



COMMUNITY DEVELOPMENT

HEARINGS OFFICER HEARING - LAND USE: SUNRIVER COMMUNITY LIMITED DISTRICT TEXT AMENDMENT

1:00 PM, THURSDAY, OCTOBER 23, 2025

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

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

AGENDA

MEETING FORMAT

This meeting will be conducted electronically, by phone, in person, and using Zoom.

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

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

<https://us02web.zoom.us/j/89153532314>

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

Members of the public can access the meeting via telephone, dial 1-253-215-8782. When prompted, enter the following Webinar ID: 891-5353-2314.

Written comments can also be provided for the public comment section to caroline.house@deschutes.org before the record is closed.

PUBLIC HEARING

FILE NUMBER: 247-25-000035-TA

SUBJECT PROPERTY: Map and Taxlot: 1911310000300 & 2011060000500 / Account: 136299 & 259336 / Situs Address: 17400 DESCHUTES RD, SUNRIVER, OR 97707

APPLICANT: Radler White Parks & Alexander, LLP

REQUEST: The Applicant requests approval of a text amendment of the Deschutes County Code (DCC) Section 18.108.140, Sunriver Community Limited (CL) District, to add the following new use

as a use permitted outright:

"3. For any structure existing as of [EFFECTIVE DATE OF ORDINANCE] that is located partially in the CL District and partially in the RE [Resort Equestrian] District, any use permitted in the RE District is also permitted in the portion of the structure in the CL District."

STAFF CONTACT: Caroline House, Senior Planner (Phone: 541-388-6667 /Email: Caroline.House@deschutes.org)

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-25-000035-ta-sunriver-community-limited-district-text-amendment>

AGENDA ITEM

1. The Applicant requests approval of a text amendment of the Deschutes County Code (DCC) Section 18.108.140, Sunriver Community Limited (CL) District, to add the following new use as a use permitted outright:

"3. For any structure existing as of [EFFECTIVE DATE OF ORDINANCE] that is located partially in the CL District and partially in the RE [Resort Equestrian] District, any use permitted in the RE District is also permitted in the portion of the structure in the CL District."



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 617-4747.



COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

HEARING FORMAT

The Deschutes County Hearings Officer will conduct the public hearing as described below by video, telephone, and in person. Options for participating in the public hearing are detailed in the Public Hearing Participation section.

PROJECT DESCRIPTION

FILE NUMBER: 247-25-000035-TA

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: SUNRIVER RESORT LIMITED PARTNERSHIP
Map and Taxlot: 1911310000300 /2011060000500
Account: 136299 / 259336
Situs Address: 17400 DESCHUTES RD, SUNRIVER, OR 97707

APPLICANT: Radler White Parks & Alexander, LLP

REQUEST: The Applicant requests approval of a text amendment of the Deschutes County Code (DCC) Section 18.108.140, Sunriver Community Limited (CL) District, to add the following new use as a use permitted outright:

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HEARING LOCATION: Deschutes Services Building – First Floor – Barnes & Sawyer Rooms (1300 NW Wall Street, Bend, OR 97703) & Zoom

HEARING DATE & TIME: Thursday, October 23, 2025, at 1:00 pm

STAFF CONTACT: Caroline House, Senior Planner
Phone: 541-388-6667
Email: Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-25-000035-ta-sunriver-community-limited-district-text-amendment>

STANDARDS AND APPLICABLE CRITERIA:

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.108, Urban Unincorporated Community Zone - Sunriver

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

TIME LIMITS

The Deschutes County Planning Division has set the following time limits for testimony at the hearing:

- Applicant: 30 minutes
- Public Agencies: 10 minutes
- General Public: 3 minutes
- Applicant Rebuttal: 10 minutes

Please note, the above time limits can be modified or eliminated by the Hearings Officer at their discretion.

PUBLIC HEARING PARTICIPATION

- If you wish to provide testimony during the public hearing, please contact the staff planner by 4 pm on October 22, 2025. Testimony can be provided as described below.
- Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link: <https://us02web.zoom.us/j/89153532314>. Using this option may require you to download the Zoom app to your device.
- Members of the public can access the meeting via telephone, dial 1-253-215-8782. When prompted, enter the following Webinar ID: 891-5353-2314.
- Written comments can also be submitted to the record. Please see the Document Submission section below for details regarding written submittals.
- The public can provide testimony in person at 1 pm in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend.

All documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost at the Deschutes County Community Development Department (CDD) at 117 NW Lafayette Avenue. Seven (7) days prior to the public hearing, a copy of the staff report will be available for inspection at no cost at CDD and on the websites listed above. Copies of all documents, evidence and the staff report can be purchased at CDD for (25) cents a page.

ALL INTERESTED PERSONS MAY APPEAR, BE HEARD, BE REPRESENTED BY COUNSEL, OR SEND WRITTEN SIGNED TESTIMONY. ANY PARTY TO THE APPLICATION IS ENTITLED TO A CONTINUANCE OF THE INITIAL EVIDENTIARY HEARING OR TO HAVE THE RECORD LEFT OPEN IN ACCORDANCE WITH SECTION 22.24.140 OF THE DESCHUTES COUNTY CODE.

Failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please contact the staff planner identified above.

DOCUMENT SUBMISSION

Any person may submit written comments on a proposed land use action. Documents may be submitted to our office in person, U.S. mail, or email.

In Person

We accept all printed documents.

U.S. Mail

Deschutes County Community Development
Planning Division, Caroline House
P.O. Box 6005
Bend, OR 97708-6005

Email

Email submittals should be directed to Caroline.House@deschutes.org.

Limitations

- Deschutes County does not take responsibility for retrieving information from a website link or a personal cloud storage service. It is the submitter's responsibility to provide the specific

information they wish to enter into the record. We will print the email which includes the link(s), however, we will not retrieve any information on behalf of the submitter.

