BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, JANUARY 8, 2025
Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall Street – Bend
(541) 388-6570 | www.deschutes.org

AGENDA

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

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

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

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

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

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

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

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

CALL TO ORDER

1. Board selection of Chair and Vice Chair for 2025

PLEDGE OF ALLEGIANCE

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

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

CONSENT AGENDA

2. Approval of Resolution No. 2024-060, adopting a supplemental budget and increasing appropriations in the Health Services Fund

3. Approval of Resolution No. 2025-001 adopting a supplemental budget and reducing FTE within the 2024-25 Deschutes County budget

4. Approval of an amendment to a grant agreement with the Oregon Health Authority OHA 180009-15

5. Approval of Document No. 2024-006 accepting a 2023 Shared Savings Investment Grant from the Central Oregon Health Council, and approval of Board Order No. 2025-001 designing signing authority to Jessica Jacks

6. Consideration of Board Signature on letter appointing Matt Latimer for service on the Central Oregon Regional Housing Authority (dba Housing Works) Board

7. Consideration of Board Signature on letter thanking Dr. Peter Boehm for service on the Public Health Advisory Board

8. Consideration of Board Signature on letters thanking Lorelei Kryzanek, Christina Lee and Roger Olsen, and reappointing Dr. Peter Boehm and Jill Adams, for service on the Public Health Advisory Board

9. Consideration of Board Signature on various letters of thanks, appointment and reappointment, to various Special Road Districts

10. Approval of the minutes of the December 10, 2024 Mid-Year Budget Update meeting

11. Approval of the minutes of the November 18 and December 2 and 4. 2024 BOCC meetings

ACTION ITEMS

12. **9:10 AM** Public Hearing and consideration of Board Order No. 2024-052 approving the Ponderosa Pine Estates annexation into the Bend Park & Recreation District

13. **9:15 AM** Consideration of second reading of Ordinance No. 2024-012 – Destiny Court Properties, LLC Comprehensive Plan Amendment and Zone Change

14. **9:20 AM** Presentation: Deschutes County Civic Assembly on Youth Homelessness

OTHER ITEMS

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

EXECUTIVE SESSION

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.

Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

ADJOURN

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Approval of Resolution No. 2024-060, adopting a supplemental budget and increasing appropriations in the Health Services Fund

RECOMMENDED MOTIONS:
Move approval of Resolution No. 2024-060 increasing appropriations within the 2024-25 Deschutes County Budget.

BACKGROUND AND POLICY IMPLICATIONS:

1. On November 27, 2024, the County Administrator approved the acceptance of Document Number 2024-891, a PacificSource Community Solutions grant. This is a supplemental budget adjustment to recognize Grant revenue of $50,000, increase Material and Services expenditures by $15,000, and increase Contingency by $35,000.
2. On December 4, 2024, the Board of County Commissioners approved the Chair signature of Document Number 2024-861, an Oregon Health Authority grant amendment. This is a supplemental budget adjustment to recognize Grant revenue of $122,539 and increase Program Expense appropriations by the same amount.

BUDGET IMPACTS:
Recognize grant revenue of $172,539, increase Program Expense by $137,539 and Contingency appropriations by $35,000 within the Health Services Fund.

ATTENDING:

Cam Sparks, Budget & Financial Planning Manager

REVIEWED

_____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Increasing Appropriations *
Within the * RESOLUTION NO. 2024-060
2024-2025 Deschutes County Budget *

WHEREAS, the Health Services Department presented to the Board of County Commissioners on 12/4/24, with regards to the Oregon Health Authority grant award amendment 180009-14 acceptance, and

WHEREAS, on 11/27/24, the County Administrator approved a PacificSource Community Solutions grant, and

WHEREAS, ORS 294.471 allows a supplemental budget adjustment when authorized by resolution of the governing body, and

WHEREAS, it is necessary to recognize Grant revenue of $172,539, increase Program Expense appropriations by $137,539, and increase Contingency by $35,000 within the Health Services Fund, and

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

Section 1. That the following revenue be recognized in the 2024-25 County Budget:

Health Services Fund	
State Grant	$ 172,539
Health Services Fund Total	**$ 172,539**

Section 2. That the following amounts be appropriated in the 2024-25 County Budget:

Health Services Fund	
Program Expense	$ 137,539
Contingency	$ 35,000
Health Services Fund Total	**$ 172,539**

Section 3. That the Chief Financial Officer make the appropriate entries in the Deschutes County Financial System to show the above appropriations.

DATED this_____ day of January, 2024.

BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ATTEST:

ANTHONY DEBONE, Vice-Chair

Recording Secretary

PHIL CHANG, Commissioner

Deschutes County
Appropriation of New Grant

REVENUE

	Line Number								
Item	Project Code	Segment 2	Org	Object		Description	Current Budgeted Amount	To (From)	Revised Budget
1	HSPHDIRECT	HS3PSFSS	2743153	365001		Grants - Private	-	50,000	50,000
2	HSPREVENT	HS336OPG	2743153	334012		State Grant	-	29,385	29,385
3	HSPREVENT	HS36000G	2743153	334012		State Grant	-	93,154	93,154
						TOTAL	**-**	**172,539**	**172,539**

APPROPRIATION

	Line Number				Category	Description			
Item	Project Code	Segment 2	Org	Object	(Pers, M&S, Cap Out, Contingency)	(Element-Object, e.g. Time Mgmt, Temp Help, Computer Hardware)	Current Budgeted Amount	To (From)	Revised Budget
1	HSPHDIRECT		2743153	460148	M&S	Program Supplies	-	13,043	13,043
2	HSPHDIRECT		2743153	501971	Contingency	Contingency	-	35,000	35,000
3	HSPHDIRECT		2743153	490501	Overhead	Allocation Adminstration (Indirect)	-	1,957	1,957
4	HSALL	HS1OTHER	2743151	490501	Overhead	Allocation Adminstration (Indirect)	-	(1,957)	(1,957)
5	HSALL	HS1OTHER	2743151	450094	M&S	Program Expense	-	1,957	1,957
6	HSPREVENT	HS336OPG	2743153	410101	Personnel	Regular Employees	-	2,683	2,683
7	HSPREVENT	HS336OPG	2743153	420101	Personnel	Health-Dental Ins	-	942	942
8	HSPREVENT	HS336OPG	2743153	420201	Personnel	PERS Employee-Employer	-	652	652
9	HSPREVENT	HS336OPG	2743153	420202	Personnel	PERS - FUND575 for D-S	-	25	25
10	HSPREVENT	HS336OPG	2743153	420301	Personnel	FICA	-	216	216
11	HSPREVENT	HS336OPG	2743153	420401	Personnel	Workers Comp Insurance	-	2	2
12	HSPREVENT	HS336OPG	2743153	420501	Personnel	Unemployment Insurance	-	9	9
13	HSPREVENT	HS336OPG	2743153	420601	Personnel	Life-Long Term Disability	-	12	12
14	HSPREVENT	HS336OPG	2743153	420801	Personnel	Paid Leave Oregon	-	11	11
15	HSPREVENT	HS336OPG	2743153	430322	M&S	Education Providers	-	9,600	9,600
16	HSPREVENT	HS336OPG	2743153	430380	M&S	Temp Help-Labor	-	6,000	6,000
17	HSPREVENT	HS336OPG	2743153	450510	M&S	Printing&Binding Genderal	-	2,000	2,000
18	HSPREVENT	HS336OPG	2743153	460148	M&S	Program Supplies	-	2,000	2,000
19	HSPREVENT	HS336OPG	2743153	460320	M&S	Meeting Supplies	-	1,400	1,400
20	HSPREVENT	HS336OPG	2743153	490501	Overhead	Allocation Adminstration (Indirect)	-	3,833	3,833
21	HSALL	HS1OTHER	2743151	490501	Overhead	Allocation Adminstration (Indirect)	-	(3,833)	(3,833)
22	HSALL	HS1OTHER	2743151	450094	M&S	Program Expense	-	3,833	3,833
23	HSPREVENT	HS36000G	2743153	410101	Personnel	Regular Employees	-	19,592	19,592
24	HSPREVENT	HS36000G	2743153	420101	Personnel	Health-Dental Ins	-	7,228	7,228
25	HSPREVENT	HS36000G	2743153	420201	Personnel	PERS Employee-Employer	-	4,525	4,525
26	HSPREVENT	HS36000G	2743153	420202	Personnel	PERS - FUND575 for D-S	-	177	177
27	HSPREVENT	HS36000G	2743153	420301	Personnel	FICA	-	2,554	2,554
28	HSPREVENT	HS36000G	2743153	420401	Personnel	Workers Comp Insurance	-	14	14
29	HSPREVENT	HS36000G	2743153	420501	Personnel	Unemployment Insurance	-	67	67
30	HSPREVENT	HS36000G	2743153	420601	Personnel	Life-Long Term Disability	-	93	93
31	HSPREVENT	HS36000G	2743153	420801	Personnel	Paid Leave Oregon	-	79	79
32	HSPREVENT	HS36000G	2743153	430380	M&S	Temp Help-Labor	-	8,000	8,000
33	HSPREVENT	HS36000G	2743153	440420	M&S	Building Rental	-	400	400
34	HSPREVENT	HS36000G	2743153	450040	M&S	Education & Training	-	8,000	8,000
35	HSPREVENT	HS36000G	2743153	450410	M&S	Advertising-Promor & Announce	-	17,000	17,000
36	HSPREVENT	HS36000G	2743153	450820	M&S	Travel-Accommodations	-	2,000	2,000
37	HSPREVENT	HS36000G	2743153	450860	M&S	Travel-Meals	-	1,000	1,000
38	HSPREVENT	HS36000G	2743153	450870	M&S	Travel-Mileage Reimb	-	400	400
39	HSPREVENT	HS36000G	2743153	460121	M&S	Educational Supplies	-	4,387	4,387

