph 5. of SECTION III – LIMITS OF INSURANCE:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., Exclusions, of SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of

pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the DEFINITIONS Section:

"Incidental medical services" means:

a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph 4.b., Excess Insurance, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

D. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph 8., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

a. "Bodily injury" or "property damage" that occurs; or

b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.

E. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the DEFINITIONS Section:

c. Any easement or license agreement;

COMMERCIAL GENERAL LIABILITY

REC'D FEB 28

2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

F. DAMAGE TO PREMISES RENTED TO YOU

The following replaces the definition of "premises damage" in the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

CARRIER: Travelers Property Casualty Co. of America
POLICY NUMBER: 810-2T136065
INSURED: Kirby Nagelhout Construction Co.

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:
BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. BROAD FORM NAMED INSURED
- B. BLANKET ADDITIONAL INSURED
- C. EMPLOYEE HIRED AUTO
- D. EMPLOYEES AS INSURED
- E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS
- F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS
- G. WAIVER OF DEDUCTIBLE – GLASS
- H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT
- I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT
- J. PERSONAL PROPERTY
- K. AIRBAGS
- L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS
- M. BLANKET WAIVER OF SUBROGATION
- N. UNINTENTIONAL ERRORS OR OMISSIONS

PROVISIONS

A. BROAD FORM NAMED INSURED
The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED
The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO
1. The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of SECTION IV – BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., Policy Period, Coverage Territory, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

COMMERCIAL AUTO

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of SECTION III – PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of SECTION III – PHYSICAL DAMAGE COVERAGE:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of SECTION III – PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., **Coverage Extensions**, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of SECTION IV – BUSINESS AUTO CONDITIONS:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of SECTION IV – BUSINESS AUTO CONDITIONS:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud**, of **SECTION IV – BUSINESS AUTO CONDITIONS:**

REC'D FEB 28

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED – PRIMARY AND
NON-CONTRIBUTORY WITH OTHER INSURANCE –
CONTRACTORS**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

- 1. The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

- 2. The following is added to Paragraph B.5., **Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is a named insured when a written contract or agreement with you, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.



Carrier no: 20001

Endorsement no: WC000313
(Ed. 430B)

SAIF policy: 754452 Kirby Nagelhout Construction Co

Waiver of Our Right to Recover from Others Endorsement

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Description: Negus Transfer Station Improvements Project #2022-732

Contractor name: Deschutes County Services

Address: 61050 SE 27th Street
 Bend
 Oregon
 97702

This endorsement does not alter the rights of an injured worker to pursue recovery from another party or SAIF to receive a statutory share of recoveries by an injured worker, even from the party listed in the schedule.

For each contract subject to this endorsement, the premium charge is one quarter of one percent (.25%) of the manual premium for this policy subject to a maximum of one (1) percent.

Effective date: October 01, 2023

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Countersigned September 27, 2023 at Salem, Oregon

Chip Terhune
President and Chief Executive Officer

WC000313
(Ed. 430B)

400 High Street SE
Salem, OR 97312
P: 800.285.8525
F: 503.373.8020



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: Wednesday, April 10, 2024

SUBJECT: Public Hearing: Draft 2020-2040 Deschutes County Comprehensive Plan (247-23-000644-PA)

RECOMMENDED MOTION:

Open the public hearing to gather testimony on the Deschutes County 2040 Comprehensive Plan Update.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will hold public hearing to gather testimony on the Draft Deschutes County 2040 Comprehensive Plan. The full record is located on the project hearing page: https://www.deschutes.org/cd/page/247-23-000644-pa-deschutes-county-2040-comprehensive-plan-update-hearing-page.

BUDGET IMPACTS:

N/A

ATTENDANCE:

Nicole Mardell, AICP, Senior Long Range Planner
Will Groves, Planning Manager
Matt Hastie, MIG



MEMORANDUM

TO: Deschutes County Board of County Commissioners
FROM: Nicole Mardell, AICP, Senior Planner
DATE: April 3, 2024
RE: Public Hearing: Draft 2020-2040 Deschutes County Comprehensive Plan

The Board of County Commissioners will conduct a public hearing on April 10, 2024, to consider legislative amendments to repeal and replace the 2030 Comprehensive Plan with the Deschutes County 2040 Comprehensive Plan (file no. 247-23-000644-TA).

I. BACKGROUND

The Comprehensive Plan is Deschutes County’s policy document for guiding growth, development, and resource protection within the county over a 20-year planning period. The plan’s purpose is to provide a policy framework for zoning and land use regulations, demonstrate consistency with all applicable statewide goals, rules, and laws, and serve as a cohesive vision for future planning activities.



The project was initiated in April 2022 and progressed through four phases:

- Phase 1 - Project Initiation: Hiring of consultant (MIG, Inc), review of background documents, creation of Community Engagement Plan, project website, and branding materials.
- Phase 2 – Initial round of community engagement – visioning, review of existing policies with Planning Commission, review of policy best practices in drafting new text.
- Phase 3 – Second round of community engagement – policy approaches, finalizations of goal and policies with Planning Commission, update of maps.
- Phase 4 – Compilation of final Comprehensive Plan document and findings package.

The project has now entered Phase 5, which focuses on the adoption of the updated document. Extensive information from the previous phases, including open house summaries, outreach materials, and iterative versions of policies can be found on the project website process page: www.deschutes.org/2040.

The full record including public and agency comments is included on the project hearings page: <https://www.deschutes.org/cd/page/247-23-000644-pa-deschutes-county-2040-comprehensive-plan-update-hearing-page>.

II. PLANNING COMMISSION ROLE AND REVIEW

The Deschutes County Planning Commission played an integral role overseeing the Deschutes County 2040 process. Commissioners met eleven times (prior to any public hearings) to review the community engagement plan, participate in engagement activities, craft new and revised goal and policy language, and review initial iterations of the Comprehensive Plan document. Staff initiated the Post Acknowledgement Plan Amendment process on August 30, 2023. From that date forward, the role of the Planning Commission shifted to that of a formal review body for the initial hearings process.

The Planning Commission held public hearings on October 26, 2023¹, November 9, 2023², and December 14, 2023³. At the conclusion of the December 14, 2023, meeting, commissioners closed the oral record and left the written record open until December 28, 2023. The Commission deliberated on January 11, 2024⁴, January 25, 2024⁵, February 8, 2024⁶, and February 22, 2024⁷. The Planning Commission ultimately voted to recommend approval of the plan as revised in accordance with the edits in Attachment A. These edits have been incorporated into the updated draft in Attachment B. Additionally, the Planning Commission wanted to emphasize the following points:

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-42>

² <https://www.deschutes.org/bc-pc/page/planning-commission-40>

³ <https://www.deschutes.org/bc-pc/page/planning-commission-43>

⁴ <https://www.deschutes.org/bc-pc/page/planning-commission-44>

⁵ <https://www.deschutes.org/bc-pc/page/planning-commission-45>

⁶ <https://www.deschutes.org/bc-pc/page/planning-commission-46>

⁷ <https://www.deschutes.org/bc-pc/page/planning-commission-47>

- The Planning Commission promoted a balance of regulations and incentives in addressing growth and development, although wanted to emphasize their preference to explore incentives where possible as the first approach.
- Policy 3.3.6 explores the creation of a new nonresource zoning classification that balances preservation of the high desert environment while allowing for rural housing opportunities. The Planning Commission emphasized the importance of holding an extensive engagement process while exploring creation of a potential new zone.
- Policy 8.1.2 promotes collaboration on trail projects between agencies and property owners, especially for projects adjacent to farm or forestry operations. The Planning Commission wanted to emphasize the group voted 3-2 on the final language, with two Commissioners preferring an additional policy to explore limitations to trails adjacent to farm and forestry operations to protect statutory “Right to Farm” allowances.
- Policy 5.1.3, now removed, sought to add consideration of potential impacts of water quality and quantity in surrounding areas as part of the siting, planning, and approval processes for destination resorts. Commissioners voted 3-2 to remove this policy, citing lack of regulatory authority and recognition of the extensive existing code requirements regulating this use.

To aid in the Commission’s review, staff also provided draft findings (Attachment C) and a policy tracker spreadsheet (Attachment D) to this memo which describes the iterative changes to the policies from the 2010 version to the current March 15, 2024, draft.

III. PUBLIC TESTIMONY

Approximately 182 public comments were received as of the date of this memo. Major topics of community interest included:

- Potential development of a footbridge across the Deschutes River near the Brookwood neighborhood of Deschutes River Woods.
- Water availability monitoring, planning, and management.
- Voluntary or required measures to conserve water.
- Protection of private property rights and use of incentives to address issues related to growth and development.
- Rezoning of farmland and allowed uses on farmland.
- Dark skies protections.
- Wildlife protection.
- County role in housing production, including affordable housing opportunities.
- Destination resort siting and development.

During the Planning Commission review stage, staff placed certain items that may be precluded by current state law, or those that may be more fitting for an action or work plan into a “parking lot”.

Staff will utilize this information in drafting an action plan or exploring further if state regulations change.

Parking Lot

Potentially Precluded by State Law

- Tie rezoning to groundwater availability and quality.
- Require consideration of water availability during Urban Growth Boundary Expansion processes.
- Require appellants to cover costs for appeal process.
- Limit standing in appeals to adjacent landowners.
- Require water budgets and monitoring for public lands.
- Re-evaluate use of water rights and prioritize active agricultural operations.
- Regulate development through water availability and quality.
- Require approval of water permits prior to processing applications.
- Limit development that could impact natural springs.
- Limit housing where water quality and quantity will be negatively impacted.
- Moratoria on development.
- Explore Unincorporated community status for Three Rivers.

Action Items

- Include stronger language on noxious weed removal on county lands and in new developments.
- Create a County strategic plan.
- Advocate for legislation/policy at state level to enable transitional housing outside UGBs.
- Construct infrastructure to manage/limit water waste.
- Revise County code to state only minimum provisions required by state law for farm uses.
- Encourage clear and objective criteria where possible to reduce appeals.
- Adopt clear and objective criteria for Goal 5 polices that limit or prohibit allowed uses.
- Host community conversations to discuss benefits and challenges of destination resorts.

IV. AGENCY EDITS

The Deschutes Historical Society and U.S. Fish and Wildlife Service provided suggested edits to reflect best practices and updated terminology related to historic resources and wildlife resources, respectively. Staff integrated these edits directly into the document.

Central Oregon Irrigation District (COID) provided an extensive list of terminology and technical edits. Commissioners were generally comfortable adopting the majority of these edits, although three suggestions from COIDs recommendations were discussed by the Planning Commission, as they expressed a particular perspective on issues related to groundwater recharge and hydroelectric facilities. The Planning Commission provided general direction to staff to draft revised

language incorporating COIDs edits while also recognizing divergent community perspectives. These edits are noted in Attachment A and the revised document.

Following the Planning Commission’s review, Bend Parks and Recreation District has also submitted a comment regarding policy 8.1.2 in the recreation chapter.

V. NEXT STEPS

The Board will hold continued public hearings at the following dates and locations:

- Tuesday, April 23, 3 pm, Sunriver Homeowners Association Recreation Center (SHARC)
Dillon Hall, 57250 Overlook Road, Sunriver, Oregon
- Tuesday, April 30, 3 pm, City of Sisters City Hall
520 E Cascade Avenue, Sisters, Oregon

Attachments:

- A. Planning Commission Recommended Edits
- B. Deschutes 2040 Draft Comprehensive Plan – 3.15.2024 updated version
- C. Deschutes 2040 Draft Findings
- D. Policy Tracker 2030 vs. 2040 language

Attachment A

~~Strikeout~~ signifies deletions.
Underline signifies additions.

Chapter 2 - Land Use Regional Coordination

- Amend policy 2.1.1 as follows:
Balance the consideration of private property rights and the economic impacts of land use decisions on property owners with incentives to preserve agricultural and forest land, wildlife habitat, ground and surface water resources, wetlands, riparian areas, open areas and other community goals identified in the Comprehensive Plan.
- Amend policy 2.2.6 as follows:
Collaborate with federal agencies on land management issues, including homelessness, wildlife habitat restoration, water quality, road networks, energy projects, the impacts of recreation and the expansion of sustainable recreation opportunities-expansion, and energy projects.

Chapter 3 - Farm and Forest Lands

- Amend policy 3.2.4 as follows:
 - Work cooperatively with irrigation districts, public agencies and representatives and landowners to promote and support agricultural uses and operations, including through use of rural reserves, conservations easements, transfer of development rights programs, land acquisitions, and other preservation strategies consistent with existing Federal and State Law
- Amend policy 3.2.6 as follows:
 - Continue to review and revise county code as needed to be and consistent with state code, rules, and regulations to permit alternative and supplemental farm activities that are compatible with farming, such as agritourism ~~or commercial renewable energy projects~~ or other small scale sustainable activities.
- Amend narrative on page 3-3 Water Supply and Irrigation as follows:
 - Much of Deschutes County is served by six irrigation districts (Map 3-1) – these are special entities created for the purpose of delivering water to their patrons. These districts are ~~effectively non-profit water user associations-quasi-municipal corporations~~ chartered under Oregon law that operate as political subdivisions of the State of Oregon. In addition to irrigation, these districts also supply other services including municipal, industrial, and pond maintenance. ~~The total water available for irrigation and other human uses in Deschutes County is fixed under the current water regime. No additional water rights can be issued without the decommissioning of a previous claim. Therefore, there is limited opportunity to expand irrigated farming in the~~

County. Existing farms with senior water rights in general have relatively generous irrigation rights, which have rarely been fully utilized, and are expected to have sufficient water to cope with increasing temperatures and drought conditions in the future. In most cases, these districts are holders of senior water rights with shares then distributed to their patrons. As is the case with all water rights, the irrigation districts' water rights are managed by the Oregon Water Resources Department and subject to "beneficial use" requirements to prevent the waste of the water resource. The total water available for irrigation and other human uses in Deschutes County is fixed under the current water regime, and there is little opportunity to expand irrigated farming in the County. Irrigation districts with more junior water rights ~~junior water right holders,~~ associated with such as Arnold Irrigation District and North Unit Irrigation District (operating north of Deschutes County), have recently seen challenges with water delivery due to limited availability and drought.

- Amend narrative on page 3-3 Changes in Climate Conditions as follows:
 - Because the total volume of water available for agricultural and human use is fixed, strategies to decrease water usage (capping or piping irrigation channels, irrigation timing strategies, water conservation) will become more crucial. Deschutes County is committed to working with irrigation districts and holders of water rights to increase water conservation efforts throughout the County in a manner consistent with existing legal frameworks established by State and Federal law.
- **Remove** sentences on page 3-3 Conflicts with Other Uses
 - ~~Agricultural uses continue to be affected by conflicts with adjacent or surrounding non-farm uses (primarily new rural homes). In some cases, new residents object to impacts of common farming practices, such as noise, dust, and odors related to farm activity.~~

Chapter 5 – Natural Resources

- Amend water resources narrative on page 5-3 as follows:
 - The high desert climate of Central Oregon poses many challenges with water supply and allocation. ~~Water laws are seen as antiquated by many and issues related to water level in private residential wells, irrigation allocation to farmers, and protection of habitat areas for dependent species arise frequently.~~

A 2021 report by the Oregon Department of Water Resources found that groundwater levels through Deschutes County are declining, by as much as 50 feet of total decline in the central part of the basin. This decline is considered "excessively declined" per state statute and is attributed toward a

shift in overall drier conditions since the late 1990s, a warming trend in the basin, and decreased snowpack. ~~Ongoing development and piping of canals (which limits artificial groundwater recharge while conserving canal water) also exacerbate this issue~~ To address these issues, irrigation districts and other entities are engaged in ongoing efforts to pipe canals and modernize irrigation systems to increase their efficiency. Due to water transmission losses in irrigation canals from seepage into groundwater and evaporation, piped canals typically require only half the amount of water to be diverted from the river or stream to deliver the same volume of water to the end user compared to open canals. Community members have expressed concern that piping canals contribute to aquifer declines.

~~Deschutes County has limited jurisdiction of water use, instead playing~~ plays a coordination role along with the Oregon Department of Water Resources, irrigation districts, water users, and owners of private wells to address these water resource issues.

- Addition of narrative to Chapter 5, Natural Resources, Wildlife section providing a brief description of the 2021-2023 Mule Deer Inventory Process.
 - Page 5-4 revise second paragraph to the following:
 - ~~A summary of Deschutes County's wildlife protection program follows:~~ A snapshot of Deschutes County's wildlife protection program is included below. Extensive information is included in Appendix A – the County's Goal 5 inventory.
 - Page 5-4, between first and second paragraphs, add new paragraph as follows;
 - From 2021-2023, Deschutes County explored an update to the county's mule deer inventory, which included extensive community participation including through the public record. Ultimately, the decision was made not to update.
- Amend Sensitive Birds - Page 5-4 as follows:
 - remove “northern” from “northern bald eagle”.
 - End of paragraph – add sentence: USFW works closely with ODFW on eagle-related issues and enforces federal guidelines to ensure protection of bald and golden eagles.
- Statewide Planning Goals - Page 5-5, add additional sentence at end of last paragraph:
 - Accordingly, it is imperative that local land use policies align with Federal and State laws governing the community's water resources.
- Regulatory Agencies - Page 5-5 add to end of paragraph

- Numerous sections of the Deschutes River in Deschutes County hold a special status as a federal wild and scenic river, as well as a state scenic waterway. These areas carry additional regulations through the 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Plan, requiring additional agency coordination with the Oregon Parks and Recreation Department and the US Forest Service on development impacting these sections.
- Reservoirs – Page 5-8, revise to the following:
 - ~~The majority of the irrigation in Deschutes County comes from reservoirs which are mostly spring fed from the Cascades. These reservoirs are primarily spring fed from the Cascades. Reservoirs serve the dual purpose of supplying water for irrigation and ensuring sufficient streamflow in the lower Deschutes River. The water levels in these lakes have been low in recent years due to drought in the region. When water is limited, the supply rate is determined by the age of water rights, with the more senior water permits having priority over the youngest. The Swalley and Central Irrigation Districts are the most senior in the County, while the North Unit Irrigation District is the most junior. Regional droughts in recent years have resulted in lower water levels in these reservoirs.~~
- Key Community Considerations – Page 5-9, amend last paragraph as follows:
 - ~~The topic of habitat conservation and water availability came up frequently, with most respondents participants saying that further protections are needed. However, there was also some push back related to the burden these protections may put on property owners. recognition of the burden these protections may put on property owners. Deschutes County does not have the authority or expertise to reevaluate water rights as part of its land use planning efforts, leading the County to instead work with the Oregon Department of Water Resources, irrigation districts, and holders of water rights to increase the efficiency of water distribution throughout the community.~~
- Amend Goal 5.1 as follows:
 - ~~Develop–Support~~ regional, comprehensive water management solutions policies that balance the diverse needs of water users and recognize Oregon water law.
- Amend policy 5.1.1.a as follows:
 - Work cooperatively with appropriate federal, state, tribal and local agency resource managers, such as The Confederated Tribes of the Warm Springs Reservation of Oregon, the Oregon Water Resources Department (OWRD), irrigation districts, and other stakeholders and nonprofit water organizations,

such as the Deschutes Basin Water Collaborative, the County Soil and Water Conservation District;

- ~~Remove policy 5.1.3. Consider potential impacts on water quality and availability in surrounding areas as part of the siting, planning, and approval processes for Destination Resorts and other large-scale developments.~~
- Amend policy 5.11.5. as follows:
 - Develop and implement a Climate Action Plan to address the potential future impacts of climate change on Deschutes County through incentives and or regulations.
- Add new policy to Chapter 5, Natural Resources, Water section
 - Encourage state agencies to identify local areas of concern for water availability and explore additional regulations or requirements to ensure water capacity is not negatively impacted by development.
- Add new policy and narrative to Chapter 5, Natural Resources, Water section
 - Revisit recommendations of 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Plan, or its successor, and consider implementation of voluntary recommendations into the county code.

Chapter 6 – Historic and Cultural Resources

- Add paragraph to Opportunities, Challenges, Considerations – Page 6-12
 - Deschutes County owns the National Register listed Reid School and invests in supporting the Deschutes County Historical Society as a research and educational facility through a zero-cost lease and maintenance support for the purposes of running the museum and research center.
- Add to end second paragraph – Page 6-12
 - Deschutes County has several partners involved in drafting and implementing this strategic plan – those partners include the Deschutes County Historical Society, High Desert Museum, Archaeological Society of Central Oregon, Three Sisters Historical Society, and Redmond Historical Society.
- Amend context paragraph – Page 6-12 as follows:
 - These sites receive special protections to avoid land use or development activity that may disturb the historical ~~or educational~~ and cultural resources existing on site.
- Amend Locally significant sites – Page 6-12 as follows:

- Deschutes County has 35 locally significant sites including cemeteries, ranches, dams, bridges, schools, and granges among numerous historic homesteads and homesites. The State of Oregon has initiated a process to identify culturally significant archaeological sites and sites of indigenous importance. This process will likely be incorporated into the County's local inventory in the next five years.
- Nationally registered sites – Page 6-13 remove second paragraph. ~~One of the primary sites of historic and cultural learning in the county is the nationally acclaimed High Desert Museum. The museum is dedicated to broadening the understanding of the High Desert's wildlife, culture, art, and natural resources. In doing so, it strives to promote thoughtful decision making to sustain the region's natural and cultural heritage.~~
- Amend Policy 6.1.3. as follows:
 - Coordinate with The Confederated Tribes of the Warm Springs Reservation of Oregon, Burns-Paiute Tribe, Klamath Tribes, Archaeological Society of Central Oregon, and SHPO to adopt a program to identify and protect archaeological and cultural resources, as appropriate, and prevent conflicting uses from disrupting the value of known sites.

Chapter 7 – Natural Hazards

- Revise wildfire summary in on page 7-3 to the following:
 - Wildfire. Historically, wildland fires have shaped the forests and wildlands valued by residents and visitors. These landscapes, however, are now significantly altered due to increased rural development, warmer and dried conditions, and a general lack of large-scale treatments due to outdated forest management practices, resulting in increased event of wildfires that burn more intensely than in the past.

Chapter 8 - Recreation

- Amend policy 8.1.2 as follows:
 - Collaborate with partners to develop a regional system of trails and open spaces, prioritizing balancing recommendations from local park districts, County, state, and federal recreation plans and studies and property owner considerations, particularly for projects adjacent to farm and forest lands.

Chapter 9 – Economic Development

- Page 9-5 Resource Land – replace paragraph with the following:
 - **Resource Land Construction and Development**
While much of the County's economic activity occurs in urban areas, ~~County administration of farmland, forest land, and natural resources plays a vital role~~

in protecting and enhancing the economic development potential of the area. agricultural, forestry, and construction industries also provide economic growth in Deschutes County. Construction of rural housing can support additional workforce in areas outside of city limits while also utilizing local trade industries. Construction of rural industrial or commercial projects provide economic opportunities that serve rural communities, without a trip into an adjacent city.

Chapter 11 – Unincorporated Communities and Destination Resorts

- Amend policy 11.7.2. to following:
 - ~~Create and implement additional limitations on the siting and development of destinations resorts that go beyond current state regulations to~~ Ensure protection of water quality, recreational resources, and other County resources and values.

- Add paragraph to page 11-3 under destination resort section
 - Destination resorts are a key economic development strategy for Deschutes County. Many community members and visitors enjoy the recreational amenities and accommodations that Destination Resorts provide.

- Amend third paragraph, key community considerations, page 11-3 to the following:
 - Destination Resort development continues to be a contentious issue. Community members have expressed concern regarding the water use of large-scale development – specifically the effects to groundwater for neighboring property owners. ~~Many community members have expressed a desire to further limit destination resorts, golf courses, and visitor accommodations in order to preserve water access and availability for year-round residents.~~Other community members express support for the economic and amenity benefits of destination resorts, noting that the current requirements sufficiently address natural resource concerns. Additional community conversations will be valuable to understand the diversity of perspectives on this topic.

Chapter 12 – Irrigation Districts

Amend narrative under Irrigation Districts section – Pages 12-4-5

- “Irrigation districts in Oregon are organized as Special Districts under ORS Chapter 545. Six irrigation districts operate in Deschutes County: Arnold, Central Oregon, North Unit, Swalley, Tumalo, and Three Sisters Irrigation Districts. They are quasi-municipal public corporations under Oregon Law, with prescribed rules for purpose, boards, elections, staffing, charges, etc. The districts ~~are~~ operate as political subdivisions of the State of Oregon created for the purpose of delivering water to their patrons. ~~As such they are effectively non-profit water user associations.~~ In addition to irrigation uses, these districts also supply a number of other services,

including municipal, industrial, and pond maintenance, warranting coordination with municipalities.”

Chapter 14 - Energy

Add new policy:

- Include evaluation of adverse impacts to natural resources as part of renewable energy siting processes.
- **Remove** text below – Hydroelectric energy generation page 14-4
 - ~~Several water districts in Deschutes County have implemented hydropower projects to harness the energy of moving water. These projects may have impacts on wildlife habitat and migration, as well as construction, visual, and noise impacts.~~
 - Revise remaining text in section to following:
 Currently, Deschutes County has three approved “in conduit” hydroelectric facilities that are owned and operated by irrigation districts within existing irrigation district canals. Approval of these facilities have previously been contentious, with community members expressing concern about wildlife and impacts to other basin users. Irrigation districts ~~have expressed interest in reducing barriers to permitting these types of developments to promote renewable energy development using manmade waterways.~~ noted challenges in utilizing the existing county code for these projects, which were drafted to address “in channel” hydroelectric facilities. To promote renewable energy development using man-made waterways, irrigation districts have expressed interest in helping the County update the Deschutes County Code to more appropriately address “in conduit” hydroelectric facilities separate and apart from “in-channel” hydroelectric facilities”.

Deschutes County Comprehensive Plan



DESCHUTES
COUNTY
2040



Draft - Revised March 15, 2024

Acknowledgements

BOARD OF COUNTY COMMISSIONERS

- Patti Adair, Chair
- Anthony DeBone, Vice Chair
- Phil Chang

DESCHUTES COUNTY PLANNING COMMISSION

- Jessica Kieras, Chair
- Nathan Hovekamp, Vice Chair
- Matt Cyrus
- Susan Altman
- Kelsey Kelley
- Patrick Trowbridge
- Toni Williams
- Dale Crawford (through June, 2023)
- Maggie Kirby (through June 2023)

STAFF

- Peter Gutowsky, AICP, Community Development Director
- William Groves, Planning Manager
- Nicole Mardell, AICP, Senior Planner

CONSULTANT TEAM

- MIG
- Parametrix
- Letz Consulting
- Kittelson and Associates

Adopted _____

Table of Contents

- Acknowledgements** i-2
- Introduction** i-4
- 1. Community**
- Engagement** 1-1
 - Opportunities, Challenges, and Considerations.....1-2
 - Context1-2
 - Key Community Issues.....1-6
 - Goals and Policies1-6
- 2. Land Use and Regional Coordination** 2-1
 - Context2-3
 - Key Community Considerations2-7
 - Goals and Policies2-9
- 3. Farm and Forest Resources** 3-1
 - Opportunities, Challenges, and Considerations.....3-2
 - Context3-3
 - Key Community Considerations3-6
 - Goals and Policies3-7
- 4. Mineral and Aggregate Resources** 4-1
 - Opportunities, Challenges, and Considerations.....4-2
 - Context4-2
 - Key Community Considerations4-4
 - Goals and Policies4-4
- 5. Natural Resources** 5-1
 - Opportunities, Challenges, and Considerations.....5-2
 - Context5-3
 - Key Community Considerations5-9
 - Goals and Policies 5-10
- 6. Historic and Cultural Resources** 6-11
 - Opportunities, Challenges, and Considerations..... 6-12
 - Context 6-13
 - Key Community Considerations 6-13
 - Goals and Policies 6-14
- 7. Natural Hazards** 7-1
 - Opportunities, Challenges, and Considerations.....7-2
 - Context7-3
 - Key Community Considerations7-6
 - Goals and Policies7-7
- 8. Recreation** 8-1
 - Opportunities, Challenges, and Considerations.....8-2
 - Context8-4
 - Key Community Considerations8-5
 - Goals and Policies8-6
- 9. Economic Development** 9-1
 - Context9-2
 - Opportunities, Challenges, and Considerations.....9-2
 - Key Community Considerations9-5
 - Economic Development Goals and Policies9-6
- 10. Housing** 10-1
 - Context 10-2
 - Opportunities, Challenges, and Considerations..... 10-2
 - Key Community Considerations 10-4
 - Goals and Policies 10-6
- 11. Unincorporated Communities and Destination Resorts** 11-1
 - Context 11-2
 - Opportunities, Challenges, and Considerations..... 11-2
 - Key Community Considerations 11-4
 - Goals and Policies 11-4
- 12. Public Facilities** 12-1
 - Opportunities, Challenges, and Considerations..... 12-2
 - Context 12-3
 - Key Community Considerations 12-6
 - Goals and Policies 12-7
- 13. Transportation** 13-1
- 14. Energy** 14-1
 - Opportunities, Challenges, and Considerations..... 14-2
 - Context 14-3
 - Key Community Considerations 14-5
 - Goals and Policies 14-5
- Appendix A - Terrebonne Community Plan** A-1
- Appendix B - Tumalo Community Plan** B-1
- Appendix C - Transportation System Plan** C-1
- Appendix D - Newberry Country Plan** D-1
- Appendix E - Goal 5 Supplemental Sections** E-1

Introduction

The purpose of the Deschutes County Comprehensive Plan is to provide a blueprint for land use conservation and development. This is accomplished through goals and policies that tell a cohesive story of where and how development should occur and what places should remain undeveloped. The Plan provides a legal framework for establishing more specific land use actions and regulations such as zoning. The goals and policies are based on existing conditions and trends, community values and the statewide planning system. The Plan must provide clear policy direction yet remain flexible.

The County's most recent Comprehensive Plan was adopted in 2011. Since then, the County has grown substantially and experienced many demographic and economic shifts. Between April 2010 and July 2020, the County's population grew from 157,730 residents to 198,253 residents. This growth - 25.7% over ten years - is over twice the 10.6% increase that the State of Oregon experienced as a whole. The latest projections from Portland State University's Population Research Center suggest strong continued growth throughout Deschutes County.

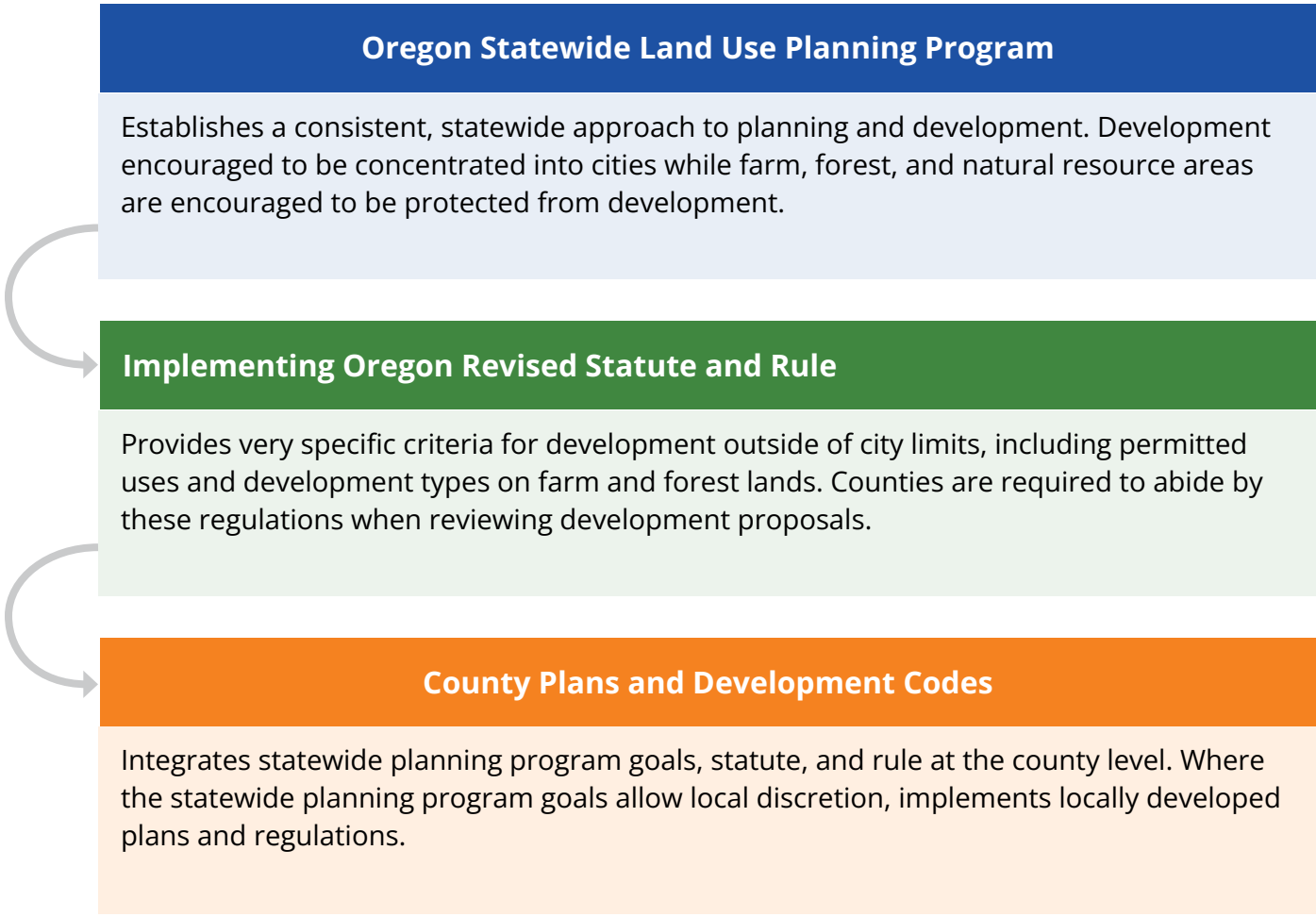
An updated Comprehensive Plan is necessary to address current needs of the communities in the County, as well as to guide the anticipated growth and development of Deschutes County over the next twenty years. Although many of the goals and policies of the 2011 Plan still hold value, fundamental data, trends, and land use issues have become outdated. The updated Comprehensive Plan needs to incorporate community input to craft new and updated goals and policies regarding agriculture, forestry, housing, recreation, natural resources, natural hazards, economic development, and transportation.



In Oregon, comprehensive plans must comply with the statewide planning system, which was adopted in 1973 to ensure consistent land use policies across the State. While compliance with the statewide system is required, it is also important for a comprehensive plan to reflect local needs and interests. This Plan balances statewide requirements and local land use values.

The Comprehensive Plan is the County’s long-range plan for how it will grow and serve its community members in the future. Oregon state law requires all counties and cities to adopt and regularly update Comprehensive Plans that are consistent with state and regional goals, laws, administrative rules and other requirements and guidelines. The Comprehensive Plan addresses topics such as land use, housing, economic

development, transportation, parks and recreation, and natural resources, with a strong emphasis on how land is used, developed, and/or conserved. Other topics in the plan include citizen involvement, natural hazards, and public infrastructure and facilities, and more. The Plan describes conditions related to each element of the community and provides overarching guidance for future County decisions in the form of a set of goals, objectives, and policies. These policies will drive future decisions and actions undertaken by County staff, advisory groups, and elected decision-makers.



Deschutes County Timeline



1859
Oregon Statehood



1905
City of Bend incorporated



1916
Deschutes County created from a portion of Crook County



1937
County Courthouse and most early records destroyed by fire



1941
Roberts Airfield completed allowing flights to Central Oregon for the first time



1970
"Deschutes County to 1990" Comprehensive Plan



1973
SB100 and Oregon Land Use Planning System Enacted



1979
"Deschutes County Year 2000" Comprehensive Plan



1988 to 2003
Periodic Review and updates to Comprehensive Plan



2010
"Deschutes County 2030" Comprehensive Plan Update



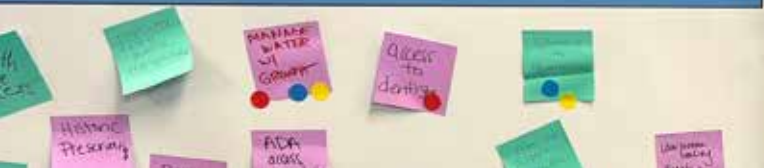
2023
"Deschutes 2040" Comprehensive Plan Update

City of Bend photo courtesy of DowntownBend.org

1

Community Engagement





Opportunities, Challenges, and Considerations

Public engagement is the touchstone of planning in Oregon. As Deschutes County grows and its population changes over the course of the next 20 years, the County must be prepared to find innovative ways to keep community members involved in the planning process and provide ample and accessible ways to find and digest information. Challenges including funding, resources, and ongoing state appeals might pose barriers to this work. The County has an opportunity to plan for adequate resources and staffing to support this work.

2023 Comprehensive Plan Update

A far-reaching community conversation was a vital part of updating the Deschutes County Comprehensive Plan. This effort included:

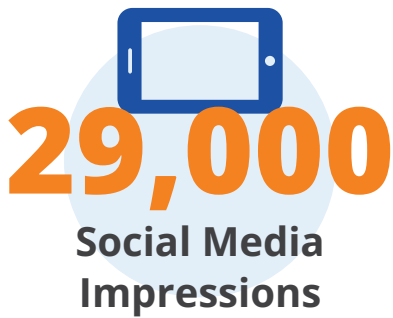
- Two phases of engagement – one focusing on long-range vision, opportunities, and challenges; and another phase focusing on important and controversial topics.
- Outreach events in all parts of the County.
- A deliberate audit of engagement activities to learn and build on successes.

Context

Involving the public in planning is a critical part of Oregon's land use system. Statewide Planning Goal 1 - Citizen Involvement, is intended to ensure that the public has the opportunity to be meaningfully involved in all phases of the land use planning process. Creating these opportunities requires time and energy on the part of County staff, as well as systems to incorporate that input in a meaningful way.

To participate in planning actions, the public needs to be notified of the proposal or project, understand the legal framework for the decision and understand the implications of the decision. Local governments need to be aware of changing technologies and best practices to involve the community and share project information. Community engagement can take many forms, such as focus groups for a larger planning project, email notification lists for department activities, or mailed notices of public hearings.

Summary of Engagement for the 2023 Update



Regulatory Framework

Statewide Planning Goal 1 – Citizen Involvement lays the groundwork for the County’s public involvement program. Jurisdictions are required to establish a Citizen Involvement Program that provides widespread community involvement, two-way communication with appropriate feedback mechanisms, opportunities for engagement in all phases of the planning process, technical information available in an intelligible form, and is adequately funded.

Statewide Planning Goal 1

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

Deschutes County’s Community Involvement Program

Statewide Planning Goal 1 is implemented by Deschutes County’s Community Involvement Program, as described in the following section.

DESCHUTES COUNTY PLANNING COMMISSION

The Deschutes County Planning Commission serves as the County’s Committee for Community Involvement (CCI). The Planning Commission is composed of seven volunteer

members appointed to four-year terms by the Board of County Commissioners (Board).

Membership of the commission is representative of the various geographic areas of the County. Members are selected through an open process that aims to balance the diverse views of Deschutes County residents.

The purpose of the CCI is to create a direct and transparent connection between County decision-making and the public by providing regular updates, speakers, panel discussions, and handouts on land use law and policy. The CCI aims to make materials intelligible and convenient for the public and to provide a venue for civil discourse on important issues for the County.

HISTORIC LANDMARKS COMMISSION

The Historic Landmarks Commission serves as a hearings body for matters concerning historical districts, structures and sites within unincorporated Deschutes County as well as the city of Sisters. The Landmarks Commission is composed of nine voting and several non-voting ex-officio members who have demonstrated expertise in historic preservation related disciplines. Commissioners serve four-year terms.



OTHER LAND USE RELATED ADVISORY GROUPS

Project Wildfire is a committee formed to coordinate, develop and implement strategies to mitigate the effects of losses due to natural disasters that strike Deschutes County. Project Wildfire is composed of 15 to 27 members who reside or represent agencies within Deschutes County. All members are appointed by the Board and serve four years (see also Chapter X, Natural Hazards).

The Deschutes River Mitigation and Enhancement Program helps achieve Oregon Department of Fish and Wildlife (ODFW) habitat and management goals and objectives within the Upper Deschutes River sub-basin, consistent with an agreement between the Central Oregon Irrigation District (COID) and ODFW. As part of that agreement COID provides ODFW with funds to develop and implement a fish and wildlife habitat mitigation and enhancement program for the Upper Deschutes River Basin. The Deschutes River Mitigation and Enhancement Committee

has seven voting members appointed to three-year terms by the Board (see also Section 2.5).

In addition to convening these groups, Deschutes County engages with the public through numerous methods, including:

- Conducting regular work sessions and hearings
- Providing timely public notice of important items
- Maintaining the County Website, including the department's "Community Engagement Center" page.
- Advertising events and engaging with constituents through social media channels
- Coordinating with media organizations, such as local newspapers.
- Meeting with individuals and small groups to get feedback on important issues.

These activities were part of the most recent update of this Comprehensive Plan.





Key Community Issues

Deschutes County is changing and community members are seeking new ways to share their ideas on key issues. To provide ample opportunities to engage, new tools and technologies will be needed to involve new groups. Issues that the policies in this section address include:

- Continuing to simplify materials to use plain language and be accessible to a variety of audiences
- Continuing to maintain a presence throughout the County, including holding meetings and events throughout the County
- Supporting engagement activities that allow community members to participate virtually and at the time of their choosing.

With these issues in mind, Deschutes County has adopted the following goals and policies:

Goals and Policies

Goal 1.1: Provide for a robust community involvement program that includes all members of the community, including those who are commonly under-represented, by ensuring access to information, encouraging community collaboration, identifying and addressing barriers to involvement, and promoting efficient and transparent planning processes.

Policy 1.1.1. Convene the Deschutes County Planning Commission as the County's Committee for Community Involvement in order to provide a direct and transparent connection between County decision-making and the public.

Policy 1.1.2. Write all County planning documents to be understandable, intuitive, and easily available to the general public, using simplified language where possible, with acronyms spelled out and technical language explained.

Policy 1.1.3. Hold area-specific comprehensive plan and zoning text amendment public hearings in locations and at times convenient and accessible to area residents, as appropriate.

Policy 1.1.4. Provide property information to the public in an intuitive and easy-to-use manner.

Policy 1.1.5. Consult and coordinate with developers before submitting applications as required or recommended by the County Development Code to identify and discuss project requirements and impacts.

Policy 1.1.6. Invest in and support land use educational resources for community members including information related to rural living, agricultural practices, natural resources, and natural hazards.

Policy 1.1.7. Promote opportunities for community members to have civil dialogue around key community issues.

Policy 1.1.8. Explore new and innovative ways to reach community members and promote participation in the planning process.

Goal 1.2: Support the activities of the Committee for Community Involvement

Policy 1.2.1. Maintain adequate funding and staffing support for the Committee.

Policy 1.2.2. Provide regular updates, speakers, panel discussions, and handouts on land use law and policy.

Policy 1.2.3. Appoint members through an open and public process to reflect the diverse geographic regions, demographics, and values of Deschutes County residents.

Policy 1.2.4. Meet with the Board of County Commissioners at least once a year to coordinate planning policies and activities.

Policy 1.2.5. Complete periodic reports on community involvement implementation for the State Citizen Involvement Advisory Committee, the Board of County Commissioners, and the public.

Policy 1.2.6. Maintain open and civil discourse among Committee members and with the public.



2

Land Use and Regional Coordination





Opportunities, Challenges, and Considerations

Deschutes County has been one of the most rapidly growing parts of Oregon for many years. This growth can cause tension and highlight trade-offs between community priorities, such as the need for housing, preservation of natural resources, adequate infrastructure, and intergovernmental collaboration. To manage this growth, the County partners with its cities, special districts, and state and federal agencies to ensure a collaborative approach to development activities. As the County continues to navigate emerging issues, intergovernmental agreements and new partnerships will be key.

One purpose of the Deschutes County Comprehensive Plan is to provide a blueprint for land use throughout the County. This is accomplished through goals and policies that tell a cohesive story of where and how development should occur and what places are expected to remain undeveloped. The Plan provides a legal framework for establishing more specific land use actions and regulations.

Deschutes County regulates and manages the use of land in the unincorporated parts of the County. This is accomplished by:

- Implementing state policy and laws and furthering local planning goals by maintaining, updating and applying County land use policies, standards and regulations in its zoning codes and this Comprehensive Plan.
- Reviewing development and land use proposals and help applicants to navigate the application process.
- Coordinating with other local jurisdictions on issues of regional growth management, infrastructure, and public services.
- Coordinating land use and transportation planning efforts in rural areas including planning for farm and forest lands and natural resource management and protection.
- Administering land use regulations for unincorporated communities in the County.



The policies contained in this chapter, as well as all chapters in this Plan, establish the legislative policy basis for the County’s land use planning program. The program is implemented primarily through application of the County’s Zoning Code, regulatory maps, and development permitting application and approval procedures. In addition, these policies establish important criteria to be used when initiating regulatory changes or reviewing and developing code, map, and policy amendments.

Note: Official comprehensive plan and zoning maps, including overlay zone maps, included in are available on Deschutes Count Dial Property Information System.

Context

Comprehensive Plan Designations

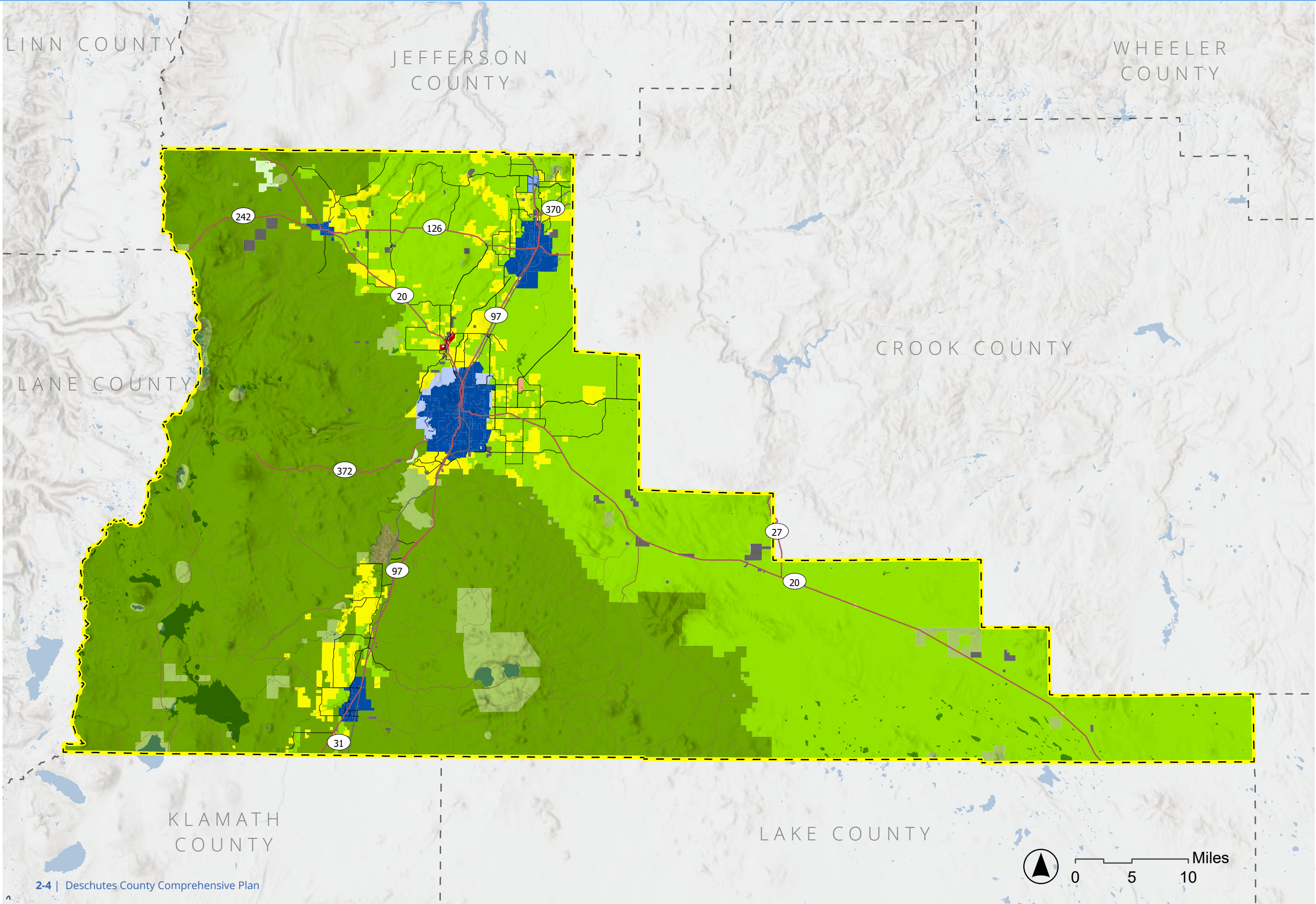
Comprehensive Plan designations provide a high-level policy basis for more detailed zoning regulations – each Comprehensive Plan designation may be implemented by one or more specific zones.

Comprehensive plan designations in Deschutes County are shown in Map 2-1 and described in the preceding table. Comprehensive Plan designations within the Bend, Redmond, Sisters, and La Pine Urban Growth Boundaries are excluded – local jurisdictions have responsibility for comprehensive planning within their Urban Growth Boundaries.

Comprehensive Plan Designation	Purpose Statement
County-wide Designations	
Agriculture	To preserve and maintain agricultural lands for farm use.
Airport Development	To allow development compatible with airport use while mitigating impacts on surrounding lands.
Forest	To conserve forest lands for multiple forest uses.
Open Space & Conservation	To protect natural and scenic open spaces, including areas with fragile, unusual or unique qualities.
Rural Residential Exception Area	To provide opportunities for rural residential living outside urban growth boundaries and unincorporated communities, consistent with efficient planning of public services.
Surface Mining	To protect surface mining resources from development impacts while protecting development from mining impacts.
Resort Community	To define rural areas with existing resort development that are not classified as a destination resort.
Rural Community	To define rural areas with limited existing urban-style development.
Rural Service Center	To define rural areas with minimal commercial development as well as some residential uses, based on Oregon Administrative Rule 660-22 or its successor.
Urban Unincorporated Community	To define rural areas with existing urban development, based on Oregon Administrative Rule 660-22 or its successor.
Urban Designations Deschutes County coordinates with cities to adopt comprehensive plan designations for areas within Urban Growth Boundaries or as part of Urban Reserves Areas in the City of Redmond area. These designations are reflected in the Deschutes County GIS database.	
Area Specific Designations Parts of Deschutes County (Sunriver for example) have area-specific Comprehensive Plan designations. These are detailed in Chapter 11, Unincorporated Communities.	

COMPREHENSIVE PLAN DESIGNATION

Map 2-1



A PLAN FOR THE FUTURE

- Water Bodies
- County Boundary

Transportation

- State Routes
- Railroad
- County Lines
- Arterial
- Collector
- Forest Highway

Comprehensive Plan Designation

- Airport
- Agriculture
- Forest
- Flood Plain
- Open Space & Conservation
- Rural Commercial
- Resort
- Rural Industrial
- Rural Residential Exception Area
- Surface Mining
- Terrabone Districts
- Tumalo Districts
- Unincorporated Community
- Mixed Use / Commercial
- Mixed Use / Commercial Future Expansion Area

Other

- Urban Growth Boundary
- Urban Reserve
- Urban Unincorporated Community



This map is for information purposes only. The County's official zoning and comprehensive plan maps can be accessed through the Deschutes County Dial Property Information System. Please note that these maps do not represent all of the County's combining and overlay zones.

Zoning Designations

Zoning designations in Deschutes County are shown in Map 2-2. Zones within the Bend, Redmond, Sisters, and La Pine Urban Growth Boundaries are excluded - local jurisdictions have responsibility for zoning within Urban Growth Boundaries.

OVERLAY ZONES

Deschutes County has the following overlay zones, which apply in addition to the base zone of a given property.

- **Airport Safety:** The purpose of the AS Zone is to restrict incompatible land uses and airspace obstructions around airports in an effort to maintain an airport's maximum benefit.
- **Destination Resort:** The purpose of the Destination Resort Combining Zone is to identify lands eligible for siting a Destination Resort and establish procedures and standards for establishing this type of development.
- **Landscape Management:** The purposes of the Landscape Management Combining Zone are to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams.
- **Greater Sage-Grouse Combining Zone.** The purpose of the Greater Sage-Grouse Combining Zone is to fulfill obligations of OAR 660-23-0115. This state rule requires seven Oregon counties to mitigate impacts of large-scale development on sage-grouse habitat.
- **Sensitive Bird and Mammal Habitat:** The purpose of the Sensitive Bird and Mammal Combining Zone is to insure that sensitive habitat areas identified in the County's Goal 5 sensitive bird and mammal inventory as critical for the survival of the northern bald eagle, great blue heron, golden eagle, prairie falcon, osprey, great grey owl, and

Land Use Planning in Oregon

The foundation of statewide program for land use planning in Oregon is a set of 19 Statewide Land Use Planning Goals. The goals express the state's policies on land use and related topics, like citizen involvement, housing, and natural resources.

Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land-division ordinances needed to put the plan into effect.

Local comprehensive plans must be consistent with the Statewide Planning Goals. Plans are reviewed for such consistency by the state's Land Conservation and Development Commission (LCDC). When LCDC officially approves a local government's plan, the plan is said to be acknowledged. It then becomes the controlling document for land use in the area covered by that plan.

The goals relevant to Deschutes County are:

- **Goal 1 Citizen Involvement**
- **Goal 2 Land Use Planning**
- **Goal 3 Agricultural Lands**
- **Goal 4 Forest Lands**
- **Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces**
- **Goal 6 Air, Water and Land Resources Quality**
- **Goal 7 Areas Subject to Natural Hazards**
- **Goal 8 Recreational Needs**
- **Goal 9 Economic Development**
- **Goal 10 Housing**
- **Goal 11 Public Facilities and Services**
- **Goal 12 Transportation**
- **Goal 13 Energy Conservation**
- **Goal 14 Urbanization**

the Townsend’s big-eared bat are protected from the effects of conflicting uses or activities which are not subject to the Forest Practices Act.

- **Surface Mining Impact Area:** The purpose of the SMIA zone is to protect the surface mining resources of Deschutes County from new development which conflicts with the removal and processing of a mineral and aggregate resource while allowing owners of property near a surface mining site reasonable use of their property.
- **Wildlife Area:** The purpose of the Wildlife Area Combining Zone is to conserve important wildlife areas in Deschutes County; to protect an important environmental, social and economic element of the area; and to permit development compatible with the protection of the wildlife resource.

CITY COORDINATION

Deschutes County includes the following jurisdictions, each with their own authority and needs. The role of the County is largely one of coordination across these multiple communities.

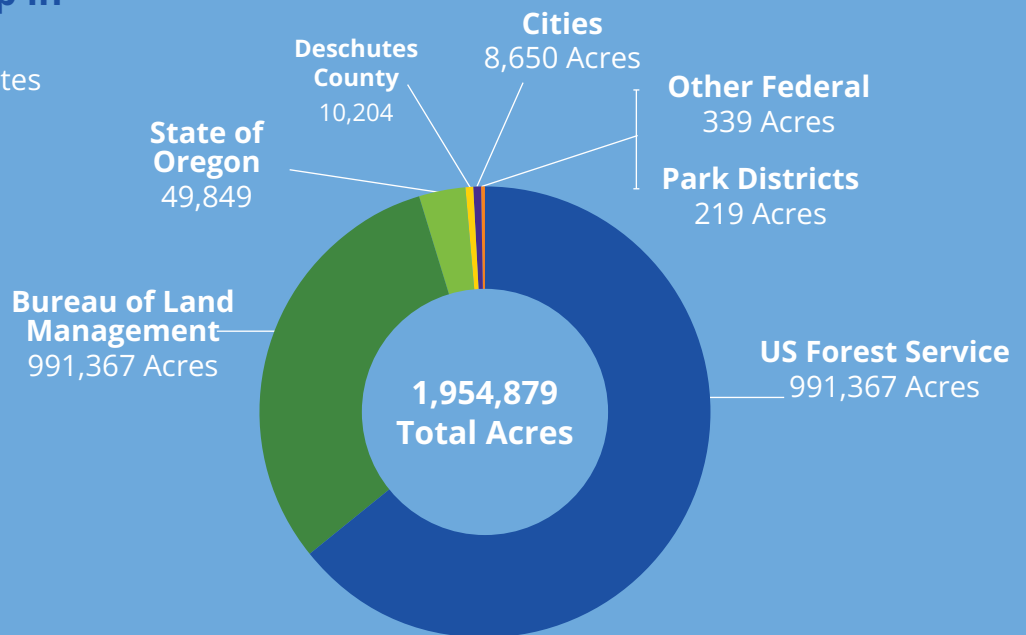
Deschutes County contains four incorporated cities. The County, per statute, is responsible for coordinating with cities on growth related issues including urban growth boundary and urban reserve planning. The County maintains intergovernmental agreements with each city to define land use authority for lands outside of city limits and within urban growth boundaries.

City of Bend

Bend is the largest incorporated area in Deschutes County. It is centrally located in the county, with Highways 20 and 97 crossing paths through the center of the city. Bend has experienced rapid growth in the last few years, accelerated by the COVID-19 pandemic and “Zoom Town” remote working trends. The 2022 estimated population of the Bend UGB is 103,976. The Bend UGB accounts for most of the population share among all UGBs in Deschutes County with a population of 225,619 (57.4% of the population) by 2072.

Public Land Ownership in Deschutes County

Approximately **79%** of Deschutes County is public land.



City of La Pine

The City of La Pine is located close to the southern edge of the county along Hwy. 97. The current (2022) estimated population of the La Pine UGB is 2,736. The population of the La Pine UGB is projected to increase by 87% to 5,129 in 2047. By 2072, the population is projected to be 8,336.

City of Redmond

Redmond is located northeast of Bend with Hwy. 97 running through the center of town. The current (2022) estimated population of the Redmond UGB is 37,342. The population of the Redmond UGB is projected to increase by 121% to 82,601 in the next 50 years. By 2047 it is estimated that the population of the Redmond UGB will increase to 60,060.

City of Sisters

Sisters is located on the eastern edge of the Willamette National Forest and Cascade Mountains. The current (2022) estimated population of the Sisters UGB is 3,437. The Sisters UGB is projected to increase by 130%, to 7,911 in 2047, and to 14,881 by 2072.

TRIBAL COORDINATION

In the Treaty of 1855, the Confederated Tribes of Warm Springs ceded approximately 10.2 million acres to the United States Government in exchange for creation of the Warm Springs Reservation. As part of this agreement, the Tribes maintained rights to hunt, fish, gather, and graze on these ceded lands. The map below identifies the location of these ceded areas in Deschutes County, which primarily intersect with publicly owned lands. Coordination with the Confederated Tribes of Warm Springs on growth and development related issues is important to ensure consistency with these treaty rights.

Key Community Considerations

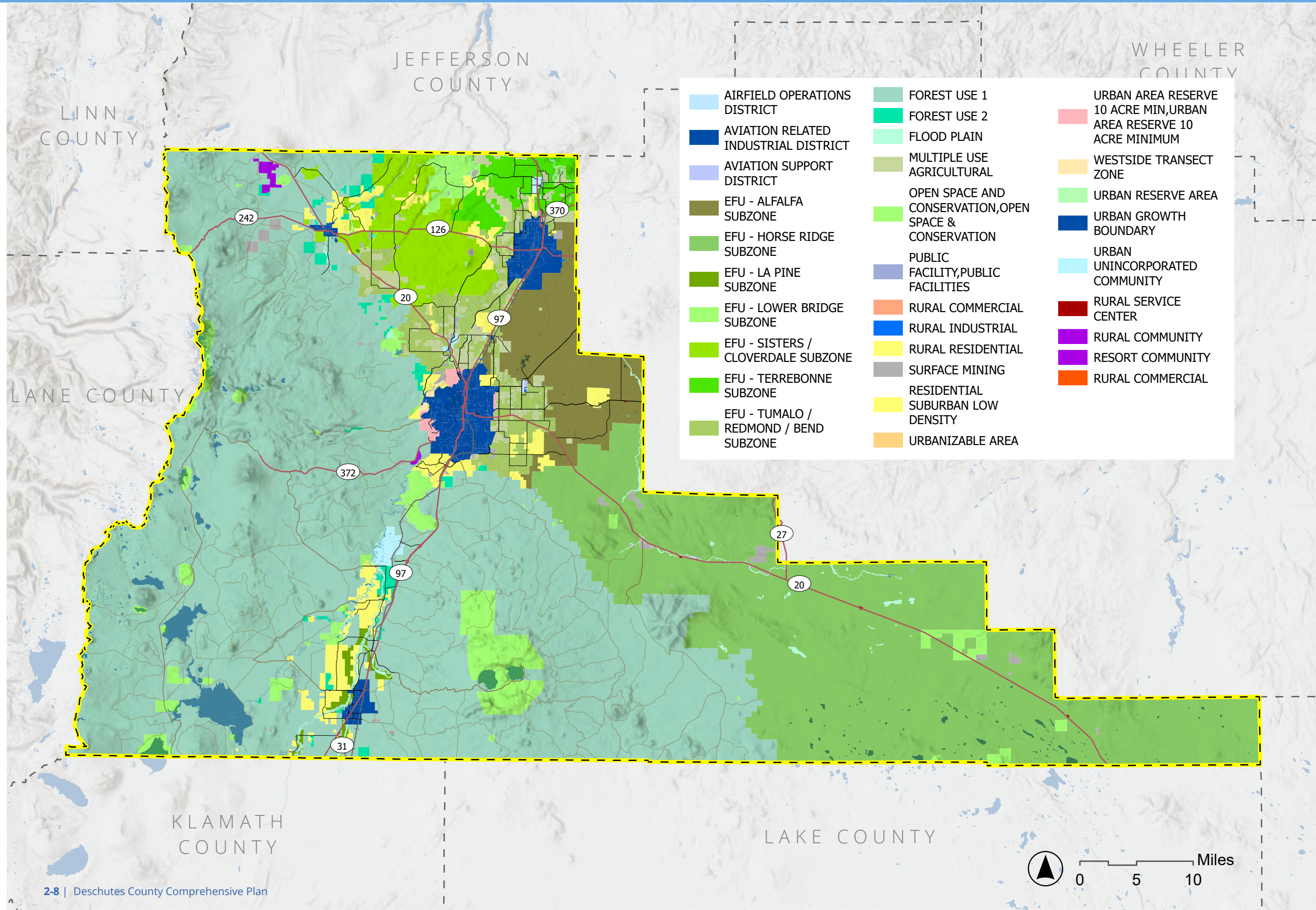
The rapid pace of growth in Deschutes County and its impacts on urban, rural, natural, and recreational areas has been one of the most significant – and at times the most controversial – topics of discussion among the community. Some topics and comments include:

- Strong desire by some for greater densities in urban areas, in order to accommodate growth while preserving open space and resource land in rural areas.
- A similarly strong feeling by some that the cities in Deschutes County are becoming too urban already.
- Concern about the amount and distribution of benefits and burdens created by destination resorts and tourism-related activities in rural areas.
- Strong desire for interagency collaboration to manage growth in a coordinated manner.

With these ongoing conversations in mind, Deschutes County drafted and refined the following goals and policies to guide the growth of our community for the next 20 years.



ZONING DESIGNATIONS

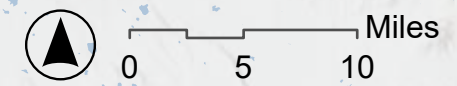


A PLAN FOR THE FUTURE

- Water Bodies
- County Boundary

Transportation

- State Routes
- Railroad
- County Lines



Goals and Policies

Goal 2.1: Maintain an open and public land use process in which decisions are based on substantial evidence and a balancing of community needs.

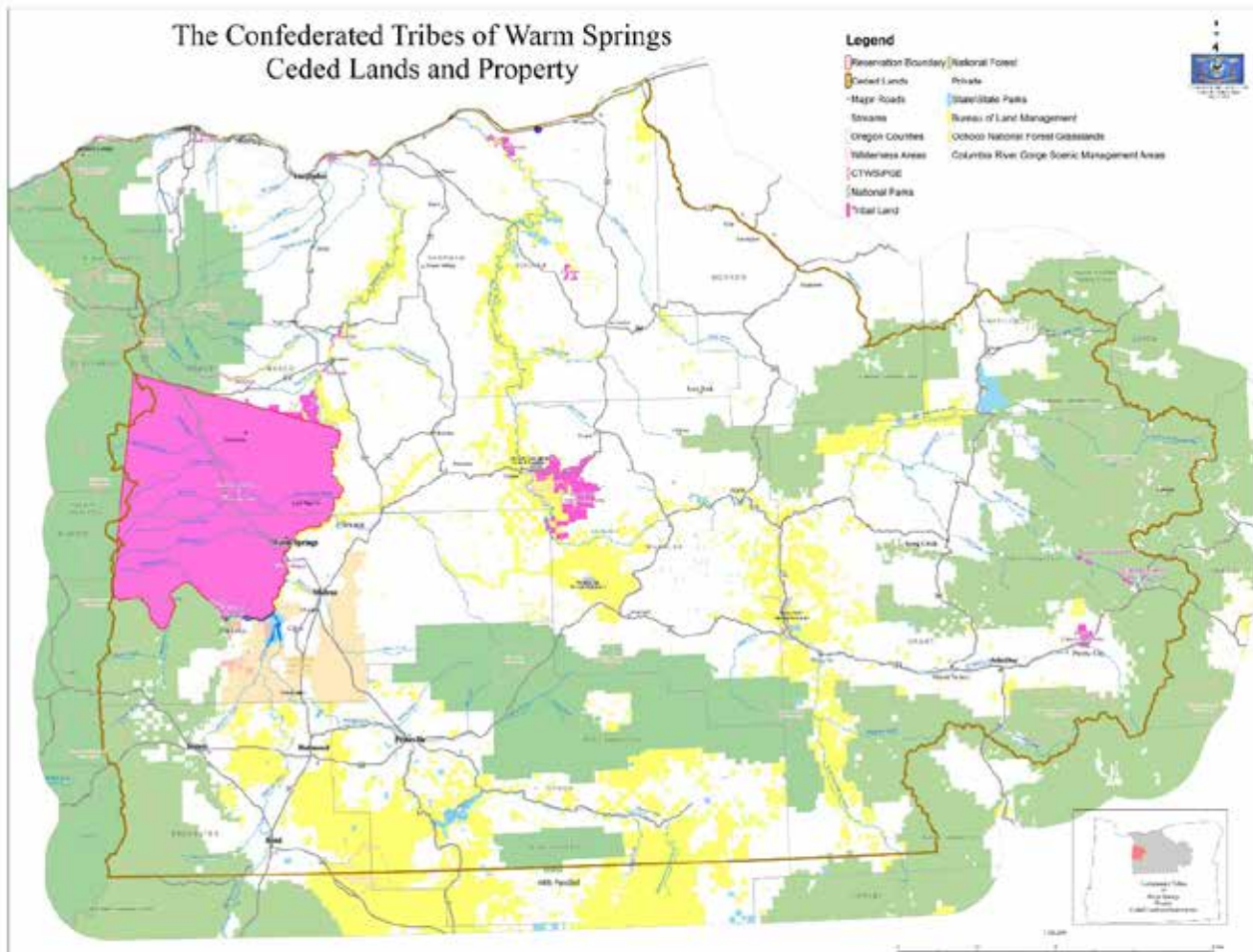
Policy 2.1.1. Balance the consideration of private property rights and the economic impacts of land use decisions on property owners with incentives to preserve agricultural and forest land, wildlife habitat, ground and surface water resources, wetlands, riparian areas, open areas and other community goals identified in the Comprehensive Plan.

Policy 2.1.2. Review the Comprehensive Plan periodically in order to address current conditions, issues, and opportunities.

Policy 2.1.3. The Deschutes County Comprehensive Plan Map will be retained in official replica form as an electronic map layer within the County Geographic Information System and is adopted as part of this Plan.

Policy 2.1.4. Implement Comprehensive Plan policies through the Community Development Department’s annual work plan and other actions by the Department and the Board of County Commissioners.

Policy 2.1.5. Explore methods to integrate carrying capacity into County land use decision making.



Goal 2.2: Coordinate and support regional planning efforts relating to growth, natural resources, recreation, and major infrastructure investments.

Policy 2.2.1. Periodically review and update intergovernmental and urban management agreements to coordinate land use review on land inside urban growth boundaries and outside city limits.

Policy 2.2.2. Help coordinate regional planning efforts with other agencies on land use policies and actions that impact their jurisdictions.

Policy 2.2.3. Support the use of high value natural resource and recreational lands for public purposes, whether through acquisition, easements, or other means.

Policy 2.2.4. Support the implementation of long-range plans of Deschutes County jurisdictions, incorporating elements of those plans into the County’s Comprehensive Plan as appropriate.

Policy 2.2.5. Encourage cities to conduct, in collaboration with Deschutes County, urban reserve planning to facilitate orderly and thoughtful management of growth and infrastructure needs.

Policy 2.2.6. Collaborate with federal agencies on land management issues, including homelessness, wildlife habitat restoration, water quality, road networks, energy projects, the impacts of recreation and the expansion of sustainable recreation opportunities.

Policy 2.2.7. Support efforts to reduce barriers to regional infrastructure projects with community benefit while mitigating negative impacts.

Policy 2.2.8. Support updates to unincorporated community area plans.

Policy 2.2.9. In accordance with OAR 660-024-004 and 0045, Deschutes County, fulfilling coordination duties specified in ORS 195.025, shall approve and update its comprehensive plan when participating cities within their jurisdiction legislatively or through a quasi-judicial process designate regionally significant sites.

Policy 2.2.10. The County and City shall periodically review the agreement associated with the Redmond Urban Reserve Area (RURA). The following land use policies guide zoning in the RURA.

- a. Plan and zone RURA lands for rural uses, in a manner that ensures the orderly, economic and efficient provision of urban services as these lands are brought into the urban growth boundary.
- b. Parcels shall be a minimum of ten acres.
- c. Until lands in the RURA are brought into the urban growth boundary, zone changes or plan amendments shall not allow more intensive uses or uses that generate more traffic, than were allowed prior to the establishment of the RURA.
- d. For Exclusive Farm Use zones, partitions shall be allowed based on state law and the County Zoning Ordinance.
- e. New arterial and collector rights-of-way in the RURA shall meet the right-of-way standards of Deschutes County or the City of Redmond, whichever is greater, but be physically constructed to Deschutes County standards.
- f. Existing and future arterial and collector rights-of-way, as designated on the County’s Transportation System Plan, shall be protected from development.

- g. A single-family dwelling on a legal parcel is permitted if that use was permitted before the RURA designation. Additionally, the County will coordinate planning efforts and development goals with the City of Redmond prior to bringing County-owned property into Redmond's urban growth boundary.

Goal 2.3: Manage county-owned lands to balance the needs of the community as articulated in the goals and policies of this Plan and other supporting planning documents.

Policy 2.3.1. Manage lands with a park designation consistent with the goals and policies in Chapter 5 Natural Resources.

Policy 2.3.2. Support the efforts of park districts, state and/or federal agencies to identify additional properties along rivers, streams, or creeks, or containing significant wildlife, scenic resources, or open space resources to designate as park land.

Goal 2.4: Minimize onerous barriers to land use application and development review processes.

Policy 2.4.1. Explore opportunities to build or obtain specialty planning knowledge and experience among staff within CDD in related fields such as wildlife, natural resources, and/or agricultural practices.

Policy 2.4.2. Explore measures to reduce development costs for projects related to agriculture and addressing houselessness, including fee reductions and expedited land use applications.

3

Farm and Forest Resources





Opportunities, Challenges, and Considerations

Farm and forestry resources and operations continue to play an important role in the character and economy of Deschutes County. However, a variety of ongoing and forecasted trends will impact the viability and vitality of these industries and the people who contribute to them. A number of these trends and challenges are described below and more information about some issues is found in the Water Resources section of this Plan (see Chapter 5: Natural Resources).

PREVALENCE OF SMALL FARMING OPERATIONS AND HOBBY FARMS

The 2022 Census of Agriculture profiles Deschutes County as primarily consisting of small acreage, hobby farms and other relatively small agricultural operations. As of 2022 there were approximately 1,572 farms, an increase of 5% from 2017. Although the average size of a farm in Deschutes County is 97 acres, the majority of acreage (about 85%) is in farms of 50 acres or less in size.

MARGINAL OR LOW PRODUCTIVITY SOILS

While a large proportion of the County is zoned for exclusive farm use, much of the land in these areas has marginal soils which provide limited productivity, particularly for higher value crops. Limited access to water rights and irrigation can further hamper productivity in some areas. Deschutes County attempted to reclassify certain agricultural lands through a nonresource lands program. This approach was rejected at the state level. Since that time, some landowners have successfully redesignated property, primarily to residential zones, through an applicant-initiated process.

FINANCIAL CHALLENGES

According to the 2022 Agricultural Census, agricultural producers in Deschutes County are often operating in the red. The per-farm average of market value of products sold was \$25,437, a 23% increase from 2017, and average production expenses of \$39,918. This results in a deficit of approximately \$14,481 per farm per year. Government payments help cover a portion of this deficit, with the average farm receiving \$17,959 in assistance. The costs of operating continue to be a major challenge for small family operations, resulting in approximately 48% of farms in Deschutes County reporting under \$2,500 in sales.

DECLINING FOREST PRODUCTS INDUSTRY

Approximately 1,032,436 acres of Deschutes County area are zoned for Forest Use. Historically, forestry on public and private land was a primary industry in Central Oregon with key mill sites along the Deschutes River in Bend. Over time, species protections, international competition, and new technologies have reduced the overall footprint of the timber industry in Central Oregon. Recently, land uses are shifting toward recreation and residential development in these natural resource areas.



WATER SUPPLY AND IRRIGATION

Much of Deschutes County is served by six irrigation districts (Map 3-1) – these are special entities created for the purpose of delivering water to their patrons. These districts are quasi-municipal corporations chartered under Oregon law that operate as political subdivisions of the State of Oregon. In addition to irrigation, these districts also supply other services including municipal, industrial, and pond maintenance. In most cases, these districts are holders of senior water rights with shares then distributed to their patrons. As is the case with all water rights, the irrigation districts’ water rights are managed by the Oregon Water Resources Department and subject to “beneficial use” requirements to prevent the waste of the water resource. The total water available for irrigation and other human uses in Deschutes County is fixed under the current water regime, and there is little opportunity to expand irrigated farming in the County. Irrigation districts with more junior water rights such as Arnold Irrigation District and North Unit Irrigation District (operating north of Deschutes County), have recently seen challenges with water delivery due to limited availability and drought.

CHANGES IN CLIMATE CONDITIONS

Because the total volume of water available for agricultural and human use is fixed, strategies to decrease water usage (capping or piping irrigation channels, irrigation timing strategies,

water conservation) will become more crucial. Deschutes County is committed to working with irrigation districts and holders of water rights to increase water conservation efforts throughout the County in a manner consistent with existing legal frameworks established by State and Federal law.

Context

Agriculture

Agriculture and ranching operations in Deschutes County vary widely based on water availability, soil, and microclimate. The following subzones were created through a commercial farm study conducted in 1992. This study concluded that irrigation is a key factor to viability of operations, which enabled the County to establish smaller acreages than allowed by state law to provide additional flexibility.

Additional information about farm and forest resources is provided in the tables and charts below.

Forest Lands

Deschutes County classifies Forest land in one of two zones. Forest 1 zoning is intended for land that is primarily used for forest management or commercial forestry, with a lot size over 160 acres, and not developed with residential or non-forest uses. Forest 2 zoning is intended for land that does have residential or non-forest uses, is less than 160 acres, and may contain roads or other public facilities that serve the property.

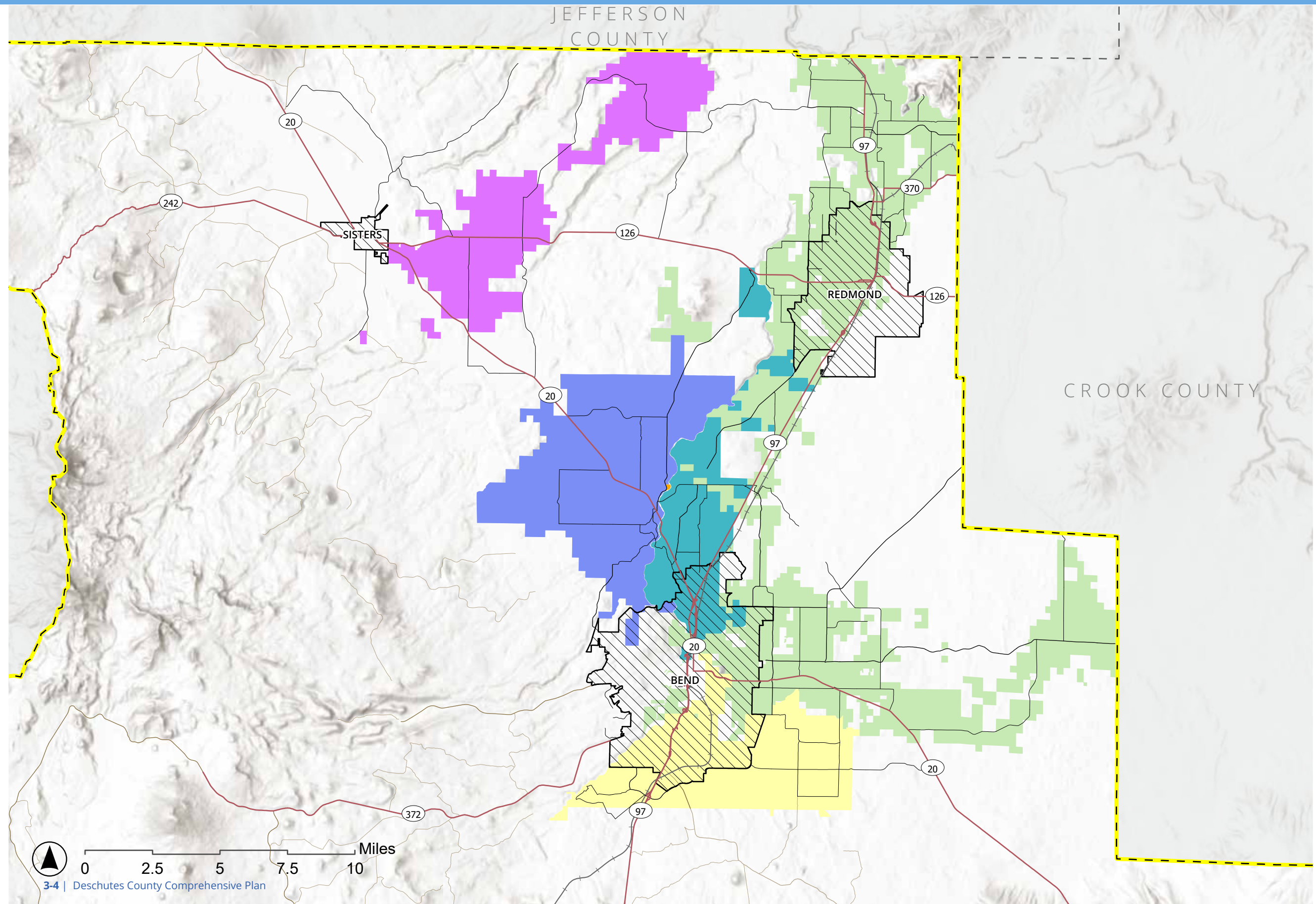
State regulations limit residential and non-forestry related development on forest lands and the County sees only a few applications for

Days Above 90 Degrees in Brothers



IRRIGATION DISTRICTS

Map 3-1



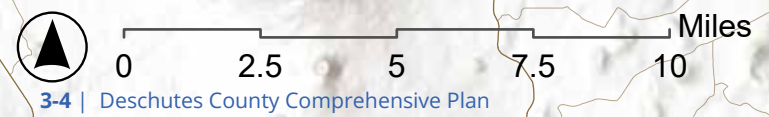
A PLAN FOR THE FUTURE

Irrigation Districts

- Arnold Irrigation District
- Central Oregon Irrigation District
- Rimrock Water Improvement District
- Swalley Irrigation Dist (DRIC)
- Three Sisters Irrigation District
- Tumalo Irrigation District
- State Routes

Transportation

- Arterial
- Collector
- Forest Highway
- Railroad
- Urban Growth Boundaries
- County Boundary



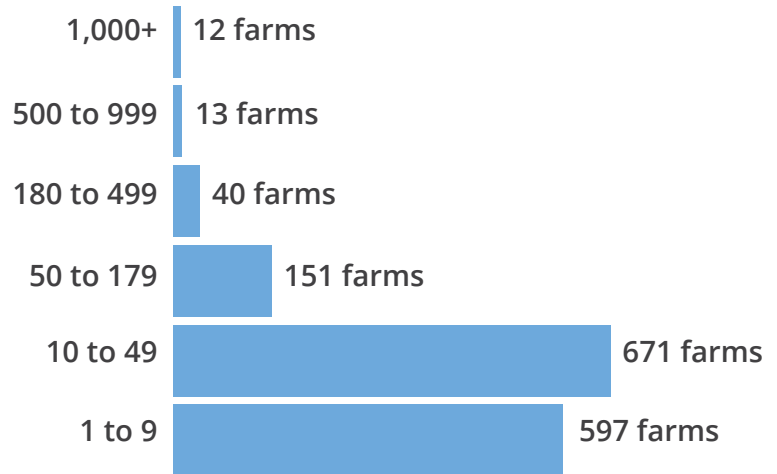
Prepared by
 Revised 8/1/2023

This map is for information purposes only. The County's official zoning and comprehensive plan maps can be accessed through the Deschutes County Dial Property Information System. Please note that these maps do not represent all of the County's combining and overlay zones.