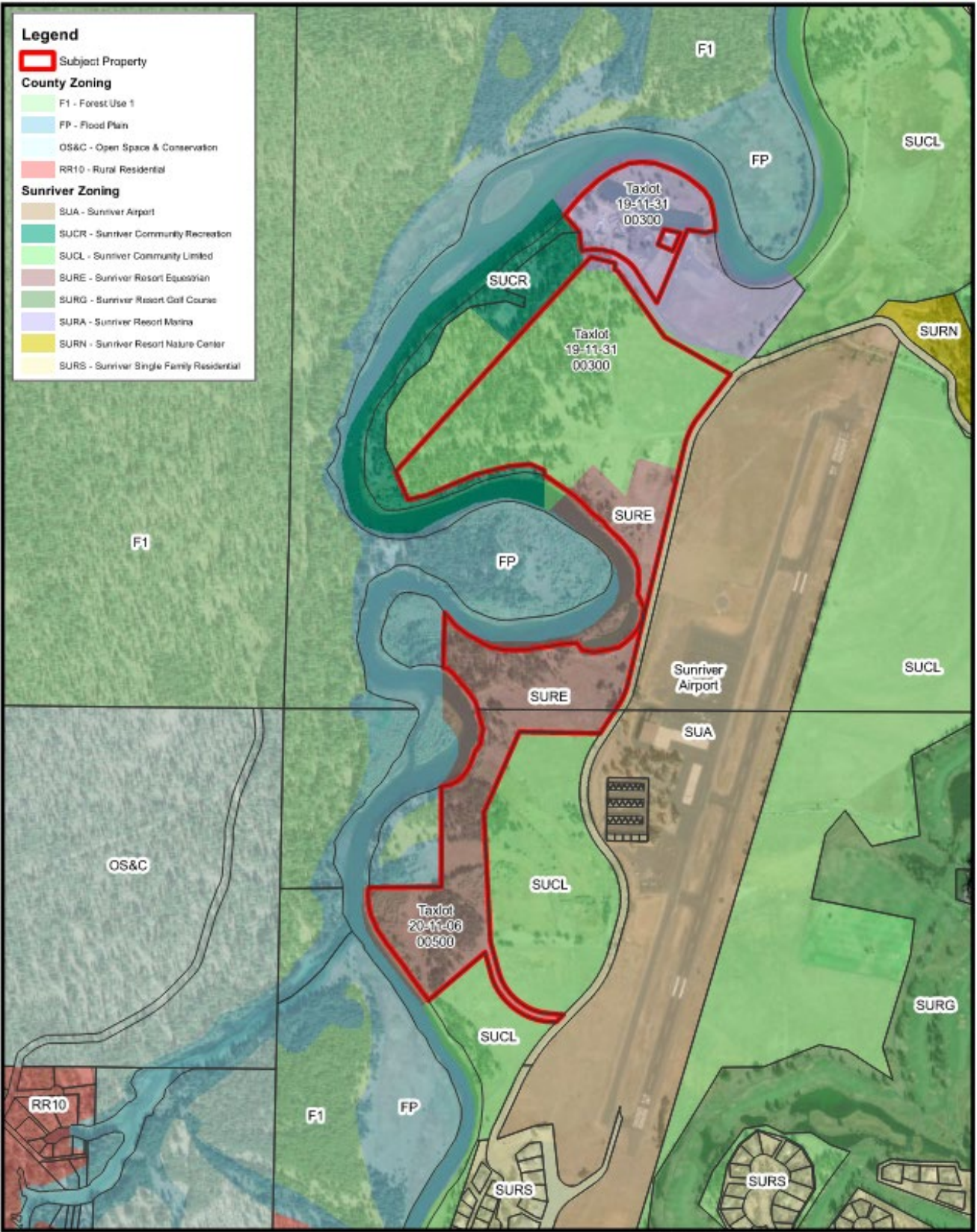
- Deschutes County makes an effort to scan all submittals as soon as possible. Recognizing staff availability and workload, there is often a delay between the submittal of a document to the record, and when it is scanned and uploaded to Accela Citizen Access (ACA) and Deschutes County Property Information (DIAL).
- To ensure your submission is entered into the correct land use record, please specify the land use file number(s).
- For the open record period after a public hearing, electronic submittals are valid **if received by the County's server** by the deadline established for the land use action.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

This Notice was mailed pursuant to Deschutes County Code Chapters 22.20 and 22.24.



Deschutes County File No. 247-25-000035-TA



9/2/2025

File: N:\Custom\County\CDD\Planning\CarolineH\247-25-000035-TA



COMMUNITY DEVELOPMENT

STAFF REPORT SUNRIVER COMMUNITY LIMITED DISTRICT TEXT AMENDMENT

FILE NUMBER: 247-25-000035-TA

**SUBJECT PROPERTIES/
OWNER:**

Mailing Name: SUNRIVER RESORT LIMITED PARTNERSHIP
Map and Taxlot: 1911310000300 /2011060000500
Account: 136299 / 259336
Situs Address: 17400 DESCHUTES RD, SUNRIVER, OR 97707

APPLICANT: Radler White Parks & Alexander, LLP ("Applicant")

REQUEST: The Applicant requests approval of a text amendment of the Deschutes County Code (DCC) Section 18.108.140, Sunriver Community Limited (CL) District, to add the following new use as a use permitted outright:

"3. For any structure existing as of [EFFECTIVE DATE OF ORDINANCE] that is located partially in the CL District and partially in the [Resort Equestrian] RE District, any use permitted in the RE District is also permitted in the portion of the structure in the CL District."

The applicability of the proposed amendment is limited to the subject properties listed at the top of this staff report.

