



COMMUNITY DEVELOPMENT

DESCHUTES COUNTY PLANNING COMMISSION

5:30 PM, THURSDAY, JULY 25, 2024

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

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

AGENDA

MEETING FORMAT

The Planning Commission will conduct this meeting in person, electronically, and by phone.

Members of the public may view the Planning Commission 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://bit.ly/dcpczoom>

Passcode: 764609

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: 1-312-626-6799. When prompted, enter the following Webinar ID: 824 8646 7893 and Passcode: 764609. Written comments can also be provided for the public comment section to planningcommission@deschutes.org by 5:00 p.m. on July 25. They will be entered into the record.

I. CALL TO ORDER

II. APPROVAL OF MINUTES - July 11

III. PUBLIC COMMENT

IV. ACTION ITEMS

- [1.](#) Deliberations: Hwy 20 Mini-Storage Text Amendment (*Nicole Mardell, Senior Planner*)

V. PLANNING COMMISSION AND STAFF COMMENTS

VI. ADJOURN



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.



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Nicole Mardell, AICP, Senior Planner

DATE: July 18, 2024

SUBJECT: Deliberations: Hwy 20 Mini-Storage Text Amendment

On July 25, 2024, the Deschutes County Planning Commission will conduct deliberations on an applicant-initiated text amendment to allow mini-storage as a conditional use in certain areas of the Multiple Use Agricultural (MUA-10) Zone. The file number associated with the application is 247-24-000044-TA.

I. BACKGROUND

In January 2024, the applicant Eastside Bend LLC applied for a legislative amendment related to mini-storage in the Multiple Use Agricultural – 10 Acre Minimum (MUA-10) zone. Attached to this memo are the applicant's proposed amendments (Attachment A), proposed findings (Attachment B), and a map of eligible properties (Attachment C). The applicant proposes to add mini-storage as a conditional use in the zone, if the following siting criteria are met:

- The property is at least 10 acres in size and no greater than 35 acres in size (multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section);
- Adjacent to U.S. Hwy 20; and
- Within 2,500 feet of an urban growth boundary (UGB).

In addition to these locational criteria, future applications would also need to comply with requirements for 18.128 Conditional Uses, including the general compatibility standards (18.128.015) and specific requirements for mini-storage uses (18.128.300) related to screening, parking, and landscaping (Attachment D).

The Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) was sent on April 18, 2024. Staff presented information on the proposed amendments at a Planning Commission work session on May 23, 2024¹. The Planning Commission held a public hearing on June 13² and left the written record open until June 20 at 4:00 p.m.

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-48>

² <https://www.deschutes.org/bc-pc/page/planning-commission-49>

The record, which contains all memoranda, notices, and written testimony received, is available at the following website: www.deschutes.org/Hwy20Storage

II. SUMMARY OF TESTIMONY

Notice of the public hearing was sent to agencies on May 8, 2024. Comments from the following agencies were received:

- Bend Parks and Recreation District: recommended an additional criterion be added to require easements for mapped park and trail projects as part of mini-storage development.
- Oregon Department of Transportation (ODOT): noted that access would need to be addressed at the time of individual property development, if the amendment moved forward. Requested additional transportation analysis and trip generation rates for mini-storage facilities.
- Bend Fire & Rescue: responded to a Commission question regarding existing conditional use standards for access related to mini-storage facilities.

Two public comments were received. Each expressed concern regarding the proposal and expressed concerns regarding compliance with Goal 14, limiting urban uses on rural land. Central Oregon Landwatch raised additional concerns regarding compliance with Comprehensive Plan goals and policies, Statewide Planning Goal 5, and compatibility with the zone's purpose statement.

The applicant provided additional information during the open record period following the hearing, including a transportation analysis and additional findings related to issues raised in public comment.

III. FORMAT FOR DELIBERATIONS

The deliberations matrix (Attachment E) provides an outline of key issues and decision points for discussion. As the proposal is an applicant-initiated text amendment, the applicant bears the responsibility for demonstrating compliance with all applicable criteria. Staff recommends the Commission evaluate the proposal as drafted by the applicant, without any additional modifications or revisions. Unlike staff-led text amendments which are iterative, the applicant has submitted a specific proposal to be evaluated.

In addition to the recommendation, staff will gather comments from Commissioners to share with the Board during their hearing process.

VI. NEXT STEPS

At the conclusion of the meeting, the Commission can:

- Continue deliberations to a subsequent meeting;
- Close deliberations and propose a recommendation during this meeting.

Ultimately, the Planning Commission will provide a recommendation to the Board. Options include:

- Recommend approval of amendments as drafted;
- Recommend denial of amendments;
- Other.

Attachments:

- A. Proposed Text Amendments
- B. Proposed Finding
- C. Eligible Property Map
- D. Conditional Use Standards
- E. Decision Matrix

Attachment A: Proposed Text Amendments

Chapter 18.32 Multiple Use Agricultural Zoen; MUA

18.32.030 Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.
- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal use landing strip other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in DCC 18.32.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.32.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.
- Q. A disposal site which includes a land disposal site for which they Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- R. Time share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.

- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
- W. Religious institutions or assemblies, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horse stables.
- AB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- AC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL 15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- AE. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(8)(g) that:
- a. Is on property adjacent to an existing manufactured home/recreational vehicle park;
 - b. Is adjacent to the City of Bend Urban Growth Boundary; and
 - c. Has no more than 10 dwelling units.
- AE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
- AF. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- AG. Guest lodge.
- AH. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- AI. Mini-storage facilities, including watercraft, and RV storage. Mini-storage facilities are allowed on parcels that are:
- a. Within 2,500 feet of an urban growth boundary;
 - b. Adjacent to U.S. Highway 20; and
 - a-c. A minimum of 10 acres in size and not to exceed 35 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [80-206](#) §3 on 10/13/1980

Amended by Ord. [83-033](#) §2 on 6/15/1983

Amended by Ord. [86-018](#) §7 on 6/30/1986

Amended by Ord. [90-014](#) §§27 and 35 on 7/12/1990

Amended by Ord. [91-002](#) §7 on 2/6/1991

Amended by Ord. [91-005](#) §§19 and 20 on 3/4/1991
Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [91-038](#) §1 on 9/30/1991
Amended by Ord. [92-055](#) §2 on 8/17/1992
Amended by Ord. [93-043](#) §§4A and B on 8/25/1993
Amended by Ord. [94-008](#) §11 on 6/8/1994
Amended by Ord. [94-053](#) §2 on 12/7/1994
Amended by Ord. [96-038](#) §1 on 6/12/1996
Amended by Ord. [97-017](#) §2 on 3/12/1997
Amended by Ord. [97-029](#) §2 on 5/14/1997
Amended by Ord. [97-063](#) §3 on 11/12/1997
Amended by Ord. [2001-016](#) §2 on 3/28/2001
Amended by Ord. [2001-039](#) §2 on 12/12/2001
Amended by Ord. [2004-002](#) §4 on 4/28/2004
Amended by Ord. [2009-018](#) §1 on 11/5/2009
Amended by Ord. [2015-002](#) §1 on 7/8/2015
Amended by Ord. [2016-015](#) §3 on 7/1/2016
Amended by Ord. [2020-001](#) §4 on 4/21/2020
Amended by Ord. [2021-004](#) §2 on 5/27/2021
Amended by Ord. [2021-013](#) §5 on 4/5/2022
Amended by Ord. [2023-001](#) §4 on 5/30/2023
Amended by Ord. [xxxx-xxx](#) §x on x/xx/xxxx

MUA Zone Text Amendment for Mini-Storage Uses

Deschutes County, Oregon

A Land Use Application For: Legislative Text Amendment to the Deschutes County Code

Applicant:

Eastside Bend LLC

721 South Brea Canyon Road, Suite 7
Diamond Bar, California 91789

Prepared by:



963 SW Simpson Avenue; Suite 200
Bend, Oregon 97702

Submitted: January 23, 2024
Revised: April 11, 2024

DOWL #2481.16033.01

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Exhibits

- A. Application Form
- B. Goal 5 ESEE Analysis

1.0 Introduction

- Applicant & Owner:** **Eastside Bend LLC**
721 South Brea Canyon Road, Suite 7
Diamond Bar, California 91789
- Planner:** **DOWL**
309 SW 6th Avenue; Suite 700
Portland, OR 97204
Contact: Matthew Robinson
Phone: 971.229.8318
Email: mrobinson@dowl.com
- Legal Counsel:** **Francis Hansen & Martin**
1148 NW Hill Street
Bend, OR 97703
Contact: Michael McGean
Phone: 541.389.5010
Email: michael@francishansen.com
- Zoning:** Text Amendment to Conditionally Permitted Uses
in the Multiple Use Agriculture (MUA) Zone

2.0 Project Summary

Project Description

Eastside Bend LLC (applicant) is proposing a legislative amendment to Title 18, Chapter 18.32 (Multiple Use Agricultural Zone; MUA) of the Deschutes County Code (DCC) that would designate mini-storage uses, including watercraft and RV storage, as a conditionally allowed use within the Multiple Use Agricultural Zone (MUA). The proposed text amendment would have the effect of allowing mini-storage on parcels that are:

- Zoned MUA;
- At least 10 acres in size and no greater than 35 acres in size;
- Adjacent to U.S Hwy 20; and
- Within 2,500 feet of an urban growth boundary (UGB).

The allowance of mini-storage supports the County's rural residents by providing opportunities to store personal property, including equipment, recreational vehicles, and boats. Further, other Deschutes County (County) zones already allow mini-storage, such as the Rural Industrial (R-I) zone, which is another zone intended to serve rural communities. The proposed text amendment will limit mini-storage to parcels in the MUA zone that are in close proximity to existing UGBs and adjacent to U.S. Hwy 20, thereby promoting an orderly and efficient transition from rural to urban land uses. Finally, by subjecting mini-storage uses to the conditional use process, it can be ensured that these facilities are designed and developed to be compatible with the rural character of the County while simultaneously providing economic benefit to the community.

