



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

1:00 PM, MONDAY, OCTOBER 6, 2025

Allen Room - Deschutes Services Building - 1300 NW Wall Street - Bend

(541) 388-6570 | www.deschutes.org

AGENDA

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

Members of the public may view the meeting in real time via YouTube using this link:

<http://bit.ly/3mmlnzy>. **To attend the meeting virtually via Zoom, see below.**

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

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

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

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



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

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

CALL TO ORDER

CITIZEN INPUT

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

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

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

COMMISSIONER ANNOUNCEMENTS

AGENDA ITEMS

1. **1:00 PM** Corrected Ordinance No. 2025-014: McKenzie Meadow Village Plan Amendment and Zone Change
2. **1:05 PM** Work Session to consider amendments to Title 2 of Deschutes County Code, Administration

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 SESSIONS

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.

3. Executive Sessions under ORS 192.660 (2) (a) Employment of a staff member, and ORS 192.660 (2) (i) Employee evaluation

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 6, 2025

SUBJECT: Corrected Ordinance No. 2025-014: McKenzie Meadow Village Plan Amendment and Zone Change

RECOMMENDED MOTIONS:

1. Move approval of first and second reading of Ordinance No. 2025-014 by title only;
and
2. Move adoption of Ordinance No. 2025-14 by emergency to take effect immediately.

BACKGROUND AND POLICY IMPLICATIONS:

Due to a scrivener's error, the ordinance adopted by the Board on October 1, 2025 to change the Comprehensive Plan designation of approximately 58 acres adjacent to the City of Sisters from Forest to Rural Residential Exception Area and rezone the subject properties from Forest Use 2 (F-2) to Multiple Use Agricultural – 10 Acre Minimum (MUA-10) had an incorrect reference number.

Board action is needed to conduct first and second reading and adopt this ordinance under the corrected reference number of 2025-014.

BUDGET IMPACTS:

None

ATTENDANCE:

Haleigh King, Senior Planner

REVIEWED _____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County
Code Title 23, to Adopt an Exception to Goal 4
and to Change the Comprehensive Plan Map
Designation for Certain Property From Forest
to Rural Residential Exception Area, and
Amending Deschutes County Code Title 18,
the Deschutes County Zoning Map, to Change
the Zone Designation for Certain Property
From Forest Use 2 to Multiple Use Agricultural
and Declaring an Emergency.

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ORDINANCE NO. 2025-014

WHEREAS, McKenzie Meadow Village, LLC ("Applicant"), proposed a "reasons" exception to Goal 4 and applied for changes to both the Deschutes County Comprehensive Plan (247-24-000839-PA) and the Deschutes County Zoning Map (247-24-000840-ZC), to change the Comprehensive Plan designation from Forest (F) to Rural Residential Exception Area (RREA) and the zoning designation from Forest Use 2 (F2) to Multiple Use Agricultural (MUA10); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on April 7, 2025, before a Deschutes County Hearings Officer and, on June 25, 2025, the Hearings Officer recommended approval of the Comprehensive Plan amendment, zone change and Goal Exception;

WHEREAS, pursuant to DCC 22.28.030(C), on August 6, 2025, the Board heard de novo the applications to change the comprehensive plan designation of the subject property from Forest (F) to Rural Residential Exception Area (RREA), a corresponding zone change from Forest Use - 2 (F2) to Multiple Use Agricultural (MUA10); now, therefore,

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

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

Section 2. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "C" from F2 to MUA10, with both exhibits attached and incorporated by reference herein.

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

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Section 5.10, Goal Exception Statements, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

Section 5. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "F" attached and incorporated by reference herein, with new language underlined.

Section 6. FINDINGS. The Board adopts as its findings in support of this Ordinance the Decision of the Board of County Commissioners as set forth in Exhibit "G" and incorporated by reference herein. The Board also incorporates in its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit "H" and incorporated by reference herein.

Section 7. EMERGENCY. This Ordinance being necessary for the public peace, health, and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Signatures on following page

Dated this _____ of _____, 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

PHIL CHANG, Commissioner

ATTEST:

Recording Secretary

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

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

Record of Adoption Vote:

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

Effective date: ____ day of _____, 202_.

Exhibit A**Legal Descriptions of Affected Properties**

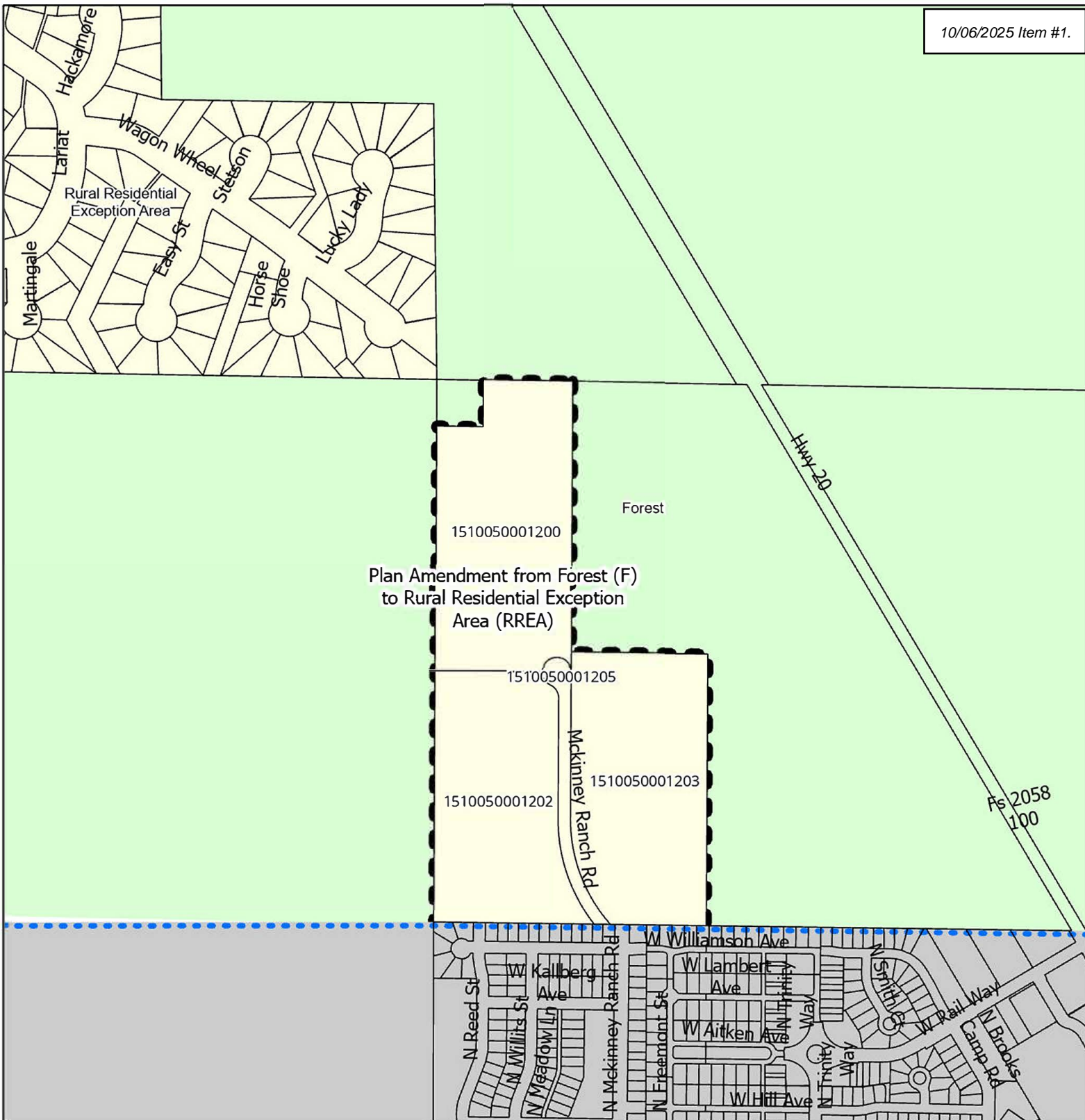
Lot 1 of McKinney Butte Ranch, Deschutes County, Oregon;





Lot 2 of McKinney Butte Ranch, Deschutes County, Oregon;

Lot 3 of McKinney Butte Ranch, Deschutes County Oregon; and,

A Parcel of Land situated in the Northwest Quarter and the Southwest Quarter of Section 5, Township 15 South, Ranch 10 East, Willamette Meridian, Deschutes County, Oregon being more particularly described as follows:

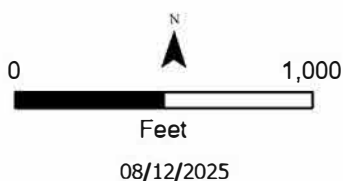
That Certain "Private Road" Right-Of-Way known as "McKinney Ranch Road" as defined on the "McKinney Butte Ranch" Subdivision Plat Map, (Plat No. 728), Deschutes County Records.