STAFF CONTACT: Caroline House, Senior Planner
Phone: 541-388-6667
Email: Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-25-000035-ta-sunriver-community-limited-district-text-amendment>

I. **APPLICABLE CRITERIA:**

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.108, Urban Unincorporated Community Zone - Sunriver

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Title 23, Comprehensive Plan

Chapter 1, Comprehensive Planning

Chapter 4, Urban Growth Management

Oregon Administrative Rules (OARs)

OAR 660-012, Transportation Planning

OAR 660-015, Statewide Planning Goals and Guidelines

OAR 660-022, Unincorporated Communities

II. **BASIC FINDINGS:**

SITE DESCRIPTION: The Applicant's proposed text amendment will only affect properties with existing structures that are partially located in both the CL and RE Districts within the Urban Unincorporated Community of Sunriver. In total, there are only two properties in Deschutes County with the RE District zoning designation and both properties also contain CL zoned land or abut the CL District. These properties are identified on Deschutes County Assessor's Maps 19-11-31, as tax lot 300 and 20-11-06, as tax lot 500 (see *Figure 1* below). Sunriver Resort Limited Partnership (L.P.) owns both tax lots and below staff provides a more detailed site description for each tax lot.

Tax Lot 300

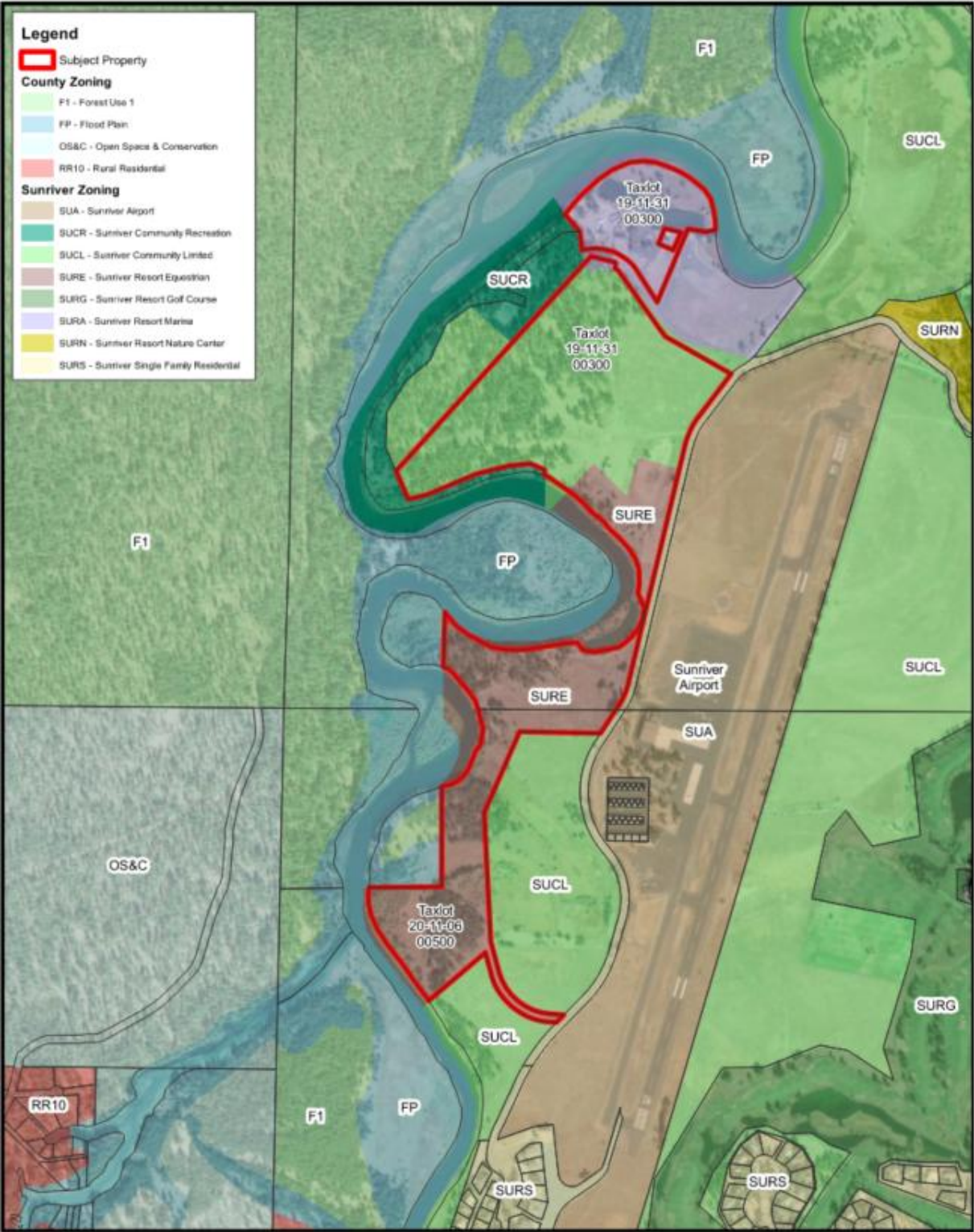
This +/-104-59-acre irregularly shaped property is split zoned RE District, CL District, and Resort Marina (RA) District in the Urban Unincorporated Community of Sunriver. In addition, the Airport Safety (AS) and Landscape Management (LM) Combining Zones and Sunriver Flood Plain District (SUFP) apply to this tax lot. The southeast lot line abuts River Road, a private local road, and Deschutes Road, also a private local road, bisects the northern third of the tax lot. Paved recreational paths are established along the east lot line and southern areas of the tax lot. The north lot line and portions of the west lot line abut the Deschutes River. The Sunriver Resort Marina is established on the northern third and the Sunriver Stables are established on the south-central area of the property. Most of the Sunriver Stables structures are located entirely in RE District. However, there is one existing equestrian stable structure located partially in the CL District and partially in the RE District (see *Figure 2* below). According to the FEMA Flood Insurance Rate Map (FIRM) for Deschutes County and the Local Wetlands Inventory, respectively, this property is partially located in the 100-year flood plain and contains significant areas of jurisdictional wetlands.