Given the proposed mini-storage use would be allowed on parcels adjacent to U.S. Hwy 20, the use would be subject to DCC 18.84, Landscape Management Combining Zone (LM), which applies to all areas within one-fourth mile of the centerline of roads identified as landscape management corridors in the Deschutes County Comprehensive Plan (Comprehensive Plan), which includes U.S. Hwy 20. Per DCC 18.84.010, the purpose of the LM zone is to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams. Per Table 5.5.1 within Section 5.5 of Comprehensive Plan, Goal 5 Inventory for Open Spaces, Scenic Views and Sites, all land within one-quarter mile of the centerline of U.S. Hwy 20 is subject to the LM zone and is an inventoried Goal 5 resource. Given this proposed text amendment requires a post-acknowledgement plan amendment (PAPA), which could have the effect of allowing a new use (mini-storage) that could be conflicting with a Goal 5 resource, the applicant has prepared an Environmental, Social, Economic and Energy (ESEE) analysis that evaluates the tradeoffs with fully prohibiting, limiting, or allowing the conflicting use. The applicant's Goal 5 ESEE analysis is included as Exhibit B with this application in support of the proposed text amendment.

An application form signed by the applicant is included as Exhibit A with this application. This document serves as the applicant's burden of proof, and demonstrates compliance and consistency with applicable provisions of the DCC, goals and policies of the Deschutes County Comprehensive Plan, as well as the Statewide Planning Goals. The appropriate filing fee will be provided upon this application's submittal.

3.0 Proposed Revisions to Deschutes County Code

The following revisions to the DCC are proposed. New text is indicated in **bold and underlined type**. No text is proposed to be deleted.

* * *

18.32.030 Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.
- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal use landing strip other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in DCC 18.32.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.32.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.

- Q. A disposal site which includes a land disposal site for which they Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- R. Time share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.
- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
- W. Religious institutions or assemblies, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horse stables.
- AB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- AC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL 15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- AD. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(8)(G) that:
1. Is on property adjacent to an existing manufactured home/recreational vehicle park;
 2. Is adjacent to the City of Bend Urban Growth Boundary; and
 3. Has more than 10 dwelling units.
- AE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
- AF. Wireless telecommunication facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- AG. Guest lodge.
- AH. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- AI. Mini-storage facilities, including watercraft, and RV storage. Mini-storage facilities are allowed on parcels that are:**
1. **Within 2,500 feet of an urban growth boundary;**
 2. **Adjacent to U.S. Highway 20; and**
 3. **A minimum of 10 acres in size and not to exceed 35 acres in size. Multiple contiguous parcels may be considered in the aggregate to meet the requirements of this section.**

4.0 Compliance with the Deschutes County Code

Applicable provisions of the DCC are set forth below with findings demonstrating consistency of the proposed text amendment with these provisions.

Title 18 County Zoning

Chapter 18.32 Multiple Use Agricultural Zone; MUA

18.32.010 Purpose

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.

Response: Stated plainly, the intent of the MUA zone is to preserve the rural character of Deschutes County while still permitting development that is consistent with that character and within the capacity of the land. The MUA zone is not a resource zone but is considered exception land, which is intended to allow for other types of uses rather than just resource-oriented uses (such as agricultural operations or timber harvesting)¹. This is exemplified through the number of non-resource related uses permitted within the MUA zone per DCC 18.32.020 and 18.32.030, including:

- Public and semipublic uses (such as libraries or governmental administration buildings, for example);
- Private and public schools;
- Kennels and/or veterinary clinics; and
- Religious institutions.

These uses are not resource related, but are still integral to rural communities and the livability of Deschutes County's rural areas, and have been shown to be able to be constructed within MUA zoned lands in a manner that is consistent with and complimentary to the desired rural character of the County. Similarly, mini-storage is needed for rural residents who do not have options to meet storage needs within their own properties, or cannot afford to construct their own on-site storage shed/building. The allowance of mini-storage supports rural residents by providing opportunities to store personal property, including equipment, recreational vehicles, and watercraft, for example. Creating greater opportunities for mini-storage facilities can also support Deschutes County's numerous recreational amenities given their ability to accommodate recreational equipment for use at these amenities. Outdoor recreation is an essential component of Deschutes County's economy and livability, and the proposal allows a recreation-supportive use that is compatible with the County's rural character.

Additionally, mini-storage would only be allowed as a conditional use, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards

¹ See *Moody v. Deschutes County*, 220 Or LUBA, 3 n.1 (1992).
<https://www.oregon.gov/luba/Docs/Opinions/1992/01-92/91169.pdf>

per DCC 18.128.300, which provides the review authority additional discretion in their review to apply conditions of approval on a mini-storage use that is sensitive to specific site conditions and adjacent development patterns. Given this use would also be limited to parcels adjacent to U.S. Hwy 20, it would also be subject to the LM zone per DCC 18.84, including the use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090, all of which help ensure compatibility between site design and the scenic viewsheds and natural landscapes the LM zone is intending to preserve. Together, the conditional use and LM zone standards, in conjunction with the County's site plan review process per DCC 18.124, ensure that any mini-storage facilities can be developed in a manner that is consciousness of the carrying capacity of the land, any on-site natural and scenic resources, as well as adjacent development patterns and land uses.

For these reasons, the proposed mini-storage use is consistent with the purpose statement of the MUA zone above.

Chapter 18.136 Amendments

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.

Response: The applicant is proposing a legislative text amendment to DCC 18.32.030, Conditional Uses Permitted, in order to allow mini-storage as a conditional use in the MUA zone. The applicant is not proposing a quasi-judicial map amendment, as the proposed text amendment will not alter the County's zoning or comprehensive plan map(s). Because a legislative amendment is proposed, the provisions per DCC 22.12 are applicable, and hearings before the Deschutes County Planning Commission and Board of County Commissioners are required. A signed application form is included with this application as Exhibit A and the appropriate filing fee will be provided upon submittal of this application.

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: [...]

Response: The applicant is proposing a legislative text amendment to DCC 18.32.030, Conditional Uses Permitted, in order to allow mini-storage as a conditional use in the MUA zone. The applicant is not proposing a quasi-judicial map amendment, as the proposed text amendment will not alter the County's zoning map. The provisions of this section are not applicable.

18.136.030 Resolution of Intent To Rezone [...]

Response: The applicant is proposing a legislative text amendment to DCC 18.32.030, Conditional Uses Permitted, in order to allow mini-storage as a conditional use in the MUA zone. The applicant is not proposing a quasi-judicial map amendment, as the proposed text amendment will not alter the County's zoning map. The provisions of this section are not applicable.

18.136.040 Record of Amendments

All amendments to the text or map of DCC Title 18 shall be filed with the County Clerk.

Response: If approved, the adopted text amendment will be filed with the Deschutes County Clerk as required.

Chapter 18.140 Administrative Provisions

18.140.070 Filing Fees

An application required by DCC Title 18 shall be accompanied by a filing fee in the amount set by order of the Board of County Commissioners.

Response: An application form signed by the applicant is included with this application as Exhibit A. The appropriate filing fee will be provided with the submittal of this application.

Title 22 Deschutes County Development Procedures Ordinance

Chapter 22.08 General Provisions

22.08.005 Pre-Application Conference

A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The applicable zoning ordinance may require that a preapplication conference be held for particular types of applications.

Response: DCC 18.136 does not identify that a pre-application conference is required prior to submittal of text amendment applications and the applicant did not hold a pre-application conference.

22.08.010 Application Requirements

B. Applications for development or land use actions shall:

- 1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;**

Response: The proposed legislative text amendment is not specific to any single property as development is not proposed. An application form signed by the applicant is included with this application as Exhibit A.

- 2. Be completed on a form prescribed by the Planning Director;**

Response: An application form provided by the Deschutes County Community Development Department, and signed by the applicant, is included with this application as Exhibit A.

- 3. Include supporting information required by the zoning ordinance and that information necessary to demonstrate compliance with applicable criteria; and**

Response: This document serves as the applicant's burden of proof and demonstrates that the applicable regulations and policies governing the approvability of this request are met. An application form signed by the applicant is included with this application as Exhibit A, as required by this ordinance.

- 4. Be accompanied by the appropriate filing fee, unless such fees are waived by the Board of County Commissioners.**

Response: The appropriate filing fee will be provided upon submittal of this application.

5. ***Include an affidavit attesting to the fact that the notice has been posted on the property in accordance with DCC 22.24.030(B).***

Response: The proposed legislative text amendment is subject to and will follow the public notice requirements of DCC 22.12.020. Per DCC 22.12.020(B), posted notice may be required at the planning director's discretion.

C. *The following applications are not subject to the ownership requirement set forth in DCC 22.08.010(B)(1):*

1. ***Applications submitted by or on behalf of a public entity or public utility having the power of eminent domain with respect to the property subject to the application; or***
2. ***Applications for development proposals sited on lands owned by the state or the federal government.***

Response: This application is not being submitted by or on behalf of a public entity or public utility and no development is proposed on lands owned by the state or federal government.

D. *A deposit for hearings officers' fees may be requested at any time prior to the application being deemed complete and, if the application is heard by a hearings officer, the applicant will be responsible for the actual costs of the hearings officer.*

Response: Per DCC 22.12.040 this legislative text amendment is subject to hearings before the Deschutes County Planning Commission and Board of County Commissioners. As a hearing before a hearings officer is not required, this provision is not applicable.

Chapter 22.12 Legislative Procedures

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.

Response: The proposed legislative text amendment will be reviewed by both the Planning Commission and Board of County Commissioners as required by this provision.

22.12.020 Notice

A. *Published Notice.*

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

B. *Posted Notice.* ***Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.***

C. *Individual Notice.* ***Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.***

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

Response: The proposed legislative text amendment will be noticed as required by the provisions of this section. Posted notice and individual notice will be provided if determined to be necessary by the planning director.

It is the applicant's position that because the proposed legislative text amendment does not apply to any specific property, individual notice per paragraph C above is not required for this application. Because this is an application for a legislative text amendment, not an action to amend an existing comprehensive plan or any element thereof, or adopt a new comprehensive plan, Oregon Revised Statutes (ORS) 215.203 (Measure 56 notice) is not applicable (see ORS 215.203(3)). Therefore, no property will have to be rezoned in order to comply with the proposed amendment to DCC 18.32.030 if any adopting ordinance is approved.

22.12.030 Initiative 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.

Response: An application form signed by the applicant is included with this application as Exhibit A. The appropriate filing fee will be provided upon this application's submittal.

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.***

Response: The proposed legislative text amendment will be reviewed by both the Planning Commission and Board of County Commissioners as required by this provision.

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.

Response: This legislative text amendment is being initiated by an individual, not the Board of County Commissioners. This provision is not applicable.

22.12.050 Final Decision

All legislative changes shall be adopted by ordinance.

Response: If approved, the proposed legislative text amendment will be adopted by ordinance as required.

5.0 Compliance with the Deschutes County Comprehensive Plan

The goals and policies of the Deschutes County Comprehensive Plan that are applicable to the proposed text amendment are listed below with applicant findings demonstrating the proposal's consistency with these goals and policies.