Deschutes County
Appropriation of New Grant

40	HSPREVENT	HS36000G	2743153	460148	M&S	Program Supplies	-	5,488	5,488
41	HSPREVENT	HS36000G	2743153	490501	Overhead	Allocation Adminstration (Indirect)	-	12,150	12,150
42	HSALL	HS1OTHER	2743151	490501	Overhead	Allocation Adminstration (Indirect)	-	(12,150)	(12,150)
43	HSALL	HS1OTHER	2743151	450094	M&S	Program Expense	-	12,150	12,150
						TOTAL	**-**	**172,539**	**172,539**

Deschutes County
Appropriation of New Grant

Fund:	274	
Dept:	Health Services	
Requested by:	Anne Kilty & Jessica Jacks	
Date:	1/8/2025	

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Approval of Resolution No. 2025-001 adopting a supplemental budget and reducing FTE within the 2024-25 Deschutes County budget

RECOMMENDED MOTION:
Move approval of Resolution No. 2025-001 Increasing Appropriations and Reducing FTE Within the 2024-25 Deschutes County Budget.

BACKGROUND AND POLICY IMPLICATIONS:
The following items have received Board approval and require adjustments.

- 001 – General Fund - ARPA
  - On 12/18/2024 the Board approved recategorizing ARPA funds to the Revenue Replacement category in the amount of $300,000 in order to cover COIC's regional broadband needs assessment project. This is a supplemental budget to recognize Transfer In revenue of $300,000 from the ARPA fund and increase Program Expense appropriations by the same amount.

- 255 – Sheriff's Office
  - On 12/11/2024 the Board approved Opioid Settlement funding for the Jail's Medication Assisted Treatment (MAT) program. This is a supplemental budget to recognize Transfer In revenue from the General Fund of $283,000 and increase Program Expense appropriations by the same amount in the Sheriff's Office.

- 625 – Administrative Services Fund
  - On 12/18/2024 the Board approved initiating a recruitment for a 0.5 Performance Auditor that is currently a 1.00 FTE position; therefore, 0.5 of this FTE will be removed from the legal FTE roster.

BUDGET IMPACTS:
Specific details listed above.

ATTENDANCE:
Cam Sparks, Budget & Financial Planning Manager

REVIEWED

_____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Increasing Appropriations and Decreasing FTE within the 2024-25 Deschutes County Budget

RESOLUTION NO. 2025-001

WHEREAS, the 2024-25 Fiscal Year necessitates increased appropriations within the Deschutes County Budget to account for changes that have occurred since budget adoption, and

WHEREAS, ORS 294.471 allows a supplemental budget adjustment when authorized by resolution of the governing body, and

WHEREAS, it is necessary to increase appropriations to accommodate this request, and

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

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

Section 1. That the following revenue be budgeted in the 2024-25 County Budget:

General Fund	
Transfers In – ARPA	$ 300,000
Total General Fund	**$ 300,000**
Sheriff's Office Fund	
Transfers In	$ 283,000
Total Sheriff's Office	**$ 283,000**

Section 2. That the following amounts be appropriated in the 2024-25 County Budget:

General Fund	
Program Expense	$ 300,000
Total General Fund	**$ 300,000**

Sheriff's Office Fund	
Program Expense	$ 283,000
Total Sheriff's Office	**$ 283,000**

Section 3. That the following position be removed:

Job Class	Position Number	Type	Effective Date	FTE
Performance Auditor (9322)	2924	Regular	1/1/2025	0.50
Total FTE				**0.50**

Section 4. That the Chief Financial Officer make the appropriate entries in the Deschutes County Financial System to show the above appropriations.

Section 5. That the Human Resources Director make the appropriate entries in the Deschutes County FTE Authorized Positions Roster to reflect the above FTE changes.

DATED this_____ day of January, 2025.

BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

_____
PATTI ADAIR, Chair

ATTEST: _____
ANTHONY DEBONE, Vice-Chair

_____ _____
Recording Secretary PHIL CHANG, Commissioner

Deschutes County
Appropriation of New Grant

REVENUE

Item	Project Code	Segment 2	Org	Object		Description	Current Budgeted Amount	To (From)	Revised Budget
1			0019918	391200	Transfer In	Transfer from ARPA	3,198,234	300,000	3,498,234
2			2553750	372001	Interfund Payment	Interfund Payment from GF	-	283,000	283,000
						TOTAL	**3,198,234**	**583,000**	**3,781,234**

APPROPRIATION

Item	Project Code	Segment 2	Org	Object	Category (Pers, M&S, Cap Out, Contingency)	Description (Element-Object, e.g. Time Mgmt, Temp Help, Computer Hardware)	Current Budgeted Amount	To (From)	Revised Budget
			0019917	450094	M&S	Program Expense	1,046,642	(283,000)	763,642
			0019917	472255	M&S	Interfund Payment to SO	-	283,000	283,000
1	ARPAGF	5.17-GENERAL	0019918	450920	M&S	GF ARPA: COIC Project	-	300,000	300,000
2			2001850	491463	Transfers	Transfer Out - Fund 463	1,003,033	(300,000)	703,033
3			2001650	491001	Transfers	Transfer Out - General Fund	3,619,112	300,000	3,919,112
4			2553750	410101	Personnel	Regular Employees	12,465,153	133,000	12,598,153
5			2553750	460160	M&S	Prescriptions and Medicines	150,000	150,000	300,000
						TOTAL	**17,237,298**	**583,000**	**17,820,298**

Previously Board approved items that require supplemental budgets.

Fund:	001 & 255
Dept:	GF & SO
Requested by:	Cam Sparks
Date:	1/8/2025

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Approval of an amendment to a grant agreement with the Oregon Health Authority OHA 180009-15

RECOMMENDED MOTION:
Move approval of Chair signature on Document No. 2025-004, amending an agreement with the Oregon Health Authority for grant funding.

BACKGROUND AND POLICY IMPLICATIONS:
Oregon Health Authority (OHA) intergovernmental agreement 180009-11, approved by the Board of County Commissioners on July 10, 2024, outlined program descriptions and reporting requirements for funding received in Fiscal Year (FY) 2025.

This amendment #15 provides/removes net ($213,586) funding as follows:

- ($311,627) FY 24 funding from Program Element (PE) 13, Tobacco Prevention and Education Program (TPEP), to be rolled over to FY 25 in a future amendment.
- ($10,001) FY 24 funding from PE 36, Alcohol and Drug Prevention and Education Program (ADPEP), to be rolled over to FY 25 in a future amendment.
- $108,042 anticipated FY 25 funding for PE 36 – TPEP.

BUDGET IMPACTS:
Net ($213,586) revenue.