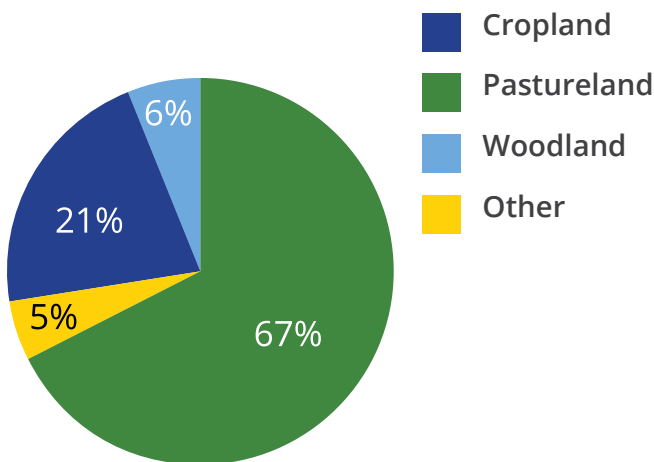
development in these areas each year. Even with this limitation on development, forest managers and service providers continue to express concern with wildfire risk associated with residential development in heavily wooded areas.

Most lands in either of these classifications within Deschutes County are federally owned and managed by the US Forest Service. Historically, forest lands were used for timber production. As timber harvesting decreases, other uses for forest lands are emerging. State regulations permit five general types of uses, including forest operations; environmental, agricultural or recreational uses; two types of

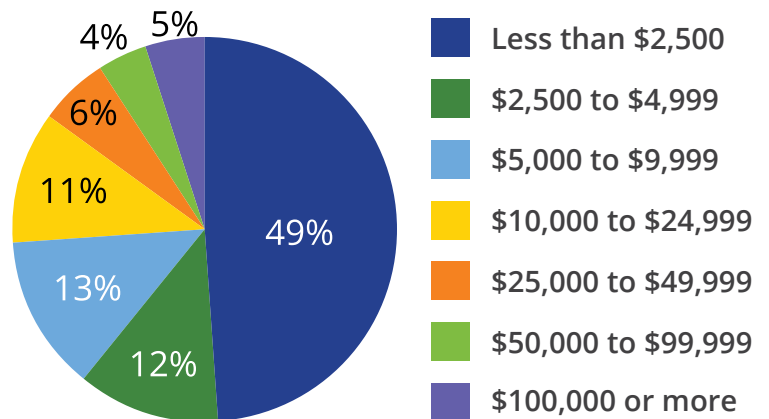
Farms By Size (acres)



Land in Farms by Use



Farms By Value of Sales



Subzone Name	Minimum Parcel Size (for farm divisions and farm-related dwellings)	v
Lower Bridge	130	Irrigated field crops, hay pastures
Sisters/Cloverdale	63	Irrigated alfalfa, hay and pastures, wooded grazing and some field crops
Terrebonne	35	Irrigated hay and pasture
Tumalo/Redmond/Bend	23	Irrigated pasture and some hay
Alfalfa	36	Irrigated hay and pasture
La Pine	37	Riparian meadows, grazing and meadow hay
Horse Ridge East	320	Rangeland grazing

dwelling and locally dependent uses. Permitted uses are defined and clarified in OAR 660-006. The following uses are major forest uses in Deschutes County:

- **Secondary forest products (forest operations):** There is an increasing use of secondary forest products, such as hog fuel (chipped wood) or wood slash. This type of product is generally seen as providing dual benefit, by providing economic opportunity while also reducing wildfire risk through thinning projects.
- **Alternative Energy:** Biomass is an emerging technology for renewable energy and can also be integrated with these products. The first biomass facility in the County is currently under development through a partnership with Mt. Bachelor Ski Resort and the US Forest Service.
- **Recreation (environmental, agricultural and recreation uses):** The proximity of federal forests for hiking, mountain biking, skiing, hunting, fishing, wildlife viewing and other outdoor recreation draws tourists and residents alike. Skyline Forest, a 33,000-acre privately owned property in the Forest 1 zone has been identified as a potential community asset, with several groups and nonprofits seeking to acquire and utilize the property as a community forest. In 2022, Deschutes Land Trust facilitated a community visioning process to identify preferred community uses if land were to be purchased as a privately held recreational asset.

Key Community Considerations

Given the range of issues and conditions discussed above and, this plan includes a variety of policies to support farm and forest operations in Deschutes County. Additional related policies also are found in Chapter 2: Land Use and Regional Coordination, Chapter 5: Natural Resources, and Chapter 9: Economic Development. These strategies are underpinned by the following results of Comprehensive Plan outreach efforts.

- Community members opposed rezoning low productivity farmland with poor soil to allow greater opportunities for housing, while supporting rezoning of this land to preserve open space.
- There is strong support for conducting educational outreach to encourage water conservation and on-farm efficiency measures.
- Community members also strongly support allowing greater flexibility for income-producing supplemental activities on farms such as farm-to-table dinner, farm stands, weddings, or similar events.
- Outreach participants expressed support for investment in the agricultural economy through grants or exploring a farmland conservation program.

Goals and Policies

Goal 3.1: Preserve and maintain agricultural lands, operations, and uses to support Deschutes County's agricultural economy

Policy 3.1.1. Retain agricultural lands through Exclusive Farm Use zoning.

Policy 3.1.2. Continue to apply Exclusive Farm Use sub- consistent with the County's most up-to-date adopted studies of agricultural land and as implemented through the County Development Code.

Policy 3.1.3. Develop comprehensive plan policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

Policy 3.1.4. Regularly review farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law.

Goal 3.2: Promote a diverse, sustainable, and thriving agricultural sector.

Policy 3.2.1. Encourage farming by promoting the raising and selling of crops, livestock and/or poultry.

Policy 3.2.2. Support agriculture through the use of grant funds, research, and other resources dedicated to agricultural community members and stakeholders, including but not limited to farmers, agricultural researchers, farm bureaus, and other organizations in studying and promoting economically viable agricultural opportunities and practices.

Policy 3.2.3. Support and encourage small farming enterprises through a variety of related strategies and programs, including, but not limited to, niche markets, organic farming, food council, buy local, farmers markets, farm-to-table activities, farm stands or value-added products, or other programs or strategies.

Policy 3.2.4. Work cooperatively with irrigation districts, public agencies and representatives, and landowners to promote and support agricultural uses and operations, including through use of rural reserves, conservation easements, transfer of development rights programs, land acquisition, and other preservation strategies consistent with existing Federal and State Law.

Policy 3.2.5. Support efforts to control noxious weeds and invasive species.

Policy 3.2.6. Continue to review and revise county code as needed to be and consistent with state code, rules, and regulations to permit alternative and supplemental farm activities that are compatible with farming, such as agritourism or other small-scale sustainable activities.

Policy 3.2.7. Work with the State to review and revise their regulations when a desired alternative or supplemental use identified by the County is not permitted by State regulations.



Policy 3.2.8. Use land use policy and development code requirements, including right-to-farm provisions, as well as coordination with other jurisdictions to minimize conflicts between residential uses and agricultural uses and continue to promote the viable operation of agricultural uses.

Policy 3.2.9. Provide resources such as technical assistance and access to grants to support on-site efficiency upgrades relating to agriculture.

Goal 3.3: Ensure Exclusive Farm Use policies, classifications, and codes are consistent with local and emerging agricultural conditions and markets.

Policy 3.3.1. Identify and retain accurately designated agricultural lands.

Policy 3.3.2. Continue to explore new methods of identifying and classifying agricultural lands.

- a. Apply for grants to review and, if needed, update farmland designations.
- b. Study County agricultural designations considering elements such as water availability, farm viability and economics, climatic conditions, land use patterns, accepted farm practices, and impacts on public services.
- c. Lobby for changes to State Statute regarding agricultural definitions specific to Deschutes County that would allow some reclassification of agricultural lands.

Policy 3.3.3. Address land use challenges in the Horse Ridge subzone, specifically:

- a. The large number of platted lots not meeting the minimum acreage;
- b. The need for non-farm dwellings and location requirements for farm dwellings;

- c. Concerns over the impact on private property from off-road vehicles, facilities, and trails located on adjacent public lands.

Policy 3.3.4. Continue to work with the State to review and revise accessory farm dwelling requirements to address the needs of local farmers.

Policy 3.3.5. Encourage coordination between agricultural interests and fish and wildlife management organizations, including public agencies, non-governmental organizations and others.

Policy 3.3.6. Explore the evaluation and potential redesignation of lands with a farm designation and poor soils and low productivity for protected open space, development of needed housing, or other uses that support community goals as follows.

- a. 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.
- b. Explore creation of a new zoning classification intended to balance value of high desert environment while allowing for limited housing opportunities and applying this designation through coordination with interested and willing property owners.

Goal 3.4: Protect and maintain forest lands for multiple uses and objectives, including forest products, watershed protection, conservation, recreation, wildlife habitat protection, carbon sequestration, forest health, and wildfire resilience.

Policy 3.4.1. Retain forest lands through Forest 1 and Forest 2 zoning.

Policy 3.4.2. To conserve and maintain unimpacted forest lands, retain Forest 1 zoning for those lands with the following characteristics:

- a. Consist predominantly of ownerships not developed by residences or non- forest uses;
- b. Consist predominantly of contiguous ownerships of 160 acres or larger;
- c. Consist predominantly of ownerships contiguous to other lands utilized for commercial forest or commercial farm uses;
- d. Are accessed by roads intended primarily for forest management; and
- e. Are primarily under forest management.

Policy 3.4.3. To conserve and maintain impacted forest lands, retain Forest 2 zoning for those lands with the following characteristics:

- a. Consist predominantly of ownerships developed for residential or non-forest uses;
- b. Consist predominantly of ownerships less than 160 acres;
- c. Consist of ownerships generally contiguous to tracts containing less than 160 acres and residences, or adjacent to acknowledged exception areas; and
- d. Provide a level of public facilities and services, including roads, intended primarily for direct services to rural residences.”

Policy 3.4.4. Notwithstanding any other quasi-judicial plan or zone change criteria, lands designated as Forest under this Plan and zoned Forest 2 may upon application be redesignated and rezoned from Forest 2 to Exclusive Farm Use if such lands:

- a. Do not qualify under State Statute for forestland tax deferral,
- b. Are not necessary to permit forest operations or practices on adjoining lands and do not constitute forested lands that maintain soil, air, water and fish and wildlife resources,
- c. Have soils on the property that fall within the definition of agricultural lands as set forth in Goal 3,
- d. Are a tract of land 40 acres or less in size,
- e. Do not qualify under State Statute and the terms of the Forest 2 zone for a dwelling, and;
- f. Were purchased by the property owner after January 1, 1985 but before November 4, 1993.

Such changes may be made regardless of the size of the resulting EFU zoning district. Such changes shall be processed in the same manner as other quasi- judicial plan or zoning map changes.

Policy 3.4.5. Ensure that criteria for and designation of Forest Lands are consistent with state administrative rules and statutes.

Policy 3.4.6. Coordinate and cooperate with the U.S. Forest Service, the Bureau of Land Management and other public agencies to promote sustainable forest uses, including recreation and biomass facilities, on public forest land, including currently adopted Forest and Land Management Plans prepared by the US Forest Service (USFS) and US Bureau of Land Management (BLM).

- a. Using the Deschutes National Forest Land and Resource Management Plan, or its successor, as the basis for mutual coordination and cooperation with the U.S. Forest Service;

- b. Using the Prineville Bureau of Land Management Upper Deschutes Resource Management Plan, or its successor, as the basis for mutual coordination and cooperation with the Bureau of Land Management.

Policy 3.4.7. Notify affected agencies and tribal governments when reviewing land use applications and proposals for development that could impact Federal or State forest lands.

Policy 3.4.8. Support economic development opportunities that promote forest health, create opportunities for local production of related forest products, and reduce the prevalence of invasive plant species that adversely affect forest health and soil quality.

Policy 3.4.9. Provide input on public forest plans that impact Deschutes County.

Policy 3.4.10. Coordinate with community stakeholders to support forest management plans and projects that are consistent with the policies of this chapter and with local community forest management and wildfire protection plans.

- a. Promote forest health and resilience to wildfire.
- b. Contribute to public safety by treating wildland hazardous fuels particularly in the designated Wildland Urban Interface as identified in the Community Wildfire Protection Plans described in Chapter 13, Natural Hazards, of this Plan.
- c. Retain fish and wildlife habitat.

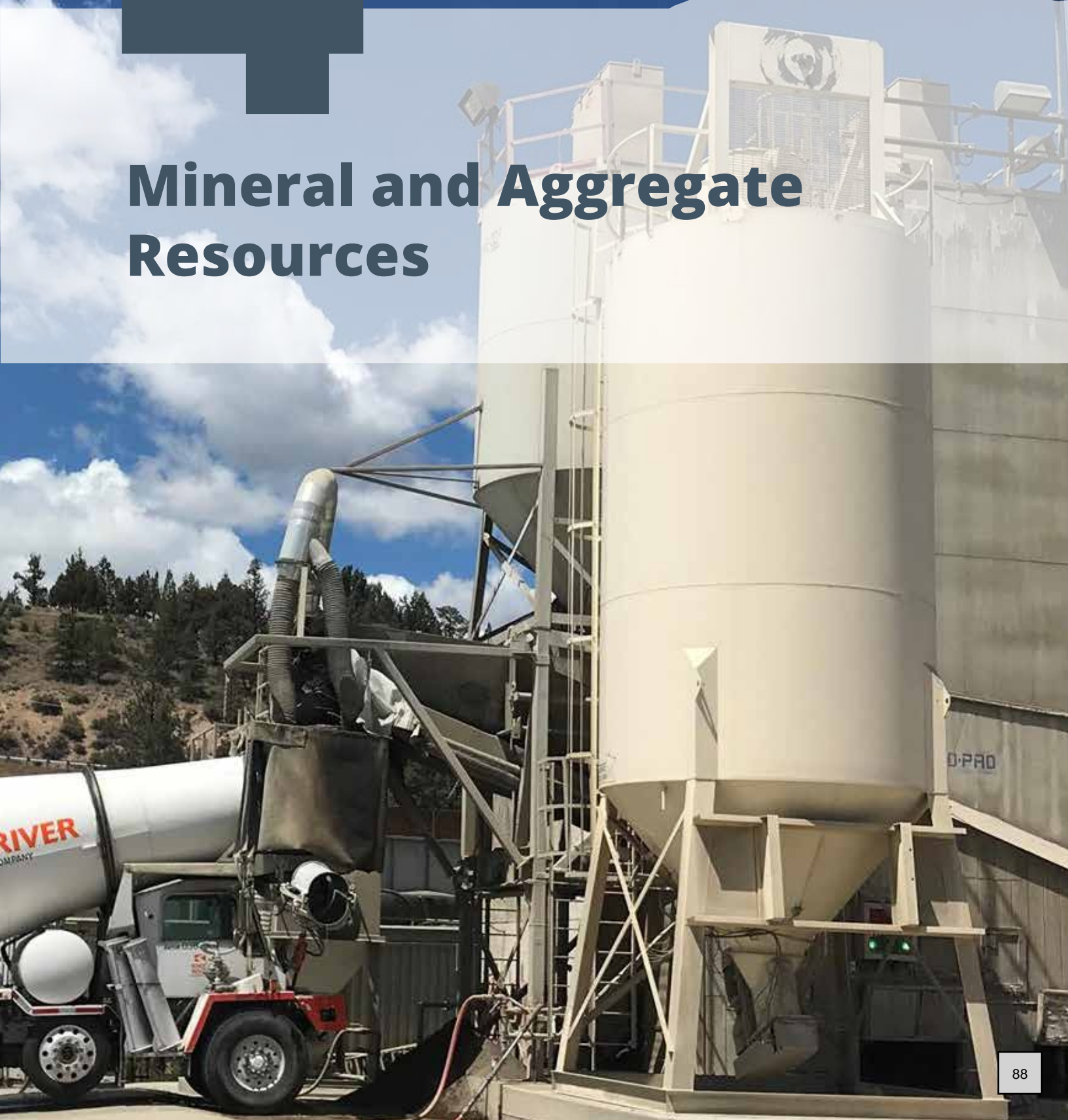
Policy 3.4.11. Continue to review and revise the County Code as needed to ensure development in forest zones minimizes and/or mitigates impacts on fish and wildlife habitat, forest health, and wildfire resiliency.





4

Mineral and Aggregate Resources





Opportunities, Challenges, and Considerations

Surface mining provides non-renewable resources, such as pumice, cinders, building stone, sand, gravel and crushed rock. The extraction of these materials provides employment as well as products important to local economic development. However, mining of mineral and aggregate resources creates noise, dust and traffic and potential pollution that can conflict with neighboring land uses, particularly residential uses.

The Oregon Department of Geology and Mineral Industries (DOGAMI) regulates surface mining sites in Deschutes County. The last available published analysis of mineral resources in Deschutes County was completed by DOGAMI in 1976. No updates have been completed during that time due to limited staff. A continued challenge is monitoring the availability of these resources. However, it is likely that Deschutes County has enough mineral resources to meet demand for the next 20 years.

When a mineral resource is exhausted, the site is required to submit a reclamation plan to Deschutes County and DOGAMI. This plan identifies how the site will be closed for mineral operations, environmental impacts will be mitigated, and steps to be taking to return the site to a new use. As mineral and aggregate resources are exhausted, property owners often rezone the site from the "Surface Mine" designation to a new zone (often a residential zone), to allow for new development to occur. Coordination with DOGAMI and property owners is imperative to ensure this reclamation process occurs in an efficient and environmentally focused manner.

Context

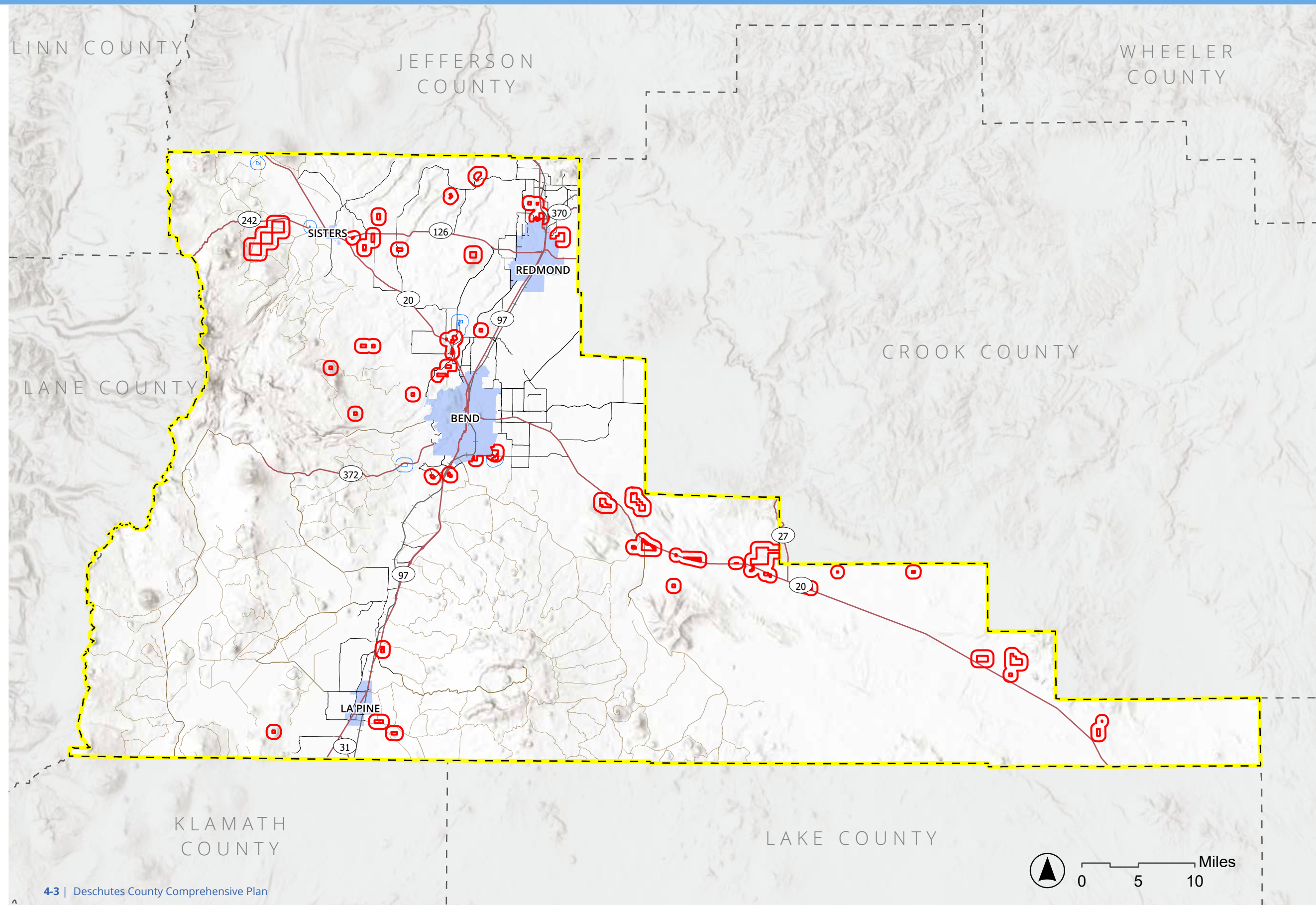
Surface mining is protected through Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces and the associated Oregon Administrative Rule (OAR) 660-023 (this rule replaced 660-016 in 1996). Mineral and aggregate resources are included on the list of Statewide Goal 5 resources that the County must inventory and protect.

The County maintains an inventory of surface mining sites as part of its Goal 5 program, shown in Map 4-1. There are currently 59 mining sites identified in the Deschutes County GIS data, and 8 sites that have been reclaimed.



Mining sites are subject to a Surface Mining Impact Area Combining Zone that applies within 1/2 mile of the mining site boundary. This combining zone limits new uses and expansion of existing uses that may be impacted by mining activities and are not in compliance with the site-specific Economic, Social, Environmental, and Energy (ESEE) analysis for nearby mining sites. In certain cases, a waiver of nonremonstrance may also be required in this zone.

SURFACE MINING



Map 4-1






A PLAN FOR THE FUTURE

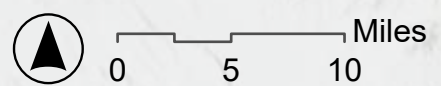
-  County Boundary
-  Urban Growth Boundaries

Zoning Surface Mining Impact Area

-  Surface Mining Impact Area
-  Reclaimed - Surface Mining Impact Area

Transportation

-  State Routes
-  Railroad
-  County Lines



This map is for information purposes only. The County's official zoning and comprehensive plan maps can be accessed through the Deschutes County Dial Property Information System. Please note that these maps do not represent all of the County's combining and overlay zones.

Key Community Considerations

Transportation agencies expressed concern regarding the impact of depleting mineral resources on road operations, including the use of cinder for winter maintenance and other resources for use in new road projects. The topic of mineral and aggregate resources was not a focus of community discussion as part of this Comprehensive Plan update, though the priorities of a diverse economy and protected natural areas for habitat and open space are interrelated with this subject. The following goals and policies represent a balance of these community interests.

Goals and Policies

Goal 4.1: Protect and utilize mineral and aggregate resources while minimizing adverse impacts of extraction, processing and transporting the resource.

Policy 4.1.1. Implement adopted Goal 5 Surface Mining inventories.

Policy 4.1.2. Coordinate with the Oregon Department of Geology and Mineral Industries (DOGAMI) on mining regulations and studies.

Policy 4.1.3. Balance protection of mineral and aggregate resources with conflicting resources and uses.

Policy 4.1.4. Support the required reclamation of mining sites following mineral extraction.

Surface Mining in 2023

59

Active Mining Sites

8

Reclaimed Sites

9,235

Acres in Surface Mining Zone

including Black Butte Ranch Surface Mine/Limited Use Zone

58,881

Acres in the Surface Mining Impact Area Combining Zone (SMIA)

Source: Deschutes County GIS information

5

Natural Resources





Opportunities, Challenges, and Considerations

Natural resources in Deschutes County are abundant. Wildlife, scenic views of forests and peaks, and open spaces to preserve habitat and native vegetation are among the County’s top assets.

Oregon Statewide Planning Goal 5 governs Natural Resources, Scenic and Historic Areas, and Open Spaces. Through this goal, the County maintains inventories and regulatory protections to preserve these many resources. These regulations are created by weighing Economic, Social, Environmental, and Energy (ESEE) consequences associated with protection of a resources.

Topics covered in this chapter include:

- Protected Wildlife Resources
- Open Space and Scenic Views
- Water Resources

PROTECTED WILDLIFE RESOURCES

Deschutes County has some of the broadest and most robust wildlife protections in the state, covering a variety of species. The County has development protections within and surrounding numerous wildlife habitats. Some of these habitats have mapped geographic boundaries such as Deer Winter Range, Deer Migration Range, Antelope Habitat, Golden Eagle – Sensitive Bird Habitat, and Elk Habitat.

Other species are commonly found in protected riparian areas, such as wetlands and floodplains. Deschutes County contains general habitats for fish, fur-bearing animals, waterfowl, and upland game birds.

A continued challenge to wildlife resources is rural development and impacts on habitat. Mule deer are seeing steady declines, approximately 10% each year per Oregon Department of

Fish and Wildlife biologists. These declines in population are due to a variety of factors, including but not limited to loss of habitat, predation, and disease.

SCENIC VIEWS AND OPEN SPACE

The 2010 Greenprint for Deschutes County listed protection of scenic viewsheds as one of the top five community priorities for conservation in the rural County, and the protection of open space has been one of the key topics of discussion during the most recent update of this Comprehensive Plan. The County has several designated scenic corridors, including several scenic bikeways, highways, and wild and scenic river sections.

With close to 80% of the County under public ownership, many community members enjoy access to natural resources on public lands. A perennial issue among community members is

preserving scenic views and open spaces closer to home on undeveloped private properties.

WATER RESOURCES

The high desert climate of Central Oregon poses many challenges with water supply and allocation.

A 2021 report by the Oregon Department of Water Resources found that groundwater levels through Deschutes County are declining, by as much as 50 feet of total decline in the central part of the basin. This decline is considered “excessively declined” per state statute and is attributed toward a shift in overall drier conditions since the late 1990s, a warming trend in the basin, and decreased snowpack. To address these issues, irrigation districts and other entities are engaged in ongoing efforts to pipe canals and modernize irrigation systems to increase their efficiency. Due to water transmission losses in irrigation canals from seepage into groundwater and evaporation, piped canals typically require only half the amount of water to be diverted from the river or stream to deliver the same volume of water to the end user compared to open canals. Community members have expressed concern that piping canals contribute to aquifer declines.

Deschutes County plays a coordination role along with the Oregon Department of Water Resources, irrigation districts, water users, and owners of private wells to address these water resource issues.

Context

Protected Wildlife Resources

Wildlife diversity is a major attraction of Deschutes County. The key to protecting wildlife is protecting the habitats each species needs for food, water, shelter, and reproduction. Also important is retaining or enhancing connectivity between habitats to protect migration routes and avoid isolated populations.

Statewide Planning Goal 5

Oregon land use planning protects wildlife with Statewide Planning Goal 5 and the associated Oregon Administrative Rule (OAR) 660-023. Goal 5 includes a list of resources which each local government must inventory, including wildlife habitat.

The Goal 5 process requires local governments to inventory wildlife habitat and determine which items on the inventory are significant. For sites identified as significant, an Economic, Social, Environmental and Energy (ESEE) analysis is required. The analysis leads to one of three choices: preserve the resource, allow proposed uses that conflict with the resource or strike a balance between the resource and the conflicting uses. A program must be provided to protect the resources as determined by the ESEE analysis.

Appendix A of the Comprehensive Plan contains the full ESEE ordinances for the County’s protected Goal 5 resources.



In considering wildlife habitat, counties rely on the expertise of the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS). Those agencies provide information for the required wildlife inventory and recommendations on how to protect wildlife habitat on private lands.

A summary of Deschutes County's wildlife protection programs follows:

MULE DEER

Migration corridors and winter range are essential habitats needed to support mule deer in Deschutes County. The Bend/La Pine migration corridor is approximately 56 miles long and 3 to 4 miles wide and parallels the Deschutes and Little Deschutes Rivers. The corridor is used by deer migrating from summer range in the forest along the east slope of the Cascades to the North Paulina deer winter range. Deschutes County adopted a "Deer Migration Priority Area" based on a 1999 ODFW map submitted to the South County Regional Problem Solving Group. This specific sub-area is precluded from destination resorts.

From 2021-2023, Deschutes County explored an update to the county's mule deer inventory, which included extensive community participation including through the public record. Ultimately, the decision was made not to update.

A snapshot of Deschutes County's wildlife protection program is included below. Extensive information is included in Appendix E, the County's Goal 5 inventory.

SENSITIVE BIRDS

Nest sites for the bald eagle, osprey, golden eagle, prairie falcon, great grey owl, greater sage-grouse, and great blue heron rookeries are inventoried by the County. The area required for each nest site varies between species. The minimum area required for protection of nest sites has been identified by the ODFW in their management guidelines for protecting colony

nesting birds, osprey, eagles, and raptor nests. The USFWS works closely with ODFW on eagle-related issues and enforces federal guidelines to ensure protection of bald and golden eagles.

ELK

The Land and Resource Management Plan for the Deschutes National Forest identifies 6 key elk habitat areas in Deschutes County. The ODFW also recognizes these areas as critical elk habitat for calving, winter or summer range. The following areas are mapped on the Big Game Habitat Area map and in the Deschutes National Forest Land and Resource Management Plan:

- Tumalo Mountain
- Kiwa
- Ryan
- Crane Prairie
- Fall River
- Clover Meadow

ANTELOPE

The Bend and Ochoco District offices of the ODFW provided maps of the antelope range and winter range. The available information is adequate to indicate that the resource is significant. The antelope habitat is mapped on Deschutes County's Big Game Habitat-Wildlife Area Combining Zone Map.



Scenic Views and Open Space

Deschutes County has a rich abundance of open space. Open spaces are generally undeveloped areas that are being maintained for some other purpose, such as farms, parks, forests, or wildlife habitat. Besides the value that stems from the primary use of the land, open spaces provide aesthetically pleasing undeveloped landscapes. Because these areas are undeveloped, they also provide additional benefits such as water recharge, buffers from habitat, and safety zones from natural hazards such as flooding.

Open spaces and scenic views are an important draw for visitors and are often mentioned as important to the area's quality of life. The backdrop of the Cascade Mountains, with its vast forest and sagebrush landscapes and riparian and wetland habitats, all provide an inspirational setting for visitors and residents alike. Statewide Planning Goal 5 recommends, but does not require, creating an inventory and protections for open spaces, scenic views and sites. Oregon Administrative Rule (OAR) 660-023 defines open space designations as parks, forests, wildlife preserves, nature sanctuaries, and golf courses.

Open spaces are protected through an Open Space and Conservation map designation and zoning district. Scenic view protection is implemented through the Landscape Management Combining Zone regulations.

Water Resources

Deschutes County's Role in Water Management is described below.

REGULATORY AGENCIES

The primary state regulator of water availability is the Oregon Water Resources Department (OWRD). The Oregon Department of Environmental Quality (DEQ) leads the monitoring and enforcement of water quality standards. The Oregon DEQ is required to comply with the Federal Environmental Protection Agency. Numerous sections of the

Deschutes River in Deschutes County hold a special status as a federal wild and scenic river, as well as a state scenic waterway. These areas carry additional regulations through the 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Plan, requiring additional agency coordination with the Oregon Parks and Recreation Department and the US Forest Service on development impacting these sections.

STATEWIDE PLANNING GOALS

There are two Statewide Planning Goals relating to the protection of water resources. Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) requires an inventory and protection of the following water resources. In Deschutes County, these inventories have been completed and acknowledged by the Land Conservation and Development Commission (See Appendix A for Goal 5 Inventories). Goal 6 (Air, Land, and Water Resources Quality) requires comprehensive plans to be consistent with state and federal pollution regulations. Accordingly, it is imperative that local land use policies align with Federal and State laws governing the community's water resources.



The policies in this section relating to water provide the framework for evaluating land use actions and define the responsibility of the County to work in partnership with cities, agencies, non-profits and others to achieve efficient use of water resources and effective management of water quality in the Upper Deschutes Basin.

It is important to underscore that the primary water resource management process occurs outside of the state land use planning system. Oregon land use and water management are not integrated; there are no overarching administrative rules that consider statewide water management in conjunction with land use planning.

WATER USE

The Deschutes aquifer has a recharge rate of roughly 3 million acre feet per year. The current water usage comes to roughly 720 thousand acre feet per year. Roughly 40 to 50 thousand acre feet of that water goes toward municipal and non-agricultural use, while the remaining goes toward crop and pasture irrigation. The majority of that municipal water use goes towards outdoor watering (gardens, sports fields, etc.). As an example: the City of Bend uses 5 times as much water in the summer as in the winter.

SNOWPACK

Although there is expected to be a slight increase in winter precipitation by the middle of the century, snowpack is expected to decline throughout the Cascades. The decline in snowpack (which has already been observed, see figure below)¹ is due largely to increasing temperatures causing some precipitation to fall as rain rather than snow. This has the double effect of decreasing snowfall and melting the previously fallen snow. At the Mt Bachelor Ski Resort, April snowpack is expected to decline between 11% and 18% by the middle of the

¹ Adapted from Mote, P.W., Li, S., Lettenmaier, D.P. et al. Dramatic declines in snowpack in the western US. *npj Clim Atmos Sci* 1, 2 (2018). <https://doi.org/10.1038/s41612-018-0012-1>

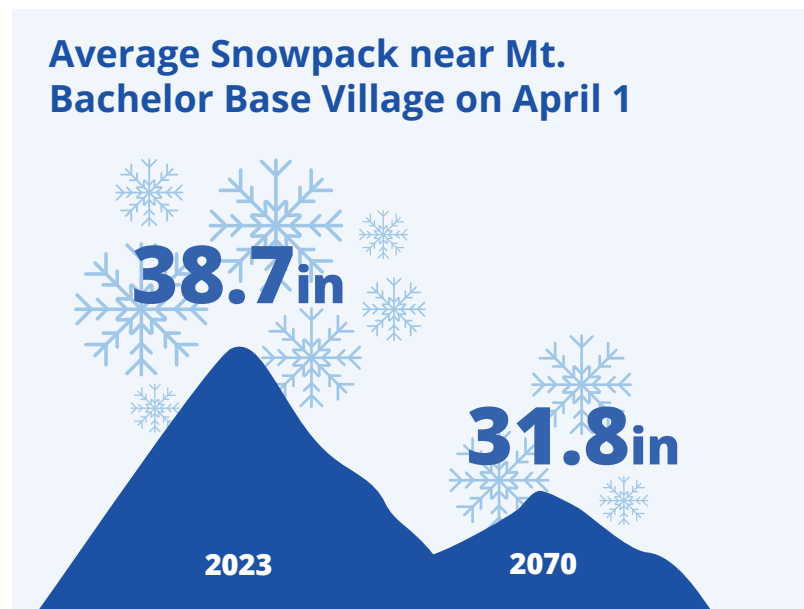
century and between 18% and 43% by the end of the century.

LAVA SPONGE

Deschutes county is fortunate to be underlain on the Western side by relatively young volcanic lava sponge. This sponge is highly porous and is able to absorb large quantities of water during the wet season and gradually release it via abundant springs along the eastern slope. The great advantage this provides is that the resulting summer flows into the Deschutes basin are not as dependent on overground flow of snowmelt, and therefore are expected to maintain a relatively stable water supply even as snowpack decreases into the next century.

GROUNDWATER

The groundwater aquifer is roughly 1000 feet thick and is replenished yearly by the Cascades’ precipitation. Recent years of “exceptional drought” have lowered the aquifer level by roughly 30 feet, resulting in a small percentage of wells running dry, and raising concerns about available groundwater for new developments. Although it is likely that some wells will need to be deepened to cope with increasing temperatures and drought frequency, there is likely to remain ample sustainable groundwater supply.



Because the groundwater in the Deschutes Basin is directly connected to the flow of the Deschutes River, all additional groundwater use must be mitigated by decreased use of groundwater elsewhere through the Oregon Water Resources Department's Deschutes Groundwater Mitigation program. This can include retiring of other water rights, or the release of water into the waterway. A mitigation permit must be obtained before a new groundwater right can be accessed.²

Generally, groundwater quality in Deschutes County is generally classified as being 'good,' providing high quality drinking water to most of its residents. However, several productive aquifers lie in shallow alluvial sediments that are vulnerable to contamination from human activities and development.

The Department of Environmental Quality (DEQ) Laboratory and Water Quality Divisions' Groundwater Quality Report for the Deschutes Basin (March 2006) identifies areas of concern for groundwater contamination based on various sources of data and groundwater quality studies. Based on collected data, development patterns and the geology of the underlying aquifer, the report makes recommendations for a couple of areas in the County. The report notes the groundwater aquifer in the Redmond area is vulnerable to contamination from human activities and recommends further study by the DEQ. The La Pine aquifer in the southern portion of the county from the Sunriver area to the Klamath County line between Newberry Caldera and the Cascades is an area of particular concern because of data collected through several studies and the high level of development in the area. The report also identifies underground injection systems that could contaminate the aquifer with pollutants from stormwater drywells or sewage drillholes.

In South Deschutes County, the concern for groundwater quality arises from nitrate

² Information from the Oregon Water Resources Board Mitigation Program.

Deschutes Basin Hydrogeology

The Deschutes River Basin, from its headwaters to the Columbia River, encompasses 10,400 square miles of the north central part of the State. Nearly 91% of Deschutes County lies within the Deschutes Basin. The upper Deschutes River Basin is characterized by recent volcanic activity and strong and rapid groundwater flows. The geologic conditions lead to a strong connection between surface and ground water (see also Section 3.10).

Groundwater flows eastward from the Cascade Range through permeable volcanic rocks out into the basin and then generally northward. Groundwater recharge comes from precipitation in the Cascade Range, inter-basin flow and leaking irrigation canals. No long-term water-level declines attributable to groundwater pumping were found in the upper Deschutes Basin. Approximately one-half of the ground water flowing from the Cascade Range discharges to spring-fed streams along the margins of the range. The remaining groundwater flows through the subsurface, and eventually discharges to streams near the confluence of the Deschutes, Crooked, and Metolius Rivers.

The large amount of groundwater discharge in the confluence area is primarily caused by geologic factors. The Deschutes River flows north through permeable rock until it hits a region of low-permeable rock near the confluence area. There the permeable rock strata terminates, forcing water to the surface. Virtually all of the regional groundwater in the upper Deschutes Basin discharges to streams south of the area where the Deschutes River enters this low-permeability terrain, at roughly the location of Pelton Dam.

contamination associated with on-site wastewater treatment (septic) systems discharging to the shallow unconfined aquifer. The issue is small lots with highly permeable rapidly draining soils and a high groundwater table with relatively cold water temperatures. Combined with the fact that the majority of lots are served by on-site wastewater treatment systems and individual wells, concern arose that nitrates from the septic systems could contaminate local wells and the river system.

Considerable work has gone into studying the groundwater in South County. In 1999 Deschutes County and the Department of Environmental Quality (DEQ) identified the need for a better understanding of the processes that affect the movement and chemistry of nitrogen in the aquifer underlying the La Pine area. In response, the U.S. Geological Service (USGS), in cooperation with Deschutes County and DEQ, began a study to examine the hydrologic and chemical processes that affect the movement and chemical transformation of nitrogen within the aquifer. A primary objective was to provide tools for evaluating the effects of existing and future residential development on water quality and to develop strategies for managing groundwater quality.

Field research from the USGS study shows that in a 250-square-mile study area near La Pine the groundwater underlying the La Pine sub-basin is highly vulnerable and being polluted by continued reliance on traditional onsite systems. Environmental impacts from residential development include higher nitrate concentrations in groundwater that is tapped for domestic water supply and discharges to rivers. Nitrates are regulated by the federal Environmental Protection Agency and DEQ as a human health concern. Vulnerability of the shallow aquifer to contamination led to concern that wastewater from septic systems poses a threat to the primary drinking water supply and local river systems. The Upper Deschutes and

Little Deschutes Sub-basins have abundant, natural sources of phosphorus from volcanic soils and rocks so the rivers are naturally nitrogen limited. Nitrogen-limited rivers are sensitive to low concentrations of available nitrogen until some other component becomes limiting, and that may lead to ecological impacts.

In 2008 the County used the research on nitrates to adopt a 'local rule' that required South County residents to convert their septic systems over a period of 14 years to alternative sewage system technology designed to reduce nitrates. New septic systems were also required to use alternative technologies. The County created a process to assist residents in funding the conversions.

Many South County residents expressed concern over the costs involved with converting their septic systems and disputed the science behind the rule. Placed on the ballot by petition, the local rule was rescinded by voters in March 2009.

As of 2010 the DEQ is leading the effort to address nitrates in South County, with the full cooperation of the County. One solution being considered is creating a sewer system or extending Sunriver's to serve some of the nearby areas. Sewer systems are tightly restricted on rural lands by Statewide Planning Goal 11 and OAR 660-11, so the Department of Land Conservation and Development is also involved in these efforts.

RESERVOIRS

The majority of the irrigation in Deschutes County comes from reservoirs. These reservoirs are primarily spring fed from the Cascades. Reservoirs serve the dual purpose of supplying water for irrigation and ensuring sufficient streamflow in the lower Deschutes River. Regional droughts in recent years have resulted in lower water levels in these reservoirs.

ALGAL BLOOMS

Algal blooms have been a problem for recreational lakes in the cascade mountains in recent years. Since 2007, the Wickiup Reservoir, Crane Prairie Reservoir, and Paulina Lake have experienced algal or bacteria blooms that required a health advisory.³

Although not all algal blooms are toxic, they interfere with recreation and aesthetic enjoyment. In general, algal blooms are caused by elevated nutrients, elevated temperature, and still water. Algal blooms in other parts of the state have led to drinking water concerns, but Deschutes County cities are supplied by groundwater and so the risk in algal blooms is mainly to recreation.

Key Community Considerations

Natural resources for recreation, passive enjoyment, habitat protection, and economic production are a fundamental part of life in Deschutes County, and as such were a key part of the community conversation in this Comprehensive Plan update. Highlights of this conversation include:

- Concern about the ability of the County's water supply to accommodate more residents, visitors, and water-intensive jobs in the future
- Interest in a re-evaluation of water rights for urban, agricultural, and "hobby farm" uses.
- A robust discussion around wildlife inventories, habitat conservation, open space regulations, and impacts on private property owners.

The topic of habitat conservation and water availability came up frequently, with most participants saying that further protections are needed. However, there was also recognition of the burden these protections may put on property owners. Deschutes County does not have the authority or expertise to reevaluate water rights as part of its land use planning efforts, leading the County to instead work with the Oregon Department of Water Resources, irrigation districts, and holders of water rights to increase the efficiency of water distribution throughout the community.



³ <https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/RECREATION/HARMFULALGAE/BLIOMS/Pages/archive.aspx>

Goals and Policies

Water Goals and Policies

Goal 5.1: Support regional, comprehensive water management solutions that balance the diverse needs of water users and recognize Oregon water law.

Policy 5.1.1. Participate in Statewide and regional water planning including, but not limited to:

- a. Work cooperatively with appropriate federal, state, tribal and local agency resource managers, such as The Confederated Tribes of the Warm Springs Reservation of Oregon, the Oregon Water Resources Department (OWRD), irrigation districts, and other stakeholders and nonprofit water organizations, such as the Deschutes Basin Water Collaborative, the County Soil and Water Conservation District;
- b. Support the development and implementation of Upper Deschutes Basin Study, Habitat Conservation Plan, and Biological Opinion from National Marine Fisheries Service for the middle and lower Deschutes Rivers.

Policy 5.1.2. Support grants for water system infrastructure improvements, upgrades, or expansions.

Policy 5.1.3. Develop better understanding of The Confederated Tribes of the Warm Springs Reservation of Oregon's treaty-protected rights to co-manage the water resources of the Deschutes Basin.

Policy 5.1.4. Encourage state agencies to identify local areas of concern for water availability and explore additional regulations or requirements to ensure water capacity is not negatively impacted by development.

Goal 5.2: Increase water conservation efforts.

Policy 5.2.1. Support efficient water use through targeted conservation, educational and, as needed, regulatory or incentive programs.

- a. Encourage new development incorporates efficient water use practices for all water uses.
- b. Encourage the reuse of grey water for landscaping.
- c. Encourage and educate the community about the relative impacts of thinning or reduction of plant species that adversely impact forest health, water availability, and soil quality.
- d. Encourage and educate the community about on-farm efficiency measures, including upgrades to equipment.
- e. Encourage and educate the community about use of voluntary metering of water use to monitor seasonal impacts on water use.
- f. Provide access to educational materials and tools related to water conservation including publications, information about grant opportunities, and/or partner with organizations on educational events.
- g. Encourage and educate community members on stewardship of wetlands and waterways.
- h. Provide access to educational materials about water-wise gardening and xeriscaping.

Policy 5.2.2. Promote coordinated regional water conservation efforts and implementation by regional, tribal, and local organizations and agencies, including increasing public awareness of and implementing water conservation tools, incentives, and best practices.

Policy 5.2.3. Support conservation efforts by irrigation districts, property owners and other water users, including programs to provide incentives for water conservation, such as piping of canals and laterals, water banking, exchanges of water rights, voluntary transfers of in-stream flows, onsite efficiency measures, and other means.

Goal 5.3: Maintain and enhance a healthy ecosystem in the Deschutes River Basin.

Policy 5.3.1. Notify the Oregon Department of State Lands, The Confederated Tribes of the Warm Springs Reservation of Oregon, and other state and federal agencies as appropriate of any development applications for land within a wetland identified on the statewide wetland inventory maps.

Policy 5.3.2. Work with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers to restore, maintain and/or enhance healthy river and riparian ecosystems and wetlands, including the following:

- a. Cooperate to improve surface waters, especially those designated water quality impaired under the federal Clean Water Act;
- b. Support research on methods to restore, maintain and enhance river and riparian ecosystems and wetlands;
- c. Support restoration efforts for river and riparian ecosystems and wetlands;
- d. Inventory and consider protections for cold water springs;
- e. Evaluate waterways in coordination with OPRD for possible designation under the Scenic Waterways program;

- f. In collaboration with appropriate federal, state, tribal and local agency resource managers stakeholders, map channel migration zones and identify effective protections;
- g. Develop comprehensive riparian management or mitigation practices that enhance ecosystems, such as criteria for removal of vegetation that adversely impacts water availability and soil health.

Policy 5.3.3. Support studies of the Deschutes River ecosystem and incorporate strategies from current watershed studies that provide new scientific information and indigenous knowledge about the Deschutes River ecosystem.

Policy 5.3.4. Support educational efforts and identify areas where the County could provide information on the Deschutes River ecosystem, including rivers, riparian areas, floodplains and wetlands.

- a. Support efforts to educate property owners to understand regulations pertaining to rivers, riparian areas, floodplains and wetlands.

Policy 5.3.5. Revisit recommendations of 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Plan, or its successor, and consider implementation of voluntary recommendations into the county code

Goal 5.4: Maintain and enhance fish and riparian-dependent wildlife habitat.

Policy 5.4.1. Coordinate with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers and stakeholders to protect and enhance fish and wildlife habitat in river and riparian habitats and wetlands.

Policy 5.4.2. Promote healthy fish populations through incentives and education.

Policy 5.4.3. Support healthy native salmonid fish populations through coordination with stakeholders, including, but not limited to, The Confederated Tribes of the Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers who provide fish habitat management and restoration.

- a. Review, and apply where appropriate, strategies for protecting fish and fish habitat for native salmonid species.
- b. Promote native salmonid species recovery through voluntary incentives and encouraging appropriate species management and associated habitat conservation and restoration.

Policy 5.4.4. Update and implement policies to support federally approved Habitat Conservation Plans for species listed under the Endangered Species Act

- a. Spawning and rearing areas for salmonid species should be considered significant habitat and should be protected in rivers and streams.
- b. Cooperate with covered parties in restoring or enhancing spawning and rearing areas for salmonid species, where feasible.
- c. Support efforts to address riparian restoration associated with streamflow management under approved plans.

Policy 5.4.5. Use a combination of incentives and/or regulations to avoid, minimize, and mitigate development impacts on river and riparian ecosystems and wetlands.

Policy 5.4.6. Support plans, cooperative agreements, education, water quality monitoring and other tools that protect watersheds, reduce erosion and runoff, enhance riparian vegetation, and protect other natural or engineered water systems/ processes that filter and/or clean water and improve and/or and preserve water quality.

Policy 5.4.7. Coordinate with the Oregon Department of Environmental Quality and other stakeholders on regional water quality maintenance and improvement efforts such as identifying and abating point (single-source) and non-point (unidentified or multiple-source) pollution or developing and implementing Total Maximum Daily Load and Water Quality Management Plans.

Policy 5.4.8. Coordinate with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers to address water-related public health issues.

- a. Support amendments to State regulations to permit centralized sewer systems in areas with high levels of existing or potential development or identified water quality concerns.
- b. If a public health hazard is declared in rural Deschutes County, expedite actions such as legislative amendments allowing sewers or similar infrastructure.

Policy 5.4.9. Continue to evaluate and/or implement regulations, such as a wellhead protection ordinance for public water systems, in accordance with applicable Federal and/or State requirements.

Policy 5.4.10. Coordinate and work with the Oregon Department of Agriculture, agricultural uses, and available voluntary programs to support and implement proven new technologies and best practices to maintain and enhance water quality,

such as minimizing nitrate contamination, maintaining streamside vegetation, reducing streambank soil erosion and runoff, reducing fish passage barriers, managing return flows, limiting livestock access to riparian areas, and minimizing weeds and bare patches in grazing areas.

Policy 5.4.11. Support regulations, education programs, and cleaning procedures at public and private boat landings.

Goal 5.5: Coordinate land use and water policies to address management and allocation of water in Deschutes County.

Policy 5.5.1. Coordinate with other affected agencies when a land use or development application may impact rivers or riparian ecosystems or wetlands.

Policy 5.5.2. Regulate land use patterns and promote best practices to preserve the integrity of the natural hydrologic system, recognize the relationship between ground and surface water, recognize basin-wide impacts, and address water impacts of new land uses and developments, including water-intensive uses.

Policy 5.5.3. Support OWRD’s efforts to update and modernize Oregon’s groundwater allocation rules and policies to protect existing surface water and groundwater users and to maintain sustainable groundwater resources.

Policy 5.5.4. Support efforts by the OWRD in collaboration with Central Oregon Cities Organization, The Confederated Tribes of the Warm Springs Reservation of Oregon, and non-governmental organizations to revisit the Deschutes Basin Groundwater Mitigation Program.

Policy 5.5.5. Coordinate with the irrigation districts to ensure irrigated land partitions and lot line adjustments are not approved without notice to the affected district.

Policy 5.5.6. Utilize Central Oregon Stormwater Manual to apply appropriate stormwater management practices land use decisions.

Policy 5.5.7. Allow for development of wastewater facilities and improvements where needed or required to address water quality issues and maintain water quality, consistent with state and local wastewater system requirements.

Open Space and Scenic Views Goals & Policies

Goal 5.6: Coordinate with property owners to protect open spaces, scenic views, and scenic areas and corridors through a combination of incentives and/or educational programs.

Policy 5.6.1. Work with stakeholders to create and maintain a system of connected open spaces while balancing private property rights with community benefits.

Policy 5.6.2. Work to maintain the visual character and rural appearance of open spaces such as the area along Highway 97 that separates the communities of Bend and Redmond or lands that are visually prominent.

Policy 5.6.3. Work to maintain and protect the visual character and rural appearance of visually prominent open spaces within the County, particularly those that are identified in the Goal 5 inventory.

Policy 5.6.4. Seek to protect the cultural identity of rural communities, such as the Highway 97 area/corridor between Bend and Redmond, and others.

Policy 5.6.5. Protect significant open spaces, scenic views, and scenic sites by encouraging new development to be sensitive to these resources.

Policy 5.6.6. Incentivize the placement of structures in a way that is sensitive of view corridors to maintain the visual character of the area.

Wildlife Goals and Policies

Goal 5.7: Maintain and enhance a diversity of wildlife and habitats.

Policy 5.7.1. Promote stewardship of wildlife habitats through incentives, public education, and development regulations.

Policy 5.7.2. Ensure Goal 5 wildlife inventories and habitat protection programs are up-to-date through public processes, expert sources, and current or recently adopted plans and studies.

Policy 5.7.3. Provide incentives for new development to be compatible with and to enhance wildlife habitat.

Policy 5.7.4. Require, incentivize, or encourage clustering of development in inventoried wildlife areas to reduce impacts to wildlife populations.

Policy 5.7.5. Develop better understanding of The Confederated Tribes of the Warm Springs Reservation of Oregon’s treaty-protected rights to co-manage the wildlife resources of the Deschutes Basin.

Goal 5.8: Balance protection of wildlife and habitat with the economic and recreational benefits of wildlife and habitat.

Policy 5.8.1. Encourage responsible and sustainable wildlife related tourism and recreation.

Policy 5.8.2. Coordinate with stakeholders to ensure access to appropriate recreational opportunities within significant wildlife and riparian habitat through public or non-profit ownership.

Policy 5.8.3. Coordinate with Confederated Tribes of the Warm Springs Reservation of Oregon and State agencies to develop strategies to support sound wildlife management science and principals for the benefit of the wildlife resource.

Goal 5.9: Comply with federal and state regulations related to sensitive, threatened, and endangered species, including the Endangered Species Act, the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and others as applicable.

Policy 5.9.1. Coordinate with Federal and State agencies to develop strategies to protect Federal or State Threatened or Endangered Species, or Species of Concern.

Policy 5.9.2. Mitigate conflicts between large-scale development and sage grouse habitat.

Policy 5.9.3. Consider adopting recommendations from Oregon Department of Fish and Wildlife, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Deschutes River Mitigation and Enhancement Program in dock construction.

Environmental Quality Goals and Policies

Goal 5.10: Maintain and improve upon the quality of air and land in Deschutes County.

Policy 5.10.1. Use building techniques, materials, and technologies in existing and future County operations and capital facilities that help maintain and improve environmental quality.

Policy 5.10.2. Implement a dark skies educational and or incentive program and periodically update the Dark Skies ordinance to reduce the impacts of light pollution and reduce lighting impacts on adjacent properties.

Policy 5.10.3. Coordinate with agency partners to educate residents about controlled burning projects and air quality concerns.

Policy 5.10.4. Use public education, education for County departments, and regulations to control noxious weeds and invasive species.

Goal 5.11: Promote sustainable building practices that minimize the impacts of development on the natural environment.

Policy 5.11.1. Use the County Code and educational materials to promote the use of resource-efficient building and landscaping techniques, materials, and technologies that minimize impacts to environmental quality.

Policy 5.11.2. Encourage and support reuse and recycling of consumer goods, green waste, construction waste, hazardous waste, and e-waste through education and enhanced recycling opportunities through the Recycling Program.

Policy 5.11.3. Support the process for siting new County solid waste management facilities in rural Deschutes County, consistent with facility needs and County standards for the location and approval of such facilities.

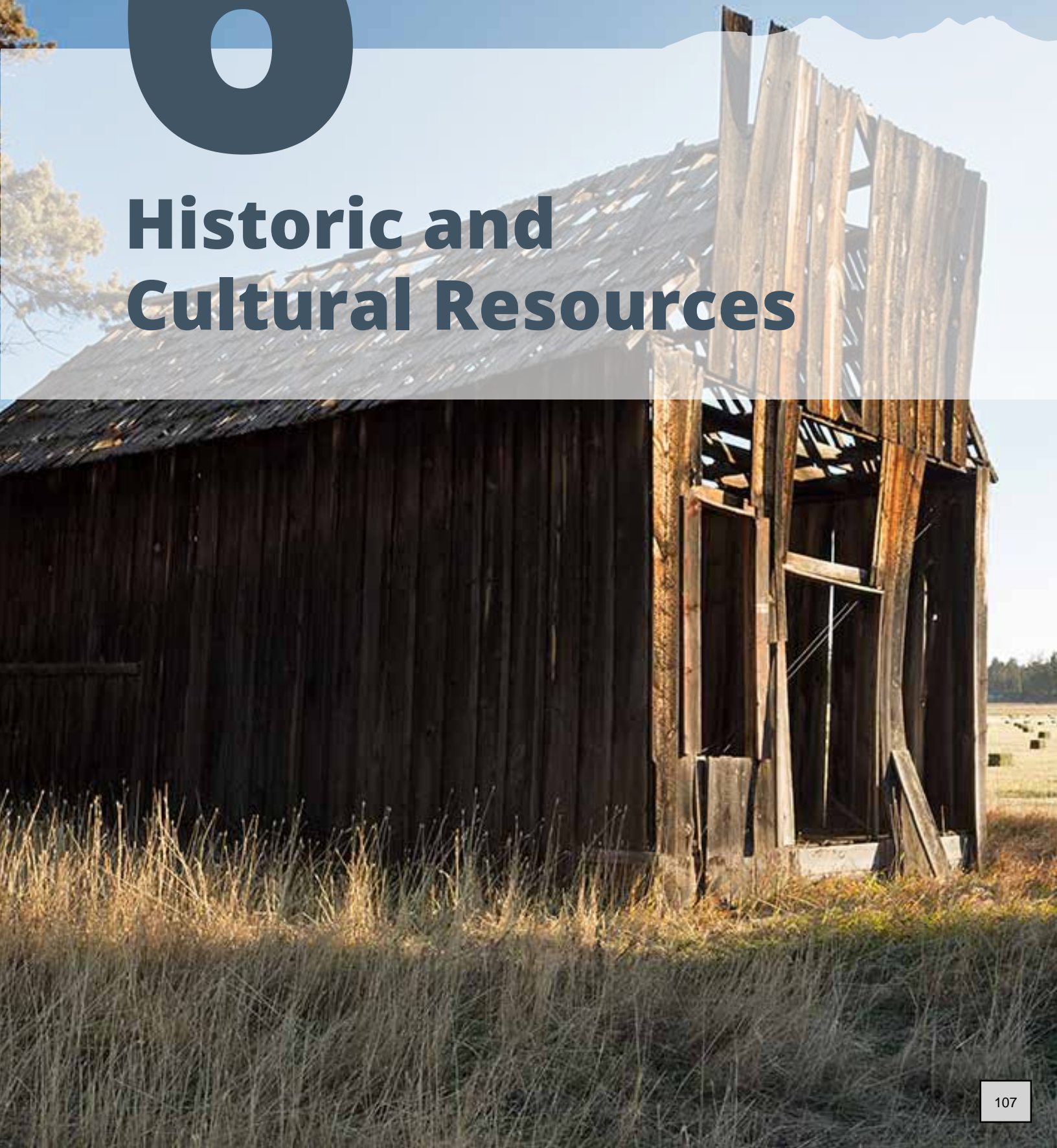
Policy 5.11.4. Implement best practices in solid waste management throughout the County.

Policy 5.11.5. Develop and implement a Climate Action Plan to address the potential future impacts of climate change on Deschutes County through incentives and/or regulations.

Policy 5.11.6. Promote and incentivize green infrastructure in new development to improve stormwater management.

6

Historic and Cultural Resources





Opportunities, Challenges, and Considerations

Deschutes County is a certified local government (CLG), as designated by the State of Oregon Historic Preservation Office. This certification recognizes the County's commitment to implementing and maintaining a formal historic resources program. Deschutes County has 13 nationally registered historic and cultural sites and 35 locally significant historic sites. The County currently administers grant programs and zoning requirements to preserve and restore these sites. Deschutes County owns the National Register listed Reid School and invests in supporting the Deschutes County Historical Society as a research and educational facility through a zero-cost lease and maintenance support for the purposes of running the museum and research center.

Historic resources are recognized by Statewide Planning Goal 5, Natural Resources, Scenic Views and Historic Areas and Open Spaces, and Oregon Administrative Rule (OAR) 660-023. The Statewide Goal and OAR recommend cities and counties inventory and protect historic and cultural sites. Recognizing the value and importance of having a connection to our past, Deschutes County chose to implement and maintain a historic preservation program and Historic Preservation Strategic Plan (Adopted 2022).

The 2022 Historic Preservation Strategic Plan identified three overarching goals to guide historic and cultural resource preservation in Deschutes County: collaborate, coordinate, and educate. The plan identifies opportunities to strengthen relationships between historic preservation and community partners, and to involve community members in historical and cultural preservation efforts. Improving access to historic resource information and providing content in an easily accessible format will be paramount to preservation efforts and increase

community appreciation for resources. Along with improved educational resources, more outreach and education opportunities could be explored. Deschutes County has several partners involved in drafting and implementing this strategic plan – those partners include the Deschutes County Historical Society, High Desert Museum, Archaeological Society of Central Oregon, Three Sisters Historical Society, and Redmond Historical Society.



Context

Deschutes County has several notable historical and cultural sites. These sites receive special protections to avoid land use or development activity that may disturb the historical and cultural resources existing on site.

LOCALLY SIGNIFICANT HISTORIC SITES

Deschutes County has 35 locally significant sites including cemeteries, ranches, dams, bridges, schools, and granges among numerous historic homesteads and homesites. The State of Oregon has initiated a process to identify culturally significant archaeological sites and sites of indigenous importance. This process will likely be incorporated into the County's local inventory by 2029.

NATIONALLY REGISTERED SITES

Deschutes County has 13 sites that have completed the national register process, including highways, bridges, lodges, and rock gardens.

Key Community Considerations

As part of the 2023 Comprehensive Plan update, community members shared their vision for the protection of historic and cultural resources. Comments included:

- The importance of county-wide coordination on cultural and historic, as well as increased representation of the indigenous history of Central Oregon.
- Acknowledging previous landowners and preserving the County's historical and cultural resources are both important.
- A county-wide historic and cultural resource signage program was also suggested.
- The community shared an interest in capitalizing on the High Desert Museum to continue to support indigenous culture and Central Oregon's history.

Goals and Policies

Goal 6.1: Promote the preservation of designated historic and cultural resources through education, incentives, and voluntary programs.

Policy 6.1.1. The Historic Landmarks Commission shall take the lead in promoting historic and cultural resource preservation as defined in DCC 2.28.

- a. Support incentives from the State Historic Preservation Office (SHPO), The Confederated Tribes of the Warm Springs Reservation of Oregon Tribal Historic Preservation Office (THPO), or other agencies for private landowners to protect and restore historic resources.
- b. Support the Historic Landmarks Commission to promote educational programs to inform the public of the values of historic preservation.
- c. Support improved training for the Historic Landmarks Commission.
- d. Support the goals, objectives, and actions of the Historic Preservation Strategic Plan.

Policy 6.1.2. Coordinate cultural and historic preservation with the Oregon State Historic Preservation Office and The Confederated Tribes of the Warm Springs Reservation of Oregon Tribal Historic Preservation Office.

- a. Maintain Deschutes County as a Certified Local Government, which includes the City of Sisters.

Policy 6.1.3. Encourage private property owners to coordinate with the State Historic Preservation Office and The Confederated Tribes of the Warm Springs Reservation of Oregon Tribal Historic Preservation Office. Coordinate with The Confederated Tribes of the Warm Springs Reservation of Oregon, Burns-Paiute Tribe, Klamath Tribes, Archaeological Society of Central Oregon, and SHPO to adopt a program to identify and protect archaeological and cultural resources, as appropriate, and prevent conflicting uses from disrupting the value of known sites.

7

Natural Hazards





Opportunities, Challenges, and Considerations

Central Oregon is a dynamic region formed and shaped by the powerful forces of nature. Deschutes County residents and visitors rely on the County and its partners to plan for hazardous events and limit harm to people and property.

Continued rapid population growth, development in wildfire-prone areas, and an increased frequency of natural hazard events make planning for and mitigating risks ever more important. As temperatures rise globally, Central Oregon will face challenges due to drought, wildfire, heat events, and storms. The impacts a major Cascadia Subduction Zone earthquake would have on Deschutes County would be substantial as well.

In order to plan for and address natural hazards, Deschutes County has partnered with local jurisdictions to create its Natural Hazards Mitigation Plan (NHMP). Additional opportunities exist to create greater defensible spaces, encourage fire hardening, utilize grant programs, and pursue education measures to reduce these impacts over time.

According to the NHMP, the hazards with greatest risk in Deschutes County are:

- **Winter Storm.** Destructive storms producing heavy snow, ice and cold temperatures occurred throughout the County's history. Increases in population and tourism make potential impacts to shelter, access to medical services, transportation, utilities, fuel sources, and telecommunication systems more acute. The relative frequency of these events combined with their widespread impacts make winter storms the highest-ranked hazard in the NHMP.

- **Wildfire.** Historically, wildland fires have shaped the forests and wildlands valued by residents and visitors. These landscapes, however, are now significantly altered due to increased rural development, warmer and dried conditions, and a general lack of large-scale treatments due to outdated forest management practices, resulting in increased event of wildfires that burn more intensely than in the past.

Statewide Planning Goal 7 requires local comprehensive plans to address Oregon's natural hazards. Protecting people and property from natural hazards requires knowledge, planning, coordination, and education. Good planning does not put buildings or people in harm's way. Planning, especially for the location of essential services like schools, hospitals, fire and police stations, is done with sensitivity to the potential impact of nearby hazards.

- **Windstorm.** A windstorm is generally a short duration event involving straight-line winds and/or gusts in excess of 50 mph. Although windstorms can affect the entirety of Deschutes County, they are especially dangerous in developed areas with significant tree stands and major infrastructure, especially above ground utility lines.
- **Drought.** Periods of drought can have significant impacts on public health, agriculture, and industry. Many counties in eastern Oregon are experiencing more frequent and severe droughts than is historically the norm, and many climate predictions see this trend continuing into the future.
- **Earthquake.** The Pacific Northwest is located at a convergent plate boundary, called the Cascadia Subduction Zone, where the Juan de Fuca and North American tectonic plates meet. This fault line is subject to rare but potentially very large

earthquakes. Such an event would impact Deschutes County communities both directly through damage to infrastructure and property, as well as economically and socially as the broader region recovers from the disaster.

Context

Informed by an understanding of natural hazards, Deschutes County can reduce the risks to property, environmental quality, and human safety through land use planning and review of specific development proposals. The County's policies provide the framework for the County's natural hazards review program. This includes: identification of areas subject to natural hazards, regulations for evaluating land use actions for how they may result in exposure to potential harm from natural hazards, and programmatic elements including partnerships and funding opportunities to support natural hazard risk reduction.

Deschutes County has taken on a number of proactive projects, including:

- 2021 Natural Hazards Mitigation Plan (NHMP)
- 2019 Wildfire Mitigation Advisory Committee
- Project Wildfire, a County-led wildfire education and mitigation program has been in operation since 2012 and has been very successful in changing attitudes towards wildfire and prevention.
- Community Wildfire Protection Plans (CWPP) for many communities, including:
 - » Greater Bend CWPP (2016, expected revision 2021)
 - » Greater La Pine CWPP (2020, expected revision 2025)
 - » Greater Redmond CWPP (2018, expected revision 2023)
 - » Greater Sisters Country CWPP (2019, expected revision 2024)



- » Sunriver CWPP (2020, expected revision 2025)
- » East and West Deschutes County CWPP (2018, expected revision 2023)
- » Upper Deschutes River Coalition CWPP (2018, expected revision 2023)

In addition, dozens of neighborhoods are pursuing or have received FireWise certification through the National Fire Protection Association. The County also supports the Heart of Oregon and Youth Conservation Corps crews in fuels reduction work and other mitigation efforts, with financial assistance from other entities.

Wildfire

According to the Natural Hazards Mitigation Plan, wildfire is the second most significant hazard to the county (after winter storms) and was the most discussed natural hazard discussed during outreach events. Throughout the 20th century, the years with warm and dry conditions corresponded with larger fires that have burned greater areas. Overall increases in heat will also lengthen growing seasons - building greater fuel loads and decreasing soil and fuel moisture, thereby increasing the likelihood of larger fires. By mid-century, the annual potential for very

large fires is projected to increase by at least 350% over the 20th century average.¹

The annual frequency of very high and extreme fire danger days is expected to increase by 10-15 additional days per year by mid-century⁴ (up from 36 currently). These trends are due to exacerbated conditions with a combination of high air temperatures and very low fuel moisture, which increases the likelihood of fire starts that can spread. As Deschutes County communities have experienced, increased fire activity - even at quite a distance - will impact air quality, increasing public health risks and impacting aspects of everyday life.

Research indicates that in regions where fire has moved through the landscape with increased severity, regrowth is changing the species composition of the forests, which are likely to be more resilient to future fires.² Other compounding factors, like drought and pest outbreaks, will continue to build fuel loads in the forests and change the forest's composition. Post-fire landscapes in Deschutes County will likely see increases in the prevalence of invasive and pioneer tree species, and a reduction in fire-susceptible species such as western hemlock, subalpine fir, and some spruce. Fire resistant species like mature Douglas fir and western larch will have greater survival capacity to fire,³ but perhaps not to other stressors. Larger fires that occur over shorter intervals will negatively impact seed dispersion capacity, and reduced moisture available in ponderosa forest regions will be vulnerable to reforestation failures, leading to conversion to other ecosystem types. In the mountain forests, the average yearly area burned is expected to nearly double by mid-century, while the area burned in the grass/shrub plateau areas is likely to decrease slightly by mid-century. This is partly due to extended

¹ Halofsky, J. Peterson, D, Harvey, B. "Changing Wildfire, changing forests: the effects of climate change on fire regimes and vegetation in the Pacific Northwest, USA. Fire Ecology. 2020.

² Sebastian U. Busby, Kevan B. Moffett, Andrés Holz. High severity and short interval wildfires limit forest recovery in the Central Cascade Range. Ecosphere, 2020; 11 (9) DOI: 10.1002/ecs2.3247

³ 6 Halofsky et al. 2020.



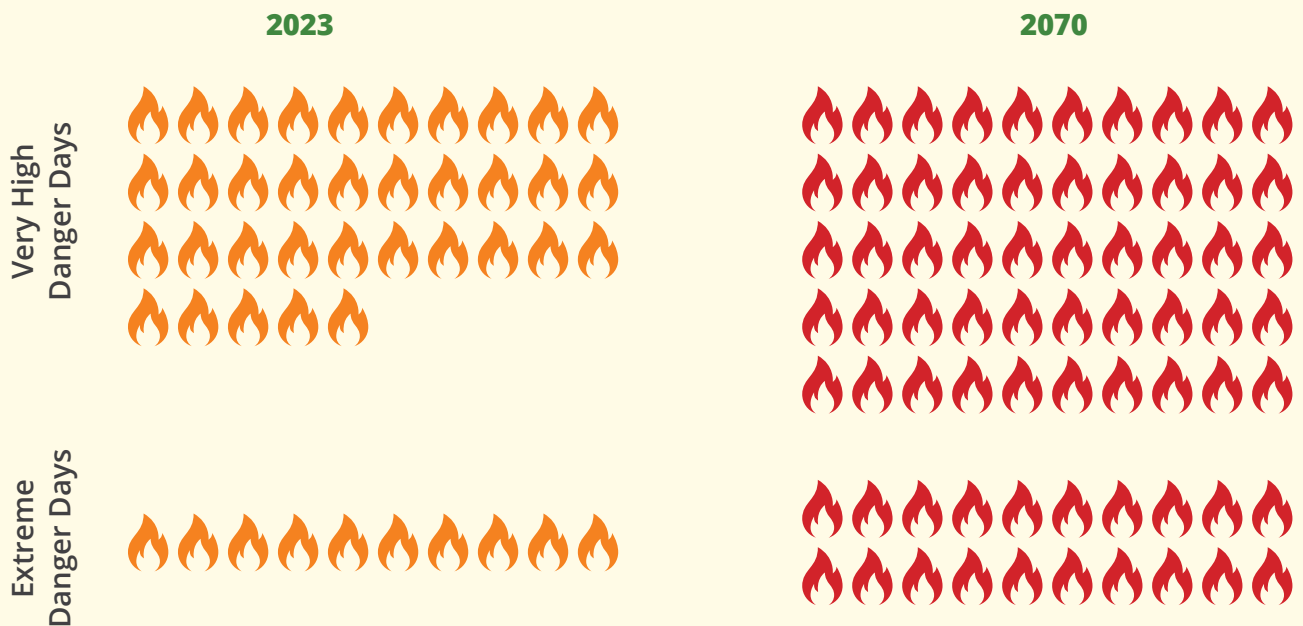
drought decreasing plant growth and therefore available fuel. The risk of unusually severe fires is expected to increase across large swaths of Oregon, including Deschutes County.⁴

WILDFIRE AND HEAT

By the middle of this century, increasing temperatures are expected to drive increasing wildfire risk, especially in the Cascades. The yearly percentage of area burned is likely to increase in the mountains and the interval of return (years between fires) is expected to decrease across the county. Both the highest and lowest summer temperatures will increase, leading to more extreme heat days and reducing the historical nighttime cooling effect of the high desert.

Under all change projections, there will be an increase in the number of days with a heat index above both 90° and 100°F by mid-century.⁸ By 2100, Deschutes County can expect summer maximum temperatures to be 12°F hotter than current highs. Overall, extreme heat is not considered a human health risk in Deschutes County because of low night temperatures and the low humidity in the region. However, the Redmond airport, which sees the hottest temperatures in the county, will likely start to see occasional temperatures above 105° every few years by mid-century, and at least once a year by 2100. In addition, summer night lows are likely to increase by up to 5° degrees by mid-century, reducing the cooling effect of the high desert climate.

Fire Danger near Mt. Bachelor Village



4 Oregon Forest Resources Institute Fact Sheet

Key Community Considerations

Community conversations related to natural hazards have centered around the following topics:

- **Impacts of Climate Change.** Throughout the community engagement process, community members spoke to the importance of recognizing and addressing the impacts of climate change in Deschutes County and its relationship with natural hazard events.
- **Education and Communication.** Providing information about potential risks to residents and visitors can help the community as a whole be more prepared for natural hazards.
- **Development Code Regulations and Incentives.** Some community members expressed a desire for stricter regulations and additional incentives about “fire-wise” construction and defensible space practices.
- **Limiting Development in hazard-prone areas.** Increased development in remote areas of the County, where life-saving services may be scarce and human impacts may exacerbate risks, was a concern for some.

Vulnerable Populations

The socio-demographic qualities of the community population such as language, race and ethnicity, age, income, and educational attainment are significant factors that can influence the community's ability to cope, adapt to and recover from natural disasters. A disproportionate burden is placed upon special needs groups, particularly children, the elderly, the disabled, minorities, and low-income persons. Population vulnerabilities can be reduced or eliminated with proper outreach and community mitigation planning. For planning purposes, it is essential that Deschutes County and the cities of Bend, La Pine, Redmond, and Sisters consider both immediate and long-term socio-demographic implications of hazard resilience.



Goals and Policies

Goal 7.1: Develop policies, partnerships, and programs to increase resilience and response capacity in order to protect people, property, infrastructure, the economy, natural resources, and the environment from natural hazards.

Policy 7.1.1. Partner with county, state, and regional partners to regularly update and implement the Deschutes County Natural Hazards Mitigation Plan.

Policy 7.1.2. Collaborate with federal, state, and local partners to maintain updated mapping of high wildfire risk areas, floodplains, and other natural hazard areas within the county.

Policy 7.1.3. Communicate and cooperate with federal, state, and local entities to clarify responsibilities regarding wildfire mitigation and suppression to improve fire protection services.

Policy 7.1.4. Use the development code to provide incentives and regulations to manage development in areas prone to natural hazards.

Policy 7.1.5. Work with agency partners to address and respond to increased episodes of poor air quality resulting from wildfires in the region.

Policy 7.1.6. Protect wildlife with wildland fire mitigation measures on private lands.

Policy 7.1.7. Address wildfire risk, particularly in the wildland urban interface.

Policy 7.1.8. Identify all areas not protected by structural fire protection agencies and promote discussions to address fire protection in unprotected lands in the County.

Policy 7.1.9. Support forest management practices that reduce wildfire risk.

Policy 7.1.10. Support local fire protection districts and departments in providing and improving fire protection services.

Policy 7.1.11. Continue to review and revise County Code as needed to:

- a. Ensure that land use activities do not aggravate, accelerate or increase the level of risk from natural hazards.
- b. Require development proposals to include an impact evaluation that reviews the ability of the affected fire agency to maintain an appropriate level of service to existing development and the proposed development.
- c. Minimize erosion from development and ensure disturbed or exposed areas are promptly restored to a stable, natural and/or vegetated condition using natural materials or native plants.
- d. Ensure drainage from development or alterations to historic drainage patterns do not increase erosion on-site or on adjacent properties.
- e. Reduce problems associated with administration of the Floodplain Zone.
- f. Require new subdivisions and destination resorts to achieve FireWise Standards or other currently accepted fire mitigation standards from the beginning of the projects and maintain those standards in perpetuity.

Goal 7.2: Ensure the County's built environment and infrastructure are adequately prepared for natural disasters.

Policy 7.2.1. Increase the quality, resiliency, diversity, and redundancy of utility and transportation infrastructure to increase chances of continued service following a natural disaster.

Policy 7.2.2. Prohibit the development of new essential public facilities and uses that serve vulnerable populations from being located within areas at high risk of flooding and wildfire, and aim to relocate existing uses in these areas.

Policy 7.2.3. Support siting of Central Oregon Ready, Responsive, Resilient (CORE3) regional coordinated emergency services training facility.

Policy 7.2.4. Coordinate with emergency service providers when new development is proposed to ensure that response capacity can meet the needs of the new development.

Policy 7.2.5. Require new development to follow home hardening, defensible space, and other resilient design strategies in areas prone to wildfires and other natural hazards.