Chapter 1: Comprehensive Planning

Section 1.3 Land Use Planning 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.

Response: The proposed legislative text amendment will comply with the provisions of DCC 22.12, which requires public notice of the proposal and hearings before the Deschutes County Planning Commission and Board of County Commissioners. Public hearings and notice will provide opportunities for members of the public to engage with the review bodies and provide input and testimony on the proposed text amendment in support of this goal and policy.

Chapter 3: Rural Growth

Section 3.4 Rural Economic Policies

Goal 1: Maintain a stable rural economy, compatible with rural lifestyles and a health environment.

Policy 3.4.1: Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

a. Review land use regulations to identify legal and appropriate rural economic development opportunities.

Response: The proposed legislative text amendment is consistent with the County's intent to review land use regulations and identify legal and appropriate rural economic development opportunities. The applicant's proposal provides a new rural economic development opportunity within specific and targeted areas of the MUA zone. By requiring approval of a conditional use permit for the proposed mini-storage use, it can be ensured that the integrity of the rural character and natural environment is maintained. As the mini-storage use is considered commercial development that will require on-site parking, site plan review is also required per DCC 18.124.030(B)(3), which will further ensure that proposed mini-storage facilities are designed and constructed in a manner that's compatible with adjacent development patterns and uses.

As identified in Section 3.0 of this narrative, the proposed amendment restricts the development of mini-storage facilities to parcels that are a minimum of 10 acres in size, adjacent to U.S. Hwy 20, and in close proximity to existing UGBs. These proposed parameters will also help maintain the integrity of the rural character and natural environment within the MUA zone in support of this goal and policy.

Policy 3.4.2: Work with stakeholders to promote new recreational and tourist initiatives that maintain the integrity of the natural environment.

Response: Allowing mini-storage facilities as a conditional use in limited areas of the MUA zone will support new and existing recreational and tourism areas, such as the Prineville Reservoir and the Deschutes National Forest, by providing facilities for the storage of recreational equipment, including boats and recreational vehicles. By providing dedicated storage

facilities, the proposed text amendment supports this policy by reducing the visual impacts of vehicles and equipment parked and stored in residential or public spaces and limiting the possibility that toxic fluids from these vehicles and equipment could inadvertently leak into the natural environment.

Policy 3.4.7: Within the parameters of State land use regulations, permit limited local-service commercial uses in higher-density rural communities.

Response: The proposed legislative text amendment supports this policy by allowing a new local-serving commercial mini-storage use in higher-density rural communities when also in close proximity to established UGBs and U.S. Hwy 20.

Section 3.5 Natural Hazard Policies

Goal 1: Protect people, property, infrastructure, the economy and the environment from natural hazards.

Response: Allowing mini-storage facilities in rural areas that are in close proximity to existing UGBs and adjacent to U.S. Hwy 20 supports this goal by providing opportunities for the public to store their property in safe and secure facilities that are inherently less likely to be affected by natural hazards due to their proximity to urban-level services provided within established and nearby UGBs. In addition, having mini-storage facilities in close proximity to U.S. Hwy 20 will offer residents a means to quickly gather critical necessities that might be needed in response to natural hazards.

Section 3.6 Public Facilities and Services Policies

Goal 1: Support the orderly, efficient and cost-effective siting of rural public facilities and services.

Policy 3.6.8: Coordinate with rural service districts and providers to ensure new development is reviewed with consideration of service districts and providers needs and capabilities.

Policy 3.6.9: New development shall address impacts on existing facilities and plans through the land use entitlement process.

Response: The proposed legislative text amendment is consistent with these policies because mini-storage facilities would be subject to the conditional use criteria of DCC 18.128 as well as the site plan review standards of DCC 18.124, which will ensure that public facilities, including utilities and transportation facilities, can be adequately provided to the facility and that any disproportionate impacts are adequately mitigated.

Chapter 4: Urban Growth Management

Section 4.2 Urbanization Policies

Goal 1: Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

Response: The proposed legislative text amendment would allow mini-storage facilities as a conditional use in limited areas of the MUA zone that must be within 2,500 feet of an established UGB. Geographic proximity to UGBs will contribute to the orderly and efficient transition between urban and rural lands, and their resulting development patterns, because storage facilities can be used for the storage of personal property (such as boats and recreational vehicles), which will promote rural recreation while limiting the non-farm commercial use of rural lands (such as for the storage of such equipment).

6.0 Compliance with the Oregon Statewide Planning Goals

The applicable Statewide Planning Goals are set forth below with findings demonstrating the proposal's consistency with each Goal. Goals 15 through 19 are not applicable to the proposed text amendment.

Goal 1: Citizen Involvement

To ensure opportunities for citizens to be involved in the development of public policies and all phases of the planning process.

Response: The proposed legislative text amendment will comply with the provisions of DCC 22.12, which requires public notice of the proposal and hearings before the Deschutes County Planning Commission and Board of County Commissioners. Public hearings and notice will provide opportunities for members of the public to engage with the review bodies and provide input and testimony on the proposed text amendment consistent with Goal 1.

Goal 2: Land Use Planning

To maintain a transparent land use planning process in which decisions are based on factual information and reviewed in accordance with implementing ordinances.

Response: Applicable provisions of the DCC, goals and policies of the Deschutes County Comprehensive Plan, and the Statewide Planning Goals are addressed throughout this narrative, demonstrating consistency of the proposed mini-storage use with the purpose of the MUA zone. This proposal will be reviewed by both the Deschutes County Planning Commission and the Board of County Commissions, ensuring a transparent land use planning process with ample opportunities for public comment and input in support of Goal 2.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

Response: This application is for a legislative text amendment to the DCC. As such, it is not proposing to rezone agricultural lands or otherwise impact the County's supply of land available for agricultural purposes. Further, the MUA zone is not an exclusive farm use zone, it is considered exception land, which is intended to allow for other types of uses than just agricultural ones². Rather, the purpose of the MUA zone per DCC 18.32.010 is to "preserve the rural character of various areas of the County while permitting development consistent with that character..." As demonstrated through this narrative, by allowing mini-storage facilities as a conditional use, it can be ensured that the rural character of the MUA zone and the County at large is maintained. Goal 3 is met.

Goal 4: Forest Lands

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

Response: This application is for a legislative text amendment to the DCC within the MUA zone. It is not proposing to rezone or alter the County's supply of forest resource lands. Goal 4 is met.

² See *Moody v. Deschutes County*, 220 Or LUBA, 3 n.1 (1992).
<https://www.oregon.gov/luba/Docs/Opinions/1992/01-92/91169.pdf>

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 proposed new mini-storage use would be allowed on certain parcels adjacent to U.S. Hwy 20, which would be subject to the LM zone, which applies to all areas within one-fourth mile of the centerline of roads identified as landscape management corridors in the County's Comprehensive Plan. Per DCC 18.84.010, the purpose of the LM zone is to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams. Per Table 5.5.1 within Section 5.5 of Comprehensive Plan, Goal 5 Inventory for Open Spaces, Scenic Views and Sites, all land within one-quarter mile of the centerline of U.S. Hwy 20 is subject to the LM zone and is an inventoried Goal 5 resource.

Because the proposed text amendment to DCC 18.32 requires a PAPA, which would have the effect of allowing a new use (mini-storage) that could be conflicting with a Goal 5 resource within the County's acknowledged Goal 5 inventory, Oregon Administrative Rule (OAR) 660-023-0250 requires an ESEE analysis for the proposed mini-storage use. The applicant has prepared a Goal 5 ESEE analysis in support of the proposed text amendment, which is included with this application as Exhibit B. The following is excerpted from the Goal 5 ESEE analysis' conclusion:

"This analysis concludes that limiting the conflicting use would result in the most positive consequences of the three decision scenarios. A decision to limit the new mini-storage use would avoid many of the negative consequences attributed to either allowing or prohibiting the conflicting use. The LM zone's application of use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090 all help ensure compatibility between site design and the scenic viewsheds and natural landscapes the LM zone is intending to preserve. Further, the mini-storage use would only be allowed conditionally, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards per DCC 18.128.300, which provides the review authority additional discretion in their review to apply conditions of approval on a mini-storage use that is sensitive to specific site conditions and adjacent development patterns. For the reasons concluded through this ESEE analysis, limiting the conflicting use is recommended for the proposed zoning text amendment."

For the reasons concluded within the ESEE analysis, the applicant has demonstrated that the proposed mini-storage use can be allowed in a limited manner, subject to the development standards and provisions of the LM zone within DCC 18.84. Goal 5 is met.

Goal 6: Air, Water and Land Resource Quality**To maintain and improve the quality of air, land, and water resources consistent with state and federal regulations.**

Response: This application is for a legislative text amendment to the DCC within the MUA zone and impacts to air, water and land resource quality are not proposed. Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards**To protect people and property from natural hazards.**

Response: Allowing mini-storage facilities in rural areas that are in close proximity to existing UGBs and adjacent to U.S. Hwy 20 supports Goal 7 by providing opportunities for the public to

store their property in safe and secure facilities that are inherently less likely to be affected by natural hazards due to their proximity to urban-level services. In addition, having mini-storage facilities in close proximity to U.S. Hwy 20 will offer residents a means to quickly gather critical necessities that might be needed in response to natural hazards.

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: Allowing mini-storage facilities as a conditional use in limited areas of the MUA zone will support new and existing recreational areas, such as the Prineville Reservoir and the Deschutes National Forest, by providing facilities for the storage of recreational equipment, including boats and recreational vehicles, in support of Goal 8.

Goal 9: Economic Development

To inventory commercial and industrial lands, identify future demand, and plan for ways to meet that demand.

Response: The proposed legislative text amendment supports Goal 9 because it will have the effect of allowing new and varied economic activity within the MUA zone that will allow the general public additional economic and business opportunities.

Goal 10: Housing

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

Response: This application is for a legislative next amendment to the DCC within the MUA zone and will have no impact on the County or state's ability to provide for the housing needs of the state's citizens.

Goal 11: Public Facilities and Services

To plan, develop, and maintain public facilities and services that serve the needs of the community in an orderly and efficient manner.

Response: This application is for a legislative text amendment to the DCC within the MUA zone and will have no direct impact on public facilities or services. However, by permitting mini-storage facilities only through a conditional use permit process and also requiring site plan review, it can be ensured that adequate public facilities and services are available to serve future mini-storage facilities, and that any disproportionate impacts are adequately mitigated. Goal 11 is met.