ATTENDANCE:
Jessica Jacks, Public Health Program Manager
Cheryl Smallman, Health Services Business Officer

Agreement #180009

AMENDMENT TO OREGON HEALTH AUTHORITY 2023-2025 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF PUBLIC HEALTH SERVICES

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

This Fifteenth Amendment (this "Amendment") to Oregon Health Authority 2023-2025 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2023, (as amended, the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Deschutes County, ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Deschutes County. OHA and LPHA are each a "Party" and together the "Parties" to the Agreement.

RECITALS

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2024 (FY24) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200 (FY24);

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2025 (FY25) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200 (FY25);

AGREEMENT

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. This Amendment is effective on **October 1, 2024**, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.

2. The Agreement is hereby amended as follows:

a. Exhibit C, Section 1 of the Agreement, entitled "Financial Assistance Award" for FY24 is hereby deleted and replaced in its entirety by Attachment A, entitled "Financial Assistance Award (FY24)", attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C.

b. Exhibit J of the Agreement entitled "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" (FY24) is amended to add to the federal award information datasheet as set forth in Attachment B, attached hereto and incorporated herein by this reference.

c. Exhibit C, Section 1 of the Agreement, entitled "Financial Assistance Award" for FY25 is hereby deleted and replaced in its entirety by Attachment C, entitled "Financial Assistance Award (FY25)", attached hereto and incorporated herein by this reference. Attachment C must be read in conjunction with Section 3 of Exhibit C.

d. Exhibit J of the Agreement entitled "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" (FY25) is amended to add to the federal award information datasheet as set forth in Attachment D, attached hereto and incorporated herein by this reference.

3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.

4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.

5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.

6. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

7. Signatures.

STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY

Approved by: _____

Name: /for/ Nadia A. Davidson

Title: Director of Finance

Date: _____

DESCHUTES COUNTY LOCAL PUBLIC HEALTH AUTHORITY

Approved by: _____

Printed Name: _____

Title: _____

Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by Lisa Gramp, Senior Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 14, 2024, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

Reviewed by: _____

Name: Rolonda Widenmeyer (or designee)

Title: Program Support Manager

Date: _____

Attachment A
Financial Assistance Award (FY24)

State of Oregon
Oregon Health Authority
Public Health Division

1) Grantee	2) Issue Date	This Action
Name: Deschutes County	Tuesday, October 1, 2024	Amendment
Street: 2577 NE Courtney Dr.		FY 2024
City: Bend	3) Award Period	
State: OR Zip: 97701-7638	From July 1, 2023 through June 30, 2024	

4) OHA Public Health Funds Approved

Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
PE01-01	State Support for Public Health	$255,927.00	$0.00	$255,927.00
PE01-09	COVID-19 Active Monitoring - ELC	$445,591.76	$0.00	$445,591.76
PE01-10	OIP - CARES	$329,264.36	$0.00	$329,264.36
PE01-12	ACDP Infection Prevention Training	$1,517.82	$0.00	$1,517.82
PE07	HIV Prevention Services	$28,467.00	$0.00	$28,467.00
PE08-01	Ryan White B HIV/AIDS: Case Management	$186,656.00	$0.00	$186,656.00
PE08-02	Ryan White B HIV/AIDS: Support Services	$65,742.00	$0.00	$65,742.00
PE08-03	Ryan White B HIV/AIDS: Oral Health	$36,371.00	$0.00	$36,371.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	$112,915.85	$0.00	$112,915.85
PE12-04	MRC-STTRONG (changing to PE79 in SFY25)	$108,141.79	$0.00	$108,141.79
PE13	Tobacco Prevention and Education Program (TPEP)	$732,549.98	($311,626.76)	$420,923.22
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	$161,713.00	($10,000.90)	$151,712.10
PE40-01	WIC NSA: July - September	$186,520.00	$0.00	$186,520.00
PE40-02	WIC NSA: October - June	$559,559.00	$0.00	$559,559.00
PE40-05	Farmer's Market	$7,574.00	$0.00	$7,574.00
PE42-03	MCAH Perinatal General Funds & Title XIX	$6,557.00	$0.00	$6,557.00
PE42-04	MCAH Babies First! General Funds	$20,962.00	$0.00	$20,962.00
PE42-06	MCAH General Funds & Title XIX	$12,302.00	$0.00	$12,302.00
PE42-11	MCAH Title V	$69,713.00	$0.00	$69,713.00
PE42-12	MCAH Oregon Mothers Care Title V	$57,515.00	$0.00	$57,515.00
PE42-13	Family Connects Oregon (Inactivate after SFY24 closes)	$73,317.00	$0.00	$73,317.00
PE43-01	Public Health Practice (PHP) - Immunization Services	$47,791.00	$0.00	$47,791.00
PE43-05	OIP Bridge COVID	$43,140.00	$0.00	$43,140.00
PE44-01	SBHC Base	$360,000.00	$0.00	$360,000.00

4) OHA Public Health Funds Approved

Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
PE44-02	SBHC - Mental Health Expansion	$435,153.50	$0.00	$435,153.50
PE46-05	RH Community Participation & Assurance of Access	$32,197.66	$0.00	$32,197.66
PE50	Safe Drinking Water (SDW) Program (Vendors)	$122,310.00	$0.00	$122,310.00
PE51-01	LPHA Leadership, Governance and Program Implementation	$532,567.93	$0.00	$532,567.93
PE51-02	Regional Partnership Implementation	$539,812.18	$0.00	$539,812.18
PE51-03	ARPA WF Funding	$214,556.96	$0.00	$214,556.96
PE51-05	CDC PH Infrastructure Funding	$148,957.65	$0.00	$148,957.65
PE60	Suicide Prevention, Intervention and Postvention	$170,607.00	$0.00	$170,607.00
PE73	HIV Early Intervention and Outreach Services	$369,254.00	$0.00	$369,254.00
		$6,475,224.44	($321,627.66)	$6,153,596.78

5) Foot Notes:

PE01-10	2/2024: Any unspent funds will be rolled over into SFY25.
PE40-01	7/2023: Unspent SFY2024 Q1 award will be rescinded by the state, cannot be carried over to SFY2024 Q2-4 period.
PE40-02	7/2023: Q2-4 Unspent grant award will be rescinded by the state at end of SFY2024
PE42-11	7/2023: Indirect charges cap at 10%.
PE42-12	7/2023: Indirect Charges cap at 10%.
PE43-01	7/2023: Awarded funds can be spent on allowable costs for the period of 7/1/2023 - 9/30/23. Any unspent funds will be de-obligated.
PE43-01	9/2023: Prior Footnote dated 7/2023 Null and Void.
PE43-05	12/2023: Funds are available 7/1/23-12/31/24. Unspent SFY24 funds will be carried over to the first six months of SFY25.
PE43-05	2/2024: Prior Footnote dated 12/2023 Null and Void. Any unspent funds will be rolled over into SFY25.
PE51-01	7/2023: Bridge funding for 7/1/23-9/30/23.
PE51-01	8/2023: Prior Footnote dated 7/2023 Null and Void
PE51-02	7/2023: Bridge funding for 7/1/23-9/30/23.
PE51-02	9/2023: Prior Footnote dated 7/2023 Null and Void
PE51-03	9/2023: Federal funds expire 6/30/24 and will be ineligible for carryover into SFY25.
PE51-03	3/2023: Prior footnote null and void. Federal funds are available through 6/30/25. Unspent funds in SFY24 will be carried over to the next fiscal year.
PE60	9/2023: Award available 7/1/23-6/29/24 only.
PE60	2/2024: Additional award available 2/1/24-6/29/24 only.