Policy 7.2.6. Encourage and incentivize development that exceeds minimum building code standards and promote retrofitting of existing development for better natural disaster resiliency.

Policy 7.2.7. Require development to be designed to minimize alteration of the natural landform in areas subject to slope instability, drainage issues or erosion.

Policy 7.2.8. Regulate development in designated floodplains identified on the Deschutes County Zoning Map based on Federal Emergency Management Act regulations.

- a. Continue evaluation of participation in and implementation of the Community Rating System as part of the National Flood Insurance Program.
- b. Cooperate with other stakeholders to identify alternatives for acquiring and/or relocating existing structures prone to flooding.

- c. Continue to coordinate with stakeholders and agency staff to correct mapping errors.

Goal 7.3: Develop programs that inform the public about the increased risks from natural hazards.

Policy 7.3.1. Identify high risk, high need populations and ensure equitable access to emergency preparedness and recovery services.

Policy 7.3.2. Increase outreach and education for hazard awareness and natural disaster preparedness, especially for low-income, elderly, non-English speaking, and other vulnerable populations.

Policy 7.3.3. Expand partnerships with government agencies, utilities, and other groups that can help Deschutes County residents prepare for natural disasters.

Policy 7.3.4. Work with regional partners to establish and maintain adequate support for a Deschutes County Community Emergency Response Team (CERT) to aid in responding to natural hazard events.

Policy 7.3.5. Promote and support business resilience planning.



8

Recreation





Opportunities, Challenges, and Considerations

Recreation is an important quality of life issue for Deschutes County and recreational tourism is a key part of the local economy. Both residents and visitors are drawn by the County’s extensive public lands, seasonal climate, and wide variety of activities and settings. Recreational opportunities include places set aside for specific activities such as campgrounds or sports fields as well as passive spaces such as natural areas.

The primary focus of recreation in rural Deschutes County is outdoor recreation. Outdoor activities promote healthy communities by encouraging people to enjoy an active lifestyle and by providing opportunities to reconnect with the natural world.

Deschutes County does not have a parks department; instead, it coordinates with the federal and state agencies, local park districts, and private entities that provide park and recreational opportunities. Coordination assures that resources are used efficiently, and duplication is avoided. With a holistic view of recreation in Deschutes County, the County can also provide other agencies and jurisdictions with guidance for service gaps to fill.

Statewide Planning Goal 8, Recreation and Oregon Administrative Rule (OAR) 660-034 address recreation, but do not require local governments to provide park and recreation services. Several agencies and special districts already provide recreation services in Deschutes County. These include Bend Parks and Recreation District, La Pine Parks and Recreation District, Sunriver Parks and Recreation District, and Oregon Parks and Recreation Department.

The health of the County’s recreational assets and industry is inexorably tied to the health of the land, forests, and waterways of Central Oregon. The effects of human activity - from development pressures and overuse of recreational facilities to resource extraction and climate change – will have a significant impact on recreation in Deschutes County. Some of these impacts include:

- Changes in precipitation affecting the timing and conditions for winter sports
- Loss of habitat
- Wildfire and risk of wildfire limiting recreational access
- Increased number of dangerously warm days

Future Challenges to Recreation

The health of the County’s recreational assets and industry is inexorably tied to the health of the land, forests, and waterways of Central Oregon. The effects of human activity - from development pressures and overuse of recreational facilities to resource extraction and

climate change – will have a significant impact on recreation in Deschutes County.

There are several environmental concerns that may affect parks and recreation in Deschutes County in the future. Activities such as hiking, hunting, fishing, swimming, and foraging are an important part of recreation in Deschutes County - these activities are likely to be impacted by future changes to the climate.

Fishing may be impacted by drought as water bodies warm and seasonally drop. Foraging animals, like deer and elk, may express changing behavior like earlier-season high elevation foraging and increased interactions with agricultural communities due to drought. Drought also severely reduces the prominence of fruiting fungi for annual mushroom hunters, and may increase pressure on the remaining harvest areas. Fungi are crucial to the health of the forest ecosystem, adapting and responding to changing conditions and disease.

These conditions may also lead to greater frequency and severity of algal and bacterial blooms in fresh water. Algal blooms in other parts of the state have led to drinking water concerns, but Deschutes County cities are supplied by groundwater and so the risk in algal blooms is mainly to recreation – boaters, swimmers, anglers, and campers may be less motivated to visit.

Winter Sports

Snow sports are a significant component of recreation in Deschutes County. Overall decline in snow pack is expected in the coming decades, which will heavily impact winter sports that rely on snowpack in the Cascades. At the Mt. Bachelor Ski Resort, April Snowpack is expected to decline between 11% and 18% by the middle of the century and between 18% and 43% by the end of the century. Additionally, inconsistent snowpack buildup will increase due to more precipitation falling as rain instead of snow throughout the season, making winter sports seasons less predictable.

Summer Recreation

The summer outdoor season has additional risks from degraded to severely degraded air quality due to wildfire throughout the west coast. With degraded air quality, outdoor recreators may avoid the region, impacting regional income and generally degrading the perception of the county as a retreat to the natural world. Additionally, an increase in the frequency of very high temperature days may impact the safety and desirability of outdoor recreation.



Context

Deschutes County does not directly provide parks and recreation services. The only public parks the County maintains are a section of the County Fairgrounds and the Worrell Wayside in downtown Bend. Although there is no County parks department, there are County-owned properties which are designated as park lands. Parks and recreation services are provided by the following entities.

OREGON PARKS AND RECREATION DEPARTMENT

OPRD owns and manages several key parks and scenic areas in the County. These include state parks such as line Falls State Scenic Viewpoint, La Pine State Park, Pilot Butte State Scenic Viewpoint, Smith Rock State Park, and Tumalo State Park. In addition, they also manage the Upper and Middle Deschutes River Scenic Waterway segments, and Cascade Lakes and McKenzie Pass-Santiam Pass Scenic Byways.

THE BEND PARKS AND RECREATION SPECIAL DISTRICT (BPRD)

BPRD owns and maintains approximately 3,035 acres of parkland including 81 parks and 70 miles of trails. The largest park district in the County, the taxing district follows the City of Bend Urban Growth Boundary closely, although extends past the UGB to the west and east to include several properties outside of city limits.

THE LA PINE PARKS AND RECREATION SPECIAL DISTRICT

This district operates in 85 square miles and 11 parks and recreation facilities in southern Deschutes County including the City of La Pine.

THE REDMOND AREA PARKS AND RECREATION SPECIAL DISTRICT

The District operates five recreational facilities including the Cascade Swim Center and extends beyond city limits to Tetherow Crossing. In 2022, the district received voter approval for a general obligation bond to build a new community center with a variety of recreational, fitness, and therapeutic activities.

THE SISTERS PARK AND RECREATION SPECIAL DISTRICT

Operates approximately 15 acres of land within City of Sisters city limits, including Bike Park 242, Hyzer Pines Disc Golf Course, a playground, a skatepark, and Coffield Community Center. The district boundary extends far past city limits, serving approximately 14,000 residents through programming and activities.

THE U.S. FOREST SERVICE, BUREAU OF LAND MANAGEMENT

Approximately 76% of the County's total land area is owned by the federal government, primarily these two agencies. Community members seek out extensive recreation activities in these areas, including skiing, mountain biking, hiking, backpacking, fishing, hunting, kayaking, and off-road vehicle riding.

COUNTY-OWNED OPEN SPACE

Starting in 1994 the County received donation of several properties along rivers, creeks, or streams or with wildlife, wetlands, or other value as park lands. The intent of this donation was not to develop these lands for park use but rather to preserve lands with valuable resources, which were protected through deed restrictions. The park designation means that the lands would be retained in public ownership unless



Photo Credit: Visit Bend (www.visitbend.com)

there was a public hearing and the Board of County Commissioners determined that selling was in the best interest of the public.

ORS 275.330 governs the disposal of these lands, stating that if they are sold the proceeds must be dedicated to park or recreation purposes. As of 2009, there were approximately 70 properties designated as park lands.

COUNTY FAIRGROUND AND EXPO CENTER

The 132-acre County Fairground and Expo Center site is located southwest of the Redmond airport, and it is placed strategically at the hub of the tri-county area (Deschutes, Jefferson, Crook Counties). The facility is used for a variety of public and private events. Each of its lawn areas can be rented exclusively by groups for different events, which range from weddings, picnics, reunions, car shows, RV / motorcycle rallies, animal shows, and outdoor trade shows, among others.

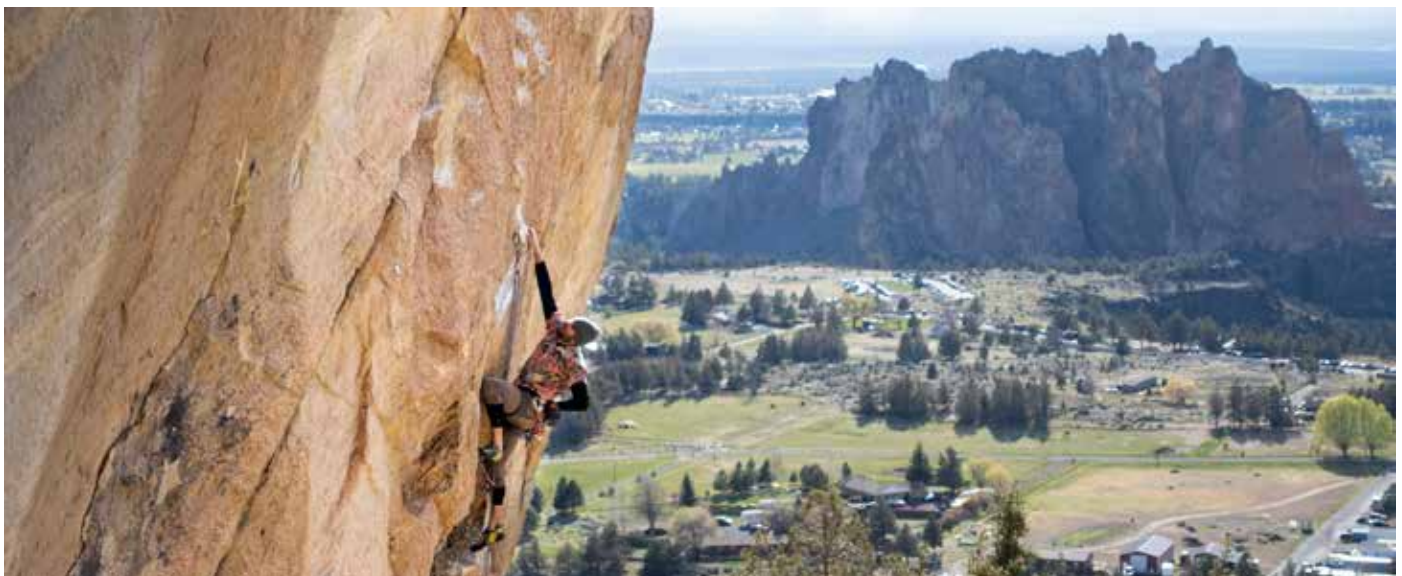
Key Community Considerations

Recreation and access to nature is a key component of life in Deschutes County and a primary attraction for both residents and visitors. As part of this Comprehensive Plan update, community members noted concerns about increasing recreational use or overuse, conflicts among different users, and the need for permitting or other strategies to manage use, particularly in popular locations.

Because the county does not have a parks and recreation department, community members have identified service gaps and lack of continuity of trail networks, habitat and species preservation, and land access policies. Residents are concerned with private recreation development and use of natural resources such as land and water.

The tension between resource use of forest land and water, recreational use of these areas, and natural resource protection is evident among members of the community

Community members also noted that it is imperative for all special districts and agencies providing park services to coordinate on integrated services. These partnerships will be key to ensure sustainable recreation and land stewardship as the County continues to grow.



Goals and Policies

Goal 8.1: Increase affordable, sustainable, and diverse recreation opportunities through partnerships with government and private entities.

Policy 8.1.1. Reduce barriers to regional parks and recreation projects in Deschutes County, including acknowledgement or adoption of federal, state and local parks district trail and facility plans.

Policy 8.1.2. Collaborate with partners to develop a regional system of trails and open spaces, balancing recommendations from local park districts, County, state, and federal recreation plans and studies and property owner considerations, particularly for projects adjacent to farm and forest lands.

Policy 8.1.3. Encourage coordination between the U.S. Forest Service, the Bureau of Land Management and recreational use interest groups to minimize environmental degradation, agricultural fragmentation and user conflicts on public and private land.

Policy 8.1.4. Support the creation and improvement of accessible park and recreation opportunities in compliance with the Americans with Disabilities Act.

Policy 8.1.5. Support efforts to coordinate recreation planning between the County, park and recreation districts, school districts, irrigation districts, unincorporated communities, and cities.

Policy 8.1.6. Support the development of parks and trails identified in locally-adopted plans.

Policy 8.1.7. Coordinate with unincorporated communities to identify opportunities for parks, trails, open spaces, and community centers.

Policy 8.1.8. Establish trail design standards and identify specific funding sources for trails as part of future transportation system planning efforts to ensure development of identified priority rural trail segments and bicycle routes.

Policy 8.1.9. Explore creation of a County Parks and Recreation Department to increase the County's role in recreation and natural resource management and implement if deemed appropriate.

Policy 8.1.10. Support community efforts for acquisition and management of Skyline Forest as a community amenity.

Policy 8.1.11. Work with stakeholders to promote new recreational and tourist initiatives that maintain the integrity of the natural environment.



9

Economic Development





Opportunities, Challenges, and Considerations

Statewide Planning Goal 9 provides guidance on economic development for Oregon jurisdictions. This goal is intended to “provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” For Deschutes County, implementing Goal 9 is focused on ensuring opportunities for economic development, while protecting rural land uses.

In Deschutes County, several areas are designated for rural industrial and rural commercial activities to allow for activities such as manufacturing or resource processing. Additionally, unincorporated communities and rural service centers allow for limited commercial opportunities, including restaurants, services, and retail stores.


Economic development agencies in Central Oregon cite the tremendous natural resource access and amenities to be essential for drawing in new businesses and workers. As the County grows, childcare will continue to be challenge for rural residents along with access to high speed and reliable internet services.

A continued challenge for Deschutes County will be to balance adequate economic opportunity for rural residents, with protection of natural resource lands. Community members have expressed interest in providing for new and emerging economic opportunities through renewable energy development, including potential for biomass, solar, geothermal, and wind projects that may be compatible with rural uses.


Context

Deschutes County’s economy was initially built around farming and logging. As those sectors declined in the 20th century, recreation and tourism increased as people were drawn to the beauty and opportunities to recreate on public lands. Deschutes County’s high quality of life became a draw for employers and employees alike. In the 2000’s, the building sector boomed as new housing was built to meet both increased housing demand and the real estate speculation that followed. Housing prices rose so high that workforce housing became a limiting factor in economic growth. The period of strong growth ended with the national recession that began in late 2007, leading to falling housing prices and rising unemployment. The 2010’s and early 2020’s have proven to be another period of booming economic growth for Deschutes County, exacerbated by the COVID-19 pandemic and the dramatic increase in remote work.


Deschutes County's economy remains strong compared to Oregon as a whole, as shown in the statistics below.



\$74,082
Median Household Income
(\$70,084 in Oregon)

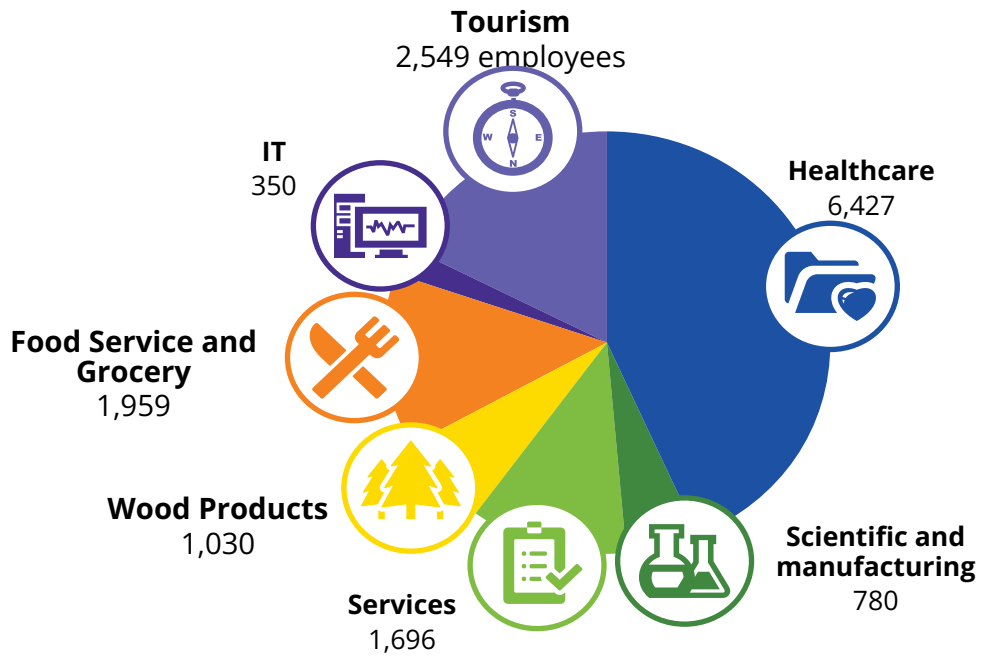


9.4%
of county population experiencing poverty
(12.1% in Oregon)



63.3%
of population in civilian workforce
(62.6% in Oregon)

2022 Central Oregon Largest Private Employers by Industry



2022 Central Oregon Largest Private Employers

Rank	Employees	Employer
1	4,509	St. Charles Health System regional
2	1,030	Bright Wood Corporation regional
3	1,000	Sunriver Resort 1,000 1,000 940
4	916	Les Schwab Headquarters & Tire Centers regional
5	894	Mt. Bachelor
6	714	Safeway regional
7	640	NC Fred Meyer regional
8	628	Summit Medical Group regional
9	605	McDonald's regional
10	440	Lonza, formerly Bend Research
11	415	Rosendin Electric
12	391	Mosaic Medical regional
13	375	Black Butte Ranch
14	365	ibex
15	350	Meta Platforms, Inc. - Facebook Data Center
16	340	BasX
17	336	PacificSource
18	296	High Lakes Health Care regional
19	280	Brasada Ranch
20	267	Medline ReNewal

Primary Industries

Deschutes County is known for its abundant natural resources, though the County continues to balance its economy through a variety of industries. The top 10 industries overall in Deschutes County (including those within urban areas) are:

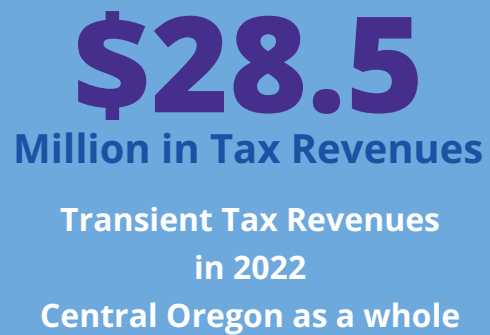
1. Trade, transportation, utilities (15,742 jobs)
2. Education/Health Services (13,479 jobs)
3. Goods-producing (13,169 jobs)
4. Leisure and hospitality (12,990 jobs)
5. Health care and social assistance (12,541 jobs)
6. Retail trade (11,714 jobs)
7. Accommodation and food services (10,718 jobs)
8. Professional/business services (10,067 jobs)
9. Food services/drinking places (8,304 jobs)
10. Local government (7,396 jobs)

Tourism

Tourism continues to be a major facet of Central Oregon’s economy, with approximately 4.5 million visitors entering Central Oregon each year. The majority of those visitors travel to Bend and Deschutes County in particular but other communities in the County also are popular destinations, including Sisters, Redmond and Terrebonne, as well as destination resort such as Sunriver, Eagle Crest, Pronghorn and others. In addition, recreational opportunities throughout the County also attract a multitude of visitors, from skiing on Mt. Bachelor, hiking in the Three Sisters Wilderness, and rafting the Deschutes River, to fishing, hunting and camping at dispersed sites on National Forest and BLM land throughout the County.



Tourism Impacts



Source: Oregon Travel Impacts, 2022 by Dean Runyan Associates for the Oregon Tourism Commission

Construction and Development

While much of the County's economic activity occurs in urban areas, staff notes that agricultural, forestry, and construction industries also provide economic growth in Deschutes County. Construction of rural housing can support additional workforce in areas outside of city limits while also utilizing local trade industries. Construction of rural industrial or commercial projects provide economic opportunities that serve rural communities, without a trip into an adjacent city.

Coordination

A key partner for the County in promoting a healthy economy is Economic Development for Central Oregon (EDCO). This private non-profit organization is dedicated to diversifying the tri-county regional economy by attracting new investment and jobs. This organization also tracks the local economy.

Between 2010 and 2013, Deschutes, Crook, and Jefferson counties, and their respective cities established a regional large lot industrial land need analysis, ultimately leading to changes to state law, OAR 660-024-0040 and 45. This rule provides that that the large lot industrial land need analysis agreed upon by all of the parties, once adopted by each of the participating governmental entities, would be sufficient to demonstrate a need for up to nine large industrial sites in Central Oregon. Six of the sites will be made available initially. Three more sites may be added under the rule as the original sites are occupied. Intergovernmental agreements were formed with the regions jurisdictions and Central Oregon Intergovernmental Council in 2013 to provide oversight of this new regional large lot industrial lands program. Participating local governments will review the program after all nine sites have been occupied, or after ten years, whichever comes first.

Connections to Other Comprehensive Plan Chapters

Much of the County's economic development activity is directly related to farmland (Chapter 3), forest land (Chapter 3), mineral and aggregate resources (Chapter 4), and natural resources (Chapter 5). Additional information can be found in these sections.

Key Community Considerations

As part of this comprehensive plan update, community members expressed the following:

- A recognition that tourism is an important industry in the County, but some concern that the interests of tourism-related activity play an outsized role in the County.
- Desire for a strong and diverse economy that benefits local residents.
- Strong interest in expanding access to childcare for rural residents, especially those who travel into incorporated cities for employment.
- Interest in exploring new economic opportunities including renewable energy development.
- Desire for additional educational and job training opportunities, including expansion of colleges and universities.



Economic Development Goals and Policies

Goal 9.1: Maintain a stable, and sustainable, and thriving rural economy, compatible with rural lifestyles and a healthy environment.

Policy 9.1.1. Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

Policy 9.1.2. Support a regional approach to economic development in concert with Economic Development for Central Oregon or and similar organizations.

Policy 9.1.3. Support growth and expansion of colleges and universities, regional educational facilities, and workforce training programs.

Policy 9.1.4. Support renewable energy generation as an important economic development initiative, while taking other community goals and concerns into consideration.

Policy 9.1.5. Support and participate in master planning for airports in Deschutes County, including expansion of noise impact boundaries and upgrades to facilities as airports continue to grow.

Policy 9.1.6. Within the parameters of State land use regulations, permit limited local-serving commercial uses in higher-density rural communities. Support limited and locally-serving commercial uses in appropriate locations.

Policy 9.1.7. Support expansion of high-speed internet in rural areas and integrate infrastructure such as fiber-optic cables into new development and road projects.

Policy 9.1.8. Support funding and development of childcare locations across the County to support families in the workforce.

Policy 9.1.9. Explore need for master planning for rural economic development lands, including Deschutes Junction.

Policy 9.1.10. Recognize the importance of maintaining a large-lot industrial land supply that is readily developable in Central Oregon, and support a multi-jurisdictional cooperative effort to designate these sites.

Goal 9.2: Support creation and continuation of rural commercial areas that support rural communities while not adversely affecting nearby agricultural and forest uses.

Policy 9.2.1. Allow for new Rural Commercial zoning designations if otherwise allowed by Oregon Revised Statute, Administrative Rule, and this Comprehensive Plan.

Policy 9.2.2. In Spring River there shall be a Limited Use Combining Zone.

Policy 9.2.3. Ensure new uses permitted on Rural Commercial lands do not adversely affect nearby agricultural and forest uses.

Policy 9.2.4. Ensure new commercial uses on Rural Commercial lands are limited to those intended to serve the surrounding rural area and/or the needs of the traveling public.

Policy 9.2.5. New commercial uses shall be limited in size to 2,500 square feet or if for an agricultural or forest-related use, 3,500 square feet.

Policy 9.2.6. A lawful use existing on or before November 5, 2002 that is not otherwise allowed in a Rural Commercial zone, may continue to exist subject to the county's nonconforming use regulations.

Policy 9.2.7.An existing lawful use may expand up to 25 percent of the total floor area existing on November 5, 2002.

Policy 9.2.8.The Rural Commercial zoning regulations shall allow a mixed use of residential or rural commercial uses.

Policy 9.2.9. Residential and commercial uses shall be served by DEQ approved on-site sewage disposal systems.

Policy 9.2.10. Residential and commercial uses shall be served by on-site wells or public water systems.

Policy 9.2.11. Community sewer systems, motels, hotels and industrial uses shall not be allowed.

Policy 9.2.12. Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted.

Goal 9.3: Support the creation and continuation of rural industrial areas that support rural communities while not adversely affecting nearby agricultural and forest uses.

Policy 9.3.1. Update the policies for lands designated Rural Industrial as needed to limit and control industrial uses through the use of the Rural Industrial designation and development standards.

Policy 9.3.2.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.

Policy 9.3.3.Limited Use Combining zones shall be applied to the Redmond Military (Tax lot 1513000000116), Deschutes Junction (Tax lot 161226C000301, Tax lot 161226C000300,

Tax lot 161226C000111 and Tax lot 161226A000203) to ensure permitted uses are compatible with surrounding farm and forest lands.

Policy 9.3.4. To ensure that the uses in Rural Industrial zone on tax lot 16-12-26C-301, as described in Exhibit "C" and depicted on Exhibit "D" attached to Ordinance 2009-007 and incorporated by reference herein, are limited in nature and scope, the Rural Industrial zoning on that site shall be subject to a Limited Use Combining Zone which will limit the uses to storage, crushing, processing, sale and distribution of minerals.

Policy 9.3.5. To ensure that the uses in Rural Industrial zone on tax lot 16-12-26C-301, as described in Exhibit "C" and depicted on Exhibit "D" attached to Ordinance 2009-007 and incorporated by reference herein, are limited in nature and scope, the Rural Industrial zoning on that site shall be subject to a Limited Use Combining Zone which will limit the uses to storage, crushing, processing, sale and distribution of minerals

Policy 9.3.6. To ensure that the uses in the Rural Industrial Zone on Tax Lot 300 on Assessor's Map 16-12-26C-300 and Tax Lot 203 on Assessor's Map 16-12-26A-300 and portions of Tax Lot 111 on Assessor's Map 16-12-26C-111 as described in Exhibit 'D' and depicted in Exhibit 'E' attached to Ordinance 2010-030 and incorporated by reference herein, are limited in nature and scope, the Rural Industrial zoning on the subject parcel shall be subject to a Limited Use Combining Zone, which will limit the uses to storage, crushing, processing, sale and distribution of minerals, subject to conditional use and site plan approval

Policy 9.3.7. Ensure new uses on Rural Industrial lands do not adversely affect nearby agricultural and forest uses.

Policy 9.3.8. A lawfully established use that existed on or before February 2, 2003 not otherwise allowed in a Rural Industrial zone may continue to exist subject to the county's non-conforming use regulations.

Policy 9.3.9. A lawfully established use that existed on or before February 2, 2003 may be expanded to occupy a maximum of 10,000 square feet of floor area or an additional 25 percent of the floor area currently occupied by the existing use, whichever is greater.

Policy 9.3.10. Ensure new uses on Rural Industrial lands are served by on-site sewage disposal systems approved by the Department of Environmental Quality (DEQ).

Policy 9.3.11. Residential and industrial uses shall be served by on-site wells or public water systems.

Policy 9.3.12. Community sewer systems shall not be allowed in Rural Industrial zones.

Policy 9.3.13. A 2009 exception (Ordinance 2009-007) included an irrevocably committed exception to Goal 3 and a reasons exception to Goal 14 to allow rural industrial use with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals.

Policy 9.3.14. A 2010 exception (Ordinance 2010-030) took a reasons exception to Goal 14 with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals.

Policy 9.3.15. Properties for which a property owner has demonstrated that Goals 3 and 4 do not apply may be considered for Rural Industrial designation as allowed by State Statute, Oregon Administrative rules and this Comprehensive Plan. Rural Industrial zoning shall be applied to a new property that is approved for the Rural Industrial Plan designation.

Rural Service Center Policies

Goal 9.4: Support the creation and continuation of rural service centers that support rural communities while not adversely affecting nearby agricultural and forest uses.

Policy 9.4.1. Rural Service Centers in Alfalfa, Brothers, Hampton, Wilstlestop, and Wildhunt are identified on the Comprehensive Plan Map and shall have zoning consistent with Comprehensive Plan designations.

Policy 9.4.2. In Alfalfa, the remaining 20 acres of the Rural Service Center will continue to be zoned Rural Service Center – Residential District, with a 5-acre minimum lot size. A zone change to mixed use commercial can be considered only for a specific use and upon findings that the existing commercial area is fully developed.

Policy 9.4.3. Ensure that land uses at Rural Service Centers do not adversely affect agricultural and forest uses in the surrounding areas.

Policy 9.4.4. Zoning in rural service areas shall promote the maintenance of the area's rural character. New commercial uses shall be limited to small-scale, low impact uses that are intended to serve the community and surrounding rural area or the travel needs of people passing through the area. The commercial/mixed use zoning regulations shall allow a mixed use of residential or small-scale commercial uses such as health and retail services.

Policy 9.4.5. Residential and commercial uses shall be served by DEQ approved on-site sewage disposal systems.

Policy 9.4.6. Residential and commercial uses shall be served by onsite wells or public water systems.

Policy 9.4.7. Community water systems, motels, hotels and industrial uses shall not be allowed.

Policy 9.4.8. Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted.



10

Housing





Opportunities, Challenges, and Considerations

Deschutes County faces a variety of housing demands, issues, and challenges. The County continues to be a desirable and attractive place to live, with access to jobs, recreation, beautiful natural landscapes, and a variety of other amenities. The County’s population is projected to continue to grow in the coming decades. At the same time, there are several challenges to the development of housing in the County. Some of the key issues the County faces today include increased demand for rural housing; housing affordability; state planning requirements related to Urban Growth Boundaries, farm and forest land, destination resorts, and others; water availability; and issues related to homelessness.

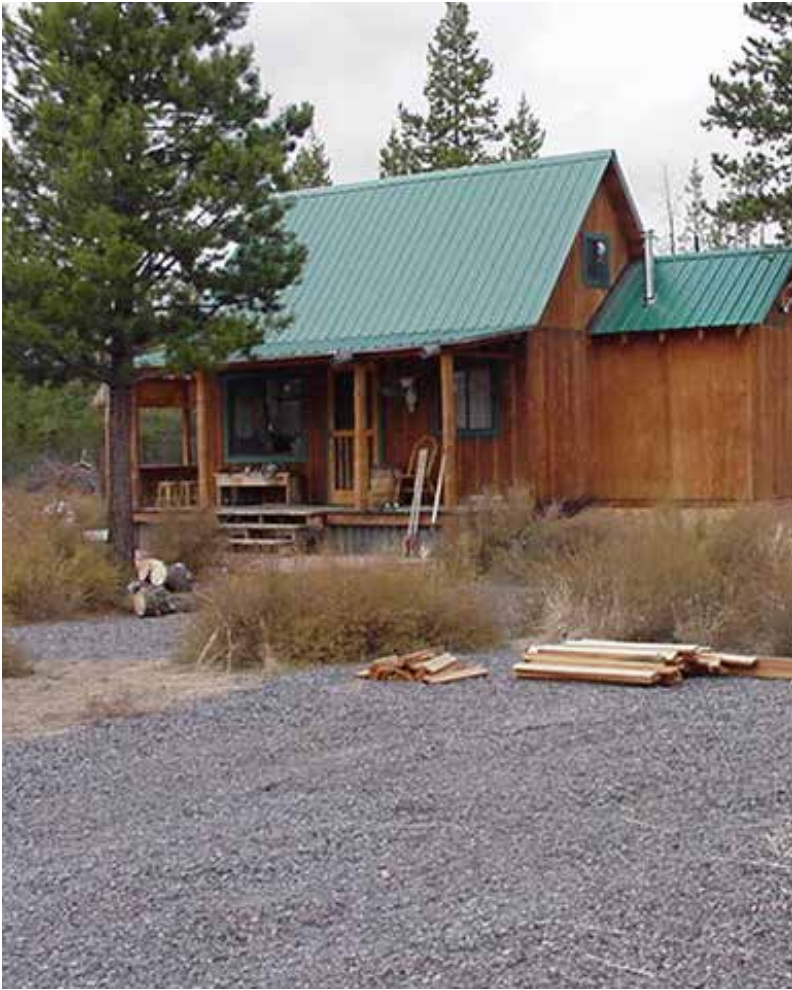
Context

PROJECTED POPULATION GROWTH IN UNINCORPORATED DESCHUTES COUNTY

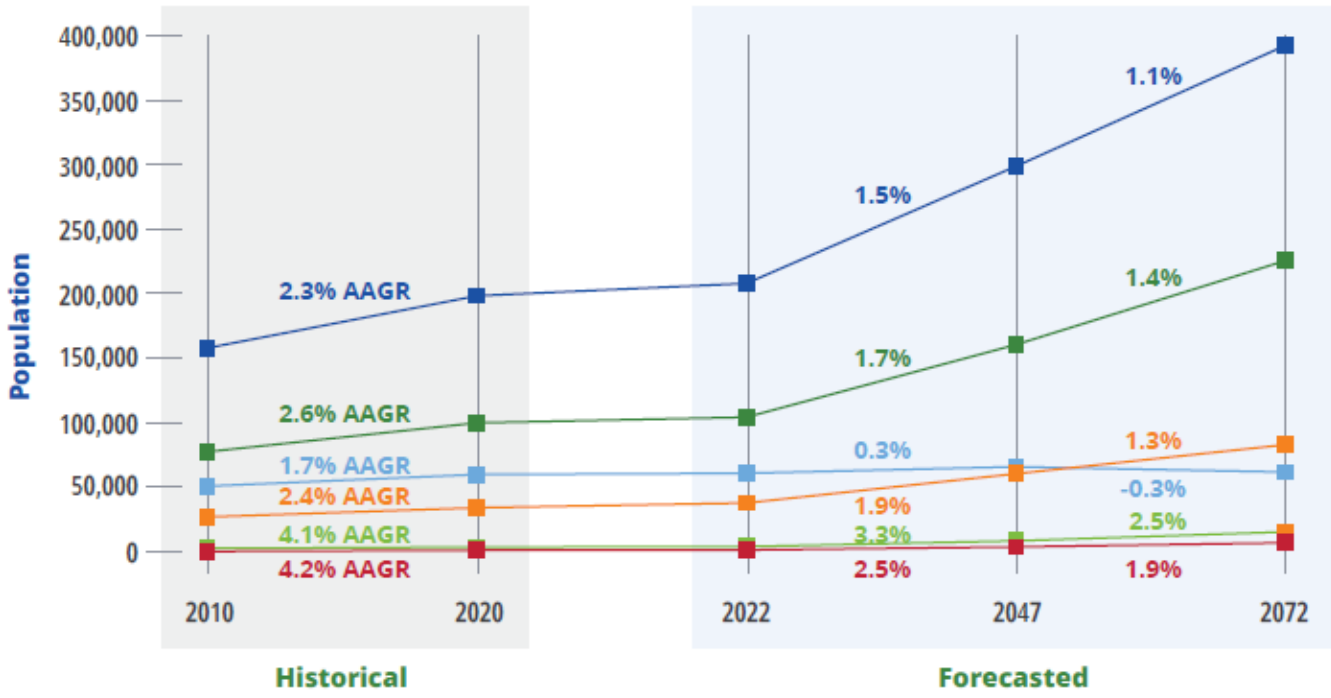
Deschutes County is one of the fastest growing counties in Oregon, and that trend is expected to continue. Significant growth is expected to occur in Deschutes County in the coming years (over 90,000 new residents in the next 25 years). However, the majority of this growth is forecasted to happen in urban areas with a more modest amount occurring in unincorporated parts of the County (about 5,000 additional people during the same period). (Source: Portland State University Population Research Center)

INCREASED DEMAND FOR RURAL HOUSING

Between 2010 and 2022, Deschutes County processed seven applications to rezone approximately 1,200 acres of property from a non-residential zone to a residential zone, with several more applications recently submitted and under review. Most of these applicants requested rezonings of farmland due to poor soil quality for farming. This trend is likely to continue.



Historical and Forecasted Population and Average Annual Growth Rate in Deschutes County and its Sub-Areas



HOUSING AFFORDABILITY

The median value of owner-occupied housing units in Deschutes County (including cities), is significantly higher than that of the State of Oregon (\$435,600 compared to \$362,200 according to 2017-2021 Census figures), and consistently increasing. In July 2023, Becon Appraisal Group reported an all-time high median home value for Bend area homes, in the amount of \$785,000. The same report estimated a median home price as \$694,000 for Sisters area homes, \$473,000 for Redmond area homes, and \$401,000 for La Pine area homes. Given that median income is generally on par with the state as a whole, high housing prices are likely an indicator of an inadequate supply of housing affordable to many residents of the Deschutes County, particularly those with low to moderate incomes.

STATE PLANNING REQUIREMENTS

Although Deschutes County has numerous prospects to expand residential development, some of these opportunities face challenges with respect to state rules and regulations. The Oregon land use system is designed to concentrate most growth within Urban Growth Boundaries. A variety of statewide planning goals, laws, and administrative rules designed to protect farm and forest land, regulate destination resorts, and ensure cost-effective provision of infrastructure limit where and how housing can be built outside of urban areas.

WATER AVAILABILITY AND CONSUMPTION

A growing demand for water for residential, business, recreation, and agricultural uses; changes in water table depth; allocation of water rights; and potential future changes in water supply related to climate change all may impact the availability of water to support new housing. Water resources are discussed in Chapter 5 in more detail.

Vacant Lots in Resort Areas

Resort Area	Number of Vacant Lots
Destination Resorts	
Caldera Springs	101
Eagle Crest	139
Pronghorn	285
Tetherow	200
Resort Communities	
Black Butte	27
In of the 7th Mountain/Widgi Creek	12
Urban Unincorporated Area	
Sunriver	118
Total Vacancies, Resort Areas	887

Vacant Lots in Rural Residential Areas

Rural Residential Areas	Number of Vacant Lots
Rural Residential Zones	
Rural Residential	2,139
Multiple use Agriculture	518
Suburban Low Density Rural Residential	32
Urban Area Reserve	292
Rural Communities	
Tumalo (TUR/TUR5)	32
Terrebonne (TER/TER5)	134
Total Vacancies, Rural Residential Areas	3,447

Future Opportunities for Rural Residential Lots

Rural Residential Areas	Count
Thornburgh Destination Resort	950
Caldera Springs Destination Resort Phase 2	340
West Side Transect	187
Tumalo Irrigation District Rezoned Parcel	72
Gopher Gulch (North of Bend)	10
Total Vacancies, Rural Residential Areas	1,559

HOMELESSNESS

The incidence and impacts of homelessness have been rising in Deschutes County, as well as across the state and nation in recent years. A variety of factors have contributed to this trend, including rising housing costs, increasing income disparities, and limited transitional housing and supportive resources. As a result, impacts on both urban areas and natural resources have increased, with elevated levels of community concern and support for more action by the County and its partners to address these issues.

BALANCING DEVELOPMENT OPPORTUNITIES WITH VISITOR ACCOMMODATIONS

Although population growth in unincorporated Deschutes County is forecasted to be relatively limited, rural parts of the County, including several destination resorts, include significant capacity for new residential development. Community members have expressed concern regarding the use of these homes as primary residences, second homes, or vacation rentals.

RECENT CHANGES IN COUNTY HOUSING RULES

The County has recently adopted and/or is currently considering new rules related to development and regulation of different types of housing. These include:

- Changes to where accessory dwelling units are allowed.
- Repeal of the County's "Conventional Housing Combining Zone" which prohibited manufactured homes in three large unincorporated areas east and west of Tumalo and east of Bend.

What type of housing is allowed in unincorporated Deschutes County?

Residential development in Deschutes County is less dense than the Cities of Bend, La Pine, Redmond and Sisters due to state land use rules. Single family homes are most common type of housing throughout the county in all zones. Recreational vehicles are allowed to be placed on property for temporary living situations or as medical hardship dwellings for family members but are not intended to be permanent living situations. Accessory Dwelling Units or ADUs, also known as “granny flats” or “carriage houses” are smaller secondary residences on a property. In 2021, the Oregon legislature passed Senate Bill 391 which allows for rural ADUs with certain parameters, and Deschutes County is currently in the process of implementing this legislation.

Key Community Considerations

Given the range of issues and conditions discussed related to this important topic, the Comprehensive Plan includes a variety of policies to guide future development of housing and address impacts to residents in rural areas. Additional related policies are found in Chapter 2 (Land Use) and Chapter 13 (Transportation). These strategies are underpinned by community sentiment, as described below.

- Some community members expressed support for allowing or encouraging growth in rural areas, particularly to alleviate housing pressure and provide larger-lot options. However, engagement showed greater opposition to residential development outside of Urban Growth Boundaries.
- Overall support for allowing a wider range of types of housing (e.g., accessory dwelling units, manufactured homes, recreational vehicles, etc.), but concerns about the quality of this housing and additional rural residential development in general.
- Concern about homelessness and its impacts, coupled with strong support for a proactive approach by the County to work with partner agencies and groups to address this issue.
- Relatively strong opposition for rezoning low productivity farmland with poor soil to allow greater opportunities for housing, due to negative impact on open space, habitat, transportation, and active farm practices.



Goals and Policies

Goal 10.1: Support housing opportunities and choices for rural County residents in unincorporated Deschutes County, while meeting health and safety concerns, minimizing environmental and resource land impacts.

Policy 10.1.1. Incorporate annual farm and forest housing reports into a wider system for tracking the cumulative impacts of rural housing development.

Policy 10.1.2. Continue to update the County zoning ordinance and work with partnering organizations to address health and safety issues associated with housing.

Policy 10.1.3. Encourage and/or require, where consistent with County policies and requirements, new subdivisions to incorporate alternative development patterns, such as cluster development, that mitigate community and environmental impacts.

Policy 10.1.4. Implement legislation allowing accessory dwelling units in rural areas to expand housing choices.

Policy 10.1.5. Create and encourage opportunities for flexibility in rural housing including development of manufactured home parks, safe parking sites, and RV parking areas.

Policy 10.1.6. Reduce barriers to housing development and supporting services (such as locally serving medical offices or similar uses) in unincorporated communities.

Policy 10.1.7. Explore grants and funding opportunities for ongoing maintenance and rehabilitation of existing housing stock.

Policy 10.1.8. Evaluate the impacts of short-term rentals and consider regulations to mitigate impacts, as appropriate.

Goal 10.2: Support agencies and non-profits that provide affordable housing.

Policy 10.2.1. Support Central Oregon Regional Housing Authority and other stakeholders to meet the housing needs of all Deschutes County residents by assisting, as needed, in coordinating and implementing housing assistance programs.

Policy 10.2.2. Utilize block grants and other funding to assist in providing and maintaining low- and moderate-income housing in partnership with Housing Works and other housing agencies and providers in Deschutes County.

Goal 10.3: Regulate the location and density of housing in the area located between the Bend UGB and Shevlin Park through Westside Transect policies

Policy 10.3.1. Protect the sensitive ecosystems and interrelationships of the urban/rural interface on the west side of Bend between the urban area and Shevlin Park and the public and forestlands to the west.

Policy 10.3.2. Protect natural resources and environmentally sensitive areas and provide special setbacks between development and Shevlin Park, Tumalo Creek, and forestlands.

Policy 10.3.3. Development patterns shall reflect the protection of land with environmental significance and fire-wise and other fire prevention community design best practices.

Policy 10.3.4. Limit residential development to 200 single-family residential lots.

Policy 10.3.5. Manage all areas outside of the structural building envelopes on residential lots for wildfire mitigation and wildlife habitat in accordance with coordinated plans prepared by professionals, reviewed annually with reports submitted to the County every three years. The wildfire mitigation and

wildlife habitat plans shall be funded through homeowner assessments and administered and enforced by a homeowners association established at the time of creation of any residential lots.

Policy 10.3.6. Reduce the impact of construction by using best management practices to minimize site disturbance during construction and construction impacts (i.e., erosion) on Shevlin Park, Tumalo Creek, and forestlands.

Policy 10.3.7. Coordinate with the City of Bend for mitigation of impacts to City infrastructure from development within the Transect.

Goal 10.4: Participate in regional efforts to plan for housing.

Policy 10.4.1. Collaborate with cities and private sector partners on innovative housing developments to meet the region’s housing needs.

Policy 10.4.2. Partner with cities to incentivize development within urban growth boundaries and reduce infrastructure costs for workforce and affordable housing.

Policy 10.4.3. Partner with local, state, and federal agencies to address and limit nuisance and public health issues related to homelessness.

Policy 10.4.4. Utilize County owned land in city limits for affordable and workforce housing, where appropriate.

Policy 10.4.5. Promote regional housing planning, including urban reserve planning for cities, to allow for longer term and multi-jurisdictional housing strategies.

Policy 10.4.6. Limit parcelization and development adjacent to cities or in conflict with planned and/or known road/utility corridors to preserve land for future urban development.



11

Unincorporated Communities and Destination Resorts





Opportunities, Challenges, and Considerations

Deschutes County is home to numerous unincorporated communities, which contain urban levels of development outside of city limits. Many of these communities provide services and amenities to rural residents. As the county continues to grow, many residents are concerned about increasingly dense development in these unincorporated areas which may feel out of scale with the surrounding rural uses. However, many residents also see the need for more opportunities for small-scale rural services and retail opportunities to serve existing and future community members. Deschutes County will need to continue to refine the vision and guidelines for development in these areas while balancing infrastructure needs, protection of natural resources and rural land uses, and community desires.

In addition to these unincorporated communities, Destination Resorts are another form of development outside of urban areas. In recent years, community members have expressed concern about the creation of new resorts for a variety of reasons. While Destination Resorts are an opportunity for economic development and housing in the rural County, many residents have expressed opposition to additional development of this type.

Context

Unincorporated Communities

Deschutes County's unincorporated communities generally pre-date Oregon's statewide land use system and have more urban-scale uses in out-lying rural areas, within a defined geographic boundary.

In 1994, Oregon Administrative Rules (OARs) were amended to define unincorporated communities and the types of uses that could be allowed in these areas. The OARs established

four types of unincorporated communities, all of which were required to be in existence at the time of the change - the Rule did not allow for new rural communities to be established. These community types are described below.

URBAN UNINCORPORATED COMMUNITY

This is a community which contains at least 150 permanent dwelling units, a mixture of land uses, and contains a community water and sewer system. Sunriver is an Urban Unincorporated community. One parcel just outside of the City of La Pine was mistakenly left outside of the City's urban growth boundary, and is technically under this classification as well.

RURAL COMMUNITY

This is a community which consists of permanent residential dwellings and at least two other types of land uses – such as commercial, industrial, or public uses provided to the community or travelers. Terrebonne and Tumalo are Rural Communities.

RESORT COMMUNITY

This type of community was established for a recreation-related use on private land prior to 1989 when the state adopted its Destination Resort rules. Black Butte Ranch and Inn of the 7th Mountain/Widgi Creek are Resort Communities. It's important to note that there are several other resort style developments in the County on private lands called "Destination Resorts." See the next section for more information.

RURAL SERVICE CENTER

This is an unincorporated community that has primarily commercial or industrial uses that provide goods and services to the surrounding rural area and travelers. These are the most common type of unincorporated community in Deschutes County and include Alfalfa, Brothers, Hampton, Millican, Whistlestop, and Wildhunt.

Destination Resorts

Since 1979 destination resorts have increased in importance to the economy of Deschutes County. In 1989, recognizing the importance of tourism to the economy of the State of Oregon, the state legislature and the Land Conservation and Development Commission (LCDC) took steps to make it easier to establish destination resorts on rural lands in the state. Statewide Planning Goal 8, the recreation goal, was amended to specify a process for locating destination resorts on rural land without taking an exception to Goals 3, 4, 11 and 14, which govern development in rural resource lands. Under these changes, destination resorts may be sited in EFU zones where they weren't previously allowed. In 1990, LCDC amended the rule for siting destination resorts on forest lands as well.

Eagle Crest Resort, although it had existed prior to these changes, applied for legislative changes to comply with these new rules and expand onto adjacent lands.

In 2010, Deschutes County completed an amendment to its destination resort

mapping process, adding "clear and objective" requirements for eligible and ineligible sites, and the process for amending the destination resort map based on changes in state law. Since that time, Pronghorn, Caldera Springs, and Tetherow resorts have gone through the siting process. Resorts existing prior to the legislative change, such as Black Butte, Sunriver, and the Inn of the Seventh Mountain have also expanded and been rezoned to Urban Unincorporated Community and Resort Community, respectively. Thornburgh Resort has received preliminary approvals, but has not yet broken ground.

Destination resorts are a key economic development strategy for Deschutes County. Many community members and visitors enjoy the recreational amenities and accommodations that Destination Resorts provide.



Key Community Considerations

Unincorporated Communities are limited in their development potential due to their specific geographic footprint. Protecting open space and natural resources while providing economic opportunities in these unincorporated areas continues to be a balancing act.

As additional rural development occurs, so does the demand for services and goods that can be reached without having to drive to an incorporated city. Aging residents have expressed a desire for additional medical care and offices in rural areas to support aging in place. On the other hand, many residents would prefer limiting development in unincorporated communities in order to preserve the rural of the area.

Destination Resort development continues to be a contentious issue. Community members have expressed concern regarding the water use of large-scale development – specifically the effects to groundwater for neighboring property owners. Other community members express support for the economic and amenity benefits of destination resorts, noting that the current requirements sufficiently address natural resource concerns. Additional community conversations will be valuable to understand the diversity of perspectives on this topic.



Goals and Policies

Resort Community Policies

General Resort Community Policies

Policy 11.1.1. Land use regulations shall conform to the requirements of OAR 660 Division 22 or any successor.

Policy 11.1.2. Designated open space and common area, unless otherwise zoned for development, shall remain undeveloped except for community amenities such as bike and pedestrian paths, park and picnic areas. Areas developed as golf courses shall remain available for that purpose or for open space/recreation uses.

Policy 11.1.3. The provisions of the Landscape Management Overlay Zone shall apply in Resort Communities where the zone exists along Century Drive, Highway 26 and the Deschutes River.

Policy 11.1.4. Residential minimum lot sizes and densities shall be determined by the capacity of the water and sewer facilities to accommodate existing and future development and growth.

Policy 11.1.5. The resort facility and resort recreation uses permitted in the zoning for Black Butte Ranch and the Inn of the Seventh Mountain/Widgi Creek shall serve the resort community.

Black Butte Ranch General Policies

Policy 11.2.1. County comprehensive plan policies and land use regulations shall ensure that new uses authorized within the Black Butte Ranch Resort Community do not adversely affect forest uses in the surrounding Forest Use Zones.

Policy 11.2.2. The County supports the design review standards administered by the Architectural Review Committee.

Policy 11.2.3. Residential, resort and utility uses shall continue to be developed in accordance with the Master Design for Black Butte Ranch and the respective Section Declarations.

Policy 11.2.4. Industrial activities, including surface mining, shall only occur in the area zoned Black Butte Ranch Surface Mining, Limited Use Combining District (Black Butte Ranch SM/LU) located in the northwest corner of Black Butte Ranch.

Policy 11.2.5. Employee housing shall be located in the area zoned Black Butte Ranch-Utility/Limited Use Combining District (Black Butte Ranch-U/LU).

Policy 11.2.6. Any amendment to the allowable use(s) in either the Resort Community District or the Limited Use Combining District shall require an exception in accordance with applicable statewide planning goal(s), OAR 660-04-018/022 and DCC 18.112 or any successor.

Policy 11.2.7. The westerly 38-acres zoned Black Butte Ranch Surface Mining, Limited Use Combining District (Black Butte Ranch SM/LU) shall be used for the mining and storage of aggregate resources. Uses that do not prevent the future mining of these resources, such as disposal of reclaimed effluent and woody debris disposal from thinning and other forest practices may be allowed concurrently. Other resort maintenance, operational and utility uses, such as a solid waste transfer station, maintenance facility or equipment storage may be allowed only after mining and reclamation have occurred.

Policy 11.2.8. The 18.5 acres zoned Black Butte Ranch-Utility/Limited Use Combining District (Black Butte Ranch-U/LU) may be used for the disposal of reclaimed sludge.

Policy 11.2.9. The area west of McCallister Road and east of the area zoned Black Butte Ranch may be used for large equipment storage, general storage, maintenance uses, RV storage, telephone communications, administration offices, housekeeping facilities and employee housing.

Policy 11.2.10. Employee housing shall be set back at least 250 feet from the eastern boundary of the area zoned Black Butte Ranch Surface Mining, Limited Use Combining District (Black Butte Ranch SM/LU).

Policy 11.2.11. Surface mining within the Black Butte Ranch community boundary shall adhere to the following Goal 5 ESEE "Program to Meet Goal" requirements:

- a. Only the western most 38 acres of the site shall continue to be mined.
- b. Setbacks shall be required for potential conflicting residential and other development. A minimum 50-foot setback shall be maintained from the perimeter of tax lot 202 for all surface mining activity.
- c. Noise impact shall be mitigated by buffering and screening.
- d. Hours of operation shall be limited to between 7:00 a.m. and 6:00 p.m. weekdays. No operations shall be allowed on weekends and holidays.
- e. Processing shall be limited to 45 days in any one year, to be negotiated with Deschutes County in the site plan process in consultation with the Oregon Department of Fish and Wildlife (ODFW).
- f. The conditions set forth in the August 10, 1989, letter of ODFW shall be adhered to.
- g. Extraction at the site shall be limited to five acres at a time with on-going incremental reclamation (subject to DOGAMI review and approval).

- h. Mining operations, siting of equipment, and trucking of product shall be conducted in such a manner that applicable DEQ standards are met and minimizes noise and dust.
- i. DOGAMI requirements for a permit once mining affects more than five acres outside the 8.6-acre exemption area shall be met.
- j. A conditional use permit shall be obtained from Deschutes County, under the provisions of section 18.128.280. Surface mining of resources exclusively for on-site personal, farm or forest use or maintenance of irrigation canals, before mining activity affects more than five acres outside the 8.6-acre exempt area.

Black Butte Ranch Public Facility Policies

Policy 11.3.1. Police protection services shall be provided by the Black Butte Ranch Police Services District.

Policy 11.3.2. The Black Butte Ranch Water Distribution Company and the Black Butte Ranch Corporation shall confirm the water and sewer service, respectively, can be provided for new uses or expansion of existing uses that require land use approval.

Policy 11.3.3. The Black Butte Ranch Water Distribution Company shall provide water service for the Black Butte Ranch Resort Community.

Policy 11.3.4. The Black Butte Ranch Corporation shall provide sewer service for Black Butte Ranch.

Policy 11.3.5. The Black Butte Ranch Fire Protection District shall provide fire protection services for Black Butte Ranch.

Policy 11.3.6. The roads and the bicycle/ pedestrian path system within the Black Butte Ranch Resort Community boundary shall be maintained by the Black Butte Ranch Owners Association.

Inn of the 7th Mountain Widgi Creek General Policies

Policy 11.4.1. Any amendment to the allowable uses in either the Resort Community District or the Widgi Creek Residential District shall require an exception in accordance with applicable statewide planning goal(s), OAR 660-04-018/022 or any successor, and DCC 18.112 or any successor.

Policy 11.4.2. The County shall encourage and support land exchanges efforts by and between private property owners, public agencies, and public trusts for the purpose of fostering public access to and protection of natural resources, such as rivers, streams, caves, areas/features of historical importance and other natural features.

Inn of the 7th Mountain/Widgi Creek Public Facility Policies

Policy 11.5.1. Police protection services shall be provided under contract with the Deschutes County Sheriff.

Policy 11.5.2. Water service shall be supplied by on-site wells for the Inn/Widgi Resort Community.

Policy 11.5.3. New uses or expansion of existing uses that require land use approval shall be approved only upon confirmation from the City of Bend that sewer service can be provided.

Policy 11.5.4. Fire protection services for the Inn/Widgi shall be provided through a contract with the City of Bend until such time as Inn/Widgi develops another plan to provide adequate fire protection.

Policy 11.5.5. The Resort Community, not Deschutes County, shall maintain roads in the community.

Policy 11.5.6. The bicycle/pedestrian path system shall be maintained by the Inn/Widgi Owners Association.

Policy 11.5.7. Emergency access between Widgi Creek and the Inn of the Seventh Mountain shall be provided in accordance with the approved development plan for the Elkai Woods town homes. The respective resort property owners shall maintain emergency access between the Inn and Widgi Creek

Policy 11.7.2. Ensure protection of water quality, recreational resources, and other County resources and values.

Policy 11.7.3. Ensure that destination resort developments support and implement strategies to provide workers with affordable housing options within or in close proximity to the resorts.

Policy 11.7.4. Mapping for destination resort siting.

a. To assure that resort development does not conflict with the objectives of other Statewide Planning Goals, destination resorts shall pursuant to Goal 8 not be sited in Deschutes County in the following areas:

- 1) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management of the resort;
- 2) On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the Soil Conservation Service or within three miles of farm land within a High-Value Crop Area;
- 3) On predominantly Cubic Foot Site Class 1 or 2 forest lands which are not subject to an approved Goal exception;
- 4) On areas protected as Goal 5 resources in an acknowledged comprehensive plan where all conflicting uses have been prohibited to protect the Goal 5 resource;

Destination Resorts Policies

Goal 11.6: Provide for development of destination resorts in the County in a manner that will be compatible with farm and forest uses, existing rural development, and in a manner that will maintain important natural features including habitat of threatened or endangered species, streams, rivers, and significant wetlands.

Policy 11.6.1. Provide a process for the siting of destination resorts facilities that enhance and diversify the recreational opportunities and economy of Deschutes County, on lands that have been mapped by Deschutes County as eligible for this purpose.

Goal 11.7: Provide for development of destination resorts consistent with Statewide Planning Goal 12 in a manner that will ensure the resorts are supported by adequate transportation facilities.

Policy 11.7.1. Destination resorts shall only be allowed within areas shown on the “Deschutes County Destination Resort Map” and when the resort complies with the requirements of Goal 8, ORS 197.435 to 197.467, and Deschutes County Code 18.113.

- 5) Especially sensitive big game habitat, and as listed below, as generally mapped by the Oregon Department of Fish and Wildlife in July 1984 and as further refined through development of comprehensive plan provisions implementing this requirement.
 - i. Tumalo deer winter range;
 - ii. Portion of the Metolius deer winter range;
 - iii. Antelope winter range east of Bend near Horse Ridge and Millican;
- 6) Sites less than 160 acres.
- b. To assure that resort development does not conflict with Oregon Revised Statute, destination resorts shall not be sited in Deschutes County in Areas of Critical State Concern.
- c. To assure that resort development does not conflict with the objectives of Deschutes County, destination resorts shall also not be located in the following areas:
 - 1) Sites listed below that are inventoried Goal 5 resources, shown on the Wildlife Combining Zone, that the County has chosen to protect:
 - i. Antelope Range near Horse Ridge and Millican;
 - ii. Elk Habitat Area; and
 - iii. Deer Winter Range;
 - 2) Wildlife Priority Area, identified on the 1999 ODFW map submitted to the South County Regional Problem Solving Group;
 - 3) Lands zoned Open Space and Conservation (OS&C);
 - 4) Lands zoned Forest Use 1 (F-1);
 - 5) Irrigated lands zoned Exclusive Farm Use (EFU) having 40 or greater contiguous acres in irrigation;
 - 6) 6. Non-contiguous EFU acres in the same ownership having 60 or greater irrigated acres;
 - 7) Farm or forest land within one mile outside of urban growth boundaries;
 - 8) Lands designated Urban Reserve Area under ORS 195.145;
 - 9) Platted subdivisions;
- d. For those lands not located in any of the areas designated in Policy 3.9.5(a) through (c), destination resorts may, pursuant to Goal 8, Oregon Revised Statute and Deschutes County zoning code, be sited in the following areas:
 - 1) Forest Use 2 (F-2), Multiple Use Agriculture (MUA-10), and Rural Residential (RR-10) zones;
 - 2) Unirrigated Exclusive Farm Use (EFU) land;
 - 3) Irrigated lands zoned EFU having less than 40 contiguous acres in irrigation;
 - 4) Non-contiguous irrigated EFU acres in the same ownership having less than 60 irrigated acres;
 - 5) All property within a subdivision for which cluster development approval was obtained prior to 1990, for which the original cluster development approval designated at least 50 percent of the development as open space and which was within the destination resort zone prior to the effective date of Ordinance 2010-024 shall remain on the eligibility map;
 - 6) Minimum site of 160 contiguous acres or greater under one or multiple ownerships;

- e. The County shall adopt a map showing where destination resorts can be located in the County. Such map shall become part of the Comprehensive Plan and Zoning Ordinance and shall be an overlay zone designated Destination Resort (DR).

Policy 11.7.5. Ordinance Provisions

- a. The County shall ensure that destination resorts are compatible with the site and adjacent land uses through enactment of land use regulations that, at a minimum, provide for the following:
 - 1) Maintenance of important natural features, including habitat of threatened or endangered species, streams, rivers, and significant wetlands; maintenance of riparian vegetation within 100 feet of streams, rivers and significant wetlands; and
 - 2) Location and design of improvements and activities in a manner that will avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on intensive farming operations in the area and on the rural transportation system. In order to adequately assess the effect on the transportation system, notice and the opportunity for comment shall be provided to the relevant road authority.
 - 3) Such regulations may allow for alterations to important natural features, including placement of structures, provided that the overall values of the feature are maintained.
- b. Minimum measures to assure that design and placement of improvements and activities will avoid or minimize the adverse effects noted in Policy 3.9.4(a) shall include:

- 1) The establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fenced, berms, landscaped areas, and other similar types of buffers.
- 2) Setbacks of structures and other improvements from adjacent land uses.
- c. The County may adopt additional land use restrictions to ensure that proposed destination resorts are compatible with the environmental capabilities of the site and surrounding land uses.
- d. Uses in destination resorts shall be limited to visitor- oriented accommodations, overnight lodgings, developed recreational facilities, commercial uses limited to types and levels necessary to meet the needs of visitors to the resort, and uses consistent with preservation and maintenance of open space.
- e. The zoning ordinance shall include measures that assure that developed recreational facilities, visitor-oriented accommodations and key facilities intended to serve the entire development are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilitated intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.

SUNRIVER POLICIES

General Sunriver Policies

Policy 11.8.1. Land use regulations shall conform to the requirements of OAR 660 Division 22 or any successor.

Policy 11.8.2. County comprehensive plan policies and land use regulations shall ensure that new uses authorized within the Sunriver Urban Unincorporated Community do not adversely affect forest uses in the surrounding Forest Use Zones.

Policy 11.8.3. To protect scenic views and riparian habitat within the community, appropriate setbacks shall be required for all structures built on properties with frontage along the Deschutes River.

Policy 11.8.4. Open space and common area, unless otherwise zoned for development, shall remain undeveloped except for community amenities such as bike and pedestrian paths, and parks and picnic areas.

Policy 11.8.5. Public access to the Deschutes River shall be preserved.

Policy 11.8.6. The County supports the design review standards administered by the Sunriver Owners Association.

Sunriver Residential District Policies

Policy 11.9.1. Areas designated residential on the comprehensive plan map shall be developed with single family or multiple family residential housing.

Sunriver Commercial District Policies

Policy 11.10.1. Small-scale, low-impact commercial uses shall be developed in conformance with the requirements of OAR Chapter 660, Division 22. Larger, more intense commercial uses shall be permitted if they are intended to serve the community, the surrounding rural area and the travel needs of people passing through the area.

Policy 11.10.2. No additional land shall be designated Commercial until the next periodic review.

Policy 11.10.3. Multiple-family residences and residential units in commercial buildings shall be permitted in the commercial area for the purpose of providing housing which is adjacent to places of employment. Single-family residences shall not be permitted in commercial areas.

Policy 11.10.4. Approval standards for conditional uses in the commercial district shall take into consideration the impact of the proposed use on the nearby residential and commercial uses and the capacity of the transportation system and public facilities and services to serve the proposed use.

Sunriver Town Center District Policies

Policy 11.11.1. Small-scale, low-impact commercial uses shall be developed in conformance with the requirements of OAR Chapter 660, Division 22. Larger, more intense commercial uses shall be permitted if they are intended to serve the community, the surrounding rural area or the travel needs of people passing through the area.

Policy 11.11.2. Development standards in the town center district should encourage new development that is compatible with a town center style of development that serves as the commercial core of the Sunriver Urban Unincorporated Community. The following policies should guide development in the Town Center District in Sunriver:

- a. Combine a mixture of land uses that may include retail, offices, commercial services, residential housing and civic uses to create economic and social vitality and encourage pedestrian use through mixed use and stand alone residential buildings.
- b. Develop a commercial mixed-use area that is safe, comfortable and attractive to pedestrians.

- c. Encourage efficient land use by facilitating compact, high-density development that minimizes the amount of land that is needed for development.
- d. Provide both formal and informal community gathering places.
- e. Provide visitor accommodations and tourism amenities appropriate to Sunriver.
- f. Provide design flexibility to anticipate changes in the marketplace.
- g. Provide access and public places that encourage pedestrian and bicycle travel.
- h. Provide road and pedestrian connections to residential areas.
- i. Facilitate development (land use mix, density and design) that supports public transit where applicable.
- j. Develop a distinct character and quality design appropriate to Sunriver that will identify the Town Center as the centerpiece/focal point of the community.

Policy 11.11.3. Development within the Town Center (TC) District will be substantially more dense than development elsewhere in Sunriver. This increased density will require changes to existing topography and vegetation in the TC District to allow for screened, underground parking. The requirements of the County’s site plan ordinance shall be interpreted to reflect this fact.

Sunriver Resort District Policies

Policy 11.12.1. Areas designated resort on the comprehensive plan map shall be designated resort, resort marina, resort golf course, resort equestrian or resort nature center district on the zoning map to reflect a development pattern which is consistent with resort uses and activities.

Sunriver Business Park District Policies

Policy 11.13.1. A variety of commercial uses which support the needs of the community and surrounding rural area, and not uses solely intended to attract resort visitors, should be encouraged.

Policy 11.13.2. Allow small-scale, low-impact commercial uses in conformance with the requirements of OAR Chapter 660, Division 22. Larger more intense commercial uses shall be permitted if they are intended to serve the community, the surrounding rural area and the travel needs of people passing through the area.

Policy 11.13.3. Small-scale, low-impact industrial uses should be allowed in conformance with the requirements of OAR Chapter 660, Division 22.



Sunriver Community District Policies

Policy 11.14.1. Areas designated community on the comprehensive plan map shall be designated community general, community recreation, community limited or community neighborhood district on the zoning map to reflect a development pattern which is consistent community uses and activities.

Policy 11.14.2.Policy 11.9.2. Lands designated community shall be developed with uses which support all facets of community needs, be they those of year-round residents or part-time residents and tourists.

Policy 11.14.3.Policy 11.9.3. Development shall take into consideration the unique physical features of the community and be sensitive to the residential development within which the community areas are interspersed.

Sunriver Airport District Policies

Policy 11.15.1. Future development shall not result in structures or uses which, due to extreme height or attraction of birds, would pose a hazard to the operation of aircraft.

Policy 11.15.2. Future development should not allow uses which would result in large concentrations or gatherings of people in a single location.

Sunriver Utility District Policies

Policy 11.15.3. Lands designated utility shall allow for development of administrative offices, substations, storage/repair yards, distribution lines and similar amenities for services such as water, sewer, telephone, cable television and wireless telecommunications.

Sunriver Forest District Policies

Policy 11.16.1. Uses and development on property designated forest that are within the Sunriver Urban Unincorporated Community boundary shall be consistent with uses and development of other lands outside of the community boundary which are also designated forest on the Deschutes County comprehensive plan map.

Policy 11.16.2. Forest district property shall be used primarily for effluent storage ponds, spray irrigation of effluent, biosolids application and ancillary facilities necessary to meet Oregon Department of Environmental Quality sewage disposal regulations.

Policy 11.16.3. The development of resort, residential or non-forest commercial activities on Forest district lands shall be prohibited unless an exception to Goal 14 is taken.

Sunriver General Public Facility Policies

Policy 11.17.1. Residential minimum lot sizes and densities shall be determined by the capacity of the water and sewer facilities to accommodate existing and future development and growth.

Policy 11.17.2. New uses or expansion of existing uses within the Sunriver Urban Unincorporated Community which require land use approval shall be approved only upon confirmation from the Sunriver Utility Company that water and sewer service for such uses can be provided.

Policy 11.17.3. Expansion of the Sunriver Water LLC/Environmental/LLC Water and Sewer District outside of the historic Sunriver boundaries shall adequately address the impacts to services provided to existing property owners.

Sunriver Water Facility Policies

Policy 11.18.1. Water service shall continue to be provided by the Sunriver Utilities Company.

Sunriver Sewer Facility Policies

Policy 11.19.1. Sewer service shall continue to be provided by the Sunriver Utilities Company.

Sunriver Transportation System Maintenance Policies

Policy 11.20.1. Privately-maintained roads within the Sunriver Urban Unincorporated Community boundary shall continue to be maintained by the Sunriver Owners Association.

Policy 11.20.2. The bicycle/pedestrian path system in Sunriver shall continue to be maintained by the Sunriver Owners Association or as otherwise provided by a maintenance agreement.

Policy 11.20.3. The County will encourage the future expansion of bicycle/pedestrian paths within the Sunriver Urban Unincorporated Community boundary in an effort to provide an alternative to vehicular travel.

Policy 11.20.4. All public roads maintained by the County shall continue to be maintained by the County. Improvements to County maintained public roads shall occur as described the County Transportation System Plan.

12

Public Facilities



**DESCHUTES
COUNTY**



Opportunities, Challenges, and Considerations

Public facilities and services provide the basic infrastructure for urban and rural development. These systems include water and sewer systems, police and fire protection, health and social services, schools, and libraries. The transportation system is also a public facility – the County has developed and maintains a Transportation System Plan that is included as Appendix B.

These public services are provided by a variety of entities, each with their own jurisdiction, funding sources, and regulatory requirements. Overall, the provision of facilities and services is more efficient and cost-effective in urban areas than in rural development, where ratepayers may be few and far between. In some areas of the County, particularly east County, available services are limited due to lower population density and distance from urban centers. Many of the people who choose to reside there consider the limited availability of services and facilities as an acceptable tradeoff for a rural lifestyle.

Statewide Planning Goal 11, Public Facilities and Services and the associated Oregon Administrative Rule 660-011 specify that facilities and services should be appropriate for, but limited to, the needs and requirements of rural areas to be served. Public facility plans are not required (with some exceptions); in fact, Goal 11 and the associated rule set limits to the provision of sewers and water systems in rural areas, in order to limit rural growth.

There are several important issues relating to the provision of public facilities and services that this Comprehensive Plan addresses, including:

- Meeting the needs of county residents while supporting the protection of resource lands;
- Maintaining health, safety, and security throughout the county; and
- Cooperation among the various providers of public services.

Context

Deschutes County plays a role in ensuring that public facilities and services are planned for, however the facilities and services are often not provided by county government directly. The discussion below highlights who provides the services listed and how the County will manage development impacts on existing facilities and services.

County Facilities and Services

LAW ENFORCEMENT

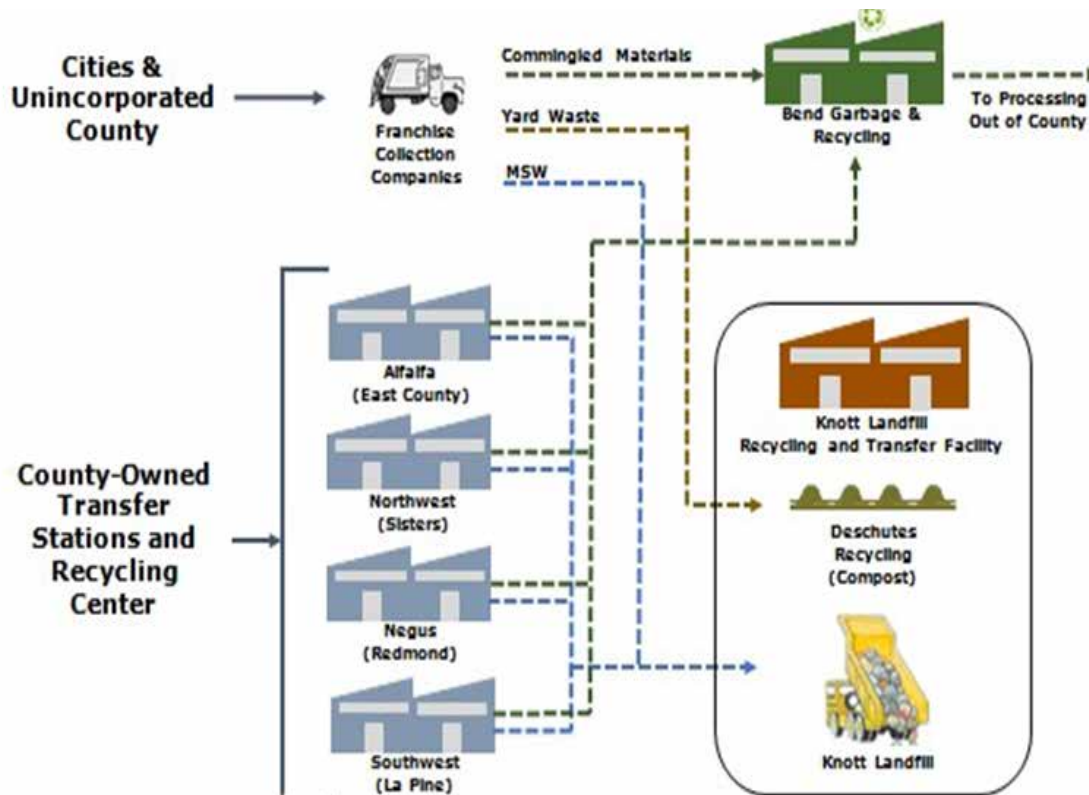
The Deschutes County Sheriff's Office is a full service organization providing patrol, traffic team, criminal investigations, corrections, civil and search and rescue. Special operations include a Marine Patrol, K-9 units, and Forest Patrol. The Sheriff is an elected public official who serves a four-year term. Housed within the Sheriff's office is the County's Emergency Management Unit, which coordinates the countywide response to natural hazards events.

SOLID WASTE

The County manages Knott Landfill Recycling and Transfer Station, which is the only landfill in Deschutes County. In addition to this, the department manages four additional transfer stations throughout the County which gather waste in convenient locations, before transferring to the Knott Landfill facility. Operations at the landfill include recycling, hazardous waste disposal, and composting. This landfill site is anticipated to remain open until 2029 at which time it is projected to reach maximum capacity.

The Deschutes County Solid Waste Department is currently undertaking a new landfill siting process, which is anticipated to be completed in 2024. In the future, the County will likely need to site additional facilities to support composting, recycling, and waste stream diversion facilities.

Deschutes County Solid Waste System, Source: Solid Waste Management Plan, 2019



COUNTY HEALTH DEPARTMENT

Deschutes County Health Services has a primary responsibility to help address the basic health and wellness of Deschutes County residents. The department offers services at more than 40 locations in Deschutes County including public schools; health clinics in Bend, La Pine, Redmond and Sisters; five school-based health clinics; agencies such as the KIDS Center and the State of Oregon Department of Human Services; area hospitals; care facilities and homes.

FAIRGROUNDS

The County maintains the County Fairgrounds and Expo Center. With panoramic views of the snow-capped Cascade range, the Deschutes County Fair and Expo Center is situated on the outskirts of Redmond just off of Hwy 97 and adjacent to the Redmond Municipal Airport. Due to its central location, the fairgrounds also serves as an emergency center. The fairgrounds hosts the annual County Fair and numerous other events throughout the year.

Other Agency Facilities and Services

Where other agencies provide facilities and services, the County coordinates with numerous other providers of facilities and services for the benefit of County residents. Where there are gaps in the coverage for specific areas, the County can work with providers to fill them. A selection of other agencies and entities are noted below.

CENTRAL OREGON INTERGOVERNMENTAL COUNCIL (COIC)

COIC began serving the residents and communities of Central Oregon in 1972 as a Council of Governments organized under ORS 190 by Crook, Deschutes and Jefferson Counties and Bend, Culver, Madras, Metolius, Prineville, Redmond and Sisters. COIC provides a wide variety of educational and economic development services such as workforce training, alternative high school education, business loans

and public transportation. COIC continues to evolve to meet the needs of Central Oregon.

COIC is governed by a 15-member board made up of elected officials who are appointed by each of the member governments as well as appointed representatives of key economic sectors – business and industry, tourism and recreation, agribusiness and agriculture, timber and wood products, and the unemployed/underemployed.

SCHOOL DISTRICTS

There are three school districts in Deschutes County:

- Bend-La Pine (SD 1),
- Redmond (SD 2J) and
- Sisters (SD 6).

Additionally, the Brothers Community School is owned and operated by Crook County School District (SD 15). The High Desert Education Service District (ESD) partners with the districts to provide support services such as special education, school improvement, administrative and legal services.

FIRE DISTRICTS

The following fire districts support rural residents: Bend Fire Department, Black Butte Ranch Rural Fire Protection District, Cloverdale Rural Fire Protection District, Crooked River Ranch Rural Fire Protection District, Deschutes County Rural Fire Protection District #1 and #2, La Pine Rural Fire Protection District, Sisters-Camp Sherman Rural Fire Protection District, and Sunriver Service District. Public lands are protected by federal agencies. There are some areas in Deschutes County that are not covered by a fire district. (See Chapter 7 for more on fire protection.)

IRRIGATION DISTRICTS

Irrigation districts in Oregon are organized as Special Districts under ORS Chapter 545. Six irrigation districts operate in Deschutes County: Arnold, Central Oregon, North Unit, Swalley, Tumalo, the Three Sisters Irrigation Districts. They are quasi-municipal corporations under Oregon Law, with prescribed rules for purpose, boards, elections, staffing, charges, etc. The districts operate as political subdivisions of the State of Oregon created for the purpose of delivering water to their patrons. In addition to irrigation uses, these districts also supply a number of other services, including municipal, industrial, and pond maintenance, warranting coordination with municipalities.

LIBRARIES

Deschutes Public Library has branches in Bend, Redmond, Sisters, La Pine and Sunriver. They also operate a bookmobile program that focuses on children and parenting books and a program for supplying books to homebound residents.

HIGHER EDUCATION

Deschutes County is home to Oregon State University Cascades Campus (Bend) and Central Oregon Community College (Bend and Redmond). These campuses are expected to grow significantly in the future.

SOIL AND WATER CONSERVATION DISTRICT

Soil and Water Conservation Districts are authorized by the State of Oregon to provide for the conservation of its soil and water resources. Working in cooperation with stakeholders, the districts address issues such as control and prevention of soil erosion, conservation and development of water resources, water quality, and wildlife preservation. The Deschutes Soil and Water Conservation District is a legally defined subdivision of the state government, but, like all soil and conservation districts, functions as a local unity led by a locally elected board of directors who serve without pay.

PUBLIC WATER SYSTEMS

Public Water Systems are defined as those that have more than three connections, supply water at least 60 days/year and are used by at least 10 persons/day. All water systems are regulated under the federal 1974 Safe Drinking Water Act and 1981 Oregon Drinking Water Quality Act. Public Water Systems serving over 3,300 people are overseen by the Oregon Department of Human Services Drinking Water Program. The County acts as a contractor for the Department of Human Services to monitor approximately 180 Public Water Systems. Some privately owned systems are, for various reasons, regulated by the Public Utility Commission, which sets rates and rules for public utilities.