-  Proposed Plan Amendment Boundary
-  Forest
-  RREA - Rural Residential Exception Area
-  City of Sisters Boundary

Proposed Plan Amendment

Exhibit "B"
to Ordinance 2025-014



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

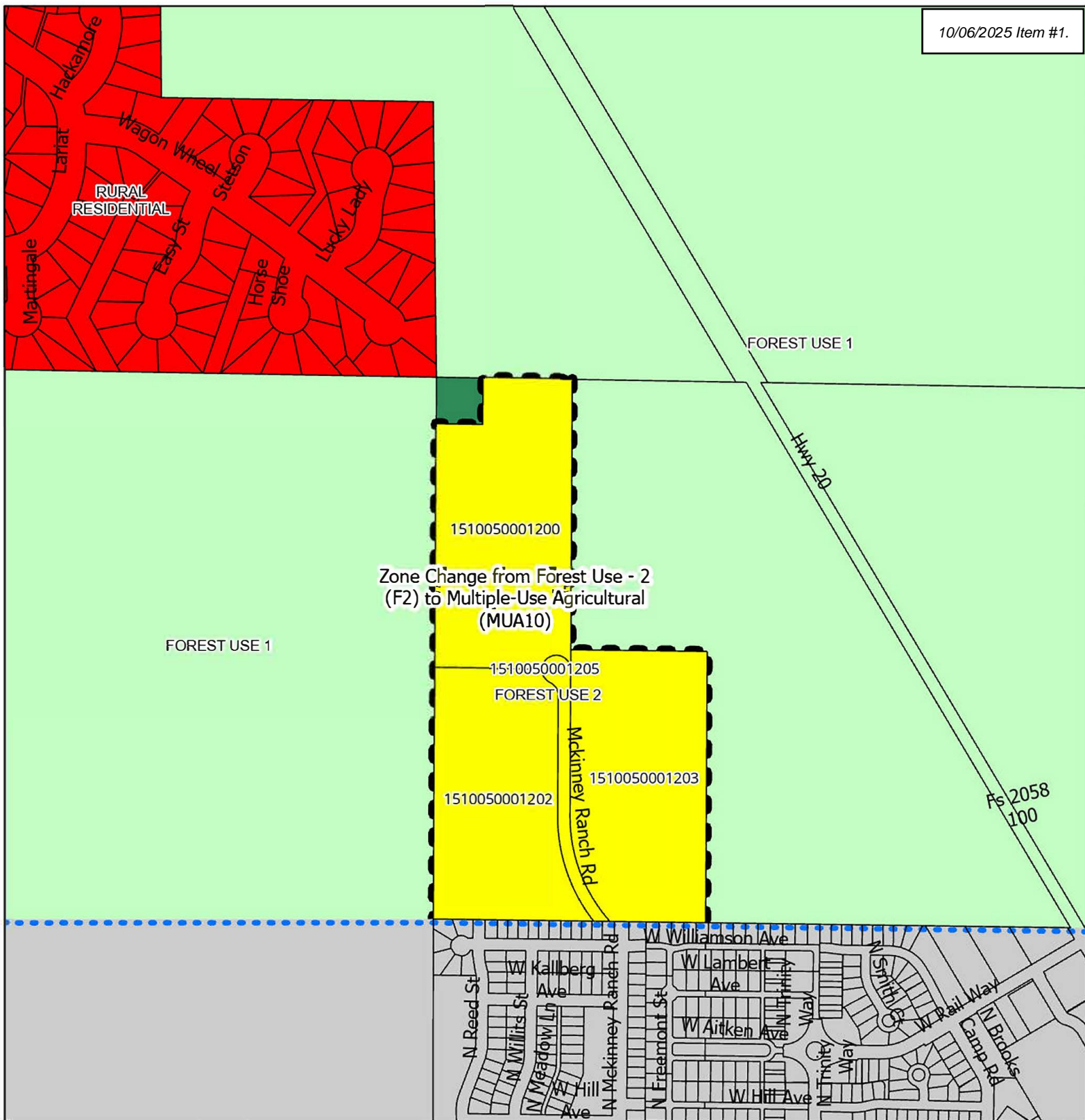
Anthony DeBone, Chair

Patti Adair, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary

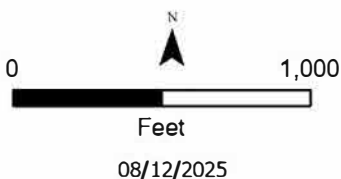
Dated this ____ day of ____, 2025
Effective Date: ____, 2025



- Proposed Zone Boundary
- RURAL RESIDENTIAL
- MULTIPLE USE AGRICULTURAL
- FOREST USE 2
- FOREST USE 1
- City of Sisters Boundary

Proposed Zoning

Exhibit "C" to Ordinance 2025-014
8/12/2025



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Anthony DeBone, Chair

Patti Adair, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary

Dated this _____ day of _____, 2025
Effective Date: _____, 2025

Exhibit “D” to Ordinance 2025-014

TITLE 23 COMPREHENSIVE PLAN

CHAPTER 23.01 COMPREHENSIVE PLAN

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

Exhibit D to Ordinance 2025-015

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

- AI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.
- AJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.
- AK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.
- AL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.
- AM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.
- AN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.
- AO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.
- AP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.
- AQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.
- AR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.
- AS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.
- AT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.
- AU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-002, are incorporated by reference herein.
- AV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-005, are incorporated by reference herein.
- AW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-008, are incorporated by reference herein.
- AX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-001, are incorporated by reference herein.
- AY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-003, are incorporated by reference herein.

- AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.
- BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-010, are incorporated by reference herein.
- BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-011, are incorporated by reference herein. (superseded by Ord. 2023-015)
- BC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-013, are incorporated by reference herein. (supplemented and controlled by Ord. 2024-010)
- BD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-001, are incorporated by reference herein.
- BE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-007, are incorporated by reference herein.
- BF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-010 are incorporated by reference herein.
- BG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-018, are incorporated by reference herein.
- BH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-015, are incorporated by reference herein.
- BI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-025, are incorporated by reference herein.
- BJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-001, are incorporated by reference herein.
- BK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-003, are incorporated by reference herein.
- BL. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2024-007 and found on the Deschutes County Community Development Department website, is incorporated by reference herein (superseded by Ord. 2025-007).
- BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-010, are incorporated by reference herein.
- BN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-017, are incorporated by reference herein.
- BO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-016, are incorporated by reference herein.

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

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

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

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

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

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

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

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

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.

Exhibit E to Ordinance No. 2025-014

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.

Exhibit E to Ordinance No. 2025-014

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.

Westside Transect Zone – Ordinances 2019 – 001, 2019

Reasons exceptions to Goals 3, 4, and 14 were taken to allow the application of the Westside Transect Zone to 717 acres of land on the west side of Bend between the urban area and the park and public lands to the west for the development of stewardship communities where low density residential communities are developed and managed to protect wildlife habitat and establish wildfire mitigation and prevention strategies.

City of Bend Outback Water Facility Sewer – Ordinance 2020-003, 2020

Reasons exception to Goal 11 was taken to allow use of an existing process water line to transport both process water and sewage on rural lands outside of the City of Bend Urban Growth Boundary (UGB). The sewage transported is produced exclusively at the Bend Outback Water Facility.

Exhibit E to Ordinance No. 2025-014

McKenzie Meadow Village, LLC – Ordinance No. 2025-014

Reasons exception to Goal 4 was taken to allow for redesignation and rezoning from Forest/F2 to Rural Residential Exception Area/Multiple Use Agricultural (MUA10) for 58 acres adjacent to City of Sisters Urban Growth Boundary.

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Exhibit F to Ordinance No. 2025-014

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

Exhibit F to Ordinance No. 2025-014

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

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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

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

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

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2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from 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	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.

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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.

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

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

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

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

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2025-010	6-25-25/9-23-25	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2025-007	08-27-25/11-25-25	23.01(BU)	Amendments to Comprehensive Plan resulting from Deschutes County 2040 Update process.
<u>2025-014</u>	<u>10-06-2025/10-06-2025</u>	<u>23.01.010</u>	<u>Comprehensive Plan Map Designation for Certain Property from Forest (F) to Rural Residential Exception Area (RREA)</u>

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

File Numbers: 247-24-000839-PA, 840-ZC

Owner/Applicant: McKenzie Meadow Village LLC

Attorney(s) for Applicant: Christopher P. Koback
Hathaway Larson LLP
1125 NW Couch Street, Suite 550
Portland, OR 97209
937 NW Newport Avenue, Suite 220
Bend, OR 97703
(541) 585-1088
chris@hathawaylarson.com

Staff Planner: Haleigh King, Senior Planner
Haleigh.king@deschutes.org, 541-383-6710

Application: Request for approval of an application to change the comprehensive plan designation for the subject property, totaling approximately 58 acres, from Forest to Rural Residential Exception Area (“RREA”) and to change the zoning of the property from Forest-2 (“F-2”) to Multiple-Use Agricultural-10 (“MUA”). The applicant is also requesting a goal exception to Statewide Planning Goal 4.

Subject Property:	Map/Tax Lot:	Situs Address:
	1510050001200	69095 McKinney Ranch Rd., Sisters, OR 97759
	1510050001202	69055 McKinney Ranch Rd., Sisters, OR 97759
	1510050001203	69050 McKinney Ranch Rd., Sisters, OR 97759
	1510050001205	None

I. FINDINGS OF FACT

A. Hearings Officer’s Recommendation: The Hearings Officer’s recommendation dated June 25, 2025, adopted as Exhibit H of this ordinance, is hereby incorporated as part of this decision, including any and all interpretations of the County’s code and comprehensive Plan and modified as follows:

1. 1990 Subdivision

In its report to the Deschutes County Board of Commissioners (“Board”), staff presented a 1990 subdivision plat that divided the subject property into four lots and a private road tract. The Hearings Officer did not address the 1990 subdivision plat in his

recommendation. The Board finds the subdivision plat significant to the current application. First, the subdivision plat indicates that as early as 1990, the owners and the County anticipated future development of the property. The creation of four legal lots and a road tract to provide access to each lot indicates that the owner intended future development on each lot and the County approved the plat with knowledge of the owner's intention. In fact, Parcel 4 on the 1990 subdivision plat was subsequently annexed into the City of Sisters and developed into a residential subdivision at city densities. Second, the remaining three lots created from the 1990 plat are three lots of record, each of which are eligible for a conditional use dwelling. The parcelization of the property and creation of the road tract are additional facts that support approving an exception to Goal 4.

B. Procedural History: The County's land use Hearings Officer conducted the initial evidentiary hearing regarding McKenzie Meadow Village LLC's ("MMV") Comprehensive Plan Amendment and Zone Change applications on April 7, 2025, and recommended that the Board approve the applications in a June 25, 2025 decision. The Board conducted a *de novo* land use hearing on August 6, 2025. The Board closed the hearing and the written record and deliberated on August 6, 2025, voting to approve the application subject to further deliberations upon receiving and reviewing alternative "decision documents" to be prepared by the applicant. Consistent with Commissioner comments, one alternative is to include conditions related to wildlife corridors, enhanced riparian buffer, and protection of the scenic resources in the northeast corner of the subject property. The "First Alternative Findings of Fact and Conclusions of Law" includes such conditions of approval.