Tax Lot 500

This +/- 26.40-acre irregularly shaped property is entirely zoned RE District. The AS and LM Combining Zones and the SUFP also apply. The east lot lines abut River Road and the west lot lines abut the

Deschutes River. Paved recreational paths are established along the west lot lines abutting the Deschutes River. The remaining areas of the property appear to be undeveloped and there do not appear to be any structures on this tax lot. According to the FEMA FIRM and the Local Wetlands Inventory, respectively, this property is partially located in the 100-year flood plain and contains significant areas of jurisdictional wetlands.

Figure 1 – Subject Properties & Base Zone Designations



*Figure 2 – Existing Structure on Tax Lot 300 Partially in the CL and RE Districts
(Reference Blue Bubbled Structure)*



PROPOSAL: The Applicant's Burden of Proof includes the following background on why this text amendment has been requested:

The applicant represents Sunriver Resort Limited Partnership, the owner of the Sunriver Stables, located at 57215 River Rd, Sunriver, OR 97707. The minor text amendment proposed in this application is intended to address an existing boarding stable building (the "Boarding Stable") that appears to straddle the line between the SU-CL (Sunriver – Community Limited) and SU-RE (Sunriver – Resort Equestrian) zones.

The proposed text amendment is narrowly tailored to address the split zoning issue of the Boarding Stable that staff recently brought to our attention. The Boarding Stable itself was approved in 2007 in County Land Use Case File No. SP-07-43 (the "2007 Approval"). However, the 2007 Approval is ambiguous about the approved location of the new building and, as far as we and staff can tell, the Boarding Stable today straddles the zoning boundary line. The erroneous location was not identified by the County in its inspections at the time of construction nor by the owner in the 18 years since the 2007 approval of the Boarding Stable. Although we have not been able to identify the precise cause of this issue, the applicant hopes that this text amendment can bring resolution to the issue staff have brought to our attention.

The Applicant's Burden of Proof includes the following information on the proposed language of the text amendment:

The applicant proposes the following amendment to the text of Deschutes County Code (“DCC”) Title 18, Chapter 18.108, Sunriver – Community Limited zone (“CL”). The proposed change would permit existing structures that straddle the zoning boundary between the CL zone and an abutting Sunriver – Resort Equestrian zoned area (“RE”) to conduct the use permitted in the RE zone in the portion of the structure in the CL zone.

To the applicant’s knowledge, the only existing structure that straddles those two zoning boundaries in the county is the Boarding Stable approved in the 2007 Approval.

The amendments would not remove text from the code, and would add the following text, indicated in blue underline:

18.108.140 Community Limited; CL District

- A. Uses Permitted Outright. The following uses are permitted outright:
1. Picnic and barbecue areas, including picnic tables and benches.
 2. Recreational path
 3. For any structure existing as of [EFFECTIVE DATE OF ORDINANCE] that is located partially in the CL District and partially in the RE District, any use permitted in the RE District is also permitted in the portion of the structure in the CL District.

As the relevant text only applies to an existing structure “partially in the CL District and partially in the RE District”, the proposed amendment is limited in applicability to locations where the CL and RE districts are abutting. To the applicant’s knowledge, and consistent with the zone’s special purpose for the Sunriver community, the RE district is only applied to lands in the area to the west of the Sunriver Airport, where it abuts the CL district to the north and south, as shown on the following page.

Staff finds the proposed text amendment will expand the uses permitted outright, for the portion of the existing structure in the CL District, to also include:

- An equestrian facility;
- A park;
- A playground; and
- A building or buildings each not exceeding 8,000 square feet of floor area which include any combination of:
 - Retail sales, rental, and repair services commonly associated with equestrian facilities.

Lastly, staff notes all uses permitted outright under DCC 18.108.140(A) are subject to the applicable provisions of DCC 18.116 and DCC 18.124. Based on the Applicant’s response above, the Applicant is not proposing to “remove text from the code” and these provisions would continue to apply.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on February 5, 2025, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

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

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

Deschutes County Transportation Planner, Tarik Rawlings (August 6, 2025, Revised Comments)

I have reviewed the transmittal materials for 247-25-000035-TA for a text amendment request to DCC 18.108.140 (Sunriver Community Limited (CL) District) to add the following as a use permitted outright:

"3. For any structure existing as of [EFFECTIVE DATE OF ORDINANCE] that is located partially in the CL District and partially in the RE District, any use permitted in the RE District is also permitted in the portion of the structure in the CL District."

The proposed text amendment is limited to the following properties, totaling 130.99 acres within the Sunriver Resort Equestrian District (SURE), Sunriver Flood Plain District (SUF), Sunriver Community Limited District (CL), Sunriver Resort Marina District (SURA), Flood Plain (FP) Zone, and the Airport Safety (AS) and Landscape Management (LM) Combining Zones:

Mailing Name: SUNRIVER RESORT LIMITED PARTNERSHIP

Map and Taxlot: 1911310000300 /2011060000500

Account: 136299 / 259336

Situs Address: 17400 DESCHUTES RD, SUNRIVER, OR 97707

I have reviewed the application materials for potential Transportation Planning Rule (TPR) effects. While the proposal would effectively allow some form of structural development where there is currently no allowance, the location of the subject zoning districts (SURE, SUCL) within the larger Sunriver Urban Unincorporated Community (UUC) demonstrates compliance with the allowable uses for UUCs as defined in OAR 660-022-0010 and further described in OAR 660-022-0040. Overall, the proposed amendments appear to comply with TPR provisions. Staff has also reviewed the proposed amendments against the Sunriver UUC goals and policies outlined in the draft Deschutes County 2040 Comprehensive Plan (Chapter 11), and the current 2010-2030 Deschutes County Comprehensive Plan and finds that the proposal appears to comply with the various initiatives outlined therein and produces no foreseeable adverse effects.

Any subsequent development on the subject properties may require transportation analysis pursuant to DCC 18.116.310, produced by an Oregon-certified Transportation engineer, if

and when such development is proposed. As the property's adjacent roadways are private roadways, staff finds the access permit requirements of DCC 12.28.050 do not apply.