Privately Owned Facilities and Services

UTILITIES

Electric

Electricity is provided by Pacific Power around Bend and Redmond. Central Electric Cooperative and Midstate Electric provide service in the rest of the County. Phone service is provided by Qwest and numerous cell phone providers. Cable is provided by Bend Cable and satellite providers. Internet access is provided by a variety of entities.

Hospitals

Cascade Healthcare Community manages two hospitals: St. Charles Bend and St. Charles Redmond. Additionally there are numerous health providers and clinics in the County.

Sewer Districts

Creating or expanding existing sewer systems outside an urban growth boundary or unincorporated community is governed by Statewide Goal 11 and OAR 660-011-0060. In order to protect rural areas from urban-style development, the rules regulate where and when rural sewers are appropriate. Some sewer districts, such as Oregon Water Wonderland Unit

2, have used the Statewide Goal 2 exception process to create or expand a sewer system.

INDIVIDUAL FACILITIES AND SERVICES

Private wells

Most rural properties are served by private wells that are approved and managed by the Oregon Water Resources Department. The County currently does not track the number of wells.

Individual septic systems

Most rural properties are served by septic systems that are approved by the Onsite Wastewater Division.

Key Community Considerations

The role that Deschutes County plays in the provision of public facilities and services was part of the community discussion during the update of this Comprehensive Plan. Highlights included:

- City governments currently own property outside of urban growth boundaries and within County jurisdiction. In some instances, these lands are used for water and wastewater treatment facilities. As the County continues to grow, additional facilities are likely to be needed, and coordination among jurisdictions regarding placement of these facilities will be key.
- Significant population growth will lead to an increase in solid waste, requiring at minimum the siting of a new landfill. Community members expressed a desire for consideration of livability among other factors when considering the placement of key public facilities.



Goals and Policies

Goal 12.1: Support the orderly, efficient, and cost-effective siting of rural public facilities and services.

Policy 12.1.1. Encourage and support the formation of special service districts to serve the need for public facilities in rural areas.

Policy 12.1.2. Encourage and support planning for and acquisition of sites needed for public facilities, such as transportation, water, and wastewater facilities.

Policy 12.1.3. Support the siting of community health clinics, hospitals, and private medical practices to serve rural residents throughout the County.

Policy 12.1.4. Continue to support the County Fairgrounds as a community gathering place, event facility and home to the annual County Fair.

Policy 12.1.5. Maintain the County Fairgrounds as an emergency readiness location and staging area in the event of a Cascadia Subduction Zone earthquake or other large disaster.

Policy 12.1.6. Prior to disposing of County-owned property, consider whether the land is appropriate for needed public projects such as schools, health clinics, fire stations, senior centers, or affordable housing.

Policy 12.1.7. Coordinate with rural service districts and providers to review development proposals.

Policy 12.1.8. Use the land use entitlement process to ensure new development addresses and mitigates impacts on existing and planned public facilities.

Policy 12.1.9. Support education districts, library districts and recreation districts in meeting community needs, such as meeting spaces.

Policy 12.1.10. Where practicable, locate utility lines and facilities within or adjacent to existing rights-of-way to avoid dividing farm or forest lands.

Policy 12.1.11. Use the development code to mitigate visual and other impacts of public facilities and cell towers.

Policy 12.1.12. Use the Comprehensive Plan and Development Code to guide rural development in a manner that supports the orderly and cost-efficient provision of public facilities and services.

Policy 12.1.13. Support siting and development of city owned water and wastewater facilities on rural lands, including innovative facilities that include additional community amenities.

Goal 12.2: Pursue sustainable, innovative, and cost-effective waste management practices.

Policy 12.2.1. Allow for siting of waste management facilities on rural lands, including but not limited to landfill facilities, transfer stations, organics management facilities, material recovery facilities, and recycling modernization facilities, in a manner that is sensitive to environmental and community concerns.

Policy 12.2.2. Provide incentives, education, and resources to promote reuse and recycling of construction waste.

Policy 12.2.3. Encourage waste reduction through community education and partnerships with community groups such as the Environmental Center

Policy 12.2.4. Support the creation of a landfill overlay zone.

Goal 12.3: Serve as a conduit for countywide resources.

Policy 12.3.1. Provide resources to connect community members with a variety of housing and health related issues in Deschutes County

13

Transportation





The Deschutes County transportation system includes roadways, bicycle facilities, pedestrian facilities, and transit facilities, as well as rail, air, marine, and pipeline systems. In general, the County only owns, manages, and maintains facilities in the unincorporated portions of the County. Facilities within the Urban Growth Boundaries of the incorporated cities of Bend, Redmond, Sisters, and La Pine are managed and maintained by those cities. In addition, the Oregon Department of Transportation (ODOT) owns and maintains a number of state highways throughout the County.

Information about existing conditions, planned investments, and policies related to transportation are contained in the Deschutes County Transportation System Plan (TSP), which is adopted as Appendix B of this Comprehensive Plan.

14

Energy



Opportunities, Challenges, and Considerations

The amount, source, and distribution of energy used in Deschutes County is a fundamental component of how we live our lives, and it is influenced by land use and other decisions made at the County level. The State of Oregon requires land uses to be managed with an eye to their energy impacts.

Statewide Planning Goal 13

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.



In Deschutes County, the key energy issues include:

- Community design in more urban areas to limit the need for large vehicles (generally powered with fossil fuel) for everyday tasks.
- Generating, transporting, and storing energy locally from a variety of sources, and managing the impacts of these facilities.
- Conservation of energy through building design and orientation, the use of energy-efficient technologies, and incentives/regulations/education to encourage others to do so.

Deschutes County coordinates with utility providers that serve the area, including:

- Central Electric Cooperative
- Midstate Electric Cooperative
- Pacific Power (PacifiCorps)
- Cascades Natural Gas

Context

The role of Deschutes County in planning for energy is addressed in more detail below.

SOLAR ORIENTATION

The solar orientation of structures can create significant energy savings and allows for photovoltaic energy generation. The County has long promoted energy conservation through a passive solar code that requires new structures to be sited so that they do not block the sun from falling on adjacent properties.

SITING LARGE-SCALE ENERGY FACILITIES

In general, cities and counties have siting authority over energy projects below a certain size or generating capacity. This includes individual projects powering or supplementing homes and businesses or small commercial projects which produce energy for sale. Larger facilities are regulated by the Oregon Energy Facility Siting Council. The thresholds for Siting Council jurisdiction are determined by the Legislature and are defined in Oregon Revised Statutes (ORS) 469.300. The Siting Council does not regulate hydroelectric development. Instead, the Oregon Water Resources Commission has the authority to issue licenses for hydroelectric development.

Deschutes County currently has five developed large-scale energy facilities, primarily located on the eastern side of the County, approved between 2015-2017. In 2018, the Department of Land Conservation and Development altered statewide rules related to these types of large-scale energy facilities on high value farmland, limiting development opportunities in parts of the County. Community members have expressed concern regarding impacts of these facilities on wildlife habitat and aesthetics.

In addition to solar, several irrigation districts have developed in conduit hydroelectric facilities in which existing canals are upgraded with equipment for power generation. Three of these facilities currently exist, two of which are owned

and operated by Central Oregon Irrigation District, and the third owned and operated by Three Sisters Irrigation District.

SMALL-SCALE RESIDENTIAL, BUSINESS, AND COMMERCIAL ENERGY GENERATION

The State oversees construction and approval of large commercial energy facilities, as noted above. However, there is a role for local governments to oversee smaller commercial projects. Commercial energy generation is considerably more complex than permitting small projects for homes and businesses. From a land use perspective, the scale, extended time frame, investment required and required off-site components all complicate the approval process. For example, to move the electricity generated at an alternative energy facility to market there is often a need for approval of roads, transmission lines or substations. The accessory facilities may or may not be in place at the same site as the main facility, but are an integral part of the project and are currently reviewed separately, based on State regulations.

Wind Energy Generation

As shown in the following figure, wind energy is most abundant in the eastern portion of Deschutes County.

Potential impacts of this type of facility include temporary construction impacts, habitat loss and animal fatalities due to collision with turbines, visual impacts from towers and accessory structures, and noise. Deschutes County regulates small scale wind energy development generating less than 100 kilowatts of power. This allowance was added to the Deschutes County Code in 2010, although since that time no applications have been received to establish this type of facility.

Solar Energy Generation

The following figure gives a broad sense of where in the US solar irradiance is highest, and therefore where solar generation will be most efficient. Deschutes County is generally favorable to solar generation.

Potential impacts of this type of facility include temporary construction impacts, habitat loss, animal fatalities due to reflected sunlight (for some solar facilities), and visual impacts. As noted previously, the Department of Land Conservation and Development amended its rules in 2018 to limit solar development on high value farmland. Typically, solar developments require large acreage and relatively flat terrain for their operations. This requirement is a limiting factor in Deschutes County, as many of the properties that would meet large acreage and terrain requirements are actively used for farming purposes. The Bureau of Land Management is exploring an amendment to its rules to allow for greater opportunity for solar development in the western United States. The County anticipates limited solar development on private land going forward and an increase of leased BLM land for this type of development in the future.

Commercial Biomass

Commercial biomass uses organic material such as wood, agricultural waste or crop residues to power boilers to generate heat. According to the Oregon Forest Resources Institute an estimated 4.25 million acres (about 15% of Oregon’s forestland) have the potential to provide useful woody biomass through thinning to reduce the risk of uncharacteristic forest fires.

Potential impacts include temporary construction impacts, transportation impacts (as materials need to be transported to a central location), visual impacts, and air quality and climate impacts due to combustion of biofuels.

The County’s first biomass facility is under construction through a partnership with the Deschutes National Forest and Mt. Bachelor Ski Resort. The project is located on federal land and outside of the purview of Deschutes County regulations.

Geothermal Energy Generation

Geothermal energy is a form of renewable energy derived from heat in the earth. This heat is transferred to water through various means and the steam produced is used to produce electricity. Geothermal energy is dependent on the location of geothermal resources; central Oregon may contain some of the best prospects for geothermal exploration in the continental United States.

Potential impacts include construction and visual impacts of geothermal facilities.

Deschutes County regulates geothermal energy in accordance with state law, although no geothermal development projects have been proposed to date.

Hydroelectric Energy Generation

Currently, Deschutes County has three approved “in conduit” hydroelectric facilities that are owned and operated by irrigation districts within existing irrigation district canals. Approval of these facilities have previously been contentious, with community members expressing concern about wildlife and impacts to other basin users. Irrigation districts have noted challenges in utilizing the existing county code for these projects, which were drafted to address “in channel” hydroelectric facilities. To promote renewable energy development using man-made waterways, irrigation districts have expressed interest in helping the County update the Deschutes County Code to more appropriately address “in conduit” hydroelectric facilities separate and apart from “in-channel” hydroelectric facilities”.

Key Community Considerations

Community discussions related to energy have revolved around the following topics:

- Interest in planning for and adapting to climate change, including using more renewable energy sources.
- Concern about the design and location of energy facilities and their impacts on environmental resources and scenic views.
- Preparation for more use of electric vehicles in the future, which often require specialized charging infrastructure.

Goals and Policies

Goal 14.1: Promote Energy Conservation and Alternative Energy Production

Policy 14.1.1. Continue to incorporate energy conservation into the building and management of all County operations and capital projects using regular energy audits to refine the results.

Policy 14.1.2. Reduce energy demand by supporting energy efficiency in all sectors of the economy.

Policy 14.1.3. Encourage energy suppliers to explore innovative alternative energy conservation technologies and provide energy audits and incentives to patrons.

Policy 14.1.4. Provide flexibility and exemptions for small properties and anomalous sites in the development code to promote energy conservation. Promote affordable, efficient, reliable, and environmentally sound commercial energy systems for individual homes, and business consumers.

Policy 14.1.5. Promote development of solar, hydropower, wind, geothermal, biomass and other alternative energy systems while mitigating impacts on neighboring properties and the natural environment.

Policy 14.1.6. Provide incentives for homes and businesses to install small-scale on-site alternative energy systems consistent with adopted County financing programs.

Policy 14.1.7. Support development of electric vehicle charging stations and facilities to help promote use of electric vehicles.

Policy 14.1.8. Use the development code to promote commercial renewable energy projects while addressing and mitigating impacts on the community and natural environment.

Policy 14.1.9. Use Oregon’s Rural Renewable Energy Development Zones to support the creation of renewable energy projects.

Policy 14.1.10. Identify, protect, and support the development of significant renewable energy sites and resources.

Policy 14.1.11. Include evaluation of adverse impacts to natural resources as part of renewable energy siting processes.



Appendix A - Terrebonne Community Plan

Appendix B - Tumalo Community Plan

Appendix C - Transportation System Plan

Appendix D - Newberry Country Plan

Appendix E - Goal 5 Supplemental Sections

Section 5.1 Introduction

Background

This chapter provides material that supplements the other chapters of the Plan. There are no goals or policies in these sections.

Purpose

The purpose of this chapter is to provide a glossary, list all acknowledged Goal 5 resources in one location (see Section 2.4) and list all Goal Exceptions and Goal 5 inventories. The final section in this Chapter is a table to track all amendments to this Plan. This table will ensure a clear legislative history is maintained.

The following information is covered in this chapter:

- Glossary and Acronyms
- Goal 5 Water Resources
- Goal 5 Wildlife Resources
- Goal 5 Open Space and Scenic Views and Sites Resources
- Goal 5 Energy Resources
- Goal 5 Wilderness, Natural Areas and Recreation Trails
- Goal 5 Surface Mining Resources
- Goal 5 Cultural and Historic Resources
- Goal Exception Statements
- Goal 5 Adopted Ordinances
- Ordinance History

Section 5.2 Glossary and Acronyms

Glossary

Note: Terms defined in Deschutes County Code 18.04 (Zoning Code) are not repeated here, but have the same meaning as DCC 18.04.

“Agricultural-tourism” or “Agri-tourism” means a commercial enterprise at a working farm or ranch, operated in conjunction with the primary farm or ranch use, conducted for the enjoyment and/or education of visitors, that promotes successful agriculture, generates supplemental income for the owner and complies with Oregon Statute and Rule.

“Aquifer” means a water-bearing rock, rock formation or a group of formations.

“Common Area” means ‘common property’ as defined in the Oregon Planned Communities Act at ORS 94.550(7).

“Comprehensive Plan” means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water, transportation, educational and recreational systems and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “Generalized” means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semi-public and private agencies and the citizens have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

“Conservation” means limiting or minimizing the use or depletion of natural resources, including such things as land, energy, water or wildlife habitat.

“Ecosystem” means the physical and biological components and processes occurring in a given area, which interact to create a dynamic equilibrium.

“Findings” means a fact, determination or reason, based on existing information, which, by itself or in conjunction with other findings, leads to a particular conclusion or course of action.

“Goal Exception” means a land use process through which a local jurisdiction justifies, based on factual evidence, that a policy embodied in a particular statewide planning goal should not apply to a particular property or set of properties.

“Green infrastructure” means design and construction practices that significantly reduce the negative impacts of buildings on the environment and occupants.

“Groundwater” means water beneath the earth's surface between saturated soil and rock that supplies wells and springs.

“Habitat” means a place that provides seasonal or year-round food, water, shelter and other necessities for an organism, community or population of plants and animals.

"In-stream" as defined in ORS 537.332, means within the natural stream channel or lake bed or place where water naturally flows or occurs.

"Instream flow" means the minimum quantity of water necessary to support the public use requested by an agency.

"Post-acknowledgement plan amendment" means an amendment to an adopted and acknowledged Comprehensive Plan.

"Regional" is used in the context of projects and collaborative efforts with impacts beyond Deschutes County.

"Riparian (zone, habitat, or vegetation)" means of, or pertaining to, the bank of a river, or of a pond or small lake. Riparian habitat is riverbank vegetative cover and food for many wildlife species.

"Rural lands" means those lands outside recognized urban growth boundaries which are necessary and suitable for such uses as:

- A. Exclusive farm use;
- B. General agriculture;
- C. Forest;
- D. Rural residential;
- E. Rural service center;
- F. Destination resort, dude ranch, planned community;
- G. Landscape management;
- H. Special interest;
- I. Open space;
- J. Fish and wildlife protective area;
- K. Recreation;
- L. Surface mining.

"Special District" means any unit of local government, other than a city or county, authorized and regulated by statute, which includes but is not limited to water control, irrigation, port districts, fire, hospital, mass transit and sanitary districts, as well as regional air quality control authorities.

"Statewide Planning Goals" means the 19 statewide planning standards adopted by the Land Conservation and Development Commission pursuant to OAR 660-015 to express Statewide policies on land use and related topics. Local comprehensive plans must be consistent with the statewide planning goals.

"Surface mining" means all or any part of the process of mining by removal of the overburden and extraction of natural mineral deposits.

"Urban Growth Boundary" (UGB) means a boundary established to identify for each city, the land area needed to accommodate 20 years of growth for the city, which is determined to be necessary and suitable for future urban uses capable of being served by urban facilities and services.

"Urbanized lands" means those lands within the urban growth boundaries which can be served by urban services and facilities and are necessary and suitable for future expansion of an urban area.

"Urban Reserve Area" means a boundary established to identify for each city, the land area needed to accommodate from 20-50 years of growth for the city.

Frequently Used Acronyms

"BLM" stands for Bureau of Land Management

"CCI" stands for Committee for Community Involvement "DCC" stands for Deschutes County Code

"DLCD" stands for Oregon Department of Land Conservation and Development. "DEQ" stands for Oregon Department of Environmental Quality

"DOGAMI" stands for Oregon Department of Geology and Mineral Industries "ESA" stands for the federal Endangered Species Act

"ESEE" stands for Economic, Social, Environmental and Energy in regards to required Goal 5 analyses

"FEMA" stands for Federal Emergency Management Agency

"LCDC" stands for Oregon Land Conservation and Development Commission "NOAA" stands for National Oceanic Atmospheric Administration

"OAR" stands for Oregon Administrative Rules

"ODFW" stands for Oregon Department of Fish and Wildlife "ORS" stands for Oregon Revised Statute

"OWRD" stands for Oregon Water Resources Department "RPS" stands for Regional Problem Solving

"TSP" stands for Transportation System Plan "UGB" stands for Urban Growth Boundary "URA" stands for Urban Reserve Area

"USFS" stands for United States Forest Service

"USFWS" stands for United States Fish and Wildlife Service "USGS" stands for United States Geological Survey

Section 5.3 Goal 5 Inventory - Water Resources

Background

This section contains information from the 1979 Deschutes County Comprehensive Plan as revised and the 1986 Deschutes County/City of Bend River Study. It lists the water resources in Deschutes County. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update.

Goal 5 requires the following water resources be inventoried and the inventories are listed below.

- Riparian corridors, including water and riparian areas and fish habitat
- Wetlands
- Federal Wild and Scenic Rivers
- State Scenic Waterways
- Groundwater Resources

Also included in these inventories are Significant Lakes and Reservoirs.

Riparian Corridors

INVENTORIES

Table 5.3.1 Deschutes County River Miles

Waterway	Miles
Deschutes River	97
Little Deschutes River	42
Whychus Creek (lower 6 miles in Jefferson County)	39
Tumalo Creek	16
Paulina Creek	10
Fall River	8
Crooked River	7

Source: Deschutes County/City of Bend River Study 1986

Table 5.3.2 Deschutes County Goal 5 Riparian Inventory

Streams	Riparian Acres
---------	----------------

Table 5.3.3 Deschutes County Goal 5 Floodplains Adjacent to Rivers and Streams

Deschutes River	Little Deschutes River
Crooked River	Spring River
Dry River	Paulina Creek
Indian Ford Creek	Long Prairie
Whychus Creek	

Source: 1979 Deschutes County Comprehensive Plan as revised and Federal Emergency Management Agency maps

Wetlands

Inventory: In 1992 Deschutes County Ordinance 92-045 adopted all wetlands identified on the U.S. Fish and Wildlife Service National Wetland Inventory Maps as the Deschutes County wetland inventory. Additionally, Deschutes County Ordinance 2011-008 adopted a Local Wetland Inventory (LWI) covering 18,937 acres in South Deschutes County.

Table 5.3.4 Deschutes County Goal 5 Perennial Streams

Bottle Creek	Full Creek	Spring Creek
Bridge Creek	Goose Creek	Three Creek
Brush Draw	Indian Ford Creek	SF Tumalo Creek
Bull Creek	Jack Creek	NF Whychus Creek
Cache Creek	Kaleetan Creek	Soda Crater Creek
Charlton Creek	Metolius Creek	NF Trout Creek
Cultus Creek	Park Creek EF	NF Tumalo Creek
Cultus River	Park Creek WF	MF Tumalo Creek
Deer Creek	Pole Creek	First Creek
Dry Creek	Rock Creek	Soap Creek
Fall Creek	Snow Creek	Todd Lake Creek

Note: All of these streams, except portions of Indian Ford Creek, Cache Creek and Dry Creek, are located on federal land and are subject to either the Deschutes National Forest or the Bureau of Land Management Resource Management Plans.

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.3.5 Deschutes County Riparian Ownership

<i>River or Stream</i>	<i>Ownership</i>
Deschutes River	Private/Federal
Little Deschutes River	Private/Federal
Fall River	Private/Federal
Tumalo Creek	Private/Federal
Three Creek	Private/Federal
Whychus Creek	Private/Federal
Trout Creek	Private/Federal
Dry Creek	Private/Federal
Cache Creek	Private/Federal
Indian Ford Creek	Private/Federal
Cultus River	Federal
Charlton Creek	Federal
Deer Creek	Federal
Cultus Creek	Federal
Quinn Creek	Federal
Fall Creek	Federal
Moore Creek	Federal

Source: 1979 Deschutes County Comprehensive Plan as revised

FEDERAL WILD AND SCENIC RIVERS

Inventory: The following segments of the Deschutes River have been designated as Federal Recreation and Scenic rivers by the passage of the 1988 Omnibus Oregon Wild and Scenic Rivers Act of 1988. Congress mandates the US Forest Service to prepare a management plan for these segments of the Deschutes River.

Table 5.3.6 Deschutes County Wild and Scenic River Segments

<i>Waterway</i>	<i>Description</i>
Deschutes River	From Wickiup Dam to Fall River (22 miles)
Deschutes River	Fall River to N boundary Sun River (20 miles)
Deschutes River	N boundary Sun River to Bend UGB (13 miles)
Whychus Creek (formerly Squaw Creek)	Includes all tributaries within the Three Sisters Wilderness, Soap Creek and the main stem from the wilderness boundary to the stream flow gauge station

Source: County Ordinance 92-052

Table 5.3.8 Deschutes County Significant Lakes and Reservoirs

<i>River or Stream</i>	<i>Township</i>	<i>Range</i>	<i>Section</i>
Bobby Lake	T 22S	R 06E	14
Charlton Lake	T 21S	R 06E	14
Crane Prairie Reservoir	T 21	R 08E	16
Cultus Lake	T 20S	R 07E	24
Deer Lake	T 20S	R 07E	
Devils Lake	T 18 S	R 08E	NW1/2 SEC. 10
Davis Lake	T 22S	R 07E	
East Lake	T 21S	R 13E	31
Elk Lake	T 18S/19S	R 07E	5
Hosmer Lake	T 19S	R 08E	4
Lava Lake	T 19S	R 08E	22
Little Cultus Lake	T 20S	R 07E	
Little Lava Lak	T 19S	R 08E	22
North Twin Lake	T 21S	R 08E	28
Paulina Lake	T 21S	R 12E	84
South Twin Lake	T 21S	R 08E	28
Sparks Lake	T 18S	R 08E	23
Three Creeks Lake	T 17S	R 09E	14
Todd Lake	T 18S	R 09E	8
Upper Tumalo Reservoir	T 16S	R 11E	33
Winopee Lake	T 19S	R 11E	33
Wickiup Reservoir	T 22S	R 09E	7

Source: Deschutes County Ordinance 92-052

scenic

surface

and

adjacent to
ed lakes and
nt.

Section 5.4 Goal 5 Inventory - Wildlife Habitat

Background

This section contains wildlife resource information from the 1979 Deschutes County Comprehensive Plan as revised. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update. However, an updated inventory has been provided as described in Section 2.6 of this Plan and will be incorporated at a later date.

Bird Sites

(source: 1979 Deschutes County Comprehensive Plan as revised)

Bald Eagle Habitat Sites on Non-Federal Land or with Non-Federal Sensitive Habitat Areas.

Site #	Taxlot	Quarter Section	Site Name
DE0035-00	15-10-00-1400	23NWNE	Cloverdale NW
DE0035-01	15-10-00-1400	23NENE	Cloverdale NE

Table 5.4.1 – Bird Inventory

Birds Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
American Avocet	S	F
American Bittern	S	F
American Coot	X	C
American Goldfinch	S	C
American Osprey	X	C
American Widgeon	X	C
Anna's Hummingbird	S	F
Ash-throated Flycatcher	S	F
Bald Eagle	X	F
Bank Swallow	S	F
Barn Owl	X	C
Barn Swallow	S	C
Barred Owl	X	U
Belted Kingfisher	X	F
Bewick's Wren	X	F
Black-backed Woodpecker	X	F
Black-billed Magpie	X	C
Black-capped Chickadee	W	F
Black-chinned Hummingbird	S	F
Black-crowned Night Heron	S	F
Black-headed Grosbeak	S	F
Black-throated Grey Warbler	S	F
Blue Grouse	X	F
Blue-winged Teal	S	F
Bohemian Waxwing	W	F
Boreal Owl	X	F
Brewer's Blackbird	X	C
Brewer's Sparrow	S	F
Brown Creeper	X	F

Birds Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
Brown-headed Cowbird	S	C
Bufflehead	X	C
Burrowing Owl	S	R
California Valley Quail	X	C
Calliope Hummingbird	S	F
Canada Goose	X	C
Canyon Wren	X	C
Caspian Tern	S	F
Cassin's Finch	X	C
Cedar Waxwing	X	C
Chipping Sparrow	S	C
Chukar Partridge	X	R
California Gull	X	C
Clark's Nutcracker	X	C
Cliff Swallow	S	C
Common Bushitit	X	C
Common Crow	X	R
Common Loon	S	R
Common Merganser	X	C
Common Nighthawk	S	C
Common Raven	X	C
Common Snipe	S	F
Coopers Hawk	X	C
Dark-eyed Junco	X	A
Dipper	X	F
Double-crested Cormorant	S	C
Downy Woodpecker	X	C
Dusky Flycatcher	S	F
Eared Grebe	W	F
Eastern Kingbird	S	F
Evening Grosbeak	X	C
Ferruginous Hawk	S	F
Flammulated Owl	S	F
Fox Sparrow	S	C
Franklin's Gull	S	F
Gadwall	W	F
Golden Eagle	X	F
Golden-crowned Kinglet	X	F
Goldeneye	X	C
Goshawk	X	F
Gray Jay	X	C
Gray Partridge	X	R
House Sparrow	X	C

Birds Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
House Wren	S	F
Killdeer	X	C
Lark Sparrow	S	F
Lazuli Benging	S	F
Least Sandpiper	S	F
Lesser Goldfinch	X	R
Lesser Scaup	W	C
Lewis' Woodpecker	S	F
Lincoln's Sparrow	X	F
Loggerhead Shrike	X	F
Long-billed Curlew	S	R
Long-billed Marsh Wren	S	F
Long-eared Owl	X	F
MacGillivray's Warbler	S	F
Mallard	X	C
Merlin	W	R
Mountain Bluebird	X	C
Mountain Chickadee	X	C
Mourning Dove	X	C
Nashville Warbler	X	F
Northern Harrier	X	F
Northern Oriole	S	F
Northern Phalarope	S	F
Three-toed Woodpecker	X	F
Olive-sided Flycatcher	S	C
Orange-crowned Warbler	S	F
Osprey	S	C
Peregrine Falcon	X	R
Pileated Woodpecker	X	F
Pine Grosbeak	X	R
Pine Siskin	X	C
Pinon Jay	X	C
Pintail	W	C
Prairie Falcon	X	C
Purple Finch	X	F
Pygmy Nuthatch	X	C
Pygmy Owl	X	F
Red Crossbill	X	F
Red-breasted Nuthatch	X	C
Redhead	W	F
Red-shafted Flicker	X	C
Red-tailed Hawk	X	C
Red-winged Blackbird	X	C

Birds Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
Ring-billed Gull	X	C
Ring-neck Duck	W	F
Ring-necked Pheasant	X	F
Robin	X	C
Rock Dove	X	C
Rock Wren	S	C
Rosy Finch	X	R
Rough-legged Hawk	W	C
Rough-winged Swallow	S	F
Ruby-crowned Kinglet	X	F
Ruffed Grouse	X	F
Rufous Hummingbird	S	F
Rufous-sided Towhee	X	F
Sage Grouse	X	F
Sage Sparrow	S	R
Sage Trasher	S	C
Sandhill Crane	S	F
Song Sparrow	X	F
Sora	S	F
Spotted Owl	X	F
Spotted Sandpiper	S	F
Starling	X	C
Steller's Jay	X	F
Swainson's Hawk	S	R
Swainson's Thrush	S	F
Townsend's Solitaire	X	C
Tree Swallow	S	C
Turkey	X	C
Turkey Vulture	S	C
Varied Thrush	X	F
Vaux's Swift	S	F
Vesper Sparrow	S	F
Violet-green Swallow	S	C
Virginia Rail	S	F
Warbling Vireo	S	F
Water Pipit	X	F
Western Bluebird	S	F
Western Flycatcher	S	F
Western Grebe	S	C
Western Kingbird	S	F
Western Meadowlark	S	C
Western Sandpiper	S	F
Western Taager	S	F

Birds Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
Western Wood Pewee	S	F
White-breasted Nuthatch	X	F
White-crowned Sparrow	S	F
White-headed Woodpecker	X	F
Wigeon	X	F
Williamson's Sapsucker	X	F
Willow Flycatcher	S	R
Wilson's Phalarope	S	R
Wilson's Warbler	S	F
Winter Wren	X	F
Wood Duck	S	F
Yellow Warbler	S	F
Yellow-bellied Sapsucker	X	F
Yellow-headed blackbird	S	F
Yellowthroat	S	F

Source: 1979 Deschutes County Comprehensive Plan as revised

The Oregon Department of Fish and Wildlife (ODFW) has identified two bald eagle nests in Township

Table 5.4.2 – Amphibian and Reptile Inventory

Amphibians and Reptiles Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
Bullfrog	X	F
Cascades Frog	X	F
N. Grasshopper Mouse	X	F
Northern Water Shrew	X	F
Norway Rat	X	F
N. Pocket Gopher	X	U
Ord's Kangaroo Rat	X	C
Pacific Mole	X	U
Pallid Bat	S	U
Pine Marten	X	C
Pinon Mouse	X	F
Porcupine	X	C
Pronghorn Antelope	X	C
Raccoon	X	C
Red Fox	X	F
River Otter	X	C
Rocky Mtn Elk	X	C
Roosevelt Elk	X	C
Sagebrush Vole	X	C

Amphibians and Reptiles Selected List 1992	Use Period S = Summer W = Winter X = Year round	Relative Abundance A = Abundant C = Common F = Few R = Rare U = Unknown
Shorttail Weasel	X	F
Silver-haired Bat	S	U
Small-footed Myotis	S	U
Snowshoe Hare	X	F
Striped Skunk	X	C
Townsend Ground Squirrel	X	C
Townsend's Big-eared Bat	X	F
Trowbridge Shrew	X	F
Vagrant Shrew	X	U
Water Vole	X	C
Western Gray Squirrel	X	C
Western Harvest Mouse	X	C
Western Jumping Mouse	X	F
Western Pipistrel	S	U
Whitetail Jackrabbit	X	R
Wolverine	X	R
Yellow Pine Chipmunk	X	C
Yellow-bellied Marmot	X	F
Yuma Myotis	X	F
Common Garter Snake	X	F
Ensatina	X	R
Gopher Snake	X	C
Great Basin Spadefoot Toad	X	F
Long-toed Salamander	X	F
Night Snake	X	U
Northern alligator Lizard	X	F
Pacific Tree Frog	X	C
Racer	X	F
Red-legged Frog	X	F
Roughskin Newt	X	R
Rubber Boa	X	F
Sagebrush Lizard	X	F
Sharp-tailed Snake	X	U
Short-horned Lizard	X	R
Side-blotched Lizard	X	U
Spotted Frog	X	F
Striped Whipsnake	X	U
Tailed Frog	X	F
Western Fence Lizard	X	C
Western Rattlesnake	X	F
Western Skink	X	F
Western Toad	X	F

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.3 – Goal 5 Fish Distribution Inventory

	Pacific Salmon	Coho Salmon	Rainbow Trout	Brown Trout	Cutthroat Trout	Brook Trout	Lake Trout	Dolly Varden Trout	Kokanee	Mountain Whitefish	Largemouth Bass	Bluegill	Brown Bullhead	Bridgip Sucker	Tui Chub	Gayling	Crayfish
Tyee Creek					2												
Hell Creek					2												
Spring River				2	2			1							2		1
Tumalo Creek			1		2												
Bridge Creek					2												
Fall Creek					2												
Satan Creek					2												
Soda Creek					2												
Crater Creek					2												
Goose Creek					2												
Indian Ford Creek			1		2								2				
Trout Creek			1														
Alder Creek			1														
Whychus Creek			1		2												
Pole Creek					2												
Snow Creek			1		2												
Deschutes River		3	*	2	2			3	1						2		1
Little Deschutes River			1	2	2				1			2			2		1
Park Creek					2												
Three Creeks Creek			3		3												
Sink Creek					2												
Deer Creek			1		2												
Quinn River			*		2			2	1						2		1
Quinn Creek	3				2												
Cultus Creek			*		2												
Cultus Lake, Big			3		2	2			1						2		1
Cultus Lake, Little			2		3												
Cultus River					2			2	1								
Moore Creek					2												
Charlton Creek					2												
Long Prairie Slough												2					2
Browns Creek			2	2	2			#	1								1
Fall River			*	2	2				1						2		1
Paulina Creek			3												2		1
Cache Creek			1														
Crane Prairie Res.			*		#			2	1	2					2		1
Wickiup Reservoir		3	3	#				#	1						2		1
Three Creeks Lake			3		3												
Devil's Lake			3		2												
Hosmer Lake	3				3												1
Irish Lake					3												

- 1 - Native, naturally reproducing
- 2 - Introduced, naturally reproducing
- 3 - Introduced, periodic stocking required to maintain population
- * - 1 and 3
- # - 2 and 3

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.4 Recommended Minimum Flows for Fish Life

Stream	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Deschutes River (1)	200	200	200	200	200	200	200	200	200	200	200	200
Deschutes River (2)	400	400	400	400	400	400	400	400	400	400	400	400
Deschutes River (3)	660	660	660	660	660	660	660	660	660	660	660	660
Deschutes River (4)	300	300	300	300	300	300	300	300	300	300	300	300
Deschutes River (5)	80	80	80	80	80	80	80	80	80	80	80	80
Deschutes River (6)	40	40	60	60	60	40	40	40	60	60	60	60
Whychus Creek (7)	20	10	10	10	10	10	10	10	10/20	30	20	20
Whychus Creek (8)	10	10/20	30	30	30	20	10	10	10	10	10	10
Indian Ford Creek	4	3	3	3	3	3	3	3	3/4	6	4	4
Tumalo Creek	35	35	47	47	47	5	10	10	10/35	47	35	35
Spring River	300	300	300	300	300	300	300	300	300	300	300	300
Little Deschutes River	80	80	80	200	200	150	100	100	100	100	200	200
Fall River	70	70	100	100	100	70	50	50	50	100	100	100
Browns Creek	15	15	25	25	25	15	15	15	25	25	25	25
Quinn River	20	20	20	20	20	20	20	20	20	20	20	20
Cultus Creek	20	20	32	32	32	20	5	5	5/20	32	20	20
Cultus River	50	50	50	50	50	50	50	50	70	70	70	70
Snow Creek	15	15	30	30	30	20	15	15	15	30	30	20
Quinn Creek	20	20	20	12	12	12	12	12	12/20	35	35	35
Soda Creek	20	20	20	6	6	6	6	6	6/20	31	31	31
Fall Creek	35	35	35	20	20	20	20	20	20/35	46	46	46
Goose Creek	7	7	7	4	4	4	4	4	4/7	10	10	10
Three Creek	7	7	10	10	10	7	2	2	2/7	10	7	7

¹ Flows are expressed in cubic feet per second. The recommended flows should arrive at the point of recommendation and continue to the mouth of the stream or to the next point for which a different flow is recommended. Stream flows recommended in Appendix I are designed for game fish production and are not necessarily adequate for wildlife, especially waterfowl and furbearers. Neither would they necessarily be recommended below future impoundments.

- (1) Bend to Round Butte Reservoir
- (2) L. Deschutes R. to Spring River
- (3) Spring River to Bend
- (4) Wickiup Dam to Little Deschutes River
- (5) Crane Prairie Dam to Wickiup Reservoir
- (6) At USGS Gate 14-0500
- (7) Below USGS Gage 14-0750
- (8) Below Camp Polk

Source: 1979 Deschutes County Comprehensive Plan as revised

15S, Range 10E, Section 23, Tax Lot 1400. The ODFW identifiers for these sites are DE0035-00 and DE0035-01. The sites are also known as Cloverdale. The sites are described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1. The sensitive habitat area is identified as the area east of Highway 20 that is within a 1/4-mile radius of each nest site.

Site #	Taxlot	Site Name
DE0036-00	17S-11E-26-5900	Shevlin Park

The Oregon Department of Fish and Wildlife (ODFW) has inventoried a former bald eagle nest site in Township 17S, Range 11E, Section 26, Tax Lot 5900. The ODFW identifier for this site is DE0036-00. The site is also known as Shevlin Park. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

Site #	Taxlot	Site Name
DE0037-00	22S-09E-04-4500	Wickiup Reservoir

Table 5.4.5 – Instream Water Right Program (3/1/92) Database Summary Report

BASIN 05	STREAM > PARENT STREAM	UPSTREAM LIMIT	DOWNSTREAM LIMIT	SPECIES	APP NO.	CERT #	DATE
05	Deschutes R > Columbia R	Crn Prairie Res	Wickiup Res	RB, BT, BR, CO, K	070764		10/11/90
05	Deschutes R > Columbia R	Little Lava Lk	Crn Prairie Res	RB, BT, K, WF	070763		10/11/90
05	Deschutes R > Columbia R	193.0	190.0		MPS	59777	11/03/83
05	Deschutes R > Columbia R	227.0	193.0		MPS	59776	11/03/83
05	Deschutes R > Columbia R	190.0	165.0		MPS	59778	11/03/83
05	Fall R > Deschutes R	Gage 14057500	Mouth	RB, BT, BR, WF	070762		10/11/90
05	Indian Ford Cr > Whychus Cr	Headwaters	Mouth	RB	070760		10/11/90
05	Little Deschutes R > Deschutes R	Crescent Cr	Mouth	RB, BT, BR, WF	070757		10/11/90
05	Metolius R > Deschutes R	Metolius Spring	Canyon Cr	BUT, K	070699		09/24/90
05	Snow Cr > Deschutes R	Headwaters	Mouth	RB, BT	070756		10/11/90
05	Whychus Cr > Deschutes R	S Fk Whychus Cr	Indian Ford Cr	RB, BT	070754		10/11/90
05	Tumalo Cr > Deschutes R	S Fk Tumalo Cr	Mouth	RB, BT, BR	070752		10/11/90

Source: 1979 Deschutes County Comprehensive Plan as revised

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 04, Tax Lot 500. The ODFW identifier for this site is DE0037-00, Wickiup Reservoir. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

<i>Site #</i>	<i>Taxlot</i>	<i>Site Name</i>
DE0038-00	22S-09E-34-500	Haner Park

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 34, Tax Lot 500. The ODFW identifier for this site is DE0038-00, Haner Park. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1. The sensitive habitat area includes the area within one-quarter mile of the nest site.

<i>Site #</i>	<i>Taxlot</i>	<i>Site Name</i>
DE0039-00	22S-09E-06-500	Wickiup Dam

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 06, Tax Lot 500. The ODFW identifier for this site is DE0039-00, Wickiup Dam. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

<i>Site #</i>	<i>Taxlot</i>	<i>Quarter Section</i>	<i>Site Name</i>
DE0046-00	20-10-34-3401	34NWSE	Bates Butte

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 20S, Range 10E, Section 34, Tax Lot 3401. The ODFW identifier for this site is DE0046-00, Bates Butte. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1. The sensitive habitat area includes the area within one-quarter mile of the nest site.

Great Blue Heron Rookery – Black Butte Ranch

The Oregon Department of Fish and Wildlife (ODFW) identified a great blue heron rookery in Township 14S, Range 9E, Section 10 SENE. The County inventoried and adopted this site as a Goal 5 resources in Ordinance 92-041.

Golden Eagle Sites

Table 5.4.6 – Golden Eagle Nest Site Inventory on Non-Federal Land or with Non-Federal Sensitive Habitat Area

<i>ODFW Site #</i>	<i>Taxlot</i>	<i>Quarter Section</i>	<i>General Location</i>
DE-0002-00	14-13-11-100	11/SENW	Smith Rock State Park
DE-0002-01	14-13-11-100	11/SENW	Smith Rock State Park
DE-0002-02	14-13-11-100	11/SENW	Smith Rock State Park
DE-0002-03	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-04	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-05	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-06	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0006-00	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-01	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-02	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-04	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-05	15-12-00-1503	35/NESE	Mid Deschutes
DE-0009-00	14-12-22D-300	23/NWSW	N. Odin Falls
DE-0011-00	15-12-00-100	1/NWSE	Radio Tower/Deschutes
DE-0011-01	15-12-00-100	1/NESE	Radio Tower/Deschutes
DE-0012-00	15-11-00-800	3/NENE	Upper Deep Canyon
DE-0014-00	16-11-00-7800	29/NWSE	Tumalo Dam
DE-0015-01	14-11-00-400	3/NENW	Whychus Creek
DE-0015-00	14-11-00-400	3/SESW	Rimrock Ranch
DE-0029-00	20-17-00-3801	36/NWSE	Twin Pines
DE-0034-00	15-10-00-1400	15/SENW	Lazy Z/USFS
DE-0034-01	15-10-00-1400	15/SENW	Lazy Z/USFS

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.7 – Prairie Falcon Nest Site Inventory on Non-Federal Land or with Non-Federal Sensitive Habitat Area

<i>ODFW Site #</i>	<i>Taxlot</i>	<i>Quarter Section</i>	<i>General Location</i>
DE-0016-00	22-16-00-100	12/SWSE	Dickerson Flat
DE-0031-00	16-11-00-5600	20/NESE	Tumalo Dam
DE-0031-01	16-11-20-400	20/SESW	Tumalo Dam
DE-0794-01	14-13-11-100	11/NWSW	Smith Rock State Park

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.8– Osprey Nest Site Inventory on Non-Federal Land or with Non-Federal Sensitive Habitat Area

<i>ODFW Site #</i>	<i>Taxlot</i>	<i>Quarter Section</i>	<i>General Location</i>
DE-0080-00	20-11-00-1300	07/NWNE	Sunriver/ Meadowland

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.9 – Upland Game Bird Habitat

Ring-necked Pheasant	200
Valley Quail	10,000
Mountain Quail	50
Chukar Partridge	300
Turkey	50
Blue Grouse	900
Sage Grouse	1,800
Ruffed Grouse	100
Mourning Dove	8,000

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.4.10 – Sage Grouse Lek Inventory on Non-Federal Lands or with Non-Federal Sensitive Habitat Areas

<i>ODFW Site #</i>	<i>Taxlot</i>	<i>Quarter Section</i>	<i>General Location</i>
DE 0994-01	20-18-00-700	05/SWSE	Circle F Reservoir
DE 0995-01	20-19-00-800	06/NWSE	Merril Rd
DE 0996-01	22-17-00-600	06/SWSW	Dickerson Well
DE 0997-01	20-16-00-2400	25/SESW	Moffit Ranch
DE 0997-02	20-16-00-2400	26/NENE	Moffit Ranch Satellite
DE 0998-01	20-14-00-400	10/NWNW	Evans Well
DE 0998-02	20-14-00-400	10/SWNW	Evans Well Satellite
DE 0999-01	19-14-00-2200	26/SESE	Millican Pit

Source: 1979 Deschutes County Comprehensive Plan as revised

Section 5.5 Goal 5 Inventory - Open Spaces, Scenic Views and Sites

Background

This section contains information from the 1979 Deschutes County Comprehensive Plan as revised. It lists the open spaces, scenic views and sites resources in Deschutes County. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update.

To protect scenic views, landscape management areas have been defined and a combining zone created. On lands outside urban growth boundaries and rural service centers along the portions of roadways listed below, landscape management zoning applies and a case-by-case site plan review is required. The area extends $\frac{1}{4}$ mile on either side from the centerline of the roadways and includes all areas designated as State and Federal Wild, Scenic or recreational waterways and within 660 feet from either side of designated rivers and streams as measured from the ordinary high water level.

Landscape Management Roads, Rivers and Streams

Inventory: All land within one-quarter of a mile, as measured at right angles from the centerline, of any of the following designated Landscape Management Roadways. All land within the boundaries of a state scenic waterway or a federal wild and scenic river corridor; and all land within 660 feet of the ordinary high water mark of portions the following designated rivers and streams which are not designated as state scenic waterways or federal wild and scenic rivers.

Table 5.5.1 – Deschutes County Landscape Management Areas

<i>Landscape Management Roads</i>	<i>Miles</i>
U.S. Highway 97 North County line to Redmond UGB	7.5
U.S. Highway 97 Redmond UGB to Bend UGB	12
U.S. Highway 97 Bend UGB to South County line	35
U.S. Highway 20-126 North County line to Sisters UGB	11
U.S. Highway 126 Sisters UGB to Redmond UGB	21.5
U.S. Highway 20 Sisters UGB to Bend UGB	23
Smith Rock Road Highway 97 to Smith Rock	3.5
Sisemore Road Cloverdale to Bend UGB	19
Skyliner Road	15.5
Century Drive Bend to Mt Bachelor	25
South Century Drive	27
Cascade Lakes Highway	46
Waldo Lake Road	10
Cultus Lake Road	2
Little Cultus Lake Road	6

<i>Landscape Management Roads</i>	<i>Miles</i>
Twin Lakes Road	6
Keefer Road (East Crane Prairie Road)	16.5
East Deschutes Road	14
Deschutes Road	9
Wickiup Road	4
Pringle Falls Loop	8
La Pine Recreation Area Access Road	10
Paulina-East Lake Road	22.5
Lava Cast Forest Road	20.5
Highway 20 east to the County Line	25
Pine Mountain Road	7.5
Ford Road	6.5
Three Creeks Lake Road	16
Three Trappers Road	20.5
Dillon Falls Road	60
Matsen Road	2
State Highway 31	2.5
Road to Benham Falls	4.5
State Highway 242 McKenzie Highway	
<i>Landscape Management Rivers and Streams</i>	<i>Miles</i>
Deschutes River	
Little Deschutes River	43
Paulina Creek	19
Fall River	8
Spring River	1.2
Tumalo Creek	16.3
Whychus Creek (formerly Squaw Creek)	
Crooked River	10

Source: Deschutes County Ordinance 92-052

Areas of Special Concern Inventory

Inventory: The Resource Element of the Deschutes County Year 2000 Comprehensive Plan (1979) identified sites as Open Spaces and Areas of Special Concern. Table 5.5.2, lists the inventory of sites identified as Areas of Special Concern located on federal land.

Table 5.5.2 "2A" Areas of Special Concern

ID #	Name	Location
9	Bachelor Butte	T18S R09E SEC 29-32
11	Pine Mt. Observatory	T20S R15E SEC 33
13	Dry River	T19S R15E SEC 19 & 30 T19S R14E SEC 2, 11, 13, 14 & 24
14	Arnold Ice Caves	T19S R13 E SEC 22
15	Charcoal Cave	T19S R13 E SEC 22
16	Skeleton Cave	T19S R13E SESE SEC 4
17	Wind Cave	T19S R13E NW ¼ SEC 23; SW ¼ SEC 14
31	Tumalo Falls	T18S R10E NW ¼ SEC 08
33	Lava River Caves	T19S R11E SE ¼ SEC 26

ID #	Name	Location
34	Pringle Falls Experimental Forest	T21S R09E SEC 21-23, 27 & 28
39	Benham Falls	T19S R11E SW ¼ SEC 9
45	Paulina Mountain	T22S R12E SEC 1-3 & 10-12
49	Lavacicle Cave	T22S R16E SENE SEC 05
50	Lava Cast Forest	T20S R12E SEC 15, 16, 21, 22, 27-35
51	Lava Butte Geologic Area	T19S R11E SEC 18
52	Pine Mountain North Slope	T20S R15E SEC 28, 29 & 33
54	McKenzie Summit	T15S R07E SEC 17
55	Newberry Crater	T21 R12E SEC 34-36
65	Bend Watershed	T17S R09E SEC 35 & 26 T18S R09E SEC 1, 2, 3, 10, 11, & 12
66	Bat Cave	T19S R13E SE ¼ SEC 14
68	Boyd Cave	T19S R13E SENW SEC 8
69	Frederick Butte	T22S R19E SEC 32

Source: Deschutes County Ordinance 92-052

Land Needed and Desirable for Open Space and Scenic Resources

Inventory: The following list shows land needed and desirable for open space and scenic resources:

Table 5.5.3 Land Needed and Desirable for Open Spaces and Scenic Resources

State Parks	Location	Size
Smith Rock State Park	T14S, R13 E, SEC 10, 11, 14 & 15	600 acres
Cline Falls State Park	T15S, R12E, SEC 14	9.04 acres
Tumalo State Park	T17S, R12E, SEC 6	320.14 acres
Pilot Butte State Park	T17S, R12E, SEC 33 & 34	100.74 acres
La Pine State Recreation Area	T20S, R10E, SEC 33 & 34 T21S, R10E, SEC 3, 4, 8, 9, 10, 11, 12 T21S, R11E, SEC 7	2,333.12 acres

Source: Deschutes County Ordinance 92-052

Section 5.6 Goal 5 Inventory - Energy Resources

Background

This section contains information from the 1979 Deschutes County Comprehensive Plan as revised. It lists the energy resources in Deschutes County. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update.

Hydroelectric Resources of the Upper Deschutes River Basin

Inventory: Available information is adequate to indicate that the resource is significant. The City of Bend/Deschutes County River Study inventoried 16 proposed hydroelectric project sites in Deschutes County. Twelve were located on the Deschutes River; two on Tumalo Creek; two on Whychus Creek; and one on the Crooked River in Deschutes County. For a more detailed discussion of the hydroelectric resources in Deschutes County see the Deschutes County/City of Bend River Study, April 1986 (River Study), Chapters 2, 3, and 4. Also refer to the River Study staff report. The River Study and River Study staff report are incorporated herein by reference.

Table 5.6.1 Hydroelectric Resources of the Upper Deschutes Basin*

<i>Deschutes River</i>	<i>River Mile</i>	<i>Capacity (megawatts)</i>
Crane Prairie	239	0.6
Wickiup Dam	226.8	7.0
Pringle Falls	217	1.6
Lava Diversion	182.4	11.5
Dillon Falls	177.6	7.2
Aspen Diversion	175.2	3.2
Island Diversion	174.6	7.5
Arnold Flume	174.5	4.2
COI Siphon	170.0	6.5
North Canal Dam	164.8	2.0
Bend Canal Diversion	162.4	3.0
<i>Tumalo Creek</i>	<i>River Mile</i>	<i>Capacity (megawatts)</i>
Columbia Southern	9.5	9.3
<i>Whychus Creek</i>	<i>River Mile</i>	<i>Capacity (megawatts)</i>
Whychus Creek	25	0.6
Whychus Creek	30.5	3.5
<i>Crooked River</i>	<i>River Mile</i>	<i>Capacity (megawatts)</i>
Crooked River Drop	164.8	10.7

Source: Deschutes County Ordinance 92-052

* Note that the conflicting use analysis from the River Study and subsequent amendments prohibit new hydroelectric facilities that are not physically connected to an existing dam, diversion or conduit. (Ord.86-017, 86-018, 86-019, 92-052)

* Note that the conflicting use analysis from the River Study and subsequent amendments prohibit new hydroelectric facilities that are not physically connected to an existing dam, diversion or conduit. (Ord.86-017, 86-018, 86-019, 92-052)

The prohibition refers to the following:

1. Deschutes River, from its headwaters to River Mile 227, above but not including Wickiup Dam, and from Wickiup Dam to River Mile 171 below Lava Island Falls;
2. Crooked River;
3. Fall River;
4. Little Deschutes River;
5. Spring River;
6. Paulina Creek;
7. Whychus Creek (was Squaw Creek);
8. Tumalo Creek.

Geothermal Resources

Inventory: The County adopted Ordinance 85-001 which complies with Goal 5 (OAR 660-016). The ordinance amended the Comprehensive Plan and adopted a Geothermal Resource Element including a resource inventory and ESEE analysis.

Section 5.7 Goal 5 Inventory - Wilderness, Natural Areas, and Recreation

Background

This section lists wilderness areas, natural areas and recreation trail resources in Deschutes County.

Wilderness Areas

Inventory: Wilderness areas are represented by all lands within the existing Mt. Washington and Three Sisters Wilderness Areas as shown on the Deschutes National forest Land and Resource Management Plan Map, and all lands included in the Bureau of Land Management's (BLM) State of Oregon Wilderness Status Map for Deschutes County and BLM Wilderness Study Areas (WSA) as shown on the Brothers / La Pine Resource Management Plan.

Ecologically and Scientifically Significant Natural Areas

Inventory: The following sites are the inventories ecologically significant natural areas in Deschutes

Table 5.7.1 Wilderness Areas

Name	Acres
Mt. Washington Wilderness Area	13,563
Three Sisters Wilderness Area	92,706
Badlands	32,261
Hampton Butte	10,600
Steelhead Falls	920

Source: Deschutes County Ordinance 92-052

County by the Oregon Natural Heritage Program and there is sufficient information based on site reports from the Heritage Program to complete the Goal 5 review process.

Approved Oregon Recreation Trails

None listed

Table 5.7.2 Ecologically and Scientifically Significant Natural Areas

Name	Location	Quality	Quantity
Pringle Falls Research Natural Area	T21S, R9E, SEC 3, 34 & 35	Excellent	1,160 acres
Horse Ridge Research Natural Area	T19S, R14S, SEC 15 & 22	Excellent	600 acres
West Hampton Butte	T22S, R20E, SEC 31 & 32	Good	1,280 acres
Little Deschutes River / Deschutes River Confluence	T20S, R11E, SEC 7	Excellent	400 acres
Davis Lake	T22S, R7 E, SEC 25 & 26 T22S, R8E, SEC 31	Good	4,000 acres

Source: Deschutes County Ordinance 92-052

Section 5.8 Goal 5 Inventory - Mineral and Aggregate Resources

Background

This section contains information from the 1979 Deschutes County Comprehensive Plan as revised. It lists the surface mining resources in Deschutes County. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update.

Table 5.8.1 – Deschutes County Surface Mining Mineral and Aggregate Inventory

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
246	151010-00-00205, 207, 300, 302, 303	Tewalt	S & G	10,000	Good	Hwy 20
248	151012-00-00100	Cyrus	Cinders	30.2 M	Excellent	Cloverdale Road
251	151211-D0-01400, 151214-A0-00800	Cherry	S & G	125,000	Good	
252	151200-00-04700, 04701	Thornburgh	Rock	2.5 M	Good	
271	151036-00-00800	Deschutes County	S & G	2 M	Mixed	Harrington Loop Road
273	151117-00-00100	Deschutes County	S & G	75,000	Excellent	Fryrear Rd/Redmond-Sisters
274	151117-00-00700	Deschutes County	S & G		Excellent	Fryrear Road
275	151100-00-02400	Deschutes County	S & G	175,000	Good	Fryrear Landfill
277	151011-00-01100	Oregon State Hwy	S & G	100,000	ODOT Specs	
278	151140-A0-00901, 151211-D0-01200	State of Oregon	S & G	18,000	ODOT Specs	
282	171000-00-00100	Crown Pacific	Cinders	100,000	Fair	
283	171000-00-00100	Crown Pacific	Cinders	50,000	Fair	
288	171111-00-00700	Tumalo Irrigation	S & G	250,000	Good	
292	171112-00-00900	RL Coats	S & G	326,000	ODOT Specs	
293	17112-00-00500, 600, 700, 800	RL Coats	S & G	3 M	ODOT Specs	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
296	171100-00-02702	Crown Pacific	Cinders	100,000	Excellent	Shevlin Park/Johnson Rd
297	171123-00-00100	Crown Pacific	Cinders	60,000		Johnson Rd/Tumalo
303	171207-00-00300	Cascade Pumice	Pumice	750,000	Good	
303	171207-00-00300	Cascade Pumice	S & G	10,000	Good	
313	171433-00-00600	Deschutes County	S & G	100,000	Good	
313	171433-00-00600, 120	Deschutes County	Storage			Dodds Road/Alfalpa
314	171332-00-01100	Deschutes County	Dirt	150,000	Good	
315	140900-00-02100	Stott	Rock	93,454 tons	ODOT Specs	Highway 20
316	140900-00-00202	Black Butte Ranch	S & G	7 M	Good	
317	140900-00-01300	Willamette Ind	Cinders	1.2 M	Good	
322	141200-00-01801	Fred Gunzner	S & G	1.5 M	Mixed	Lower Bridge/Terrebonne
322	141200-00-01801	Gunzner	Diatomite	500,000	Good	Lower Bridge/Terrebonne
324	141200-00-00702	ODVA	S & G	490,000	Good	Lower Bridge/Terrebonne
326	141236-00-00300, 301	US Bank Trust	S & G	1.5 M	Good	
330	141328-00-00702, 703	Larry Davis	Cinders	50,000	Good	
331	141329-00-00100, 103	EA Moore	Cinders	100,000	Good	
332	141329-00-00102	RL Coats	Cinders	2 M	Good	Northwest Way/Terrebonne
333	141329-00-00104	Robinson	Cinders	2.7 M	Good	
335	141333-00-00890	Erwin	Cinders	100,000	Excellent	Pershall Way/Redmond
336	141333-00-00400, 500	US Bank Trust	Cinders	4.5 M	Good	Cinder Butte/Redmond
339	141132-00-01500	Deschutes County	Dirt	200,000	Fill	Goodard Loop/Bend
341	161000-00-00106	Young & Morgan	S & G	1 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
342	220900-00-00203	Crown Pacific	Cinders	200,000	Good	
345	161000-00-01000	Crown Pacific	Cinders	50,000	Good	
346	161000-00-01000	Crown Pacific	Cinders	50,000	Good	
347	161101-00-00300	Deschutes County	Dirt	10,000	Good	
351	161112-00-01401, 1700, 2000	Gisler/Russell	Cinders	150,000	Good	Innes Mkt/Innes Butte
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	Cinders	1 M		Johnson Road/Tumalo
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	S & G	500,000	Good	
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	Pumice	500,000	Good	
358	161231-D0-01100	Gisler	S & G	100,000	ODOT Specs	Hwy 20/Tumalo
361	161222-C0-02800	Oregon State Hwy	Cinders	700,000	Good	
366	161230-00-00000	Oregon State Hwy	S & G	40,000	ODOT Specs	
368	161220-00-00200	Bend Aggregate	S & G	570,000	Excellent	Twin Bridges/Tumalo
370	161231-D0-00400	Bend Aggregate Plant Site	Storage			
379	181100-00-01600	Oregon State Hwy	S & G	500,000	ODOT Specs	
381	181125-C0-12600, 181126-00-01600	Pieratt Bros	Cinders	50,000	Good	
390	181214-00-00500, 100	Deschutes County	Dirt	2 M		Landfill
392	181223-00-00300	Rose	Rock	10 M Est	Mixed	
392	181223-00-00300	Rose	Dirt	7.5 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
393	181225-00-01400	LT Contractors	Cinders	12.5 M	Good	Arnold Mkt Rd/SE of Bend
394	181200-00-04400, 04411	Windlinx	Cinders	270,000	Coarse	Hwy 97/South of Bend
395	181200-00-04300	Oregon State Hwy	Cinders		100,000	Good
400	181300-00-04501, 04502	Eric Coats	S & G	2.5 M	ODOT Specs	
404	191400-00-00200	Moon	S & G	1.3 M	Good	
404	191400-00-00200	Moon	Rock	800,000 - 2 M	Good	Hwy 20/East of Bend
405	191400-00-00600	Oregon State Hwy	Aggregate	50,000	ODOT Specs	
408	191600-00-01500	RL Coats	S & G	3 M	Good	
413	201500-00-01400	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
414	201500-00-01500	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
415	201716-00-00700	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
416	201716-00-00200	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
417	201716-00-00900	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
418	201716-00-01000	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
419	201716-00-01300	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
421	212000-00-00900	RL Coats	S & G	500,000	Excellent	Hwy 20/Tumalo
423	211106-C0-00700	Ray Rothbard	S & G	100,000	Good	
426	211100-00-00702	La Pine Redi-Mix	S & G	1 M	Good	
427	211100-00-00701	Bill Bagley	S & G	40,000	Good	
431	221100-00-00600	Russell	Cinders/Rock	12 M/1.2 M	Good	Finley Butte
432	221100-00-00500	State of Oregon	Cinders	160,000	Good	
433	211300-00-00101	La Pine Pumice	Lump Pumice	10 M	Excellent	
441	150903-00-00300	Willamette Ind	S & G	11 M	Good	
442	150909-00-00400	Willamette Ind	S & G	6 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
443	150917-00-00600	Willamette Ind	Rock	150,000	Fair	
453	161209, 10-00-00600, 301	Robert Fullhart	S & G	704,000	ODOT Specs	
459	141131-00-05200	Deschutes County	Cinders	50,000	Good	
465	141333-00-00900	Oregon State Hwy	Cinders	100,000	Good	
466	141333-00-00600	Fred Elliott	Cinders	5.5 M	Good	
467	141333-00-00601	Knorr Rock Co	Cinders	5 M	Good	
469	141131-00-00100	Deschutes County	Cinders	2 M	Fair	
475	151012-00-00600	Deschutes County	Cinders	200,000	Good	Cloverdale Road
482	151300-00-00103	Deschutes County	Dirt	2 M	Good	Negus Landfill
488	161230-00-00100, 600, 2000, 2100	Bend Aggregate	S & G	400,000	ODOT Specs	
496	191400-00-00500	Taylor	S & G	1.8 M	Mixed	Hwy 20
498	191400-00-02200	Oregon State Hwy	S & G	200,000	ODOT Specs	
499	191533-00-00200	Oregon State Hwy	S & G	50,000	ODOT Specs	
500	191500-00-00099	Oregon State Hwy	S & G	130,000	ODOT Specs	
501	191500-00-01600	Oregon State Hwy	S & G	50,000	ODOT Specs	
503	191600-00-01300	Oregon State Hwy	S & G	200,000	ODOT Specs	
505	201600-00-00400	Oregon State Hwy	S & G	275,000	ODOT Specs	
506	201600-00-00600, 700, 800	Oregon State Hwy	S & G	36,000	ODOT Specs	
508	201700-00-01000	State of Oregon	S & G	100,000	ODOT Specs	
515	201801-00-00100	Oregon State Hwy	S & G	100,000	ODOT Specs	
522	211900-00-01000	Oregon State Hwy	S & G	300,000	ODOT Specs	
524	212000-00-01900	Oregon State Hwy	S & G	300,000	ODOT Specs	
528	222110-00-00600	Oregon State Hwy	S & G	45,000	ODOT Specs	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
529	221100-00-00300	Oregon State Hwy	S & G	31,000	ODOT Specs	
533	222100-00-00800	Oregon State Hwy	S & G	1 M	ODOT Specs	
541	141035-00-02000, 2100, 2200, 2300, 2400, 2500, 2600	Cyrus	Aggregate	528,000	Good	Inc Portions of TL 1800/1900
542	151001-00-02700	Swarens	Aggregate	80,000	Good	
543	151013-00-00100	Cyrus	Aggregate	1.1 M	Good	
600	191400-00-00700	Robinson	S & G	3.8 M	Good	Hwy 20/East of Bend
601	211100-00-00700	La Pine Redi Mix	S & G	479,000	DEQ Specs	Paulina Lake Road

* Quantity in cubic yards unless otherwise noted

Source: 1979 Deschutes County Comprehensive Plan as revised

Table 5.8.2 – Deschutes County Non-Significant Mining Mineral and Aggregate Inventory

Site #	Taxlot	Name	Type	Quantity*	Comments
100	15-10-14-700	Whychus Creek Irrigation District—Watson Reservoir I.	Silt, sand, & dirt	200,000 cy	Reservoir Size is 80 acres.
101	15-10-14-700	Whychus Creek Irrigation District—Watson Reservoir II.	sand & dirt	600,000 cy	Reservoir size is 40 acres.
102	14-11-33-500	Whychus Creek Irrigation District—McKenzie Reservoir	Silt, sand, & dirt	100,000 cy	Reservoir size is 12 acres
103	14-11-33-500	Whychus Creek Irrigation District—McKenzie Reservoir	Sand & dirt	250,000 to 300,000 cy	Reservoir expansion size is 20 acres

Site #	Taxlot	Name	Type	Quantity*	Comments
		Expansion			

* Quantity in cubic yards unless otherwise noted

Source: 1979 Deschutes County Comprehensive Plan as revised

Section 5.9 Goal 5 Inventory - Cultural and Historic Resources

Background

This section lists Locally Significant Historic Resources and National Register Resources in rural Deschutes County. These inventories are acknowledged by the Department of Land Conservation and Development. In 2020, Deschutes County's inventories were updated to comply with Oregon Administrative Rule (OAR) 660-023-0200, Historic Resources. OAR 660- 023-0200 was amended in 2017.

Locally Significant Historic Resources

1. Alfalfa Grange: Grange building and community center, built in 1930, located on Willard Road, Alfalfa. 17-14-26 TL 400.
2. Allen Ranch Cemetery: Oldest cemetery in Deschutes County. 30' by 40' fenced cemetery plot. Situated 100 yards west of South Century Drive, one-half mile south of Road 42. Two marble gravestones, two wooden markers. 20-11-7 TL 1700.
3. Fall River Fish Hatchery "Ice House": The hatchery "Ice House" dates from the beginning of fishery management in Oregon, circa 1920. It is an 18 foot by 18 foot improvement, the only original building remaining on the property, and the only significant building or structure on the site. Located at 15055 S. Century Drive, E½; NE¼; Section 32, Township 20S, Range 10 E, Tax Lot 100. (Ordinance 94-006 §1, 1994).
4. Long Hollow Ranch – Black Butte: Headquarters complex of historic ranch, located on Holmes Road in Lower Bridge area, including headquarters house, ranch commissary, equipment shed, barn and bunkhouse. 14-11-1 TL 101.
5. Swamp Ranch – Black Butte: The present day site of the Black Butte Ranch was part of the vast holdings of the Black Butte Land and Livestock Company in 1904. No buildings from the period exist. 14-9-10A, 10B, 15B, 15C, 16A, 21A, 21B, 21C, 22A, 22B.
6. Brothers School: Only one-room schoolhouse currently in use in Deschutes County, located on Highway 20 in Brothers. 20-18-00 TL 3200.
7. Bull Creek Dam: The Bull Creek Dam, a component of the Tumalo Irrigation Project was constructed in 1914 to form a water storage reservoir to increase the amount of irrigated acreage at Tumalo. It is a gravity type of overflow dam. Two cut off walls are extended into solid formation, one at the upper toe and the other at the lower toes of the concrete dam. The dam proper is about 17 feet high from the foundation, although the completed structure is about 25 feet. Located on Tumalo Reservoir-Market Road. 16-11-33 TL 2700 SW-¼; SW-¼.
8. Bull Creek Dam Bridge (Tumalo Irrigation Ditch Bridge): Built in 1914, the bridge, which spans the dam, consists of five continuous filled spandrel, barrel-type concrete deck arch spans, each 25 feet long. The concrete piers are keyed into notches in the arch structure. The structure is the oldest bridge in Deschutes County. On Tumalo Reserve-market Road. 16-11-33 TL 2700/ SW-¼; SW-¼.

9. Camp Abbot Site, Officers' Club: Officers' Club for former military camp, currently identified as Great Hall in Sunriver and used as a meeting hall. 20-11-5B TL 112.
10. Camp Polk Cemetery: One of the last remaining pioneer cemeteries, located off Camp Polk Road near Sisters. The site is composed of a tract of land, including gravestones and memorials, containing 2.112 acres in the Southwest Quarter of the Southeast Quarter of Section 27, Township 14 South, Range 10 E.W.M., TL 2100, described as follows: Beginning at a point North 20 degrees 06' 20" West 751 feet from the corner common to Sections 26, 27, 34 and 35 in Township 14 South Range 10 E.W.M. and running thence

South 88 degrees 30' West 460 feet; thence North 1 degree 30' East 460 feet; thence South 1 degree 30' 200 feet to the point of beginning.
11. Camp Polk Military Post Site: One of the oldest military sites in Deschutes County. Located on Camp Polk Cemetery Road. Site includes entire tax lots, listed as follows 14- 10-00 TL 2805 & 14-10-34 TL 100, 300.
12. Cloverdale School: School building in Cloverdale, located near 68515 George Cyrus Road. First building built in Cloverdale. 15-11-7 TL 600.
13. Eastern Star Grange: Grange hall for earliest grange organized in Deschutes County, located at 62850 Powell Butte Road. 17-13-19 TL 1900.
14. Enoch Cyrus Homestead Hay Station and Blacksmith Shop: The Enoch Cyrus Homestead was the original homestead of Oscar Maxwell, built in 1892 and purchased in 1900 by Enoch Cyrus. Important stage/store stop for early travelers. The homestead house, including a back porch and cistern, and the Blacksmith Shop are designated. 15-11-10 TL 700.
15. Fremont Meadow: A small natural meadow on Tumalo Creek in Section 34, Township 17 South, Range 11 East, lying within Shevlin Park. TL 5900. Campsite for 1843 Fremont expedition. 17-11-34 TL 5900.
16. Harper School: One-room schoolhouse, located west of South Century Drive, south of Sunriver, moved halfway between the Allen Ranch and the Vandever Ranch from the former townsite of Harper. 20-11-17 TL 1200.
17. Improved Order of Redmond Cemetery: Historic cemetery used by residents of La Pine/Rosland area. Located on Forest Road 4270, east of Highway 97. A 40-acre parcel described as: The Southwest one-quarter of the Southeast one-quarter (SW-¼; SE-¼) Section 7, Township 22 south, Range 11, East of the Willamette Meridian, Deschutes County, Oregon.
18. Laidlaw Bank and Trust: One of the few remaining commercial buildings from the community of Laidlaw, located at 64697 Cook Avenue, Tumalo. 16-12-31A TL 2900.
19. La Pine Commercial Club: Building was built in 1912 as a community center, serving as a regular meeting place for civic organizations and occasionally served as a church. One of the oldest and continuously used buildings in La Pine. Located at 51518 Morrison Street, La Pine. 22-10-15AA TL 4600.

20. Lynch and Roberts Store Advertisement: Ad advertising sign painted on a soft volcanic ash surface. Only area example of early advertising on natural material. Lynch and Roberts established mercantile in Redmond in 1913. Roberts Field near Redmond was named for J.R. Roberts. Site includes the bluff. 14-12-00 TL 1501.
21. Maston Cemetery: One of the oldest cemeteries in County. Oldest grave marker is 1901. About one-half mile from site of Maston Sawmill and Homestead. Site includes the gravestones and memorials and the entire tax lot, identified as 22-09-00 TL 1800.
22. George Millican Ranch and Mill Site: Ranch established in 1886. Well dug at or near that date. Remains of vast cattle ranching empire. 19-15-33 TLs 100, 300.
23. George Millican Townsite: Town established 1913. Site includes store and garage buildings, which retain none of the architectural integrity from era. 19-15-33 TL 500.
24. Petersen Rock Gardens: The Petersen Rock Gardens consist of stone replicas and structures erected by Rasmus Petersen. A residence house and museum are part of the site. The site has been a tourist attraction for over 60 years. Located at 7930 SW 77th, Redmond. Site includes entire tax lot. 16-12-11 TL 400.
25. Pickett's Island: After originally settling in Crook County, Marsh Awbrey moved to Bend and then homesteaded on this island in the Deschutes River south of Tumalo. The site was an early ford for pioneers. Located in Deschutes River near Tumalo State Park. 17- 12-6 NE-¼ TL 100. Portion between Deschutes River and Old Bend Road is designated.
26. Rease (Paulina Prairie) Cemetery: Historic cemetery on Elizabeth Victoria Castle Rease and Denison Rease's homestead. Earliest known grave is of their son, George Guy Rease, born in 1879, who was also a homesteader on Paulina Prairie. George Guy Rease died of smallpox on the Caldwell Ranch on May 2, 1903. Other known burials are William Henry Caldwell, 1841-October 15, 1910, died on the Caldwell Ranch of injuries sustained on a cattle drive; Melvin Raper, 1892-1914, died in a tent of tuberculosis; Addie Laura Caldwell, 1909-November 16, 1918, died of the Spanish influenza epidemic; and Emma Nimitz Deedon, 1886-April 15, 1915, died of complications from a pregnancy. There are several unmarked graves. The cemetery is a county-owned one-acre parcel on the north edge of Paulina Prairie, two miles east of Highway 97. 210-11-29, SE-¼; NW-¼ TL 99.
27. Terrebonne Ladies Pioneer Club: The Club was organized in 1910. The building has been a community-meeting place since 1911. Located at 8334 11th Street, Terrebonne. 14-13- 16DC TL 700.
28. Tetherow House and Crossing: Site is an excellent example of an early Deschutes River crossing. Major route from Santiam Wagon Road to Prineville. Tetherow House was built in 1878. The Tetherows operated a toll bridge, store and livery stable for travelers. Oldest house in County. Site includes house and entire tax lot. 14-12-36A TL 4500.
29. Tumalo Creek – Diversion Dam The original headgate and diversion dam for the feed canal was constructed in 1914. The feed canal's purpose was to convey water from Tumalo Creek to the reservoir. The original headworks were replaced and the original 94.2 ft low overflow weir dam was partially removed in 2009/2010 to accommodate a new fish screen and fish ladder. The

remaining original structure is a 90 foot (crest length) section of dam of reinforced concrete. Tax Map 17-11-23, Tax Lot 800 & 1600.

30. Tumalo Community Church: The building is the oldest church in the County, built in 1905. It stands in the former town of Laidlaw, laid out in 1904. Located at 64671 Bruce Avenue, Tumalo. 16-12-31A TL 3900.
31. Tumalo Project Dam: Concrete core, earth-filled dam 75 feet high. First project by State of Oregon to use State monies for reclamation project. On Tumalo Creek. 16-11-29.
32. William P. Vandever Ranch Homestead House: The Vandever Ranch House stands on the east bank of the Little Deschutes River at 17600 Vandever Road near Sunriver. The homestead was established in 1892, and has been recently relocated and renovated. Vandever family history in the area spans 100 years. 20-11-18D TL 13800.
33. Kathryn Grace Clark Vandever Grave: Kathryn Grace Vandever, daughter of William P. Vandever, died of influenza during the epidemic of 1918. Her grave is located across a pasture due south of the Vandever House, 50 feet east of the Little Deschutes River. Site includes gravestone and fenced gravesite measuring is approximately 15 feet by 25 feet. 20-11-00 TL 1900.
34. Young School: Built in 1928, it is an excellent example of a rural "one-room" school which served homesteaders of the 1920s. Located on Butler Market Road. 17-13-19 TL 400.
35. Agnes Mae Allen Sottong and Henry J. Sottong House and Barn: House and barn are constructed with lumber milled on the property in a portable sawmill run by the Pine Forest Lumber Company in 1911. Henry was awarded homestead patent 7364 issued at The Dalles on Dec 1, 1904. Henry was president of the Mountain States Fox Farm. A flume on the Arnold Irrigation District is named the Sottong Flume. The structures are also associated with William Kuhn, a president of the Arnold Irrigation District; Edward and Margaret Uffelman, who were part of the group that privatized and developed the Hoo Doo Ski Resort; and Frank Rust Gilchrist, son of the founder of the town of Gilchrist and Gilchrist Mill and president of the Gilchrist Timber Company from the time of his father's death in 1956 to 1988. Frank R. Gilchrist served on the Oregon Board of Forestry under four governors and was appointed by the governors to serve as a member of the Oregon Parks and Recreation Advisory Committee. He served on the Oregon State University's Forest Products Research Lab and was a director and president of the National Forest Products Association. T18 R12 Section 22, 00 Tax lot 01600.

Inventory note: Unless otherwise indicated the inventoried site includes only the designated structure. No impact areas have been designated for any inventoried site or structure.

National Register Resources listed before February 23, 2017

36. Pilot Butte Canal: A gravity-flow irrigation canal constructed in 1904 that diverts 400 cubic feet of Deschutes River water per second. The canal conveys water through a 225- miles-long distribution system of successively narrower and shallower laterals and ditches on its way to those who hold water rights, serving about 20,711 acres by 1922. The canal was built in an area that had a population of 81 people when it was constructed. The historic district measures 7,435 feet long and encompasses 50 feet on either side of the canal centerline to create a 100-foot corridor. The district has a character-defining rocky, uneven bed, and highly irregular slopes, angles, cuts, and embankments.

37. Elk Lake Guard Station: A wagon road built in 1920 between Elk Lake and Bend sparked a wave of tourism around the scenic waterfront. To protect natural resources of the Deschutes National Forest and provide visitor information to guests, the Elk Lake Guard Station was constructed in 1929 to house a forest guard.
38. Deedon (Ed and Genvieve) Homestead: The homestead is located between the Deschutes River and the Little Deschutes River. All of the buildings were constructed between 1914 and 1915.
39. Gerking, Jonathan N.B. Homestead: Jonathan N.8. Gerking, "Father of the Tumalo Irrigation Project," played a crucial role in getting the project recognized and funded.
40. McKenzie Highway: The McKenzie Salt Springs and Deschutes Wagon Road, a predecessor to the modern McKenzie Highway, was constructed in the 1860s and 1870s.
41. Paulina Lake Guard Station: The station typifies the construction projects undertaken by the Civilian Conservation Corps and signifies the aid to the local community provided by the emergency work-relief program through employment of youth and experienced craftsmen, purchase of building materials and camp supplies, and personal expenditures of enrollees.
42. Paulina Lake I.O.O.F Organization Camp: The Paulina Lake I.O.O.F. Organization camp was constructed during the depression era and are the result of cooperative efforts by nonprofessional builders. Such camp buildings are important in Oregon's recreational history as an unusual expression of both its rustic style and its vernacular traditions.
43. Petersen Rock Gardens: The Petersen Rock Gardens consist of stone replicas and structures erected by Rasmus Petersen. The site has been a tourist attraction for over 60 years.
44. Rock O' the Range Bridge: Rock O' The Range is the only covered span east of the Cascades in Oregon. To gain access to his property, William Bowen instructed Maurice Olson – a local contractor – to build a bridge inspired by Lane County's Goodpasture Bridge.
45. Skyliners Lodge: The Skyliners are a Bend-based mountaineering club organized in 1927. In 1935, the group started building the Skyliners Lodge with help from the Deschutes National Forest, the Economic Recovery Act and the City of Bend.
46. Santiam Wagon Road: The Santiam Wagon Road went from Sweet Home to Cache Creek Toll Station. The road was conceived of in 1859 to create a route across the Cascades. By the 1890s, the road had become a major trade route.
47. Wilson, William T.E. Homestead: This homestead house was built in 1903 and has an "American Foursquare" architectural style.