C. Deschutes County Land Use regulations: The Deschutes County Comprehensive Plan and Title 18 of the Deschutes County Code have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC) as being in compliance with each statewide planning goal, including Goal 14. The County amended its Comprehensive Plan in 2016 to provide that Rural Residential Exception Area Plan and its related MUA-10 and RR-10 zones should be applied to non-resource lands. This Plan amendment has also been acknowledged by LCDC, which means that the RREA plan designation and its related zoning districts, when applied to non-resource land such as the subject property, do not result in a violation of Goal 14.

In the event of conflict, the findings in this decision control.

II. ADDITIONAL FINDINGS AND CONCLUSIONS OF LAW

In addition to adopting the Hearings Officer's findings, the Board provides the following supplemental findings to address the arguments and facts presented to it during the August 6, 2025 *de novo* hearing on this application, and to support its decision to approve the MMV applications:

1. Goal 4 Exception

The MMV property is not suitable for commercial forestry operations. The Board finds the professional report by Gary Kitzrow is fundamentally sound and persuasive. The Board finds that another purpose of Goal 4 is the conservation of soil, air, water, natural resources, and wildlife habitat, and that land designated as forestland provides opportunities for such preservation. However, the Board finds that there are reasons that retaining a forestland designation and F-2 zoning of the subject property is not necessary to meet those purposes. As to soil conservation, the Board finds that the soil on the site is low value and limits tree growth. Rezoning the property to MUA-10 will not affect the quality of soil. As to natural resources, including Trout Creek and the vegetation along its corridor, the Board finds the evidence in the record that uses allowed under the F-2 zone, specifically forestry operations, provide less protection to natural resources than uses allowed in the MUA-10 zone when property in the MUA-10 zone is developed consistent with County development standards to be persuasive. The Board notes that in the MUA-10 zone all structures must be located at least 100 feet from each side of a stream. The applicant agreed on the record that when any development of the MMV property is proposed, it will create and record a document restricting development on those portions of the property that are 100 feet from each side of the edges of Trout Creek.

The MUA-10 zone is a transition zone; among the listed purposes for the zone is to allow for an orderly transition from rural uses to urban uses. There is no MUA-10 property close to the Sisters' city limits that may provide opportunities for an orderly transition from rural to urban uses.

The MMV property is appropriate for MUA-10 zoning and rezoning is consistent with the purpose of that zone. The Property is adjacent to the Sisters' urban growth boundary ("UGB"). Although the property is not served by public streets and utilities, many public facilities, including streets, water, sewer, and electricity are stubbed to the southern boundary of the MMV property. The MMV property connects in one corner to the Sisters' School District property where the high school campus is located. It is within safe, convenient walking and biking distance to downtown, medical services, and other amenities. Thus, the Board agrees that there is a need for MUA-10 zoning close to the Sisters' current UGB and that it is appropriate to rezone the subject property to provide for that transitional zoning.

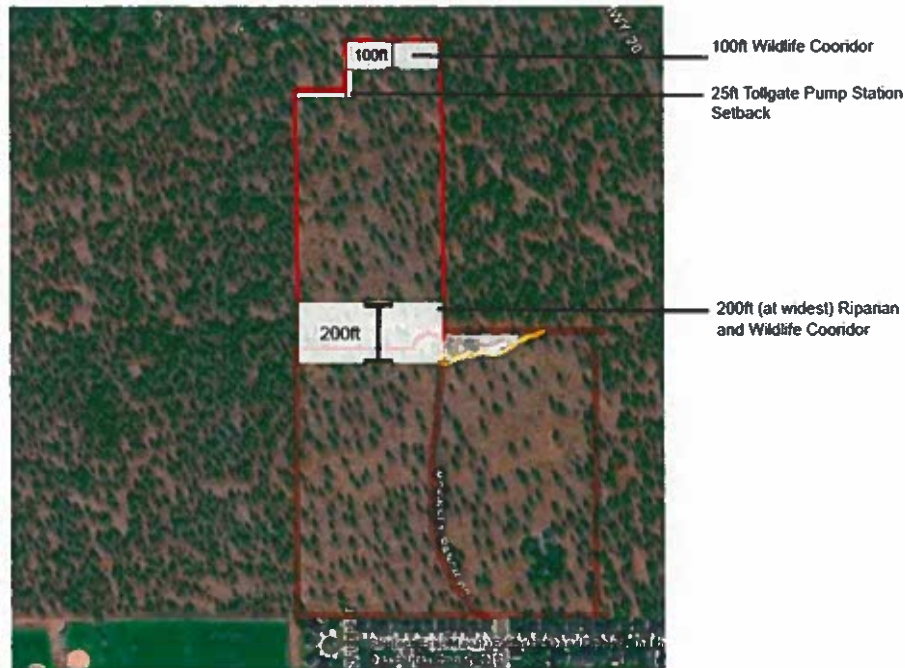
Other exception lands cannot reasonably accommodate new MUA-10 uses. Other properties in the area are designated RREA and are predominantly zoned RR-10. Maps presented in the proceedings illustrate that those exception lands cannot reasonably accommodate new MUA-10 development. Most of the other RREA land consists of smaller parcels between two and 10 acres. Those properties have been developed with valuable improvements and encumbered with CC&Rs that require residential development and restrict further division. Thus, those properties cannot reasonably be developed with many MUA-10 uses. Further, it cannot reasonably be developed to add rural housing because of existing improvements that would have to be removed and the recorded restrictions prohibiting further division. It is not reasonable to assume that owners of such

properties will agree to assemble their parcels, remove valuable improvements, and obtain the necessary votes to amend or remove the private restrictions, all of which would be required before new MUA-10 development could be proposed.

2. Goal 5 Natural Resources

Trout Creek is an ephemeral stream with intermittent water flow. It is designated in the County's Goal 5 resource inventory as a protected resource. From the Trout Creek Conservation Tract, the basin runs east and southeast through the MMV property. As noted above, the Board finds that this resource can be equally or better protected under the development standards for the MUA-10 zone. All structures must be setback at least 100 feet on each side of the creek creating a wide protective buffer. The Board notes that in addition to the DCC code provision that requires all structures in the MUA-10 zone to be setback 100 feet from any stream, the applicant affirmed in an open meeting that it is committed to placing Trout Creek and the associated a riparian buffer into a separate 200 foot-wide tract designated for conservation and protection of the resources within it.

Highway 20 Scenic Corridor extends into part of the MMV property. The scenic corridor measures .25 miles from the centerline of the highway. The northeast corner of the MMV property is approximately .17 miles from the highway centerline as the applicant measured it using the measuring tool on DIAL. The scenic corridor boundary cuts diagonally across that corner of the property. However, the Board finds that the intervening area between Highway 20 and the subject property is forested with a healthy growth of Ponderosa Pine trees on land owned by the United States. That mature forest provides a visual buffer such that it is unlikely that any development of the MMV property zoned MUA-10 will be visible from the highway. Notwithstanding the existing forest buffer between the highway and the northeast corner of the subject property that is within the LM overlay, the applicant proposed to create a 100-foot-wide wildlife corridor along the entire northern boundary of the subject property. That corridor will effectively create a no-build area where the LM overlay exists over the northeast corner of the subject property. A graphic description of corridors that the Board finds appropriate is below:



The Board finds that with the agreed upon conditions and application of the Landscape Management standards in DCC Chapter 18.64, the riparian area will be protected, and potential visibility of future development will be further mitigated.

3. Wildlife Migration

The subject property does not include any mapped or designated wildlife corridors. However, the Board acknowledges that the Sisters School District conservation tract is immediately west of the MMV property and forestland exists to the east. Retaining the ability for wildlife to migrate through the site is desirable. The Board finds that Trout Creek traverses the subject property from the School District conservation tract to the property east of the subject property. The Board finds that the development standards for the MUA-10 zone and in particular the restriction on developing structures within 100 feet of either side of Trout Creek will effectively create a corridor for wildlife to migrate across the site from the School District's conservation tract to the US forest land located east of the subject site creates some desired wildlife connection. In addition, the parcel size standards in the MUA-10 zone will allow low intensity rural development that preserves sufficient open space to facilitate wildlife migration between the School District Conservation tract and the National Forest north and east of the subject site. However, the Board finds that the additional wildlife corridor located generally along the northern portion of the subject property will enhance wildlife connectivity over the subject property. As noted above, the applicant agreed to a condition requiring an additional wildlife corridor.

4. Goal 14

As discussed above, it is the acknowledged Comprehensive Plan, amended in 2016 to create the RREA designation and its associated MUA-10 and RR-10 zones, was acknowledged by LCDC as being consistent with all Statewide Planning Goals, including Goal 14. This confirms that uses allowed within those zones are all rural uses and not urban uses. The Comprehensive Plan states that “[e]ach Comprehensive Plan map designation provides the land use framework for establishing zoning districts. Zoning defines in detail what uses allowed for each area.” DCCP Section 1.3. Rural Residential Exception Areas “provide opportunities for rural residential living outside urban growth boundaries and unincorporated communities ...” DCCP Section 1.3. DCCP Table 1.3.3 states that the RR-10 and MUA-10 zones are the associated zoning codes for the RREA plan designation.

The determination that the RREA plan designation and RR-10 and MUA-10 zoning districts should apply to exception lands was made when the County amended the DCCP in 2016. (Ordinance 2016-005). The ordinance was acknowledged by DLCD as complying with the Statewide Planning Goals. Thus, the allowable lot sizes and uses under the RREA plan designation and in the RR-10 and MUA-10 zones comply with Goal 14. The proposed amendment to the Comprehensive Plan map conforms to the applicable DCCP provisions.