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of \$5,856 per p.m. peak hour trip. As the proposal is a legislative amendment and no development is included, no SDCs apply to the subject proposal.

Oregon Department of Aviation, Brandon Pike

Thank you for providing the opportunity for the Oregon Department of Aviation (ODAV) to comment on file number(s): 247-25-000035-TA

ODAV has reviewed the proposal and prepared the following comment(s):

1. In accordance with FAR Part 77.9 and OAR 738-070-0060, future development at this site may be required to undergo aeronautical evaluations by the FAA and ODAV. The applicant can use the FAA's [Notice Criteria Tool](#) to determine which proposed structures (including any cranes or other tall construction equipment) warrant a notice of construction. If so, they are required to provide separate notices of construction to both the FAA and ODAV. The applicant should receive the resulting aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.
2. The height of any new structures, trees, and other planted vegetation shall not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV.
3. The subject property appears to be located partially under the transitional surface of Sunriver Airport. Pursuant to the State of Oregon's Airport Land Use Compatibility Guidebook, some forms of development are not considered compatible land uses when located near a public-use airport. Per Table 3-4: Compatible Land Uses per FAR Part 77 Surfaces and FAA Safety Areas, the following land uses are identified as incompatible developments when located under the transitional surface of public-use airports: residential uses, places of public assembly, most recreational uses, and resource production and extraction uses.

ODAV does not recommend approval of development which is found to be in conflict with the Airport Land Use Compatibility Guidebook. The applicant is advised to contact Brandon Pike, Aviation Planner with ODAV (see contact information below) to discuss potential aviation-related concerns or limitations with the property.

Please reach out if you have questions or concerns. I'm available if the applicant has any questions or wants our input at this stage.

The Applicant contacted ODAV and, in response to that communication, ODAV provided the following additional comments on February 25, 2025:

Thank you for providing this clarifying information. It's helpful to know the background and purpose of the application.

These comments are partially intended to alert the property owner and/or applicant about the potential considerations that may need to be taken into account when owning and developing property near a public-use airport. So, while there is no new development proposed with this application, we include this information (specifically calling out future development) to ensure it enters the record and alerts the owner and future developers of these potential implications.

ODAV does not oppose the text amendment as proposed, so long as the considerations we've identified are recognized for future development.

The following agencies did not respond to the notice: Deschutes County Assessor, Deschutes County Code Enforcement, Deschutes County Onsite Wastewater Division, Deschutes National Forest, Oregon Department of Fish & Wildlife, Oregon Parks & Recreation, Sunriver Airport Manager, Sunriver Fire Department, Sunriver Owners' Association, Sunriver Utilities, and US Fish & Wildlife.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 250 feet of the subject properties on February 5, 2025. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on February 10, 2025. No public comments were received.

NOTICE REQUIREMENT: On September 3, 2025, the Planning Division mailed a Notice of Public Hearing to all property owners within 250 feet of the subject property and public agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, September 7, 2025. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on September 9, 2025.

REVIEW PERIOD: According to DCC 22.20.040(D), the review of the proposed quasi-judicial text amendment application is not subject to the 150-day review clock.

III. FINDINGS & CONCLUSIONS:

Deschutes County Code

Title 18, Deschutes Zoning Ordinance

Chapter 18.136, Amendments

Section 18.136.010, Amendments

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

FINDING: The Applicant, as a representative of the property owner, has requested a quasi-judicial text amendment and filed the corresponding application. The Applicant has filed the required land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in DCC Title 22. Considering the nature of the proposed text amendment, staff believes the County's review requires a two-step process following both quasi-judicial and legislative procedures contained in DCC Title 22.

During a Hearings Officer's review of a recent applicant-initiated Text Amendment to the Airport Development (AD) zoning code¹, the Hearings Officer addressed this threshold question as follows:

By its express terms, [DCC 18.136.010] states that the process for a text amendment is as set forth in DCC 22.12. But DCC 22.12 broadly governs "legislative" procedures. DCC 22.04.020 defines legislative changes as follows:

Legislative changes generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of property owners.

As Staff points out in the Staff Report (attached to this decision as Exhibit B), the Text Amendments do not fit squarely within this definition. Further, the Code does not expressly define "text amendment" in the context of legislative changes or in the context of a quasi-judicial land use application, even though DCC 22.12.030 allows an individual to seek legislative changes through an application process. The Staff Report suggests that the Text Amendments should be processed in the same manner as a quasi-judicial plan amendment, which is governed by DCC 22.28.030.

¹ Reference Deschutes County File No. 247-23-000470-TA.

In support of its conclusion, Staff provides a detailed analysis under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979) ("*Strawberry Hill 4 Wheelers*"). In that case, the Oregon Supreme Court set out a multi-factor test to determine what process applies to a land use application:

Generally, to characterize a process as adjudication presupposes that the process is bound to result in a decision and that the decision is bound to apply preexisting criteria to concrete facts. The latter test alone [applying preexisting criteria to concrete facts] proves too much; there are many laws that authorize the pursuit of one or more objectives stated in general terms without turning the choice of action into an adjudication. Thus a further consideration has been whether the action, even when the governing criteria leave much room for policy discretion, is directed at a closely circumscribed factual situation or a relatively small number of persons. The coincidence both of this factor and of preexisting criteria of judgment has led the court to conclude that some land use laws and similar laws imply quasi[-]judicial procedures for certain local government decisions. *Strawberry Hill 4 Wheelers* at 602-03.

As Staff correctly notes, the *Strawberry Hill 4 Wheelers* decision sets out three factors which must be considered:

1. Is the inquiry bound to result in a decision?
2. Are there preexisting criteria that are applied to concrete facts?
3. Is the inquiry directed at a closely circumscribed factual situation or a relatively small number of persons?

Although it is a close call, the Hearings Officer agrees with Staff that the three factors listed above, in this case, warrant following a quasi-judicial process for the City's Application, at least initially.

...