6) Comments:	
PE01-01	8/2023: Prior Comment dated 7/2023 Null and Void 7/2023: SFY24 funding available 7/1/23-9/30/23 only.
PE01-09	09/2024: Rollover unspent SFY24 funds of $200,231.60 into SFY25 10/2023: rollover unspent SFY23 funds of $645,823.36
PE01-10	3/2024: Awarding Vaccine Finance Summit travel funds of $713 to be paid as lump sum upon receipt of invoice. 10/2023: rollover unspent SFY23 funds of $328,551.36
PE08-01	12/2023: Budget Adjustment - Increase of $9,262 moved from PE 08-02
PE08-02	12/2023: Budget Adjustment - Reduction of $9,262 moving to PE 08-01
PE12-01	09/2024: de-obligating unspent funds of $10,404.03 8/2023: Prior Comment dated 7/2023 Null and Void 7/2023: SFY24 Award funding for first 3 months only
PE12-04	09/2024: De-obligating unspent funds of $29,613.21
PE13	10/2024: rollover unspent funds $311,626.76 into FY25 10/2023: rollover unspent SFY23 funds of $267,725.41 9/2023: All Prior Comments Null and Void 7/15/23: SFY24 Award adding funding for 10/1/23-6/30/24 7/2023: SFY24 Bridge Funding 7/1/23-9/30/23
PE36	10/2024: rollover unspent funds of $10,000.90 into SFY25
PE40-01	7/2023: SFY2024 Q1 WIC NSA grant award. 37,304$ must spent on Nutrition Ed; $6,019 on BF Promotion. Underspend Q1 award cannot be carried over to Q2-4 period.
PE40-02	7/2023: SFY2024 Q2-4 grant award. $111,912 must be spent on Nutrition Ed, $18,056 on BF Promotion.
PE40-05	10/2023: Prior Comment dated 7/2023 Null and Void. 7/2023: SFY2024 WIC Farmers Market Mini grant award. Final Q2 Rev & Exp Report is required for final accounting. Underspent funds will be rescinded by the state in February 2024
PE42-13	11/2023: SFY24 Nurse workforce development funds of $10,000 and HDHP funds of $13,317
PE44-02	2/2024: Additional funds of $15,000.00 available 2/1/24-6/29/24 only
PE51-01	9/2024: Rollover unspent funds of $255,436.07 into SFY25
PE51-02	9/2024: Rollover unspent funds of $3,161.82 into SFY25
PE51-03	10/2023: rollover unspent SFY23 funds of $188,290.96
PE51-05	9/2024: rollover unspent funds of $473,340.63 into SFY25 7/2023: SFY24 Award Available 7/1/23-6/30/24. Funds are available 7/1/23-11/30/27. Unspent Funds in SFY24 will be carried over to the next fiscal year.
PE60	2/2024: FY24 additional funds of $49,840 available 2/1/24-6/29/24. 7/2023: Award for 7/1/23-6/29/24

7) Capital outlay Requested in this action:

Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of $5,000 and a life expectancy greater than one year.

Program	Item Description	Cost	PROG APPROV	

Attachment B
Information required by CFR Subtitle B with guidance at 2 CFR Part 200 (FY24)

PE36 Alcohol & Drug Prevention Education Program (ADPEP)

Federal Award Identification Number:	State Funds	State Funds	State Funds	B08TI083513	B08TI083963	B08TI084667	B08TI085829
Federal Award Date:				11/16/22	05/17/21	08/03/22	02/15/23
Budget Performance Period:				03/15/21-03/14/2025	9/01/2021-09/30/2025	10/01/2021-09/30/2022	10/1/22-9/30/24
Awarding Agency:				SAMHSA	SAMHSA	SAMHSA	SAMHSA
CFDA Number:				93.959	93.959	93.959	93.959
CFDA Name:				Block Grants for Prevention and Treatment of Substance Abuse	Block Grants for Prevention and Treatment of Substance Abuse	Block Grants for Prevention and Treatment of Substance Abuse	Block Grants for Prevention and Treatment of Substance Abuse
Total Federal Award:				$19,288,251	$16,658,035	$6,637,462	$6,547,845
Project Description:				Substance Abuse Prevention & Treatment Block Grant	Substance Abuse Prevention & Treatment Block Grant	Substance Abuse Prevention & Treatment Block Grant	Substance Abuse Prevention & Treatment Block Grant
Awarding Official:				Anthony Provenzano	Jessica Hartman	Jessica Hartman	Jessica Hartman
Indirect Cost Rate:				18.06%	18.06%	18.06%	17.79
Research and Development (T/F):	FALSE	FALSE	FALSE	FALSE	FALSE	FALSE	FALSE
HIPPA	No	No	No	No	No	No	No
PCA:	52784	52613	52617	52521	52523	52519	52530
Index:	50341	50341	50341	50341	50341	50341	50341

Agency	UEI	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Grand Total:
Deschutes	SVJRCF7JN519	$1,514.54	$96.68	$966.72	$30,691.66	$19,225.74	$17,401.01	$81,815.75	$151,712.10

FY25 Financial Award and Federal Reporting Information on following pages.

Attachment C
Financial Assistance Award (FY25)

State of Oregon
Oregon Health Authority
Public Health Division

1) Grantee	2) Issue Date	This Action
Name: Deschutes County	Tuesday, October 1, 2024	Amendment
Street: 2577 NE Courtney Dr.		FY 2025
City: Bend	3) Award Period	
State: OR Zip: 97701-7638	From July 1, 2024 through June 30, 2025	

4) OHA Public Health Funds Approved

Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
PE01-01	State Support for Public Health	$255,927.00	$0.00	$255,927.00
PE01-09	COVID-19 Active Monitoring - ELC	$200,231.60	$0.00	$200,231.60
PE01-12	ACDP Infection Prevention Training	$1,517.82	$0.00	$1,517.82
PE07	HIV Prevention Services	$37,915.00	$0.00	$37,915.00
PE08-01	Ryan White B HIV/AIDS: Case Management	$222,198.00	$0.00	$222,198.00
PE08-02	Ryan White B HIV/AIDS: Support Services	$101,692.00	$0.00	$101,692.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	$108,388.00	$0.00	$108,388.00
PE13	Tobacco Prevention and Education Program (TPEP)	$496,491.43	$0.00	$496,491.43
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	$36,014.00	$108,042.00	$144,056.00
PE36-01	OSTPR Board Primary Prevention Funding	$342,657.00	$0.00	$342,657.00
PE40-01	WIC NSA: July - September	$203,854.00	$0.00	$203,854.00
PE40-02	WIC NSA: October - June	$611,561.00	$0.00	$611,561.00
PE40-05	Farmer's Market	$7,634.00	$0.00	$7,634.00
PE42-03	MCAH Perinatal General Funds & Title XIX	$19,001.00	$0.00	$19,001.00
PE42-04	MCAH Babies First! General Funds	$21,120.00	$0.00	$21,120.00
PE42-11	MCAH Title V	$70,252.00	$0.00	$70,252.00
PE42-12	MCAH Oregon Mothers Care Title V	$62,511.00	$0.00	$62,511.00
PE43-01	Public Health Practice (PHP) - Immunization Services	$262,094.00	$0.00	$262,094.00
PE44-01	SBHC Base	$360,000.00	$0.00	$360,000.00
PE44-02	SBHC - Mental Health Expansion	$412,154.00	$0.00	$412,154.00
PE46-05	RH Community Participation & Assurance of Access	$24,383.97	$0.00	$24,383.97
PE50	Safe Drinking Water (SDW) Program (Vendors)	$122,311.00	$0.00	$122,311.00

4) OHA Public Health Funds Approved				
Number	**Program**	**Previous Award Balance**	**Increase / Decrease**	**Current Award Balance**
PE51-01	LPHA Leadership, Governance and Program Implementation	$739,416.02	$0.00	$739,416.02
PE51-02	Regional Partnership Implementation	$882,139.82	$0.00	$882,139.82
PE51-05	CDC PH Infrastructure Funding	$473,340.63	$0.00	$473,340.63
PE60	Suicide Prevention, Intervention and Postvention	$93,153.75	$0.00	$93,153.75
PE63	MCAH LPHA Community Lead Organizations	$339,699.00	$0.00	$339,699.00
PE73	HIV Early Intervention and Outreach Services	$462,782.00	$0.00	$462,782.00
PE79	MRC-STTRONG (changing from PE12-04 in SFY25)	$188,858.21	$0.00	$188,858.21
		$7,159,297.25	$108,042.00	$7,267,339.25

5) Foot Notes:	
PE07	07/2024: SFY25 1-month funding allocation for July 2024; funds to be spent by 07/31/2024.
PE07	08/2024: Prior Footnote Null and Void
PE36	7/2024: Funding available 7/1/24-9/30/24
PE36	10/2024: Prior Footnote Null and Void
PE40-01	07/2024: SFY2025 Q1 unspent funds cannot be carried forward to the following Q2.
PE40-05	7/2024: SFY25 Q1 WIC Farm Direct mini grant award available 7/1/24-9/30/24. Unspent SFY25 Q1 funds may be carried over to Q2-4 period with request from grantee and an amendment to extend the SOW dates, for this grant only.
PE40-05	8/2024: Prior Footnote Null and Void
PE79	09/2024: Funds available 7/1/24-5/31/25 only

Comments on following page.