The purpose statement for the MUA-10 zone states that it is intended to preserve the rural character of various areas of the County while permitting development consistent with that character and the capacity of the natural resources of the area. When DCC Chapter 18.32 is read in context with that purpose statement, the only plausible interpretation is that all uses allowed in the MUA-10 zone are rural uses. Thus, the application does not provide any basis for the County to revisit whether the RREA designation, or the RR-10/MUA-10 zones violate Goal 14 by allowing urban development. No individual analysis of whether specific allowable uses in the MUA-10 zone violate Goal 14 is required.

Curry County Analysis

As stated above, the Board finds that an analysis of Goal 14 applying the factors set forth in *1000 Friends of Oregon v. LCDC (Curry County)*, 301 Or 447 (1986) is not required. The MUA-10 zone allows development consistent with the rural character of the area and does not authorize urban uses. However, the Board makes the following alternative findings for a complete record on the urbanization issue.

Overview

The court in *Curry County* acknowledged that there is no established definition of rural use and urban uses. The court discussed a few factors to consider in evaluating whether development allowed is rural or urban including the density, dependence on urban services and proximity to the urban area. None of the factors were deemed to be determinative and all must be applied in the context of the individual situation presented. The court’s discussion in that case noted that parcel sizes of 10 acres are clearly rural and postulated

that parcels at .5 acres would certainly create an urban density. Later, the court emphasized that the urban services most relevant are water and sewer. In other words, if development on rural land has or depends on public water and sewer, that factor is more indicative of urban development. In contrast, the court noted that rural services are generally considered to include protective services (police and fire), electrical power, communication facilities, and schools.

The Board applies the *Curry County* factors to the subject application as follows:

Density

Rezoning the subject property to MUA-10 will not lead to development at urban densities. The minimum parcel size in the MUA-10 zone is 10 acres. The current zoning code allows smaller parcels for cluster developments and planned developments. In *Central Oregon LandWatch v. Deschutes County* (Destiny Court), LUBA No. 2025-015, LUBA remanded a plan amendment and rezone approval for the Board to address a perceived inconsistency between the DCCP that limits parcel size in the MUA-10 zone to 10 acres and the provisions in the zoning code that allow smaller parcels under cluster and planned development provisions. The Board is currently in the process of updating the DCCP to address the *Destiny Court* remand. However, anticipating that cluster and planned development options remain in the zoning code and allow creation of parcels that average 10 acres in size when taking into consideration corresponding open space, such development will not result in urban density.

The smallest allowable parcel in the MUA-10 zone, if property is developed pursuant to a cluster development application and is within a mile of a UGB, is five acres or the equivalent density. In *Curry County*, 1000 Friends asserted that densities greater than one dwelling per three acres are urban. That argument did not account for provisions requiring large undeveloped open space either. The Board finds that five-acre parcels along with 65% undeveloped open space do not result in urban density. Under either the County's cluster development or planned development standards, the overall density will remain consistent with what is allowed on rural land as rural uses. By way of contrast, the lowest density allowed in the City of Bend is 1.1 units per acre in the Residential Low (RL) zone. There is a significant difference between one dwelling per acre and one dwelling per five acres. The Board notes that, to satisfy minimum urban density requirements, no city is going to allow, much less require, that 65% of otherwise unrestricted and unconstrained property be left open and undeveloped. Such a requirement would not be consistent with creating urban density. Even under the cluster development and planned development provisions, while smaller parcels may be approved, the overall density remains consistent with the rural character of the area.

Extension of Urban Services

The Board rejects the notion that rezoning the subject parcel to MUA-10 will lead to the extension of urban facilities to the area. The court in *Curry County* emphasized that the

services that most strongly indicate urban levels of development are public water and sewer. The Board agrees and notes that the County has permitted significant residential development on other rural exception lands as rural development. That development is served by electricity and communications services but has no public water or sewer. Private wells and septic systems are commonplace in rural residential living. Sisters has no obligation to extend public services; in some cases, the City is prohibited from providing extraterritorial service to rural lands. Any future development on the property under MUA-10 zoning will not be served by public water and sewer. Electricity already extends onto the property as evidenced by the approved plat from 1990. For fire and public safety, the area is served by the Camp Sherman Fire District and Deschutes County Sheriff's office, both of which serve rural areas. That coverage will remain unchanged.

Proximity to Urban Growth Boundaries

The court in *Curry County* discussed this factor in the context of that County's creation of large exception area and not as it would or should apply to a specific property for which rezoning is requested. While the court in *Curry County* addressed arguments that rezoning resource land near urban areas could attract people from the urban areas to rural areas, that discussion did not involve the Deschutes County MUA-10 zone which has as one of its purposes to promote an orderly transition from rural uses to urban uses. This purpose statement confirms that the MUA-10 zone allows rural uses while at the same time facilitates a transition of from rural to urban uses. This is a significant distinction because it would not be reasonable to apply a zone with the purpose of providing for a transition from rural to urban uses, to property far removed from the UGB. The Board finds that MUA-10 zoning of property somewhat near a UGB is appropriate and not inconsistent with Goal 14.

The Board finds that rezoning the subject property to MUA-10 will not be a "magnet" pulling rural residents into the urban area and urban residents to the rural area. That position does not reflect reality of rural zoning near a small town like Sisters. Currently, there are few, if any, resources available to rural residents that are located in rural areas. The schools that rural residents around Sisters attend are in the city. The medical services and major grocery stores are in urban areas. Rural residents already come in large numbers to urban areas for goods and services because they have no other options to get the goods and services they require from rural areas.

Similarly, the rural area has most of the recreational opportunities that are enjoyed by urban residents. There are other uses such as horse stables and farm stands that already attract urban residents to the rural area. The Board finds that Central Oregon Land Watch's assertion is not supported by any evidence.

No other participant in these proceedings asserted that other uses permitted outright or conditionally in the MUA-10 zone are urban in nature. The Board finds that they are not. Because the other non-residential uses cannot fall under cluster development standards or

planned development standards, the parcel size cannot be reduced. As noted, they will not be served by public water or sewer.

5. Other Issues

The Board rejects the argument from Central Oregon Land Watch that for the Board to approve an exception to Goal 4, the applicant must present a specific proposed use of the subject property. The Board agrees that ORS 197.732 defines an exception to a statewide planning goal as “a comprehensive plan provision,” including an amendment to an acknowledged comprehensive plan that: (A) is applicable to specific properties or situations and does not establish a planning or policy of general applicability; (B) does not comply with some of all goal requirements applicable to the subject properties or situations; and (C) Complies with standards under subsection (2) of this section.

The plain language in the statute does not require an applicant to propose a specific use or development. Central Oregon LandWatch did not provide any text in the applicable regulations that varied the definition in ORS 197.732. A specific use is not required for an applicant to seek a goal exception.

III. RECORD/PROCEDURAL ARGUMENTS

The applicant requested that the Board not keep the record open for written testimony and argument. The Board agrees that because the August 6, 2025, hearing was not the initial evidentiary hearing, it was not required to keep the record open under ORS 197.797(6).

IV. DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of County Commissioners hereby approves applicant’s applications for a DCCP amendment to redesignate the subject property from forestland to RREA and a corresponding zone map amendment to change the zoning of the property from F-2 to MUA-10 with the following conditions proposed by the applicant:

1. That for any future development under the MUA-10 zone that is reviewed under the jurisdiction of Deschutes County an applicant shall create a conservation tract that extends 100 feet on either side of the ordinary high-water mark of Trout Creek and that no structures or fences shall be constructed within that tract. Recreational paths and other passive recreational uses may be allowed;
2. That for any future development under the MUA-10 zone that is reviewed under the jurisdiction of Deschutes County an applicant shall create a 100-foot-wide wildlife corridor within a tract extending from the Trout Creek Conservation Tract along the northern boundary of the subject property, and that no permanent structures or fences shall be allowed within that corridor.

Dated this 17th of Sept., 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



ANTHONY DEBONE, Chair



PATTI ADAIR, Vice-Chair

ATTEST:



Recording Secretary



PHIL CHANG, Commissioner

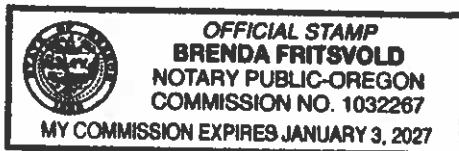
STATE OF OREGON, County of Deschutes) ss.

Before me, a Notary Public, personally appeared ANTHONY DEBONE, PATTI ADAIR, PHIL CHANG, , the above-named Board of County Commissioners of Deschutes County, Oregon and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon.

DATED this 17th day of Sept., 2025



Notary Public, State of Oregon



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

FILE NUMBERS: 247-24-000839-PA / 247-24-000840-ZC

HEARING DATE: April 7, 2025 1:00 p.m.

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

APPLICANT/OWNER: McKenzie Meadow Village LLC

SUBJECT PROPERTIES: Map and Tax Lots:
1510050001200
1510050001202
1510050001203
1510050001205

Situs Addresses:
69095 McKinney Ranch Rd., Sisters, OR 97759
69055 McKinney Ranch Rd., Sisters, OR 97759
69050 McKinney Ranch Rd., Sisters, OR 97759
No Situs Address

REQUEST: The Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the Subject Properties from Forest to Rural Residential Exception Area (RREA) and a corresponding Zone Change to rezone the Subject Properties from Forest Use 2 (F-2) to Multiple Use Agricultural (MUA-10). The Applicant also requests a “reasons exception” to Statewide Planning Goal 4.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF RECOMMENDATION: The Hearings Officer finds that the record is sufficient to support the requested Comprehensive Plan Amendment, Zone Change, and Goal 4 Exception.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.32, Multiple Use Agricultural Zone (MUA10)

Chapter 18.40, Forest Use Zone (F2)

Chapter 18.80, Airport Safety Combining Zone (AS)

Chapter 18.84, Landscape Management Combining Zone (LM)

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Oregon Administrative Rules (OAR) - Chapter 660

Oregon Revised Statutes (ORS)

Statewide Planning Goals

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

This matter comes before the Hearings Officer as a request for approval of a Comprehensive Plan Map Amendment (“Plan Amendment”) to change the designation of the Subject Properties from Forest to Rural Residential Exception Area (“RREA”). The Applicant also requests approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Properties from Forest Use 2 (F-2) to Multiple Use Agriculture (MUA-10). As presented by the Applicant, the request also seeks an exception to Statewide Planning Goal 4 (“Goal 4 Exception”).