National Register Resources listed on / after February 23, 2017

48. Central Oregon Canal: A gravity-flow irrigation canal constructed in 1905 and enlarged in 1907 and 1913. The canal retains its impressive historic open, trapezoidal shape, dimensions and characteristics. It is characterized by the volcanic rock flows, native materials, rocky bed and sides, and its hurried hand-hewn workmanship. The historic district is 3.4 miles long, crossing rural land between the Ward Road Bridge on the western edge and the Gosney Road Bridge on the eastern edge. In the historic district, the canal ranges in width from 34' to 78', averaging around 50', and

its depth varies from 1' to 9', averaging around 4' deep, depending on the amount of volcanic lava flows encountered, the terrain, and slope. The canal through the historic district carries nearly the full amount of water diverted from the Deschutes River, 530 cubic feet per second during the irrigation season, April through October. The historic district encompasses 50' on either side of the canal centerline to create a 100' corridor that includes the whole of the easement held by COID, and all the contributing resources. (Date listed: 03/18/2019)

Section 5.10 Goal Exception Statements

Background

The purpose of this section is to identify the lands where Deschutes County demonstrated an exception to meeting the requirements of the Statewide Planning Goals. The intent of goal exceptions is to allow some flexibility in rural areas under strictly defined circumstances. Goal exceptions are defined and regulated by Statewide Planning Goal 2 and Oregon Administrative Rule 660-004 (excerpt below).

660-004-0000(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met.

Statewide Planning Goals with Deschutes County Exceptions

- Goal 3 Agricultural Lands
- Goal 4 Forest Lands
- Goal 11 Public Facilities and Services
- Goal 14 Urbanization

Three types of exceptions are permitted by Oregon Administrative Rule 660-004

- Irrevocably committed
- Physically developed
- Reasons

The summary below identifies approved goal exceptions and identifies the adopting ordinance for those interested in further information. The ordinances listed are incorporated by reference into this Plan.

1979 Exceptions

Comprehensive Plan entire County – PL 20 - 1979

During the preparation of the 1979 Comprehensive Plan it was apparent that many rural lands had already received substantial development and were committed to non-resource uses. Areas were examined and identified where Goal 3 and 4 exceptions were taken. At this time exceptions to Goals 11 and 14 were not required.

The total area excepted was 41,556 acres. These lands were residentially developed, committed to development or needed for rural service centers.

Additional Exceptions

Bend Municipal Airport – Ordinances 80-203, 1980 and 80-222, 1980

The Bend Municipal Airport received an exception to Goal 3 to allow for the necessary and expected use of airport property.

La Pine UUC Boundary – Ordinance 98-001, 1998

Exceptions to Goals 3, 11 and 14 were taken to allow lands to be included in the La Pine UUC boundary and planned and zoned for commercial use.

Spring River Rural Service Center – Ordinances 90-009, 1990; 90-010, 1990; 96-022, 1996; 96-045, 1996

A reasons exception was taken to Goal 14 to allow the establishment of the Spring River Rural Service Center on residentially designated lands.

Burgess Road and Highway 97 – Ordinance 97-060, 1997

An exception was taken to Goal 4 to allow for road improvements.

Rural Industrial Zone – Ordinances 2010-030, 2010; 2009-007, 2009

Two separate ordinances for rural industrial uses. The 2009 exception included an irrevocably committed exception to Goal 3 and a reasons exception to Goal 14 with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals. The 2010 exception took a reasons exception to Goal 14 with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals.

Prineville Railway – Ordinance 98-017

An exception was taken to Goal 3 to accommodate the relocation of the Redmond Railway Depot and the use of the site for an historic structure to be utilized in conjunction with the Crooked River Dinner Train operations.

Resort Communities – Ordinance 2001-047, 2001

An exception was taken to Goal 4 for Black Butte Ranch and Inn of the 7th Mountain/Widgi Creek during the designation of those communities as Resort Communities under OAR 660- 22.

Barclay Meadows Business Park – Ordinance 2003-11, 2003

A reasons exception was taken to Goal 3 to include certain property within the Sisters Urban Growth Boundary.

Sisters School District # 6 – Ordinance 2003-11, 2003

A reasons exception was taken to Goal 3 to include certain property within the Sisters Urban Growth Boundary.

Sisters Organization of Activities and Recreation and Sisters School District #6 – Ordinance 2003-017, 2003

A reasons exception was taken to Goal 4 to include certain property within the Sisters Urban Growth Boundary.

Oregon Water Wonderland Unit 2 Sewer District – Ordinances 2010-015, 2010; 2003-015, 2003

A reasons exception was taken to Goals 4 and 11 to allow uses approved by the Board of County Commissioners in PA-02-5 and ZC-02-3 as amended by PA-09-4.

City of Bend Urban Growth Boundary Amendment (Juniper Ridge) – Ordinance 97-060. 1997

An exception was taken to Goal 3 to allow an amendment of the Bend Urban Growth Boundary to incorporate 513 acres for industrial uses.

Joyce Coats Revocable Trust Johnson Road and Tumalo Reservoir Road Properties – Ordinance 2005- 015, 2005

An irrevocably committed exception was taken to Goal 3 to allow a change of comprehensive plan designation from Surface Mining to Rural Residential Exception Area and zoning from Surface Mining to Multiple Use Agriculture for Surface Mine Sites 306 and 307.

Watson/Generation Development inc – Ordinance 2005-015

An exception was taken to Goal 3 to include a portion of agricultural property.

Oregon Department of Transportation – Ordinance 2005-019, 2005

An exception was taken to Goal 3 to include a portion of agricultural property.

Conklin/Eady Property – Ordinance 2005-035, 2005

An exception was taken to Goal 3 to include a portion of agricultural property.

City of Sisters Property – Ordinance 2005-037, 2005

An exception was taken to Goal 4 to include a portion of forest property.

McKenzie Meadows Property – Ordinance 2005-039, 2005

An exception was taken to Goal 4 to include a portion of forest property.

Bend Metro Park and Recreation District Properties – Ordinance 2006-025

A reasons exception was taken to Goal 3 to include a portion of agricultural property.

Harris and Nancy Kimble Property and Portion of CLR, Inc Property A.K.A. the Klippel Pit Property – Ordinance 2008-001, 2008

An irrevocably committed exception was taken to Goal 3 to allow reclassification and zoning from Surface Mine to Rural Residential Exception Area and Rural Residential 10 acre for Surface Mine Site 294.

Sunriver Service District, Sunriver Fire Department – Ordinance 2014-021, 2014

A reasons exception was taken to Goal 4 to include a portion of forest property. To ensure that the uses in the Sunriver Utility District Zone on the approximate 4.28 acre site of Tax Lot 102 on Deschutes County Assessor's Map 19-11-00 are limited in nature and scope to those justifying the exception to Goal 4 for the site, the Sunriver Forest (SUF) zoning on the subject site shall be subject to a Limited Use Combining Zone, which will limit the uses on the subject site to a fire training facility and access road for the Sunriver Service District and Sunriver Fire Department.

Frances Ramsey Trust Property – Ordinance 2014-027, 2014

An "irrevocably committed" exception was taken to Goal 14 to allow for reclassification and rezoning from agricultural property to Rural Industrial for a 2.65 acre portion of a parcel zoned EFU/RI.

Section 5.11 - Goal 5 Adopted Ordinances

As noted in Chapter 5 of this Plan, adopted and acknowledged Goal 5 inventories, ESEEs and programs are retained in this Plan. Generally the Goal 5 inventories and ESEEs were adopted into the previous Comprehensive Plan or Resource Element and the Goal 5 programs were adopted into the Zoning Code. The County does not have a complete listing of Goal 5 inventory and ESEE ordinances, but will continue to research those ordinances. The following list is a start in listing all Goal 5 ordinances that are retained in this Plan.

- 80-203 Misc. Goal 5
- 85-001 Geothermal Resources
- 86-019 Deschutes River Corridor
- 90-025 Mining
- 90-028 Mining
- 90-029 Mining
- 92-018 Historic and Cultural
- 92-033 Open Space, LM
- 92-040 Fish and Wildlife
- 92-041 Fish and Wildlife (wetlands and riparian)
- 92-045 Wetlands RE
- 92-051 Misc. including Goal 5
- 92-052 Misc. Goal 5
- 92-067 Mining
- 93-003 Misc. Goal 5
- 94-003 Misc. Goal 5
- 94-006 Historic and Cultural
- 94-007 Wetlands and Riparian areas
- 94-050 Mining
- 95-038 Misc. Goal 5
- 95-041 Mining
- 96-076 Mining
- 99-019 Mining
- 99-028 Mining
- 2001-027 Mining
- 2001-038 Mining
- 2001-047 Mining
- 2001-018 Fish and Wildlife
- 2003-019 Mining
- 2005-025 Historic and Cultural
- 2005-031 Mining
- 2007-013 Mining
- 2008-001 Mining
- 2011-008 South Deschutes County LWI
- 2011-014 Mining

Section 5.12 - Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County
2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.
2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal 11 to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non- resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18; 1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone
2018-006	7-23-18/7-23-18	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

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
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 1 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

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD’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	1-8-20/4-20-20	23.01.01, 2.6, 3.5, 5.2	Comprehensive Plan and Text amendments relating to Religious Institutions to ensure compliance with RLUIPA.
2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal 11 (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.
2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.
2020-006	08-12-20/11-10-20	23.01.01, 2.11, 5.9	Comprehensive Plan and Text amendments to update the County’s Resource List and Historic Preservation Ordinance to comply with the State Historic Preservation Rule.
2020-009	08-19-20/11-17-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add reference to J turns on US 97 raised median between Bend and Redmond; delete language about disconnecting Vandevent Road from US 97.

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
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)



COMMUNITY DEVELOPMENT

STAFF FINDINGS

FILE NUMBER(S): 247-23-000644-PA

APPLICANT: Deschutes County Planning Division

REQUEST: Repeal and Replace 2030 Comprehensive Plan with Deschutes 2040 Comprehensive Plan.

STAFF CONTACT: Nicole Mardell, AICP, Senior Planner
Phone: 541-317-3157
Email: nicole.mardell@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutes.org/2040 by clicking on the "Hearing Page" link

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)
Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.012, Legislative Procedures
Oregon Administrative Rule (OAR)
OAR 660-015, Statewide Planning Goals and Guidelines

II. BASIC FINDINGS

PROPOSAL

This is a legislative plan and text amendment to replace the 2030 Deschutes County Comprehensive Plan with the Deschutes 2040 Comprehensive Plan. The proposal does not seek to replace the Tumalo Community Plan, Terrebonne Community Plan, Newberry Country Plan, nor the Transportation System Plan. This proposal does not include any amendments to the County's Goal 5 Inventory. The proposal does not include any Comprehensive Plan or Zoning Map amendments.

BACKGROUND

The Board of County Commissioners initiated the process to update the County's Comprehensive Plan in November 2021. Staff worked extensively with the project consultant MIG, on creating the project scope and budget for this process. Over the last 18 months, staff has conducted widespread community engagement and analysis of existing conditions and projected trends. This in turn, has

informed updates to chapter narrative, goal, and policy language to provide an up-to-date approach to managing growth and development in rural Deschutes County.

REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative plan and text amendment. Nonetheless, since Deschutes County is initiating one, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and the County's Comprehensive Plan.

III. FINDINGS & CONCLUSIONS

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.
Hearing Required

FINDING: This criterion will be met because a public hearing will be held before the Deschutes County Planning Commission on October 26, 2023, and before the Board of County Commissioners on April 10, 2024.

Section 22.12.020, Notice
Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.**
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.**

FINDING: This criterion is met as notice was published in the Bend Bulletin newspaper on October 13th, 2023, for the Planning Commission public hearing and on March 27th, 2024 for the Board of County Commissioners public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

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

FINDING: Notice was provided to the County public information official for wider media distribution. Staff provided additional notice beyond the legal requirements. This was done through the project’s constant contact mailing list, including over 550 contacts, through press releases, and coordination with community organizations. This criterion is met.

Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board of County Commissioners and has received a fee waiver. This criterion is met.

Section 22.12.040. Hearings Body

- A. The following shall serve as hearings or review body for legislative changes in this order:**
 - 1. The Planning Commission.**
 - 2. The Board of County Commissioners.**
- B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.**

FINDING: The Deschutes County Planning Commission will hold the initial public hearing on October 26, 2023. The Board will hold a public hearing on April 10, 2024. These criteria are or will be met.

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance.

FINDING: The proposed legislative changes will be implemented by ordinance 20xx-xxx, upon approval and adoption by the Board of County Commissioners. This criterion will be met.

OAR 660-015, Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement:

FINDING: The development of the Deschutes County 2040 Comprehensive Plan document was a multi-year process with significant public outreach and community member involvement.

The following is a short summary of engagement leading up to the initial public hearing:

- o Established a project email list with over 500 contacts.
- o Provided 7 project update emails.

- Established a new, user-friendly website.
- Received over 29,000 social media impressions.
- Coordinated with media on 13 news stories.
- Held 66 small group meetings with over 400 participants.
- Held 8 open houses with 296 attendees.
- Held an online open house with 361 survey responses.
- Hosted a virtual and interactive forum with over 100 responses.
- Held 11 planning commission meetings.
- Provided incentives through a raffle, prizes, and food and beverages.

Community member input was essential to the development of the resulting Deschutes County 2040 document and staff utilized several novel and innovative techniques to reach rural residents. Chapter 1 of the plan, Community Engagement, outlines numerous policies that reduce barriers to and support community involvement throughout planning processes.

Key Policy Changes

Comprehensive Plan - 2030: Chapter 1, Section 1.2

Deschutes County 2040 Plan: Chapter 1 - Community Engagement

Amendments: Citizen involvement (now Community Engagement) was completely rewritten.

The section listed above and this Plan as a whole, complies with Goal 1, Citizen Involvement, as described:

- The adoption process for these amendments included public hearings before the Planning Commission (Committee for Citizen Involvement) and before the Board of County Commissioners.
- The updated goal and policies were created through an extensive two-year public/Planning Commission process that generated considerable public input which was incorporated throughout this Plan.
- The new policies recognize the Planning Commission as the required Committee for Community Involvement.
- This section complies with the following six components of Statewide Goal 1:
 - Policies 1.1.1-1.1.8 promote opportunities to involve community members at all stages of planning processes by providing adequate opportunities for input, promoting two-way communication, and continuously improving on outreach activities.
 - Policies 1.2.1-1.2.6 support the activities and funding of the Committee for Community Involvement.
 - Policies 1.1.2 and 1.1.4 ensure technical information is available in an understandable form

Consistency with Goal 1 is thereby met.

Goal 2: Land Use Planning:

FINDING: The purpose of the chapter is to ensure the Comprehensive Plan was built with a factual base and will be followed when making future land use decisions. In updating this plan document, information was gained from numerous studies, technical documents, and subject matter experts. ORS 197.610 prescribes the process for local governments to initiate post-acknowledgement plan

amendments. 45-day notice was provided to the Oregon Department of Land Conservation (DLCD) and Development on August 30, 2023 – no comments have been received from DLCD.

The draft Plan contains detailed, factual background information in each chapter narrative to provide context for the goals and policies. The Deschutes County 2040 plan update does propose any changes to Comprehensive Plan designations or zoning designations, nor the County's Goal 5 inventories or community plans as part of this update.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 1, Section 1.3 and Chapter 5, Section 5.10
Deschutes County 2040 Plan: Chapter 2 Land Use and Regional Coordination

Amendments: Land use (previously Section 1.3) was completely rewritten.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 2 as described:

- Policies 2.1.1 and 2.1.5 recognize that when making land use regulations, private property rights, economic impacts, sustainability and carrying capacity all need to be considered.
- Policy 2.1.2 and 2.1.4 recognize the importance of implementing the plans recommendations through the annual department work plan process and updating the document to incorporate new information.
- Policy 2.1.3 clarifies the official Comprehensive Plan map is retained as an electronic layer with the Deschutes County GIS system.
- Goal 2.2 and its associated policies support regional coordination and partnership on regional issues and are further discussed under Goal 14 – Urbanization.
- Policies 2.3.1-2.3.2 speaks to coordinate and management of County owned land use for park purposes.
- Policies 2.4.1-2.4.2 recognize the importance of reducing onerous barriers to land use and planning applications.
- There are no amendments to Comprehensive Plan map designations incorporated into this Plan update, although definitions of existing designations are provided.

Consistency with Goal 2 is thereby met.

Goal 3: Agricultural Lands:

FINDING: Goal 3 seeks to preserve and maintain agricultural lands. Deschutes County inventoried agricultural lands as required by Goal 3 in 1979 and refined the agricultural land designations as a result of a farm study in 1992. This plan update does not propose to rezone or redesignate any agricultural lands. Staff finds that the goals and policies within the document are supportive of retaining productive and valuable lands for agricultural uses within Deschutes County and reducing barriers to a healthy agricultural economy.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 2, Section 2.2
Deschutes County 2040 Plan: Chapter 3 - Farm and Forest Resources

Amendments: Chapter 2, Section 2.2 Agricultural Lands and Section 2.3 Forest Lands were combined and rewritten, although existing designations and regulations were retained.

The section listed above, and this Plan update as a whole, complies with Statewide Planning Goal 3 as described:

- Policies 3.1.1-3.1.2 retain the existing Exclusive Farm Use Zoning and subzones. No map changes are proposed as part of this Plan update.
- Policy 3.1.4 ensures the County’s farm policies and codes remain compliant with State regulations.
- Policies 3.2.1-3.2.9 support the business of agriculture and review of county regulations to reduce common issues that impact farming operations and activities.
- Policies 3.1.3, 3.3.1, 3.3.2, and 3.3.6 support the accurate designation of agricultural lands in compliance with State rules, while responding to local concerns that there are Deschutes County farmlands that are incorrectly designated.
- Policy 3.3.4 addresses the newly allowed state allowance for rural accessory dwelling units.
- Policy 3.3.5 encourages coordination between farmers and fish/wildlife managers.

Consistency with Goal 3 is thereby met.

Goal 4: Forest Lands:

FINDING: Goal 4 seeks to conserve forest lands. Deschutes County inventoried forest lands as required by Goal 4 in 1979 and refined the forest land designations to conform to OAR 660-006. Deschutes County is not proposing to rezone or redesignate any forest lands as part of this update process. Staff consolidated the goals that were previously in Section 2.3 Forest Lands into *Chapter 3 – Farm and Forest Resources*.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 2, Section 2.3
Deschutes County 2040 Plan: Chapter 3 - Farm and Forest Lands

Amendments: Forest Lands (previously Section 2.3) was rewritten and combined into the same chapter as agricultural lands, although existing designations and regulations were retained.

The section listed above, and this Plan update as a whole, comply with Statewide Planning Goal 4 as described:

- Goal 3.4 and Policies 3.4.1-3.4.4 provide the characteristics and criteria for the County’s Forest Zones. These policies remain unchanged from the previous 2010 plan.
- Policy 3.4.5 ensures forest codes are compliant with State regulations.
- Policies 3.4.6-3.4.7, 3.4.9, and 3.4.10 recognize the need for coordination with federal agencies and tribal government in forest management.
- Policy 3.4.8 supports economic opportunities within forest zoned lands while meeting other community goals.
- Policy 3.4.11 recognizes the need to review and revisit county code to reduce impacts from development on forest health and dependent species.

Consistency with Goal 4 is thereby met.

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

FINDING: Statewide Planning Goal 5 addresses natural resources, historic and cultural resources, and mineral and aggregate resources. In this update, these topics were divided into three chapters to ensure adequate depth and policy response to each particular topic.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 2, Sections 2.4-2.7 and 2.10-2.11 and Chapter 5, Sections 5.3-5.9, 5.11

Deschutes County 2040 Plan: Chapter 4 - Mineral and Aggregate Resources, Chapter 5 - Natural Resources, Chapter 6 - Historic Resources

Amendments: The narratives for each topic were rewritten. The Goal 5 inventories for these resources (as well as ESEEs and programs) were retained and remained unchanged in Appendix A.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 5 as described:

Chapter 5 – Natural Resources

- Water Goals and Policies
 - Policies 5.1.1 directs the county to participate in statewide regional and water planning efforts including implementation of the Upper Deschutes Basin Study, Habitat Conservation Plan, and Biological Opinion.
 - Policy 5.1.2 supports grants for improvements, upgrades, or expansions to water systems.
 - Policies 5.1.4 promotes increased consideration of water quality, water availability, and treaty rights of Confederated Tribes of Warm Springs in the land use review process.
 - Policies 5.2.1-5.2.3 support water conservation efforts through a mixture of incentives, educational opportunities and partnerships with local and regional organizations and agencies.
 - Policies 5.3.1-5.3.4 seek to maintain a healthy ecosystem in the Deschutes River Basin including partnerships with agencies, implementation of study recommendation, and education.
 - Policies 5.4.1-5.4.11 seek to maintain and enhance fish and riparian dependent wildlife habitat. These polices address coordination with agencies and organizations during land use review process, implementation of Habitat Conservation Plans and other scientific studies, and additional regulations and educational programs to limit impacts to riparian areas.
 - Policies 5.5.1-5.5.7 aspire to coordinate land use and water policies to address water allocation and management. These policies address coordination, support to revisit Oregon Water Resources Departments Groundwater Allocation and Mitigation Rules, improvement of stormwater and wastewater facilities, and consideration of hydrology during land use review process.

- Open Spaces and Scenic Views
 - Policies 5.6.1-5.6.4 recognize the importance of working with stakeholders to establish and maintain connected open spaces and scenic view areas.
 - Policies 5.6.5-5.6.6 support protection for visually significant areas.

• Wildlife Habitat

- Policy 5.7.1 promotes stewardship of wildlife habitat.
- Policy 5.7.2 is directed at updating wildlife habitat inventories and protections through future public processes, informed by public process, expert sources, and current or recently updated plans.
- Policy 5.7.3 and 5.7.4 seek to incentive or require greater compatibility between development and habitat areas, including clustering of development.
- Policy 5.7.5 directs the County to coordinate with Confederate Tribes of Warm Springs on co-management on wildlife resources.
- Policies 5.8.-5.8.3 seek to balance the economic and recreation benefits of wildlife with the protection of these resources.
- Policies 5.9.1-5.9.3 address federal and state protected species.

Chapter 4 - Mineral and Aggregate Resources

- Policies 4.1.1-4.1.3 seek to implement the Goal 5 program for mineral and aggregate sites.
- Policy 4.1.4 supports reclamation of sites following exhaustion of mineral or aggregate resources.

Chapter 6 - Historic and Cultural Resources

- Policies 6.1.1- 6.1.3 define roles of the County in promoting a historic landmarks program, including coordination with the State Historic Preservation office and the Confederated Tribes of Warm Springs.

Consistency with Goal 5 is thereby met.

Goal 6: Air, Water and Land Resources Quality:

FINDING: Goal 6 instructs local governments to consider protection of air, water, and land resources from pollution and pollutants when developing Comprehensive Plans. This chapter supports maintaining and improving air, water and land quality, which goes beyond the requirements of Goal 6 to comply with State and Federal regulations. Staff notes that there are no comprehensive map or zoning changes associated with this amendment, nor are any amendments to the County's Goal 5 inventory proposed.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 2, Section 2.5 and 2.9

Deschutes County 2040 Plan: Chapter 5 - Natural Resources

Amendments: This section was entirely rewritten, the policies pertaining to Air, Water, and Land Resources Quality have been integrated into an “Environmental Quality” section of the larger natural resources chapter.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 6 as described:

- Policies 5.10.1 and 5.11.2 promote use of environmentally friendly building practices in County operations and on public property.
- Policy 5.10.2 supports implementation of a dark skies program to impacts of light pollution.
- Policies 5.10.3-5.10.4, and Policy 5.11.2 promote public education regarding controlled burning, noxious weeds, and reuse and recycling.
- Policies 5.11.3-5.11.4 support the process for siting new waste management facilities and implementing best practices in solid waste management.
- Policy 5.11.5 seeks to develop and implement a Climate Action Plan to mitigate impacts of climate change in Deschutes County.
- Policy 5.11.6 promotes green infrastructure to improve stormwater.

Consistency with Goal 6 is thereby met.

Goal 7: Areas Subject to Natural Disasters and Hazards:

FINDING: Goal 7 requires comprehensive plans to address Oregon’s natural hazards. Deschutes County has been proactive in addressing natural hazards, through periodic updates to the County’s Natural Hazards Mitigation Plan (NHMP). That Plan provides extensive information on natural hazards in Deschutes County and detailed recommendations to protect people and property.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 3, Section 3.5
Deschutes County 2040 Plan: Chapter 7 - Natural Hazards

Amendments: Natural hazards (now Chapter 7) was completely rewritten.

The section listed above, and this Plan update as a whole, comply with Statewide Planning Goal 7 as described:

- Policies 7.1.1-7.1.3, and 7.2.4 promote coordination agency partners to regularly update the NHMP, update hazard risk maps, review land use applications, and clarify responsibilities pertaining to natural hazard events.
- Policy 7.1.4 seeks to utilize development code provisions to manage development in hazard prone areas.
- Policies 7.1.5 – 7.1.10 aspires to address wildfire risk and mitigate impacts to wildlife and people.
- Policy 7.1.11 provides recommendations to review and revise County code to address common hazard risk issues.
- Policies 7.2.1-7.2.2 mitigate risk to essential infrastructure following natural hazard events.
- Policy 7.2.3 supports the siting of a regional emergency services training facility.
- Policy 7.2.5-7.2.7 provides required and incentivized standards to mitigate risk for new development in hazard prone areas.
- Policy 7.2.8 provides compliance with the FEMA flood insurance program.
- Policies 7.3.1-7.3.5 promote development of programs to inform the public of increased risk of natural hazards.

Consistency with Goal 7 is hereby met.

Goal 8: Recreational Needs:

FINDING: Goal 8 requires local governments to plan for the recreation needs of their residents and visitors. Unlike cities, the County is not required to adopt a parks master plan, but instead coordinate recreational activities among government and private agencies in the rural portions of the County.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 3, Section 3.8
Deschutes County 2040 Plan: Chapter 8 - Recreation

Amendments: This section was completely rewritten.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 8 as described below.

- Goal 8.1 and policies 8.1.1-8.1.6 address the need for cooperation in recreation planning.
- Policy 8.1.7 discusses working with Unincorporated Communities that express interest in parks.
- Policy 8.1.8 refers to integrating trail designs from other agencies within the Transportation System Plan where appropriate.
- Policy 8.1.9 explores an increased role of the County in parks and recreation to serve rural areas not already within a parks and recreation district.
- Policy 8.1.10 supports the community effort to acquire and manage Skyline Forest as a community asset.
- Policy 8.1.11 speaks to balancing new recreational opportunities with the integrity of the natural environment.

Consistency with Goal 8 has been met.

Goal 9: Economic Development:

FINDING: Goal 9 seeks to provide adequate opportunities for economic development throughout the state. Goal 9 primarily applies to urban development within acknowledged growth boundaries. The County is not required to provide an economic feasibility study or designate land to fulfill employment needs. Rather, these policies are intended to provide guidance for regional economic development activities and rural economic activities allowed under state law.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 3, Section 3.4
Deschutes County 2040 Plan: Chapter 9 - Economic Development

Amendments: The economy chapter was completely rewritten.

The section listed above, and this Plan update as a whole, comply with Statewide Planning Goal 9 as described:

- Policy 9.1.1 speaks to promote rural economic initiatives, while balancing impacts to rural livability and natural resources.

- Policy 9.1.2 supports Economic Development for Central Oregon as the regional coordinator for economic development.
- Policy 9.1.3 supports growth and expansion of higher education in Central Oregon to support the regional workforce.
- Policy 9.1.4 supports renewable energy generation as an economic tool, with consideration for community concerns or goals such as livability and impact on natural resources.
- Policy 9.1.5 promotes master planning for airport facilities to reduce noise and safety concerns as the region grows.
- Policy 9.1.6 speaks to allowing local oriented rural commercial uses as state law allows.
- Policy 9.1.7-9.1.10 addresses planning for economic development lands, including large lot industrial lands, supporting childcare, and expansion of internet infrastructures.
- Policies 9.2.1-9.3.15 are retained from the 2011/1979 Plan. These policies govern existing Rural Commercial and Rural Industrial designated properties. These properties were previously evaluated under OAR 660-023 and determined to have pre-existing commercial or industrial uses that do not fit into any of the unincorporated community categories.

Consistency with Goal 9 is met.

Goal 10: Housing:

FINDING: Goal 10 directs cities to provide an adequate supply of housing for their residents. Unlike cities, Counties are not required to comply with the requirements of Goal 10 to provide a 20-year supply of housing for its community members, nor undertake any analysis pertaining to housing demand and supply. The County does not have any statutory obligations in providing findings to Goal 10. Instead, staff and community members identified important emerging issues that pertain to rural housing and drafted aspirational policies to address these issues.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 3, Section 3.3
Deschutes County 2040 Plan: Chapter 10 - Housing

Amendments: Housing (now Chapter 10) was completely rewritten.

The policies below and this section as a whole complies with statewide land use Goal 10 as described:

- Goal 10.1 was refined from the previous Comprehensive Plan and speaks to balancing housing choice for rural residents with health, safety, environmental, and resource land impacts.
- Policy 10.1.1 speaks to establishing a tracking system for cumulative impacts associated with rural housing development.
- Policy 10.1.2 addresses health and safety issues associated with housing.
- Policy 10.1.3 encourages subdivisions alternative development patterns for subdivisions (such as clustering) to mitigate community and environmental impacts.
- Policies 10.1.4-10.2.2 speak to providing affordable housing options and alternatives in Deschutes County and exploring programs to support housing where allowed by state law in rural areas.
- Policies 10.3.1-10.3.7 provide guidance for development in the Westside Transect Zone.
- Policies 10.4.1-10.4.6 support coordination with cities on affordable housing.

Consistency with Goal 10 is thereby met.

Goal 11: Public Facilities and Services:

FINDING: Goal 11 directs local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for rural development. The County does not provide any water or sewer services. The primary services provided by Deschutes County, aside from Transportation which is addressed in the County’s Transportation System Plan) pertains to waste management. The County may also serve as a conduit for other resources and may support other local governments in siting of regional facilities.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 3, Section 3.6
Deschutes County 2040 Plan: Chapter 12 - Public Facilities

Amendments: Public facilities and services (now Chapter 12) was completely rewritten.

The section listed above, and this Plan update as a whole, comply with Statewide Planning Goal 11 as described:

- Goal 12.1 and policies 12.1.1-12.1.13 supports orderly, efficient and cost-effective siting of rural public facilities and services including natural hazard preparedness, intergovernmental coordination, and reduction of impact to natural and community resources.
- Goal 12.2 and policies 12.2.1-12.2.4 promote sustainable, innovative, and cost-effective waste management practices.
- Goal 12.3 and Policy 12.3.1 encourages the County to be a conduit for resources.

Consistency with Goal 11 is met.

Goal 12: Transportation:

FINDING: The Deschutes County 2040 plan does not directly address transportation, but rather refers directly to an appendix for the County’s Transportation System Plan. The adoption of the 2020-2040 Transportation System Plan is still under review and is required to comply with this goal and applicable statute and implementing rule.

Goal 13: Energy Conservation:

FINDING: Goal 13 aspires to conserve energy, by maximizing land and uses to maximize conservation of all forms of energy. This section primarily provides guidance for conservation and alternative energy production in the rural county, as allowed by state law.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 2, Section 2.8
Deschutes County 2040 Plan: Chapter 13 - Energy

Amendments: Energy (now Chapter 13) was completely rewritten as a standalone chapter.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 13 as described:

- Goal 14.1 promotes energy conservation and alternative energy production.
- Policies 14.1.1-14.1.3 aspire to reduce energy usage in County operations and support working with energy suppliers to promote energy efficiency in all economic sectors.
- Policies 14.1.4-14.1.10 seek to promote development of renewable energy projects at a commercial and personal scale, including development of vehicle charging stations, while balancing environmental and community resources.

Consistency with Goal 13 is thereby met.

Goal 14: Urbanization:

FINDING: Two chapters within the 2040 Plan touch on the topic of urbanization - Land Use and Regional Coordination, and Unincorporated Communities and Destination Resorts. Staff notes the key policies pertaining to urbanization below. Staff notes that the unincorporated community policies pertain to those designated under OAR 660-022. Rural industrial and rural commercial policies are noted in review of Goal 9 above. More specific policies for the unincorporated communities of Tumalo and Terrebonne are included in the small area plans included as appendices to this document. The community plans are not updated or amended through the Deschutes County 2040 update process.

Key Policy Changes

Comprehensive Plan – 2030: Chapter 4, Sections 4.2-4.4 and 4.57-4.8

Deschutes County 2040: Chapter 2 - Land Use and Regional Coordination, Chapter 11 - Unincorporated Communities and Destination Resorts

Amendments: Urbanization (now retitled and reorganized into the two chapters above) was completely rewritten. Urban Unincorporated Communities, Resort Communities and Rural Service Centers (previously Sections 4.4, 4.7, 4.8) have been moved to Chapter 11.

The sections listed above, and this Plan update as a whole, comply with Statewide Planning Goal 14 as described below.

Chapter 2 - Land Use and Regional Coordination

- Goal 2.2 seeks to coordinate regional planning efforts between the local, regional, and state governments.
- Policies 2.2.1-2.2.4, 2.2.10 and 2.2.11 encourage periodic review of intergovernmental and urban management agreements, coordination on land use actions, and support the use of land for public purposes as needed.
- Policy 2.2.5 encourages cities to conduct urban reserve planning in partnership with the County.
- Policies 2.2.6 and 2.2.7 encourage collaboration with federal agencies and tribal governments on key land management issues.
- Policy 2.2.8 seeks to support regional infrastructure projects with community benefit, while mitigating negative impacts.
- Policy 2.2.9 supports updates to unincorporated community area plans.

Chapter 11- Unincorporated Communities and Destination Resorts

- Policies 11.1.1 -11.1.5 are general resort community policies and remain unchanged through this update.
- Policies 11.2.1-11.3.6 govern the Black Butte Ranch resort community and remain unchanged.
- Policies 11.4.1-11.5.7 pertain to Inn of 7th Mountain and Widgi Creek. These polices are unchanged.
- Destination Resort Goal 11.6, 11.7 and Policies 11.6.1-11.7.1, 11.7.4-11.7.5 remain unchanged. The goals and policies were moved from the rural recreation element of the 2011 Comprehensive Plan to Chapter 11 – Unincorporated Communities and Destination Resorts and reorganized for consistency.
- Policy 11.7.2 was created with Planning Commission and community feedback and seeks to add additional requirements to consider water quality, recreational resources, and community values during Destination Resort siting.
- Policy 11.7.3 seeks to integrate affordable housing for workers within or near destination resorts.
- Policies 11.8.1-11.20.4 provide guidance for the unincorporated community of Sunriver and are unchanged through this proposal.

Consistency with Goal 14 is thereby met.

Goals 15 through 19

FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

IV. CONCLUSION

The proposed Deschutes County 2040 Comprehensive Plan complies with all relevant Deschutes County and OAR requirements.

Attachment D

Policy Tracker

To view the policy tracker, which serves as an extensive reference document comparing iterations of language throughout the update process, click on the link below. It can also be found on the project hearing page under “BOCC Hearing – Applicant Submittals”.

Note: due to the amount of information, this policy tracker is best viewed on an electronic device rather than as a printed copy.

<https://weblink.deschutes.org/CDD/DocView.aspx?dbid=0&repo=LCDD&id=1244335>



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 10, 2024

SUBJECT: Public Hearing: Commercial activity in conjunction with Farm use (winery) in the Multiple Use Agricultural Zone

RECOMMENDED ACTION:

Following the public hearing, decide whether to request additional testimony and application materials which may demonstrate compliance with or acknowledgement of specific conditions of approval imposed by the Hearings Officer as those pertain to DCC 18.116 and 18.124.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners will conduct a public hearing on April 10, 2024, to consider a request for, and appeal of, proposed commercial activities in conjunction with farm use to establish a winery (file nos. 247-22-000464-CU, 466-SP, 018-A).

BUDGET IMPACTS:

None

ATTENDANCE:

Nathaniel Miller, Associate Planner
Jacob Ripper, Principal Planner



MEMORANDUM

TO: Deschutes County Board of County Commissioners

FROM: Nathaniel Miller, Associate Planner

DATE: April 10, 2024

RE: Public Hearing: A Commercial Activity in Conjunction with Farm Use (Winery) in the Multiple Use Agricultural Zone.

The Board of County Commissioners (Board) will conduct a Public Hearing on April 10, 2024, to consider a request for a Commercial Activity in Conjunction with Farm Use to establish a winery. The applications and appeal are identified as file nos. 247-22-000464-CU, 466-SP, 24-018-A. The subject property is approximately 5.5 acres in size and is about 750 feet northwest of the City of Bend. Highway 97 is approximately 1,500 feet directly to the east. The property is addressed at 20520 Bowery Lane, Bend, and is further identified on County Assessor's Map 17-12-09B as Tax Lot 1000. A location map is included as **Attachment A**.

I. BACKGROUND

The Applicants, Duane and Dina Barker, have requested a Conditional Use Permit for a Commercial Activity in Conjunction with Farm Use to establish a Winery with associated uses in the Multiple Use Agricultural Zone (MUA10). The request also includes a Site Plan Review for the Winery and associated uses. The property owner proposes to convert a portion of an existing accessory building into a tasting room and office space. The proposal also includes the conversion of an existing barn for small-scale wine production and wine storage. The approval would include the production of up to 2,000 cases of wine annually as well as hosting wine related events on the property, wine tastings, wine dinners, and other wine marketing events directly related to the sale and promotion of wine produced from the vineyard. No new buildings or structures are included in the proposal.

The applications were submitted on June 7, 2022. An Incomplete Letter was mailed on July 7, 2022. On December 4, 2022, the applicants requested that the applications be deemed complete and 150-day clock be extended. The applications were referred to a Public Hearing on August 4, 2023. On September 15, 2023, the applicants then waived the 150-day clock.

The initial public hearing before the Hearings Officer was scheduled on Wednesday, October 10th, 2023. On October 6, 2022, the Applicant requested a 2-week continuance of the Public Hearing pursuant to DCC 22.24.140(A)(1). The Hearings Officer opened the initial hearing, but no testimony was received, and the new hearing date was set for October 24, 2023.

During the second hearing on October 24, 2023, Hearings Officer Brooks conducted a full hearing and testimony was received in support and in opposition to the proposal. An Open Record Period was set for 7 days of New Evidence and Testimony, 7 days for Rebuttal, and 7 days for the Applicant's Final Legal Arguments. The record was closed 21 days after the hearing on November 14, 2023.

II. HEARING OFFICER DECISION

The Deschutes County Hearings Officer rendered a decision approving the Applicant's request for a Conditional Use Permit for the Winery on January 2, 2024.

Staff notes the following salient elements of the Hearings Officer Decision:

- The Hearings Officer addressed issues raised in the Staff Report specific to Title 22 and the Deschutes County Procedures Ordinance. These include:
 - The appropriate signatures on the application form
 - The open Code Enforcement Case on the property
 - The noticing requirements for the application
- The proposal meets the requirements of DCC 18.32.030(C) and qualifies as a Commercial Activity in Conjunction with Farm Use.
- The proposal likely conforms to the Site Plan Review standards of DCC 18.116 and DCC 18.124, however more detail is required. The Hearing Officer included 33 conditions of approval in the decision.
- The proposal meets the suitability requirements of DCC 18.128.015

III. APPEAL

The Appellant (Toby Bayard) submitted a timely appeal to the Hearings Officer's Decision on January 9, 2024. The Appellant requests the Board initiate a review and conduct a hearing to evaluate the following issues:

- Whether wineries can only be cited on property in the Exclusive Farm Use Zone pursuant to ORS 215.452, and not in any other zone.
- Whether the Hearings Officer erred in finding that a winery can be approved on MUA10-zoned property as a Commercial Activity in Conjunction with Farm Use.

- Whether there is inconsistency from the Hearings Officer between the subject applications and the previous approval under Deschutes County File nos. 247-22-000024-CU, 22-025-SP, 22-757-A, 22-914-A (Commercial Activity in Conjunction with Farm Use for a Meadery in the EFU Zone).
- Whether the Hearings Officer erred in the incorporation of testimony placed into the public record.

IV. BOARD CONSIDERATION

The Board has agreed to hear the appeal *de novo*. The Board will hear and consider the report by staff, the applicant’s presentation and written submittal, the appellant’s presentation, and any member of the public that wishes to give testimony or provide written comments. The record is available on the project website listed below.

V. STAFF RECOMMENDATION

As noted in the Consideration to Hear, a public hearing before the Board allows for additional testimony and application materials which could confirm compliance with the criteria of DCC 18.116 and DCC 18.124. In the approval issued from the Hearings Officer, there were a number of conditions of approval which require exercising discretion. In addition, other conditions of approval could be considered significant in the Board’s decision-making process. Staff recommends that the Board request additional testimony and application materials which demonstrate compliance with, or acknowledgement of, these specific conditions of approval as they pertain to DCC 18.116 and DCC 18.124. They are identified as:

Conditions of Approvals which Require Exercise of Discretion

J. Clear Vision Areas on the Site Plan.

Prior to the issuance of building permits, a revised and final site plan shall be submitted to the Planning Division which correctly illustrates the clear vision areas at all access points.

L. Available Parking.

This approval is conditioned upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18 as set forth in this Decision. The Applicant shall submit a revised and final site plan showing where the required parking spaces will be located, including the size of each parking stall.

Q. Parking Area Landscaping.

Prior to the issuance of building permits, the property owner shall submit a revised site plan depicting the parking area landscaping required by this Decision, which must note whether any trees are to be planted under overhead utility lines and, if so, show that the height of those trees has been taken into consideration.

S. Access Aisles.

Prior to the issuance of building permits, the property owner shall submit a revised site plan depicting access aisles at a minimum width of twenty-four (24) feet for all two-way traffic and a minimum width of twelve (12) feet for all one-way traffic.

T. Service Drive Width.

Prior to the issuance of building permits, the property owner shall submit a revised site plan depicting service drives at a minimum width of twenty-four (24) feet for all two-way access aisles and a minimum width of twelve (12) feet for all one-way access aisles.

U. Service Drive Boundaries.

Prior to the issuance of building permits, the property owner shall submit a revised site plan depicting service drive boundaries which are clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers.

V. Off-street Parking Lot Design.

Prior to the issuance of building permits, a revised and final site plan shall be submitted to the Planning Division which illustrates the parking aisles and spaces and demonstrates compliance with DCC 18.116.030(G)(1-4).

W. Bicycle Parking Spaces.

Prior to the issuance of building permits, a revised and final site plan shall be submitted to the Planning Division which illustrates the location of the required bicycle parking spaces.

Additional Conditions of Approval for Board Consideration

B. General Division Permitting.

The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.

X. Confirmation from Bend Fire & Rescue.

Prior to the issuance of building permits, Receipt of approval will be provided to the Planning Division from Bend Fire & Rescue that the access and site design for emergency vehicles are acceptable.

EE. Evacuation of the Right of Way.

Prior to the issuance of building permits, the property owner shall cause for the removal of all private property, including fences, posts, walls, crops, landscaping, and other features, from the existing public right of way for Bowery Lane along the frontage to the subject property.

GG. Ingress and Egress via Hunnell Road.

At all times, once Hunnell Road construction is complete, wayfinding or directional messaging provided by the property owner to vendors and patrons of the proposed commercial activities shall

direct vendors and patrons to utilize Hunnell Road and the western section of Bowery Lane for ingress and egress to the subject property.

VI. 150-DAY LAND USE CLOCK

As noted above, on September 15, 2023, the applicants then waived the 150-day clock.

VII. RECORD

The record for file nos. 247-22-000464-CU, 466-SP, (Appeal file No. 247-24-000018-A) is as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-22-000464-cu-247-22-000466-sp-lava-terrace-cellars-winery-vinyard>

VIII. NEXT STEPS

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

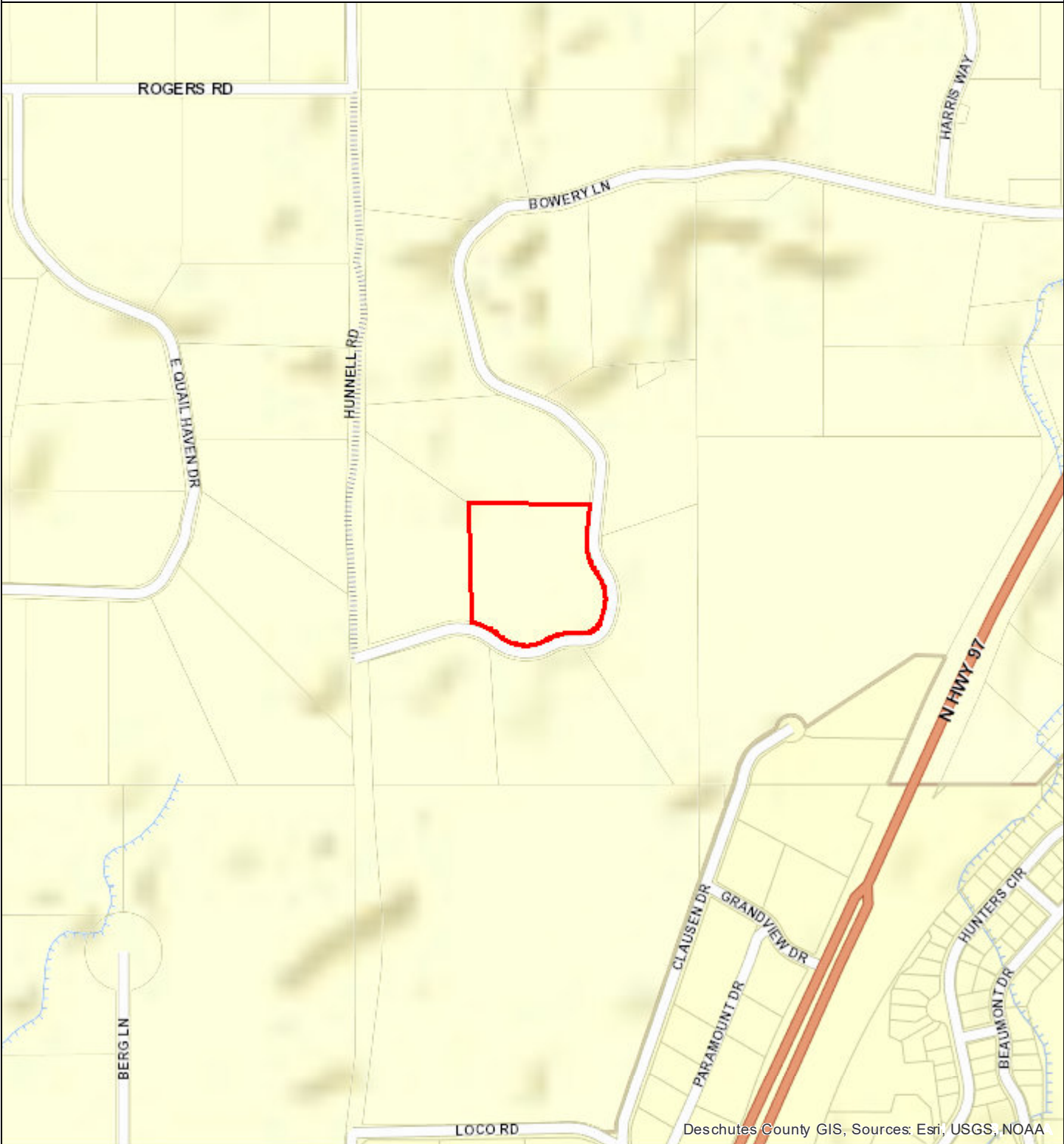
- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

ATTACHMENT(S):

- Attachment A:** Subject Property Location Map
- Attachment B:** Hearings Officer Decision (22-464-CU, 466-SP)
- Attachment C:** Appeal Application (24-018-A)

File: 22-464-CU, 466-SP, 24-018-A

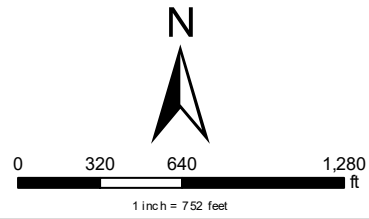
20520 Bowery Lane, Bend



Deschutes County GIS, Sources: Esri, USGS, NOAA



Date: 2/1/2024



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

FILE NUMBERS: 247-22-000464-CU and 247-22-466-SP

HEARING DATES: October 10, 2023, and October 24, 2023

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

APPLICANT/OWNER: Applicant: Lava Terrace Cellars, LLC
Owners: Duane Barker and Dina Fay Barker

SUBJECT PROPERTY: Map and Tax Lot: 171209B001000
Account: 113221
Situs Addresses: 20520 Bowery Lane
Bend, OR 97703

REQUEST: The Applicant requests a Conditional Use Permit and Site Plan Review to establish a winery as a Commercial Activity in Conjunction with Farm Use in the Multiple Use Agricultural Zone (MUA-10).

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: This Decision APPROVES the Application WITH CONDITIONS.

I. STANDARDS AND CRITERIA

Deschutes County Code (DCC)
Title 15, Deschutes County Buildings & Construction Ordinance
Chapter 15.08, Signs
Title 18, Deschutes County Zoning Ordinance:
Chapter 18.04, Title, Purpose, and Definitions
Chapter 18.32, Multiple Use Agricultural Zone (MUA-10)
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review
Chapter 18.128, Conditional Use
Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.20, Review of Land use Action Applications

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Request and Nature of Proceeding

This matter comes before the Hearings Officer as a request by the Applicant to approve wine production (“Winery”), wine tasting activities, and wine marketing events as “commercial activities in conjunction with farm use” in the Multiple Use Agricultural Zone (“MUA-10 Zone”). The Application seeks two land use approvals – a Conditional Use Permit and a Site Plan Review.

As described by the Applicant, the proposed use would convert an existing accessory building to a tasting room and office space, and wine production would occur in an existing barn on the Subject Property. The Applicant does not propose any new structures. If approved, the Winery would produce up to two thousand (2,000) cases of wine on an annual basis. The Applicant proposes to limit tastings and wine-related events to specific hours, depending on the season. Based on the hours and size of the facilities, the Applicant anticipates an average of six to eight (6-8) people per tasting appointment. The Applicant’s proposal expressly excludes the use of the proposed winery or Subject Property by third parties, such as weddings or other events.

The County reviews conditional uses in accordance with the standards and procedures set forth in Deschutes County Code (“DCC” or “Code”) Chapter 18.128 and Title 22. The proposed use must also satisfy the standards of the underlying MUA-10 Zone – set forth in DCC Chapter 18.32 – which in turn requires compliance with the applicable provisions of DCC Chapter 18.116, Supplementary Provisions, and Chapter 18.124, Site Plan Review.

B. Application, Notices, Hearing

The Applicant submitted the Application on June 7, 2022. On July 7, 2022, Staff of the County’s Community Development Department (“Staff”) provided notice to the Applicant that it did not deem the Application to be complete (“Incomplete Notice”). On December 2, 2022, the Applicant requested that the Application be deemed complete, and that the review process be tolled.

On September 14, 2023, Staff mailed a Notice of Public Hearing (“Hearing Notice”). The Hearing Notice stated the Hearing would be held on October 10, 2023. On September 15, 2023, the Applicant made an additional request to toll the deadline for a final County decision under ORS 215.427 – the “150-day clock” – and waived the deadline altogether.

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on October 10, 2023, opening the Hearing at 6:03 p.m. At the request of the Applicant prior to the Hearing, and pursuant to DCC 22.24.140(A)(1), I continued the Hearing to October 24, 2023. Prior to doing so, I gave other participants the option to provide testimony, but no participant did.

The continued Hearing began on October 24, 2023, at 6:01 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 7:40 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 October 31, 2023 (“Open Record Period”); (2) any participant could submit rebuttal materials (evidence or argument) until November 7, 2023 (“Rebuttal Period”); and (3) the Applicant could submit a final legal argument, but no additional evidence, until November 14, 2023, at which time the record would close. 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.

C. Review Period

As noted above, the Applicant has waived the 150-day clock. The 150-day clock serves as a protection for an applicant and ensures that a local jurisdiction acts on a land use decision in a timely manner. The only remedy for the violation of the 150-day clock belongs to an applicant. Specifically, if the local jurisdiction does not make a final decision within the applicable time frame, the applicant can seek a *writ of mandamus* in the Circuit Court pursuant to ORS 215.429(1). Under ORS 215.429(2), the local government retains jurisdiction of the application until a writ of mandamus is filed. Because the Applicant has waived the 150-day clock entirely, the County retains jurisdiction over the Application and no review period applies.

D. Record Issues

As noted above, the written record remained open after the Hearing for a limited purpose. According to the schedule established at the end of the Hearing, the Rebuttal Period concluded on November 7, 2023, and all rebuttal materials were required to be submitted to the County by 4:00 p.m. that day. After that time period, only the Applicant was authorized to submit anything else to the record – a final legal argument – and no new evidence was to be accepted from any participant, including the Applicant.

On November 16 and November 17, 2023, after the record was closed to all participants, including the Applicant, participant Michel Bayard submitted two emails to the County. The email dated November 16, 2023, appears to be a request to Staff seeking a status update regarding this proceeding and not expressly intended to be included in the record. Based on the timing and apparent intent of that document, I find it should be excluded from the record. The email dated November 17, 2023, appears to address the substance of the Application. Because that email was submitted after the close of the record, I find that it should also be excluded from the record.

Between November 8 and November 21, 2023, participant Toby Bayard submitted thirty-two (32) emails, all of which appear to address the substance of the Application. Because those submittals all occurred after the Rebuttal Period when the record closed to any new evidence, I find that each of those submittals should be excluded from the record.

The findings below are based only on the evidence and testimony that are part of the record. I have not reviewed in detail the records that are excluded, and I have given no consideration to those records.

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Staff Report

On October 4, 2023, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time (“Staff Report”).

The Staff Report does not make a final recommendation. Instead, the Staff Report notes that Staff believed additional information was necessary to determine if the Application satisfied all approval criteria. The Staff Report also recommends the imposition of several conditions of approval if the Application is approved.

Because much of the information and analysis provided in the Staff Report is not refuted, portions of the findings below refer to the Staff Report and, in some cases, adopt sections of the Staff Report as my findings. In the event of a conflict between the findings in this Decision and the Staff Report, the findings in this Decision control.

B. DCC Chapter 22.08, General Provisions

DCC Title 22 contains the County’s procedural requirements for the application and review of development and land use approvals. Comments in the record addressing the Title 22 provisions are discussed below.

1. DCC 22.08.010 Application Requirements

This Code provision states in part that an application for development or land use action must be submitted by the property owner or a person who has written permission from the property owner. The Application form identified the Applicant as “Lava Cellars Terrace (c/o Duane and Dina Barker). In their pre-Hearing submittal, the Applicant’s attorney confirmed that the Application form was signed by Dina and Duane Barker.¹ It is undisputed that the Barkers are the owner of the Subject Property. Testimony indicated that the Barkers also own Lava Terrace Cellars, LLC. The Staff Report confirms that the Barkers are also listed as the managing members of Lave Terrace Cellars, LLC.

Based on the foregoing, I find that the Barkers, owners of the Subject Property, caused the Application to be submitted and, by the signature on the Application form, consented to the Application. I therefore find that this Code provision is satisfied.

¹ I note that the Application form appears to have only one signature. However, based on the representation from the Applicant’s attorney that the signature represented the signature of the Barkers, which no participant disputed, I find that the Barkers signed the Application form. The remainder of this decision will also use “Applicant” to refer to Lava Terrace Cellars, LLC, and the Barkers, collectively.

2. DCC 22.20.015, Code Enforcement and Land Use

DCC 22.20.015 prohibits the County from approving new land use development applications and land use decisions if a property is in violation of an applicable land use regulation or condition of approval. As the Staff Report notes however, the County’s Board of Commissioners has interpreted this Code provision such that it applies only where there has been an “adjudicated” violation, or where it is otherwise necessary to resolve a potential violation as part of the review of a land use application and such review is the best forum for adjudicating an alleged violation.

Some comments in the record indicate that the Applicant already operates a winery on the Subject Property, presumably without authorization since no conditional use permit has been issued for that purpose. The Staff Report notes the existence of a County compliance case, the record for which Staff says indicates “the unpermitted winery is confirmed as a code violation.” The Staff Report also notes, however, that approval of the Application would bring the winery into conformance with the Code. Staff therefore suggests a condition of approval, which would include a requirement to obtain all other approvals and documenting closure of the enforcement matter.

Although the information Staff provides leads to the conclusion that the “winery is confirmed as a code violation,” it is not clear from the record if the alleged violation has been “adjudicated”. For example, considering the fact that the County compliance case is apparently still open, it is not clear what process remains before the County can conclude that code enforcement process. Even so, I find that it is not necessary to address the alleged violation as part of this proceeding. If the Application is approved with the condition Staff recommends, the winery would not be allowed to operate until the Code compliance matter is closed. If the Application is denied, then the County would not be approving a land use decision. Either way, this Code provision is satisfied. Because this Decision approves the Application, Staff’s proposed condition, which the Applicant does not oppose, is included below with other conditions of approval.

3. DCC 22.24.030, Notice of Hearing or Administrative Action

Section (A) of this Code provision requires the County to provide notice of a land use application twenty (20) days prior to a hearing. As applicable to this proceeding, that notice must be sent to property owners within two hundred fifty (250) feet of the Subject Property.

Testimony in the record implies that the notice was not sufficient. However, that testimony seems to be aimed at whether a homeowners association received notice, without specifying whether the association is a property owner entitled to receive notice. That testimony also implies that the lack of notice relates to the operation of the existing winery, and it is not evident that any participant asserts that the notice of the Application itself is insufficient for purpose of this review.

The Staff Report confirms that the appropriate notice was mailed to all property owners within two hundred fifty (250) feet of the Subject Property. Based on that confirmation, and the lack of more specific evidence indicating the notice was not sufficient, I find that this Code provision is satisfied.

Section (B) of this Code provision requires a notice of the land use action to be posted on the Subject Property for at least ten (10) continuous days prior to the date set for receipt of comments. Testimony in the record asserts that the posting was not sufficient because notice was posted on the Subject Property beginning on June 21, 2022, and that the deadline for comments was June 25, 2022. The latter date is apparently derived from the Application Notice, which asks for comments by that date. With respect to this proceeding, the “due date” for any comments would have been, at the earliest, the date of the Hearing, which did not take place until more than a year after the Application Notice. Based on the foregoing, I find that it was not an error for the Applicant to post the Subject Property beginning on June 21, 2022.

C. DCC Chapter 18.32, Multiple Use Agricultural Zone (MUA-10)

The Subject Property is in the MUA-10 Zone. The following findings address the applicable provisions of that zone.

1. DCC 18.32.030, Conditional Use Permitted

The following uses may be allowed subject to DCC 18.128:

- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, sort or market farm products produced in Deschutes County or an adjoining County.*

The Applicant seeks to establish a winery as a commercial activity in conjunction with farm use, which is allowed as a conditional use. As summarized in the Staff Report, prior decisions by the County’s Board of Commissioners (“Board”) interpret this Code provision as requiring the Applicant to demonstrate the following: (1) there is a farm use occurring on the parcel; (2) the proposed use is a commercial activity; (3) the proposed commercial activity is associated with the farm use; and (4) the farm products used in the commercial use are produced in Deschutes County or an adjoining County.

There is no dispute in the record that the Subject Property contains an existing vineyard and that a vineyard is a farm use. DCC 18.04 defines a “farm use” in part as the employment of land “by raising, harvesting, and selling crops.” The fact that the Applicants raise and harvest grapes – a crop grown on vines – demonstrates that there is a farm use currently on the Subject Property.

According to the Applicant, the commercial activities it proposes are the processing of grapes into wine, together with supporting commercial activities like wine sales and tastings. The Staff Report notes that processing grapes into wine is an industrial use. While that appears to be the case based on the definitions of “commercial use” and “industrial use” in the Code, DCC 18.128 does not use the phrase “commercial use” and instead refers to a “commercial activity”. The Code language then goes on to state that the commercial activity “may use, process, sort or market farm products...”. Because the proposed use here will process a farm product, I find that the proposed use is a “commercial activity” for purposes of this Code provision.

For the same reason set forth in the above findings, I find that the proposed commercial activity is associated with a farm use. That is, the proposed commercial activity processes grapes into wine, the grapes are a crop from the vineyard farm use, and, therefore, the processing of wine (and wine tastings) are associated with that farm use.

According to the Applicant, the grapes it will process at the Winery will primarily be from the Subject Property. The Applicant indicates that other grapes may be used in the process, but that those grapes will come from Deschutes County. There is no evidence in the record that the Applicant intends to process grapes from outside Deschutes County. To ensure that such an outcome remains, I find that it is appropriate to impose a condition of approval that prohibits the Applicant from processing grapes if the grapes are not from Deschutes County or an adjacent county.

The opposing comments in the record do not dispute that the vineyard is a farm use, that the winery is a commercial use, that the winery is associated with the vineyard farm use, or that the Applicant will use local grapes. Instead, multiple comments suggest that a winery is not an allowable use at all in the MUA-10 Zone. Those comments assert that the only zone that allows a winery is the Exclusive Farm Use (“EFU”) Zone. While it appears to be true that the EFU Zone is the only zone in the Code that addresses wineries specifically, the opposing comments do not explain how this operates as a prohibition on wineries in other zones when there is a separate basis in the Code for that use.

DCC Chapter 18.16 implements state-level requirements in the EFU Zone, and the reference to wineries in that Code Chapter expressly refers to wineries allowed by ORS 215.452. That statute allows the development of some wineries in the EFU Zone, based on certain sizes, but it does not prohibit all wineries that do not satisfy those statutory provisions. Wineries that do not qualify under ORS 215.452 may nevertheless be permitted as “commercial activities in conjunction with agriculture” under ORS 215.283(2)(a) and the corresponding Code provision in DCC 18.16.030(E).² Because there is no language in the Code that prohibits wineries in the MUA-10 Zone, and because the proposed winery meets the criteria for a commercial activity in conjunction with a farm use, I find that the Applicant’s proposal is not prohibited as a matter of law and that it can be approved if it satisfies all approval criteria related to that use.

Based on the foregoing, I find that Application satisfies DCC 18.32.030(C).

2. DCC 18.32.040, Dimensional Standards

The Applicant asserts that the proposed development satisfies the dimensional standards set forth in this Code provision. No participant disputes that assertion. I adopt the finding in the Staff Report relating to DCC 18.32.040 as my finding and will include the conditions of approval Staff recommends in that finding.

///

² See *Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012) (explaining alternative methods of permitting wineries).

3. DCC 18.32.050, Yards

Only the Applicant and Staff address the criteria contained in this Code provision. The Applicant initially asserted that the proposed development satisfies the standards set forth in this Code provision. No participant disputes that assertion, but the Staff Report indicated it was unclear if the barn, which will be the production and storage facility, meets the twenty (20) foot front yard setback requirement. According to Staff, aerial imagery shows that the building may be only seventeen (17) feet from the south property line, which abuts a local street right of way. The Applicant does not appear to address this lack of clarity in later submittals. I therefore find that this Code provision is satisfied only with a condition of approval, and the Applicant must document the precise location of the front yard setback prior to the initiation of the use. That condition is included below.

D. Chapter 18.116, Supplementary Provisions

DCC Chapter 18.116 contains supplementary provisions applicable to multiple zones. The specific Code provisions identified in this section were identified by the Applicant or Staff as being applicable to the proposal. Other participants were offered an opportunity to identify applicable Code provisions, but none did.

1. DCC 18.116.020, Clear Vision Areas.

DCC 18.116.020 requires the maintenance of clear vision areas. The Application initially stated that “adequate site distance is available,” but as noted in the Staff Report, no details were offered to support that statement or otherwise to address the clear vision area criteria. In subsequent submittals, the Applicant provided site plans and other information addressing this Code provision, noting that the clear vision area from the planned access drive is one hundred fifty (150) feet, much farther than any clear vision area required in the Code. At the same time, the actual clear vision area itself does not appear to be delineated on the updated site plan. Although no participant disputes the Applicant’s updated site plan and characterization of the clear vision area, I find it appropriate to impose a condition of approval to better document this area. The Applicant’s final submittal agrees with such a condition, and that condition appears below. Based on the foregoing, I find that this Code provision is satisfied.

2. DCC 18.116.030, Off street Parking and Loading.

DCC 18.116.030 imposes various off-street parking and loading requirements. There is no dispute that the proposal in the Application complies with a majority of those requirements. I adopt the findings in the Staff Report as my findings relating to DCC 18.116.030, except for the specific subsections of this Code provision discussed in this section. The remainder of the findings in this section replace the relevant findings in the Staff Report addressing each subsection.

DCC 18.116.030(C) and (D) require off-street parking for all uses. The Staff Report calculates that a minimum of nine off-street parking spaces must be provided for the wine production and tasting room activities contemplated in the Application. That calculation, however, did not include any allocation of parking spaces for “wine events”, which the Applicant plans to host as part of its commercial activities. In its subsequent submittals, the Applicant provided information indicating that a wine event would

include up to twenty-five (25) people, requiring up to twelve (12) parking spaces. It is not clear from the record if parking for wine events is required in addition to tasting room activities, or if the wine event would be held in lieu of tasting room activities. I must therefore assume the former, more intensive use, meaning the proposed use requires twenty-one (21) parking spaces – three (3) for employees, six (6) for tasting room activities, and twelve (12) for wine events.

The Applicant’s site plan shows thirteen (13) parking spaces, and the Applicant asserts that it can use other areas on the Subject Property for temporary parking during wine events, such as in the area of the decommissioned drive, along the secondary access drive, and in a pasture. No participant disputes that these areas are adequate for eight (8) additional parking spaces. At the same time, by showing only the general location of these parking areas on the site plan, it is unclear how the Applicant will ensure these areas remain available for parking. I therefore find it appropriate to impose a condition of approval that requires the Applicant to identify the specific location of the eight (8) additional spaces. That condition appears below.

DCC 18.116.030(F)(1) requires off-street parking adjacent to a residential use to be screened either by a fence or a landscaped buffer. The Application states that parking is screened from residential uses due to distance (a buffer area) that is landscaped (with vines from the vineyard). The Applicant provided photographs of the Subject Property and additional detail about the location of adjacent residential uses. Based on the distance from the residential use, as well as the topography and existing vegetation that is depicted in the photographs, I find that the proposal satisfies the screening requirement of this Code provision.

DCC 18.116.030(F)(4) requires areas for standing and maneuvering of vehicles to be paved unless the Applicant can meet the standards of certain exceptions spelled out in this Code provision. The Applicant asserts that it qualifies for an exception under DCC 18.116.030(F)(4)(b) because it will maintain these areas in a manner that will not create dust problems. This exception is available for the Subject Property because it is outside of an unincorporated community. The manner in which the Applicant proposes to maintain these areas is to gravel, grade, and water the parking area to prevent dust. No participant disputes that such maintenance complies with DCC 18.116.030(F)(4)(b). Based on the evidence in the record, and the above finding that will require the Applicant to identify all parking areas on the site plan, I find that this Code provision is satisfied, with the imposition of Staff’s proposed condition (which the Applicant states it agrees with) that will ensure the surfaces are graveled at all times.

DCC 18.116.030(F)(5) requires access aisles to be of sufficient width. According to the Staff Report and information provided by the Applicant, the required access aisles need to be twenty-four (24) feet for two-way traffic and 12-feet for one-way traffic. The Applicant asserts that its updated site plan shows that the new driveway will be sixteen (16) feet wide, and the secondary access will be twelve (12) feet wide. According to those calculations, each access would therefore be wide enough to provide only one-way travel. The Applicant also notes that additional space is available to widen the new driveway, and that the access permit process will ensure that the access aisle requirement for the driveways is met. Based on the Applicant’s submittal, I find that this Code provision can be met only through a condition of approval requiring the Applicant to submit a site plan that depicts the actual width of each access aisle, with twenty-four (24) foot aisles for two-way traffic and twelve (12) foot aisles for one-way traffic.

DCC 18.116.030(F)(6) and (7) require service drives to be of adequate width and to have clear vision areas as set forth in those Code provisions. The Staff Report states, and no participant disputes, that a service drive is adequate if it is twenty-four (24) feet wide. The Applicant states that it can meet this requirement, but the Applicant’s submittals appear to address access drives and not service drives, and the Applicant has not provided a site plan that clearly depicts the service drives, their widths, or their associated clear vision areas. I find that this Code provision can be met only through conditions of approval requiring the Applicant to submit a site plan that depicts the service drives and demonstrates that the width of those service drives is twenty-four (24) feet with the appropriate clear vision areas.

DCC 18.116.030(G) imposes certain requirements relating to the size of parking stalls. The Applicant’s site plans do not appear to describe the actual size of parking stalls. The Applicant proposes to satisfy this Code provision through the condition of approval proposed in the Staff Report. I find that this Code provision can be met only through a condition of approval, which is set forth below.

3. DCC 18.116.031, Bicycle Parking.

DCC 18.116.031 imposes minimum bicycle parking requirements whenever the alteration of an existing use requires Site Plan Review. As an initial matter, DCC 18.116.031(A)(1)(a) establishes the minimum number of bicycle parking spaces is one space for every five required off-street motor vehicle parking spaces. When calculating that number, DCC 18.116.031(A)(4) requires that any fractional space be rounded up to the next whole space. As established in earlier findings, the Applicant is required to provide twenty-one (21) parking spaces. Under DCC 18.116.031(A)(1)(a), the Applicant is therefore required to provide five (5) bicycle parking spaces.

The Applicant seeks an exception to DCC 18.116.031(A)(1)(a), which is authorized if the Applicant can show compliance with at least one of the factors in DCC 18.116.031(A)(1)(c). The Applicant relies on two of those factors and asserts: (1) that the proposed use generates less than fifty (50) vehicle trips per day and (2) that no existing building on the site will accommodate bicycle parking and no new buildings are proposed. The Applicant does not explain in any detail why existing buildings on the site will not accommodate bicycle parking. The record does establish, however, that the proposed use generates fewer than fifty (50) vehicle trips per day. I therefore find that the exception to the bicycle parking requirements is available to the Applicant. I further note that the Applicant does not seek to develop zero bicycle parking spaces, but rather seeks to avoid the requirement in DCC 18.116.031(A)(1)(b) that requires sheltered bicycle parking. The Applicant’s request for an exception does not include a request to reduce the required number of bicycle parking spaces. The Applicant states that it will provide “at least” three spaces, and the updated site plan appears to show eight (8) spaces or racks. As determined above, the minimum number of spaces required is five. I therefore find that the Applicant’s proposal for eight (8) spaces is sufficient and that those spaces should be depicted on the final site plan.

I find that DCC 18.18.116.031(A)(2) and (3) are not applicable to the Applicant’s proposal. No participant has asserted otherwise.

The Applicant’s request for an exception to the bicycle parking standards also requests relief from the requirements of DCC 18.116.031(B)(1)-(6), which regulate the design of the required bicycle parking spaces. For the reasons set forth above, I find that this exception is available. However, the Applicant’s

submittals state that the Applicant has proposed bike racks for the unsheltered parking. I therefore find that, notwithstanding the Applicant’s request for an exception, the Applicant has agreed to provide those racks as set forth in DCC 18.116.031(B)(1)(b), and a condition of approval is appropriate to require the Applicant to continue to identify the location of those racks on a final site plan.

4. DCC 18.116.035, Bicycle Commuter Facilities.

DCC 18.116.035 requires larger commercial employers to have bicycle commuter facilities. No participant in this proceeding asserts that this requirement applies to the proposal, and I find that it is not applicable.

E. Chapter 18.124, Site Plan Review

1. DCC 18.124.030. Approval Required.

DCC Chapter 18.124 sets forth the standards and criteria for a Site Plan Review. Pursuant to DCC 18.124.030, Site Plan Review is required for, among other uses, commercial uses that require parking facilities and all industrial uses. As discussed in earlier findings, the Applicant’s proposed use can be characterized as a “commercial activity” for purposes of the MUA-10 Zone, but it also includes an industrial use (processing grapes into wine) and, therefore, Site Plan Review is required.

2. DCC 18.124.060. Approval Criteria.

DCC 18.124.060 sets forth the specific approval criteria that must be satisfied for a site plan to be approved.

DCC 18.124.060(A) requires that a proposed development “relate harmoniously” to both the natural environment and existing development. As the Staff Report notes, prior interpretations of the County’s Board conclude that this Code provision requires an applicant to demonstrate that the site plan arranges the development in a way that evaluates the natural environment and existing development in the area, and that by doing so, demonstrate that the applicant has minimized visual impacts and reasonably preserved natural features including views and topographic features. In making that interpretation, the County’s Board expressly drew a distinction between the analysis of the site plan required by this Code provision and the consideration of the compatibility of the proposed use required by other Code sections. Only the site plan is relevant to this Code provision.

To demonstrate compliance with DCC 18.124.060(A), the Applicant relies largely on the fact that it will use existing buildings for the winery and that no new buildings are proposed. Further, the Applicant submits photographs and other information depicting and describing a site plan that relies on setbacks and vegetation to screen the Winery use from other development. The Applicant also asserts that neither existing buildings nor new plantings adversely affect natural features.

While comments in the record object to the approval of the Winery, I do not read any of those comments as asserting the Applicant’s proposed site plan does not relate harmoniously to the natural environment or existing development, or that this Code provision is otherwise not satisfied. The one exception may be

that several commenters addressed concerns over potential traffic impacts. However, those comments were aimed more at potential impacts from users traveling to and from the site, which would occur regardless of the specifics of the site plan. I therefore treat those comments as addressing the adequacy of site access or the compatibility of the proposed use, which are addressed below in separate findings. Although the Applicant’s evidence is not particularly detailed, I find that the Applicant has met its burden of demonstrating compliance with DCC 18.124.060(A).

DCC 18.124.060(B) requires the Applicant to demonstrate that the landscape and existing topography will be preserved to the greatest extent possible. This Code provision also requires preserved trees and shrubs to be protected. The Application proposes almost no changes to the landscape, and no discernible changes to topography. This is because the Applicant will use existing buildings, and the only changes in landscaping will result from closing one driveway, which will allow the addition of new plantings, and creating a new driveway. Based on the foregoing, I find that this Code provision is satisfied. The Staff Report recommends a related condition of approval requiring the Applicant to protect all trees and shrubs not required to be removed by the development. The Applicant opposes this condition. I agree with the Applicant that the proposed condition is not necessary; it largely re-states the requirement in the Code to protect preserved trees and shrubs. Without further explanation by Staff for why its proposed condition is necessary to meet this Code provision, I decline to impose it.

DCC 18.124.060(C) requires the Applicant to demonstrate that the site plan provides a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces. The Applicant asserts that existing vegetative screening and a new gate will help with the transition from private to public spaces, which it characterizes as the transition from the Subject Property to Bowery Lane. The Applicant further asserts that the site plan provides a safe environment because the site will accommodate fire and safety vehicles, and that the Applicant’s use of either a private well or the public water system will be reviewed and approved by appropriate authorities to ensure the safety of the use and the appropriateness of the usage. The Applicant notes that safety considerations are also incorporated into the approval by local and state licensing agencies prior to operating. To that end, the Applicant accepts the proposed conditions of approval in the Staff Report relating to this Code provision. One comment in the record asserts that the Winery may impose a safety risk because of the wastewater that will be generated from the Winery. The treatment or disposal of wastewater, however, is also governed by permits that regulate such impacts. Based on the foregoing, I find that DCC 18.124.060(C) is satisfied with Staff’s proposed conditions of approval, which require approvals from other regulating entities.

DCC 18.124.060(D) requires the Applicant to demonstrate that, when appropriate, the site plan shall provide for the special needs of disabled persons. The Application states that the Applicant will provide a parking space and restrooms that comply with the federal Americans with Disabilities Act. The Staff Report states that other considerations for disabled persons are determined as part of the issuance of building permits. No participant disputes that statement or otherwise asserts that the site plan does not comply with this Code provision. Based on the foregoing, I find that this Code provision is satisfied.

DCC 18.124.060(E) requires the Applicant to demonstrate that the location and number of points of access, the interior circulation patterns, the separation of pedestrians from vehicles, and the overall parking arrangement is harmonious with buildings and structures. The Applicant relies on the location of the parking areas compared to the buildings on the Subject Property as evidence that this criterion is met. The

Applicant further states that the proposed parking is all on-site and screened from the roadway with existing vegetation and vineyards. The proposed parking and circulation are distant from neighboring buildings and structures, which furthers what the Applicant describes as a harmonious feeling. No comments in the record dispute the Applicant’s characterization. Based on the foregoing, I find that this Code provision is satisfied.

DCC 18.124.060(F) requires the Applicant to demonstrate that surface drainage systems are designed to prevent adverse impacts on neighboring properties, streets, and water quality. The Applicant relies on its characterization of existing drainage patterns as all flowing to ponds and grass areas on the Subject Property. No participant disputes that characterization, but the Staff Report states that the Applicant must provide a letter or report from a licensed engineer to demonstrate that drainage patterns operate as the Applicant suggests they do. The Staff Report therefore recommends conditions of approval requiring such a letter or report and requiring the Applicant to maintain drainage systems in good working condition. The Applicant objects to such a condition, largely because of the amount of pervious surfaces on the Subject Property and what the Applicant characterizes as the low likelihood that surface water runoff would have any off-site impacts.

The Staff Report does not cite any Code language that requires a letter or report from a licensed engineer. The express language of DCC 18.124.060(E) states only that surface drainage systems must prevent adverse impacts on neighboring properties, streets, and water quality. It does not appear to impose any requirements on the type of evidence that can be used to show compliance with that criterion. Because the Applicant’s evidence is the only evidence in the record relating to surface drainage, and in the absence of express language requiring a specific kind of evidence, I find that the Applicant has met its burden and that DCC 18.124.060(F) is satisfied without the imposition of any condition of approval.

DCC 18.124.060(G) requires the Applicant to demonstrate that areas and facilities for storage, machinery, and equipment, and loading and parking are buffered or screened to minimize adverse impacts on the site and on neighboring properties. The Applicant relies on the buffer and vegetation of the existing site to minimize the impact of all on site uses on neighboring properties. With respect to the site itself, the Applicant asserts there is no visual impact because, in part, there are outbuildings in which machinery and equipment can be stored. No participant disputes the Applicant’s characterization of the lack of visual impacts or otherwise asserts this Code provision is not satisfied. Based on the foregoing, I find that this Code provision is satisfied.

DCC 18.124.060(H) requires the Applicant to demonstrate that above ground utility installations will be located to minimize visual impacts. It is not disputed that the Applicant has not proposed any such installations and, therefore, this Code provision is not applicable.

DCC 18.124.060(I) does not impose any additional criteria and, instead, incorporates any specific criteria imposed by the underlying zone, such as setbacks. Those criteria are addressed in other findings in this Decision.

DCC 18.124.060(J) requires exterior lighting to be shielded so that it does not directly project off site. The Applicant proposed to meet this criterion through a condition of approval. No participant objects or

otherwise states that this criterion cannot be satisfied in that manner. Based on the foregoing, I find that this Code provision is satisfied with the condition of approval proposed in the Staff Report.

DCC 18.124.060(J) requires the Applicant to show adequate transportation access to the site. If necessary, the Applicant must implement mitigation measures for transportation impacts. The Applicant asserts that the existing transportation system provides adequate access to the site, and notes that the transportation system is being improved through the paving of Hunnel Road, which it says can be used for access to the site to reduce impacts to Bowery Lane. In support of its assertion, the Applicant submitted a traffic analysis, including an update to that analysis. The County’s Senior Transportation Planner reviewed and provided comments on the initial traffic analysis, agreeing with the conclusion in that report that the proposed use could assume thirty-seven (37) daily vehicle trips. Using that trip count, neither the Applicant’s engineer nor the County’s Senior Transportation Planner identified a need for specific improvements to the transportation system. The Applicant’s updated analysis concluded that even fewer trips would be expected. The County’s Senior Transportation Planner does propose multiple conditions of approval to remedy observed encroachments in the right-of-way, to ensure the Applicant obtains the appropriate access permits, and to provide directional signage so that patrons of the winery are more likely to use the improved Hunnel Road. Neither the Applicant nor any participant objects to these conditions.