6) Comments:	
PE01-09	9/2024: Rollover unspent SFY24 funds of $200,231.60
PE36-01	9/2024: Funds available 10/1/2024-6/30/2025 only
PE40-01	7/2024: Funds available 7/1/24-9/30/24. Must spend $40,771 on Nutrition Ed, $7,259 on BF Promotion
PE40-02	7/2024: Funds available 10/1/24-6/30/25. Must spend $122,312 on Nutrition Ed, $21,776 on BF Promotion
PE46-05	7/15/2024: Award Available 7/1/24-3/31/25 only.
PE51-01	9/2024: Rollover unspent SFY24 funds of $255,436.07
PE51-02	9/2024: Rollover unspent SFY24 funds of $3,161.82
PE51-05	9/2024: rollover unspent SFY24 funds of $473,340.63
PE60	9/2024: Funds available 9/30/24-6/30/25 only
PE63	7/15/2024: Prior comment null and void. 07/2024: SFY25 $50,000 Newborn Nurse Home visiting
PE79	9/2024: rollover unspent SFY24 funds of $29,613.21 from PE 12-04 07/2024: SFY25 Fund must be spent by 05/31/2025

7) Capital outlay Requested in this action:

Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of $5,000 and a life expectancy greater than one year.

Program	Item Description	Cost	PROG APPROV	

Federal Reporting Information on following page.

Attachment D

Information required by CFR Subtitle B with guidance at 2 CFR Part 200 (FY25)

PE36 Alcohol & Drug Prevention Education Program (ADPEP)

Federal Award Identification Number:	B08TI085829	B08TI087061
Federal Award Date:	02/15/23	07/22/24
Budget Performance Period:	10/1/22-9/30/24	10/01/2023-9/30/2025
Awarding Agency:	SAMHSA	SAMHSA
CFDA Number:	93.959	93.959
CFDA Name:	Block Grants for Prevention and Treatment of Substance Abuse	Block Grants for Prevention and Treatment of Substance Abuse
Total Federal Award:	$6,547,845	$4,452,683.93
Project Description:	Substance Abuse Prevention & Treatment Block Grant	Substance Abuse Prevention, Treatment, and Recovery Services Block Grant
Awarding Official:	Jessica Hartman	Anthony Provenzano
Indirect Cost Rate:	17.79	17.79%
Research and Development (T/F):	FALSE	FALSE
HIPPA	No	No
PCA:	52530	52534
Index:	50341	50341

Agency	UEI	Amount	Amount	Grand Total:
Deschutes	SVJRCF7JN519	$36,014.00	$108,042.00	$144,056.00

DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

Document number: OHA #180009-15;2025-004 , hereinafter referred to as "Document."

I, _____ _____
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and

Deschutes County by email.

Contractor's name

On _____ ,
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

_____ _____
Authorizing signature Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Approval of Document No. 2024-006 accepting a 2023 Shared Savings Investment Grant from the Central Oregon Health Council, and approval of Board Order No. 2025-001 designing signing authority to Jessica Jacks

RECOMMENDED MOTION:

1. Move approval of Document No. 2025-006, a Central Oregon Health Council Behavioral Health 2023 Shared Savings Investment Grant.
2. Move approval of Board Order No. 2025-001 designating signing authority to Jessica Jacks.

BACKGROUND AND POLICY IMPLICATIONS:

On August 21, 2024, the Board of County Commissioners authorized Deschutes County Health Services to apply for a Central Oregon Health Council (COHC) Behavioral Health 2023 Shared Savings Investment grant for the Healthy Schools program. DCHS has been awarded $391,287 and is seeking approval to accept this funding.

The Healthy Schools program embeds Deschutes County Public Health staff into public schools as dedicated on-site Public Health Specialists (PHS). Public schools are one of the best settings to reach school-age youth and families with prevention, health promotion, and health care services. The Public Health Specialists help schools to respond effectively to the high levels of critical adolescent and community health issues.

Healthy Schools is already seeing positive program outcomes. For example, the percent of middle and high school students feeling depressed, stressed, or anxious decreased from 52 percent to 47 percent from 2022 to 2024. The Healthy Schools program has also increased the proportion of behavioral health care referrals which result in appointments from 52% to 60%. Furthermore, from 2021 to June 2024, the proportion of Deschutes County suicide-related Emergency Department visits for ages 11-17 significantly decreased for zip codes with Healthy Schools (from 69% to 58%). Healthy Schools notably improved prevention education with 100% of teachers now using effective, skills-based mental health promotion and suicide prevention curriculum (up from 6%), reaching 5,154 students last year alone.

Healthy Schools expenses are covered through a cost share between DCHS and Bend-La Pine Schools (BLS). The COHC grant award will reflect this partnership with $195,635 going directly to BLS. DCHS intends to use the remaining $195,652 to support staff expenses. Currently, the DCHS contribution to the Healthy Schools program is sourced from a combination of County General Funds and state grants. This funding will help offset increases to the County General Fund contribution in calendar year 2026. COHC does not fund indirect costs, so these would be covered by existing Healthy School resources.

The total award of $391,287 will fund 2.0 FTE in Healthy Schools. In addition, $28,700 will support 0.15 FTE Public Health Epidemiologist to assists with data tracking and evaluation for the Healthy Schools program.

BUDGET IMPACTS:
$195,652 revenue

ATTENDANCE:
Jessica Jacks, Public Health Program Manager

REVIEWED

_____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order designating Jessica Jacks, Public Health Program Manager, as the Deschutes County representative for the purpose of signing the Central Oregon Health Council (COHC) Letter of Agreement for the Behavioral Health 2023 Shared Savings Investment grant.	* * * *	ORDER NO. 2025-001

WHEREAS, the Board of County Commissioners of Deschutes County has authorized the acceptance of COHC grant funds in the amount of $391,287; and

WHEREAS, in order to receive the funds, the Letter of Agreement must be signed electronically on the COHC grant system; now, therefore,

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

Section 1. Jessica Jacks, Public Health Program Manager, is designated as the Deschutes County representative for the purpose of signing the Central Oregon Health Council Letter of Agreement for the Behavioral Health 2023 Shared Savings Investment grant.

Dated this _____ of _____, 20__

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
PATTI ADAIR, Chair

_____
ANTHONY DeBONE, Vice Chair

ATTEST:

_____
Recording Secretary

_____
PHIL CHANG, Commissioner

CENTRAL OREGON HEALTH COUNCIL

Form Name:

Letter of Agreement/Approval Letter (BH Investment)

Deschutes County Health Services

Healthy Schools

FollowUp Snapshot	
Amount Requested	$391,287.00
Organization Contact	Jessica Jacks
Contact Phone	541-330-4632
Contact Email	Jessica.Jacks@deschutes.org
Organization Address	2577 NE Courtney Dr. Bend, OR 97701
Website	http://cohealthcouncil.org/
Project Lead	Aimee Snyder
Project Lead email	aimee.snyder@deschutes.org

RHIP Workgroup:

Future State Measure:

Note: * indicates required questions

Terms & Conditions

Project Name

Healthy Schools

Timeline - Project Start Date

The effective date of your contract begins on the project start date that you indicated on your application.

01/01/2026

Timeline - Project End Date

*I. **Term.** This LOA shall commence on the Effective Date and shall terminate on the date indicated below. The COHC may terminate this LOA, without cause, by providing You with written notice at least five (5) business days in advance.*

12/31/2026

Amount Requested

The total amount of funds requested from the Central Oregon Health Council for this project.

$391,287.00

Amount Awarded

$391,287.00

Invoice*

Please upload an invoice to enable COHC to disperse your funds. If you do not want to invoice us now, please upload an invoice of $0.

W-9*

Please upload a completed W-9.