The Application requests a Plan Amendment, which is ultimately a decision for the County’s Board of Commissioners (“County Board”). Several applicable criteria require a weighing of policy choices, and the record before the County Board may be different than the current record. This Recommendation therefore determines if the Applicant has met its burden of proof in a manner that would support the County Board’s approval of the Application based on the current record.

B. Notices, Hearing, Record Materials

The Applicant initially filed the Application on December 24, 2024, and provided supplemental materials throughout this proceeding.

On January 3, 2025, staff in the County’s Community Development Department (“Staff”) mailed a Notice of Application identifying the standards and criteria governing the review of the Application and seeking public comment on the Application. On March 13, 2025, Staff mailed a Notice of Public Hearing (“Hearing Notice”) to agencies, interested persons, and all property owners within 750 feet of the Subject Properties, announcing a public hearing to be held on April 7, 2025. The Hearing Notice was also published in the Bend Bulletin on Sunday, March 16, 2025. Notice of the Hearing was also submitted to the Department of Land Conservation and Development (“DLCD”).

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on April 7, 2025, opening the Hearing at 1:00 p.m. The Hearing was held in person and via videoconference, with the Hearings Officer appearing remotely. At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I invited but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

The Hearing concluded at approximately 3:04 p.m. Prior to the conclusion of the Hearing, I announced that the written record would remain open as follows: (1) any participant could submit additional materials until April 21, 2025 (“Open Record Period”); (2) any participant could submit rebuttal materials (evidence or argument) until May 5, 2025 (“Rebuttal Period”); and (3) the Applicant could submit a final legal argument, but no additional evidence, until May 12, 2025. 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.

Various participants submitted post-Hearing materials within the time limits described above, and no objections were made to any of those submittals. The record therefore includes all materials submitted to the County as reflected on the County’s website for this matter.

C. Review Period

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

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Staff Report

On March 28, 2025, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time (“Staff Report”).

¹ ORS 215.427(7).

The Staff Report, although it expresses agreement with the Applicant in some places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicant has met the burden of proof necessary to justify the Plan Amendment, Zone Change, and Goal 4 Exception.

B. Preliminary Discussion

In order to identify and better address the applicable criteria, it is necessary both to discuss the Applicant's stated purpose of the Application and to describe what the Applicant is not requesting.

The Applicant candidly presented its long-term goal for the use of the Subject Properties, which is to make those properties more available for eventual consideration by the City of Sisters ("City") to be included in its urban growth boundary ("UGB"). As explained by the Applicant and acknowledged by other participants, the City is in the process of expanding its UGB. Under state law, the City is to give certain properties (e.g. exception areas) higher priority than other properties (e.g. resource lands) when deciding which areas to bring into its UGB.

The Applicant's stated long-term goal understandably prompted a wide variety of comments relating to whether and how the Subject Properties should be brought into the City's UGB or otherwise be developed with urban uses. I agree with the Applicant, however, that these comments are largely not relevant to the Application. The decision to include the Subject Properties in the City's UGB is not part of the request in the Application. That decision belongs to the City and will be governed by other standards and criteria. Further, the requested Plan Amendment, Zone Change, and Goal 4 Exception, if approved, may give the City more options for including the Subject Properties within its UGB, but as DLCD noted in its comments, they are not necessary, and there is a process in state administrative rules that could allow the City to consider the Subject Properties for inclusion in its UGB even with their current designations under the County's Comprehensive Plan ("Plan").

The Applicant is not requesting, through this Application, that the Subject Properties actually be included in the City's UGB, nor is the Applicant requesting approval of any specific type of development if the Zone Change is approved. The findings below therefore address only the specific requests in the Application as a stand-alone application made to the County, regardless of what impact the outcome may or may not have on the City's UGB process. Those specific requests are: (1) the Goal 4 Exception, based on the "reasons exception" component of ORS 197.732; (2) the Plan Amendment; and (3) the Zone Change.

C. Findings for Specific Requests in the Application

1. Goal 4 Exception

Pursuant to ORS 197.175(2), if the County amends its Plan, it must do so in compliance with Statewide Planning Goals (each a "Goal" and, together, the "Goals"). Because the Plan has been acknowledged, the requested Plan Amendment must adhere to the procedures for a post-acknowledged plan amendment ("PAPA") set forth in state statutes and rules. The Applicant does not assert that the requested Plan Amendment is in compliance with Goal 4-Forest Lands. Rather, the Applicant requests an "exception" to

that Goal. ORS 197.732 and its implementing rules govern the process and standards for obtaining such a “Goal Exception”.

Although state statutes allow different types of Goal Exceptions, the Applicant has “confirmed that the application seeks a plan amendment and zone change using a Goal 4 reasons exception under ORS 197.732.” The “Reasons Exception” is a reference to ORS 197.732(2)(c), which allows a Goal Exception if the following standards are met, each of which are addressed below:

- (A) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (B) Areas that do not require a new exception cannot reasonably accommodate the use;
- (C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

ORS 197.732(2)(c)(A)

With respect to the reasons that the state policy embodied in Goal 4 should not apply, the Applicant’s argument is best summarized in its Final Legal Argument. In that submittal, the Applicant identifies the policy embodied in Goal 4 in part as “to preserve forest land for forest related use and timber production,” along with conserving soil, air, water quality and providing for fish and wildlife resources, recreational and agricultural opportunities appropriate in a forest environment. According to the Applicant, these policies “in most or all respects are advanced better under the proposed [MUA-10] zoning.” The Applicant has also asserted that there is a specific need for MUA-10 zoning near the City of Sisters to provide a better transitional zone between urban and rural development. I infer from the Applicant’s arguments that a reason for the Goal Exception is to establish this transitional zone on the Subject Properties, which the Applicant asserts is more beneficial than keeping Goal 4 protections in place on a property that is not suitable for Goal 4 uses.

In support of its argument, the Applicant relies on evidence such as a soils report that confirms the Subject Properties are not suitable for commercial forestry and, therefore, that preserving the property for forestry uses is not appropriate. The Applicant also cites to certain natural area protections imposed through the MUA-10 zone, such as a stream setback requirement, that it asserts will be more protective of Trout Creek (an identified Goal 5 resource) than the regulations of the F-2 zone.

A major issue raised in this proceeding is whether the Applicant has sufficiently established the “reasons” Goal 4 should not apply to the Subject Properties. The arguments in opposition to the Application center around OAR 660-004-0020 and OAR 660-004-0022, which implement ORS 197.732, and which

participants in this proceeding say must be satisfied. The Applicant asserts that OAR 660-004-0022 is not applicable at all because it “applies only to requests for an exception to allow specifically identified uses.” The Applicant argues that it is proposing a broad range of uses (anything allowed in the MUA-10 zone), which do not fit neatly into any of the specific uses in the rule. The Applicant’s primary argument is that only OAR 660-004-0020 is applicable.

Contrary to the Applicant’s argument, OAR 660-004-0022 appears to apply to all reasons exceptions, regardless of the specific use proposed. As described by the Land Use Board of Appeals (“LUBA”): “OAR 660-004-0022 sets out the types of ‘reasons’ that can justify exceptions to various specific goals. For uses not specifically addressed in OAR 660-004-0022, OAR 660-004-0022(1) sets out a ‘catch-all’ provision that lists a non-exclusive set of reasons sufficient to justify an exception.”²

OAR 660-004-0022 confirms that all Reasons Exceptions must comply with OAR 660-004-0022. The lead-in language of that rule states “[i]f a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.” In other words, before applying OAR 660-004-0020, the Applicant must first establish the reasons that justify a Goal Exception by meeting the criteria set forth in OAR 660-004-0022. If those reasons can be established, the Applicant must then show compliance with the other provisions of OAR 660-004-0020. For some uses, OAR 660-004-0022 sets forth the types of reasons that may be relied on, beginning with subsection (2) of that rule. For all other uses, the Applicant can rely on the catch-all provision of OAR 660-004-0022(1).

Participant Central Oregon LandWatch (“COLW”) raises a more specific issue in this regard, asserting that the Applicant must show compliance with OAR 660-004-0022(2), which sets forth the reasons on which a Goal Exception can be based when approving “Rural Residential Development.”:

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

² *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

COLW's argument is that OAR 660-004-0022(2) is triggered because the MUA-10 zone is a rural residential zone, which the Applicant disputes.³

It should be noted that the different reasons justifying a Goal Exception set forth in OAR 660-004-0022 are not mutually exclusive. That is, an applicant can seek to justify a Goal Exception for a specific use listed in the rule and, alternatively, seek to justify the Goal Exception based on the catch-all provision of OAR 660-004-0022(1).⁴ In the *1000 Friends of Oregon v. Jackson County* case, a county approved a Goal Exception under OAR 660-004-0022(3) and OAR 660-004-0022(1) for a use that could be described as a rural industrial use. Although LUBA reversed the county's approval, it analyzed the Goal Exception under both rules, stating "we see nothing in the rule that would preclude the county from attempting to justify a reasons exception for an indisputable rural industrial use using the standards set out in the 'catch-all' provision at OAR 660-004-0022(1), in lieu of the non-exclusive set of reasons listed in OAR 660-004-0022(3).

Based on the *1000 Friends of Oregon v. Jackson County* case, I find that the Applicant can attempt to show compliance with either OAR 660-004-0022(1) or any other provision of OAR 660-004-0022 as the basis for the Reasons Exception. While the Applicant responds to COLW's argument by presenting alternative arguments for why OAR 660-004-0022(2) is satisfied, the Applicant notes that its proposal is to rezone the Subject Properties to the MUA-10 zone without regard to specific uses. This means that, if approved, while some rural residential development would be allowed, other non-residential uses would also be allowed. I agree with the Applicant that it makes little sense to proceed under a rule that applies only to residential uses. Even if there are reasons for the Goal Exception to justify the rural residential portion of the proposal, there must still be a basis to justify the non-rural residential components. I therefore find that the Goal 4 Exception can be approved only if the Applicant shows compliance with OAR 660-004-0022(1), the catch-all provision of the rule that would apply to all uses allowed in the MUA-10 zone.