Comments in the record opposing the Application express a general concern over traffic safety. These concerns are grounded in the observation that Bowery Lane is a relatively narrow road without sidewalks. No comments in the record dispute the technical information the Applicant provides. The Applicant proposes to address these concerns in part through the above-identified conditions of approval. The Applicant also proposed to provide winery patrons with directions to the winery in pre-visit communications, which would instruct patrons to use Hunnel Road.

Based on the technical opinion of the Applicant’s engineer and the concurring review of the County’s Senior Transportation Planner, I find that the transportation access to the Subject Property is adequate, with the conditions proposed in the Staff Report and the conditions volunteered by the Applicant. Those conditions appear below. Based on the foregoing, I find that DCC 18.124.060(J) is satisfied.

3. DCC 18.124.070. Required Minimum Standards.

DCC 18.124.070 contains additional minimum standards applicable in various scenarios, many of this are not relevant to the Application. I adopt the findings in the Staff Report as my findings relating to DCC 18.124.070, except for the specific subsections of this Code provision discussed in this section. The remainder of the findings in this section replace the relevant findings in the Staff Report addressing each subsection.

DCC 18.124.070(B)(2)(a) contains additional landscaping requirements for parking and loading areas, requiring defined landscaped areas totaling no less than twenty-five (25) square feet per parking space. The Applicant asserts that this landscaping requirement does not apply to a winery in the MUA-10 Zone. However, the Applicant does not explain the legal basis for that assertion. Nor is the Applicant’s assertion consistent with the plain language of this Code provision, which clearly applies to “parking and loading areas” as part of a Site Plan Review, regardless of the underlying use or zone. I therefore find that this criterion applies to the Applicant’s site plan.

As an alternative argument, the Applicant states that this criterion is satisfied because “the entire property is already landscaped with a vineyard and pasture. That argument, however, fails to tie that “landscaping” to the Code’s requirement to improve a parking area “with defined landscaped areas”, and it also does not attempt to quantify the improved, defined landscaped area. Based on an earlier finding that the proposed use requires twenty-one (21) parking spaces, the total improved, defined landscaped area for that parking is a minimum of five hundred twenty-five (525) square feet. The Applicant does note that some other (presumably defined) landscaping exists around existing buildings and that additional landscaping can be added where the existing driveway will be decommissioned.

Based on the foregoing, I find that this criterion can be satisfied only through a condition of approval requiring the Applicant to denote on its site plan five hundred twenty-five (525) square feet of landscaping around parking areas. The Code does not define “defined landscaping”, but as the Staff Report notes, the common meaning of that word denotes that the item being defined must show some shape or outline. Even if the Applicant relies on existing vegetation for that purpose, it must at least show the shape or outline of the area that will be maintained as landscaping for this purpose and document the size of that area.

DCC 18.124.070(B)(2)(d)-(h) provide additional detail for the design of the landscaping required for parking areas. Because the Applicant does not believe landscaping requirements are applicable, or that the site’s existing vegetation are adequate for this Code provision, it does not fully address these Code sections in detail. I therefore find that these Code provisions are satisfied only through the imposition of a condition of approval requiring the Applicant to depict the width of the landscaped area on the site plan and to describe whether and how such landscaping will be watered. The condition will also require the Applicant to note whether any trees are to be planted under overhead utility lines.

F. Chapter 18.128, Conditional Use

The Applicant seeks approval of the winery as a commercial activity in conjunction with farm use. Such uses are allowed conditionally in the MUA-10 Zone, subject to the provisions of DCC 18.128. The findings in this section address the applicable provisions in that Code chapter.

1. DCC 18.128.015, General Standards Governing Conditional Uses.

This Code provision sets forth specific standards for uses other than single family dwellings that apply in addition to the standards of the underlying zone. The applicable provisions of this Code section are set forth below.

- A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*
 - 1. *Site, design and operating characteristics of the use;*
 - 2. *Adequacy of transportation access to the site; and*
 - 3. *The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.*

This Code provision requires an analysis of the suitability of the site for the proposed use based on the listed factors. The Applicant asserts that the site is suitable for the Winery, wine tastings, and wine-related

events. The Applicant bases this assertion in part on the fact that existing buildings are being repurposed for the Winery and the fact that there is sufficient space for the planned activities.

With the exception of the adequacy of transportation access to the site, no participant asserts that the site is not suitable for the proposed use, or otherwise asserts that this Code provision is not satisfied. The adequacy of transportation access to the site is addressed in previous findings, and those findings are incorporated here. For the same reason set forth in those findings, I conclude that the proposed use on the site, as conditioned, is suitable when taking the adequacy of transportation access into account. Based on the foregoing, I find that DCC 18.128.015(A) is satisfied.

B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).

This Code provision is similar to DCC 18.128.015(A) but focuses on the proposed use’s compatibility with surrounding properties rather than on the suitability of the site itself.

The Applicant provides an analysis of this Code provision by first identifying uses on surrounding properties, which include other parcels in the MUA-10 Zone, as well as properties designated as “Urbanizable Areas” or “Commercial General”. These uses are largely residential or farmed. Projected uses include uses allowed in those zones. As the Staff Report notes, current uses on surrounding properties are likely representative of projected uses.

The Applicant then identifies potential off-site impacts and assesses whether those impacts are compatible with surrounding properties. The potential off-site impacts include noise, odor, lights, traffic, visual impacts, water demand, and wastewater disposal. Based on the size of the Subject Property, the relatively distant location of “nearby” uses, and the Applicant’s proposal to limit tasting room hours, the Applicant suggests that none of the potential off-site impacts it identifies will prevent the winery from being compatible with uses on surroundings properties.

With the exception of alleged transportation impacts, no participant identifies off-site impacts from the proposed use that are incompatible with surrounding properties, or otherwise asserts that this Code provision is not satisfied.³ The adequacy of transportation access to the site is addressed in previous findings, and those findings are incorporated here. For the same reason set forth in those findings, I conclude that the proposed use, as conditioned, is compatible with surrounding uses when taking the adequacy of transportation access into account. Based on the foregoing, I find that DCC 18.128.015(B) is satisfied.

C. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to ensure that the standard will be met.

As explained in prior findings, I find it appropriate to impose several conditions of approval. These include limitations on the proposed use offered by the Applicant, such as a limit on tasting room hours and a

³ Comments in the record complain of the use of shotguns to discourage birds from eating grapes. Because those comments are aimed at the farm use (the vineyard) and not the Winery, I find that they are not necessary to address in this Decision.

prohibition on third-party rentals of the Subject Property. These conditions will also help ensure that the conditional use standards are met, because they limit the total potential of any impacts.

G. DCC Chapter 15.08 - Signs

The Staff Report notes that the uses on the Subject Property may require informational or directional signs. Such a requirement is incorporated above to address potential transportation impacts. Staff proposes a condition of approval requiring compliance with the County’s sign regulations. Because the Applicant does not object to the Staff’s proposed condition, that condition is included below.

IV. CONCLUSION AND CONDITIONS OF APPROVAL

Based on the foregoing findings, I find the Application meets the applicable standards for a Conditional Use Permit and Site Plan Review with the following conditions of approval:

- A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant, as required to be supplemented by these conditions. Any substantial change in this approved use will require review through a new land use application. The Applicant’s proposal includes the following, which shall be conditions of this approval:
 - The winery will process grapes only from Deschutes County or an adjacent county.
 - This approval does not include third-party rental of the Subject Property

- B. General Division Permitting. The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.

- C. Winery Signage. All signs on the property for the winery shall comply with Deschutes County Sign Code Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.

- D. Code Compliance for Case No. 247-21-000164-CE: *Prior to any initiation of use, the unpermitted winery on the property shall receive all required permits from Deschutes County for the winery and any related construction. The applicant shall provide all necessary receipts of approval/closure to the Planning Division to demonstrate compliance.*

- E. Winery Hours of Operation. *At all times, the property owner shall observe the following hours of operation:*
 - Summer Hours (Memorial Day Weekend – September 30th): by appointment or invite only, three to four (3-4) days per week during the hours of 12 to 7 p.m.
 - Winter Hours (October 1st – January 1st): by appointment or invite only, on Friday and Saturdays with additional appointments on holiday weekends (Thanksgiving, Christmas, New Year’s) during the hours of 12 to 7 p.m.
 - Closed (January 2nd – Second week of March).

- Spring Hours (Second week of March – First week of April): by appointment or invite only, three to four (3-4) days per week for the traditional school spring break for Oregon, California, and Washington (tourist season) during the hours of 12 to 7 p.m.

- F. Building and Structure Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed by DCC 18.120.040.
- G. Front Yard Setback for Wine Storage Building. *Prior to the issuance of building permits*, the property owner will submit confirmation that the Wine Storage Building meets the front yard setback requirements.
- H. Solar Setbacks. Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.
- I. General Setbacks. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- J. Clear Vision Areas on the Site Plan. *Prior to the issuance of building permits*, a revised and final site plan shall be submitted to the Planning Division which correctly illustrates the clear vision areas at all access points.
- K. Clear Vision Area. The clear vision areas located at the intersection of the service drives/ driveways and Bowery Lane, as well as other points of access, shall be maintained in accordance with DCC 18.116.020(A).
- L. Available Parking. This approval is conditioned upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18 as set forth in this Decision. The Applicant shall submit a revised and final site plan showing where the required parking spaces will be located, including the size of each parking stall.
- M. Parking and Loading/ Unloading. Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
- N. Establishment of Parking. Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- O. Use of Parking Facilities for the Winery. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
- P. Parking Area Lighting. Any lighting used to illuminate the off-street parking area shall be so arranged that it will not project light rays directly upon any adjoining property in a residential

zone.

- Q. Parking Area Landscaping. *Prior to the issuance of building permits*, the property owner shall submit a revised site plan depicting the parking area landscaping required by this Decision, which must note whether any trees are to be planted under overhead utility lines and, if so, show that the height of those trees has been taken into consideration.
- R. Graveled Surface for Standing and Maneuvering of Vehicles. *Prior to the initiation of use*, the applicant shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the winery. *At all times*, the graveled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.
- S. Access Aisles. *Prior to the issuance of building permits*, the property owner shall submit a revised site plan depicting access aisles at a minimum width of twenty-four (24) feet for all two-way traffic and a minimum width of twelve (12) feet for all one-way traffic.
- T. Service Drive Width. *Prior to the issuance of building permits*, the property owner shall submit a revised site plan depicting service drives at a minimum width of twenty-four (24) feet for all two-way access aisles and a minimum width of twelve (12) feet for all one-way access aisles.
- U. Service Drive Boundaries. *Prior to the issuance of building permits*, the property owner shall submit a revised site plan depicting service drive boundaries which are clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers.
- V. Off-street Parking Lot Design. *Prior to the issuance of building permits*, a revised and final site plan shall be submitted to the Planning Division which illustrates the parking aisles and spaces and demonstrates compliance with DCC 18.116.030(G)(1-4).
- W. Bicycle Parking Spaces. *Prior to the issuance of building permits*, a revised and final site plan shall be submitted to the Planning Division which illustrates the location of the required bicycle parking spaces.
- X. Confirmation from Bend Fire & Rescue. *Prior to the issuance of building permits*, Receipt of approval will be provided to the Planning Division from Bend Fire & Rescue that the access and site design for emergency vehicles are acceptable.
- Y. Use of Private Well. *Prior to the Initiation of Use of the Winery*, the property owners shall have the well, if it will provide any water to the public, reviewed, and approved as a Public Water System by either the Oregon Department of Agriculture (ODA) or the Deschutes County Environmental Health Department.
- Z. Licensing From Deschutes County Environmental Health Department. *Prior to the Initiation of Use of the Winery*, the property owner shall obtain all necessary permits from the Deschutes County Environmental Health Department.

AA. Licensing From the Oregon Department of Agriculture. *Prior to the Initiation of Use of any Aspect of the Winery*, the property owner shall obtain all necessary permits and approvals from the Oregon Department of Agriculture Food Safety Program.

BB. Licensing From the Oregon Liquor and Cannabis Commission (OLCC). *Prior to the Initiation of Use of any Aspect of the Winery*, the property owner shall obtain all necessary permits and approvals from the Oregon Liquor and Cannabis Commission.

CC. Licensing From the US Alcohol and Tobacco Tax and Trade Bureau (TTB). *Prior to the Initiation of Use of any Aspect of the Winery*, the property owner shall obtain all necessary permits and approvals from the US Alcohol and Tobacco Tax and Trade Bureau.

DD. Exterior Lighting. All exterior lighting shall be shielded so that direct light does not project off site.

EE. Evacuation of the Right of Way. *Prior to the issuance of building permits*, the property owner shall cause for the removal of all private property, including fences, posts, walls, crops, landscaping, and other features, from the existing public right of way for Bowery Lane along the frontage to the subject property.

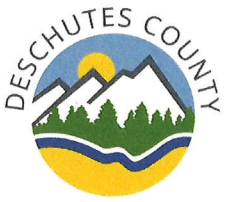
FF. Driveway Access Permits. *Prior to the issuance of building permits*, the property owner shall obtain driveway access permits for all driveway accesses to Bowery Lane for the subject property pursuant to DCC 12.28.050 and 17.48.210(A).

GG. Ingress and Egress via Hunnell Road. *At all times, once Hunnell Road construction is complete*, wayfinding or directional messaging provided by the property owner to vendors and patrons of the proposed commercial activities shall direct vendors and patrons to utilize Hunnell Road and the western section of Bowery Lane for ingress and egress to the subject property.

Dated this 29th day of December 2023.



Tommy A. Brooks
Deschutes County Hearings Officer



Land Use Application

Appeal - BOCC

04/10/2024 Item #7.

117 NW Lafayette Avenue
PO Box 6005
Bend, OR 97703
541-388-6575

247-24-000018-A

www.deschutes.org/cd

cdd@deschutes.org

APPLICATION DESCRIPTION

Type of Application: Appeal - BOCC

Description of Work: Appeal of Hearings Officer Decision for File Nos. 247-22-000464-CU, 466-SP

LOCATION INFORMATION

Property Address:

20520 Bowery Ln, Bend, OR 97703

Parcel:

171209B001000 - Primary

Owner:

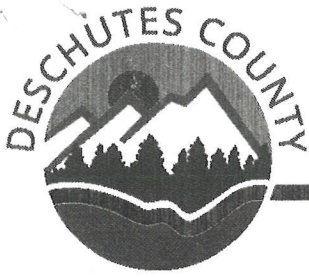
Address:

APPLICANT INFORMATION

Applicant:	Business Name:	Address:	City:	State:	Zip
Toby Bayard		20555 Bowery Lane	Bend	OR	97703

APPLICATION FEES

Fee Description	Quantity	Amount
Appeals to Board of County Commissioners Deposit	1.00 Qty	\$3,448.00
Appeals to Board of County Commissioners Additional Fee (20% of original fee)	1,414.40 Amount	\$1,414.40
Total Fees:		\$4,862.40



RECEIVED

JAN 9 2024

Deschutes County CDD

04/10/2024 Item #7.

COMMUNITY DEVELOPMENT

APPEAL APPLICATION – BOARD OF COUNTY COMMISSIONERS

FEE: \$4,862.40

EVERY NOTICE OF APPEAL SHALL INCLUDE:

- 1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and de novo review is desired, a request for de novo review by the Board, stating the reasons the Board should provide the de novo review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.

Appellant's Name (print): Toby Bayard Phone: (541) 977-5341
Mailing Address: 20555 Bowery Lane City/State/Zip: Bend, OR 97703
Email Address: tobybayard@gmail.com
Land Use Application Being Appealed: 247-22-000464 and 247-00466-SP
Property Description: Township 27 Range 12 east Section 09 Tax Lot
Appellant's Signature: Toby Bayard Digitally signed by Toby Bayard Date: 2024.01.07 12:18:24 -08'00' Date: 01-07-2024

By signing this application and paying the appeal deposit, the appellant understands and agrees that Deschutes County is collecting a deposit for hearing services, including "whether to hear" proceedings. The appellant will be responsible for the actual costs of these services. The amount of any refund or additional payment will depend upon the actual costs incurred by the county in reviewing the appeal. Charges for actual cost of services in excess of the collected deposit will be invoiced to the applicant once the hearing is completed.

Except as provided in section 22.32.024, appellant shall provide a complete transcript of any hearing appealed, from recordings provided by the Planning Division upon request (there is a \$5.00 fee for each recording copy). Appellant shall submit the transcript to the planning division no later than the close of the day five (5) days prior to the date set for the de novo hearing or, for on-the-record appeals, the date set for receipt of written records.

NOTICE OF APPEAL

Please the associated printed documents as my appeal
is too lengthy to describe on this sheet
Thank you. *Jody Bayard*

(This page may be photocopied if additional space is needed.)

**STATEMENT DESCRIBING SPECIFIC REASONS FOR THE APPEAL
AND TOBY BAYARD'S LIST OF DOCUMENTS ASSOCIATED OF DOCUMENTS SUBMITTED**

1. DOCUMENT SET INCLUDING THE APPEAL APPLICATION – BOARD OF COUNTY COMMISSIONERS WITH ATTACHED CHECK NUMBER 1446, WRITTEN ON THE ACCOUNT OF BAYARD MANAGING LLC, IN THE AMOUNT OF \$4,862.40 (AS PER NATHANIEL MILLER'S INSTRUCTIONS.
2. NOTICE OF HEARING OFFICER'S DECISION (247-000464-CU WHICH APPROVES A WINERY ON 5.45 ACRES OF LAND ZONED MULTIPLE USE AGRICULTURE-10 ACRES MINIMUM (5 PAGES PLUS ASSOCIATED MAP)
3. FILE NO. 247-22-000757-A (A CONFLICTING DECISION AND FINDINGS OF THE DESCHUTES HEARING AS COMPARED TO 247-22-000464-CU and 247-22-000466-SP)
4. EMAIL EXCHANGE WITH ASSOCIATE PLANNER NATHANIEL MILLER "Thanks for taking the time to speak with me."
 - a. IN WHICH MY ORIGINAL EMAIL I STATED THAT THERE WAS A CONFLICT WITH FILE no. 247-22-000757-A (**RULING ON THE APPEAL OF CENTRAL OREGON LAND WATCH IN WHICH HE CITED THE CORRECT APPLICABLE STANDARDS AND CRITERIA USING DCC 18.16, CHAPTER 18.16, EXCLUSIVE FARM USE, CHAPTER 28.120 EXCEPTIONS AND CHAPTER 18.128, CONDITIONAL USE.** *In this exchange, Nathaniel Miller noted that "It is unclear to staff why arguments are being made to apply Exclusive Farm Use (EFU) zoning and ORS 215.452 to the proposal. ORS 215.452 is specific to property owners who would like to establish a winery on property in the EFU district. Our understanding is that these provisions do not preclude a similar use on properties which are outside the EFU zone. (Please refer to the email copy for more).*
5. OFFICER TOMMY BROOKS REJECTED AN APPEAL FILED BY CENTRAL OREGON LANDWATCH WITH A HEARING DATE OF OCTOBER 26, 2022, 6 PM).
6. YET, IN THE JANUARY 2, 2024, DECISION ISSUED BY HEARINGS OFFICER TOMMY BROOKS, AND USED TO APPROVE DUANE AND DINA BARKERS (LAVA TERRACE CELLARS) CONDITIONAL USE APPLICATION FILE NUMBER 247-22-000464-CU, 247-22000466-SP, HEARINGS OFFICER TOMMY BROOKS USED APPLICABLE CRITERIA AS FOLLOWS:

IN THIS APPEAL RULING, HEARING OFFICER BROOKS INCORRECTLY CITED APPLICABLE STANDARDS AND CRITERIA USING THE DESCHUTES COUNTY CODE (DCC) TITLE 18, DESCHUTES COUNTY ZONING ORDINANCE AS FOLLOWS:

- CHAPTER 18.04 - Chapter 18.04 of Deschutes County contains definitions of the terms used in Title 18, none of which include the word "winery".
- CHAPTER 18.32 – Multiple Use Agricultural Zone - MUA
- CHAPTER 18.116 – Supplementary Provisions
- CHAPTER 18.124 – Site Plan Review
- CHAPTER 18.128 – Conditional Use

ON THE JANUARY 2, 2024, DECISION ISSUED BY HEARINGS OFFICER TOMMY BROOKS, AND USED TO APPROVE DUANE AND DINA BARKERS (LAVA TERRACE ELLARS) CONDITIONAL USE APPLICATION FILE NUMBER 247-22-000464-CU, 247-22000466-SP, HEARINGS OFFICER TOMMY BROOKS USED APPLICABLE CRITERIA AS FOLLOWS:

CHAPTER 18.04 – DEFINES THE PURPOSE AND DEFINITIONS ASSOCIATED WITH CHAPTER 18 OF DESCHUTES COUNTY CODE:

18.04.020. TITLE PURPOSE AND DEFINITIONS

- A. The intent or purpose of DCC Title 18 is to promote the public health, safety and general welfare and to carry out the Deschutes County Comprehensive Plan, the provisions of ORS 215 and the Statewide Planning Goals adopted pursuant to ORS 197. DCC Title 18 is to establish zoning districts and regulations governing the development and use of land within portions of Deschutes County, Oregon;
- B. To provide regulations governing nonconforming uses and structures; to establish and provide for the collection of fees; to provide for the administration of DCC Title 18 and for the officials whose duty it shall be to enforce the provisions thereof; to provide penalties for the violations of DCC Title 18; and to provide for resolution of conflicts;
- C. To regulate the placement, height and bulk of buildings; and the placement and growth of vegetation within the County to ensure access to solar energy by reasonably regulating interests in property within the County, as authorized under ORS 215.044 and ORS 105.880 through 105.890, to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan policies relating to solar energy; and

CHAPTER 18.32 – Multiple Use Agricultural Zone - MUA

18.32.010. Purpose.

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use. (Ord. 95-075 §1, 1995)

18.32.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.

- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
 1. Fewer than 10 riders;
 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 3. More than 25 riders, no more than two times per year on nonconsecutive days.
 (Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
 - (Ord. 2004-002 §3, 2004; Ord. 2001-039 §2, 2001; Ord. 2001-016 §2, 2001; Ord. 94-008 §10, 1994; Ord. 93-043 §4, 1993; Ord. 93-001 §1, 1993; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §18, 1991; Ord. 91-002 §6, 1991)

MUA-10 (18.32.030) states Conditional Uses Permitted:

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.

- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal-use landing strip other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for primary processing of forest products, provided that such facility is found to not to seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. (Portion of this use "M" has been eliminated to reduce the size of this document).
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.
- Q. Landfills when a written tentative approval by the Department of Environmental Quality (DEQ) of the site is submitted with the conditional use application.
- R. Time-share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.
- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or portland cement concrete when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
- W. Churches, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horse stables.
- BB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- CC. Manufactured home park on a parcel in use as a manufactured home park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured home park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.

urther, Hearings Officer Brooks only considered testimony placed into the Public record between the dates of 11/8/2023 and 11/18/2023:

- (2023-11-14-E. Albrich – Applicants Final Legal Argument 22-464-CU-SP, 2023-11-2023 and ...
- L. Green – Letter Rebuttal dated 11-7-2023, the emphasis of which was placed on the creation of human- “proposed commercial conditional land use create a human-caused detrimental condition negatively impacting all the properties located along Bowery Lane in the Rock O’ The Range neighborhood, but further reaching to those properties a few miles north of the subject site along Hunnell Rd. Hunnell Rd. is being “improved” for a collector arterial to the proposed applicants’ property. In response, our five neighbors have also each expressed their opposition (in the case file) to the applicants’ proposed CUP land use.
- 2023-10-30 B. Levin Testimony.pdf
- 2023-10-31 Placing Crystal Dollhausen’s written testimony turned in to the Community Development Building: “New Evidence and Testimony (Placed in public record on 10/31/2023 but initially omitted from the public record reviewed by Hearings Officer Brooks)”
- Email from Loel Jensen that was likewise written testimony turned in to the Community Development Building: “New Evidence and Testimony (Placed in public record on 10/31/2023 but initially omitted from the public record reviewed by Hearings Officer Brooks.

18.116. SUPPLEMENTARY PROVISIONS

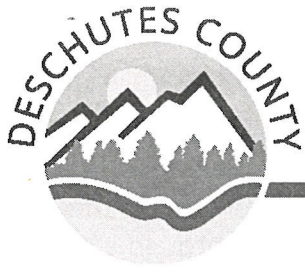
18.116.010 Authorization Of Similar Uses

- The purpose of DCC 18.116.010 is to, consistent with provisions of state law, provide for land uses not specifically listed in any zone, but which are similar in character, scale, impact and performance to a permitted or conditional use specified in a particular zone. However, the Barker’s land is definitely zoned Multiple Use Agricultural, 10 acres minimum. However, they only have 5.45 acres because their plot of land was grandfathered, and does not have to meet the 10 acre minimum.

A winery is specifically listed in a specific zone (Exclusive Farm Use) and the Barkers, in their application for a Conditional Use SPECIFICALLY applied for a winery.

The allowable use for a winery is ONLY identified in Deschutes County Code Exclusive Farm use, 18.16.025: Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.025:

F. “Winery, as described in ORS 215.452”. **There is NO AMBIGUITY in the description provided as it states F. Winery, as described in ORS 215.425, which is exact the same statute used by Hearing Officer Tommy Brooks in his “Decisions and Findings” of File No. 247-22-000757A – an appeal of the granting of a Conditional Use Permit by Central Oregon LandWatch.**



Mailing Date:	04/10/2024 Item #7.
Tuesday, January 02, 2024	

COMMUNITY DEVELOPMENT

NOTICE OF HEARINGS OFFICER'S DECISION

The Deschutes County Hearings Officer has approved the land use application(s) described below:

- FILE NUMBER:** 247-22-000464-CU, 247-22-000466-SP
- LOCATION:** The subject property has an assigned address of 20520 Bowery Lane, Bend, OR 97703 and is identified on the County Assessor Tax Map 17-12-09B, as Tax Lot 1000.
- OWNER:** Duane & Dina Fay Barker
- APPLICANT:** Lava Terrace Cellars
- PROPOSAL:** The applicant requests a Conditional Use Permit and Site Plan Review to establish a winery as a Commercial Activity in Conjunction with Farm Use in the Multiple Use Agricultural Zone (MUA10).
- STAFF PLANNER:** Nathaniel Miller, Associate Planner
Phone: 541-317-3164
Email: Nathaniel.Miller@Deschutes.org
- RECORD:** Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov
- APPLICABLE CRITERIA:** The Hearings Officer reviewed this application for compliance against criteria contained in Chapters 18.04, 18.32, 18.116, 18.124, and 18.128 in Title 18 of the Deschutes County Code (DCC), the Deschutes County Zoning Ordinance, as well as against the procedural requirements of Title 22 of the DCC.

DECISION: The Hearings Officer finds that the application meets applicable criteria, and approval is being granted subject to the following conditions:

I. CONDITIONS OF APPROVAL:

- A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant, as required to be supplemented by these conditions. Any substantial change in this approved use will require review through a new land use application. The Applicant's proposal includes the following, which shall be conditions of this approval:
 - The winery will process grapes only from Deschutes County or an adjacent county.
 - This approval does not include third-party rental of the Subject Property

- B. General Division Permitting. The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.

- C. Winery Signage. All signs on the property for the winery shall comply with Deschutes County Sign Code Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.

- D. Code Compliance for Case No. 247-21-000164-CE: **Prior to any initiation of use**, the unpermitted winery on the property shall receive all required permits from Deschutes County for the winery and any related construction. The applicant shall provide all necessary receipts of approval/closure to the Planning Division to demonstrate compliance.

- E. Winery Hours of Operation. **At all times**, the property owner shall observe the following hours of operation:
 - Summer Hours (Memorial Day Weekend – September 30th): by appointment or invite only, three to four (3-4) days per week during the hours of 12 to 7 p.m.
 - Winter Hours (October 1st – January 1st): by appointment or invite only, on Friday and Saturdays with additional appointments on holiday weekends (Thanksgiving, Christmas, New Year's) during the hours of 12 to 7 p.m.
 - Closed (January 2nd – Second week of March).
 - Spring Hours (Second week of March – First week of April): by appointment or invite only, three to four (3-4) days per week for the traditional school spring break for Oregon, California, and Washington (tourist season) during the hours of 12 to 7 p.m.

- F. Building and Structure Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed by DCC 18.120.040.

- G. Front Yard Setback for Wine Storage Building. **Prior to the issuance of building permits**, the property owner will submit confirmation that the Wine Storage Building meets the front yard setback requirements.

- H. Solar Setbacks. Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.

- I. General Setbacks. In addition to the setbacks set forth herein, any greater setbacks required

by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

- J. Clear Vision Areas on the Site Plan. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which correctly illustrates the clear vision areas at all access points.
- K. Clear Vision Area. The clear vision areas located at the intersection of the service drives/ driveways and Bowery Lane, as well as other points of access, shall be maintained in accordance with DCC 18.116.020(A).
- L. Available Parking. This approval is conditioned upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18 as set forth in this Decision. The Applicant shall submit a revised and final site plan showing where the required parking spaces will be located, including the size of each parking stall.
- M. Parking and Loading/ Unloading. Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
- N. Establishment of Parking. Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- O. Use of Parking Facilities for the Winery. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
- P. Parking Area Lighting. Any lighting used to illuminate the off-street parking area shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.
- Q. Parking Area Landscaping. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting the parking area landscaping required by this Decision, which must note whether any trees are to be planted under overhead utility lines and, if so, show that the height of those trees has been taken into consideration.
- R. Graveled Surface for Standing and Maneuvering of Vehicles. **Prior to the initiation of use**, the applicant shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the winery. **At all times**, the gravelled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.
- S. Access Aisles. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting access aisles at a minimum width of twenty-four (24) feet for all

two-way traffic and a minimum width of twelve (12) feet for all one-way traffic.

- T. Service Drive Width. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting service drives at a minimum width of twenty-four (24) feet for all two-way access aisles and a minimum width of twelve (12) feet for all one-way access aisles.
- U. Service Drive Boundaries. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting service drive boundaries which are clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers.
- V. Off-street Parking Lot Design. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which illustrates the parking aisles and spaces and demonstrates compliance with DCC 18.116.030(G)(1-4).
- W. Bicycle Parking Spaces. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which illustrates the location of the required bicycle parking spaces.
- X. Confirmation from Bend Fire & Rescue. **Prior to the issuance of building permits**, Receipt of approval will be provided to the Planning Division from Bend Fire & Rescue that the access and site design for emergency vehicles are acceptable.
- Y. Use of Private Well. **Prior to the Initiation of Use of the Winery**, the property owners shall have the well, if it will provide any water to the public, reviewed, and approved as a Public Water System by either the Oregon Department of Agriculture (ODA) or the Deschutes County Environmental Health Department.
- Z. Licensing From Deschutes County Environmental Health Department. **Prior to the Initiation of Use of the Winery**, the property owner shall obtain all necessary permits from the Deschutes County Environmental Health Department.
- AA. Licensing From the Oregon Department of Agriculture. **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the Oregon Department of Agriculture Food Safety Program.
- BB. Licensing From the Oregon Liquor and Cannabis Commission (OLCC). **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the Oregon Liquor and Cannabis Commission.
- CC. Licensing From the US Alcohol and Tobacco Tax and Trade Bureau (TTB). **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the US Alcohol and Tobacco Tax and Trade Bureau.



- DD. Exterior Lighting. All exterior lighting shall be shielded so that direct light does not project off site.
- EE. Evacuation of the Right of Way. **Prior to the issuance of building permits**, the property owner shall cause for the removal of all private property, including fences, posts, walls, crops, landscaping, and other features, from the existing public right of way for Bowery Lane along the frontage to the subject property.
- FF. Driveway Access Permits. **Prior to the issuance of building permits**, the property owner shall obtain driveway access permits for all driveway accesses to Bowery Lane for the subject property pursuant to DCC 12.28.050 and 17.48.210(A).
- GG. Ingress and Egress via Hunnell Road. **At all times, once Hunnell Road construction is complete**, wayfinding or directional messaging provided by the property owner to vendors and patrons of the proposed commercial activities shall direct vendors and patrons to utilize Hunnell Road and the western section of Bowery Lane for ingress and egress to the subject property.

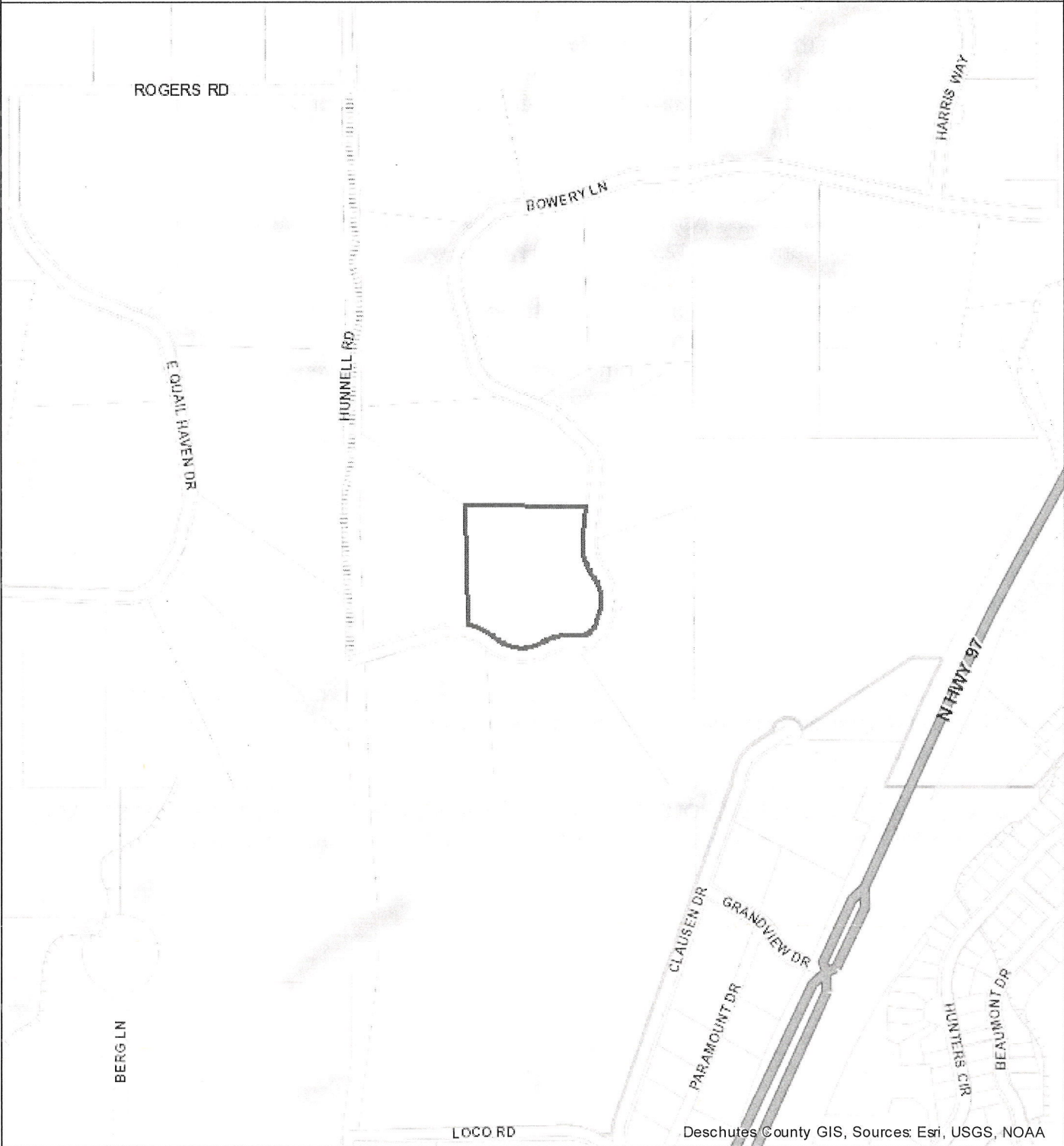
This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

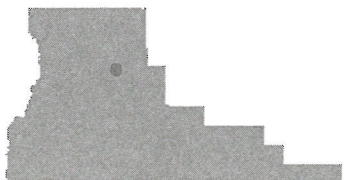
NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

File: 247-22-000464-CU, 466-SP

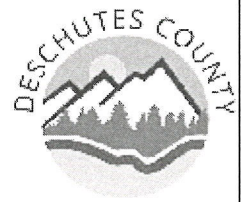
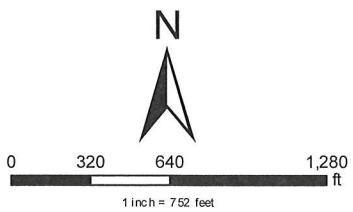
20520 Bowery Lane, Bend, OR 97703



Deschutes County GIS, Sources: Esri, USGS, NOAA



Date: 9/7/2023



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

FILE NUMBERS: File No. 247-22-000757-A
(Appeal of files 247-22-000024-CU and 247-22-000025-SP)

HEARING DATE: October 26, 2022, 6:00 p.m.

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

APPLICANT/OWNER: John Herman

SUBJECT PROPERTY: Tax Lot 00700, Map 15-10-10
Situs Address: 68540 E Highway 20, Sisters, OR 97759

APPELLANT: Central Oregon LandWatch

REQUEST: Appeal of an administrative decision: (1) approving a conditional use for a meadery and associated activities as a commercial activity in conjunction with farm use; (2) approving a site plan approval for the meadery.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: The Hearings Officer finds that the Applicant has not met its burden of proof with respect to a commercial activity in conjunction with farm use and, therefore, SUSTAINS the appeal, and DENIES the Application, based on the findings in this Decision.

I. APPLICABLE STANDARDS AND CRITERIA

- Deschutes County Code (DCC)
- Title 18, Deschutes County Zoning Ordinance
 - Chapter 18.16, Exclusive Farm Use Zones
 - Chapter 18.120, Exceptions
 - Chapter 18.128, Conditional Use

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

This matter comes before the Hearings Officer as an appeal of a decision by the Deschutes County Planning Department (“Staff”) in which Staff approved: (1) the operation of a meadery as a commercial activity in conjunction with a farm use (File 247-22-000024-CU); and (2) a site plan for the meadery (File 247-22-000025-SP) (together, the “Staff Decision”).

The specific proposal in the Application underlying the Staff Decision is the Applicant’s proposal to operate a meadery on the Subject Property. According to the Applicant and other information in the record, a meadery makes mead, a type of wine fermented from honey rather than from grapes. Mead is sometimes referred to as “honey wine,” and a meadery is sometimes referred to as a “honey winery.” The Applicant currently maintains beehives on the Subject Property from which honey is harvested and engages in the production of mead. The Applicant plans to use honey from the Subject Property and from other farms around the county and state as part of the planned meadery, which will produce mead on a larger scale for sale. In addition to the meadery itself, the Applicant proposes other commercial activities such as an indoor tasting room, an outdoor tasting area, food carts, “winery-related” events, and other unidentified activities “related to the production, sale, marketing, and distribution of wine, farm products, and related incidental items.” The Application includes a request for use of the Subject Property as a music venue to support local events that may not be winery related, such as the Sisters Folk Festival. This decision will refer to the meadery and the proposed commercial activities as the “Meadery.”

B. Notices, Decision, Appeal, and Hearing

The Application was filed on January 19, 2022. On January 28, 2022, the County issued a Notice of Application to several public agencies and to property owners in the vicinity of the Subject Property (together, “Application Notice”). The Application Notice invited comments on the Application.

On September 7, 2022, Staff issued a decision on the Application, styled “Findings and Decision” (the “Staff Decision”). On September 19, 2022, the County received an Appeal Application with a Notice of Appeal on behalf of Central Oregon Landwatch (“Appellant”), seeking review of the Staff Decision. There is no dispute in this proceeding that the appeal documents were timely filed.

On September 30, 2022, the County mailed a Notice of Public Hearing (“Hearing Notice”) announcing an evidentiary hearing (“Hearing”) for the appeal of the Staff Decision. Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on October 26, 2022, opening the Hearing at 6:01 p.m. The Hearing was held via videoconference, with Staff, the Applicant, and a representative of Appellant present in the hearing room. The Hearings Officer appeared 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 asked for but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

No participant requested that the record remain open. The Hearing concluded at approximately 7:35 p.m. At that time, I closed the Hearing and the record, and I took this matter under advisement.

C. 150-day Clock

The Applicant submitted the Application on January 19, 2022. Staff reviewed the Application and, on February 18, 2022, notified the Applicant that the Application was incomplete (“Incomplete Notice”). The Applicant provided additional information on or about March 8, 2022 and March 17, 2022, and continued to provide information to the record in response to Staff inquiries. On July 15, 2022, Applicant’s attorney notified Staff that the Applicant had provided information in response to the Incomplete Notice, thereby confirming that the Applicant believed the Application to be complete as of that date.

Using July 15, 2022, as the date of completeness, the deadline within which the County must make a final decision under ORS 215.427 – “the 150-day clock” – is December 12, 2022.

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Adoption of Findings in Staff Decision

The Staff Decision contains comprehensive findings related to the Application and the Subject Property. The vast majority of the findings in the Staff Decision are not challenged in this Appeal, and, although this proceeding is *de novo*, most criteria in the Staff Decision are not re-addressed by the participants during the appeal. As a result, I hereby adopt the findings in the Staff Decision as my findings, as supplemented and modified by the findings in this Decision, which address the issues and criteria that were raised on appeal. To the extent any of the findings in this Decision conflict with the findings in the Staff Decision, my intent is to have these findings control.

B. Issues on Appeal

The Appellant’s Notice of Appeal sets forth several bases for appeal of the Staff Decision, and Appellant raised other issues during the Hearing. Appellant seeks denial of the Application based on the following assertions: (1) a meadery is not an allowed use in the Exclusive Farm Use (“EFU”) zone either because no local or state law allows such a use, or because a meadery is not a “winery”, which can be allowed by statute; (2) there is insufficient evidence on which to base a finding that there is any farm use currently on the Subject Property; (3) there is insufficient evidence on which to base a finding that the Meadery will produce income that is “incidental” or “subordinate” to income from farm uses on the Subject Property; (4) the Applicant has not adequately addressed the farm impacts test required by ORS 215.296; and (5) the Staff Decision violates ORS 215.416(8) because it is based on provisions relating to grape wineries rather than a meadery. The findings below address each of those issues.

///

///

///

1. Is a meadery an allowed use in the EFU zone?

The Applicant’s proposed Meadery includes meadery facilities for processing mead and several associated commercial activities such as tasting areas, food carts, and incidental sales of mead-related items. Appellant asserts that the Meadery is not an allowed use in the EFU zone.

ORS 215.203 establishes a statewide construct for determining which uses are allowed in the EFU zone. Under that statute, an EFU zone “shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284.”¹ ORS 215.213 and ORS 215.284 are not applicable in the present matter. ORS 215.283 sets forth various specific uses, other than “farm uses”, that are allowed in the EFU zone. The non-farm uses in ORS 215.283(1) are uses a county must allow by right, subject only to statutory standards rather than local standards.² The non-farm uses listed in ORS 215.283(2), in contrast, are considered “conditional” uses that a county can choose to allow, and in doing so a county can impose additional restrictions on those uses.³

Appellant is correct that neither the Deschutes County Code (“DCC” or “Code”) nor ORS 215.283 expressly lists “meadery” as an allowed non-farm use in the EFU zone. ORS 215.283(1)(n) does list a “winery” as a use permitted by right, but only if the winery is the type of winery described in ORS 215.452 or ORS 215.453. DCC 18.16.025(F) mirrors that statute and also refers to ORS 215.452, which the Code incorporates through DCC 18.16.038(B). By the express terms of those statutory and Code provisions, such wineries are wineries that produce wine from grapes.⁴ Those statutes therefore do not provide a basis for permitting the Meadery, which processes honey rather than grapes.

In contrast to the winery example, ORS 215.283 and the Code also establish broader categories of non-farm uses that encompass multiple specific uses. ORS 215.283(1)(c), for example, authorizes “utility facilities necessary for public service”, but that category has been applied to allows different types of specific utilities.⁵ The absence of the word “meadery” in the statute or Code, therefore, does not mean a meadery cannot ever be approved, and it is possible to approve a meadery under one of the listed use categories, as long as the Meadery is a type of use contemplated by that broader category.

The broader category the Applicant seeks as the basis for approving the Meadery is set forth in ORS 215.283(2)(a) – “commercial activities that are in conjunction with farm use.” The express terms of that statute do not limit that category to any particular type of commercial activity and, instead, require only that the commercial activity be in conjunction with a farm use. Indeed, that is how the courts have applied that statute. Applying ORS 215.283(2)(a) prior to the legislature’s enactment of ORS 215.452 and ORS 215.453, which now expressly allow certain wineries as a non-farm use, the Oregon Supreme Court upheld the issuance of a conditional use permit for a winery in the EFU zone as a commercial activity in

¹ ORS 215.203(1).

² *Brentmar v. Jackson Cty.*, 321 Or 481, 496 (1995).

³ *Id.*

⁴ *See, e.g.*, ORS 215.452(1), authorizing wineries that “produce wine” and that either includes an onsite vineyard, includes a contiguous vineyard, or sources grapes from a contiguous vineyard.

⁵ *See, e.g.*, *Dayton Prairie Water Ass’n v. Yamhill County*, 38 Or LUBA 14 (2000) (applying statute to approve water facilities); *c.f. WKN Chopin, LLC v. Umatilla County*, 66 Or LUBA 1 (2012) (applying statute to approve electric transmission line).

conjunction with a farm use.⁶ It did so because the winery at issue in that case satisfied the criteria of ORS 215.283(2)(a) and despite the fact that “winery” was not separately listed as an allowed use in the EFU zone.

Based on the foregoing, I find that the Meadery is an allowed use in the EFU zone as long as the proposed use satisfies the standards required for “commercial activities that are in conjunction with farm use” as contemplated by DCC 18.16.030, which is the County’s version of ORS 215.283(2)(a).⁷

a. Is the Subject Property currently in farm use?

Appellant asserts that a farm use is “a predicate for the approval of a commercial activity in conjunction with farm use.” More particularly, Appellant’s assertion is that “a current farm use” must be shown before any commercial activities in conjunction with farm use can be permitted. Appellant argues that the record is not sufficient to demonstrate that the Subject Property is “currently” in farm use, as defined by ORS 215.203(2). In support of this argument, Appellant relies on *Friends of Marion County v. Marion County*, -- Or LUBA --, LUBA No. 2021-088/089 (Apr. 21, 2022) (“*Friends of Marion County*”).

As presented to the Hearings Officer, Appellant argues only that the Applicant has not demonstrated a “current” farm use. The difficulty with Appellant’s argument is that it does not address whether the proposed use of the Subject Property as a Meadery, which would occur in the future, will be in conjunction with a farm use that will exist at that time. Rather, Appellant’s written and oral comments acknowledge that the activities the Applicant proposes to produce mead in the future – which include beekeeping and honey production – are farm uses. I therefore understand Appellant’s argument to be that, regardless of what future farm uses occur as part of the proposal, the Applicant must nevertheless demonstrate that there are currently farm uses on the Subject Property.

The *Friends of Marion County* case and other cases interpreting ORS 215.283(2)(a) make it clear that a “farm use” must exist if there is to be an allowed commercial activity in conjunction with that farm use. Contrary to Appellant’s argument, however, those cases do not hold that the farm use must already be in existence at the time of the application. In other words, they do not prevent an applicant from proposing a future commercial activity that will be in conjunction with a future farm use developed at the same time, and in fact, those cases imply or acknowledge that the farm use can be developed in the future.

In *Friends of Marion County*, for example, the issue LUBA addressed was the argument that “none of the findings or the evidence in the record demonstrates that intervenors currently operate or will operate a farm use.”⁸ LUBA reversed the county’s approval in that case based on its conclusion that a farm use did not currently exist. However, the county’s findings in that case determined that the current uses on the subject property were “farm uses” and the county required the applicant to maintain those same uses as part of the approval of the commercial uses the applicant proposed. Because LUBA concluded that the

⁶ *Craven v. Jackson County*, 308 Or 281 (1989).

⁷ I also note that Appellant’s representative appears to have agreed with this conclusion during the Hearing. In response to a question from the Hearings Officer asking if all meaderies are excluded from the EFU zone as a matter of law, the representative responded that was likely not the case and that it would need to be determined on a case-by-case basis under ORS 215.283(2)(a).

⁸ *Friends of Marion County* at *10.

current activities were not “farm uses” as defined by statute, the applicant could therefore not rely on those same activities as a basis for the approval of commercial uses in conjunction with farm uses. That case did not involve a record that contemplated the further development of farm uses like the record in this matter does. *Craven* also illustrates this point. In that case, the Court considered a conditional use permit granted to an applicant who “proposes to establish a vineyard and winery”, which “winery is to be constructed before the accompanying vineyard is fully planted.”⁹ Thus, the Court approved the commercial activity in conjunction with a farm use that was not yet established. The Court was concerned only whether the farm use would exist at the same time the proposed commercial activities were conducted.

Based on the foregoing, I cannot agree with Appellant’s assertion that the Applicant is required to show that a farm use “currently” exists on the Subject Property. As in *Craven*, the permit can be issued as long as the commercial activities are conducted in conjunction with a farm use, which farm use may be developed in tandem with the commercial activities once the permit is issued.

If the Applicant were required to show that the Subject Property, as it currently exists, is in farm use, this would be a more difficult issue to resolve. Appellant takes issue with the fact that the Applicant has not demonstrated a “profit” from farm activities. As explained in *Friends of Marion County*, “profit” is a broad term, and profit exists “so long as crops are raised, harvested and sold for a gross profit.”¹⁰ In that case, LUBA held that a farmer had not demonstrated a profit where the farmer “simply testified that they sold the field crops with no other documentation of their production or sale.” Here, while it is an extremely close call, I find the Applicant has provided more than mere testimony that it has sold crops. The Applicant has also testified that there has been a gross profit from those sales and that the revenue earned has been reinvested in the farming operation. Based on this record, and although the Applicant has provided little corroboration of revenue from the current farm, I find it more likely than not that the Subject Property is currently in farm use.

b. Does the Meadery satisfy the standard for commercial activities in conjunction with farm use?

Appellant asserts that the Meadery does not meet the standard for allowing commercial activities in conjunction with farm use. Appellant’s specific arguments are that the Meadery is not incidental and subordinate to Applicant’s planned farm uses, and that it does not enhance the local agricultural community.

Appellant’s arguments are grounded in the case law that interprets ORS 215.283(2)(a). One clear articulation of the standard from the Court of Appeals states that any commercial activity beyond the direct processing and selling of a farm product must “be both ‘incidental’ and subordinate to” the farm use.¹¹ In *Friends of Yamhill County*, the Court of Appeals addressed a county’s approval of a permit to allow 44

⁹ *Craven*, 308 Or at 283-84.

¹⁰ *Friends of Marion County* at *16 citing *Cox v. Polk County*, 39 Or LUBA 1, 7-12 (2000).

¹¹ *Friends of Yamhill County v. Yamhill County*, 255 Or App 636, 650-51 (2013) citing *Craven*, 308 Or at 289.

annual events as part of a winery.¹² Finding the approval to be “dangerously close” to creating a scenario in which the incidental and secondary activities overtake the primary activity, the court nevertheless upheld the approval. The court explained that its decision was based on a condition of approval that limited non-farm income from the commercial activity from exceeding 25 percent of the gross income from the farm use activity, which was the onsite retail sales of wine.¹³

The Applicant’s proposal and the Staff Decision in this matter imposed a condition of approval similar to the condition in *Friends of Yamhill County*. Specifically, the Staff Decision imposes a condition that requires the Applicant to confirm, on an annual basis, that no less than 25% of the honey used to produce mead is generated from the Subject Property. However, this condition of approval does not address the same issue the court was concerned with in *Friends of Yamhill County*. The condition in *Friends of Yamhill County* ensured that the scale of the non-farm commercial use was not greater, and therefore subordinate to, the primary farm use. In contrast, the condition in the Staff Decision that the Applicant relies on controls only the scale of the farm product being used for the commercial activity, ensuring that the Subject Property is the primary source of the farm product. That condition does not appear to impose any limitations on the scale of the non-farm commercial uses. Thus, for example, even if the Applicant sourced all of its honey from the Subject Property, nothing would prevent the Applicant from holding events and selling food from food carts in a manner the produces significantly more income than the farm use. If that occurred, the non-farm commercial activities would end up being the primary activity rather than the secondary activity.

As the Appellant points out, there are other components of the Application indicating that the non-farm commercial uses are not subordinate to the farm use. For example, the Applicant intends to have four employees for the Meadery, but perhaps only one, if any, for the farm operations. It is perhaps possible to have such a disparity in employees and still have the farm use be the primary use. However, as the Appellant notes, the Applicant simply has not attempted to quantify the magnitude of the farm use or the magnitude of the non-farm commercial activities. Some attempt at quantifying those activities is necessary if they are to be compared for the purpose of identifying a primary use and a secondary use.¹⁴ That burden lies with the Applicant. Based on the record before me, I find that the Applicant has not met that burden.¹⁵

Although I agree with the Appellant that the Applicant has not demonstrated the Meadery will be incidental and subordinate to a farm use, I disagree with the Appellant’s argument that the Applicant has not demonstrated the Meadery enhances the local agricultural community. The *Craven* decision is informative in this regard. In that case, the Court determined that the proposed winery did enhance the local agricultural community because it provided a local market outlet for grapes of other growers in the area. The Court also noted that it would help transform a hayfield into a vineyard, which increases the

¹² The application in that case was made pursuant to ORS 215.283(2)(a) as a commercial activity and not under ORS 215.283(1)(n) as a winery.

¹³ The definition of “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.” ORS 215.203(2)(a).

¹⁴ See, e.g., *Chauncey v. Multnomah County*, 23 Or LUBA 599 (1992) (holding that an application without evidence establishing the quantity of products delivered or dollar amount of sales to cannot demonstrate, as a matter of law, the proposed use is a commercial activity in conjunction with farm use).

¹⁵ Appellant also relies on *Friends of Yamhill County v. Yamhill County*, 301 Or App 726 (2020). That case, although it addresses commercial activities, applies ORS 215.283(4), and is therefore not directly applicable to this matter.

intensity and value of agricultural products. LUBA has built on the decision in *Craven* and stated that, to demonstrate an activity enhances the local agricultural community, “a commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm uses.”¹⁶

The Applicant’s proposal here is nearly identical to the situation in *Craven* and *City of Sandy v. Clackamas County*. Specifically, the Applicant proposes to purchase honey from other farmers. Although the Applicant will not be a supplier of other farm uses, it will be primarily a customer of farm uses. The Applicant also proposes to develop regenerative bee pastures, which enrich the soils and, ultimately, increases the intensity and value of agricultural products. I therefore find that the Applicant’s proposal satisfies this part of the standard in ORS 215.283(2)(a).

Based on the foregoing, I find that the Application must be denied because the Applicant has not met its burden of demonstrating the Meadery – as proposed – will be incidental and subordinate to a primary farm use on the Subject Property.

c. Did the Applicant adequately address the farm impacts test required by ORS 215.296?

As noted above, a commercial activity in conjunction with farm use is an allowed use in the EFU Zone, subject to any additional conditions the County may impose in its Code. Pursuant to DCC 18.16.040, the County has imposed several limitations on conditional uses, including commercial activities in conjunction with farm use authorized under DCC 18.16.030. The specific restrictions in DCC 18.16.040(A)(1) and (2) are required by state law and are a codification of the restrictions in ORS 215.296(1). LUBA sometimes refers to these restrictions as the “Farm Impacts Test.”

An applicant carries the burden of proving that ORS 215.296(1) has been met.¹⁷ LUBA has a well-established methodology for demonstrating compliance with the farm impacts test.¹⁸ Under that methodology, a proposal can be approved only if it: (1) describes farm practices on surrounding lands devoted to farm use; (2) explains why the proposed development will not force a significant change in those practices; and (3) explains why the proposed development will not significantly impact or increase the cost of those practices. To begin that process, LUBA has held that “[i]n applying ORS 215.296(1), it is entirely appropriate for the applicant to begin by visually surveying surrounding lands to identify the farm and forest uses to which those lands are devoted.”¹⁹ Other parties are then free to dispute the initial findings, or to add to the record additional evidence of nearby farm uses and farm practices that the applicant must respond to.²⁰

In addressing the Farm Impacts Test, the Applicant initially followed the process described above by providing what amounted to a visual survey of the surrounding land. Specifically, the Applicant provided an inventory of all parcels within a one-mile radius of the Subject Property that are devoted to farm use. As part of that inventory, the Applicant also identified specific farm uses in the study area,

¹⁶ *City of Sandy v. Clackamas County*, 28 Or LUBA 316, 321 (1994).

¹⁷ *Schrepel v. Yamhill County*, -- Or LUBA – (LUBA No. 2020-066), 2020 WL 8167220, at *6.

¹⁸ See *Brown v. Union County*, 32 Or LUBA 168 (1996).

¹⁹ *Dierking v. Clackamas County*, 38 Or LUBA 106, 120-21 (2000).

²⁰ *Id.*

noting that they included “a combination of grass hay, permaculture, forest, [and] bare land.” Other information provided by the Applicant indicates that some properties have horses, cattle, and pastures.

The Applicant concludes, primarily based on geographic separation, that there will be no impacts to forest or farm practices on the farm uses identified in the inventory. For example, the Applicant states a nearby property “is buffered by our own dwellings, farm buildings, 12 acres of regenerative bee pasture, and a 20-acre field that will eventually become regenerative bee pasture. At this distance, the winery will not significantly change or increase the cost of any of the accepted farm practices on this farm property.” The Applicant arrived at a similar conclusion for potential noise and light impacts, noting that, because of the adjacent noise and lights from Highway 20, these impacts are already accepted by all adjoining farm and forest land.

The flaw in the Applicant’s analysis is that it does not actually identify any farm practices that are associated with the various farm uses it identifies. As applied by LUBA and the courts, the Farm Impacts Test must focus on impacts to farm practices. Further, the fact that a similar impact may already exist does not mean that an increase in that impact is necessarily acceptable. An impact that already exists may nevertheless force a significant change to the farm practices associated with that use, or significantly increase the costs of those practices. That determination cannot be made, however, unless the Applicant first identifies specific farm practices that may be impacted.

In summary, the record does not include a description of the farm practices on surrounding lands devoted to farm use, nor does it include any explanation for why the proposed development will not force a significant change or cost to those practices. It is quite possible that the meadery will not have significant impacts on farm practices, but the burden to demonstrate compliance with the Farm Impacts Test unequivocally lies with the Applicant. Without any analysis of the accepted farm practices that are associated with the identified farm uses, I cannot make a factual finding regarding the existence of those farm practices, or a finding that it is more likely than not that the Meadery will not force a significant change to those farm practices. I therefore find that the Applicant has not met its burden to demonstrate compliance with DCC 18.16.040(A)(1) and (2).

d. Did the Staff Decision comply with ORS 215.416(8)?

Because a meadery is a type of winery, the Applicant refers to the winery statutes and compares the proposed meadery to a grape winery. As noted in earlier findings, state statutes contain provisions specific to grape wineries and grape wineries are allowed in the EFU zone either outright through ORS 215.283(1)(n), as implemented by ORS 215.452 and ORS 215.453, or conditionally through ORS 215.283(2)(a) as a commercial activity in conjunction with agriculture. Applicant’s stated purpose for comparing a meadery to a winery is that using the winery statutes as a guide helps ensure the meadery remains “incidental and subordinate to farm use.” Appellant asserts that this approach is akin to approving the meadery based on inapplicable criteria and, therefore, violates ORS 215.416(8). That statute requires that approval or denial of a permit application be based only on applicable standards and criteria set forth in a county’s land use regulations. Appellant argues that the winery statutes are not applicable and, therefore, cannot be relied on for approval of the Meadery.

Even though this Decision reverses the outcome of the Staff Decision, ORS 215.416(8) applies to both the approval or denial of an application. I therefore find it appropriate to address whether the Staff Decision violated ORS 215.416(8). I find that it did not.

There is no dispute in this proceeding that the Applicant seeks approval of the meadery under ORS 215.283(2)(a) as a commercial activity in conjunction with agriculture. The Applicant refers to the winery statutes as a guide and Applicant’s express request to the County was “We have suggested that the County consider imposing most of the limitations on the meadery that ORS 215.452 applies to small wineries as a means of assuring that activities associated with the meadery are incidental and subordinate to farm use.” Indeed, the Applicant recognized that ORS 215.452 was not a basis for approval of the meadery where it referred to ORS 215.456, which points back to ORS 215.283(2)(a) as a means of approving a winery that cannot otherwise be approved under ORS 215.283(1)(n), ORS 215.452, and ORS 215.453.

Contrary to Appellant’s assertion, the Staff Decision did not rely on the winery statutes and, therefore, did not rely on inapplicable criteria. Indeed, the Staff Decision very clearly articulated the standard under ORS 215.283(2)(a) and set forth the three components of such a use that Staff would review: (1) the use must be a “commercial” activity; (2) it must be “in conjunction with farm use;” and (3) it must not be the processing of farm crops as described in Section 18.16.025. The Staff Decision then made findings relating to each of those components, and did so without reference to the requirements of the winery statutes. The criteria the Staff Decision relied on are each incorporated into the County’s Code. The Staff Decision therefore did not violate ORS 215.416(8).

C. Conditions of Approval

The Staff Decision imposed several conditions of approval as part of Staff’s approval of the Application. The Hearings Officer notes that no participant challenged any condition of approval or otherwise asserted such conditions could not or should not be applied if the Application were approved. Because this Decision finds that the Application cannot be approved based on the current record, however, there is no basis to impose any conditions of approval.

IV. CONCLUSION

Based on the foregoing findings, I find the Applicant has not met its burden of proof with respect to the standards for approving commercial activities in conjunction with a farm use and with respect to the Farm Impacts Test. The appeal of the Staff Decision is therefore SUSTAINED, and the Application is DENIED.

Dated this 17th day of November 2022



Tommy A. Brooks
Deschutes County Hearings Officer



FINDINGS AND DECISION

FILE NUMBER: 247-22-000024-CU, 247-22-000025-SP

**SUBJECT PROPERTY/
OWNER:** Mailing Name: HERMAN, JOHN & RENEE ET AL
Map and Taxlot: 1510100000700
Account: 135891
Situs Address: 68540 HWY 20, SISTERS, OR 97759

APPLICANT: John Herman

REQUEST: The applicant request a Conditional Use Permit for commercial activities in conjunction with farm use to establish a Meadery (Honey Winery) with associated uses. The request also includes a Site Plan Review for the Meadery.

STAFF CONTACT: Nathaniel Miller, AICP, Associate Planner
Phone: 541-317-3164
Email: Nathaniel.Miller@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

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 18.80, Airport Safety Combining Zone (AS)
- Chapter 18.84, Landscape Management Combining Zone (LM)
- Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)
- Chapter 18.116, Supplementary Provisions
- Chapter 18.120, Exceptions
- Chapter 18.124, Site Plan Review
- Chapter 18.128, Conditional Use

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: The subject property is a legal lot of record being platted Parcel 1 of Minor Partition MP-02-44.

SITE DESCRIPTION: The subject 83.48-acre property is a developed ranch with 2 single-family dwellings, farm buildings, and supporting ranch infrastructure. The majority of the property is pastureland on the northwest and southeast sides. The developed portion of the property is along the southwest property line which abuts Highway 20. There is a light cover of Ponderosa Pine trees and other vegetation at the northeast, southeast, and around the ranch houses and barns. The property is irregular in shape, and fronts on Highway 20 to the southwest and Highway 126 to the northeast. The grade of the property is relatively even across the parcel. The subject property is depicted in *Image One* below.

Image One – Subject Property



REVIEW PERIOD: The subject application(s) were submitted on January 19, 2022 and deemed incomplete by the Planning Division on February 18, 2022. The application was deemed complete on July 15, 2022. The 150th day on which the County must take final action on this application is December 12, 2022. The submitted application materials are incorporated herein by reference.

PROPOSAL: The applicant requests a Conditional Use Permit for commercial activities in conjunction with farm use to establish a Meadery (Honey Winery) with associated uses. The Meadery will operate similarly to a winery combining wine production and onsite sales, events, consumption, and education. As outlined below, the proposed Meadery as the commercial activity includes the following associated uses (actions) and subordinate features:

1. Mead Production, Aging, & Packaging
2. Meadery Indoor Tasting Area & Wine Sales
3. Meadery Outdoor Tasting Area
4. Farm Store
5. 1 Food Cart
6. Winery Activities
 - Wine Tasting
 - Wine Club Gatherings
 - Winery and Bee Pasture Tours
 - Business Functions
 - Staff Functions
 - Promotional Events
7. Winery Related Events (Limited to 20 Events Annually)
 - Events (18 Events Annually)
 - Concerts (2 Live Music Events Annually)
 - 2 Addition Food Carts

The proposed Meadery will be located in an existing 3,000-square-foot farm building which will be converted to the "Winery Building". The production, parking, tasting areas, food carts are located in, or in close proximity to, the Winery Building. The Winery Related Events will be staged in the same area but include a lawn and stage area to the northwest, as well as additional parking to the north and east.

As the seven (7) associated uses (actions) differ with respect to characteristics, function, and location on the site, staff classifies the uses into the following three aspects for the purposes of this review:

I. Mead Production

Mead Production, Aging, & Packaging

II. Winery Operations

Meadery Indoor Tasting Area & Wine Sales

Meadery Outdoor Tasting Area

Farm Store

1 Food Cart

Winery Activities

- Wine Tasting
- Wine Club Gatherings
- Winery and Bee Pasture Tours
- Business Functions

DESCHUTES COUNTY MUNICIPAL CODE (MUNICODE)
Exclusive Farm Use (18.16.010 Purpose)

1. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.
2. The purposes of this zone are served by the land use restrictions set forth in the Comprehensive Plan and in DCC 18.16 and by the restrictions on private civil actions and enforcement actions set forth in ORS 30.930 through 30.947.

Multiple Use Agricultural Zone (18.32.010 Purpose)

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area.

1. To preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses;
2. To conserve forest lands for forest uses;
3. To conserve open spaces and protect natural and scenic resources;
4. to maintain and improve the quality of the air, water and land resources of the County;
5. to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and
6. to provide for an orderly and efficient transition from rural to urban land use.

In MUA-10 zoned land, the following uses and their accessory uses are permitted outright:

1. Agricultural uses as defined in DCC Title 18.
2. A single-family dwelling, or a manufactured home subject to DCC 18.116.070.
3. Propagation or harvesting of a forest product.
4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
5. Class III road or street project.
6. Noncommercial horse stables, excluding horse events.
7. Horse events, including associated structures, involving:
 1. Fewer than 10 riders;
 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 3. More than 25 riders, no more than two times per year on nonconsecutive days.
Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
8. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

□

- 9. Type 1 Home Occupation, subject to DCC 18.116.280.
- 10. Historic Home Accessory Dwelling Units, subject to DCC 18.116.350.
- 11. Residential Accessory Dwelling Units, subject to DCC 18.116.355.

January 2, 2024

Hi Toby,

This letter is about a conversation I had with Duane Barker.

You know we live at 20525 Bowery Lane which is across Bowery from the Barkers. And, we have often complained to Duane because he also used his tractor to take gravel from our side of Bowery Lane to his side of the road. He also shoots across Bowery to scare birds out of his grapes and punctured my irrigation pipe with his shotgun which indicates he's shooting into my land.

He also runs a squawk box all day during the summer to keep birds out of his grape vines. We have to listen to this all summer. And now he wants to have a winery. I asked him if all the things he'd applied to have going on and all the cars on our 1 lane road – how could he get away with this? Our HOA doesn't allow businesses that sell to customers directly from their property and also the blind corners are very dangerous.

How could his application get approved? I'm not sure those were my exact words but the conversation was about how he could get away with having a winery on his land. And he kind of smirked and said I know Tony Debone. Before that I heard he had bragged to neighbors and people from the county that he had personal friends in high places at the county.

Anyway Tony Debone is a county commissioner. I guess commissioners decide these things. But it really isn't fair to the rest of us because we obey the law and county rules and share the road enough as it is without a bunch of customers coming to his property illegally to drink and buy wine.

Hope this information helps our neighborhood to remain peaceful.

Van Jensen



Deschutes County Code 18.16.025

https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/736/exclusive_farm_use_efu_zoning_ordinance_chapter_18.16.pdf

18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC
- B. A relative farm assistance dwelling, subject to DCC 18.16.050.
- C. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are not within 3 miles of an acknowledged urban growth boundary, on nonhigh value farmland.
- D. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are within 3 miles of an acknowledged urban growth boundary, subject to Oregon Administrative Rules 660-0330130 on nonhigh value farmland.
- E. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use, subject to Oregon Administrative Rules 660-033-0130.
- F. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in DCC 18.16.038(A).
- G. Winery, as described in ORS 215.452.

Oregon Public Law Statute: ORS 215.452 - https://oregon.public.law/statutes/ors_215.452

A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(p) and 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

- (A) Owns an on-site vineyard of at least 15 acres;
- (B) Owns a contiguous vineyard of at least 15 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and the winery:

- (A) Owns an on-site vineyard of at least 40 acres;
- (B) Owns a contiguous vineyard of at least 40 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

ORS 215.283

Uses permitted in exclusive farm use zones in nonmarginal lands counties *

- (1) The following uses may be established in any area zoned for exclusive farm use:**
 - (a)** Churches and cemeteries in conjunction with churches. ...N/A
 - (b)** The propagation or harvesting of a forest product. ...N/A
 - (c)** Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power ...N/A
 - (d)** A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator’s spouse...N/A
 - (e)** Subject to ORS 215.279 (Farm income standard for dwelling in conjunction with farm use), primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.
 - (f)** Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 (Definitions) and oil and gas as defined by ORS 520.005 (Definitions)N/A
 - (g)** Operations for the exploration for minerals as defined by ORS 517.750 (Definitions for ORS 517.702 to 517.989). Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (Goal exceptions) (2)(a) or (b).
 - (h)** Climbing and passing lanes within the right of way existing as of July 1, 1987... N/A
 - (i)** Reconstruction or modification of public roads and highways N/A
 - (j)** Temporary public road and highway detours that will be abandoned and restored N/A
 - (k)** Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance ...N/A
 - (l)** A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 (Definitions for ORS 358.480 to 358.545). ...N/A
 - (m)** Creation, restoration or enhancement of wetlands. ...N/A
 - (n)** A winery, as described in ORS 215.452 (Winery) or 215.453 (Large winery) ←

*** Deschutes is one of only two Oregon counties that does not have Marginal lands**

Deschutes County Code 18.16.025

https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/736/exclusive_farm_use_efu_zoning_ordinance_chapter_18.16.pdf

18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC
- B. A relative farm assistance dwelling, subject to DCC 18.16.050.
- C. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are not within 3 miles of an acknowledged urban growth boundary, on nonhigh value farmland.
- D. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are within 3 miles of an acknowledged urban growth boundary, subject to Oregon Administrative Rules 660-0330130 on nonhigh value farmland.
- E. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use, subject to Oregon Administrative Rules 660-033-0130.
- F. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in DCC 18.16.038(A).
- G. Winery, as described in ORS 215.452.

Oregon Public Law Statute: ORS 215.452 - https://oregon.public.law/statutes/ors_215.452

A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(p) and 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

- (A) Owns an on-site vineyard of at least 15 acres;
- (B) Owns a contiguous vineyard of at least 15 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and the winery:

- (A) Owns an on-site vineyard of at least 40 acres;
- (B) Owns a contiguous vineyard of at least 40 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

Oregon Revised Statute (ORS) § 215.452:

Section 215.452 - Winery; conditions; permissible uses

(1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213(1)(p) and 215.283(1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

- (a) Less than 50,000 gallons and:
 - (A) Owns an on-site vineyard of at least 15 acres;
 - (B) Owns a contiguous vineyard of at least 15 acres;
 - (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or
- (b) At least 50,000 gallons and the winery:
 - (A) Owns an on-site vineyard of at least 40 acres;
 - (B) Owns a contiguous vineyard of at least 40 acres;
 - (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
 - (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 - (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

(NOTE: Exclusive Farm Use is also referred to as lands zoned "EFU")

ORS 215.456

Siting winery as commercial activity in exclusive farm use (EFU) zone

(1) A local government may authorize the siting of a winery, on land zoned for exclusive farm use, pursuant to the standards that apply to a commercial activity in conjunction with farm use under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2)(c) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2)(a) or other law if the winery

(NOTE: Deschutes County does not have marginal lands)

- (a) Does not qualify for siting under ORS 215.452 (Winery) or 215.453 (Large winery); or
- (b) Seeks to carry out uses or activities that are not authorized by ORS 215.452 (Winery) or 215.453 (Large winery).

(2) If a county authorizes the establishment of a winery on land zoned for exclusive farm use or mixed farm and forest use under provisions of law other than ORS 215.452 (Winery) or 215.453 (Large winery) after June 28, 2013, the gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. [2013 c.554 §3]

Thanks for taking the time to speak with me.

Inbox



tobybayard@gmail.com Nov 21, 2023, 1:40 PM

Hi Nathaniel,

Thanks for speaking with me today about the Barker's CUP application 247-22-000464. I've always worked well with Deschutes County's Community Development Department. I remain hopeful that this will continue. Your ruling for the Lazy Z Meadery (honey wine) business gives me hope that you understand Oregon Revised Statutes and Deschutes County Title 18 code as it relates to wineries.

Please put the attached into the public record with the Barkers' application.

Respectfully,

Toby (and Michel) Bayard
20555 Bowery Lane, Bend 97703

541-977-5341

One attachment • Scanned by Gmail

Nathaniel Miller <Nathaniel.Miller@deschutes.org> Nov 22, 2023, 10:18 AM

- It is unclear to staff why arguments are being made to apply Exclusive Farm Use (EFU) zoning and ORS 215.452 to the proposal. ORS 215.452 is specific to property owners who would like to establish a winery on property in the EFU Zone district. Our understanding is that these provisions do not preclude a similar use on properties which are outside the EFU Zone.

The only applicable zone district for the property is the Multiple Use Agricultural Zone (MUA10). The Staff Report, which was drafted for the Hearings Officer and public, can only address those criteria which are legally relevant. As such, we cannot apply EFU zoning or ORS regulation which address uses in the EFU zone only. Our apologies if previous attempts to explain this were miscommunicated. Also, please note that a Staff Report is not an approval, but a synopsis of a proposal, public and agency participation, and whether the application materials meet the standards of the zoning code.

- The applicant is applying for a "Commercial Activity in Conjunction with Farm Use" which is a permissible conditional use in the MUA 10 Zone if the applicant can successfully demonstrate that they meet the criteria. The requirements for a Site Plan Review will also need to be satisfied. As was stated in the Staff Report on page 59, it is unclear to staff if the proposal can be approved. This was why the proposal was referred to a public hearing and a third-party reviewer (Hearings Officer).

Again, we appreciate your participation in the process. We anticipate a decision from the Hearings Officer in mid-December. You and your neighbors who are within 250 feet of the subject property, and all parties-of-interest, will be notified of the Hearing Officer's decision. A 12-day appeal period will follow the issuance of the decision. Please let me know if you have any additional concerns or questions, I am happy to help. Please call me directly at: 541-317-3164.

Regards,

Nathaniel

Nathaniel Miller, AICP | Associate Planner
Deschutes County Community Development
117 NW Lafayette Ave | Bend, Oregon 97703
Tel: (541) 317-3164 | www.deschutes.org/cd

Disclaimer: Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person

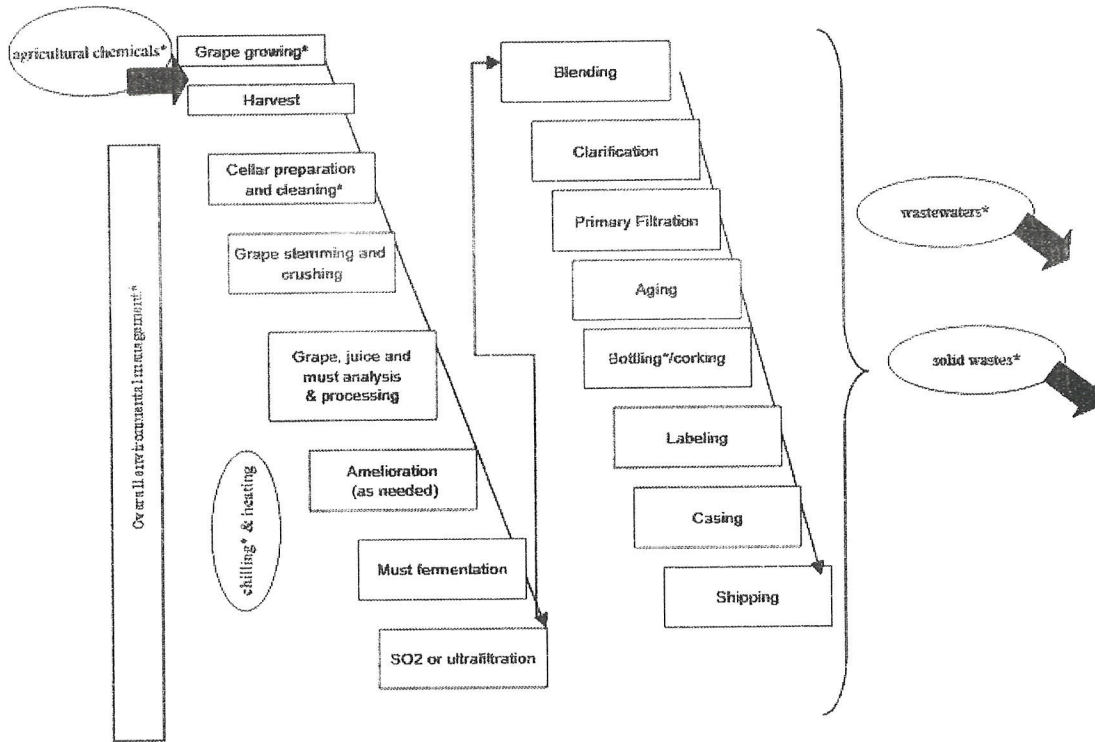
From: tobybayard@gmail.com <tobybayard@gmail.com>
Sent: Tuesday, November 21, 2023 1:40 PM
To: Nathaniel Miller <Nathaniel.Miller@deschutes.org>
Cc: ben@colw.org; mlbayard1943@gmail.com; tobybayard@gmail.com; tryonsharon1@gmail.com; gkrambeal@gmail.com; bruce@levins774.com
Subject: Thanks for taking the time to speak with me.
Importance: High

5 Attachments • Scanned by Gmail

Waste water treatment issues associated with wineries

First, I must state that I have a degree in Chemical Engineering with a minor in Oenology from the University of Bordeaux, France. I worked several summers in Saint Emilion wineries which are near Bordeaux. As a result, I'm well aware of the main challenges that wineries face. A major one is contamination in the manufacturing process.

If the wine manufacturing equipment is not kept completely free of contaminants, the risk of microbial spoilage and undesirable compounds in wine manufacturing is high and the result is costly for the winery.



Contamination risk is present at *every* stage of the manufacturing process. It can result from improper removal of cleaning agents, dirty production lines, etc. Product contamination is a costly problem that all wineries face.

Small wineries (such as what Lava Terrace Cellars will be, if their CUP application is approved) face significant challenges in managing this waste water.

In St. Emilion, some of the smaller wineries I consulted for had only septic and leach field systems. They inevitably clogged after the high solid stages in wine processing. The result was untreated wastewater being discharged in the surrounding fields. And, due to "economies of scale, these wineries often used cheaper cleaning chemicals. For instance, chlorine-based bleach is one of the two key contributors to the creation of 2,4,6-trichloroanisole (TCA), a major wine fault. When a wine has TCA present beyond the sensory threshold, it's "corked" and will give off undesirable musty aromas. Adding to this problem is that the sensory threshold is very low. It's

less than five (5) nanograms per liter (5 billionths of a gram) the wine consumer will begin to notice the unpleasant aromas of TCA.