ACCEPTANCE OF TERMS & CONDITIONS*

This grant is conditional upon Grantee's acceptance of the terms and conditions set forth herein. By selecting the

Name*

Title*

LOA execution date*

Please enter today's date

FollowUp Files

Applicant File Uploads

No files were uploaded

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Consideration of Board Signature on various letters of thanks, appointment and reappointment, to various Special Road Districts

RECOMMENDED MOTION:

Move Approval of Board Signature on the following letters, on Consent Agenda:

- Reappointing Charlie Jones to the Beaver Special Road District
- Thanking Rodney Dieckhoff for service on the Deschutes River Recreation Homesites #1 (DRRH #1) Special Road District
- Appointing Valarie Reiners for service on the DRRH #1 Special Road District
- Thanking Colleen Horton for service on the Sun Mountain Ranches Special Road District
- Appointing Jo Kilmer for service on the Sun Mountain Ranches Special Road District
- Thanking Duane Brolin for service on the Deschutes River Recreation Homesites #6 (DRRH #6) Special Road District
- Appointing Chris Demarest for service on the DRRH #6 Special Road District
- Reappointing Larry La Rue for service on the Forest View Special Road District
- Reappointing Denis Sieben for service on the Cascade View Estates Special Road District
- Reappointing David McDonald for service on the River Bend Estates Special Road District

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Public Hearing and consideration of Board Order No. 2024-052 approving the Ponderosa Pine Estates annexation into the Bend Park & Recreation District

RECOMMENDED MOTION:
First, hold a public hearing; thereafter, move approval of Board Order No. 2024-052.

BACKGROUND AND POLICY IMPLICATIONS:
Ponderosa Pine Estates LLC submitted a petition to annex property into the Bend Park & Recreation District. The Assessor's Office, County Clerk and the District have approved the annexation.

BUDGET IMPACTS:
None

ATTENDANCE:
Dave Doyle, Legal Counsel

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Order Approving Ponderosa Pine Estates annexation into Bend Park & Recreation District

ORDER NO. 2024-052

WHEREAS, Ponderosa Pine Estates, LLC ("Petitioner") submitted a petition requesting annexation of the property identified in Exhibit A in the petition attached to this Order, into Bend Park & Recreation District ("District"); and

WHEREAS, the Deschutes County Clerk's Office and Assessor's Office verified that the petition was signed by a registered voter or a landowner, respectively, for the property as indicated in Exhibit B in the petition attached to this Order; and

WHEREAS, the Oregon Department of Revenue reviewed the petition map and legal description and issued preliminary approval, as indicated in Exhibit C, and

WHEREAS, the Board held a duly noticed public hearing on January 8, 2025, to determine whether the affected area would benefit by annexation of said territory into the District; now, therefore

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

Section 1. The petition for annexation and all exhibits attached to this Order are hereby incorporated by reference.

Section 2. The petition for annexation is hereby approved, and the property identified in Exhibit A is declared annexed and included in the District.

Section 3. A copy of the signed Order will be forwarded to the Oregon Department of Revenue, Oregon Secretary of State Archives Division, Deschutes County Assessor's Office and County Clerk's Office, and the District.

Section 4. The purpose of this District is to provide park and recreation services.

Dated this _____ day of _____, 2025.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
PATTI ADAIR, _____

_____
ANTHONY DeBONE, _____

ATTEST:

_____
Recording Secretary

_____
PHIL CHANG, _____

EXHIBIT A
PETITION TO ANNEX PROPERTY INTO
Bend Park and Recreation District
(Name of District)

To: The Board of County Commissioners, Deschutes County, Oregon

The undersigned, in support of this Petition, state as follows:

1. This Petition for Annexation is filed pursuant to ORS 198.850 to 198.859 on 11/21/24 *(date)* and Petitioners request the Board commence proceedings to annex the territory described herein into Bend Park and Recreation District *(name of district)*, Deschutes County, Oregon.
2. This Petition for Annexation affects only Deschutes County and is not in any incorporated city limits.
3. The Board of Bend Park and Recreation District (*name of district)* approved the petition pursuant to ORS 198.850 on _____ (*insert date).*
4. The principal act for Bend Park and Recreation District (*name of district)* is ORS 266.010.
   (Proper statutory reference required, see ORS 198.010 for listing of appropriate principal act)
5. The territory subject to this Petition for Annexation is primarily inhabited / (uninhabited) (*circle one*). This petition is signed by land owners and/or registered voters in the area proposed to be annexed as indicated opposite their respective signature, and all signatures were obtained on or after the October 16th day of, 2024.
6. The property street address(es) of land for annexation *(if known)* is/are No Situs Address (Map/Tax Lot 181219A000100) and the total acreage is ±42.72. A description of the boundaries of the territory to be annexed is attached hereto as **Exhibit "A"** and depicted on the map attached as **Exhibit "B".**
7. This Petition has been signed by at least 15 percent of the electors, or 100 electors whichever number is lesser, registered in the area proposed to be annexed; or at least 15 owners or owners of 10 percent of the land, (whichever is greater) within the area proposed to be annexed.
8. A security deposit form and payment is attached to this petition.

Signed this 21 *day of* November, 2024 *by* Ponderosa Pine Estates, LLC, *Chief Petitioner(s).*

[redacted]
Signature

475 NE Bellevue Avenue, #210, Bend, OR 97701
Address, City, State, ZIP

DATED this 22nd day of October, 2024

Approved by the Board of
Bend Park + Rec. District
Name of District

[redacted]
District Signature

By: Michelle Healy
(Print Name)

Title: Exec. Director

DATED this ___ day of _____, 20___

(if applicable) Approved by City of

_____
City Signature

By: _____
(Print Name)

Title: _____

EXHIBIT A

NAME OF DISTRICT: Bend Park and Recreation District ☐ Withdrawal ☑ Annexation

	PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY
1	Ponderosa Pine Estates, LLC [redacted] Signature	Date 10-16-24	No Situs Address (Map/Tax Lot 181219A000100) PROPERTY ADDRESS 475 NE Bellevue Avenue #210, Bend, OR 97701 RESIDENCE ADDRESS (If Different)	Landowner Yes ✓ No ____ Acreage ±42.72 Registered Voter Yes ____ No ____ Pre ____
2	Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes ____ No ____ Acreage ____ Registered Voter Yes ____ No ____ Pre ____
3	Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes ____ No ____ Acreage ____ Registered Voter Yes ____ No ____ Pre ____
4	Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes ____ No ____ Acreage ____ Registered Voter Yes ____ No ____ Pre ____
5	Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes ____ No ____ Acreage ____ Registered Voter Yes ____ No ____ Pre ____

I, Hayden Banes, certify that I circulated this petition, and every person who signed this petition did so in my presence. Signature: [redacted]

County of Deschutes State of Oregon

SUBSCRIBED AND SWORN before me this 16th day of October, 2024

Notary Public for Oregon Dawn J. Mackey My Commission Expires: 7/5/26

(affix notary stamp)

OFFICIAL STAMP
DAWN J MACKEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 1025784
MY COMMISSION EXPIRES JULY 5, 2026

Signature [redacted]

EXHIBIT A

Security Deposit

Special District Formation or Reorganization

SEL 704
rev 01/18
ORS 198.775

☐ Formation ☑ Annexation ☐ Withdrawal ☐ Dissolution

District and Precinct Information

Name of District
Bend Park and Recreation District

Number of Precincts in District	Amount of Deposit per Precinct	Total Deposit (max of $10,000)

Chief Petitioners

I/We hereby declare if the costs of the attempted formation annexation, withdrawal or dissolution of Bend Park and Recreation district exceeds the deposit, I/we will pay to the county treasurer the amount of the excess cost (ORS 198.775)

Name print	Signature
Ponderosa Pine Estates, LLC	[redacted]

Residence	City	State	Zip Code	Mailing Address if different	City	State	Zip Code
475 NE Bellevue Avenue, #210	Bend	OR	97701				

Amount of Contribution/Value of Secured Deposit	Kind of Contribution*
$100	☑ Cash ☐ Bond ☐ Other Security Deposit

Name print	Signature

Residence	City	State	Zip Code	Mailing Address if different	City	State	Zip Code

Amount of Contribution/Value of Secured Deposit	Kind of Contribution*
	☐ Cash ☐ Bond ☐ Other Security Deposit