One of the difficulties in applying OAR 660-004-0022(1) to this Application is that the Applicant has not directly addressed that criterion. As noted above, the Applicant asserts that this rule does not apply at all. That is not detrimental to the Application, however, as the plain text of OAR 660-004-0022(1) states that "the reasons shall justify why the state policy embodied in the applicable goals should not apply," which is simply a restatement of ORS 197.732(2)(c)(A), a criterion the Applicant does address.

Another difficulty in applying OAR 660-004-0022(1) to this Application is that it is not immediately clear if the specific provisions of that subsection of the rule require the Applicant to address all of the language in that subsection. That is, under this part of the rule, an applicant can justify a Goal Exception by showing

³ COLW also asserts that OAR 660-004-0022 requires the Applicant to comply with OAR 660-004-0040 to the extent the Applicant seeks to justify the establishment of new urban development on undeveloped rural land. I find that this assertion is not relevant because the Applicant does not propose urban development in this Application even though that is the Applicant's long-term desire for use of the Subject Properties. As explained in other findings, the MUA-10 zone is a rural zone allowing rural uses.

⁴ See, e.g., *1000 Friends of Oregon v. Jackson County*, __ Or LUBA __ (LUBA No. 2071-066, Oct. 27, 2017).

“a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19” (a “Need” component), together with a demonstration that either: (a) that the proposed use or activity requires a location near a resource available only at the proposed exception site; or (b) the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site (a “Location” component). The Applicant has not directly addressed that additional rule language. But the rule language also says “[s]uch reasons include but are not limited to” a demonstrated Need and Location. The question then, is if the Applicant can rely on other reasons to justify the Goal Exception even if it does not base its reasons on the Need and Locational components of the rule.

No participant to this proceeding has offered any argument to help explain the meaning of the “include but are not limited to” language. Nor does the case law appear to clarify that language, as most of the cases addressing this rule analyze different issues. In the absence of such arguments and authority, I am left with the plain language of the rule. Based on that language, I find that the Applicant can rely on other reasons to justify the Goal Exception, as long as those reasons demonstrate why the state policy embodied in Goal 4 should not apply. The use of “but are not limited to” in the rule implies that other reasons may exist, and the specific reason set forth in the rule (based on Need and Location) is more of a safe harbor that, if met, satisfies the rule. If other reasons could not be relied on, the “but are not limited to” language would not be necessary.

Having reviewed the information provided by the Applicant and other participants, I find that the Applicant has met its burden to show there are reasons why the state policy embodied in Goal 4 should not apply to the Subject Properties. Most of the opposing comments in the record do not address Goal 4 Exception criteria. Those that do simply express the opinion that the Applicant’s stated reasons for the Goal Exception are “not sufficient.” They do not, however, dispute with any particularity the Applicant’s assessment of the capability of the Subject Properties to support forest uses, or the Applicant’s assertion that other Goal 4 policies, like natural resource protections, can actually be enhanced by the MUA-10 zoning.

ORS 197.732(2)(c)(B)

This part of the statute requires a decision approving a Goal Exception to demonstrate that areas that do not require a new Goal Exception cannot reasonably accommodate the use.

The Applicant acknowledges that this criterion is difficult to apply because no one specific use is being proposed. By seeking to rezone the Subject Properties without specifying any limitation on which uses are or are not allowed, the Applicant is proposing that all uses in the MUA-10 zone be allowed. More specifically, however, the Applicant is proposing to allow those uses through the establishment of a transitional zone adjacent to the City that allows a variety of rural uses, including housing. Looking at the “proposed use” through that lens, ORS 197.732(2)(c)(B) requires a determination of whether other areas not requiring a Goal Exception could also be used to establish a transitional zone adjacent to the City of Sisters to allow a variety of rural uses. According to the Applicant, they cannot.

As the Applicant notes, OAR 660-004-0020(2)(b) implements ORS 197.732(2)(c)(B). Under that rule, the consideration of alternative sites for the proposed use can be done through a broad review of similar types of areas. The rule specifically states “[s]ite specific comparisons are not required of a local government

taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use.” The Applicant’s submittals include information showing that the Applicant has assessed the ability of other areas to accommodate the rural uses allowed in the MUA-10 zone. That information includes evidence that existing exception areas, like the RR-10 zone, do not allow the same suite of uses as the MUA-10 zone, and that other areas are encumbered by restrictions preventing certain types of development.

The Applicant’s analysis is largely unchallenged by other participants. With the exception of COLW’s comments, opposing comments in the record do not specifically address ORS 197.732(2)(c)(B) or OAR 660-004-0020(2)(b). COLW’s comments, however, state that this criterion is not met because “ample areas that do not require a new exception can reasonably accommodate the proposed use of future urban development in the City of Sisters.” As explained above, the Applicant is not proposing urban development with this Application, and COLW’s comments do not address the rural uses proposed generally, or the MUA-10 zone as a transitional zone near the City specifically.

Based on the foregoing and the materials currently in the record, I find that the Applicant has met its burden to demonstrate that the proposed use (transitional zoning for the City of Sisters to allow a variety of rural uses) cannot reasonably be accommodated in areas that do not require a new Goal Exception.

ORS 197.732(2)(c)(C)

This subsection of the statute requires an analysis of the long term environmental, economic, social and energy (“ESEE”) consequences resulting from the use compared to the ESEE consequences if the same proposal were located in other areas that would also require a Goal Exception. By the plain language of the statute, the ESEE consequences on the Subject Properties do not have to be lower than the ESEE consequences on alternative sites, and they can even be greater; but they cannot be “significantly more adverse”. Similar to the prior portion of the statute, this statute’s implementing rule – OAR 660-004-0020(2)(c) – expressly states that “[a] detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding.”

The Applicant presents an analysis of the ESEE consequences and asserts that those consequences are no greater than, and in some cases less than, the ESEE consequences if the proposal were on other lands also requiring a Goal Exception. For example, with respect to environmental consequences, the Applicant argues that converting other forest land, which is capable of sustaining forest uses, would have higher consequences because it would have greater impacts to tree canopy, wildlife habitat, and water and air resources. With respect to social and economic consequences, the Applicant highlights items such as impacts to jobs associated with the loss of farm or forest land if those lands were converted to MUA-10 zoning. With respect to energy, the Applicant relies on the proximity of the Subject Properties to other development and asserts that the ability to serve those properties (e.g. providing electricity or transportation) is less energy intensive.

The record contains a multitude of comments asserting negative ESEE consequences will result from the proposal on the Subject Properties. However, those comments do not address this criterion because they do not compare those alleged consequences to the ESEE consequences that would result from the same

proposal on other properties that also require a Goal Exception. Although COLW's comments specifically identify this criterion as not being satisfied, it does so based on an assertion that other areas "that do not require a new goal exception" could accommodate the proposed use and that those areas are already impacted. As explained above, however, that assertion is not responsive to this portion of the statute or its implementing rule, which require a comparison to other properties that do require a new Goal Exception.

The assessment and comparison of ESEE consequences is ultimately a discretionary exercise to be undertaken by the County Board. However, based on the current record, and having reviewed the information provided by the Applicant and other participants, I find that the Applicant has met its burden to show that the ESEE consequences resulting from the proposal on the Subject Properties are not significantly more adverse than the ESEE consequences that would result if the proposal were sited on other properties also requiring a Goal Exception.

ORS 197.732(2)(c)(D)

The final part of ORS 197.732(2)(c) requires a demonstration of compatibility with other adjacent uses. The statute's implementing rule – OAR 660-004-0020(2)(d) – imposes the following additional requirements:

The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

The Applicant responds to this criterion by reviewing the various uses allowed in the MUA-10 zone and describing the likely impacts from those uses. For some conditional uses, like dude ranches, golf courses, and destination resorts, the Applicant asserts that the Subject Properties are too small to accommodate those uses and, therefore, no impacts are likely to exist.⁵ For other allowed uses, like agricultural operations, horse stables, and home occupations, the Applicant asserts those uses are low-intensity and will not generate significant impacts.

Opposing comments in the record express concern over a wide variety of potential impacts, but those comments are largely grounded on the assumption that the Subject Properties will be used for urban development, which is not a proposed use in the Application. COLW, however, does expressly address this criterion, asserting that some of the adjacent properties are forest zoned lands and that the proposal would introduce conflicts to forest practices on those lands. The Applicant responds by arguing that any

⁵ I note that the County Board, if it approves the Goal 4 Exception, has the ability to limit uses allowed on the Subject Properties and, indeed, may be required to do so under OAR 660-004-0018(4), which states that planning and zoning for an area subject to a Reasons Exception must limit uses to those that are justified in the exception. Because the Applicant states that dude ranches, golf course, and destination resorts are not feasible, the County Board may limit its approval to exclude those uses.

potential conflicts can be addressed at a later approval stage if and when portions of the Subject Properties are proposed for development under the new MUA-10 zone.

While this particular issue is a close call, I find that the Application has met its burden with respect to this criterion. In a different context, more details from an applicant may be required. In this context, however, where the proposal is to establish the MUA-10 zone, I find there is a sufficient basis to determine that all of the uses allowed in the MUA10 zone are compatible with adjacent uses and with surrounding natural resources. With respect to non-resource uses, like the adjacent urban area to the south, the MUA-10 zone is a transition zone that actually serves as a buffer between urban and rural areas. With respect to resources on adjacent properties and surrounding areas, I note the purpose of the MUA10 zone:

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. DCC 18.32.010 (emphasis added).

Through that stated purpose, the County has already determined that all of the MUA-10 zone uses are consistent with the character and capacity of natural resources in the area and serve to protect, rather than to harm, agricultural and forest lands.