Goal 12: Transportation

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

Response: This application is for a legislative text amendment to the DCC within the MUA zone and will have no direct impact on the County or state transportation system. However, by permitting mini-storage facilities through a conditional use permit process and subject to site plan review standards, it can be ensured that adequate transportation connections to mini-storage sites are provided and that any disproportionate impacts to the transportation system are adequately mitigated. Further, by limiting mini-storage facilities in the MUA zone to parcels that are in close proximity to UGBs and adjacent to U.S. Hwy 20, the proposal ensures that these facilities are provided convenient access to the County's residents. Goal 12 is met.

Goal 13: Energy Conservation**To conserve energy.**

Response: This application is for a legislative amendment to the DCC within the MUA zone and will have no direct impact on energy conservation efforts. By subjecting mini-storage uses to the conditional use process, it can be ensured that these facilities are developed and designed with best practices, including energy efficient design standards. Goal 13 is met.

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 is intended to regulate the conversion of rural lands to urban-level uses in order to help ensure efficient use of land and livable communities. The proposed legislative text amendment is not proposing to amend any UGBs within the County or otherwise convert rural lands to urban uses. The proposal would allow mini-storage as a conditional use and, as a narrowly defined use, would limit the proliferation of such uses in a manner that would conflict with Goal 14.

Further, the allowance of mini-storage supports rural residents by providing opportunities to store personal property, including equipment, recreational vehicles, and boats. In addition, other County zones already allow mini-storage, such as the R-I zone, another zone intended to serve rural communities, which tends to indicate that it is at least a compatible use in an urban to rural transition zone. The proposed text amendment will limit the potential location of mini-storage to parcels in the MUA zone that are in close proximity to existing UGBs and adjacent to U.S. Hwy 20, thereby limiting the potential for “leapfrog” development and ensuring that any new mini-storage uses will occur in close proximity to the UGB from which any future expansion would occur. Further, by subjecting mini-storage uses to the conditional use process, it can be ensured that these facilities are developed and designed to be compatible with the rural character of the County.

The question whether a given use is urban or rural depends on the factors identified in *Shaffer v. Jackson County*, 17 Or LUBA 922 (1989)³. Those factors include whether the use (1) employs a small number of workers; (2) is significantly dependent on a site-specific resource and there is a practical necessity to site the use near the resource; (3) is a type of use typically located in rural areas; and (4) does not require public facilities or services.

The first factor here would be met because the proposed mini-storage facility would employ a very small number of workers—with at most one or two single regular on-site employees during limited hours of operation.

The second factor is satisfied by the site-specific dependency on U.S. Hwy 20 East and the rural and recreational resources east of Bend. As the site will naturally attract and provide storage for boats, RVs, off-road vehicles and other recreational equipment there is a practical necessity to site the storage facility in the particular area where Bend transitions to those larger rural areas with many residents. By contrast, this is not a mini-storage use that is proposed to be located directly between two nearby cities with evidence of

³ <https://www.oregon.gov/luba/Docs/Opinions/1989/07-89/89015.pdf>

operational characteristics demonstrating the facility was serving primarily urban residents, as in *Friends of Yamhill County v. Yamhill Co.*, 49 Or LUBA 529, 538 (2005)⁴.

The third factor would also appear to be satisfied, as mini-storage facilities tend to be located in both rural and urban areas alike, and are indeed conditionally permitted uses in the Rural Industrial (RI) zone as discussed above. See DCC 18.100.020(M). The nature of the proposed use is not inherently “urban” in the sense that rural users have the need for self-storage, as discussed above generally with respect to the purposes of the MUA zone.

Finally, the fourth factor is satisfied, because the use is not reliant upon and does not require the extension of public facilities or services like water or sewer.

These factors are not conclusive or determinative, but are considered together. *Columbia Riverkeeper v. Columbia County*, 70 Or. LUBA 171, 211 (2014)⁵. When these factors are considered together, they do not suggest that the proposed use is any more “urban” in character rather than “rural.”

Under these circumstances, Goal 14 is met.

7.0 Conclusion

As evidenced through this narrative and associated documents, the applicant’s proposed text amendment to the Deschutes County Code is consistent with the applicable local and state policies and regulations governing the allowance of this request. Therefore, the applicant respectfully requests Deschutes County approval of this application.

⁴ <https://www.oregon.gov/luba/Docs/Opinions/2005/06-05/05057.pdf>

⁵ <https://www.oregon.gov/luba/Docs/Opinions/2014/08-14/14017.pdf>

MUA ZONE TEXT AMENDMENT FOR MINI-STORAGE USES

Deschutes County, Oregon

Environmental, Social, Economic and Energy (ESEE) Analysis

Prepared for:

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Submitted: April 11, 2024

DOWL #2481.16033.01

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ACRONYMS & ABBREVIATIONS

COID	Central Oregon Irrigation District
County	Deschutes County
DCC	Deschutes County Code
DLCD	Oregon Department of Land Conservation and Development
DOWL	DOWL, LLC
ESEE	Economic, Social, Environmental and Energy
GIS	Geographic Information System
HWY 20	U.S. Highway 20 (Central Oregon Highway)
LCDC	Land Conservation and Development Commission
LM	Landscape Management Combining Zone
LUBA	Oregon Land Use Board of Appeals
MUA	Multiple Use Agricultural Zone
OAR	Oregon Administrative Rules
ODOT	Oregon Department of Transportation
ORS	Oregon Revised Statutes
PAPA	Post-Acknowledgement Plan Amendment
ROW	Right-of-Way
RV	Recreational Vehicle
SF	Square Feet
UGB	Urban Growth Boundary

1.0 INTRODUCTION

1.1 Overview of Request & Project Description

Eastside Bend LLC (applicant) is proposing a legislative amendment to Title 18, Chapter 18.32 (Multiple Use Agricultural Zone; MUA) of the Deschutes County Code (DCC) that would designate mini-storage uses, including watercraft and RV storage, as a conditionally allowed use within the Multiple Use Agricultural Zone (MUA). The proposed text amendment would have the effect of allowing mini-storage on parcels that are:

- Zoned MUA;
- At least 10 acres in size and no greater than 35 acres in size;
- Adjacent to U.S Hwy 20; and
- Within 2,500 feet of an urban growth boundary (UGB).

Given the proposed use would be allowed on certain parcels adjacent to U.S. Hwy 20, the use would be subject to DCC 18.84, Landscape Management Combining Zone (LM), which applies to all areas within one-fourth mile of the centerline of roads identified as landscape management corridors in the Deschutes County Comprehensive Plan (Comprehensive Plan). Per DCC 18.84.010, the purpose of the LM zone is to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams. Per Table 5.5.1 within Section 5.5 of Comprehensive Plan, Goal 5 Inventory for Open Spaces, Scenic Views and Sites, all land within one-quarter mile of the centerline of U.S. Hwy 20 is subject to the LM zone and is an inventoried Goal 5 resource.

Because the proposed legislative amendment to DCC 18.32 requires a post-acknowledgement plan amendment (PAPA), which would have the effect of allowing a new use (mini-storage) that could be conflicting with a Goal 5 resource on the County's acknowledged Goal 5 inventory (scenic views from U.S. Hwy 20), Oregon Administrative Rule (OAR) 660-023-0250 requires an Environmental, Social, Economic and Energy (ESEE) analysis for the proposed mini-storage use.

In 1992, Deschutes County prepared an ESEE analysis for scenic resources, including for scenic viewsheds and natural landscapes, and implemented the LM zone, which is intended to limit "conflicting uses" while still allowing development to occur (Ordinance 92-052). While more specific regulations of the LM zone are discussed in Section 2.2 of this document, it is important to note that the LM zone provides a maximum building height of 30-feet to help preserve scenic viewsheds from the highway. Additionally, many of the allowed uses within the MUA zone per DCC 18.32.020 and 18.32.030 are of a similar size and scale as a mini-storage facility, such as public/semipublic uses (such as libraries or governmental administrative buildings), public and private schools, or veterinary clinics, demonstrating that the proposed mini-storage use is not a departure from the size and scale of development already allowed within the MUA and LM zones¹.

1.2 Description of the Conflicting Use

The Oregon Department of Land Conservation and Development (DLCD) administers Statewide Planning Goal 5 Administrative Rule (OAR) 660-023-000, which states that the purpose of Goal 5 is "...to *conserve and protect significant Goal 5 natural resources.*"

Goal 5 Administrative Rule OAR 660-0023-0230(1) identifies Goal 5 scenic views and sites as lands "*that are valued for their aesthetic appearance*". The Goal 5 ESEE analysis describes the economic, social, environmental, and energy consequences of allowing, limiting, or prohibiting a new use that *could* conflict with the previously documented and protected scenic views from U.S. Hwy 20.

Goal 5 Administrative Rule OAR 660-023-0010 defines "conflicting use" as follows:

¹ Per DCC 18.84.030, uses permitted in the underlying zone are also permitted in the LM zone.

(b) “Conflicting use” is a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)). Local governments are not required to regard agricultural practices as conflicting uses.

Goal 5 Administrative Rule (OAR 660-023-0040) describes how conflicting uses are identified:

(2) *Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:*

(a) *If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)*

(b) *A local government may determine that one or more significant Goal 5 resource sites are conflicting uses, with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).*

For this ESEE analysis, the conflicting use is the proposed mini-storage use within the MUA zone for certain parcels situated along U.S. Hwy 20. Due to the location of the LM zone along U.S. Hwy 20, which is intended to “maintain and enhance scenic vistas and natural landscapes as screen from designated roads, rivers, or streams”, the new mini-storage use could conflict with this Goal 5 resource and an ESEE analysis is required.

2.0 ESEE ANALYSIS

2.1 ESEE Analysis Requirements

This ESEE analysis is based on a proposed new mini-storage use within the MUA zone for certain parcels adjacent to U.S. Hwy 20, which could be conflicting with scenic viewsheds and natural landscapes viewed from the highway, which are an inventoried Goal 5 resource within the Deschutes County Comprehensive Plan. The County’s LM zone per DCC 18.84 is intended to allow development within the LM zone in a way that is compatible with preserving these views and existing landscapes.