Name print	Signature

Residence	City	State	Zip Code	Mailing Address if different	City	State	Zip Code

Amount of Contribution/Value of Secured Deposit	Kind of Contribution*
	☐ Cash ☐ Bond ☐ Other Security Deposit

Continued on the reverse side of this form

EXHIBIT A

Person/Organizations Providing Any Part of Cash/Security Deposit

Name print			**Signature**		
Residence			**Mailing Address** if different		
City	**State**	**Zip Code**	**City**	**State**	**Zip Code**
Amount of Contribution/Value of Secured Deposit			**Kind of Contribution*** ☐ Cash	☐ Bond	☐ Other Security Deposit

Name print			**Signature**		
Residence			**Mailing Address** if different		
City	**State**	**Zip Code**	**City**	**State**	**Zip Code**
Amount of Contribution/Value of Secured Deposit			**Kind of Contribution*** ☐ Cash	☐ Bond	☐ Other Security Deposit

Name print			**Signature**		
Residence			**Mailing Address** if different		
City	**State**	**Zip Code**	**City**	**State**	**Zip Code**
Amount of Contribution/Value of Secured Deposit			**Kind of Contribution*** ☐ Cash	☐ Bond	☐ Other Security Deposit

Additional Description

*Provide additional description of security deposit below, on the back of this form or on separate sheets. Additional contributors may be listed on separate sheets and attached.

$100 check payable to Deschutes County.

AKS ENGINEERING & FORESTRY
2777 NW Lolo Drive, Suite 150, Bend, OR 97703
P: (541) 317-8429

AKS Job #6491

EXHIBIT A
ANNEXATION

A tract of land located in the Northeast Quarter of Section 19, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Commencing at the Northeast corner of said Section 19; thence along the north line of said Section 19, South 89°39'07" West 91.94 feet to a line parallel with and 50.00 feet west of the centerline of the Dalles California Highway, and the Point of Beginning; thence continuing along said north line, South 89°39'07" West 2012.97 feet to the east line of Lot 88 of "River Bend Estates", recorded November 9, 1961, in Plat Cabinet A, Page 290, Deschutes County Official Records; thence along said east line, and the east line of Lot 89, of said plat, South 00°20'22" East 981.10 feet to the north line of Lot 92 of said plat; thence along said north line, and the north line of Lot 93 of said plat, North 89°37'52" East 1466.09 feet to the west right-of-way line of said Dalles California Highway (varying in width from centerline); thence at a right angle to said centerline of the Dalles California Highway, South 62°57'13" East 172.52 feet to the east right-of-way line of said Dalles California Highway (varying in width from said centerline); thence along said east right-of-way line, North 28°22'06" East 303.02 feet to a point 95.00 feet from said centerline; thence continuing along said east right-of-way line (varying in width from centerline), North 23°13'56" East 150.33 feet to a point 85.00 feet from said centerline; thence continuing along said east right-of-way line (85.00 feet from centerline), North 27°02'47" East 482.03 feet to the south right-of-way line of China Hat Road, dedicated per Volume 340, Page 144, recorded April 30, 1981, Deschutes County Deed Records; thence along said south right-of-way line, North 44°39'36" West 36.86 feet to a line parallel with and 50.00 feet east of said centerline of the Dalles Californian Highway; thence along said parallel line, North 27°02'47" East 34.76 feet to the centerline of said China Hat Road; thence along the northwesterly prolongation of said centerline of China Hat Road, North 44°39'36" West 105.32 feet to said line parallel with and 50.00 feet west of the centerline of the Dalles California Highway; thence along said parallel line, North 27°02'47" East 107.94 feet to the Point of Beginning.

The above tract of land contains 42.72 acres more or less.

The basis of bearings for this description are based on County Survey 20822.

10/10/2024

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
MAY 11, 2021
JACOB ALLEN CARSON
94570PLS
RENEWS: 12/31/25