But wine equipment must be cleaned throughout the manufacturing process. In St. Emilion, the risk of severe pollution was significant as these cheaper cleaning agents result in waters that contain many dangerous chemicals. If this chemical cleaning agents are not constantly removed from the manufacturing process, they can seep down into to the underlying aquifer. In the Rock O' The Range neighborhood, where Lava Terrace Cellars is sited, this would have disastrous consequences since most residents rely on the aquifer for their drinking water.

A better solution for small wineries is to build wastewater pond systems. But, these require a significant amount of land. Lave Terrace Cellars stated in its CUP application that it plans on producing 2000 cases of wine per year. This would create about 16,000 gallons of wastewater over a period of two months (mid-September to mid-November) and would require multiple ponds over an area close to one acre. Considering that Barker's 5.45 acres are already occupied by multiple buildings, parking areas, vines, a pond, etc. there is no room for such a wastewater treatment on their 5.45 acre parcel.

In addition, wastewater treatment ponds are not effective at breaking dawn fruits contaminants, tannins and other toxic chemicals since they don't provide sufficient biological oxygen demand (BOD). Such wastewater should not be released in the environment without further treatment that should be done off site.

Lastly, wastewater pond generate very unpleasant odors. These would be totally unacceptable in a residential neighborhood such as the Rock O' The Range.



Michel Bayard, Ph.D

Deschutes County Official Records 2020-2
Nancy Blankenship, County Clerk

Return to: Izzie Liu, Associate Planner
Community Development Dept.
117 NW Lafayette, P.O. Box 6005
Bend, OR 97708-6005



06/08/2020 10

D-IPPS Cnt=1 Stn=3 AS
\$25.00 \$11.00 \$61.00 \$10.00 \$6.00

CONDITIONS OF APPROVAL AGREEMENT

THIS AGREEMENT, made and entered into by and between Deschutes County, a political subdivision of the State of Oregon, ("County"), and Duane & Dina Barker, ("Developers"), owner/s of certain real property described in Exhibit A, Deschutes County, Oregon, as set forth in that certain Statutory Warranty Deed, dated October 15th, 1998, recorded in Deschutes County Book of Records 1998-5171128 ("Real Property").

WITNESSETH:

WHEREAS County has granted approval of a land use permit 247-18-000126-AD ("Permit") for the Real Property upon the condition that Developer construct and maintain certain requirements as specified therein; now, therefore,

IT IS HEREBY AGREED, by and between the parties, for and in consideration of the mutual covenants and agreements herein, as a condition precedent to the granting of final approval or occupancy, as follows:

Scope of Agreement. This Agreement affects the Real Property described above. This Agreement shall cover those improvements and requirements described in the section of this Agreement entitled "Conditions of Final Approval." Nothing in this Agreement shall require Developer to construct any improvements under the Permit, but if Developer undertakes the construction of buildings or structures, the division of real property or otherwise exercises the Permit, Developer shall be required to complete and maintain all improvements, as defined herein, in accordance with applicable County Ordinances and the Permit.

Definition of Improvement. As used herein, "improvement" means any private or public facility or service such as roadways, bike paths, access ways, pedestrian walkways, landscape areas, sewage collection and disposal systems, water systems, lighting systems, parking lots, cable utilities, circulation areas, outdoor storage areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut-and-fill areas, buffering and screening measures, street furniture, drainage facilities, or other similar improvements as approved and required in the Permit.

33



Mailing Date:
Wednesday, June 20, 2018

COMMUNITY DEVELOPMENT

FINDINGS & DECISION

FILE NUMBER: 247-18-000126-AD

APPLICANT/OWNER: Duane & Dina Barker

REQUEST: The applicant is requesting an Administrative Determination to establish a Type 1 home occupation for wine storage in the Multiple Use Agricultural Zone.

STAFF CONTACT: Izzie Liu, Associate Planner

I. APPLICABLE CRITERIA:

Title 18, Deschutes County Zoning Ordinance:
 Chapter 18.04, Title, Purpose and Definitions
 Chapter 18.32, Multiple Use Agricultural (MUA10) Zone
 Chapter 18.116, Supplementary Provisions
 Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

- A. LOCATION:** The subject property is located at 20520 Bowery Lane, Bend; and is further identified on County Assessor's Map 17-12-09B as tax lot 1000.
- B. LOT OF RECORD:** Legal lot of record verification is not required pursuant to DCC 22.04.040(B)(2)(e)¹.
- C. ZONING:** The subject property is zoned MUA10.
- D. SITE DESCRIPTION:** The subject property is approximately 5.45 acres and is irregular in shape. The property is developed with an existing single-family dwelling and five accessory

¹ For permits listed in subsection (B)(1)(e) only, the lot or parcel previously received a land use or building permit prior to November 1, 2017, a structural permit after November 1, 2017, or a non-emergency on-site sewage disposal permit.

structures. The property owners are also growing wine grapes on the southern portion of the property. Access is taken from Bowery Lane, a rural local road.

- E. **PROPOSAL:** The applicant requests approval of a Type 1 home occupation to utilize 160 square feet of an existing storage container on the subject property for wine storage. Although grapes are grown on the subject property, the applicant has stated that the grapes are taken to a wine maker to ferment, barrel, and bottle. The wine will be transported back to the subject property and stored on-site to be distributed from a single delivery vehicle to local wine shops, tasting rooms, restaurants and a limited number of grocery stores. The applicant is not proposing to process grapes into wine or other products on-site.
- F. **REVIEW PERIOD:** The subject application was submitted on February 7, 2018 and deemed the application incomplete on March 9, 2018. Upon submission and review of additional materials, the Planning Division deemed the application complete on March 29, 2018. The 150th day on which the County must take final action on this application is August 27, 2018.

III. **FINDINGS & CONCLUSIONS:**

Title 18, Deschutes County Zoning Ordinance.

A. **CHAPTER 18.04. TITLE, PURPOSE AND DEFINITIONS**

1. Section 18.04.030, Definitions

“Home Occupation” means an occupation or profession carried on within a dwelling and/or a residential accessory structure by a resident of the dwelling or employees, depending on type pursuant to DCC 18.116.280 and is secondary to the residential use of the dwelling and/or the residential accessory structure.

FINDING: The applicant proposes a Type 1 home occupation, which will consist of wine storage within an existing storage container on the subject property. Based on the applicant’s submittal, the proposed use is considered a home occupation. Findings to DCC 18.116.280 are provided below.

B. **CHAPTER 18.32. MULTIPLE USE AGRICULTURAL ZONE**

1. Section 18.32.020, Uses Permitted Outright

The following uses and their accessory uses are permitted outright.

- I. *Type 1 Home Occupation, subject to DCC 18.116.280.*

FINDING: The applicant proposes a Type 1 home occupation. The Oregon Liquor Control Commission and the Bureau of Alcohol, Tobacco, Firearms and Explosives require County signoff

occupation. There will be no employees or contractors. This criterion will be met.

for the proposed use. For this reason, an Administrative Determination is necessary to make appropriate findings.

35

FINDING: As stated under 2 above, only the residents will be conducting the proposed home occupation. There will be no employees or contractors. This criterion will be met.

C. CHAPTER 18.116. SUPPLEMENTARY PROVISIONS

1. Section 18.116.280. Home Occupations.

B. *Types. In addition to the home occupations allowed in Section A above, three Types of home occupations may be allowed with limitations on location and intensity of allowed uses. Type 1 allows low intensity uses and Types 2 and 3 allow progressively greater intensity of uses.*

C. *Type 1. Where permitted outright, a Type 1 home occupation does not require a land use permit but shall be subject to the following criteria. A Type 1 home occupation:*

1. *Does not require a minimum parcel size.*

FINDING: Staff notes that in order for the Planning Division to sign off on a State or Federal license, a land use permit is required. The proposed use does not require a minimum parcel size. This criterion is met.

2. *Is conducted within a dwelling or a residential accessory structure only by residents of the dwelling.*

FINDING: The proposed home occupation will be conducted within an existing storage container, a residential accessory structure, on the subject property. The only people conducting the use will be the residents of the dwelling, Duane and Dina Barker. This criterion will be met.

3. *Does not occupy more than 25 percent of the combined floor area of the dwelling including attached garage and one accessory structure.*

FINDING: The combined square footage for the dwelling and accessory structure is 3,564 square feet. The home occupation will be conducted within a 160-square-foot area of an existing storage container, which is approximately 4.5 percent of combined floor area of the two structures. This criterion will be met.

4. *Creates no more than five (5) trips to the site per day for customers or clients, including parcel delivery services.*

FINDING: The applicant states that the use will not generate more than 1 trip to the site per week. This criterion will be met.

5. *May include employees or contractors that work off-site.*

FINDING: As stated under 2 above, only the residents will be conducting the proposed home occupation. There will be no employees or contractors. This criterion will be met.

6. *Does not produce prolonged odor, dust, glare, flashing lights or noise, smoke, and vibrations in excess of that created by normal residential use.*

FINDING: The applicant stated that the home occupation as described, will not produce prolonged odor, dust, glare, flashing lights or noise, smoke, and vibrations that will be in excess of that created by normal residential use. A condition of approval will be added to ensure compliance.

36

- 7. *Does not involve the on-site advertisement display or sale of stock in trade, other than vehicle or trailer signage.*
- 8. *Does not include building or ground mounted signs.*

FINDING: The applicant does not propose on-site advertisement display or sale of stock in trade with this home occupation application. Furthermore, the applicant does not propose building or ground-mounted signage. These criteria will be met.

- 9. *Does not include outside storage of equipment or materials used in the operation of the home occupation.*

FINDING: The applicant indicated on their application that there will be no outdoor storage of equipment or materials for the proposed home occupation. This criterion will be met.

- 10. *Has adequate access and on-site parking for not more than one (1) customer, or delivery vehicle at any given time.*

FINDING: The subject property has access from Bowery Lane, a rural local road. The submitted site plan shows adequate access and parking for a delivery vehicle. The applicant has stated in the application materials that no customers will be coming on-site. Based on staff review of the site plan, staff finds this criterion will be met.

- 11. *Allows on-site one (1) business-related vehicle or truck not exceeding 15,000 pounds gross vehicle weight and one (1) other non-motorized wheeled equipment (trailer) which shall not exceed 3,000 pounds gross vehicle weight.*

FINDING: The applicant has not provided specific details on the type and size of vehicle used for the home occupation. An ongoing condition of approval will ensure that the subject property will meet this criterion.

- 12. *Complies with all requirements of the Deschutes County Building Safety Division and the Environmental Health Division² and any other applicable state or federal laws. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the state-adopted building code.*

² This is now known as the Environmental Soils Division.

- 13. *Is conducted in such a way that it is compatible with the residential character, or in resource zones, resource-oriented character of its location.*

FINDING: The subject property is zoned MUA10 and is adjacent to rural residential properties. The subject property is not located within a resource zone (EFU or Forest). The applicant proposes to conduct the use within an existing storage container on the subject property. The proposed home occupation will be operated exclusively by the residents, Duane and Dina Barker, with no employees or contractors. According to the applicant, no more than one trip to the site will be expected per week. As stated under 6 above, there will be no prolonged odor, dust, glare, flashing lights or noise, smoke, and vibrations in excess of that created by normal residential use. Staff finds that the proposed use will be compatible with the residential character of the area. This criterion is met.

37

- 14. *Does not involve any external changes to the dwelling in which the home occupation will be established that would give the dwelling an outward appearance of a business.*

FINDING: The applicant does not propose external changes to the dwelling or the existing storage container on the subject property. This criterion is met.

- 15. *Allows for servicing, inspecting, loading, and or dispatching of vehicles and equipment incidental to the home occupation and stored within the dwelling, attached garage or accessory structure.*

FINDING: The applicant will be allowed to use vehicles as described in this criterion as part of the home occupation.

IV. CONCLUSION:

Based on the foregoing Findings of Facts, staff concludes that the proposed Type 1 home occupation can comply with the applicable standards and criteria of the Deschutes County zoning ordinance.

Other permits may be required. The applicant is responsible for obtaining any necessary permits from the Deschutes County Building Division, the Deschutes County Environmental Soils Division and the Deschutes County Road Department, as well as any required state and federal permits.

V. DECISION:

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL:

- A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new conditional use application.
- B. Prior to initiation of use, the applicant shall obtain all required permits or licenses from the Deschutes County Building Safety and Environmental Health Divisions, the Oregon Liquor Control Commission, and the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- C. The employees of the proposed home occupation shall be limited to the residents, Duane and Dina Barker.
- D. This approval is subject to review of the home occupation approval every 12 months by the Planning Division to ensure compliance with the requirements of this section and the conditions required for approval of the use.
- E. No onsite sales to customers are allowed.

- F. The proposed use shall meet all Building Safety Division standards, and any other state-adopted building codes.
- G. The subject property shall not have more than one on-site business-related vehicle or truck exceeding 15,000 pounds gross vehicle weight and one other non-motorized wheeled equipment exceeding 3,000 pounds gross vehicle weight.
- H. The proposed use shall not produce prolonged odor, dust, glare, flashing lights or noise, smoke, and vibrations in excess of that created by normal residential use.
- I. Within 30 days of the date of mailing of this decision, the applicant shall sign and record a Conditions of Approval Agreement that includes conditions B through H above.

VII. DURATION OF APPROVAL:

The applicant shall commence the proposed use within two (2) years from the date this decision becomes final, or an extension of time pursuant to Section 22.36.010 of the County Code obtained, or this approval shall be void.

This decision becomes final twelve (12) days after the date of mailing, unless appealed by a party of interest.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Izze Liu, Associate Planner



Reviewed by: Peter Gutowsky, Planning Manager

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

FILE NUMBERS: File No. 247-22-000757-A
(Appeal of files 247-22-000024-CU and 247-22-000025-SP)

HEARING DATE: October 26, 2022, 6:00 p.m.

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

APPLICANT/OWNER: John Herman

SUBJECT PROPERTY: Tax Lot 00700, Map 15-10-10
Situs Address: 68540 E Highway 20, Sisters, OR 97759

APPELLANT: Central Oregon LandWatch

REQUEST: Appeal of an administrative decision: (1) approving a conditional use for a meadery and associated activities as a commercial activity in conjunction with farm use; (2) approving a site plan approval for the meadery.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: The Hearings Officer finds that the Applicant has not met its burden of proof with respect to a commercial activity in conjunction with farm use and, therefore, SUSTAINS the appeal, and DENIES the Application, based on the findings in this Decision.

I. APPLICABLE STANDARDS AND CRITERIA

- Deschutes County Code (DCC)
- Title 18, Deschutes County Zoning Ordinance
 - Chapter 18.16, Exclusive Farm Use Zones
 - Chapter 18.120, Exceptions
 - Chapter 18.128, Conditional Use

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

This matter comes before the Hearings Officer as an appeal of a decision by the Deschutes County Planning Department (“Staff”) in which Staff approved: (1) the operation of a meadery as a commercial activity in conjunction with a farm use (File 247-22-000024-CU); and (2) a site plan for the meadery (File 247-22-000025-SP) (together, the “Staff Decision”).

The specific proposal in the Application underlying the Staff Decision is the Applicant’s proposal to operate a meadery on the Subject Property. According to the Applicant and other information in the record, a meadery makes mead, a type of wine fermented from honey rather than from grapes. Mead is sometimes referred to as “honey wine,” and a meadery is sometimes referred to as a “honey winery.” The Applicant currently maintains beehives on the Subject Property from which honey is harvested and engages in the production of mead. The Applicant plans to use honey from the Subject Property and from other farms around the county and state as part of the planned meadery, which will produce mead on a larger scale for sale. In addition to the meadery itself, the Applicant proposes other commercial activities such as an indoor tasting room, an outdoor tasting area, food carts, “winery-related” events, and other unidentified activities “related to the production, sale, marketing, and distribution of wine, farm products, and related incidental items.” The Application includes a request for use of the Subject Property as a music venue to support local events that may not be winery related, such as the Sisters Folk Festival. This decision will refer to the meadery and the proposed commercial activities as the “Meadery.”

B. Notices, Decision, Appeal, and Hearing

The Application was filed on January 19, 2022. On January 28, 2022, the County issued a Notice of Application to several public agencies and to property owners in the vicinity of the Subject Property (together, “Application Notice”). The Application Notice invited comments on the Application.

On September 7, 2022, Staff issued a decision on the Application, styled “Findings and Decision” (the “Staff Decision”). On September 19, 2022, the County received an Appeal Application with a Notice of Appeal on behalf of Central Oregon Landwatch (“Appellant”), seeking review of the Staff Decision. There is no dispute in this proceeding that the appeal documents were timely filed.

On September 30, 2022, the County mailed a Notice of Public Hearing (“Hearing Notice”) announcing an evidentiary hearing (“Hearing”) for the appeal of the Staff Decision. Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on October 26, 2022, opening the Hearing at 6:01 p.m. The Hearing was held via videoconference, with Staff, the Applicant, and a representative of Appellant present in the hearing room. The Hearings Officer appeared 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 asked for but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

No participant requested that the record remain open. The Hearing concluded at approximately 7:35 p.m. At that time, I closed the Hearing and the record, and I took this matter under advisement.

C. 150-day Clock

The Applicant submitted the Application on January 19, 2022. Staff reviewed the Application and, on February 18, 2022, notified the Applicant that the Application was incomplete (“Incomplete Notice”). The Applicant provided additional information on or about March 8, 2022 and March 17, 2022, and continued to provide information to the record in response to Staff inquiries. On July 15, 2022, Applicant’s attorney notified Staff that the Applicant had provided information in response to the Incomplete Notice, thereby confirming that the Applicant believed the Application to be complete as of that date.

Using July 15, 2022, as the date of completeness, the deadline within which the County must make a final decision under ORS 215.427 – “the 150-day clock” – is December 12, 2022.

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Adoption of Findings in Staff Decision

The Staff Decision contains comprehensive findings related to the Application and the Subject Property. The vast majority of the findings in the Staff Decision are not challenged in this Appeal, and, although this proceeding is *de novo*, most criteria in the Staff Decision are not re-addressed by the participants during the appeal. As a result, I hereby adopt the findings in the Staff Decision as my findings, as supplemented and modified by the findings in this Decision, which address the issues and criteria that were raised on appeal. To the extent any of the findings in this Decision conflict with the findings in the Staff Decision, my intent is to have these findings control.

B. Issues on Appeal

The Appellant’s Notice of Appeal sets forth several bases for appeal of the Staff Decision, and Appellant raised other issues during the Hearing. Appellant seeks denial of the Application based on the following assertions: (1) a meadery is not an allowed use in the Exclusive Farm Use (“EFU”) zone either because no local or state law allows such a use, or because a meadery is not a “winery”, which can be allowed by statute; (2) there is insufficient evidence on which to base a finding that there is any farm use currently on the Subject Property; (3) there is insufficient evidence on which to base a finding that the Meadery will produce income that is “incidental” or “subordinate” to income from farm uses on the Subject Property; (4) the Applicant has not adequately addressed the farm impacts test required by ORS 215.296; and (5) the Staff Decision violates ORS 215.416(8) because it is based on provisions relating to grape wineries rather than a meadery. The findings below address each of those issues.

///

///

///

1. Is a meadery an allowed use in the EFU zone?

The Applicant’s proposed Meadery includes meadery facilities for processing mead and several associated commercial activities such as tasting areas, food carts, and incidental sales of mead-related items. Appellant asserts that the Meadery is not an allowed use in the EFU zone.

ORS 215.203 establishes a statewide construct for determining which uses are allowed in the EFU zone. Under that statute, an EFU zone “shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284.”¹ ORS 215.213 and ORS 215.284 are not applicable in the present matter. ORS 215.283 sets forth various specific uses, other than “farm uses”, that are allowed in the EFU zone. The non-farm uses in ORS 215.283(1) are uses a county must allow by right, subject only to statutory standards rather than local standards.² The non-farm uses listed in ORS 215.283(2), in contrast, are considered “conditional” uses that a county can choose to allow, and in doing so a county can impose additional restrictions on those uses.³

Appellant is correct that neither the Deschutes County Code (“DCC” or “Code”) nor ORS 215.283 expressly lists “meadery” as an allowed non-farm use in the EFU zone. ORS 215.283(1)(n) does list a “winery” as a use permitted by right, but only if the winery is the type of winery described in ORS 215.452 or ORS 215.453. DCC 18.16.025(F) mirrors that statute and also refers to ORS 215.452, which the Code incorporates through DCC 18.16.038(B). By the express terms of those statutory and Code provisions, such wineries are wineries that produce wine from grapes.⁴ Those statutes therefore do not provide a basis for permitting the Meadery, which processes honey rather than grapes.

In contrast to the winery example, ORS 215.283 and the Code also establish broader categories of non-farm uses that encompass multiple specific uses. ORS 215.283(1)(c), for example, authorizes “utility facilities necessary for public service”, but that category has been applied to allows different types of specific utilities.⁵ The absence of the word “meadery” in the statute or Code, therefore, does not mean a meadery cannot ever be approved, and it is possible to approve a meadery under one of the listed use categories, as long as the Meadery is a type of use contemplated by that broader category.

The broader category the Applicant seeks as the basis for approving the Meadery is set forth in ORS 215.283(2)(a) – “commercial activities that are in conjunction with farm use.” The express terms of that statute do not limit that category to any particular type of commercial activity and, instead, require only that the commercial activity be in conjunction with a farm use. Indeed, that is how the courts have applied that statute. Applying ORS 215.283(2)(a) prior to the legislature’s enactment of ORS 215.452 and ORS 215.453, which now expressly allow certain wineries as a non-farm use, the Oregon Supreme Court upheld the issuance of a conditional use permit for a winery in the EFU zone as a commercial activity in

¹ ORS 215.203(1).

² *Brentmar v. Jackson Cty.*, 321 Or 481, 496 (1995).

³ *Id.*

⁴ *See, e.g.*, ORS 215.452(1), authorizing wineries that “produce wine” and that either includes an onsite vineyard, includes a contiguous vineyard, or sources grapes from a contiguous vineyard.

⁵ *See, e.g.*, *Dayton Prairie Water Ass’n v. Yamhill County*, 38 Or LUBA 14 (2000) (applying statute to approve water facilities); *c.f. WKN Chopin, LLC v. Umatilla County*, 66 Or LUBA 1 (2012) (applying statute to approve electric transmission line).

conjunction with a farm use.⁶ It did so because the winery at issue in that case satisfied the criteria of ORS 215.283(2)(a) and despite the fact that “winery” was not separately listed as an allowed use in the EFU zone.

Based on the foregoing, I find that the Meadery is an allowed use in the EFU zone as long as the proposed use satisfies the standards required for “commercial activities that are in conjunction with farm use” as contemplated by DCC 18.16.030, which is the County’s version of ORS 215.283(2)(a).⁷

a. Is the Subject Property currently in farm use?

Appellant asserts that a farm use is “a predicate for the approval of a commercial activity in conjunction with farm use.” More particularly, Appellant’s assertion is that “a current farm use” must be shown before any commercial activities in conjunction with farm use can be permitted. Appellant argues that the record is not sufficient to demonstrate that the Subject Property is “currently” in farm use, as defined by ORS 215.203(2). In support of this argument, Appellant relies on *Friends of Marion County v. Marion County*, -- Or LUBA -- , LUBA No. 2021-088/089 (Apr. 21, 2022) (“*Friends of Marion County*”).

As presented to the Hearings Officer, Appellant argues only that the Applicant has not demonstrated a “current” farm use. The difficulty with Appellant’s argument is that it does not address whether the proposed use of the Subject Property as a Meadery, which would occur in the future, will be in conjunction with a farm use that will exist at that time. Rather, Appellant’s written and oral comments acknowledge that the activities the Applicant proposes to produce mead in the future – which include beekeeping and honey production – are farm uses. I therefore understand Appellant’s argument to be that, regardless of what future farm uses occur as part of the proposal, the Applicant must nevertheless demonstrate that there are currently farm uses on the Subject Property.

The *Friends of Marion County* case and other cases interpreting ORS 215.283(2)(a) make it clear that a “farm use” must exist if there is to be an allowed commercial activity in conjunction with that farm use. Contrary to Appellant’s argument, however, those cases do not hold that the farm use must already be in existence at the time of the application. In other words, they do not prevent an applicant from proposing a future commercial activity that will be in conjunction with a future farm use developed at the same time, and in fact, those cases imply or acknowledge that the farm use can be developed in the future.

In *Friends of Marion County*, for example, the issue LUBA addressed was the argument that “none of the findings or the evidence in the record demonstrates that intervenors currently operate or will operate a farm use.”⁸ LUBA reversed the county’s approval in that case based on its conclusion that a farm use did not currently exist. However, the county’s findings in that case determined that the current uses on the subject property were “farm uses” and the county required the applicant to maintain those same uses as part of the approval of the commercial uses the applicant proposed. Because LUBA concluded that the

⁶ *Craven v. Jackson County*, 308 Or 281 (1989).

⁷ I also note that Appellant’s representative appears to have agreed with this conclusion during the Hearing. In response to a question from the Hearings Officer asking if all meaderies are excluded from the EFU zone as a matter of law, the representative responded that was likely not the case and that it would need to be determined on a case-by-case basis under ORS 215.283(2)(a).

⁸ *Friends of Marion County* at *10.

current activities were not “farm uses” as defined by statute, the applicant could therefore not rely on those same activities as a basis for the approval of commercial uses in conjunction with farm uses. That case did not involve a record that contemplated the further development of farm uses like the record in this matter does. *Craven* also illustrates this point. In that case, the Court considered a conditional use permit granted to an applicant who “proposes to establish a vineyard and winery”, which “winery is to be constructed before the accompanying vineyard is fully planted.”⁹ Thus, the Court approved the commercial activity in conjunction with a farm use that was not yet established. The Court was concerned only whether the farm use would exist at the same time the proposed commercial activities were conducted.

Based on the foregoing, I cannot agree with Appellant’s assertion that the Applicant is required to show that a farm use “currently” exists on the Subject Property. As in *Craven*, the permit can be issued as long as the commercial activities are conducted in conjunction with a farm use, which farm use may be developed in tandem with the commercial activities once the permit is issued.

If the Applicant were required to show that the Subject Property, as it currently exists, is in farm use, this would be a more difficult issue to resolve. Appellant takes issue with the fact that the Applicant has not demonstrated a “profit” from farm activities. As explained in *Friends of Marion County*, “profit” is a broad term, and profit exists “so long as crops are raised, harvested and sold for a gross profit.”¹⁰ In that case, LUBA held that a farmer had not demonstrated a profit where the farmer “simply testified that they sold the field crops with no other documentation of their production or sale.” Here, while it is an extremely close call, I find the Applicant has provided more than mere testimony that it has sold crops. The Applicant has also testified that there has been a gross profit from those sales and that the revenue earned has been reinvested in the farming operation. Based on this record, and although the Applicant has provided little corroboration of revenue from the current farm, I find it more likely than not that the Subject Property is currently in farm use.

b. Does the Meadery satisfy the standard for commercial activities in conjunction with farm use?

Appellant asserts that the Meadery does not meet the standard for allowing commercial activities in conjunction with farm use. Appellant’s specific arguments are that the Meadery is not incidental and subordinate to Applicant’s planned farm uses, and that it does not enhance the local agricultural community.

Appellant’s arguments are grounded in the case law that interprets ORS 215.283(2)(a). One clear articulation of the standard from the Court of Appeals states that any commercial activity beyond the direct processing and selling of a farm product must “be both ‘incidental’ and subordinate to” the farm use.¹¹ In *Friends of Yamhill County*, the Court of Appeals addressed a county’s approval of a permit to allow 44

⁹ *Craven*, 308 Or at 283-84.
¹⁰ *Friends of Marion County* at *16 citing *Cox v. Polk County*, 39 Or LUBA 1, 7-12 (2000).
¹¹ *Friends of Yamhill County v. Yamhill County*, 255 Or App 636, 650-51 (2013) citing *Craven*, 308 Or at 289.

annual events as part of a winery.¹² Finding the approval to be “dangerously close” to creating a scenario in which the incidental and secondary activities overtake the primary activity, the court nevertheless upheld the approval. The court explained that its decision was based on a condition of approval that limited non-farm income from the commercial activity from exceeding 25 percent of the gross income from the farm use activity, which was the onsite retail sales of wine.¹³

The Applicant’s proposal and the Staff Decision in this matter imposed a condition of approval similar to the condition in *Friends of Yamhill County*. Specifically, the Staff Decision imposes a condition that requires the Applicant to confirm, on an annual basis, that no less than 25% of the honey used to produce mead is generated from the Subject Property. However, this condition of approval does not address the same issue the court was concerned with in *Friends of Yamhill County*. The condition in *Friends of Yamhill County* ensured that the scale of the non-farm commercial use was not greater, and therefore subordinate to, the primary farm use. In contrast, the condition in the Staff Decision that the Applicant relies on controls only the scale of the farm product being used for the commercial activity, ensuring that the Subject Property is the primary source of the farm product. That condition does not appear to impose any limitations on the scale of the non-farm commercial uses. Thus, for example, even if the Applicant sourced all of its honey from the Subject Property, nothing would prevent the Applicant from holding events and selling food from food carts in a manner the produces significantly more income than the farm use. If that occurred, the non-farm commercial activities would end up being the primary activity rather than the secondary activity.

As the Appellant points out, there are other components of the Application indicating that the non-farm commercial uses are not subordinate to the farm use. For example, the Applicant intends to have four employees for the Meadery, but perhaps only one, if any, for the farm operations. It is perhaps possible to have such a disparity in employees and still have the farm use be the primary use. However, as the Appellant notes, the Applicant simply has not attempted to quantify the magnitude of the farm use or the magnitude of the non-farm commercial activities. Some attempt at quantifying those activities is necessary if they are to be compared for the purpose of identifying a primary use and a secondary use.¹⁴ That burden lies with the Applicant. Based on the record before me, I find that the Applicant has not met that burden.¹⁵

Although I agree with the Appellant that the Applicant has not demonstrated the Meadery will be incidental and subordinate to a farm use, I disagree with the Appellant’s argument that the Applicant has not demonstrated the Meadery enhances the local agricultural community. The *Craven* decision is informative in this regard. In that case, the Court determined that the proposed winery did enhance the local agricultural community because it provided a local market outlet for grapes of other growers in the area. The Court also noted that it would help transform a hayfield into a vineyard, which increases the

¹² The application in that case was made pursuant to ORS 215.283(2)(a) as a commercial activity and not under ORS 215.283(1)(n) as a winery.

¹³ The definition of “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.” ORS 215.203(2)(a).

¹⁴ See, e.g., *Chauncey v. Multnomah County*, 23 Or LUBA 599 (1992) (holding that an application without evidence establishing the quantity of products delivered or dollar amount of sales to cannot demonstrate, as a matter of law, the proposed use is a commercial activity in conjunction with farm use).

¹⁵ Appellant also relies on *Friends of Yamhill County v. Yamhill County*, 301 Or App 726 (2020). That case, although it addresses commercial activities, applies ORS 215.283(4), and is therefore not directly applicable to this matter.

intensity and value of agricultural products. LUBA has built on the decision in *Craven* and stated that, to demonstrate an activity enhances the local agricultural community, “a commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm uses.”¹⁶

The Applicant’s proposal here is nearly identical to the situation in *Craven* and *City of Sandy v. Clackamas County*. Specifically, the Applicant proposes to purchase honey from other farmers. Although the Applicant will not be a supplier of other farm uses, it will be primarily a customer of farm uses. The Applicant also proposes to develop regenerative bee pastures, which enrich the soils and, ultimately, increases the intensity and value of agricultural products. I therefore find that the Applicant’s proposal satisfies this part of the standard in ORS 215.283(2)(a).

Based on the foregoing, I find that the Application must be denied because the Applicant has not met its burden of demonstrating the Meadery – as proposed – will be incidental and subordinate to a primary farm use on the Subject Property.

c. Did the Applicant adequately address the farm impacts test required by ORS 215.296?

As noted above, a commercial activity in conjunction with farm use is an allowed use in the EFU Zone, subject to any additional conditions the County may impose in its Code. Pursuant to DCC 18.16.040, the County has imposed several limitations on conditional uses, including commercial activities in conjunction with farm use authorized under DCC 18.16.030. The specific restrictions in DCC 18.16.040(A)(1) and (2) are required by state law and are a codification of the restrictions in ORS 215.296(1). LUBA sometimes refers to these restrictions as the “Farm Impacts Test.”

An applicant carries the burden of proving that ORS 215.296(1) has been met.¹⁷ LUBA has a well-established methodology for demonstrating compliance with the farm impacts test.¹⁸ Under that methodology, a proposal can be approved only if it: (1) describes farm practices on surrounding lands devoted to farm use; (2) explains why the proposed development will not force a significant change in those practices; and (3) explains why the proposed development will not significantly impact or increase the cost of those practices. To begin that process, LUBA has held that “[i]n applying ORS 215.296(1), it is entirely appropriate for the applicant to begin by visually surveying surrounding lands to identify the farm and forest uses to which those lands are devoted.”¹⁹ Other parties are then free to dispute the initial findings, or to add to the record additional evidence of nearby farm uses and farm practices that the applicant must respond to.²⁰

In addressing the Farm Impacts Test, the Applicant initially followed the process described above by providing what amounted to a visual survey of the surrounding land. Specifically, the Applicant provided an inventory of all parcels within a one-mile radius of the Subject Property that are devoted to farm use. As part of that inventory, the Applicant also identified specific farm uses in the study area,

¹⁶ *City of Sandy v. Clackamas County*, 28 Or LUBA 316, 321 (1994).
¹⁷ *Schrepel v. Yamhill County*, -- Or LUBA – (LUBA No. 2020-066), 2020 WL 8167220, at *6.
¹⁸ See *Brown v. Union County*, 32 Or LUBA 168 (1996).
¹⁹ *Dierking v. Clackamas County*, 38 Or LUBA 106, 120-21 (2000).
²⁰ *Id.*

noting that they included “a combination of grass hay, permaculture, forest, [and] bare land.” Other information provided by the Applicant indicates that some properties have horses, cattle, and pastures.

The Applicant concludes, primarily based on geographic separation, that there will be no impacts to forest or farm practices on the farm uses identified in the inventory. For example, the Applicant states a nearby property “is buffered by our own dwellings, farm buildings, 12 acres of regenerative bee pasture, and a 20-acre field that will eventually become regenerative bee pasture. At this distance, the winery will not significantly change or increase the cost of any of the accepted farm practices on this farm property.” The Applicant arrived at a similar conclusion for potential noise and light impacts, noting that, because of the adjacent noise and lights from Highway 20, these impacts are already accepted by all adjoining farm and forest land.

The flaw in the Applicant’s analysis is that it does not actually identify any farm practices that are associated with the various farm uses it identifies. As applied by LUBA and the courts, the Farm Impacts Test must focus on impacts to farm practices. Further, the fact that a similar impact may already exist does not mean that an increase in that impact is necessarily acceptable. An impact that already exists may nevertheless force a significant change to the farm practices associated with that use, or significantly increase the costs of those practices. That determination cannot be made, however, unless the Applicant first identifies specific farm practices that may be impacted.

In summary, the record does not include a description of the farm practices on surrounding lands devoted to farm use, nor does it include any explanation for why the proposed development will not force a significant change or cost to those practices. It is quite possible that the meadery will not have significant impacts on farm practices, but the burden to demonstrate compliance with the Farm Impacts Test unequivocally lies with the Applicant. Without any analysis of the accepted farm practices that are associated with the identified farm uses, I cannot make a factual finding regarding the existence of those farm practices, or a finding that it is more likely than not that the Meadery will not force a significant change to those farm practices. I therefore find that the Applicant has not met its burden to demonstrate compliance with DCC 18.16.040(A)(1) and (2).

d. Did the Staff Decision comply with ORS 215.416(8)?

Because a meadery is a type of winery, the Applicant refers to the winery statutes and compares the proposed meadery to a grape winery. As noted in earlier findings, state statutes contain provisions specific to grape wineries and grape wineries are allowed in the EFU zone either outright through ORS 215.283(1)(n), as implemented by ORS 215.452 and ORS 215.453, or conditionally through ORS 215.283(2)(a) as a commercial activity in conjunction with agriculture. Applicant’s stated purpose for comparing a meadery to a winery is that using the winery statutes as a guide helps ensure the meadery remains “incidental and subordinate to farm use.” Appellant asserts that this approach is akin to approving the meadery based on inapplicable criteria and, therefore, violates ORS 215.416(8). That statute requires that approval or denial of a permit application be based only on applicable standards and criteria set forth in a county’s land use regulations. Appellant argues that the winery statutes are not applicable and, therefore, cannot be relied on for approval of the Meadery.

Even though this Decision reverses the outcome of the Staff Decision, ORS 215.416(8) applies to both the approval or denial of an application. I therefore find it appropriate to address whether the Staff Decision violated ORS 215.416(8). I find that it did not.

There is no dispute in this proceeding that the Applicant seeks approval of the meadery under ORS 215.283(2)(a) as a commercial activity in conjunction with agriculture. The Applicant refers to the winery statutes as a guide and Applicant’s express request to the County was “We have suggested that the County consider imposing most of the limitations on the meadery that ORS 215.452 applies to small wineries as a means of assuring that activities associated with the meadery are incidental and subordinate to farm use.” Indeed, the Applicant recognized that ORS 215.452 was not a basis for approval of the meadery where it referred to ORS 215.456, which points back to ORS 215.283(2)(a) as a means of approving a winery that cannot otherwise be approved under ORS 215.283(1)(n), ORS 215.452, and ORS 215.453.

Contrary to Appellant’s assertion, the Staff Decision did not rely on the winery statutes and, therefore, did not rely on inapplicable criteria. Indeed, the Staff Decision very clearly articulated the standard under ORS 215.283(2)(a) and set forth the three components of such a use that Staff would review: (1) the use must be a “commercial” activity; (2) it must be “in conjunction with farm use;” and (3) it must not be the processing of farm crops as described in Section 18.16.025. The Staff Decision then made findings relating to each of those components, and did so without reference to the requirements of the winery statutes. The criteria the Staff Decision relied on are each incorporated into the County’s Code. The Staff Decision therefore did not violate ORS 215.416(8).

C. Conditions of Approval

The Staff Decision imposed several conditions of approval as part of Staff’s approval of the Application. The Hearings Officer notes that no participant challenged any condition of approval or otherwise asserted such conditions could not or should not be applied if the Application were approved. Because this Decision finds that the Application cannot be approved based on the current record, however, there is no basis to impose any conditions of approval.

IV. CONCLUSION

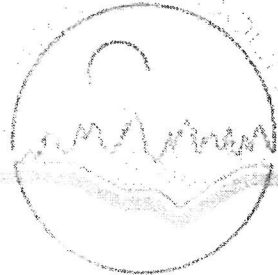
Based on the foregoing findings, I find the Applicant has not met its burden of proof with respect to the standards for approving commercial activities in conjunction with a farm use and with respect to the Farm Impacts Test. The appeal of the Staff Decision is therefore SUSTAINED, and the Application is DENIED.

Dated this 17th day of November 2022



Tommy A. Brooks
Deschutes County Hearings Officer

Mailing Date:
Friday, March 09, 2018



Community Development Department

Planning Division Building Safety Division Environmental Soda Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
Phone (541) 398-6575 Fax (541) 398-1704
<http://www.deschutes.org/cd>

March 9, 2018

Dunne & Dina Barker
20520 Bowery Lane
Bend, OR 97703

Re: File No. 247-18-000126-AD for property located at 20520 Bowery Lane, Bend, OR 97703; and further identified on County Assessor's Map 17-12-09B, as Tax Lot 1000

Dear Applicants,

I am reviewing your application for an Administrative Determination approval to establish a Type 1 Home Occupation for the storage of wine produced on the subject property. Below, staff notes the following aspects of the submitted burden of proof statement, site plan, and supporting materials are lacking the necessary information to complete the review. Your application is not complete, because it lacks information related to the following Deschutes County Code (DCC) approval criteria identified below.

Title 18. Deschutes County Zoning Ordinance.

CHAPTER 18.32. MULTIPLE USE AGRICULTURAL ZONE - MUA.

1. Section 18.32.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. *Agricultural uses as defined in DCC Title 18.*
- B. *A single family dwelling, or a manufactured home subject to DCC 18.116.070.*
- ...
- I. *Type 1 Home Occupation, subject to DCC 18.116.280.*

STAFF RESPONSE: Based on the submitted application materials, it appears the scope of the proposed use exceeds the Type 1 Home Occupation standards. The cultivation of grapes is an agricultural use and is permitted outright. However, the processing of the grapes into wine or other products requires conditional use and site plan review.

2. Section 18.32.030. Conditional Uses Permitted.

The following uses may be allowed subject to DCC 18.128:

- C. *Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use,*

50

process, store or market farm products produced in Deschutes County or an adjoining County.

STAFF RESPONSE: Based on the submitted application materials, it appears the scope of the proposed use is a commercial activity in conjunction with a farm use consisting of the processing of grapes into wine, and the subsequent storage and sale of the wine. Please submit a Conditional Use application addressing the applicable standards in DCC 18.128.

CHAPTER 18.124. SITE PLAN REVIEW.

1 Section 18.124.030 Approval Required.

B. The provisions of DCC 18.124.030 shall apply to the following:

- 1. All conditional use permits where a site plan is a condition of approval;*
- 2. Multiple family dwellings with more than three units;*
- 3. All commercial uses that require parking facilities;*
- 4. All industrial uses;*
- 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and...*

STAFF RESPONSE: Based on the submitted application materials, it appears the scope of the proposed use includes the processing of grapes into wine, which is considered an industrial use. Please submit a Site Plan application addressing the applicable standards in DCC 18.124.

Title 22. Deschutes County Development Procedures Ordinance.

CHAPTER 22.02. GENERAL PROVISIONS.

1. Section 22.08.010. Application Requirements.

D. A deposit for hearings officers' fees may be requested at any time prior to the application being deemed complete and, if the application is heard by a hearings officer, the applicant will be responsible for the actual costs of the hearings officer.

STAFF RESPONSE: As indicated on the land use application form, the applicant understands and agrees that Deschutes County may require a deposit for hearings officers' fees prior to applications being deemed complete. Furthermore, if a hearings officer hears the application, the applicant will be responsible for the actual costs of the hearings officer. *It is not clear if all of the applicable criteria can be met and the matter may need to be referred to a hearings*

¹ Deschutes County Code (DCC) 18.04.030 defines "Industrial use" as the use of land primarily for the manufacture, processing, storage or wholesale distribution of products, goods or materials. It does not include commercial uses.

56

officer for a decision. Therefore, a deposit of \$5,000 is required to be submitted to the Planning Division prior to the application being deemed complete.

Completeness Determination

Your application will be determined to be complete in accordance with ORS 215.427 when you have submitted in writing one (1) of the following:

- 1. All of the missing information,
- 2. Some of the missing information and a written notice to the County that no other information will be provided; or
- 3. Notice that none of the missing information will be provided.

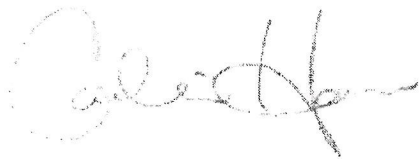
If you submit one of the items noted in 1, 2 or 3, above, within 180 days from the date the application was first submitted, approval or denial of the application will be based upon the standards and criteria that were applicable at the time the application was first submitted. If you fail to respond within 180 days, the application will be void on the 181st day after being submitted, pursuant to ORS 215.427(4). No refund is available on applications which become void.

As noted in ORS 215.427, the total period for the County to issue a final decision on your application may be extended for a specific period of time by submittal of a written request from you. However, the total extension of time approved for a final decision shall not exceed 215 days.

Please feel free to contact me if you have any questions or concerns about this matter at (541) 317-3148 or caroline.house@deschutes.org.

Sincerely

DESCHUTES COUNTY PLANNING DIVISION



52

I. CONDITIONS OF APPROVAL:

A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant, as required to be supplemented by these conditions. Any substantial change in this approved use will require review through a new land use application. The Applicant’s proposal includes the following, which shall be conditions of this approval:

- The winery will process grapes only from Deschutes County or an adjacent county.
- This approval does not include third-party rental of the Subject Property

B. General Division Permitting. The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.

C. Winery Signage. All signs on the property for the winery shall comply with Deschutes County Sign Code Title 15. The property owner shall obtain all required permits for signage pursuant to Title 15.

D. Code Compliance for Case No. 247-21-000164-CE: **Prior to any initiation of use,** the unpermitted winery on the property shall receive all required permits from Deschutes County for the winery and any related construction. The applicant shall provide all necessary receipts of approval/closure to the Planning Division to demonstrate compliance.

E. Winery Hours of Operation. **At all times,** the property owner shall observe the following hours of operation:

- Summer Hours (Memorial Day Weekend – September 30th): by appointment or invite only, three to four (3-4) days per week during the hours of 12 to 7 p.m.
- Winter Hours (October 1st – January 1st): by appointment or invite only, on Friday and Saturdays with additional appointments on holiday weekends (Thanksgiving, Christmas, New Year’s) during the hours of 12 to 7 p.m.
- Closed (January 2nd – Second week of March).
- Spring Hours (Second week of March – First week of April): by appointment or invite only, three to four (3-4) days per week for the traditional school spring break for Oregon, California, and Washington (tourist season) during the hours of 12 to 7 p.m.

F. Building and Structure Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed by DCC 18.120.040.

G. Front Yard Setback for Wine Storage Building. **Prior to the issuance of building permits,** the property owner will submit confirmation that the Wine Storage Building meets the front yard setback requirements.

H. Solar Setbacks. Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.

I. General Setbacks. In addition to the setbacks set forth herein, any greater setbacks required

by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

- J. Clear Vision Areas on the Site Plan. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which correctly illustrates the clear vision areas at all access points.
- K. Clear Vision Area. The clear vision areas located at the intersection of the service drives/ driveways and Bowery Lane, as well as other points of access, shall be maintained in accordance with DCC 18.116.020(A).
- L. Available Parking. This approval is conditioned upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18 as set forth in this Decision. The Applicant shall submit a revised and final site plan showing where the required parking spaces will be located, including the size of each parking stall.
- M. Parking and Loading/ Unloading. Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
- N. Establishment of Parking. Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- O. Use of Parking Facilities for the Winery. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
- P. Parking Area Lighting. Any lighting used to illuminate the off-street parking area shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.
- Q. Parking Area Landscaping. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting the parking area landscaping required by this Decision, which must note whether any trees are to be planted under overhead utility lines and, if so, show that the height of those trees has been taken into consideration.
- R. Graveled Surface for Standing and Maneuvering of Vehicles. **Prior to the initiation of use**, the applicant shall gravel all areas for the standing and maneuvering of vehicles onsite as depicted on the site plan. This includes the individual parking areas as proposed and all service drives which provide access for the winery. **At all times**, the gravelled surfaces shall be maintained in a manner which will not create dust problems for neighboring properties.
- S. Access Aisles. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting access aisles at a minimum width of twenty-four (24) feet for all

two-way traffic and a minimum width of twelve (12) feet for all one-way traffic.

- T. Service Drive Width. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting service drives at a minimum width of twenty-four (24) feet for all two-way access aisles and a minimum width of twelve (12) feet for all one-way access aisles.
- U. Service Drive Boundaries. **Prior to the issuance of building permits**, the property owner shall submit a revised site plan depicting service drive boundaries which are clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers.
- V. Off-street Parking Lot Design. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which illustrates the parking aisles and spaces and demonstrates compliance with DCC 18.116.030(G)(1-4).
- W. Bicycle Parking Spaces. **Prior to the issuance of building permits**, a revised and final site plan shall be submitted to the Planning Division which illustrates the location of the required bicycle parking spaces.
- X. Confirmation from Bend Fire & Rescue. **Prior to the issuance of building permits**, Receipt of approval will be provided to the Planning Division from Bend Fire & Rescue that the access and site design for emergency vehicles are acceptable.
- Y. Use of Private Well. **Prior to the Initiation of Use of the Winery**, the property owners shall have the well, if it will provide any water to the public, reviewed, and approved as a Public Water System by either the Oregon Department of Agriculture (ODA) or the Deschutes County Environmental Health Department.
- Z. Licensing From Deschutes County Environmental Health Department. **Prior to the Initiation of Use of the Winery**, the property owner shall obtain all necessary permits from the Deschutes County Environmental Health Department.
- AA. Licensing From the Oregon Department of Agriculture. **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the Oregon Department of Agriculture Food Safety Program.
- BB. Licensing From the Oregon Liquor and Cannabis Commission (OLCC). **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the Oregon Liquor and Cannabis Commission.
- CC. Licensing From the US Alcohol and Tobacco Tax and Trade Bureau (TTB). **Prior to the Initiation of Use of any Aspect of the Winery**, the property owner shall obtain all necessary permits and approvals from the US Alcohol and Tobacco Tax and Trade Bureau.

- DD. Exterior Lighting. All exterior lighting shall be shielded so that direct light does not project off site.

- EE. Evacuation of the Right of Way. **Prior to the issuance of building permits**, the property owner shall cause for the removal of all private property, including fences, posts, walls, crops, landscaping, and other features, from the existing public right of way for Bowery Lane along the frontage to the subject property.

- FF. Driveway Access Permits. **Prior to the issuance of building permits**, the property owner shall obtain driveway access permits for all driveway accesses to Bowery Lane for the subject property pursuant to DCC 12.28.050 and 17.48.210(A).

- GG. Ingress and Egress via Hunnell Road. **At all times, once Hunnell Road construction is complete**, wayfinding or directional messaging provided by the property owner to vendors and patrons of the proposed commercial activities shall direct vendors and patrons to utilize Hunnell Road and the western section of Bowery Lane for ingress and egress to the subject property.

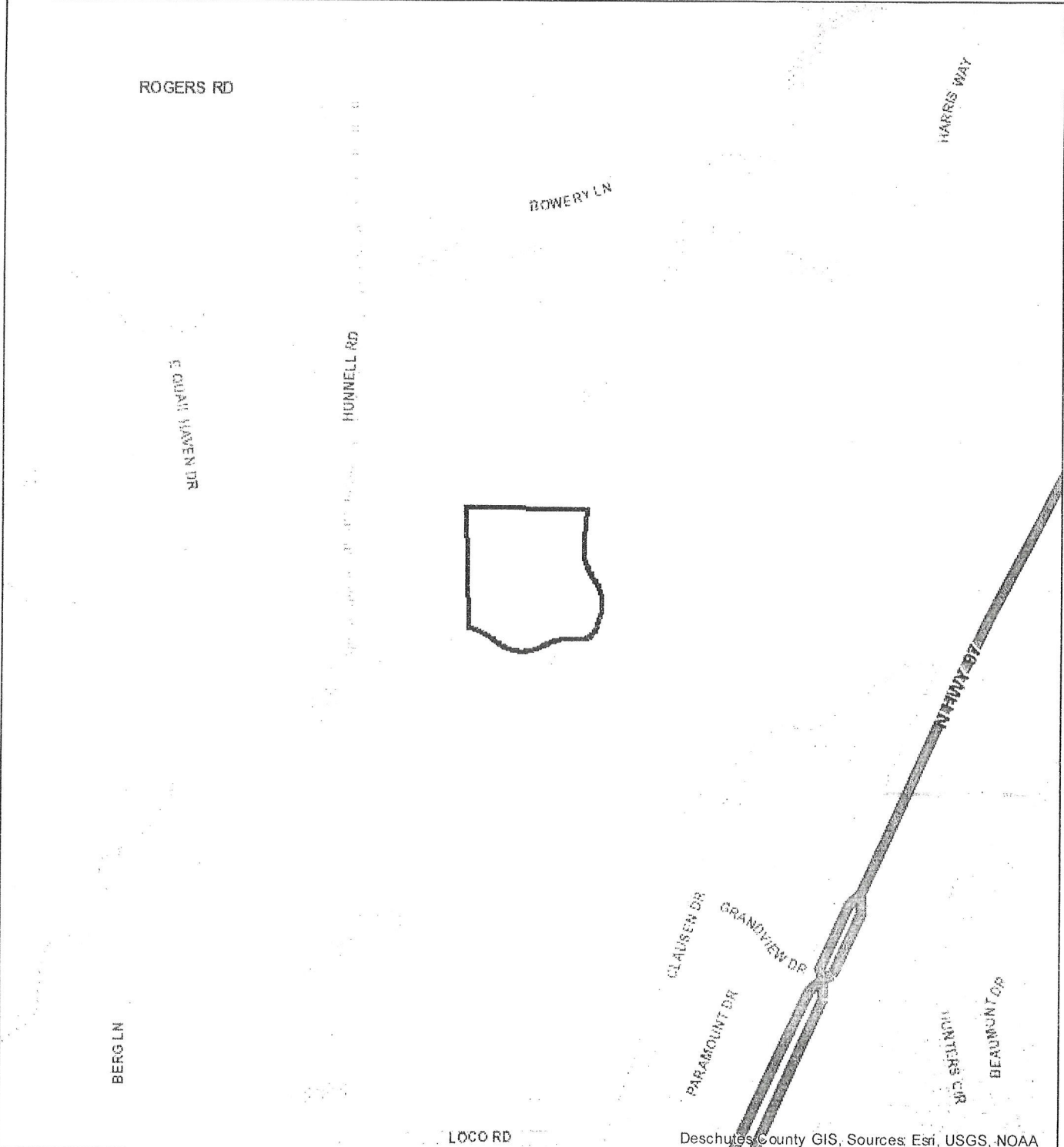
This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

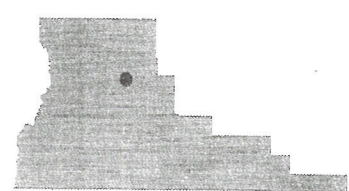
NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

File: 247-22-000464-CU, 466-SP

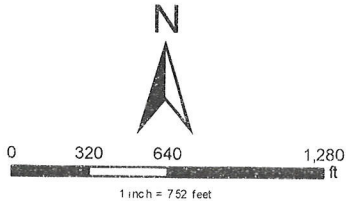
20520 Bowery Lane, Bend, OR 97703



Deschutes County GIS, Sources: Esri, USGS, NOAA



Date: 9/7/2023



BACKGROUND

On 6/7/22, Duane and Dina Barker submitted a land use application to establish a winery as a “commercial activity in conjunction with farm use”.

Prior to that, they were operating a winery while holding only a Type 1 Home Occupation Permit which they were granted on June 8, 2020. When first applying for the permit in March 2018, they made this statement in an email sent to Isabella Liu, who was, at the time, an Associate Planner with Deschutes County.

Isabella Liu


From: Duane Barker <duane@barkergroupnw.com>
Sent: Thursday, March 29, 2018 4:34 PM
To: Isabella Liu
Subject: 247-18-00126-AD

Thank you for your time and information from our meeting at the counter this last week.

This letter is to further describe our intent and why we are filing for a permit. There appears to be an assumption that we are intending to process grapes to wine at this location. We are not. As we understand from the OLCC, we must have the county on board for distributing wine from our location. We are growing wine grapes at this location. We are not making wine in any commercial way at this location and do not intend to. At harvest the grapes are taken to a wine maker and the wine is made, barreled bottled and cases up at that location. Our intent of this permit is to have that cased wine stored here in the described convex container at the same property that it was grown at. The container is onsite now and has been for number of years. The wine is to be stored and distributed from the property by one delivery vehicle. We have no intention of having a wine tasting room or anything of that nature. Just a distribution point for local, wine shops, existing tasting rooms, restaurants and some retail grocery stores. In regards to our existing business. We are promotional products distributor and have been for 20 plus years. It consist of a desks, phones and sample products storage. There are no customer visits as we face to face contact with our clients at their place of business not ours.

Thank you,

Duane Barker, Consultant



(800) 329-5406 Toll Free | (541) 382-5406 Office | (541) 280-9935 Cell | (888) 839-7103 Fax
 Email: Duane@barkergroupnw.com

However, according to Phil Henderson, who filed a lawsuit (a Temporary Restraining Order in an attempt to halt the Rock O' the Range Homeowners' efforts to hold its Annual Meeting) the Barkers began selling wine from their property (20520 Bowery Lane, Bend, OR 97703) in 2018.

8.

In 2012, Plaintiffs planted a grape vineyard on their property which is zoned Multiple Use Agriculture (MUA). On or about 2018 Plaintiffs formed an Oregon Limited Liability Company, (named Lava Terrace Cellars, LLC.) and obtained a Type 1 Home Occupation Permit through Deschutes County. They harvested their first grape crop and prepared their first commercial wine by using off-site custom Crush business in 2018. Plaintiffs were authorized under their permit to store wine product on their property and have done so and have grown their commercial vineyard to cover approximately 3 acres. Plaintiffs have carried out wine sales from their property.

Figure 3: Lawsuit filed by Duane and Dina Barker in May, 2023

The following is an email sent to me by Rachel Vickers, Associate Planner,

Hi Toby,

Thanks for your email, I have answered some of your questions below in red:

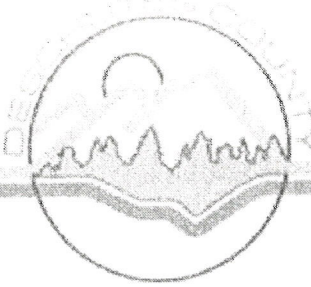
Recently, you and I were discussing Bowery Lane. During the conversation, I asked for an update on land use actions in our neighborhood and discovered that Duane and Dina Barker have applied for a Conditional Use Permit; Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.

The Barkers applied for a conditional use permit/site plan review to lawfully establish a commercial activity in conjunction with farm use on 6/7/2022. Their 30-day completeness period will be up on 7/7/2022. After their application is deemed complete I will have 150 days to issue a land use decision.

The Barkers live at 20520 Bowery Lane - Map and Taxlot: 171209B001000 . Their land is largely covered with a vineyard: Lava Terrace Cellars. Wine Club | Lava Terrace Cellars. They are planning to host events and hold wine tastings, etc. Previously, Nick Lelack filed a code compliance complaint against the Barkers, as they were holding wine tastings without the proper Type 3 Home Occupation Permit. They were also serving food without a license.

We are aware that the Bakers have been hosting wine events and tasting without permits, which is likely why they have chosen to come in and apply for this land use permit. However If you would like to submit more detailed materials into the record about what sort of operation is at their property you can email me, and I will add those details to the record.

File No. 247- 18 000126-AD



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend Oregon 97708-6005
Phone: (541) 388-6575 Fax: (541) 385-1764
<http://www.deschutes.org/cd>

LAND USE APPLICATION

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

1. Complete the application form and provide appropriate original signatures. To ensure timely processing of your application, all materials must be submitted on single-sided, 8.5" x 11" paper. Do not use binders, tabs/dividers, staples or tape.
2. This application shall include one full-sized plan set (to scale) and one plan set reduced to no larger than 11" x 17". Include a plot plan that shows all property lines and existing and proposed structures, parking, landscaping, lighting, etc.
3. Include a copy of the current deed showing the property owners.
4. Attach correct fee.
5. All applicable standards and criteria must be addressed in writing prior to acceptance of the application. Detailed descriptions, maps and other relevant information must be attached to the application.

TYPE OF APPLICATION (check one):

Administrative Determination (AD) Partition (MP) Site Plan (SP)
 Conditional Use (CU) Subdivision (TP) Variance (V)
 Declaratory Ruling (DR) Temporary Use (TU) Setback Exception (SE)
 Other

FEE: \$984

Applicant's Name (print): Duane Barker Phone: (541) 280-9935
 Mailing Address: 20520 Bowery Ln City/State/Zip: Bend, OR 97703
 Applicant's Email Address: duane@barkergroupnw.com
 Property Owner's Name (if different)*: N/A Phone: ()
 Mailing Address: SAME City/State/Zip:

1. Request: Type 1 Home Occupation
2. Property Description: Township 17 Range 12 Section 09B Tax Lot 1000
3. Property Zone(s): MUA10 Property Size (acres or sq. ft.): 5.45
4. Lot of Record? (State reason): Exception: 22.04.040 (B)(2)(e)
5. Property Address: 20520 Bowery Ln Bend

(over) ➡

- 6. Present Use of Property: Residential/farming
- 7. Existing Structures: house, detached garage, pole barn, in-laws quarters
- 8. Property will be served by: Sewer _____ Onsite Disposal System X
- 9. Domestic Water Source: Well

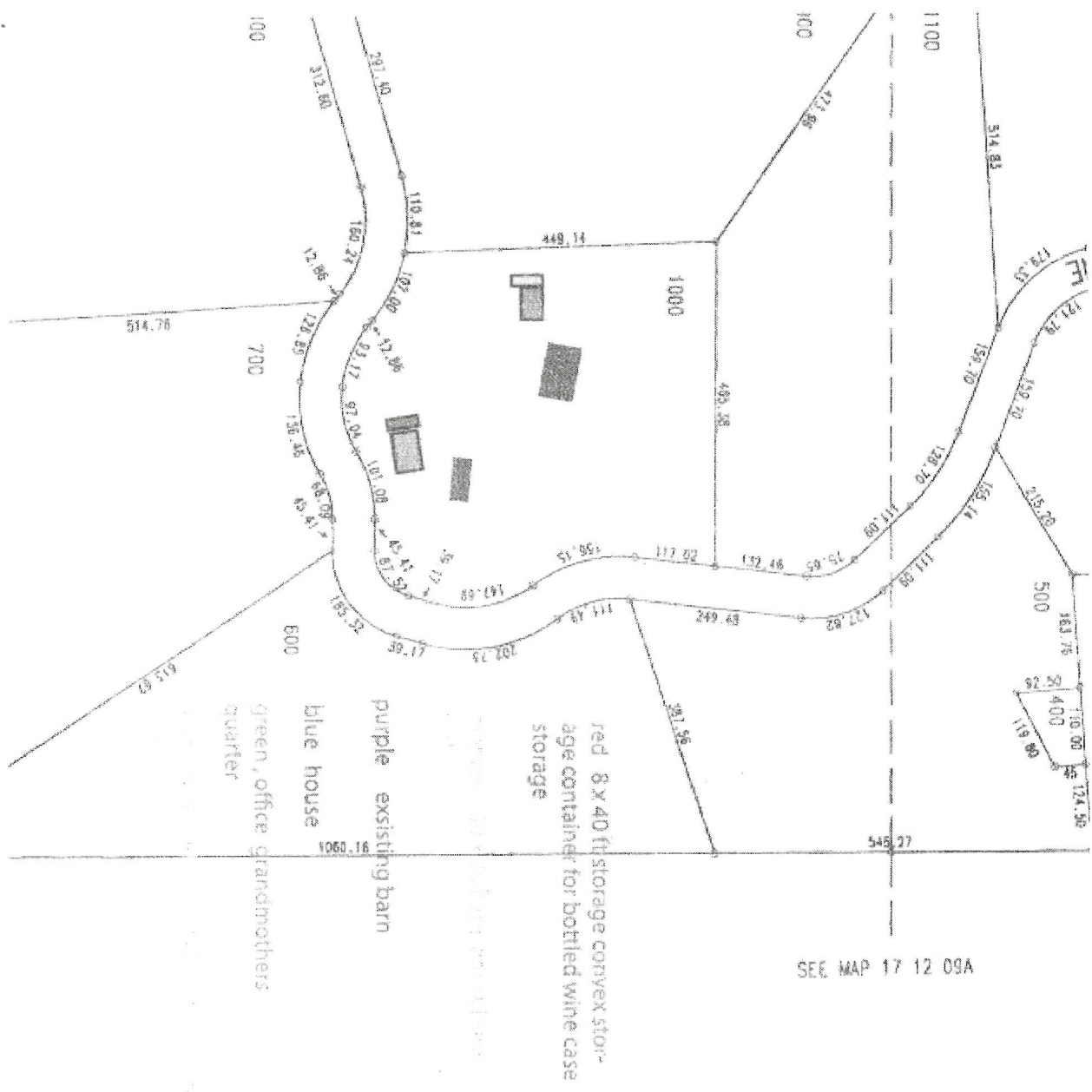
To the best of my knowledge, the proposal complies with all previous conditions of approval and all other applicable local, state, and federal laws. By signing this application, I acknowledge that Deschutes County planning staff may make a site visit(s) to the address(es) listed on this application in order to evaluate the property(ies) with the Deschutes County Code criteria applicable to the land use request(s) submitted. Please describe any special circumstances regarding a potential site visit:

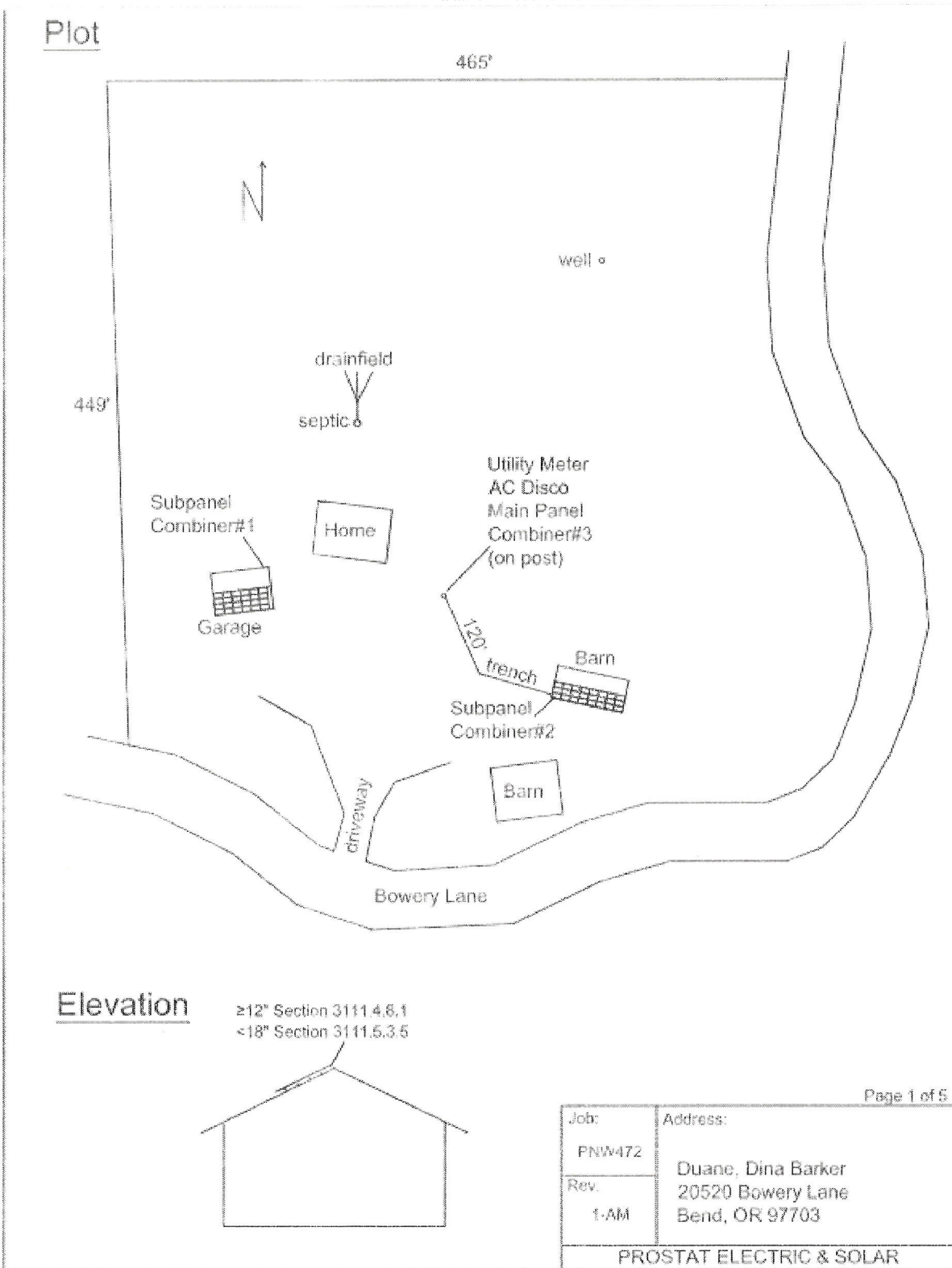
Applicant's Signature:  Date: 2-7-2014

Property Owner's Signature (if different)*: _____ Date: _____

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

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





Caroline House

From: Dina Barker <dina@barkergroupnw.com>
Sent: Friday, March 02, 2018 1:26 PM
To: Caroline House
Cc: Duane Barker
Subject: RE: Letter for Application #247-18-000126-AD
Attachments: 20520 Bowery Ln - Google Maps.jpg; Office layout.pdf; F109613396.pdf; 2d_iso_40_ft_shipping_container_drawing.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon Caroline,

Here are the revised documents and site plan we talked about and hopefully I have answered all the questions you had. The site plan using satellite images shows exactly where the storage container currently sits and all other adjacent buildings, septic field, property line and driveway configuration. Will this work? Its really the best representation of what exists out here.

The shipping Container will be the sole storage area for all wine cases – square footage to be utilized is 160 (half the container area). There are currently shelves inside the Container. The building next to the container is our office, we telecommute for work. There are no living quarters, no kitchen, only a bathroom and utility sink. The Container and office are not attached. The only access into the container is the wide doors on the driveway end.

No additional space will be used inside the office building, aside from Duane’s existing desk area as it currently resides. There will be no storage of wine inside the office building.

The paperwork does not give space for adding the square footage of the Container for storage, but it is noted above. And, I did include office space to be utilized for calls and computer work.

With the limited vintages of wine being produced from the onsite vineyard, we anticipate having no more than 300 cases of wine onsite at any given time. Please let me know if there is anything further you need to process the request.

Kindest Regards,

Dina Barker
Direct: (541) 408-7991 Email: dina@barkergroupnw.com

64

3/2/2018

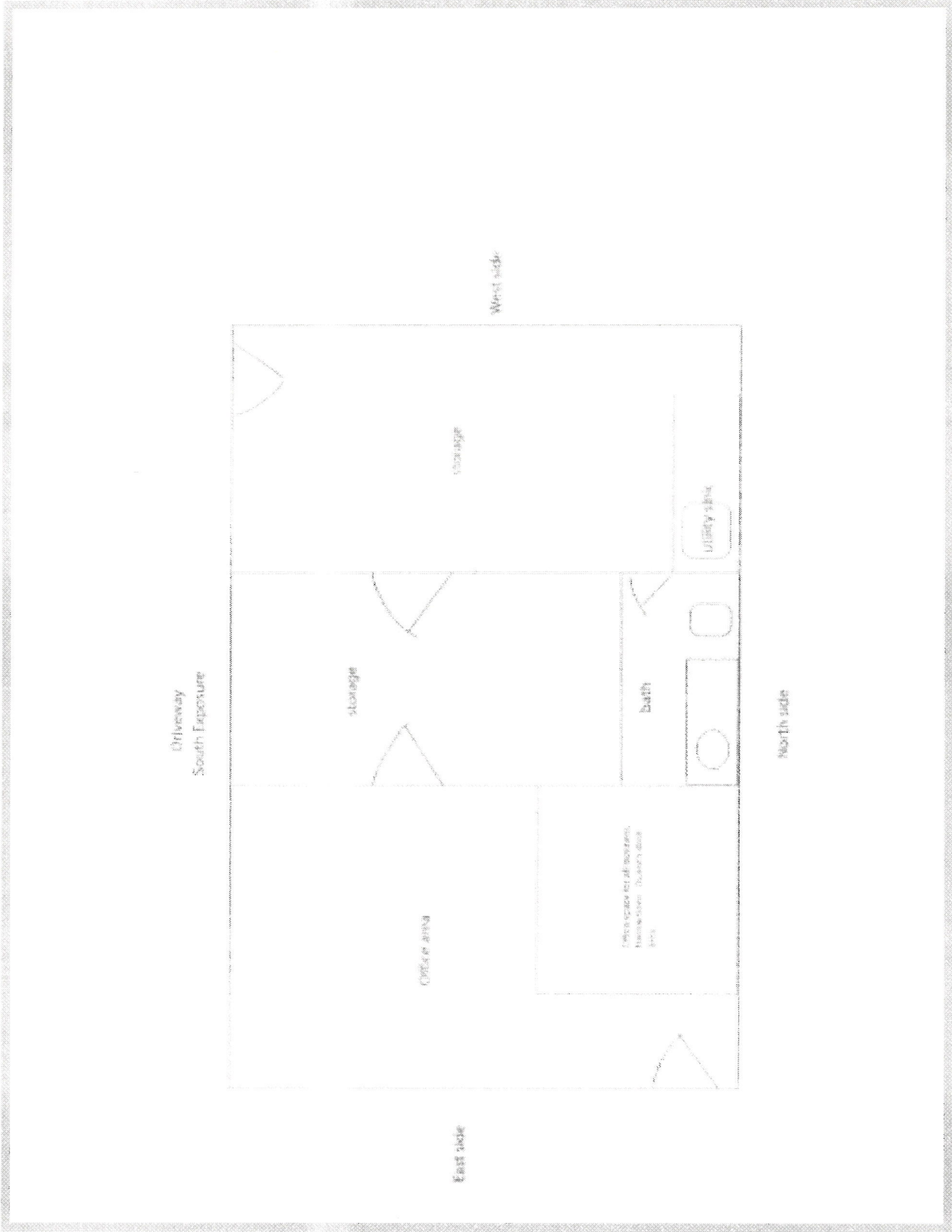
20520 Bowery Ln - Google Maps

Google Maps 20520 Bowery Ln



<https://www.google.com/maps/place/20520+Bowery+Ln,+CA,+USA/@44.118875,-121.298878,20520/data=!3m1!1e3!1m2!1m1!1s0x5406ce650d76767b:0x095e57b33de777b213:44.118875...>

65





Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
Phone: (541) 388-6575 Fax: (541) 385-1764
<http://www.deschutes.org/cd>

SUPPLEMENTAL APPLICATION FOR HOME OCCUPATION LAND USE PERMIT

1. Type of Home Occupation: Type 1 Type 2 _____ Type 3 _____ (check one)
2. Description of Proposed Home Occupation: Storage and base of distribution for bottled cases of wine. No onsite sales, no customer visits, no signage.
3. Property Size (acres or square feet): 5.5 acres
4. Location of Home Occupation: How much floor area (square feet) will be used for the home occupation?
 In dwelling: 0 In accessory building: 112
 Total floor area of dwelling: 2700 Total floor area of accessory building: 864
5. Employees: Will you have employees report to and work from your home?
 Yes _____ No If Yes, How Many _____
6. Onsite Sales: Will you have onsite sales of products related to your business?
 Yes _____ No If yes, please describe: _____
7. Vehicle Trips: How many daily trips to and from your property will be made related to the home occupation (a trip represents one trip to or from a property)? Include trips by any employees, customers, and parcel delivery services:
No daily trips. Vehicle trip estimate is 1 per week.
8. Access and Parking for Employees: On the site plan, describe and show the access to the road that provides property access and parking area you will provide.

Quality Services Performed with Pride

9. Hours of Operation: Time (Hours of Day) 3 Days of the Week 1

10. Proposed Construction: Please show on scale drawings any proposed alterations to your dwelling and/or accessory building that will accommodate the home occupation. N/A

11. Equipment and Materials: Please list the equipment and materials that will be used to conduct the home occupation. Please indicate whether the equipment will generate noise, vibrations, dust, smoke, and/or odors that would be detectable off-site:

40' shipping container, already on site will be used to store the cases of wine. The area will be locked at all times. It does not create any outside noise or disturbances.

12. Other Permits and/or Approvals: Please list other operating permits or approvals you are required to obtain for your home occupation. Example: Other permits from Deschutes County or the State of Oregon _____

OLCC permit from State of Oregon and permit from ATF.

13. Signs: Type 2 and Type 3 home occupations can have one (1) ground-mounted or wall-mounted sign (without a sign permit) that is no more than three (3) square feet in area, non-illuminated, and located on your property. Will such a sign be provided?

Yes _____ No _____ If yes, please include a scale drawing of the sign (include height and width) and show location of sign on site plan.

14. Outdoor Storage for a Type 3 Conditional Use Permit: Please complete this section if you are applying for a Type 3 home occupation and if you propose an outdoor storage area for equipment and materials that will be used in the home occupation.

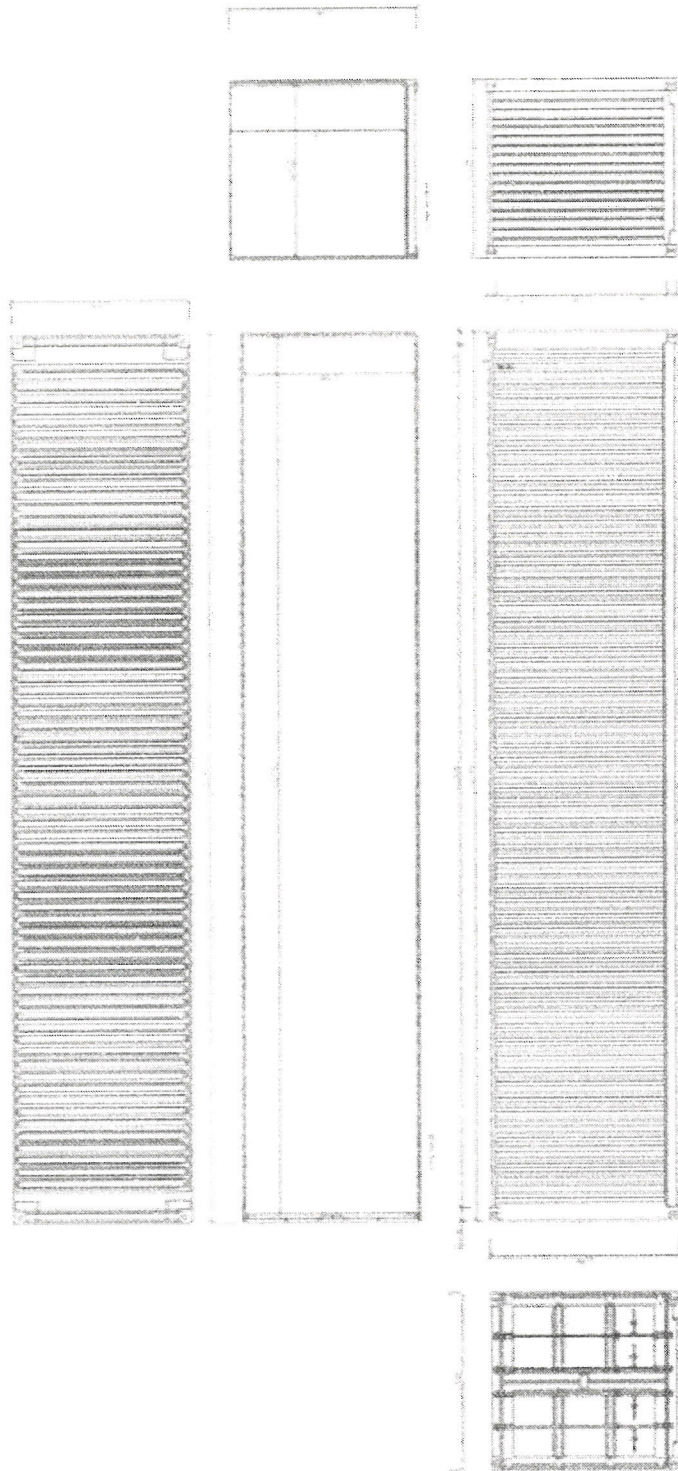
- a. Identify the area of your property that will be used for outside storage on your site plan. Please indicate the distance of this area from your property lines.
- b. Indicate which forms of screening (check all that apply) you will use to screen the outdoor storage area and indicate the location of this screening on the site plan:

Sight-obscuring fence	
Mature tree cover	
Topography	
Existing buildings on site	
Introduced landscaping (such as trees, shrubs, berms)	

15. Additional Information: Please also include any information you feel will be useful to evaluate the application (e.g. photographs). Use additional sheets of paper if necessary.