An ESEE analysis evaluates the trade-offs associated with different levels of resource protection. As required by the Goal 5 Rule, the evaluation process identifies the consequences of *allowing, limiting, or prohibiting* conflicting uses in areas containing significant resources, including scenic views. Pursuant to the Goal 5 Rule, OAR 660-023-0040, the ESEE analysis requires the following steps:

1. Identify the conflicting uses;
2. Determine the impact area;
3. Analyze the ESEE consequences of the conflicting use; and
4. Develop a program to achieve Goal 5

For the purpose of this ESEE analysis, the conflicting use is the proposed mini-storage use within the MUA zone for certain parcels adjacent to Hwy 20 that are subject to the LM zone, as discussed in Section 1.1. The impact area for this ESEE analysis consists of the parcels the proposed text amendment would affect (also referred to as the “affected parcels” within this document), which have been identified using geographic information systems (GIS), and are described in more detail in

Section 2.3 of this document. An ESEE consequences analysis for the impact area is provided in Section 3.0 of this document. As described in Section 2.2 below, Deschutes County already maintains a program for achieving Goal 5 specific to the scenic views and natural landscapes viewed from U.S. Hwy 20, which are an inventoried Goal 5 resource within Deschutes County and are protected through the establishment of the LM zone.

2.2 Existing Local Protections

As previously discussed, the proposed new mini-storage use within the MUA zone would be allowed on certain parcels adjacent to U.S. Hwy 20, which would be subject to the County's LM zone, which is intended to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic viewsheds and natural landscapes as seen from designated roads, rivers, or streams (including U.S. Hwy 20). The LM zone was established as a result of an ESEE analysis prepared by Deschutes County in 1992 for scenic resources, including for scenic viewsheds and natural landscapes (Ordinance 92-052). The LM zone is intended to limit conflicting uses while still allowing development to occur.

Within the LM zone, uses permitted in the underlying zone (either outright or conditionally) are permitted within the LM zone, subject to use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090. These standards and requirements are intended to allow development to occur while ensuring compatibility and preservation of scenic vistas and natural landscapes viewed from the highway in compliance with Goal 5. Notably, the LM zone limits building heights to 30-feet, which largely ensures scenic viewsheds can be preserved when viewed from a designated road (such as U.S. Hwy 20). Additionally, many of the allowed uses within the MUA zone per DCC 18.32.020 and 18.32.030 are of a similar size and scale as a mini-storage facility, such as public/semipublic uses (such as libraries or governmental administrative buildings), public and private schools, or veterinary clinics, demonstrating that the proposed mini-storage use is not a departure from the size and scale of development already allowed within the MUA and LM zones. The LM zone also gives the review authority discretion to require certain improvements or modifications to protect views through site design, such as supplemental landscaping for screening, as well as specification of certain building materials and colors, depending on the development proposed and the location of the development site. This discretion further ensures compatibility with scenic vistas and natural landscapes viewed from U.S. Hwy 20.

The proposed new mini-storage use would also only be allowed conditionally, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards per DCC 18.128.300. The County's conditional use process provides the review authority with ample discretion in their review of a proposed use to ensure that it remains compatible with adjacent development and uses through consideration of site, design and operating characteristics of the proposed use, adequacy of transportation access to the development site, and the natural and physical characteristics of the site.

Lastly, any development within the MUA zone would also be subject to the MUA zone development standards per DCC 18.32, unless superseded by the LM zone or through a condition of approval applied through the conditional use review process. Any development proposed that includes buildings, parking or site grading would also be subject to the County's site plan review process per DCC 18.124.

2.3 ESEE Analysis Area Description

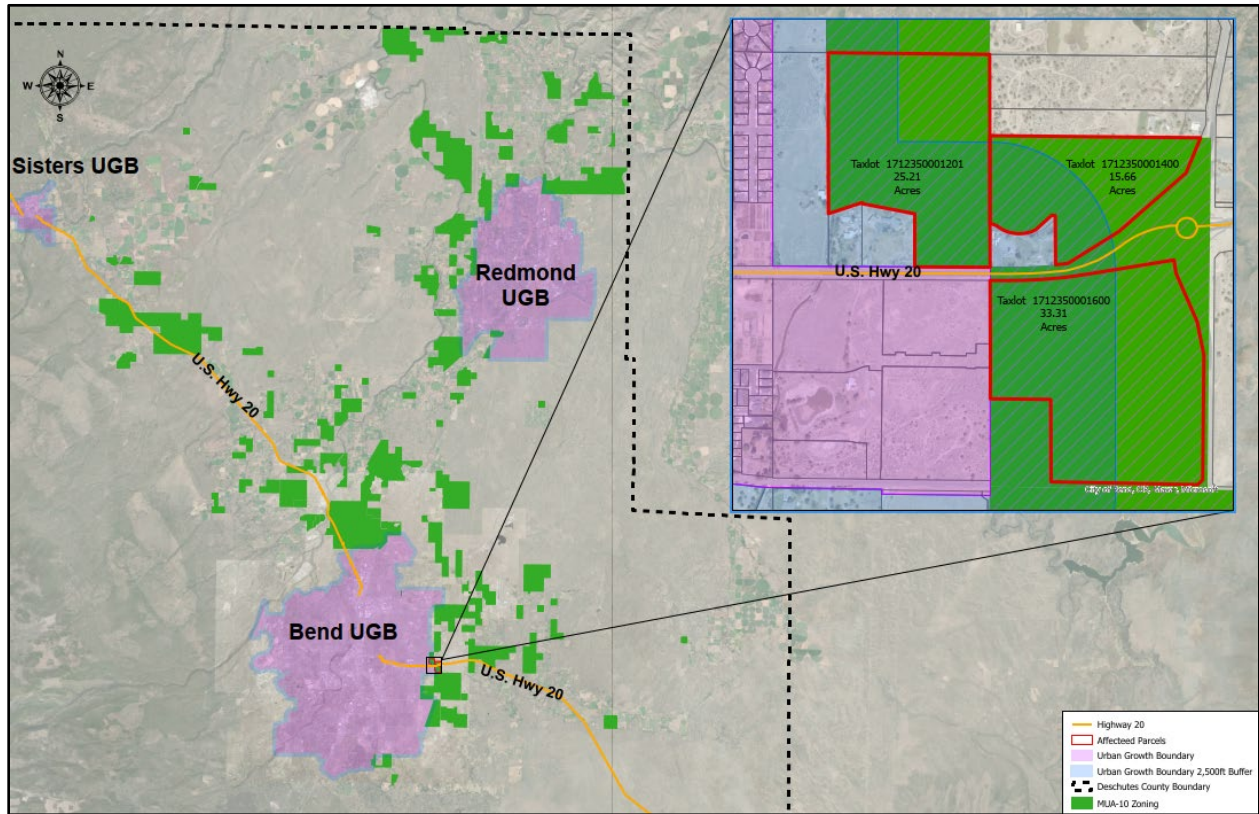
As described in Section 1.1, the new proposed mini-storage use would only be allowed on parcels that meet the following requirements:

- Zoned MUA;
- At least 10 acres in size and no greater than 35 acres in size;
- Adjacent to U.S Hwy 20; and
- Within 2,500 feet of an urban growth boundary (UGB).

Through a GIS analysis of Deschutes County's zoning and tax lot data, it was determined that the proposed mini-storage use would only affect three parcels, all generally located between Hamby Road/Ward Road

on the east and the Bend UGB on the west. These parcels are identified as tax lots 1712350001201, 1712350001600 and 1712350001400 and are shown on Figure 1 below. U.S. Hwy 20 only traverses through two UGBs, Bend and Sisters, and there are no MUA-zoned lands adjacent to the Sisters UGB. While there are ample MUA-zoned lands immediately north of the Bend UGB along U.S. Hwy 20 (Bend-Sisters Highway), there are no parcels that also meet the acreage size requirements and minimum distance from the UGB to qualify for the proposed new mini-storage use. For the purpose of this ESEE analysis and the consideration of a new conflicting use, the ESEE analysis impact area is limited to the portions of tax lots 1712350001201, 1712350001600 and 1712350001400 within the LM zone and their associated natural landscapes and scenic views.

Figure 1: Affected Parcels (ESEE Analysis Area)



2.3.1. Existing Conditions

The three affected parcels are located just east of the Bend UGB. This location is optimal for the storage of boats, RVs and recreational equipment as it is along the travel route to vast public lands and lakes to the east providing recreational opportunities, as well as the eastern route around the City to connect to North Hwy 97. This location provides the opportunity for local residents to store large recreational vehicles and equipment along two major transportation corridors to recreational opportunities, thereby decreasing vehicle miles traveled and carbon emissions.

The three affected parcels are all zoned MUA on the County’s zoning map. Adjacent zoning designations include Urbanizable Area Reserve (UAR10) to the west, Exclusive Farm Use – Tumalo/Redmond/Bend Subzone (EFUTRB) to the south and east, land within the Bend UGB (but outside Bend city-limits) zoned Standard Density Residential (RS) to the south and west, and additional MUA zoned land to the south.

All three affected parcels are currently vacant and relatively flat, with elevations varying by approximately 10 feet across each parcel. A Central Oregon Irrigation District (COID) canal lateral crosses tax lots 1712350001400 and 1712350001201 generally flowing east to west. Vegetation within each parcel is relatively sparse, consisting of vegetation typical of Central Oregon such as sagebrush, bitterbrush and

scattered juniper trees. Vegetation along each parcel's frontage with U.S. Hwy 20 is mostly limited to scrub and taller grasses. An overhead power and communication line runs along the frontage of tax lot 1712350001600 on the south side of U.S. Hwy 20.

Views from U.S Hwy 20 to the north are limited as terrain begins to gently slope upward, but Cline Butte is occasionally visible on clear days. Additionally, the recent construction of a roundabout at U.S. Hwy 20's intersection with Hamby Road and Ward Road, and the resulting grade changes, have further reduced views across tax lot 1712350001400 to the north when travelling on the highway. Views from U.S. Hwy 20 to the south are more prominent, with Paulina Peak partially visible, with the aforementioned overhead power and communication lines partially obscuring this viewshed. Views from U.S. Hwy 20 heading westbound (toward Bend) include the high Cascades, including Mount Bachelor and South Sister. Views from U.S. Hwy 20 heading eastbound (toward Burns) are limited, largely due to the new roundabout. Immediately adjacent rural residential development (on tax lots 1712350001205, 1712350001100 and 1712350001401) obscure views from U.S. Hwy 20 to the north depending on the vantage point.

2.3.2. Site Alterations

Specific site alterations on the three subject parcels are not proposed at this time. This ESEE analysis is limited to evaluating a new proposed use (mini-storage) that could be conflicting with scenic viewsheds and natural landscapes viewed from U.S. Hwy 20. As discussed in Section 2.2, if the new mini-storage use text amendment is approved, any new development eventually proposed would be subject to the County's land use review process and numerous development regulations intended to ensure compatibility with scenic views and natural landscapes through the implementation and application of the LM zone to new development on parcels subject to the LM zone.