At the same time, the Text Amendments carry the qualities of a legislative act. The language in DCC 22.04.020 provides that legislative changes "generally involve broad public policy decisions that apply to other than an individual property owner" (emphasis added), and that definition does not state that decisions applicable to only one individual property owner cannot be legislative. Indeed, that Code provision goes on to list examples of legislative decisions, including amendments to the text of zoning ordinances.

An important component of DCC 22.12 is DCC 22.12.050, addressing final decisions. That Code provision states that "[a]ll legislative changes shall be adopted by ordinance." That language does not distinguish between purely legislative changes and those legislative changes that may be processed using a quasi-judicial process. This makes sense because the DCC is adopted by ordinance, and any changes to the text of the Code would be an amendment to that adopted ordinance. It also makes sense because ORS 215.503(2) requires that "[a]ll legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance" (emphasis added).

Based on the foregoing, I find that, in this case, the adoption of text amendments proposed by an applicant is a two-step process. In the first step of the process, the Applicant has a right under the Code to submit and to have considered an application to amend the Code's text. This phase of the process is quasi-judicial in nature and it is appropriate to have a hearing and to build a record following the principles of a quasi-judicial process. As part of that process, the Hearings Officer is addressing the application only of the County's existing laws. The second step of the process is for the Deschutes County Board of Commissioners ("County Board") to adopt an ordinance to incorporate any text amendments to the Code. Amendments to the text of a zoning ordinance are a change in the County's law, and only the County Board can make such a change. In other words, the Hearings Officer is without authority to amend the County's Code. The Hearings Officer, however, can make a recommendation to the County Board based on what develops in the quasi-judicial phase of the process. The County Board is free to accept or to reject the Hearings Officer's recommendation.

As noted above, the *Strawberry Hill 4 Wheelers* test requires a case-specific analysis of all three factors in combination. For the purposes of this review, staff addresses each component of the *Strawberry Hill 4 Wheelers* test below:

1. Results in a Decision

The Applicant has submitted an application for a text amendment. The request will result in either an approval or a denial, and a decision will be issued by the Board of County Commissioners ("Board") pursuant to DCC Title 22. As opposed to a policy change initiated by staff or decision-makers, which has a wide discretionary choice between action and inaction, the subject request was submitted as a land use application by the property owner and the County must take final action on it. Staff finds the subject amendment clearly meets this component of the *Strawberry Hill 4 Wheelers* test.

2. Preexisting Criteria Applied to Concrete Facts

The subject application is being reviewed based on the preexisting criteria listed in Section I and the Applicant's submittal includes a clear and concise statement of facts necessitating the subject application. Therefore, staff finds preexisting criteria are being applied to concrete facts and the application meets this component of the *Strawberry Hill 4 Wheelers* test.

3. Directed at a Small Number of Persons

The Applicant's proposed text amendment will only affect properties with existing structures that are partially located in both the CL District and RE District within the Urban Unincorporated Community of Sunriver. As detailed in the Basic findings section, there is only one property with these zoning conditions (ref. Deschutes County Assessor's Map 19-11-31, tax lot 300) and the Applicant owns this property. Therefore, staff finds the proposed text amendment is directed at a small number of persons and meets this component of the *Strawberry Hill 4 Wheelers* test.

When the factors above are considered in combination, staff finds the *Strawberry Hill 4 Wheelers* test is met and the subject text amendment can initially be reviewed as part of quasi-judicial process. As noted in *Hood River Valley v. Board of Cty. Commissioners*, the differentiation between a legislative and quasi-judicial process is important in order to ensure all affected parties are given a fair process. In this case, a quasi-judicial process will provide for a public hearing before a Hearings Officer and, subsequently, requires final action by the Board as part of a legislative process.

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Section 22.12.010, Hearing Required.

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: As described above, staff finds the subject application is being reviewed as part of a quasi-judicial and legislative process. The Hearings Officer is being asked to make a recommendation to the Board. The Board will ultimately approve or deny the application and, if approved, adopt an ordinance as part of a legislative process. The Planning Director has exercised their discretion not to set a hearing before the Planning Commission.

Section 22.12.020, Notice.

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice will be published in The Bulletin newspaper at least 10 days prior to each public hearing.

- B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.***
- C. Individual Notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.***

FINDING: As noted in the Basic Findings section, the Applicant complied with the posted notice

requirement and individual notice was mailed to property owners within 250 feet of the subject properties.

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

FINDING: Copies of the notice of hearing will be provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030, Initiation Of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of Commissioners or the Planning Commission.

FINDING: The Applicant has submitted the required fees and requested a text amendment. Staff finds the Applicant is granted permission under this criterion to initiate a legislative change and has submitted the necessary fee and materials.

Section 22.12.040, Hearings Body.

A. The following shall serve as hearings or review body for legislative changes in this order:

- 1. The Planning Commission.***
- 2. The Board of County Commissioners.***

FINDING: As described above, the subject application is initially being processed as part of a quasi-judicial process. For this reason, this application has been referred to a Hearings Officer rather than the Planning Commission for a recommendation. The adoption of the proposed text amendment will follow a legislative process because it must be approved by the Board. For the purpose of this criterion, staff notes the application has properties of both a quasi-judicial and legislative amendment.

B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.

FINDING: The subject application was not initiated by the Board. Staff finds this criterion does not apply.

Section 22.12.05, Final Decision.

All legislative changes shall be adopted by ordinance.

FINDING: Following issuance of the Hearings Officer's recommendation, the Board will ultimately decide on whether to approve or deny the proposed text amendment. If the Board approves the

proposed text amendment, it will be implemented by the Board adopting an ordinance.

Chapter 22.28, Land Use Action Decisions

Section 22.28.030, Decision On Plan Amendments And Zone Changes.

- A. *Except as set forth herein, the Hearings Officer or the Planning Commission when acting as the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the Board of County Commissioners.***
- B. *In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has authority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer's decision. No argument or further testimony will be taken by the Board.***

FINDING: As detailed above, staff finds the proposal should be viewed as a quasi-judicial plan amendment. For this reason, staff finds these criteria apply. This application is being referred to a Hearings Officer for a recommendation. If an appeal is not filed and the Board does not initiate review, the Board shall adopt the Hearings Officer's recommendation as the decision of the county.