Handwritten initials

2D - ISO 40' Cargo Container



69

Deschutes County Official Records 2020-26201
Nancy Blankenship, County Clerk

Return to: Izze Liu, Associate Planner
Community Development Dept.
117 NW Lafayette, P.O. Box 6005
Bend, OR 97708-6005



012942220000262010050057

06/08/2020 10:13 AM

D-IPPS Cat=1 Str=3 AS
\$25.00 \$11.00 \$81.00 \$10.00 \$6.00

\$113.00

CONDITIONS OF APPROVAL AGREEMENT

THIS AGREEMENT, made and entered into by and between Deschutes County, a political subdivision of the State of Oregon, ("County"), and Duane & Dina Barker, ("Developers"), owner/s of certain real property described in Exhibit A, Deschutes County, Oregon, as set forth in that certain Statutory Warranty Deed, dated October 15th, 1998, recorded in Deschutes County Book of Records 1998-5171128 ("Real Property").

WITNESSETH:

5

WHEREAS County has granted approval of a land use permit 247-18-000126-AD ("Permit") for the Real Property upon the condition that Developer construct and maintain certain requirements as specified therein; now, therefore,

IT IS HEREBY AGREED, by and between the parties, for and in consideration of the mutual covenants and agreements herein, as a condition precedent to the granting of final approval or occupancy, as follows:

Scope of Agreement. This Agreement affects the Real Property described above. This Agreement shall cover those improvements and requirements described in the section of this Agreement entitled "Conditions of Final Approval." Nothing in this Agreement shall require Developer to construct any improvements under the Permit, but if Developer undertakes the construction of buildings or structures, the division of real property or otherwise exercises the Permit, Developer shall be required to complete and maintain all improvements, as defined herein, in accordance with applicable County Ordinances and the Permit.

Definition of Improvement. As used herein, "improvement" means any private or public facility or service such as roadways, bike paths, access ways, pedestrian walkways, landscape areas, sewage collection and disposal systems, water systems, lighting systems, parking lots, cable utilities, circulation areas, outdoor storage areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut-and-fill areas, buffering and screening measures, street furniture, drainage facilities, or other similar improvements as approved and required in the Permit.



Definition of Permanent Maintenance. As used herein, "permanent maintenance" generally means maintenance of the structures, improvements, and landscaping that are the subject of this Agreement in a manner that will keep such structures, improvements, and landscaping in good repair or good condition and in a condition that is not a hazard to public safety. With respect to landscaping, Developer's obligations shall include, without limitation, continued irrigation of landscaping and, where applicable, pruning of landscaping to guarantee required sight distances and to otherwise protect against hazardous conditions. With respect to drainage facilities, Developer's obligations shall include, without limitation, periodic cleaning of drainage ponds, drywells, or other drainage facilities of obstructions or silt that would limit the performance or effectiveness of drainage facilities. With respect to



Figure 1:: Page 1: Barkers' Application for a Type 1 Home Occupation Permit (issued on March 24, 2020)

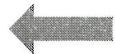
NOTE: Continued on

no

improvements, such as pavement and sidewalks, Developer's obligations shall include, without limitation, maintenance of the impervious nature of impervious surfaces, maintenance of evenness of surfaces so that such surfaces are not hazardous to the operation of vehicles or use by pedestrians.

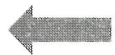
Construction and Permanent Maintenance. If Developer is required under the Permit to construct improvements of any kind or to install landscaping or plantings and Developer elects to proceed with development under the permit, Developer agrees: (1) to undertake the construction and landscaping required under the land use permit, as more specifically set forth in the conditions set out herein and in the land use permit; and, (2) in the event that this Agreement and the Permit do not expire as set forth herein, to the permanent maintenance of required landscaping and improvements.

Enforcement. This Agreement shall be enforceable against any person bound by this Agreement in possession of or having fee title to the property. If any party bound by this Agreement defaults on the obligations set forth herein, the County shall be entitled to enforce this Agreement in equity. The prevailing party at trial or on appeal in any enforcement action shall be entitled to reasonable attorney fees and costs. This provision shall not limit County's rights to use other means provided by law, including but not limited to issuing a civil citation, to enforce the conditions of the Permit.



Authority of Signatories. By their signatures, all signatories to this Agreement signing in a representative capacity certify that they are authorized to sign on behalf of and bind their respective principals.

Expiration. This Agreement and the Permit shall expire on its expiration date or by the revocation of the Permit or by the explicit release by the County from this Agreement granted as part of an approval for a change of use of the Real Property. Additionally, this Agreement and the Permit shall automatically expire upon the foreclosure of any prior encumbrance upon the Real Property which results in the extinguishment of this Agreement.



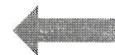
No Partnership. County is not, by virtue of this Agreement, a partner or joint venture of Developer in connection with activities carried on under this Agreement, and shall have no obligation with respect to Developer's debts or any other liabilities of each and every nature, and is not a guarantor of the Developer, the project, or the work to be performed.

Limitations. Should this Agreement violate any constitutional or statutory provision, it shall be void.



Persons Bound by Agreement. The original of this Agreement shall be recorded with the Deschutes County Clerk and shall run with the land. It is the intent of the parties that the provisions of this Agreement shall be binding upon the parties, the parties' successors, heirs, executors, administrators, and assigns, or any other parties deriving any right, title or interest or use in or to the Real Property, including any person who holds such interests as security for the payment on any obligation, including the Mortgagee or other secured party in actual possession of the Real Property by foreclosure or otherwise or any person taking title from such security holder.

Conditions of Final Approval. The following are the required conditions of final approval for the Permit:



1. Prior to initiation of use, the applicant shall obtain all required permits or licenses from the Deschutes County Building Safety and Environmental Health Divisions, the

File: 247-18-000126-AD

2

Figure 2: Page 2 of Final Approval of file 247-18-000126-AD

71

Caroline House

From: Isabella Liu
Sent: Monday, February 12, 2018 12:22 PM
To: Caroline House
Subject: FW: Letter for Application #247-18-000126-AD

Follow Up Flag: Follow up
Flag Status: Completed

From: Dina Barker [mailto:dina@barkergroupnw.com]
Sent: Monday, February 12, 2018 11:23 AM
To: Isabella Liu <Isabella.Liu@deschutes.org>
Subject: Letter for Application #247-18-000126-AD

Good morning Izze,

Per the Land Use Application submitted 2/7/18, the following information details the reason for the application.

The purpose of obtaining the Administrative Determination – Minor is exclusively for storing cases of bottled wine. The secured storage facility is a climate controlled 40 ft shipping container situated on said property.

No on-premise sales will be conducted. Wine will be distributed/delivered directly to the buyer at an approved location to resell or distribute alcoholic beverages, but not outside the state of Oregon.

Once this application process is approved and the determination made, we can move forward with submissions to the OLCC for permits required to wholesale/retail wine in the state of Oregon.

Thank you,

Duane Barker,

Isabella Liu

From: Duane Barker <duane@barkergroupnw.com>
Sent: Thursday, March 29, 2018 4:34 PM
To: Isabella Liu
Subject: 247-18-00126-AD

Thank you for your time and information from our meeting at the counter this last week.

This letter is to further describe our intent and why we are filing for a permit. There appears to be an assumption that we are intending to process grapes to wine at this location. We are not. As we understand from the OLCC, we must have the county on board for distributing wine from our location. We are growing wine grapes at this location. We are not making wine in any commercial way at this location and do not intend to. At harvest the grapes are taken to a wine maker and the wine is made, barreled bottled and cases up at that location. Our intent of this permit is to have that cased wine stored here in the described convex container at the same property that it was grown at. The container is onsite now and has been for number of years. The wine is to be stored and distributed from the property by one delivery vehicle. We have no intention of having a wine tasting room or anything of that nature. Just a distribution point for local, wine shops, existing tasting rooms, restaurants and some retail grocery stores. In regards to our existing business. We are promotional products distributor and have been for 20 plus years. It consist of a desks, phones and sample products storage. There are no customer visits as we face to face contact with our clients at their place of business not ours.

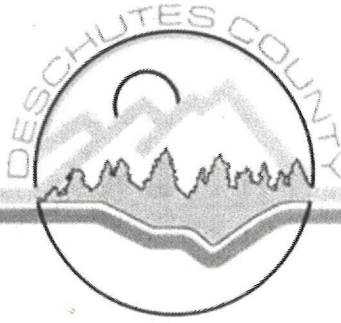
Thank you,

Duane Barker, Consultant



(800) 329-5406 Toll Free | (541) 382-5406 Office | (541) 280-9935 Cell | (888) 839-7103 Fax
Email: Duane@barkergroupnw.com

Handwritten mark resembling a stylized 'B' or '3'.



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
 Phone: (541) 388-6575 Fax: (541) 385-1764
<http://www.deschutes.org/cd>

MINUTES

DESCHUTES COUNTY PLANNING COMMISSION
 DESCHUTES SERVICES CENTER
 1300 NW WALL STREET, BEND, OREGON, 97701
 OCTOBER 22, 2015 – 5:30 P.M.

I. CALL TO ORDER

Meeting was called to order at 5:30 p.m. by Chair Hugh Palcic. Members present were Vice Chair Ed Criss, Maggie Kirby, Susan Tunno, Dale Crawford and Steve Swisher. Absent: James Powell. Staff present were Nick Lelack, CDD Director; Peter Gutowsky, Planning Manager; and Sher Buckner, Administrative Secretary.

Note change in order of agenda items.

II. WORK SESSION: 247-15-000542-TA, Text Amendments regulating marijuana related businesses – Matthew Martin, Associate Planner, and Nick Lelack, Director

Matt presented PowerPoint slides regarding the Text Amendments. Commissioner Kirby asked about additional setbacks and the reason behind the 300-foot buffer. Matt said it was there to provide additional protections to existing property owners. The Board looked at existing codes in Washington for examples. A person developing a new dwelling would not be subject to the 300 feet. Commissioner Kirby said that in Clackamas County there were additional requirements for odor controls stating that fans had to be in good working order and mentioning use of other alternatives. Matt said that just did not make it into the proposal. Commissioner Kirby asked if middle and junior high schools were included and whether they should be listed in the 1000-foot setback. Matt said he would research the language. Commissioner Kirby said that in Clackamas they also have buffers outside parks and other public areas – have those been omitted in Deschutes County due our park locations? Matt said that Clackamas had contemplated other uses which are hard to identify and which can change – the Board thought that was a little too comprehensive. Commissioner Kirby said that regarding secure disposal, there was no language regarding discarded items remaining in control of the licensee, which Matt said also was not included.

Commissioner Swisher mentioned after-school centers, boys' and girls' clubs, etc., and he would like to see those included. Matt said we may need to clarify the language – "child care center" is a specific use, which is what was mentioned. Also, we have a boys' and girls' center that changes locations around Bend, and that would need to be considered.

Nick said that this is a fluid process and a moving target, but we do not have a choice. The rules will continue to change, proposals keep coming forward. In the next couple of days Clackamas County will have public hearing and will be coming forth with an almost entirely new proposal. This could happen in Deschutes County too.

III. PUBLIC HEARING: 247-15-000333-CU/334-S, Conditional use permit and site plan review approval to establish a 184-acre regional park to be known as the Riley Ranch Nature Reserve. The proposed park will include open space, trails, boardwalks, three parking areas, gathering areas, restroom facilities, overlooks, river access areas, environmental education and programming, road improvements, and a bridge that will cross the Deschutes River – Peter Gutowsky, Planning Manager

Peter Gutowsky presented PowerPoint slides and discussed the proposal. Commissioner Swisher asked for clarification on the Hearings Officer’s definition of the bridge as being a structure. Peter said she addressed it on page 11 as it relates to the definitions in Title 19.

Public Testimony

Jim Figurski (Bend Park & Rec District), Susan Cunningham (ESA) and Joe Bessman (Kittleson) testified on behalf of the applicant. They agree with the recommendations of the Hearings Officer and would like to discuss the sight distance issue further this evening. They also would like to present further testimony on whether or not the bridge is a structure. Slides were presented showing the site. Jim said this area is a real asset to the public, with all sorts of wildlife and plant life, multiple terrain types and biohabitats including a striking rimrock area. The area is well located for connections to other trail systems such as Shevlin Park, Tumalo State Park, etc., and they are working on these connections. There was a citizens’ advisory committee and adjacent property owners in Glen Vista were informed as much as possible. A house in one location will eventually be repurposed for an educational center, and a separate application will be filed. No dogs will be allowed anywhere on the property. We want people to park on the edge and experience the area on foot. No bicycles will be allowed, either, and no large groups of more than 30, to keep the area quiet and contemplative. There is space for only one bus to park, and there will be no large school groups which would also be an issue with the flaking rimrock. There will be bicycle parking at the edges but people will have to view the area on foot. The proposed bridge will look similar to other bridges that cross the river – the South Canyon Bridge, the Farewell Bend Bridge, and First Street Rapids Bridge, and the Sawyer Park Bridge.

Joe said there are high speeds on O.B. Riley and there is an urban-to-rural transition to consider. Today we have speeds that are higher than the posted speed of 35 mph due to the transition. The 85th percentile speed is 44.5 mph, and with the vegetation the available sight distance is 325 feet. We can bring this to 366 feet and reduce speeds to 35 mph. The City and County are both involved due to the location. There is a menu of options and there will be a lot of coordination for options like LED lights on the signs. Bend Parks and Rec will be responsible for putting in these improvements so drivers comply with the existing posted speed limit. The standards within the right-of-way can be met, and outside that we can make it much better. There are private mailboxes within the right-of-way that may need to be relocated.

Susan Cunningham said that Title 19 is not an often-used section of the Code, so they want to be sure they address it in their application. They had three pre-application meetings, one

of which was specifically about the bridge, and nowhere did the setback issue come up until Anthony Raguine wrote his staff report. If staff had advised us to get a variance, we would have done that. The Riley Ranch property is landlocked with a rimrock cliff of up to 250 feet. There is no current or historical vehicle access to the canyon floor, and we need to have access. One access will be provided with an easement across the Culligan property which will be the main vehicle access. An access through Johnson Road is also being worked on. The Hearings Officer found that the bridge was a standalone structure. Title 19 does not define scale for driveways, walks or fences. The Hearings Officer may have overlooked the definition of "access" or "access way." The main purpose of the proposed bridge is for pedestrians and bikeways - with no public vehicle access, which will be off Glen Vista Road. The bridge is needed to connect two sections of trail and to get up to Tumalo State Park. We have received our State Scenic Waterway Permit. Oregon Parks and Rec does not consider bridges to be structures.

Commissioner Swisher asked if the bridge would accommodate rescue vehicles, and Susan said yes. Vice Chair Criss wanted to clarify that the bridge would not be for vehicle use except for maintenance and emergencies, and Susan said yes.

George Findling said he lives in the Windemere neighborhood, across from the proposed park, and the Windemere Association supports the idea of the park and a connecting trail system. They do have one concern which is about parking. The basic plan is to access the park by road, from O.B. Riley from the north, but they are concerned that there is no parking plan for people who want to access the park from the other side of the river. The closest access right now is about a four-mile walk. People already park illegally inside Windemere. Windemere is concerned that the parking problem will get worse. Before the bridge is approved, a parking plan should be implemented. The Hearings Officer did not think this was an issue. He would like to respectfully disagree, recognizing that it is judgment call, but they already see a problem which will only increase. He would like to recommend an addition to the conditions of approval – language that would say that a comprehensive public parking plan for pedestrians accessing the park via the bridge should be prepared. Commissioner Swisher asked how many homes are in Windemere, and George said approximately 90. The Deschutes River Trail runs approximately parallel to the lower part of their subdivision. Commissioner Crawford asked how many vehicles currently park in the area; George said there are two places where people are improperly parking – the switchback near R.G. Briggs, all the time, two to five vehicles; and where the trail crosses Northcliff, two to four cars a week. These vehicles are parking on private property.

Justin Gottlieb said he has participated at Bend Parks and Rec since 2011. He has visited the Riley Ranch area twice on bus tours, and it will be a beautiful park. BPRD is not very good at building bridges.

Rick Johnson said he drives through this intersection all the time. The park will be nice, although he is disappointed in the dog ban as a dog owner. Traffic in the area does move at 45 mph regularly; the 35-mph speed zone is a recent change in the past few years. There is also Knife River equipment going up and down the road, a lot which needs to be considered. There is a school that was recently built near Tumalo State Park which has created several hundred extra cars in the morning and afternoon, so volume is not spread evenly throughout the day. He has noticed a lot more road kills – recently two coyotes and a deer. The Juniper Ridge improvements will have impacts coming across Cooley Road, and the volume numbers will go up. Future mitigation measures need to be addressed. Also, the mailbox relocations and people crossing the road to get to their mailboxes will not be improved near the "park

chop” intersection and may require people to cross the street more or make U-turns to return to their residences.

Dan Kiesow testified his history with this project goes back to emailing Jim Figurski in 2014 and writing a letter to a number of people (copy submitted). He feels the park is a good idea, but he has concerns about the intersection and Glen Vista Road which has a substandard easement for a city street. He and his wife worked with ODOT to decrease the speed limit on the road. He has attended to accident victims twice at the intersection and it is a dangerous area – not only the sight distance but the lack of compliance with the speed limit. The mitigation measures proposed will allow people to drive faster – removal of vegetation, etc. The road usage includes many people riding their bikes, and they will want to access the park which will result in real traffic issues on Glen Vista Road. The applicant will spend 3.7 million dollars to improve the park, but parts of the road are 22 feet side with no shoulders. It won't be long before you have 40 bicycle parking spaces, 66 vehicle parking spaces, restrooms, kiosks, overlooks, etc. They are rushing to develop a park without proper access. He would like to see them build the bridge and extend the river trail, but his main objection is that we need to look hard at not only the intersection of O.B. Riley and Glen Vista, but the one area of only 22 feet in width. They need to come in and repave an area that is 30-32 feet wide, with a bicycle/pedestrian path lined off so people can separate from the traffic. The Hearings Officer also states that Swalley provides potable water and they do not. He would not like to see this permitted at this time – let's see what happens with the urban growth boundary and not rush to spend the money.

Ed Elkins said he owns the Gopher Gulf Ranch and sold the property to Bend Park and Rec. He has a few issues with not calling the bridge a structure, since it will have steel, etc. There are other ways to access the west side, through Tumalo State Park on a pathway. They talked to George Kolb years ago about sight distance and got an agreement for a 60-foot-wide dedicated easement between Cooley Road and Bend-Redmond Highway; otherwise there is no way to haul a truck and trailer and it is a deadly zone. At that intersection, the post office moved a resident's box closer to his property because of the safety issue – it is a gamble to cross the road to get mail. There are no crosswalks – that intersection needs them, with the warning systems and flashing lights. The traffic study should be rejected until it is really defined. The mine is not gone yet although it was supposed to be. Commissioner Tunno asked Ed for clarifications on accessing the west side – he said there is no way any firefighter is going down into a canyon to fight a fire. You can go to Tumalo State Park; you can walk across the bridge and come across the other side, so why do you need another bridge? There is already road access there for emergency vehicles. The road that feeds the bridge is an old dirt road and will have more traffic, as well. He feels the Hearings Officer was correct in her decision.

Russ Grayson, CDD Director for the City of Bend and City Engineer, testified that the City is reviewing the application to make sure it meets City Code. They reviewed the traffic study and agreed with trip generation data. It does not trigger any intersection analysis, so the issue is one of sight distance which does not meet criteria. Supplemental information from Kittleson as to what they can achieve meets the minimum criteria for stopping and sight distance. We agree with their proposal that additional improvements would help decrease speed. Regarding maintenance questions (City or County), speed flashing signs will be located within the County jurisdiction as well as an LED flasher on the intersection light which would have to be maintained by the County. Their traffic engineer reviewed all of the information he is presenting today. Between 2012 and 2015 there were no calls for public safety officers for that intersection. There were no crashes reported between 2007 and 2013.

Nunzie Gould felt that normally this project would be submitted by the County Parks Department which we do not have – she would like the Planning Commission to think about the needs within the County and questions of road maintenance and emergencies. The draw to recreational amenities is not just from the City but from tourism as well. We know the City of Bend has huge deficiencies in their roads; the County does not accept maintenance on new roads that are going in. What is the role of the County in planning for regional facilities and draws, and what is the funding mechanism? Looping the recreational amenities of Johnson and O.B. Riley Roads, linking cities through the County, the year-round cycling movement we have – the transportation planning aspect needs to be thought through. It is time for our County to provide expertise and planning for these interconnected systems.

Jim Figurski said they believe they have provided a reasonable alternative definition of the bridge, which should be exempt from the requirements for setbacks. There are traffic issues, and he lives 500 yards down the road and walks his dogs regularly; but they have provided reasonable answers and are willing to accept the Hearings Officer’s conditions of approval. Susan Cunningham said they may be in favor of a shorter timeframe for the comment period to be left open. There is no quick and simple road that exists along the west side, and they will have to acquire easements in the future. Park and Rec recognizes there is a huge demand for people wanting to access the Deschutes River Trail. The bridge will not be built for at least two years. Park and Rec is working on a master plan for the trail that will help alleviate access issues. Jim said that they have been discussing with the Coates property owners a trailhead where the public would park. When the mine is closed down, they will have additional parking and additional trailhead, although no vehicular traffic will be allowed, only emergency/maintenance vehicles. Joe Bessman said mailboxes won’t be moved across the road but farther down the road, and they really want to go above and beyond. He has walked the entire distance on Glen Vista, on the pavement and gravel and it was a comfortable walk. The pavement ranges from 22 to 24 feet wide and contributes to the lower speeds. Jim said, regarding the comments about “rushing” to develop the property - they have been working on the property for over two years and have had a year’s-long worth of citizens’ involvement meetings, etc. It will be another year before drawings are completed.

Peter Russell said that he and the Road Department have agreed with the traffic study provided by Kittelson. Glen Vista Road is a low-volume road. O.B. Riley has around 1100 cars a day. The use itself, a recreational park, is a low traffic generator. The Glen Vista/O.B. Riley area has no crash data for the past five years. Chair Palcic and Peter discussed the proposals of flashing signs, etc., and Peter said they were fine with them.

Peter Gutowsky summarized options for the Planning Commission to proceed. Commissioner Swisher suggested keeping the written record open for a week and then a few days for the applicant’s final argument before deliberation.

Motion: Commissioner Swisher motioned to close the oral record and keep the written record open until October 29, with an opportunity for the applicants to respond until November 4, and then hold deliberations on November 12. Seconded by Vice Chair Criss.
Motion passed.

IV. PUBLIC HEARING: 247-15-00491-TA, amend Deschutes County Code 22.20 and 1.16 to allow the County to not process development permits for properties with an existing code violation – Peter Russell, Senior Transportation Planner

Peter summarized the application and process to date. Chair Palcic and Peter discussed procedural changes if the application is approved. Commissioner Swisher asked how staff would determine an emergency how that affects the time for working on a code violation. Peter said Planning staff, Building and possibly Environmental Soils may be involved with interpretation.

Merry Ann Moore testified in favor of the proposal and felt it has the potential to reduce conflicts between neighbors. If a property has an unimplemented wildlife mitigation plan, it would be great if this shows on DIAL and the next owner has to comply if the property is sold.

William Kuhn testified that he lives in the middle of the winter deer range and he is the one who brought forward this proposal. They brought to the County's attention in 1997 the lack of a homeowners' association agreement in their cluster development (two lots) with a 33-acre jointly owned wildlife habitat. They started in January 1997 because there were things going on that needed to be addressed through an association process. This text amendment will not help them and would not have helped them at that time, because they could not convince CDD that there was no homeowners' association agreement. CDD made the wrong interpretation in 1988 that deed restrictions constituted the homeowners' association agreement. They have a stipulation agreement from the County that they made a mistake in 1988.

Jerry Norquist encouraged approval of this amendment and moving it forward as soon as possible.

Paul Lipscomb said he was a member of the committee that drew this up as a consensus process. County planning staff and the legal department were also participants, and he hopes the hearing will be closed this evening.

Bruce Bowen testified that he thinks this is a good compromise and many people have worked hard on it. He would support moving this ahead as quickly as possible.

Eva Eagle said this proposal will make a huge difference to the ability to deal with property owners who don't obey the rules, and this needs to become part of the standard procedures of the Planning Department.

Motion: Commissioner Crawford motioned to close the oral and written testimony and proceed to deliberation. Seconded by Vice Chair Criss. **Motion passed.**

Motion: Chair Palcic moved to recommend approval; seconded by Commissioner Swisher.

Discussion: Commissioner Swisher said several members of his community had indicated to him they are in favor of this proposal.

Motion passed.

- V. **DELIBERATIONS:** 247-15-000444-TA, Text Amendment to DCC 18.113.060, Standards for Destination Resorts, to modify the current process and requirements for Eagle Crest to provide the County with annual accountings related to the inventory of overnight lodging units – Peter Gutowsky, Planning Manager

19

Peter Gutowsky summarized the application to date. Vice Chair Criss asked if this would fix the problem. Peter said staff has coordinated with the applicant, legal counsel has been involved, and from a staff standpoint this text amendment is plausible to remedy the need for overnight lodging units. Before the application was initiated, we reached out to DLCD which has no concerns. If this application is successful, staff will track their time and the reports submitted by the applicant – we may need a fee to recover costs for this and all hours will be documented. Chair Palcic and Peter discussed that we are in uncharted territory here. Deschutes County has the most destination resorts in the state, and they were established to bring in visitation which they have done. The state helped lead the Goal 8 process and we heard no issues from them before the formal hearing on this application commenced.

Nick said that it is incumbent on us as staff to demonstrate whether this addresses the issue and we need transparency/a public process. We need to provide these reports on an annual basis – it has been a challenge and the rules have changed.

Commissioner Swisher felt this entire issue is troubling. Eagle Crest was one of the new places after the Code changed. He would much rather see the units built and the bonding in place, but historically we cannot completely go back and blame and the owners and developers. This is a solution that bears watching and annual reporting to see if it works, but he would not want to see this solution being applied to new applicants. If we have more destination resorts we need to hold to the standard. This solution mitigates a historical issue, but he is still troubled by it.

Chair Palcic said he worries about whether we are compounding problems or solving them, as well. What kinds of challenges will we face if this is approved? Commissioner Crawford felt that no matter what, we do set precedents. He is concerned about what the lots were originally platted for and has serious considerations about approving this. Commissioner Swisher suggested that if the Commissioners do approve this, the penalty portion be doubled. Vice Chair Criss felt that Deschutes County has taken quite a few liberties with Goal 8. We need to be careful and understand that we need to do business differently in the future. This does address the problem with Eagle Crest and gets things closer to where they should be, but he is concerned about Judge Lipscomb's letter and the precedents we may not want to be involved in. Some time ago, we had someone in here testifying about how they could not sell homes due to deed restrictions and rental requirements. So now we don't have deed restrictions and we'll just count rentals as overnights. He is not so sure this will fix the real problem and is concerned about certain legal precedents. Chair Palcic said we should aspire to do the right thing and not bail out the bottom of the boat. This patchwork will come back to haunt us. We really should be trying to get this right. Commissioner Kirby asked if we have requested guidance from the state and whether terms are evolving. Peter said the applicants do fall under the obligation to make units available for overnight use through a central reservation system. They have that role and responsibility today and the obligation to submit the text amendment. The entire text amendment was shared with the DLCD and we conveyed to them that we would like to know if they had any concerns – they have indicated they do not.

Commissioner Tunno said that this definition and Goal 8 are not about managing the brick and boards of real estate. Real estate includes structures attached to the land. Goal 8 talks about the use of a brick and board structure – using individual units for overnight lodging. This whole evolution includes reserving through online booking agencies to use these spaces. She does disagree with the confusion about booking agencies and the Judge's interpretation about Goal 8 – the discussion is about how this resort can meet the

requirements and prove that they are making available so many units for overnight lodging. On whom does the onus fall to do this? She doesn't see the problem with this and feels some of the terminologies have gotten off track with actual use of real estate. Chair Palcic said the effort is admirable but it doesn't get us where we want to go.

Commissioner Swisher appreciated Commissioner Tunno's description. What would "better" be? Chair Palcic said there are other approaches to this and it has many holes. We don't "know" and are calling it a pilot program which says a lot. Commissioner Swisher said he hoped no other resort would use this methodology. Chair Palcic said he was recently at a hearing where the applicant used photos and tried to justify their exception to the rule by saying other parcels already violated it. That puts more gravity on getting this right so it isn't another picture in the scrapbook.

Vice Chair Criss remarked this has been narrowly fashioned to deal with the applicant's issue and not set a precedent. Chair Palcic said down the road, one piece of this might work for someone and they'll need that and won't see how it would be a problem. Commissioner Tunno said that each of these resorts is hatched in a different timeframe with a changing landscape – how would this effort ever be applicable to any other resorts of today? The custom things we do for South County do not apply anywhere else. Chair Palcic asked how many overnight units have been built at Pronghorn – there's still Caldera, etc. There are a number of these that have not complied, so they may indeed want to use part of this.

Peter Gutowsky spoke about the language tying this to Eagle Crest-specific property. All of the other resorts are complying with the Code. Pronghorn posted millions of dollars to fund a two-phase hotel; Phase 1 in 2017 and Phase 2 in 2018. Once built, they will no longer need to bond because they'll have met the ratio. For any other platted units, they will need overnights. Thornburgh has a bond and is building hotels – we are making sure any proposed plats maintain the 2.5:1 ratio; the same is true of Caldera Springs. Tetherow uses Conditions of Approval Agreements. This text amendment is dealing with a resort that does not have the ratio in compliance; the others do. Eagle Crest wants to use its online reservation system to demonstrate compliance. Nick added that if other resorts were to amend the Code, they could then amend their conceptual and final master plans and either have deed restrictions, be bonded or have this new option to comply. Pronghorn is only half built out; a Thornburgh hearing is on the horizon. It would be a significant hurdle to get over as to whether the Planning Commission and Board want to extend this to other resorts. It is possible that the Code could be amended. The question is whether it is practical.

Motion: Vice Chair Criss motioned to move this forward with approval. Seconded by Commissioner Swisher.

Discussion:

Commissioner Swisher asked what happens if the Planning Commission has no recommendation; Nick said we would take that to the Board to consider.

Commissioner Swisher said he was contemplating withdrawing his second and recommending moving this forward to the Board without a recommendation. Vice Chair Criss said he is past worrying about other resorts using this because they would have to apply for it. If this fixes the problem with Eagle Crest, great, but this should not be the norm for destination resorts in the County. Nick discussed the Thornburgh case and said that the first 50 units have to be built prior to the sale of real estate.

51

Commissioner Swisher said he would let his second stand. Chair Palcic again wanted to reinforce that he agrees with Judge Lipscomb on this and we should try to achieve better. Commissioner Swisher mentioned this would get tax dollars flowing.

Motion passed.

VI. PUBLIC COMMENTS:

Nunzie Gould encouraged the Commissioners to look at the legislative history as to why the resorts wanted to increase their overnights and how the standard went from 2 to 2.5. It is hypocritical that it is a challenge now – this is a slippery slope and every resort now wants 2.5 to 1 instead of 2 to 1. Pronghorn has put multiple bonds before the County with something like six extensions. Overnights are not being built and that is rural sprawl. It is incumbent on this Commission to understand what that is doing in the community. Get the legislative history from DLCD. Eagle Crest has been the tiger and Deschutes County has been whiplashed to the tail.

VII. PLANNING COMMISSION AND STAFF COMMENTS:

The Goal 11 public hearing is next Wednesday at 6:00 in Sunriver. The Board on Monday said they had not ever seen this many controversial, high-profile projects on their plates in such a short period of time. Peter Gutowsky and Commissioner Kirby discussed the issue of hunting sage-grouse and why it is allowed. Peter will be providing more information.

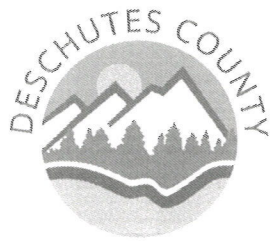
VIII. ADJOURN

There being no further business, the meeting was adjourned.

Respectfully submitted,

Sher Buckner
Administrative Secretary

82



COMMUNITY DEVELOPMENT

Code Compliance Program Policy and Procedures Manual

June 30, 2021

To request this information in an alternate format, please call (541) 395-1707 or send an email to cdd-webmaster@deschutes.org

83 to end of document

TABLE OF CONTENTS

- Preface..... 3
- I. Mission..... 4
- II. Purpose..... 4
- III. Interpretation..... 4
- IV. Code Compliance Philosophy..... 4
 - A. Enforcement Levels..... 4
 - B. Sequence of Enforcement..... 5
 - C. Criteria for Choosing Level of Enforcement..... 5
- V. Priorities for Code Enforcement..... 5
 - A. Priority Cases..... 5
 - B. Lower Priority Cases..... 5
 - C. Solid Waste..... 6
- VI. Applicability..... 6
- VII. Initiation of Code Enforcement..... 6
 - A. Resident Complaints..... 6
 - B. Observation by Code Compliance Staff..... 7
 - C. Proactive Code Enforcement..... 7
 - D. Permit/Approval Condition Monitoring by CDD Staff..... 7
 - E. Report by County Staff..... 8
 - F. Report by County Commissioner..... 8
 - G. Information from Official County Records..... 8
- VIII. Recording Complaints..... 8
- IX. Notice of Investigation..... 8
- X. Investigation..... 9
 - A. Preliminary Matters..... 9
 - B. Establishing the Elements of a Violation..... 9
 - C. Assignment of Investigation and Enforcement Responsibility..... 9
 - D. Field Investigation..... 10
 - E. Report of Field Investigation..... 11
- XI. Enforcement Procedures..... 11
 - A. Voluntary Compliance..... 11
 - B. Pre-Enforcement Notice..... 12
 - C. Citation and Complaint..... 13
 - D. Injunctions..... 14
 - E. Permit Revocation..... 15
 - F. Nuisance Abatement..... 15
 - G. Dangerous Building Abatement..... 15
 - H. Investigative Fees..... 15
 - I. Assisting Enforcement by Other Regulatory/Licensing Agencies..... 16
 - J. County Cost Recovery..... 16
 - K. Liens..... 16
- XII. Resolution of Code Complaints..... 17
- XIII. Amendments..... 17

PREFACE

Code enforcement in Deschutes County is a priority of the Board of County Commissioners ("Board"). The Board believes the policies and procedures in this manual will enhance code compliance and thereby the quality of life in Deschutes County.

In August 1994, the Board established the Deschutes County Code Enforcement Task Force to study County Code Enforcement, to recommend improvements to the program and to identify statutory or County Code changes that could increase the effectiveness of County Code enforcement. The task force included residents, representatives of the construction and real estate industries, representatives of the state court system and law enforcement, County Legal Counsel, managers of the County's Community Development Department ("CDD") and the County's Code Enforcement staff.

The task force met three times during 1994. In January of 1995, they presented a report to the Board containing their recommendations. The Board accepted those recommendations, and directed County staff to begin to implement them. Among the recommendations was the development of a County Code Enforcement policy and procedures manual.

The key task force recommendation in 1995 was the implementation of a more "proactive", or County-initiated, Code Enforcement program. Such a program would begin simultaneously with adoption of the manual and would apply to County Code violations occurring on or after the effective date of the manual. This recommendation effectively created a two-pronged approach to code enforcement— somewhat different policies and procedures for violations occurring before, and after, the effective date of the manual. The intent of this approach was both to increase code enforcement after giving the community ample notice of the County's new, "tougher" enforcement policy, as well as to set enforcement priorities and manage the County's Code Enforcement workload in a manner that is realistic, clear and credible to the community. The original policies and procedures manual reflected this new approach.

The County amended the manual in 1997 to reprioritize the criteria in Section IV and to reclassify and add enforcement staff. Since then, the County added Deschutes County Code ("DCC") Chapter 1.17 to adopt the required administrative hearings process required by ORS 455.157 adopted by the State Legislature in 2009 for building and specialty code violations. The County also amended Chapter 1.16 to add an additional injunctive remedy once a violation is cited into Circuit Court.

In 2014, CDD staff reviewed the manual and suggested changes to the Board, which reviewed the staff-proposed changes and made additional revisions.

In 2021, CDD staff reviewed the manual again and suggested changes to the Board. A noteworthy recommendation from this review was an option to change the title of the Community Development Department program from Code Enforcement to Code Compliance. The concept behind this change, which was adopted by the Board, was to better align the program title with its objective. This manual update is reflective of this and other minor operational updates approved by the Board.

By the guidance of this 2021 manual and integration of the County's "Every Time Standards", the Community Development Department Code Compliance Program will continue protecting and enhancing the quality of life in Deschutes County.

I. MISSION

The mission of Deschutes County's Code Compliance Program is to protect the health and safety of the County's residents and visitors, and the livability of the community, by assuring compliance with the County's land use, environmental and construction codes. The County will assure County Code compliance both by encouraging voluntary compliance and by sanctioning code violators who do not comply.

II. PURPOSE

The purpose of the Deschutes County Code Compliance Program Policy and Procedures Manual (hereafter "manual") is to provide written guidelines for:

- A. The prioritization of code enforcement cases;
- B. Initiation and investigation of code violation complaints;
- C. Enforcement of the County Code through voluntary compliance;
- D. Prosecution of code violators who do not comply;
- E. Sanctioning of code violators and the assessment of fines and penalties; and
- F. Recovery of the County's investigation and enforcement costs.

These written guidelines are intended to increase consistency and predictability within the County's Code Compliance Program, and to educate the County's residents and property owners about code compliance and the consequences of violating the County Code.

III. INTERPRETATION

This manual describes the standard policies and procedures for code compliance, and should be interpreted so as to maximize both the efficiency of the program and operations as well as compliance with County Code. This manual should be followed unless otherwise directed by the CDD Director or designee, the County Administrator or designee, or the Board of County Commissioners ("Board").

IV. CODE COMPLIANCE PHILOSOPHY

Policy: The County's policy is to achieve compliance with County Code in all cases of reported and verifiable code violations. However, the County may not always have sufficient resources to expeditiously address all cases. Consequently, the County has established, through this manual, both a priority ranking for code enforcement and procedures designed to maximize available code compliance resources. The Code Compliance Program should follow the priority ranking set forth in Section V of this manual. It also should be flexible enough to allow the level of enforcement that best fits the type and circumstances of the code violation(s), within clear and objective criteria set forth in this manual and consistent with the priorities.

- A. Enforcement Levels.** The levels of enforcement available to the County are:
- 1. Mediated settlement of code violation complaints;
 - 2. Pre-Enforcement Notice (hereafter "PEN");
 - 3. Investigative fees on permits required for code compliance;
 - 4. Obtaining voluntary compliance;
 - 5. Warning letters;
 - 6. Citation and prosecution of violation in state court or Notice of Violation and Proposed Civil Penalty (hereafter "NOV") through County administrative hearings;
 - 7. Petition for injunction in circuit court;
 - 8. Nuisance or dangerous building abatement;
 - 9. Permit revocation

- B. **Sequence of Enforcement.** The levels of enforcement are not mutually exclusive, and may be used alone or in sequence or combination with other levels. However, in most code violation cases, the County will use the code enforcement levels in the sequence they appear in Paragraph A.
- C. **Criteria for Choosing Level of Enforcement.** Some code violation cases may have aggravating circumstances requiring a different sequence for enforcement activity than that set forth in Paragraph A. The County may choose a different sequence if one or more of the following circumstances is present:
 1. The code violation is severe (e.g., deviates greatly from the Code);
 2. The violation poses a significant threat to public health and safety, or to the environment as determined by the Community Development Director or designee;
 3. The violation may cause economic harm to residents or to the County as a whole;
 4. The physical size or extent of the violation is significant as determined by the Community Development Director or designee;
 5. The violation has existed uncorrected for a significant period as determined by the Community Development Director or designee;
 6. There is a previous history of complaints and code enforcement on the subject property and/or with the alleged code violator;
 7. There is good potential for combining enforcement action on the violation with other violations;
 8. There is little likelihood of obtaining voluntary compliance.

V. PRIORITIES FOR CODE ENFORCEMENT

Policy: County staff shall attempt to investigate and resolve all code violations within budget and staffing resources. However, because of limited code compliance resources, there may be times when all code violations cannot be given the same level of attention and some code violations may receive no attention at all for a period of time as determined by the Community Development Director or designee.

In circumstances where not all code violations can be investigated, the most serious violations, as determined under the priorities set forth in this section and the criteria for enforcement in Section IV(C) of this manual, shall be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations should be processed together to maximize efficiency.

- A. **Priority Cases.** The Board has established the following priorities for CDD code violations:
 1. Violations that present an imminent threat to public life, health and safety;
 2. Violations which impact rivers, streams, floodplains, and wetlands,
 3. Solid Waste Code violations, Environmental Soils violations, and Building Code violations consisting of ongoing non-permitted construction or failure to obtain permits;
 4. Land use violations.

B. Lower Priority Cases

Policy: Complaints alleging code violations that do not fall within the priority ranking above should be processed in the order in which the complaints are received, and as code enforcement resources allow.

Exception. At the discretion of Code Compliance Specialists and in consultation with the Community Development Director or designee staff, complaints may be processed in any order that maximizes the efficiency of enforcement.

Procedure: All complaints concerning a particular type of code violation (e.g., non-permitted manufactured homes in manufactured home parks), or all complaints of violations occurring in a particular geographic area, may be processed together, regardless of the order in which the complaints are received.

C. **Solid Waste.** The County Solid Waste Department may engage any other County Department/ Office to administer its code compliance program for County solid waste code violations.

VI. APPLICABILITY

Policy: This manual applies to all code compliance administered by CDD, its employees and agents. Except as otherwise provided, the policies and procedures in this manual apply to all alleged code violations whether or not they existed or were known by the County on the effective date of this manual. The policies and procedures in this manual supersede any conflicting County policies and procedures.

Non-Applicability to Covenants, Conditions and Restrictions. Many subdivisions and planned communities are subject to private, recorded covenants, conditions and restrictions (CC & Rs). The County's policy is not to enforce private CC & Rs.

Non-Applicability to Private Legal Action. Residents may undertake private legal action to enforce County Code, including civil litigation against the alleged code violator, as well as personally filing citations and prosecuting County Code violations in court. The policies and procedures in this manual do not apply to private legal action to abate violations. Neither should they be interpreted to suggest that the County will participate in such private legal action.

VII. INITIATION OF CODE ENFORCEMENT

Code enforcement may be initiated by any of the following methods:

A. **Resident Complaints.** Any person may make a complaint to the County alleging one or more code violations.

- 1. **Form.** A resident may initiate a complaint by submitting a letter or email, complaint form (available online), or by contacting CDD in person or by telephone. If a resident submits a complaint by phone or written communication other than a completed complaint form, County staff shall complete the complaint form. If the County receives a written complaint other than the County-approved complaint form, the written complaint shall be attached to a complaint form completed by County staff. To be investigated, a resident complaint must contain all information required on the complaint form.

2. **Anonymous Complaints**

Policy: The County's policy is to not accept anonymous County Code violation complaints.

The County believes that anonymous complaints are not as reliable as those made by complainants who are willing to identify themselves. In addition, in many cases, the complainant's identification and testimony in court may be necessary for successful prosecution of Code violators and code enforcement.

Exceptions. The County recognizes there may be cases justifying an exception to this policy. These are cases where the nature of an anonymous complaint reliably suggests the existence of code violations presenting an imminent threat to public life, health and safety or to the environment, which threat easily may be verified by County staff. In such cases, as determined by the CDD Director or designee, County staff shall accept the anonymous complaint for investigation.

3. **Confidentiality**

Policy: The County's policy is to maintain the confidentiality of code enforcement complaint files and computer records, including the identity of the complainant, to the extent legally possible. The County believes it is important to maintain this confidentiality to assure effective investigation and prosecution of code violations. In addition, the County recognizes that some complainants do not want their names disclosed to the alleged code violator for fear of retaliation. However, in

some cases it may be necessary for successful prosecution and enforcement for the complainant to be identified and to testify in court.

Exceptions. In cases where the County chooses to cooperate with, or defer to, federal or state agencies for code enforcement, the contents of the file may be disclosed, as necessary, to the other agency.

Procedure: In order to maintain the confidentiality of code enforcement complaint files and the identity of the complainants, while assuring effective prosecution and enforcement and compliance with state law, the following procedures apply:

- a. Code enforcement files will be maintained as confidential files throughout investigation, violation prosecution and/or other types of code enforcement to the extent legally permissible.
 - b. The contents of code enforcement files will not be disclosed to anyone other than County staff who have a reason to know about and who are involved in the investigation, or to similar staff of an agency with which the County is cooperating. The contents of the file will not be disclosed to any other person absent court order, until: 1) the investigation is complete and a citation discovery request is made; or 2) the file is closed and disclosure is made pursuant to the public records law.
- B. Observation by Code Compliance Staff.** Code enforcement staff often observe additional potential County Code violations while conducting complaint investigations. Such observations may form the basis for additional investigation and enforcement action.

Policy: The County's policy is that code enforcement staff document any potential code violations the staff observes on property that is the subject of their current investigation. Code enforcement staff shall investigate documented additional potential violations. If substantiated, staff may address noted additional violations. Staff may also document and address code violations observed on any property adjacent to the subject property, which violations are observable from the subject property.

- C. Proactive Code Enforcement.** Within available code enforcement resources, the County may undertake a number of County-initiated procedures for proactive code enforcement. These procedures may include:
- 1. Investigations and prosecutions of code violations in particular geographic areas;
 - 2. Investigations and prosecutions of code violations of a particular type throughout the County;
 - 3. Timely and regular follow-up by CDD staff for compliance with conditions and requirements for permits and approvals;
 - 4. Reporting by County staff of code violations observed while conducting County business;
 - 5. Examination and comparison of County files for evidence of code violations;
 - 6. Revocation of permits and approvals for failure to comply with requirements or conditions;
 - 7. Cooperation with code compliance by other regulatory and licensing agencies; and
 - 8. Cooperation with utility companies to terminate service, to the extent authorized by law, to non-permitted uses on property.
- D. Permit/Approval Condition Monitoring by CDD Staff.** The County routinely issues land use, environmental and construction permits with a variety of requirements and conditions, and timelines for meeting them. For example, a land use approval may require landscaping the site by a certain date, and building permits expire if construction progress and inspections are not made within periods set by state law. Code violations occur when these permit and approval conditions are not timely met.

Policy: The County's policy is that CDD staff may conduct timely and regular monitoring of conditions of approval and similar permit requirements for all permits and approvals.

Procedure:

1. All persons issued permits or approvals shall be given written notice of the consequences of failure to comply with requirements and conditions, including potential code enforcement.
 2. If any permits and approvals are found not to be in compliance with conditions of approval or other permit requirements, staff in the appropriate CDD division assigned to the permit or approval monitoring shall undertake appropriate action to obtain compliance.
 3. If the assigned CDD staff are unable to obtain compliance within a reasonable time established for that purpose, they shall report the violation and any enforcement action already taken to Code Compliance staff for further code enforcement action.
- E. Report by County Staff.** In many cases, County staff may be in a unique position to observe potential code violations. For example, a property appraiser in the Assessor's office may be the only person able to observe new construction for which there is no permit.
Policy: Any County staff member may report to code enforcement staff possible Code violations observed while conducting County business.
Procedure: Reports by County staff under this subsection shall be made on a complaint form provided by CDD Code Compliance Staff.
- F. Report by County Commissioner.** A County Commissioner may report a potential code violation, or request that code enforcement staff investigate a resident report of a potential code violation by submitting a complaint form or in any other written form or requesting CDD staff to submit a complaint form on behalf of the Commissioner, along with necessary information to initiate an investigation.
- G. Information from Official County Records.** Potential code violations may be discovered by examining the County's own official records. For example, cross-referencing between the Assessor's records and CDD's records may reveal construction or land use activity without necessary permits or approvals. CDD staff may also discover code violations by comparing the County's own land use, environmental health and construction permit records with each other.
Policy: CDD staff may regularly compare all pertinent County records to identify potential Code violations.
Procedure: Code violations discovered through comparison of information in County files shall be reported to Code Compliance on a complaint form.

VIII. RECORDING COMPLAINTS

All complaints received by the Code Compliance Program shall be recorded in CDD's computer system. The Complaint Record is the official record of the complaint and its investigation and resolution. The Complaint Record shall include the following minimum information:

1. An assigned complaint number;
2. The tax map number and tax map for the subject property;
3. Which code enforcement staff is assigned to the case;
4. The complaint form;
5. Documentation of investigation;
6. Assessor's information on the subject property.

IX. NOTICE OF INVESTIGATION

When Code Compliance staff initiates an investigation, they may provide notice to any CDD division, other County department, or federal or state agency that may have an interest in the alleged code violation.

X. INVESTIGATION

- A. **Preliminary Matters.** At the beginning of each investigation, the following shall be established:
1. **Jurisdiction.** The property upon which the alleged code violation exists must be in the County's code enforcement jurisdiction.
 2. **Zoning.** The zoning of the subject property shall be determined.
 3. **Permit Status.** The status of any land use, environmental soils, building, electrical, construction (including, but not limited to structural, mechanical, plumbing) or other similar permits on the subject property shall be determined.
 4. **Property Ownership.** All persons with a recorded legal interest in the subject property should be identified. These persons should include the owners, contract purchasers, lessees and lienholders or other security interest holders.
 5. **Other Potentially Responsible Persons.** In addition to the persons listed in subparagraph 4 of this paragraph, any other persons potentially responsible for the alleged code violation(s) should be identified. These persons could include tenants, construction and landscape contractors and excavators.
 6. **Identification of Applicable Code Provisions.** Code Compliance staff, with the assistance of other CDD staff and County Legal Counsel as necessary, shall identify the pertinent provisions of the County Code that may have been violated according to the complaint.
 7. **Prior Complaint History.** Code Compliance staff shall examine CDD records to determine the existence and status of any prior or existing code violation complaints on the subject property or concerning the alleged violator.
- B. **Establishing the Elements of a Violation.** Before a Pre-Enforcement Notice ("PEN") is sent, it must be determined whether the complaint establishes a code violation. If it does not, the case will be resolved by file closure as provided in Section XII of this manual. Code Compliance staff may, in some instances, make mediation referrals where such referral is anticipated to protect safety or livability.

Code Compliance staff, with the assistance of other CDD staff and County Legal Counsel as necessary, and after any necessary field investigation, shall determine if the following elements have been established.

1. **Responsible Person.** The person or persons who are reasonably believed to have committed the code violation, or who are or may be legally responsible for the alleged code violation, have been identified.
 2. **Alleged Violation Occurred or is Occurring.** A complaint may allege a code violation that occurred in the past (e.g., construction without a permit) or that occurs only intermittently (e.g., surfacing sewage from a drain field, or periodic non-permitted commercial activity in a residential zone). Code Compliance staff shall determine whether there are reasonable grounds to find the alleged violation occurred or is occurring. Such grounds may be established either by personal observation by Code Compliance staff or by reliable evidence from a complainant.
If Code Compliance staff determines that reasonable grounds do not exist, no enforcement action will be taken until the complainant or the Code Enforcement staff has had a reasonable opportunity to develop such grounds. If no reasonable grounds are developed within a reasonable period, the case will be resolved by file closure as provided in Section XII of this manual.
 3. **Relevance of Statute.** In some instances, a complaint may allege a code violation on property subject to other protections. A common example is the State's prohibition on local laws governing forest and farm practices (ORS 30.934 and 30.935). Code Compliance staff shall, with the assistance of other CDD staff and County Legal Counsel as necessary, consider the relevance of statutes in substantiating a County Code violation. If Code Compliance staff verifies conflicting relevance under the law, the case should be resolved by file closure as provided in Section XII of this manual.
- C. **Assignment of Investigation and Enforcement Responsibility**

Policy: The responsibility for field investigation and code enforcement should be assigned to the CDD staff most able and qualified to conduct the investigation and undertake appropriate enforcement action. For example, alleged violations of environmental soils/health codes may best be investigated and resolved by County Environmental Soils Specialists. However, all code enforcement activity should be coordinated with Code Compliance staff and all PEN's and Voluntary Compliance Agreements (VCA's) will be drafted by Code Compliance staff.

Procedure:

1. **Assignment.** Assignment of field investigation and code enforcement responsibility shall be made by the CDD Director or designee, on a case-by-case basis or pursuant to standing policies in this manual or elsewhere. The following criteria shall be used for assignment of responsibility:
 - a. The nature of the code violation(s) alleged in the complaint;
 - b. The knowledge and expertise needed to investigate the alleged violation;
 - c. The history of prior code enforcement on the subject property or with the alleged violator;
 - d. The status of permits and approvals on the subject property; and
 - e. The workload of the relevant CDD division staff and the projected timeline for investigation and resolution of the complaint.
2. **Coordination.** Whenever responsibility for code enforcement activity is assigned to CDD staff other than Code Compliance staff, such staff shall consult with Code Compliance staff and keep them advised of their activities. When CDD staff other than Code Compliance staff is assigned to investigate a code violation complaint for which a Complaint Record has been created, such staff shall enter into the record a report of any action undertaken to investigate or to obtain compliance.

D. Field Investigation

1. **Purpose.** The purposes of code enforcement field investigation are to:
 - a. Verify the existence and severity of code violations;
 - b. Document code violations by means of written notes, photographs, witness interviews, etc.; and
 - c. Obtain supporting evidence such as photographs, measurements, names and statements of potential witnesses, etc.
2. **Coordination.** Whenever responsibility for field investigation is assigned to CDD staff other than Code Compliance staff, the coordination and notification described in Paragraph C (2) of this section shall occur.
3. **Preparations and Precautions**

Policy: Code Compliance staff and other assigned CDD staff, as well as members of the public, should not be exposed to unreasonable risks of violent confrontation or injury during the course of field investigations. Code Compliance staff and other assigned CDD staff shall take whatever actions are reasonable and necessary to minimize the known risk of violent confrontation or injury to themselves or others in conducting their field investigations.

Procedure:

- a. **Law Enforcement Assistance.** When appropriate, Code Compliance staff or other assigned CDD staff should contact the Sheriff's Office to determine if there have been previous criminal complaints or investigations concerning the subject property or alleged code violator, and whether, in the opinion of the Sheriff's Office, a field investigation would present any threat to the safety of Code Compliance staff, other staff, the alleged code violator or other persons present during a field investigation. Code Compliance staff or another assigned CDD staff person may request law enforcement assistance in conducting the field investigation, and may postpone such investigation until law enforcement assistance is available.
- b. **Announced/Unannounced Field Visits.** At the discretion of Code Compliance staff or other assigned CDD staff, a field visit to the vicinity of the subject property may be conducted with or

without prior notice to the property owner, occupant or alleged code violator. The determination of whether or not to give prior notice shall be made on the basis of the following criteria:

1. The nature of the alleged violation;
2. Whether or not prior notice will make detection and documentation of the alleged violation more difficult; and
3. Whether or not prior notice will unnecessarily increase the known risk of violent confrontation or injury to Code Enforcement staff or other assigned CDD staff.

c. Entering Upon Property or Premises

Policy: It is the County's policy that Code Compliance staff and other assigned CDD staff shall not enter upon private property or premises to conduct a field investigation without authority to enter.

Procedure: Code Compliance staff may enter unposted property to seek permission to investigate on the premises. Unless permission is granted, the investigation shall be conducted from public roads or property where permission to enter has been granted. If Code Compliance staff or other assigned CDD staff does not have permission or other authority to enter upon property or premises, and entry upon the property or premises is necessary to conduct the investigation, Code Compliance staff or other assigned CDD staff shall consult with County Legal Counsel about obtaining a search warrant.

E. Report of Investigation

Report. Upon completion of the initial investigation, Code Compliance staff or other assigned CDD staff shall complete a report of investigation in the Case Record. The Field Investigation Report should be completed as soon as reasonably possible after the date and time of the field visit to ensure a complete and accurate report.

1. The report shall include at least the following information:
 - a. Name of investigator;
 - b. Date, time and place of field visit;
 - c. Code violation(s) observed;
 - d. If no code violation(s) observed, an explanation;
 - e. Witnesses, if any, interviewed and other persons present, if known, on site at the time of the investigation;
 - f. Evidence, if any, obtained (e.g., photographs);
 - g. Discussion, if any, of violation with owner, occupant or other responsible person;
 - h. Action necessary, if known, to correct violation; and
 - i. Recommended enforcement action.
2. **Complainant Notification.** Upon completion of the initial investigation, Code Compliance staff shall notify all resident and other agency complainants of the status of complaint investigation. This notification should include information on whether a case will be opened, the reason a case will or will not be opened, and name and contact information of the staff member assigned the code enforcement case.

XI. ENFORCEMENT PROCEDURES

A. Voluntary Compliance

Policy: The primary objective of the CDD Code Compliance Program is voluntary compliance. Staff encourages voluntary code compliance by providing code violators and other responsible persons with information about the County Code and an opportunity to comply with the County Code within reasonable timeframes and with little or no penalty. The County believes that voluntary compliance generally is less expensive for all parties and of a more satisfactory and lasting nature than involuntary compliance.

Notwithstanding this objective, the County believes that allowing Code violators the opportunity to voluntarily comply any time during code enforcement, or outside reasonable time limits for such

compliance, may actually result in abuse of this opportunity in order to delay compliance. Therefore, it is the County's policy to limit the time frame during which Code violators may come into voluntary compliance with little or no penalty. **Procedure:**

The following procedure shall apply whenever a Code violator brings his or her property into compliance during the code enforcement process:

1. **Compliance Timing and Staff Response**

Timing of Compliance	Disposition
After complaint/ before citation or NOV.	File closed. Application of permit investigative fees where applicable.
After citation/before trial or hearing before hearings officer	CDD recommends dismissal of citation, no cost recovery, application of permit investigative fees where applicable.
At time of trial or hearing before hearings officer	CDD recommends prosecution, conviction or guilty plea, fine or civil penalty, injunction, cost recovery, application of permit investigative fees where applicable.

2. **Limited Time Frames.** Opportunities for voluntary compliance, where provided, shall be of limited duration. The facts in each case differ. Therefore, Code Compliance staff shall consider the appropriate time frame for compliance on a case-by-case basis.
3. **Time Extended by Voluntary Compliance Agreement.** Following the issuance of a PEN, if the alleged violator admits the violation(s) and requests extended time for voluntary compliance, the alleged violator shall sign a "Voluntary Compliance Agreement in a form acceptable to the County." County Legal Counsel will determine what is acceptable to the County. The agreement shall provide that, in exchange for the extended time for voluntary compliance, the alleged violator agrees to abate the violation(s) by a specified time, and, if voluntary compliance is not obtained during this extended time, to waive hearing in any subsequent violation proceeding and consent to entry of judgment and imposition of penalties, costs, injunction, and/or such other relief as is deemed appropriate.

B. **Pre-Enforcement Notice (PEN)**

1. **Timing.** When Code Compliance staff or other assigned CDD staff determines there are reasonable grounds to find a violation did or does occur, based upon the information in the complaint and any field investigation, an PEN shall be sent on a standard form approved by the CDD Director or designee in a letter or notice sent by the appropriate CDD division staff.
2. **To Whom Sent.** A PEN shall be sent to all persons liable for the violation under Deschutes County Code.
3. **How Sent.** PENs shall be sent by certified mail or by other method of delivery as approved by the CDD Director or Designee to the best available address for the persons described in Subsection 2 above. Email may be used in addition to certified or other mail delivery options to expedite the notification process.
4. **Follow Up.** If, within 15 days of the mailing of the PEN, the liable persons have not contacted Code Compliance staff, staff shall determine the next step in the code enforcement process, including warning and/or citation.
5. **Compliance.** If the Code Compliance staff determines that the required corrections have been made or the liable persons have provided evidence that no violation exists, the date and method of compliance shall be noted in the Complaint Record and the case shall be resolved by file closure pursuant to section XII of this manual.
6. **Corrective Action.** In some cases, corrective action may consist of both applying for and obtaining necessary permits or approvals. In such cases, the permit or approval application alone will not be

sufficient to assure compliance. The liable person must complete the application process, including all appeals, within a reasonable time and not allow the application to expire. Once permit approval is obtained, the liable person must complete all permit conditions prior to the expiration of any permit approval.

Policy: All code violation cases shall remain open until all permit conditions and other required corrective measures are completed.

Procedure:

- 1. Where the required corrective action consists of both applying for and obtaining permits or approvals, Code Compliance staff, in consultation with other appropriate CDD staff, shall determine a reasonable time frame for applying for and obtaining the necessary permits or approvals.
- 2. If at any time during the process for obtaining necessary permits or approvals the alleged violator fails to meet the reasonable timelines established by Code Compliance staff and such failure does not result from the actions of others, Code Compliance staff shall cite the alleged violator pursuant to Paragraph C of this section.
- 3. If the alleged code violator is not granted the necessary permits or approvals, Code Compliance staff shall cite the alleged violator pursuant to Paragraph C of this section unless (a) the alleged code violator enters into a written agreement with the County to comply with the County Code within a time frame established by Code Compliance staff, or (b) a lender has begun foreclosure proceedings and, in the opinion of Code Compliance staff, is likely to address the violation within a reasonable time after the foreclosure.

C. Citation and Complaint

- 1. **Non-Compliance.** Where voluntary compliance cannot be obtained by CDD within a reasonable timeframe, Code Compliance staff may cause a citation to issue or may issue a Notice of Violation and Proposed Civil Penalty (NOV) and initiate administrative enforcement hearing proceedings in accordance with County Code.
- 2. **Investigation Required.** No citation to state court or NOV shall be prepared unless and until an investigation has verified the existence of a Code violation.
- 3. **Form.** All citations to state court shall be on a uniform citation which conforms to ORS 153.045 through ORS 153.051. NOV's for administrative enforcement hearing proceedings shall be on the form required by County Code.
- 4. **Issuance of Citation.** Any person authorized by County Code Section 1.08.025 may issue a citation or NOV. The person issuing the citation or NOV must verify the conduct or circumstances constituting a violation.
- 5. **Service.** All citations to state court shall be served in accordance with ORS 153.154. NOV's shall be served in accordance with County Code.
- 6. **Setting Arraignment/Administrative Hearings.** For citations to state court, the officer serving the citation shall set the date for arraignment. For NOV's, Code Compliance Staff shall set the date for the hearing in accordance with the County Code.
- 7. **Arraignment in State Court**
 - a. **Purposes:** The purposes of arraignment are to:
 - 1. Allow the defendant to enter a plea to the citation;
 - 2. Resolve any jurisdictional issues;
 - 3. Set a trial date if the plea is not guilty; and
 - 4. If the plea is guilty, allow the defendant, the Sheriff's Office Deputy and other County Code Compliance staff the opportunity to provide information to the court regarding penalties and related matters.
 - b. **Appearance by County Legal Counsel.** County Legal Counsel shall not represent the County at arraignment unless the defendant has legal counsel at arraignment.

- 8. **Failure to Appear at Arraignment in State court.** If the defendant fails to appear at arraignment, Code Compliance staff may request that the court enter a default judgment in favor of the County and impose penalties against the defendant.
- 9. **Trial.** If the defendant pleads not guilty to the allegations in the citation, Code Compliance staff shall request that the court set the matter for trial at the earliest available date.
 - a. **Burden of Proof.** The County has the burden of proving at trial, by a preponderance of the evidence, the allegations in the citation.
 - b. **Responsibility of Code Compliance Staff.** At trial, the responsibility of Code Compliance staff is to prosecute the case by presenting evidence, calling witnesses and offering any relevant documents and other exhibits in support of the citation.
 - c. **Appearance by County Legal Counsel.** County Legal Counsel shall not represent the County at trial unless the defendant is represented by legal counsel at trial.

10. **Fines**

- a. **Schedule.** The schedule of maximum fines for County Code violations is set forth in DCC 1.16.010.
 - b. **Amount.** If the defendant is convicted, Code Compliance staff shall request that the court impose a fine in an amount consistent with the County Code.
11. **Suspension of Fines.** The Circuit Court has authority to suspend the imposition of all or a portion of a fine. In some cases, the court may wish to suspend imposition of a fine or a part thereof on the condition that the defendant comply with County Code within a specified time period.
- a. **Policy:** It is the County's policy to increase the effectiveness of code enforcement activity and the incentives for code compliance by discouraging any suspension of fines in County Code violation cases.
 - b. **Procedure:** If a defendant is convicted, Code Compliance staff and/or County Legal Counsel shall advise the court of the County's policy against fine suspension and shall ask the court not to suspend imposition of fines.
12. **Collection and Distribution of Fines.** Fines imposed by the state court for County Code violations are collected by the State Court Administrator and are remitted in part to the County. Fines imposed from civil penalty hearings are remitted to the County Treasurer.
- a. **Policy:** It is the County's policy that all fines imposed for County Code violations and remitted to the County should be used to pay the costs of County Code enforcement.
 - b. **Procedure:** All fines imposed by the court or the Code Enforcement Hearings Officer for County Code violations and remitted to the County shall be deposited in the CDD Revenue Fund for budgeting and expenditure in the Code Compliance program.

D. **Injunctions**

Policy: Code Compliance staff shall seek injunctions from the court in cases where other methods of code enforcement may be inadequate or have been unsuccessful.

Procedure:

- 1. **When Sought.** Code Compliance staff may request County Legal Counsel to obtain/ coordinate injunctions in any case in which:
 - a. Code violation(s) present an imminent threat to the public life, health and safety or to the environment; or
 - b. Code violations have not been corrected within a reasonable time after a defendant was found by the court or County Hearings Officer to be guilty of a code violation.
- 2. **By Whom.** Pursuant to DCC 1.16.040, Code Compliance staff (or County Legal Counsel if appearing in the case) may request that the court order injunctive relief and/or abatement as part of the penalty in a code enforcement proceeding. Alternatively, County Legal Counsel may initiate a separate legal action for injunctive relief and/or abatement of a violation.
- 3. **How Enforced.** After issuance of an injunction, if the defendant fails to comply within the time period specified in the injunction, the Sheriff's Office or CDD staff shall request that County Legal Counsel initiate civil contempt proceedings against the defendant.

E. **Permit Revocation.** Certain County Codes authorize the revocation of permits or approvals for failure to comply with their requirements or conditions.

Policy: To maximize code compliance, the County shall revoke permits and approvals to the extent authorized by law in appropriate cases. Revocation of permits are particularly appropriate in cases in which corrective action may not be effective in bringing the subject property into code compliance due to the nature of the violation and the deliberateness of the code violator's actions in violating the Code.

Procedure:

1. **Report to Code Compliance Staff.** If the County staff responsible for monitoring and/or reviewing a particular type of permit determines that the conditions or requirements of a permit or approval have not been met, that staff member shall inform Code Compliance staff of such violation, and Code Compliance staff shall enter the information in the code enforcement electronic files.
2. **Revocation Procedure.** The County staff responsible for monitoring and/or reviewing a particular type of permit shall determine whether to undertake permit revocation proceedings as authorized under the applicable County Code provisions. The following factors shall be considered:
 - a. Whether the criteria for permit revocation set forth in the applicable County Code provisions exist;
 - b. The severity of the deviation from the permit or approval requirements or conditions;
 - c. The deliberateness of the deviation from the permit or approval requirements or conditions; and
 - d. Whether compliance can be achieved more effectively through other code enforcement methods.

F. **Nuisance Abatement.** Chapter 13.36 of the Deschutes County Code (hereafter "Code") authorizes the abatement of County Code violations that are defined as "public nuisances."

Policy: County Code violations constituting public nuisances may be abated pursuant to Chapter 13.36 of the Code and within available resources.

Procedure: When County staff discovers or receives a verified complaint of a code violation that may constitute a "public nuisance," staff shall provide the information to Code Compliance staff who shall enter the information into the code enforcement file. Code Compliance staff or other assigned CDD staff may consult County Legal Counsel to initiate nuisance abatement proceedings pursuant to Chapter 13.36 of the Code.

G. **Dangerous Building Abatement.** Chapter 15.04 of the Code authorizes the abatement of buildings containing violations rendering them "dangerous buildings" as defined in the Code.

Policy: County Code violations that may render a structure a "dangerous building" shall be abated pursuant to Chapter 15.04 of the Code and within available resources.

Procedure: When Code Compliance staff or other CDD staff discovers or receives a verified complaint of code violations in a structure that may render the structure a "dangerous building," the staff shall provide the information to Code Compliance staff, who shall enter in the information into a Complaint Record. The Deschutes County Building Official (hereafter "building official") shall be notified and shall promptly consult with County Legal Counsel to initiate abatement proceedings under chapter 15.04 of the code.

H. **Investigative Fees.** Certain provisions of the state building code allow municipalities administering and enforcing a building inspection program to charge investigative fees for work commencing without the required permit.

Policy: To maximize the incentives to comply with County Code, the County shall charge investigative fees, to the extent authorized by law, for permits sought for non-permitted construction or installation.

Procedure: Whenever County staff discovers or receives a verified complaint of non-permitted construction or installation, the information shall be submitted to Code Compliance staff, who shall enter the information into the Code Compliance Complaint Record.

To the extent allowed by law, the County shall charge investigative fees for the permit(s) necessary to comply with the County Code.

I. **Assisting Enforcement by Other Regulatory/Licensing Agencies.** In some cases, County Code violations also may constitute violations of federal and/or state statutes or administrative rule. For example, surface mining without County land use approval may also violate state statutes and administrative rules governing mining, and performing building construction without necessary permits may also constitute violations of state statutes and administrative rules governing the conduct of licensed contractors.

Policy: To maximize code enforcement and the incentives for compliance, County staff shall promptly advise the appropriate federal and/or state agency of County Code violations reported or discovered that may also violate the statutes or administrative rules of that agency.

The County shall also cooperate with federal or state agencies, to the extent authorized or required by law or by intergovernmental agreement, to obtain voluntary compliance or to punish violations. The County may defer investigation and prosecution to the appropriate federal or state agency in cases in which, as determined by the CDD Director or designee, the federal or state agency enforcement procedure will result in more effective correction of the violation(s).

Procedure:

- 1. **Reporting.** Whenever County staff discovers or receives a verified complaint regarding a County Code violation that may also constitute a violation of federal or state statute or administrative rule, the staff shall advise the appropriate federal or state agency.
- 2. **Cooperation.** To the extent authorized or required by law or by intergovernmental agreement, County staff shall cooperate with the federal or state agency to obtain voluntary compliance or to prosecute and punish violations. That cooperation may include sharing information, conducting joint investigations, appearing as witnesses and/or providing evidence in enforcement proceedings, and coordinating the timing of investigations and/or enforcement proceedings to maximize their effectiveness.
- 3. **Deferral to Other Agency.** The County may defer some or all code enforcement to a federal or state agency, and forego County Code enforcement, where the Board, CDD Director or the Director's designee determines that the federal or state enforcement activity will be more effective than County Code enforcement. In making the determination to defer to other agencies, the following factors shall be considered:
 - a. The nature of the violation and necessary corrective action;
 - b. The comparative severity of the penalties available to the federal or state agency and to the County; and
 - c. The comparative time frames required for enforcement by the federal or state agency and by the County.

J. **County Cost Recovery.** The County incurs costs investigating code violations and enforcing codes. They include the cost of personnel and equipment, legal advice and representation, service of citation, and administrative expenses.

Policy: It is the policy of the County to maximize code enforcement and to increase the incentives for code compliance by recovering its reasonable code enforcement costs from code violators.

Procedure: In determining whether to cite a code violator to court or to engage in the administrative hearings process, Code Compliance staff may consider which process will prompt code compliance and/or result in the maximum cost recovery to the CDD.

K. **Liens.** In many cases, the most effective way for the County to recover its code enforcement costs, as well as to collect any civil penalties assessed through administrative hearings, is to file a legal claim for those costs or penalties against the property subject to code enforcement, or against other property owned by the code violator.

Policy: It is the County's policy to assure recovery of its costs, as well as the collection of civil penalties assessed through administrative hearings, by filing claims for those costs and penalties in the form of liens on property subject to code enforcement, or upon other property owned by code violators.

Procedure: In the appropriate cases, the County staff will explore with County Legal Counsel the means by which liens may be placed against the real property of the code violator for the collection of code enforcement costs and civil penalties assessed through County administrative hearings.

XII. RESOLUTION OF CODE COMPLAINTS

Policy: It is the County's policy to attempt to reach final, satisfactory resolution of all code violation complaints. However, the County recognizes that not all complaints may be resolved successfully, due to factors outside the County's control. These factors can include the indigence of the code violator, the lack of County or other resources to assist the violator, statutory limitations on potential fines or other penalties for code violations, and the large number of complaints to be resolved.

Therefore, the County shall focus its code enforcement resources on the code violations that meet the priorities set forth in Section V of this manual, and attempt to resolve those violations within a reasonable period. It is the County's policy not to close a case until it is resolved.

Procedure:

- A. **File Closure.** A code violation complaint will be resolved by file closure in the following cases:
 1. When no code violation is found after investigation;
 2. After there is voluntary compliance;
 3. After the property owner and/or other responsible person has been found guilty of a violation and has corrected the violation(s);
 4. After an injunction has been issued and the property owner or other responsible person has corrected the violation(s);
 5. After investigation and prosecution of the violation(s) have been completed by a federal or state agency to which the County deferred code enforcement;
 6. When the property on which the violation exists is sold or transferred and a new Code Enforcement case is opened in the name of the new owner.
- B. **Notice of Resolution.** The County shall notify complainant when the complaint is resolved, describing the resolution.
- C. **Alternate Methods of Resolution.** The County may explore alternate methods to resolve Code violations including mediation.

XIII. AMENDMENTS

This manual may be amended when deemed necessary by the CDD Director or designee, County Administrator, or the Board.

Amendments may be proposed by County staff, Board members and other interested persons.

REVIEWED
[Signature]
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Adopting the Community Development Department Code Compliance Program Policy and Procedures Manual. *
* ORDER NO. 2021-029
*
*

WHEREAS, Deschutes County Community Development Department ("CDD") Code Enforcement staff initiated revisions to the CDD Code Enforcement Policy and Procedures Manual to update the manual that was developed in 1995, adopted in 1996, and amended in 1997 and 2014; and

WHEREAS, the Board of County Commissioners ("Board") held a public hearing on June 30, 2021; and

WHEREAS, the Board finds that a change of the CDD program title emphasizing "code compliance" better aligns the program with its objectives and to be in the best interest of the public; and

WHEREAS, the Board finds that the updates to the CDD Code Compliance Program Policy and Procedures Manual to be in the best interest of the public because the updated policies and procedures will provide for a more efficient and clear code enforcement program; now, therefore,

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

Section 1. The Community Development Department Code Compliance Program Policy and Procedures Manual, attached as Exhibit "A" and incorporated by reference herein, is adopted.

Section 2. The Community Development Department Code Compliance Program Policy and Procedures Manual, attached as Exhibit "A", supersedes all prior Community Development Department Code Enforcement Program policy and procedures.

DATED this 30 day of June, 2021.

BOARD OF COUNTY COMMISSIONERS

[Signature]
ANTHONY DEBONE, Chair

[Signature]
PHIL CHANG, Vice Chair

[Signature]
PATTI ADAIR, Commissioner

ATTEST:

[Signature]
Recording Secretary

ORDER NO. 2021-029



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 10, 2024

SUBJECT: Oregon Department of Energy Community Renewable Energy Grant Program

RECOMMENDED MOTION:

Move to authorize submittal of an application for a Community Renewable Energy Grant from the Oregon Department of Energy for solar power and EV charging stations at the Fair & Expo.

BACKGROUND AND POLICY IMPLICATIONS:

In 2021, the Oregon Legislature created the Community Renewable Energy Grant Program to support projects outside Portland city limits. The program has a total budget just over \$64 million.

The Oregon Department of Energy (ODOE) is now accepting applications for Round 3 of the program. In this application period, ODOE is making \$18 million available to support planning and development of community renewable energy and energy resilience projects for tribes, public bodies, and consumer-owned utilities. Applications are due by May 10, 2024.

The County applied for and was granted a planning grant in Round 2 of the grant program. The planning grant was in the amount of \$100,000 and was for a project at the Fair & Expo Center to install a hybrid grid-tied and battery back-up solar photovoltaic system to provide continuous power to a new water well to replace a well currently used for irrigation.

Staff is requesting Board consideration to submit a grant application for Round 3 of the CREP program for a \$1 million construction grant for the same project. Due to the eligibility requirements of the CREP program, any grant funds awarded are eligible to be applied to the solar power and EV charging portion of the project. Grant funds are not eligible to be used for the water well portion of the project which was a part of the previous grant application.

This project would include the installation of a hybrid grid-tied and battery back-up solar photovoltaic system at the Fair & Expo to provide continuous power to a new water well as

well as power for Emergency Operations staging. EV charging stations would also be installed.

The County's Fair & Expo Center is routinely used during natural disasters to provide temporary emergency shelter and support for displaced community members and livestock. It also serves as a command post to support regional Emergency Response. Fair & Expo has agreements with multiple local, state and federal emergency response agencies to provide this type of support when needed.

This project would allow Fair & Expo to support Emergency Operations in the event that a natural disaster disrupts power supply. It would also ensure that electric vehicle users would have access to "off-grid" charging in the event of a prolonged power outage.

BUDGET IMPACT:

The potential budget impact would be the receipt of \$1,000,000 in construction grant funding through the ODOE's CREP program.

ATTENDANCE:

Lee Randall, Facilities Director
Jen Patterson, Strategic Initiatives Manager



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 10, 2024

SUBJECT: Request to Accept Grant Funds for Wolf Depredation and Financial Compensation

RECOMMENDED MOTIONS:

Move to accept the grant funds awarded

BACKGROUND:

The Deschutes Board of County Commissioners established a Wolf Depredation and Financial Compensation Committee in May of 2023. The first committee meeting took place on June 26, 2023. The committee has been meeting regularly since June and has established depredation compensation rates per the requirements of the statewide program as well as received expert advise on preventative measures that have been successfully implemented in other counties in the state.

The Oregon Department of Agriculture opens a grant opportunity once a year. Counties who have established Wolf Depredation and Financial Compensation Committees are eligible to apply for grant funding. There are three categories of grant funds:

Category 1 - Grant funds requested for compensation for death or injury to livestock or working dogs due to wolf depredation from February 1, 2023, through January 31, 2024.

Category 2 - Grant funds requested for livestock and working dogs that are missing due to wolf depredation from February 1, 2023, through January 31, 2024.

Category 3 - Grant funds requested to implement livestock management activities and nonlethal wolf deterrence techniques to limit/prevent interactions between wolves and livestock or working dogs from March 22, 2024, through January 31, 2025.

Oregon Department of Fish and Wildlife has confirmed one wolf depredation in Deschutes County on Ashanti Samuels' Long Hollow Ranch. Additionally, Mr. Samuels provided documentation attesting to 6 missing livestock within Deschutes County.

The committee also applied for funds to use for educational and outreach to other Deschutes County producers (Ranch and Livestock Owners and Managers) and additional preventative measures for Central Oregon producers to be determined.

Grant Funds awarded include:

Category 1:

- \$1,935 (one confirmed depredation of a yearling)
 - Category 1 was awarded at 100% of requested amount

Category 2:

- \$2685.75
 - Category 2 was awarded at 50% of requested amount

Category 3:

- \$28,000
 - Category 3 was awarded at 40% of requested amount
 - Committee is recommending that \$20,000 be distributed to Ashanti Samuels to continue his preventative measure practices on his ranch.
 - Committee is recommending that \$8,000 be held in the committee fund to use throughout the year for educational workshops and future preventative measure requests from Deschutes County producers.

Budget Impact:

If awarded, this grant would result in increased revenues by \$32,620.75. Grant revenue is expected to be received in FY '24. Revenue is anticipated to be passed through to grant recipients before January 2025.

ATTENDANCE:

Jen Patterson, Strategic Initiatives Manager