3.0 SITE SPECIFIC ESEE ANALYSIS

An ESEE analysis describes the economic, social, environmental, and energy consequences of allowing, limiting, or prohibiting a possible conflicting use with an inventoried Goal 5 resource. For the purpose of this ESEE analysis, the conflicting use is the new proposed mini-storage use within the MUA zone for certain parcels along U.S. Hwy 20, which would be subject to the County's LM zone, which is intended to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic viewsheds and natural landscapes as seen from designated roads, rivers or streams (including U.S. Hwy 20). For the purpose of this analysis, "allow", "limit", and "prohibit" are defined as follows:

Allow Conflicting Uses: "Allowing" the conflicting use means that Deschutes County is not applying additional protections to Significant Goal 5 scenic resources beyond baseline protection provided by other, non-Goal-5 local, state, and/or federal requirements.

Limit Conflicting Uses: "Limiting" conflicting uses strikes a balance between completely developing Significant Goal 5 resources and completely protecting them. This alternative involves developing lands in ways that minimize negative environmental and economic tradeoffs, supporting the development goals embodied in local and regional land use plans, and protecting the most important Goal 5 Significant scenic resources. In 1992, Deschutes County prepared an ESEE analysis for scenic resources, including for scenic viewsheds and natural landscapes, and implemented the LM zone, which is intended to limit conflicting uses while still allowing development to occur (Ordinance 92-052). Limiting the conflicting use, in this case, would mean applying the standards and regulations of the LM zone to the new mini-storage use.

Prohibiting Conflicting Uses: "Prohibiting" conflicting uses would prevent development actions that conflict with, or degrade, Significant Goal 5 resources. This scenario emphasizes resource protection. Protection measures would exceed baseline protections provided by other local, state, and/or federal requirements.

3.1 Economic Consequences

The following describes the economic consequences for each of the three protection scenarios.

3.1.1. Prohibiting Conflicting Use (Full Protection)

The consequences of prohibiting the conflicting use would be mixed. The consequences for the scenic views and existing natural landscapes could be positive if the affected parcels were not otherwise developed under available permitted or conditionally permitted use development allowances within the MUA zone. The visual quality of the ESEE analysis area could be maintained, potentially maximizing preservation of each parcel's visual qualities. As noted in the County's original ESEE analysis for scenic resources (Ordinance 92-052), "*maintaining or enhancing visual quality makes the county a more attractive place to visit, thereby attracting more visitors and inducing people to stay longer*". It should be noted that the vegetation on the affected parcels within the LM zone is already limited as discussed in Section 2.3.1, and viewsheds to the north and south are minimal and already reduced through adjacent rural residential development and overhead utilities along the highway's south frontage. Views to the west toward the high Cascades would not be impacted by development of the affected parcels.

The economic consequences related to prohibiting the mini-storage use would be negative. A new use and development opportunity would not be permissible, limiting the creation of additional job opportunities, and positive economic activity would not be generated through mini-storage development. Prohibiting the use could mean fewer storage opportunities for the Deschutes County community, and rural residents in close proximity to the affected parcels would have to travel further to other mini-storage facilities located within UGBs, such as Bend. Full protection would also completely limit vegetation removal, minimizing development potential of a parcel and/or increasing costs to develop, leading to design requirements such as longer driveways or access roads in order to access areas of a development site beyond the LM zone.

3.1.2. Limit Conflicting Use (Limited Protection)

Limiting the conflicting use through the application of the LM zone, thereby helping to ensure any future development on the affected parcels is subject to the use and development regulations of the LM zone per DCC18.84, such as height limitations, would allow the conflicting use to occur in a manner that is sensitive to the scenic viewsheds and natural landscapes. Limiting the use while still allowing development to occur would have generally positive economic consequences. A new use and development opportunity would be allowed, which could create additional job opportunities for the County's residents and generate positive economic activity. The creation of new mini-storage uses would provide a necessary service in closer proximity to rural residents and limit the need to drive into Bend for a similar storage need.

Similarly, limiting the conflicting use in a manner that is sensitive to scenic views and natural landscapes helps to maintain the visual quality of Deschutes County, ensuring that Deschutes County is an attractive place to visit, and as noted in the County's 1992 ESEE analysis, enticing more visitors which can generate positive economic activity in the County. As discussed in Section 2.2, the LM zone's application of use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090 all help ensure compatibility between site design and the scenic viewsheds and natural landscapes the LM zone is intending to preserve. Notably, the LM zone limits building heights to 30-feet, which largely ensures scenic viewsheds can be preserved when viewed from a designated road (such as U.S. Hwy 20). Further, the mini-storage use would only be allowed conditionally, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards per DCC 18.128.300, which provides the review authority additional discretion in their review to apply conditions of approval on a mini-storage use that is sensitive to specific site conditions and adjacent development patterns.

3.1.3. Allow Conflicting Use (No Protection)

The consequence of allowing the conflicting use without any protections would be mixed. The consequences for the affected parcel's natural landscapes and the viewsheds from U.S. Hwy 20 would be negative. Future mini-storage use development, without limitations, could significantly impact viewsheds and remove all existing natural vegetation, which would diminish the affected parcel's visual quality and could reduce the County's attractiveness to new business interests and tourists. The economic consequences related to allowing the new mini-storage use would be positive, given one of the affected parcels could develop without concern for scenic viewsheds or existing natural landscapes, helping to ensure the economic benefits stated above in Section 3.1.2, including potential job creation and positive economic activity.

3.2 Social Consequences

The following describes the social consequences for each of the three protection scenarios.

3.2.1. Prohibiting Conflicting Use (Full Protection)

The consequences of prohibiting the conflicting use would be mixed. The consequences for the scenic views and natural landscapes could be positive if the affected parcels were not otherwise developed under available permitted or conditionally permitted use development allowances within the MUA zone. The visual quality of the affected parcels could be maintained and natural landscapes could be preserved. As discussed in the County's 1992 ESEE analysis, maintaining the County's visual quality enhances the livability of Deschutes County. As Deschutes County continues to urbanize, primarily through growth within the Bend and Redmond UGBs, maintaining scenic quality in the County's rural areas will remain important. However, as mentioned, the vegetation on the affected parcels within the LM zone is already limited, and viewsheds to the north and south are minimal and already reduced through existing rural residential development and overhead utilities. Views to the west toward the high Cascades would not be impacted by development of the affected parcels.

The social consequences related to prohibiting the mini-storage use would be negative. An additional employment opportunity would not be created and additional storage opportunities for County residents would not be possible. Deschutes County is a destination for outdoor recreation, with many County residents, as well as visitors, utilizing the extensive public lands and waterways for sport and leisure. Many County residents rely on storage facilities to store recreational equipment, vehicles and watercraft, and prohibiting the mini-storage use would limit options for mini-storage facilities outside of UGBs, requiring rural residents to drive further to meet this need, which could limit the County's livability potential.

3.2.2. Limit Conflicting Use (Limited Protection)

Limiting the conflicting use through the application of the LM zone, thereby helping to ensure any future development on the affected parcels is subject to the use and development regulations of the LM zone per DCC 18.84, would allow the conflicting use to occur in a manner that is sensitive to the scenic viewsheds and natural landscapes. Limiting the use while still allowing development to occur would have generally positive social consequences. A new use and development opportunity would be allowed, creating additional employment and storage opportunities for the County's residents. Given the importance of outdoor recreation to the social fabric of Deschutes County, providing opportunities for residents to store recreational equipment, vehicles and watercraft for personal use in locations in the County more proximal to the outdoor recreation uses would be beneficial to the County's livability. Further, providing mini-storage uses in closer proximity to rural residents limits the need to drive further into UGBs for this service, allowing rural residents to spend more time on other pursuits, which could further increase livability for residents.

Limiting the conflicting use in a manner that is sensitive to scenic views and natural landscapes will also help preserve and maintain the visual quality of Deschutes County, further enhancing the County's livability. As mentioned in Section 3.2.1, maintaining the County's visual quality in rural areas will remain important as the County continues to urbanize and grow within UGBs. The use limitations and development standards applied through the LM zone, such as a maximum building height of 30-feet, can help to ensure that any future development for mini-storage uses on the affected parcels is done in a manner that is considerate of scenic viewsheds and natural landscapes, and the conditional use review procedure provides the review authority with additional discretion that can ensure compatibility with specific site conditions and adjacent development patterns.

3.2.3. Allow Conflicting Use (No Protection)

The consequences of allowing the conflicting use without any protections would be mixed. The consequences for the affected parcel's natural landscapes and the viewsheds from U.S. Hwy 20 would be negative. Future mini-storage development, without limitations, could completely block viewsheds and remove all existing natural vegetation, which would diminish the affected parcel's visual quality, thereby reducing Deschutes County's overall scenic and visual quality. The consequences related to allowing the new mini-storage use would be positive, as stated above in Section 3.2.2, including potential job creation

and additional opportunities for storage in support of Deschutes County's recreational opportunities, which is integral aspect of the County's livability.

3.3 Environmental Consequences

The following describes the environmental consequences for each of the three protection scenarios.

3.3.1. Prohibiting Conflicting Use (Full Protection)

The consequences of prohibiting the conflicting use would be mixed. The consequences for the scenic views and existing natural landscapes could be positive if the affected parcels were not otherwise developed under available permitted or conditionally permitted use development allowances within the MUA zone. Existing landscapes and natural vegetation could be maintained, including existing trees and underbrush, which may provide habitat qualities. Existing vegetation also helps prevent erosion. The scenic qualities of the affected parcels could also be maintained, although scenic qualities do not necessarily provide environmental benefit. As mentioned, existing vegetation within the affected parcels is already limited, and adjacent rural residential development, as well as U.S. Hwy 20 itself, may limit the functional values of any habitat areas within the affected parcels.

The environmental consequences related to prohibiting the mini-storage use could be negative due to the fact that the proposed text amendment would allow the development of mini-storage facilities in closer proximity to rural residents. This proximity to rural residential areas could reduce drive times, thereby reducing carbon emissions for local business and residents who wish to utilize these facilities, given they would not have to drive to a UGB to meet this need.