- C. *Plan amendments and zone changes requiring an exception to the goals or concerning lands designated for forest or agricultural use shall be heard de novo before the Board of County Commissioners without the necessity of filing an appeal, regardless of the determination of the Hearings Officer or Planning Commission. Such hearing before the Board shall otherwise be subject to the same procedures as an appeal to the Board under DCC Title 22.***

FINDING: The subject text amendment does not require a goal exception and does not concern lands designated for forest or agricultural use. For this reason, a de novo hearing before the Board is not required.

- D. *Notwithstanding DCC 22.28.030(C), when a plan amendment subject to a DCC 22.28.030(C) hearing before the Board of County Commissioners has been consolidated for hearing before the hearings Officer with a zone change or other permit application not requiring a hearing before the board under DCC 22.28.030(C), any party wishing to obtain review of the Hearings Officer's decision on any of those other applications shall file an appeal. The plan amendment shall be heard by the Board consolidated with the appeal of those other applications.***

FINDING: No other application is being consolidated with the subject text amendment. Staff finds this criterion does not apply.

Title 23, Comprehensive Plan

Chapter 1, Comprehensive Planning

Section 1.2, Community Involvement Policies

Goals and Policies

Goal 1: Maintain an active and open community involvement program that is accessible to all members of the community and engages the community during development and implementation of land use policies and codes.

...

Policy 1.2.3 Encourage community participation in planning through a variety of tools and techniques, including:

...

b. Provide staff reports for comprehensive plan and zoning text amendments to the public in a timely manner;

FINDING: The staff report for the subject zoning text amendment will be available at least 35 days prior to the initial hearing. Additionally, any subsequent staff reports will be available at least seven days prior to any public hearings. Therefore, staff finds the requirements of this policy are met.

Section 1.3, Land Use Planning Policies.

Goals and Policies

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

...

Policy 1.3.3 Involve the public when amending County Code.

FINDING: As discussed above, there will be at least one public hearing for this review, and the County has mailed and published public notices in conjunction with this review. These efforts encourage public participation as part of the review of the applicant requested County Code amendment.

Chapter 4, Urban Growth Management

Section 4.5, Sunriver Policies.

Goals and Policies

No goals have been defined for the Sunriver Urban Unincorporated Community.

Policy 4.5.1 Land use regulations shall conform to the requirements of OAR 660 Division 22 or any successor:

FINDING: Compliance with the requirements of OAR 660 Division 22 is addressed below.

Policy 4.5.2 *County comprehensive plan policies and land use regulations shall ensure that new uses authorized within the Sunriver Urban Unincorporated Community do not adversely affect forest uses in the surrounding Forest Use Zones.*

FINDING: No new uses within the Sunriver Urban Unincorporated Community are requested as part of the proposed text amendment.

Resort District Policies

Policy 4.5.15 *Areas designated resort on the comprehensive plan map shall be designated resort, resort marina, resort golf course, resort equestrian or resort nature center district on the zoning map to reflect a development pattern which is consistent with resort uses and activities.*

FINDING: The subject properties include areas designated resort on the comprehensive plan map and designated resort equestrian on the zoning map. Staff finds the proposed text amendment to expand the uses allowed in the CL District to match the RE District will ensure the development pattern on the subject properties is consistent with the existing resort equestrian uses and activities. The proposed text amendment does not allow a new development pattern because the proposed text amendment is expressly limited to existing structures as of the effective date of the ordinance.

Community District Policies

Policy 4.5.19 *Areas designated community on the comprehensive plan map shall be designated community general, community recreation, community limited or community neighborhood district on the zoning map to reflect a development pattern which is consistent community uses and activities.*

FINDING: The subject tax lot 300 includes areas designated community on the comprehensive plan map and community limited district on the zoning map. The proposed text amendment to expand the uses allowed in the CL District to match the RE District will ensure the development pattern on the subject properties is consistent with the existing resort equestrian uses and activities. The proposed text amendment does not allow a new development pattern because the proposed text amendment is expressly limited to existing structures as of the effective date of the ordinance.

Policy 4.5.20 *Lands designated community shall be developed with uses which support all facets of community needs, be they those of year-round residents or part-time residents and tourists.*

FINDING: The subject tax lot 300 includes lands designated community. The proposed text amendment is requested to ensure the Sunriver Boarding Stable can continue to be used by the community, including year-round or part-time residents and tourists.

Policy 4.5.21 *Development shall take into consideration the unique physical features of the community and be sensitive to the residential development within which the community areas are interspersed.*

FINDING: The proposed text amendment allows for a limited expansion of uses allowed in existing structures to align with the current development in the Urban Unincorporated Community of Sunriver. No changes to the unique physical features of the community are proposed. Additionally, the County provided notice to all neighbors within 250 feet of the subject property, and the Applicant posted a proposed land use sign on the subject properties. No comments or concerns were raised related to the development associated with the proposed text amendment and the residential development in the Urban Unincorporated Community of Sunriver. Staff also notes the closest residential district is +/-3,000 feet from the existing structure on the subject tax lot 300. Therefore, staff finds development associated with the proposed text amendment will comply with this policy.

OREGON ADMINISTRATIVE RULES

Chapter 660, Division 12, Transportation Planning

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

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

(C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

FINDING: Deschutes County's Senior Transportation Planner reviewed the proposed text amendment and did not identify any significant effects on existing or planned transportation facilities (ref. Agency Comments in the Basic Findings section). Additionally, no new structures are authorized as part of the proposed text amendment, as the proposed code changes only apply to existing structures, and, it would be reasonable to assume there will be limited to no additional transportation impacts. For these reasons, staff finds the proposed amendment will not significantly affect an existing or planned transportation facility and compliance with the Transportation Planning Rule has been effectively demonstrated.