2. Plan Amendment

DCC 18.136.010 contemplates that an applicant may seek a quasi-judicial amendment to the County's Comprehensive Plan Map ("Plan Map"). Other than a reference to the procedural provisions of DCC Title 22, the Code does not appear to contain any standards or criteria specific to an amendment to the Plan Map. As noted in findings above, however, such an amendment constitutes a PAPA under state law and, therefore, the amendment must be consistent with all applicable Statewide Planning Goals.

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicant asserts the Application is consistent with all applicable Goals and Guidelines. Except for Goal 4, Goal 5, and Goal 14, which are addressed in more detail in findings below, and in the absence of any counter evidence or argument, I adopt the Applicants' position on the remaining Goals as recited on pages 50 to 52 of the Staff Report, and I find that the Plan Amendment and Zone Change are consistent with the applicable Goals and Guidelines as set forth there.

The remainder of the findings in this section address specific Goals that are either in dispute or that require additional explanation.

Goal 4 – Forest Lands

The Applicant acknowledges that the Subject Properties are currently zoned for forest use and subject to Goal 4. The Applicant, however, has requested a Goal 4 Exception. As set forth in separate findings above, this Recommendation concludes that the Applicant has met its burden to demonstrate the justification for a Goal 4 Exception. As a result, the Plan Amendment can proceed without showing compliance with Goal 4. If the County Board determines that the Goal 4 Exception is not warranted, the Applicant will need to show compliance with Goal 4.

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

Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a PAPA “unless the PAPA affects a Goal 5 resource.” One scenario in which a PAPA may affect a Goal 5 resource is when the “PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list.”⁶ According to information in the record, the Subject Properties contain or are near to two significant Goal 5 resources: (1) Trout Creek and (2) scenic resources along Highway 20.

The Applicant first asserts that the County is not required to apply Goal 5 to this Application because the uses allowed in the MUA-10 zone will not conflict with the identified Goal 5 resources. The Applicant bases this assertion on its arguments that the uses allowed in the MUA-10 zone are rural, low-intensity uses, that Trout Creek will be protected by the County’s existing development standards in the MUA-10 zone, and that development on the Subject Properties will not be visible from Highway 20 due to land use patterns between the Subject Properties and the highway.

I disagree with the Applicant that the County is not required to apply Goal 5 in this context. The administrative rule requires Goal 5 to be addressed if a PAPA allows new uses that “could” conflict with a Goal 5 resource. Because the MUA-10 zone allows uses not currently allowed in the F-2 zone, and because the Applicant is not proposing a specific development, any of the new uses allowed could conflict with the identified Goal 5 resources. The Applicant’s arguments are more relevant to the remainder of the Goal 5 analysis and whether additional protections are needed.

As an alternative argument, the Applicant does provide an ESEE analysis as required by OAR 660-023-0040(1). In accordance with that administrative rule, the Applicant’s analysis identifies conflicting uses, determines an impact area, analyzes the ESEE consequences, and proposes a “program” to achieve Goal 5 protections. The specific program proposed by the Applicant is to allow the conflicting uses in a limited way that protects the Goal 5 resources, as authorized by OAR 660-023-0040(5)(b). For Trout Creek, the proposed limit is the development standards in DCC Chapter 18.32 that the Applicant asserts are already

⁶ OAR 660-023-0250(3)(b).

designed to protect environmental resources on the site, including streams. For the scenic resource, the proposed limit is the application of the County's Landscape Management (LM) combining zone, which already applies to a portion of the Subject Properties, and which the County employs to protect scenic resources along Highway 20.

COLW submitted comments arguing that the Applicant's ESEE is deficient. COLW first asserts that the Applicant's analysis "impermissibly groups several allowed uses in the MUA zone, when they would have varying impacts on inventoried Goal 5 resources." COLW cites to OAR 660-023-0040(2) as support for that argument. The language of the rule COLW cites does not support its argument, which is also counter to other rule language. OAR 660-023-0040(2) simply states that the local government "shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area." That rule imposes no requirement mandating or prohibiting the grouping of several uses as part of the analysis. In contrast, OAR 660-023-0040(4) provides that, in analyzing ESEE consequences, "[t]he analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses." (Emphasis added).⁷

COLW next argues that the Applicant's ESEE analysis "conflates ESEE consequences on Riparian Area resources and Scenic Views resources, when separate analyses are required." I disagree with COLW's characterization of the Applicant's analysis. Each of the steps in that analysis has separate references to Trout Creek and to scenic resources.

Finally, COLW argues that the Applicant's ESEE analysis "fails to consider consequences to the entire Scenic Views resource." Again, COLW's characterization of the Applicant's analysis is not accurate. The information provided by the Applicant states that the Subject Properties are not visible from any portion of Highway 20 and, therefore, that there is no impact to the identified scenic resource.

Other than the comments by COLW, which relate only to the methodology of the ESEE analysis and not the outcome, including the proposed "program" to achieve Goal 5, no other participant directly addresses the Goal 5 requirements.

Based on the foregoing and the materials in this record, I find that the Applicant has met its burden of demonstrating compliance with Goal 5.

Goal 14 – Urbanization

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

⁷ COLW also cites to OAR 660-023-0040(2) to support an argument that the ESEE analysis is deficient because it "only considers the consequences of a decision to allow development, not a decision to limit or prohibit development." I find that this argument is not developed enough to respond to. The rule COLW cites does not contain language relating to decisions that either allow, limit, or prohibit development, and I am unable to determine what criterion COLW believes is not satisfied.

COLW asserts that the Applicant has not demonstrated compliance with Goal 14. COLW's assertion is largely based on its characterization of the Application as proposing urban development. As noted in earlier findings, however, the Applicant is not proposing any urban uses and is instead proposing that the Subject Properties be zoned MUA-10. Goal 14 would therefore apply only if such a rezoning constitutes urbanization. I find that it does not.

As the Applicant notes, this question has been asked and answered by the County, as described in the LUBA case *Central Oregon LandWatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2023-049, Feb. 15, 2024). In that case, LUBA considered very similar facts where the County approved a plan amendment and zone change from a resource zone to the MUA-10 zone. Before turning to COLW's arguments in that case, LUBA noted that the County Board had made the following finding:

Deschutes County Comprehensive Plan and Title 18 of the Deschutes County Code have been acknowledged by [the Land Conservation and Development Commission (LCDC)] as being in compliance with every statewide planning goal, including Goal 14. The County specifically amended its comprehensive plan in 2016 to provide that the Rural Residential Exception Area Plan and its related MUA-10 and RR-10 zones should be applied to non resource lands. Ordinance 2016-005. This amendment is acknowledged, which means that the RREA plan designation and its related zoning districts, when applied to non-resource lands such as the subject property, do not result in a violation of Goal 14. (Emphasis added).

As described by LUBA, the County Board has already interpreted its Plan and Code to mean that all uses allowed in the MUA-10 zone are rural in nature. Based on the Board's prior interpretation, I find that the change in the Plan designation to RREA and zoning designation to MUA-10 does not result in urbanization of the Subject Property.

Based on the foregoing, I find that the Applicant has demonstrated the Application does not propose urban uses and Goal 14 is satisfied without the need to take an exception to that Goal.

3. Zone Change

Title 18 of the Deschutes County Code, County Zoning

The Application requests a Zone Change from F-2 to MUA-10. The criteria for rezoning a parcel are set forth in DCC Chapter 18.136. These findings address the applicable zone change criteria in the context of the Applicant's request. That is, the Applicant has also requested the Plan Amendment to change the Plan Map designation applicable to the Subject Properties – from the Forest designation to the RREA designation. As discussed in the findings above, I have found that the Applicant has initially met its burden of demonstrating compliance with the Plan Amendment criteria. The findings in this section are therefore based on the assumption that the Plan designation for the Subject Properties is RREA. If the County Board does not approve the Plan Amendment, these findings will need to be altered to address the request for a Zone Change based on whatever Plan designation the County Board approves.

Section 18.136.020, Rezoning Standards

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

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

This Code provision requires a consideration of the public interest based on whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan's introductory statement and goals.

The Applicant, Staff, and other participants address this Code criterion by discussing specific Plan goals and policies. Before addressing those specific arguments, I note that, if the Plan Amendment is approved, it seems necessary to rezone the Subject Properties in some way. That is, the Forest designation of the Plan is implemented through the F-1 and F-2 zone designations. The RREA Plan designation, in contrast, is implemented only through the RR-10 and MUA-10 zones. There seems to be no basis under the Plan to allow the Plan Amendment to change the designation of the Subject Properties to RREA but to keep the F-2 zoning. Viewed through that lens, it seems that either the RR-10 or the MUA-10 zones inherently conform to the Plan in this context, and that the Applicant must show only that the Zone Change, as applied to the Subject Properties, is consistent with the Plan's introductory statement and goals.

The Staff Report notes that the County generally does not consider the Plan's goals and policies to be mandatory criteria. As described by Staff, the Plan's goals and policies are implemented through the Code, and that consistency with the Code demonstrates consistency with the Plan. No participant to this proceeding appears to dispute Staff's position that the goals and policies are not mandatory criteria or that the Plan is implemented through the Code. Nevertheless, because the Code itself requires a consideration of the Plan's statements and goals, and because some participants have questioned whether the Zone Change is consistent with those Plan provisions, I address those specific issues here.

The Application identifies potentially relevant Plan provisions by pointing to several goals and policies in the Plan set forth in Chapter 1, Comprehensive Planning, Chapter 2, Resource Management, and Chapter 3, Rural Growth Management. The Applicant states that the Application is consistent with those policies and goals. The Staff Report generally agrees with the Applicant's assessment of those policies and goals, but in some areas takes no position. With some exceptions, other participants to this proceeding assert various impacts from the Zone Change that are related to areas covered by Plan policies (e.g. water quality), but do so in a manner that does not directly relate to whether the Zone Change is consistent with the Plan. The remainder of the findings in this section address those Plan goals and policies that were specifically identified by those other participants.