3.3.2. Limit Conflicting Use (Limited Protection)

Limiting the conflicting use through the application of the LM zone, thereby helping to ensure any future development on the affected parcels is subject to the use and development regulations of the LM zone per DCC18.84, would allow the conflicting use to occur in a manner that is sensitive to the subject parcel's existing natural vegetation and any habitat qualities this vegetation provides. In addition, a new use and development opportunity would be allowed. The creation of additional mini-storage facilities in closer proximity to rural residents, as well as public lands that offer recreational amenities, could reduce drive times and carbon emissions as rural residents would no longer have to drive to a UGB to utilize these services. The LM zone use limitations and development standards would apply, helping to ensure compatibility between site design and scenic viewsheds and natural landscapes that the LM zone is intending to preserve, as discussed in Section 3.1.2. Notably, the LM zone limits building heights to 30-feet, which largely ensures scenic viewsheds can be preserved when viewed from a designated road (such as U.S. Hwy 20). Therefore, limiting the conflicting use would generally have positive environmental consequences.

3.3.3. Allow Conflicting Use (No Protection)

The consequences of allowing the conflicting use without any protections would be mixed. The consequences for the affected parcel's natural landscapes and the viewsheds from U.S. Hwy 20 would be negative. Without limitations, future mini-storage development could completely remove existing natural vegetation, and harm any habitat qualities this vegetation provides. The environmental consequences related to allowing the new mini-storage uses would be positive for the reasons stated in Section 3.3.2, including reduced drive times and carbon emissions as nearby rural residents would no longer have to drive to a UGB to access mini-storage facilities.

3.4 Energy Consequences

The following describes the energy consequences for reach of the three protection scenarios.

3.4.1. Prohibiting Conflicting Use (Full Protection)

The consequences of prohibiting the conflicting use would be mixed. The consequences related to the scenic views and existing natural landscapes could be positive if the affected parcels were not otherwise

developed under available permitted or conditionally permitted use development allowances within the MUA zone. The visual qualities of the affected parcels could be maintained, potentially maximizing preservation of each parcel's visual quality. This means that nearby County residents, including those within the Bend UGB, could enjoy these viewsheds without having to drive further for similar views, increasing energy use. It should be noted that the vegetation on the affected parcels within the LM zone is already limited as discussed in Section 2.3.1, and viewsheds to the north and south are minimal and already reduced through adjacent rural residential development and overhead utilities. Views to the west toward the high Cascades would not be impacted by development of the affected parcels.

The energy consequences related to prohibiting the mini-storage use would be negative. Additional opportunities for the development of mini-storage facilities in closer proximity to rural residents could not occur. The opportunity for these facilities to be constructed in closer proximity to rural residential areas could reduce drive times, thereby reducing energy consumption necessary for local businesses and nearby residents who wish to utilize these facilities, given they would not have to drive to a UGB to meet this end.

3.4.2. Limit Conflicting Use (Limited Protection)

Limiting the conflicting use through the application of the LM zone, thereby helping to ensure any future development on the affected parcels is subject to the use and development regulations of the LM zone per DCC18.84, would allow the conflicting use to occur in a manner that is sensitive to the subject parcel's existing natural vegetation and scenic viewsheds as viewed from U.S. Hwy 20, meaning nearby County residents can continue to enjoy the visual qualities provided by the affected parcels without having to drive further for similar views. The creation of additional mini-storage facilities in closer proximity to rural residents could reduce drive times and energy usage as rural residents would no longer have to drive to a UGB to utilize these services. The LM zone use limitations and development standards would apply, helping to ensure compatibility between site design and scenic viewsheds and natural landscapes that the LM zone is intending to preserve, as discussed in Section 3.1.2. Notably, the LM zone limits building heights to 30-feet, which largely ensures scenic viewsheds can be preserved when viewed from a designated road (such as U.S. Hwy 20). Therefore, limiting the conflicting use would generally have positive energy consequences.

3.4.3. Allow Conflicting Use (No Protection)

The consequences of allowing the conflicting use without any protections would be mixed. The consequences for the affected parcel's natural landscapes and the viewsheds from U.S. Hwy 20 would be negative. Without limitations, future mini-storage development could completely remove existing natural vegetation and block viewsheds, minimizing the visual qualities of the affected parcels, meaning nearby residents would have to drive further for similar views. The energy consequences related to allowing the mini-storage uses would be positive for the reasons stated in Section 3.4.2, including reduced energy consumption as nearby rural residents would no longer have to drive to a UGB to access mini-storage facilities.

3.5 Conclusion

The applicant's proposal provides an analysis of the relative trade-offs between the County's protection of scenic views and natural landscapes and the proposed legislative amendment to the DCC that would designate mini-storage uses, including watercraft and RV storage, as a conditionally allowed use within the MUA zone for certain parcels adjacent to U.S. Hwy 20. The addition of mini-storage as a conditionally allowed use within the MUA zone provides an additional opportunity for job creation, positive economic development and an additional service for nearby residents that would limit the need to drive into a UGB to access this service.

Prohibiting the conflicting use would preserve the affected parcel's natural landscapes and viewsheds but would not allow a new use that could generate a number of benefits for rural residents as identified throughout Section 3.0 of this analysis. This would result in multiple negative consequences as follows:

- No positive economic growth benefit or job creation from the construction of potential new mini-storage facilities.

- Drive times and energy consumption for rural residents could not be reduced and these residents would need to continue to drive into a UGB to access this service.
- Additional mini-storage facilities that can accommodate recreational equipment, vehicles, watercraft and RVs would not be permissible in the MUA zone, and an opportunity to support Deschutes County's extensive outdoor recreational amenities, which is integral to the County's social fabric, could not occur.

Limiting the conflicting use through the application of the LM zone, thereby helping to ensure any future development on the affected parcels is subject to the use and development regulations of the LM zone per DCC18.84, such as a maximum building height of 30-feet, would allow the conflicting use to occur in a manner that is sensitive to the scenic viewsheds and natural landscapes. Through a decision to limit the new mini-storage use, the following could be achieved:

- Scenic viewsheds and natural landscapes within the affected parcels could be largely preserved through existing DCC regulations applied through the LM zone, ensuring these views can continue to be enjoyed by Deschutes County residents and visitors alike in support of the County's livability.
- Positive economic growth benefits could occur from the potential of new mini-storage facilities that cater primarily to rural residents.
- Additional job opportunities could be created.
- Drive times, energy consumption and carbon emissions could be reduced through the development of mini-storage facilities that are in closer proximity to nearby rural residents.
- Additional mini-storage facilities that can accommodate recreational equipment, vehicles, watercraft and RVs could be constructed in support of Deschutes County's numerous recreational amenities. Further, the affected parcel's location along U.S. Hwy 20, a key travel route to vast public lands and lakes to the east, provides an opportunity for local residents to store recreational equipment along a major transportation corridor to these recreational amenities, which could also reduce vehicle miles travelled and carob emissions.

Allowing the conflicting uses with no protection could allow new mini-storage uses within the affected parcels, with most of the results listed above, but would have the greatest impact to the scenic viewsheds and natural landscapes since no development standards or other regulations, such as those applied through the LM zone, would be enforced.

This analysis concludes that limiting the conflicting use would result in the most positive consequences of the three decision scenarios. A decision to limit the new mini-storage use would avoid many of the negative consequences attributed to either allowing or prohibiting the conflicting use. The LM zone's application of use limitations per DCC 18.84.050, design review standards per DCC 18.84.080, and setback requirements per DCC 18.84.090 all help ensure compatibility between site design and the scenic viewsheds and natural landscapes the LM zone is intending to preserve. Further, the mini-storage use would only be allowed conditionally, subject to the conditional use review procedure per DCC 18.128 and the mini-storage specific standards per DCC 18.128.300, which provides the review authority additional discretion in their review to apply conditions of approval on a mini-storage use that is sensitive to specific site conditions and adjacent development patterns. For the reasons concluded through this ESEE analysis, limiting the conflicting use is recommended for the proposed zoning text amendment.

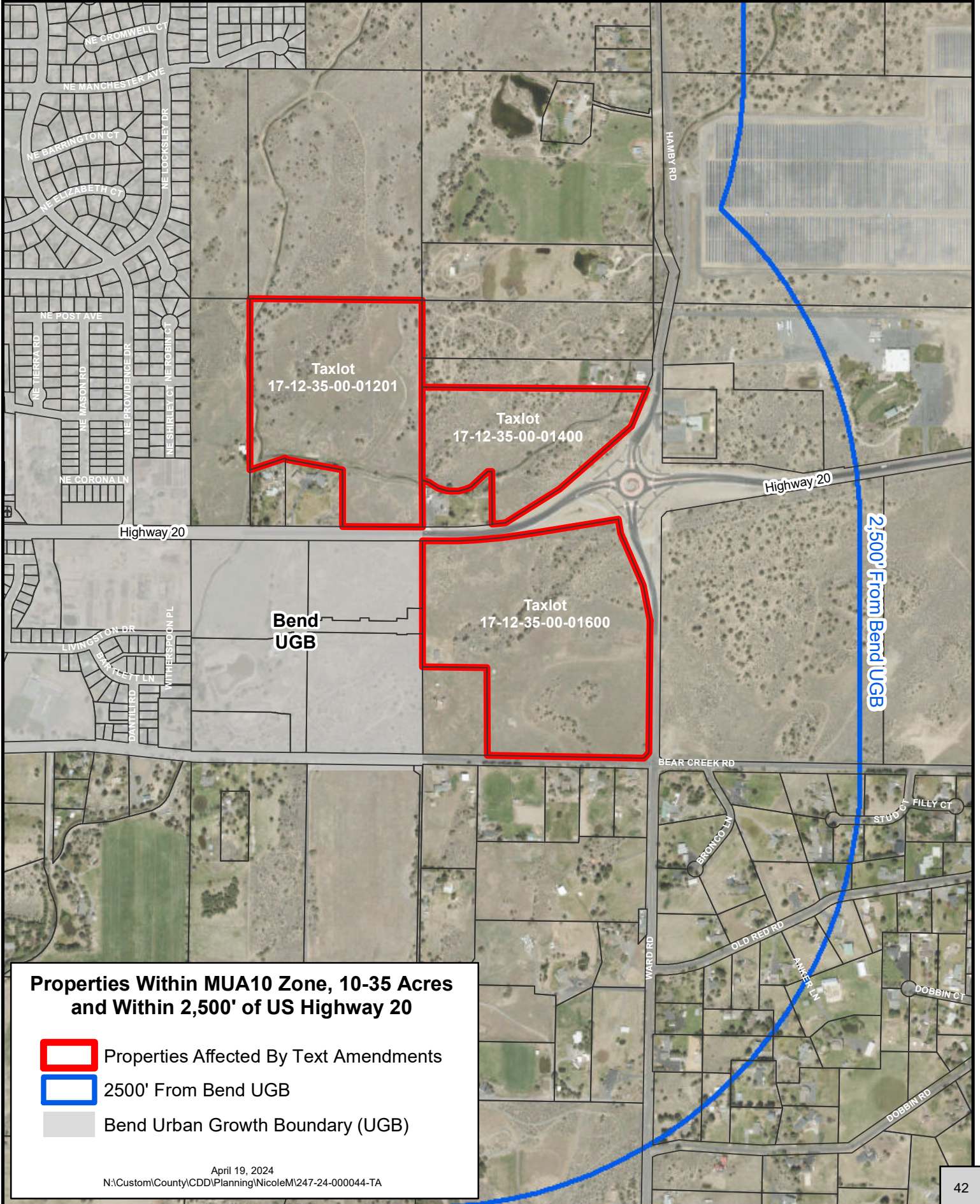


1" = 700'

247-24-000044-TA

Highway 20 Mini-Storage Text Amendments

Item #IV.1.