Chapter 660, Division 15, Statewide Planning Goals and Guidelines

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

Goal 1: Citizen Involvement

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

RESPONSE: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments will be provided through notice of public hearings in the "Bend Bulletin" newspaper and other notice will be provided, as discussed above. The two public hearings on this application will provide the opportunity for any resident to participate in the land use process. Goal 1 is met.

Goal 2: Land Use Planning

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

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

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 3. Neither RE or CL are exclusive farm use zones nor does either zone allow agricultural uses. DCC 18.108.090 (RE zone does not allow agricultural uses); DCC 18.108.140 (CL zone does not allow agricultural uses).

Goal 3 is not applicable.

Goal 4: Forest Lands

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

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 4. Neither RE or CL are forest zones nor does either zone allow forest practice uses. DCC 18.108.090 (RE zone does not allow forest practice uses); DCC 18.108.140 (CL zone does not allow forest practice uses).

Goal 4 is not applicable.

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

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

RESPONSE: The amendments do not propose to change open spaces, scenic or historic areas, or natural resources. Both zones involved in this proposed amendment are located in the Sunriver Urban Unincorporated Community only. Moreover, the proposed amendment only applies to existing structures as of the date of the ordinance, and therefore does not impact any existing open spaces or undisturbed natural resources.

Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

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

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

Goal 6 is inapplicable or is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

RESPONSE: The proposed amendment will not affect the County's regulation of areas subject to natural disasters or hazards.

Goal 7 is not applicable.

Goal 8: Recreational Needs

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

RESPONSE: To the extent that Goal 8 is applicable to the subject application, the amendment will allow the recreational equestrian zone to apply to the limited circumstance of existing buildings that cross from the equestrian zone into the CL zone. This will allow Deschutes County citizens and visitors to continue to access equestrian recreational opportunities in those existing buildings.

Goal 8 is met.

Goal 9: Economic Development

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

RESPONSE: The proposed text amendment complies with Goal 9 because it will permit the existing resort equestrian area's economic activities to continue in existing buildings that were built into the CL zone.

Goal 9 is met.

Goal 10: Housing

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

RESPONSE: The subject application does not propose to change any regulations related to housing, as housing is not allowed in either the CL or RE zones.

Goal 10 is not applicable.

Goal 11: Public Facilities and Services

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

RESPONSE: The proposed text amendment will have no effect on the provision of public facilities and services.

Goal 11 is not applicable.

Goal 12: Transportation

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

RESPONSE: The proposed amendment will not impact transportation facilities within the County.

Goal 12 is not applicable.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: As the proposed amendment only applies to existing structures, it will not have any impact on the conservation of energy.

Goal 13 is not applicable.

Goal 14: Urbanization

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

RESPONSE: Goal 14 concerns the provision of urban and rural land uses to ensure efficient use of land and livable communities. The proposed amendment does not amend an urban growth boundary and the uses that would be allowed in the portion of a structure in a CL district are already allowed in the RE district. The uses in the RE district are related to the equestrian zoning, and are not “urban” uses under Goal 14.

Goal 14 is met.

Goals 15-19

RESPONSE: Goals 15 through 19 are not applicable as they all related to waterbodies outside the County (Goal 15 Willamette River Greenway; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources).

Staff generally accepts the Applicant’s responses and finds compliance with the applicable Statewide Planning Goals has been effectively demonstrated.

Chapter 660, Division 22, Unincorporated Communities

OAR 660-022-0030, Planning and Zoning of Unincorporated Communities.

- (6) *County plans and land use regulations shall ensure that new or expanded uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.***

FINDING: The proposed text amendment does not create new uses in the Urban Unincorporated Community of Sunriver. However, it does allow for an expansion of uses authorized in the RE District for existing structures located in both the RE and CL Districts. Based on the submitted application

materials and staff's review of County records, there is only one existing structure that meets these criteria – a horse boarding stable constructed in 2007 (see *Figure 2*).

The Deschutes National Forest abuts the subject properties, and staff find this tract is likely engaged in forestry uses. The Planning Division mailed notice of the proposed text amendment to Deschutes National Forest, and no comments/concerns were raised. The existing structure on the subject tax lot 300 is setback more than 300 feet from the closest boundary of the Deschutes National Forest. Staff finds this separation ensures there are no adverse effects on forestry uses. Besides the agricultural uses occurring on the subject property, there do not appear to be any nearby agricultural uses. Nevertheless, staff finds two out of the three expanded uses (i.e. an equestrian facility or building used for retail sales, rental, and repair services commonly associated with equestrian facilities) are agricultural uses. Therefore, staff finds these two expanded uses are compatible. Moreover, the proposed text amendment is specific to the allowed uses of existing structures, which significantly reduces any potential impacts on surrounding agricultural or forestry uses. Considering all these factors, staff finds the expanded uses authorized requested as part of this text amendment will not adversely affect agricultural or forestry uses.

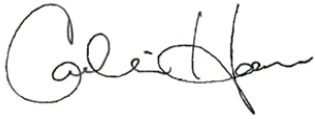
(8) *Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:*

- (A) *Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and***
- (B) *Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.***

FINDING: The proposed text amendment only applies to existing structures. As noted in this staff report, there is only one existing structure that qualifies for the expanded uses allowed under proposed text amendment. This existing structure has been permitted by Deschutes County and is connected to the community water and sewer system in Sunriver. Therefore, staff finds the proposed text amendment ensures the cumulative development will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations, and it will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

IV. CONCLUSION & RECOMMENDATION:

Based on the findings above, staff believes the proposed text amendment complies with the applicable criteria of DCC Title 18, DCC Title 22, DCC Tile 23, and the applicable sections of OAR. Staff requests the Hearings Officer determine if the Applicant has met the burden of proof necessary to justify the proposed text amendment.

DESCHUTES COUNTY PLANNING DIVISION

Written by: Caroline House, Senior Planner



Reviewed by: Anthony Ragune, Principal Planner

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