Participants objecting to the Application assert that it is not consistent with Plan policy 2.3.1. That policy is to "Retain forest lands through Forest 1 and Forest 2 zoning." The basis for that argument appears to be that the Subject Properties are currently zoned F-2 and, therefore, any change to the zoning would be counter to this policy. As noted above, I have concluded that the review of the Plan policies should be done in the context of the approval of the Plan Amendment. Because, for purposes of this analysis, the

Applicant is relying on a Goal 4 Exception and the Subject Properties carry the RREA designation, I do not agree that the Subject Properties remain “forest land”. The Zone Change is therefore not inconsistent with Plan policy 2.3.1.

Participants objecting to the Application also assert that it is not consistent with Plan policy 2.3.1. That policy is part of the same set of policies related to Goal 1 under Section 2.3 of the Plan. It identifies the specific characteristics of lands that should be zoned F-2, as opposed to that that should be zoned F-1. However, that policy rests on the assumption that the land is forest land and that the County should determine whether that land should be zoned either as F-1 or F-2. As just noted, for purposes of this analysis, the Applicant is relying on a Goal 4 Exception and the Subject Properties carry the RREA designation. The Subject Properties therefore do not remain “forest land” and the Zone Change is not inconsistent with Plan policy 2.3.3.

Based on the foregoing, and in the context of the approval of the requested Plan Amendment, I find that the Zone Change conforms with the Plan and is consistent with the introductory statements and policies of the Plan.

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

DCC 18.32.010 contains the following purpose of the MUA10 zone:

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.

The Applicant states that the Zone Change will allow low-intensity residential uses, while also allowing uses recognized in DCC 18.32.020 and 18.32.030 as being appropriate in the MUA-10 zone. The Applicant also states that the uses allowed are lower intensity, and development can preserve open space and natural resources. The Staff Report agrees with the Applicant’s assessment, and no other participant appears to argue that this Code provision is not satisfied.

Based on the foregoing, I find that this Code provision is satisfied.

///

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

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

Only the Applicant and Staff directly address this Code provision. The Applicant notes that development in the MUA-10 zone generally does not rely on public services and facilities. For example, developments in rural areas generally must provide their own water and septic systems. For other facilities, like the transportation system, the Applicant relies on its transportation analysis to demonstrate the adequacy of those facilities. Comments in the record express concerns over groundwater, but those comments do not appear to assert that the availability of groundwater is either a necessary public service, or that it will be impacted by the uses allowed in the MUA-10 zone. The Applicant is not proposing any new development, and no participant has asserted that public services and facilities are insufficient to presently serve the Subject Properties. Any impact to public services and facilities can be assessed at the time of development review if and when a new development is proposed.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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

The Applicant states that the Applicant's proposal will not affect surrounding land uses due to the low-intensity uses that are allowed in the MUA-10 zone. I agree with the Applicant that the comments made in opposition to the Application are primarily grounded on the assumption that the Subject Properties will be developed with urban uses, which the Applicant is not proposing. Further, as I have concluded above, the only Plan policies identified by other participants are generally not relevant, and no participants assert that the Zone Change will make surrounding land uses inconsistent with a Plan goal or policy.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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

Although the Applicant and other participants address this criterion, they do so in the context of a potential change in circumstances on the physical ground of the Subject Properties. The Applicant, for example, notes the changes in the commercial viability of timber and a better understanding of the soil qualities on site.

I find that it is not necessary to address the difference in opinion of the Applicant and participants. As noted above, the Zone Change analysis relies on the assumption that the Plan designation for the Subject Properties is RREA. When the Subject Properties were last zoned, their Plan designation was Forestry. I

find that the change in Plan designation is, by itself, sufficient to show there has been a change in circumstances and, therefore, this Code provision is satisfied.

IV. CONCLUSION

Based on the foregoing findings, I find the Applicant has met its burden of proof with respect to the standards for approving the requested Plan Amendment, Zone Change, and Goal 4 Exception. I can therefore recommend to the County Board of Commissioners that it can APPROVE the request in the Application based on the current record.

Dated this 25th day of June 2025



Tommy A. Brooks
Deschutes County Hearings Officer



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: October 6, 2025

SUBJECT: Work Session to consider amendments to Title 2 of Deschutes County Code, Administration

RECOMMENDED ACTION:

Board direction to proceed with public hearing.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Code (DCC) Title 2, Administration, includes Chapter 2.50, Board of Supervisors. Legal has observed inconsistencies and/or gaps between DCC 2.50 and associated sections of DCC. In order to provide full clarity, maintain current practice, and avoid potential challenges associated with the inconsistencies/gaps, Legal recommends the proposed amendments.

BUDGET IMPACTS:

None

ATTENDANCE:

Legal

CHAPTER 2.50 BOARD OF SUPERVISORS

- 2.50.010 Board Name
- 2.50.020 Board Membership
- 2.50.025 Lack Of Quorum Due To Vacancy
- 2.50.030 Compensation; Expense Reimbursement
- 2.50.040 Meetings, Attendance And Quorum
- 2.50.050 Powers And Duties
- 2.50.060 Conflicts Of Interest
- 2.50.070 Appeal
- 2.50.080 Remand

2.50.010 Board Name

The name of the board shall be the Deschutes County Board of Supervisors, hereinafter in this chapter called "the board," or "the Dog Board."

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

2.50.020 Board Membership

- A. The membership of the board shall consist of no less than three and no more than five residents of the County. At least two members shall be directly or indirectly connected with the livestock industry.
- B. Members shall be appointed by the Board of Commissioners for a term of two years, except that each membership may be terminated by a majority vote of the Board of Commissioners.
- C. Appointments shall be made on a staggered basis, with each beginning on July 1 of the year of appointment, incumbents to serve until regularly replaced.
- D. At the expiration of the term of any member, the Board of Commissioners shall appoint a new member or may reappoint a member for a term of two years. If a vacancy occurs, the appointing body shall appoint a new member for the unexpired term.
- E. The Board of Commissioners may appoint one or more alternate board members who are residents of the County. Alternate board members shall be appointed for terms of two years beginning on July 1 of the year of appointment. If more than one alternate board member is appointed, the appointments shall be on a staggered

basis. Any alternative board member's membership may be terminated by a majority vote of the Board of Commissioners.

- F. When an alternate board member is sitting on the board for the purpose of conducting board business, the alternate board member shall be deemed to be a board member, and shall have all the rights, duties and obligations of a board member appointed pursuant to DCC 2.50.020.

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

Amended by Ord. 99-005 §1 on 1/27/1999

2.50.025 Lack Of Quorum Due To Vacancy

If the board ceases for any reason to have a quorum of three members due to vacancy or unavailability, the Board of County Commissioners shall designate an interim member in order to establish act as the board until a quorum is appointed.

HISTORY

Adopted by Ord. 97-011 §3 on 3/19/1997

2.50.030 Compensation; Expense Reimbursement

No board member shall receive compensation, but shall be reimbursed for authorized expenses.

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

2.50.040 Meetings, Attendance And Quorum

- A. The board shall convene a hearing promptly:

1. Upon notice written request of any livestock owner claiming that an identified dog(s), presently secured at impound, has engaged in killing, wounding, or chasing livestock, and provided that the Sheriff's Office is supportive of proceeding with a hearing of a damage claim filed under DCC 6.12.070;
2. After completion of any tests administered pursuant to DCC 6.12.040(B), to determine whether a dog has been engaged in killing, wounding or chasing livestock. Upon referral from the Sheriff or the District Attorney as further described in DCC 2.50.050 C.

- B. Involved dog owners, ~~and~~ livestock owners, ~~and other identified persons~~ shall be given reasonable notice of hearings.
- C. Members absent three consecutive hearings may be asked to resign, enabling the Board of County Commissioners to appoint a replacement.
- D. ~~Three members~~ ~~A majority of the board~~ shall constitute a quorum. ~~When necessary for a quorum, if a majority of the board is unavailable to meet,~~ any or all alternative board members ~~or interim members~~ may sit on the board to provide a board of three or more board members. A board of three board members, including one or more alternative board members ~~and/or interim board members~~, shall also constitute a quorum.

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

Amended by Ord. 99-005 §2 on 1/27/1999

2.50.050 Powers And Duties

As provided in ORS 609.030(2), the Board of County Commissioners vests in the board the following responsibilities:

- A. To conduct hearings to determine whether an impounded dog has been engaged in killing, wounding, injuring or chasing livestock in accordance with ~~applicable sections of DCC 6.12 and/or ORS 609.050-060.~~
- ~~B.~~ To conduct damage claims hearings in accordance with DCC 6.12.080.
- ~~C.~~ To conduct hearings, upon referral from the Sheriff's Office or the District Attorney's Office, to determine whether an impounded dog has engaged in conduct constituting nuisance, menacing, potentially dangerous dog, or dangerous dog as provided in DCC 6.08 and/or ORS 609, and thereafter to order proper disposition.
- ~~B.D.~~ Determinations made by the Dog Board shall be supported by reliable, probative and substantial evidence, and may be appealed as provided for in ORS 609.090 or ORS 609.165.

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

2.50.060 Conflicts Of Interest

A member of the board shall not participate in any board proceeding or action in which any of the following have a direct, substantial financial interest: the member or his spouse,

brother, sister, child, parent, father-in-law, mother-in-law, or any business with which he is negotiating for or has an arrangement or understanding concerning prospective investment or employment. Any actual or potential interest shall be disclosed at the meeting of the board where the matter is being considered.

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

2.50.070 Appeal

The decision of the board shall be the final decision of the County, except in the case of remand after appeal or review by a court, *or as otherwise provided by law.*

HISTORY

Adopted by Ord. 95-013 §1 on 3/29/1995

Amended by Ord. 97-011 §3 on 3/19/1997

2.50.080 Remand

If a decision of the board is remanded after appeal or review by a court, the Board of County Commissioners shall conduct a new hearing under the law in effect at the time of the new hearing. For the new hearing under DCC 2.50.080, the term “board” shall mean Board of County Commissioners.

HISTORY

Adopted by Ord. 97-011 §3 on 3/19/1997