April 19, 2024

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Attachment D
Conditional Use Criteria

18.128.015 General Standards Governing Conditional Uses

Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

1. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:
 1. Site, design and operating characteristics of the use;
 2. Adequacy of transportation access to the site; and
 3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.
2. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).
3. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to ensure that the standard will be met.

18.128.020 Conditions

In addition to the standards and conditions set forth in a specific zone or in DCC 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.

1. Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.
2. Require a special yard or other open space or a change in lot area or lot dimension.
3. Require a limitation on the height, size or location of a structure.
4. Specify the size, number, location and nature of vehicle access points.
5. Increase the required street dedication, roadway width or require additional improvements within the street right of way.
6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.
7. Limit or specify the number, size, location, height and lighting of signs.
8. Limit the location and intensity of outdoor lighting and require shielding.
9. Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.
10. Specify the size, height and location of any materials to be used for fencing.
11. Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Require that a site plan be prepared in conformance with DCC 18.124.

18.128.300 Mini-Storage Facility

1. Each individual space for rent or sale shall be less than 1000 square feet.

2. Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles and similar vehicles placed within designated spaces on an all-weather surfaced area which is surrounded by a sight-obscuring fence at least six feet in height.
3. Yards shall be permanently landscaped.
4. Yard dimensions adjacent to residential zones shall be the same as required yards within the residential zone.
5. Parking shall be provided for office space associated with the mini-storage facility at one (1) space for every 300 square feet of office space. A minimum of two (2) parking spaces shall be provided for all mini-storage facilities regardless of office size.
6. All structures shall be fenced and visually screened.
7. Traffic lanes shall be 12 feet wide with an additional 10-foot parking lane, except where the traffic lane does not serve the storage units. All areas provided for vehicle access, parking and movement shall be improved to minimum public road standards.
8. A residence for a caretaker or 24-hour on-site manager is permitted.
9. There shall be only one access from each adjacent street.
10. Outside lighting, including shading to prevent glare on adjacent properties, may be required for safety and security purposes.

BOCC DECISION MATRIX

Eastside Bend – Hwy 20 Mini-Storage Text Amendment Land Use File No. 247-24-000044-TA				
	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Decision Point
1	Is the proposed Text Amendment compatible with the purpose of the Multiple Use Agricultural (MUA-10) Zone?	18.32.010 Purpose <i>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.</i>	<p><u>The Applicant</u> asserts that the use would be compatible with the zone. Schools, kennels, libraries, and religious institutions are allowed in the zone and have similar operating characteristics. Mini-storage is needed for rural residents who do not have adequate area or cannot afford to construct storage sheds or buildings. The conditional use process allows the reviewer to require additional site-specific conditions to mitigate impacts, such as additional screening, setbacks, or limitation on operating hours. The County’s Landscape Management (LM) zone adds another layer of visual impact requirements.</p> <p><u>Oppositional comments</u> assert the amendments conflict with the proposed uses of the zone as storage facilities are out of place with the “rural character” of the zone due to its large and industrial nature. No other commercial or industrial uses of this intensity are allowed in the zone. The use does not support rural lifestyles in the way other permitted and conditional uses in the zone do. Horse stables, vet clinics, campgrounds, schools, and churches are more compatible with the rural nature of the area. The use is incompatible with agricultural operations due to its operating characteristics and would deplete open space due to visual impacts of RV or mini-storage units.</p> <p><u>Staff</u> notes that consistency with the purpose statement is not a “criterion” for approval or denial of this application. However, the Planning Commission is being asked to evaluate if the use, as proposed, will be appropriate and compatible with other uses in the zone.</p>	Is this proposed use consistent with the purpose statement? <ul style="list-style-type: none"> A. If the PC finds the proposal is compatible with the purpose of the Multiple Use Agricultural (MUA-10) Zone, then proceed to the next item in this decision matrix. B. If the PC finds this is not met, then recommend the Board deny the application.
2	Does the application comply with goals and policies of the County’s Comprehensive Plan?	See applicant’s amended burden of proof and public comments.	<p><u>The Applicant</u> asserts the proposal complies with all applicable Comprehensive Plan goals and policies. In particular, the conditional use and the proposed siting criteria provide reasonable parameters on eligible properties and limit impacts to rural character and natural environment. The mini-storage use can provide economic and recreational benefits, as rural property owners will have additional opportunities to store personal recreation equipment. The applicant noted oppositional comments have not provided adequate information on why the proposal isn’t compliant with Comprehensive Plan policies.</p> <p><u>Oppositional comments</u> assert the proposal does not comply with applicable goals and policies. The proposal is not compatible with the intent of the Comprehensive Plan designation of Rural Residential Exception Area, and does not comply with economic development, rural growth, or urban growth management policies. Detailed discussion of this topic can be found in the public comments.</p>	Is this requirement met? <ul style="list-style-type: none"> A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix. B. If the PC finds this requirement is not met, then recommend the Board deny the application.

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3	Does the application comply with Oregon Statewide Planning Goal 14?	Statewide Land Use Goal 14: <i>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.</i>	<p><u>The Applicant</u> asserts the mini-storage use will not convert rural lands to urban uses. The amendment seeks to provide storage opportunities for rural community members, which is allowed in other zones such as the Rural Industrial (RI) zone. The conditional use requirements and proximity to urban growth boundaries (UGBs) will promote reasonable development and not limit future UGB expansion onto these lands. Case law notes the <i>Shaffer</i> test can be used to determine if a use is urban and rural. The applicant finds the use would employ a small number of workers, is dependent on the rural and recreational resources found east of Bend’s UGB, does not require public facilities such as water or sewer, and is a use already allowed in other rural zones. Additionally, the <i>Friends of Yamhill County vs. Yamhill County</i> case law does not apply to this case, as the facts are quite different. The case involved a rezoning application which included “demonstrable need” criteria, was proposed between two UGBs, and already had clients of the nearby cities using those facilities.</p> <p><u>Oppositional comments</u> assert the heightened intensity of the use requires goal exceptions to Statewide Land Use Goals 14.</p> <p>Case law from <i>Yamhill County</i> determined that a rezoning to allow expansion of a mini-storage facility on rural residential zoned land adjacent to two urban growth boundaries violated Goal 14. The County approved an operation that was 39,000 square feet in size, under the 40,000 square-foot limit cited in OAR 660-022-0030(11). The 40,000 square foot limitation was applied to unincorporated communities, to ensure that uses in those areas were less intensive than in cities. By approving an operation under that size in a rural residential area, the use was intended to be shown as rural scale development. LUBA disagreed with the approval and denied the application as the small difference in size led LUBA to believe the use was still urban in nature.</p> <p>LUBA also noted that the proximity to two urban growth boundaries could lead a reasonable person to suspect city resident would utilize the facilities. As the proposal is to allow facilities adjacent to UGBs and does not include any sideboards on the size of the operation, the use should be determined to be urban in nature. Therefore, a Goal 14 exception application should be required to allow an urban use on rural land.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>

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4	Does the application comply with Oregon Statewide Planning Goal 5?	Statewide Land Use Goal 5: <i>To protect natural resources and conserve scenic and historic areas and open spaces.</i>	<p><u>The Applicant</u> asserts the submitted ESEE provides adequate analysis. The impacts of the new use were analyzed and the conditional use criteria as well as existing requirements of LM zone (design standards, setback requirements, use limitations) are sufficient to protect the scenic resource. The impact area is sufficient as the proposal has specific siting criteria which limit the location of facilities along the scenic corridor.</p> <p><u>Oppositional comments</u> assert the applicant’s ESEE contains errors and does not provide adequate analysis. The ESEE does not adequately protect the resource as it utilizes the same mitigation measures as used for rural residences, although mini-storage facilities are more intensive in scale. Comments also suggest the impact area analyzed is deficient.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>
5	Does the application comply with Oregon Statewide Planning Goal 12?	Statewide Land Use Goal 12: <i>To provide and encourage a safe, convenient and economic transportation system.</i>	<p><u>The Applicant</u> addressed concerns from ODOT and public comments by providing transportation analysis as part of the open record period. The analysis found the amendment would not have a significant impact on the transportation system, as mini-storage facilities generate less trips than other uses allowed in the zone.</p> <p><u>Oppositional comments</u> assert the proposal does not comply with Statewide Planning Goal 12, and the Transportation Planning Rule, as the applicant had not provided transportation analysis in their original submittal.</p>	<p>Is this requirement met?</p> <p>C. If the PC finds this requirement is met, then proceed to the next item in this decision matrix.</p> <p>A. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>

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6	Does the application comply with Oregon Statewide Planning Goal 2?	State Land Use Goal 2: <i>To maintain a transparent land use planning process in which decisions are based on factual information and reviewed in accordance with implementing ordinances.</i>	<p><u>The Applicant</u> asserts that this goal is met, as the application complies with applicable provisions of the Deschutes County Code, Comprehensive Plan, and other Statewide Planning Goals. The proposal is being reviewed through a legislative process that is transparent and provides ample opportunities for public comment.</p> <p><u>Oppositional comments</u> assert this goal is not met as the applicant has not provided a factual base or demonstrated need for the amendments. Rural properties in the MUA-10 zone are subject to 10-minimum acre lot sizes, which would provide adequate space on individual lots for storage of possessions including RVs or outside storage. There isn't sufficient evidence in the record to determine if there is demand for the use in these particular areas compared to cities. Additionally, commercial and industrial uses of this scale were intentionally not permitted when the zone was created.</p>	<p>Is this requirement met?</p> <p>A. If the PC finds this requirement is met, then recommend the Board approve the application.</p> <p>B. If the PC finds this requirement is not met, then recommend the Board deny the application.</p>