EXHIBIT A

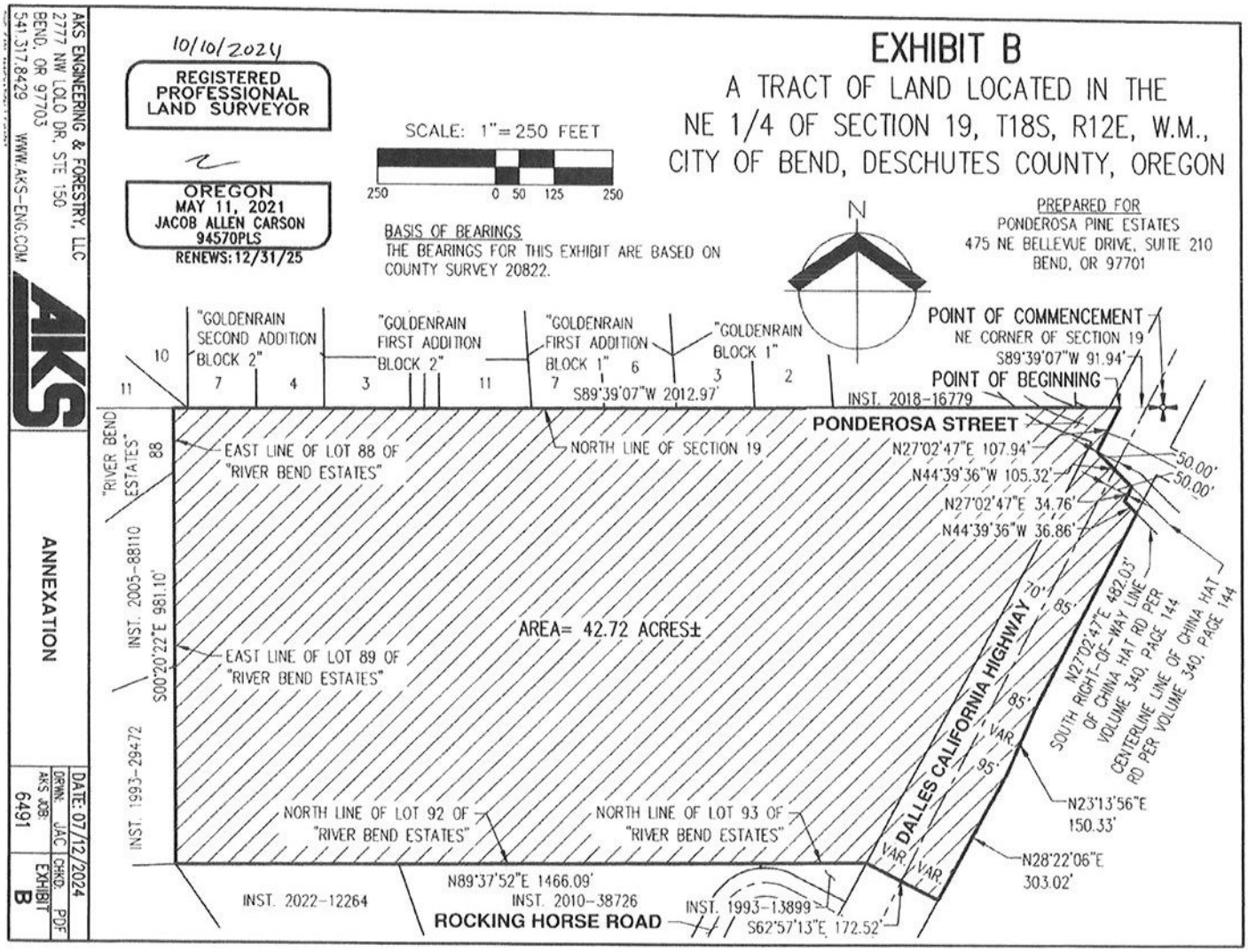


EXHIBIT B
A TRACT OF LAND LOCATED IN THE
NE 1/4 OF SECTION 19, T18S, R12E, W.M.,
CITY OF BEND, DESCHUTES COUNTY, OREGON
10/10/2024
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
MAY 11, 2021
JACOB ALLEN CARSON
94570PLS
RENEWS: 12/31/25
SCALE: 1"=250 FEET
250 0 50 125 250
BASIS OF BEARINGS
THE BEARINGS FOR THIS EXHIBIT ARE BASED ON COUNTY SURVEY 20822.
N
PREPARED FOR
PONDEROSA PINE ESTATES
475 NE BELLEVUE DRIVE, SUITE 210
BEND, OR 97701
POINT OF COMMENCEMENT
NE CORNER OF SECTION 19
S89°39'07"W 91.94'
POINT OF BEGINNING
INST. 2018-16779
PONDEROSA STREET
"GOLDENRAIN SECOND ADDITION BLOCK 2"
"GOLDENRAIN FIRST ADDITION BLOCK 2"
"GOLDENRAIN FIRST ADDITION BLOCK 1"
"GOLDENRAIN BLOCK 1"
S89°39'07"W 2012.97'
"RIVER BEND ESTATES"
EAST LINE OF LOT 88 OF "RIVER BEND ESTATES"
NORTH LINE OF SECTION 19
N27°02'47"E 107.94'
N44°39'36"W 105.32'
N27°02'47"E 34.76'
N44°39'36"W 36.86'
50.00'
50.00'
INST. 2005-88110
S00°20'22"E 961.10'
EAST LINE OF LOT 89 OF "RIVER BEND ESTATES"
AREA= 42.72 ACRES±
INST. 1993-26472
DALLES CALIFORNIA HIGHWAY
70'
85'
85'
VAR
95'
SOUTH RIGHT-OF-WAY LINE OF CHINA HAT RD PER VOLUME 340, PAGE 144
CENTERLINE LINE OF CHINA HAT RD PER VOLUME 340, PAGE 144
N27°02'47"E 482.03'
N23°13'56"E 150.33'
N28°22'06"E 303.02'
NORTH LINE OF LOT 92 OF "RIVER BEND ESTATES"
NORTH LINE OF LOT 93 OF "RIVER BEND ESTATES"
N89°37'52"E 1466.09'
INST. 2010-38726
INST. 2022-12264
ROCKING HORSE ROAD
INST. 1993-13899
S62°57'13"E 172.52'
VAR
VAR
AKS ENGINEERING & FORESTRY, LLC
2777 NW LOLO DR, STE 150
BEND, OR 97703
541.317.8429 WWW.AKS-ENG.COM
ANNEXATION
DRWN: JAC CHKD: PDF
AKS JOB: 6491
EXHIBIT B
DATE: 07/12/2024

EXHIBIT B

DESCHUTES COUNTY

County Clerk

Petition for Annexation to Bend Park and Recreation District (Taxlot 181219A000100)

Clerk's Certification

I, Steve Dennison, Deschutes County Clerk, do hereby certify that the signatures on the attached petition sheet are not voters within the proposed area to be annexed. There are zero (0) voters within the proposed area to be annexed. There are zero (0) valid signatures on the attached petition within the area proposed for annexation.

Dated this 6th day of December, 2024.

Steve Dennison
Deschutes County Clerk

1300 NW Wall Street Suite 202 | PO Box 6005 Bend, Oregon 97708-6005
(541) 388-6547 • elections@deschutescounty.gov | (541) 388-6549 • recording@deschutescounty.gov
www.deschutescounty.gov/clerk

EXHIBIT B

DESCHUTES COUNTY ASSESSOR'S OFFICE
CARTOGRAPHY DEPARTMENT
1300 NW Wall Street, Suite 204 | Bend, Oregon 97703
Office: (541) 388-6508 | **Fax**: (541) 382-1692
Website: https://www.deschutes.org/assessor
Property Info: https://dial.deschutes.org/

November 26, 2024

Steve Dennison

Deschutes County Clerk

Re: **Petition to Annex Bend Park and Rec District** (PONDEROSA PINE ESTATES LLC)

Please be advised the attached petition meets the requirements of ORS 198.

Sincerely,

Gregg Rossi

Gregg Rossi | Chief Cartographer
Deschutes County Assessor's Office, Cartography Dept.
1300 NW Wall St. Suite 204 | Bend, Oregon 97703 PO Box 6005 | Bend, Oregon 97708
Tel: (541) 617-4703 | Fax: (541) 382-1692

EXHIBIT C

Boundary Change Preliminary Review

DOR 9-P128-2024

OREGON DEPARTMENT OF REVENUE

Cadastral Information Systems Unit
PO Box 14380
Salem, OR 97309-5075
fax 503-945-8737
boundary.changes@dor.oregon.gov

City of Bend
Planning Dept.
PO Box 431
Bend OR 97709

October 8, 2024

Documents received: 8/23/2024, 10/8/2024
From: Daniel Robinson

This letter is to inform you that the Description and Map for your planned Annexation to the BPRD (BPRD Annexation) in Deschutes County have been reviewed per your request. They MEET the requirements of ORS 308.225 for use with an Order, Ordinance, or Resolution which must be submitted to the Deschutes County Assessor and the Department of Revenue in final approved form before March 31 of the year in which the change will become effective.

If you have any questions please contact Robert Ayers, 503-983-3032

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Consideration of second reading of Ordinance No. 2024-012 – Destiny Court Properties, LLC Comprehensive Plan Amendment and Zone Change

RECOMMENDED MOTIONS:

1. Move approval of second reading of Ordinance No. 2024-012 by title only.
2. Move approval of Ordinance No. 2024-012.

BACKGROUND AND POLICY IMPLICATIONS:

The subject property is located at 19975 Destiny Court, Bend, OR 97703. Destiny Court Properties, LLC (the "Applicant") requests to change the Comprehensive Plan Map designation of the subject property from Agricultural (AG) to Rural Residential Exception Area (RREA) and a Zone Change from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10) (ref. file nos. 247-22-000436-ZC, 247-22-000443-PA, 247-23-000651-MA). A public hearing before the Board was held on July 24, 2024, and the Board voted 2-1 to approve the Applicant's request.

The effective date of the ordinance will be 90 days from the date of adoption, or April 8, 2025.

BUDGET IMPACTS:

None

ATTENDANCE:

Anthony Raguine, Principal Planner

REVIEWED_____

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 23, the Deschutes County Comprehensive Plan, to Change the Comprehensive Plan Map Designation for Certain Property From Agriculture to Rural Residential Exception Area, and Amending Deschutes County Code Title 18, the Deschutes County Zoning Map, to Change the Zone Designation for Certain Property From Exclusive Farm Use to Multiple Use Agricultural.	* * * * * * * * * * * * * * *	ORDINANCE NO. 2024-012

WHEREAS, Destiny Court Properties, LLC ("Applicant"), applied for changes to both the Deschutes County Comprehensive Plan Map (247-22-000443-PA) and the Deschutes County Zoning Map (247-22-000436-ZC), to change the Comprehensive Plan designation of the subject property from Agricultural (AG) to Rural Residential Exception Area (RREA), and a corresponding Zone Change from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10); and

WHEREAS, the Applicant filed a Modification of Application (247-23-000651-MA) on September 1, 2023, to incorporate changes associated with a property line adjustment (247-23-000653-LL) that reconfigured the subject property after the Comprehensive Plan Amendment and Zone Change applications were initiated; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on February 27, 2024, before the Deschutes County Hearings Officer and, on April 26, 2024, the Hearings Officer recommended approval of the Comprehensive Plan Amendment and Zone Change;

WHEREAS, pursuant to DCC 22.28.030(C), on July 24, 2024, the Board of County Commissioners ("Board") heard *de novo* the applications to change the Comprehensive Plan designation of the subject property from Agricultural (AG) to Rural Residential Exception Area

(RREA) and a corresponding Zone Change from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10); now, therefore,

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

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

Section 2. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation from EFU to MUA-10 for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "C", with both exhibits attached and incorporated by reference herein.

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

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

Section 5. FINDINGS. The Board adopts as its findings in support of this Ordinance the Decision of the Board of County Commissioners as set forth in Exhibit "F" and incorporated by reference herein. The Board also incorporates in its findings in support of this decision, the Recommendation of the Hearings Officer, attached as Exhibit "G".

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

Dated this _____ of _____, 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
PATTI ADAIR, Chair

_____
ANTHONY DEBONE, Vice Chair

ATTEST:

_____
Recording Secretary

_____
PHIL CHANG, Commissioner

Date of 1st Reading: 18th day of December, 2024.

Date of 2nd Reading: 8th day of January, 2025.

Record of Adoption Vote:

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

Effective date: 8th day of April, 2025.

ATTEST

_____
Recording Secretary

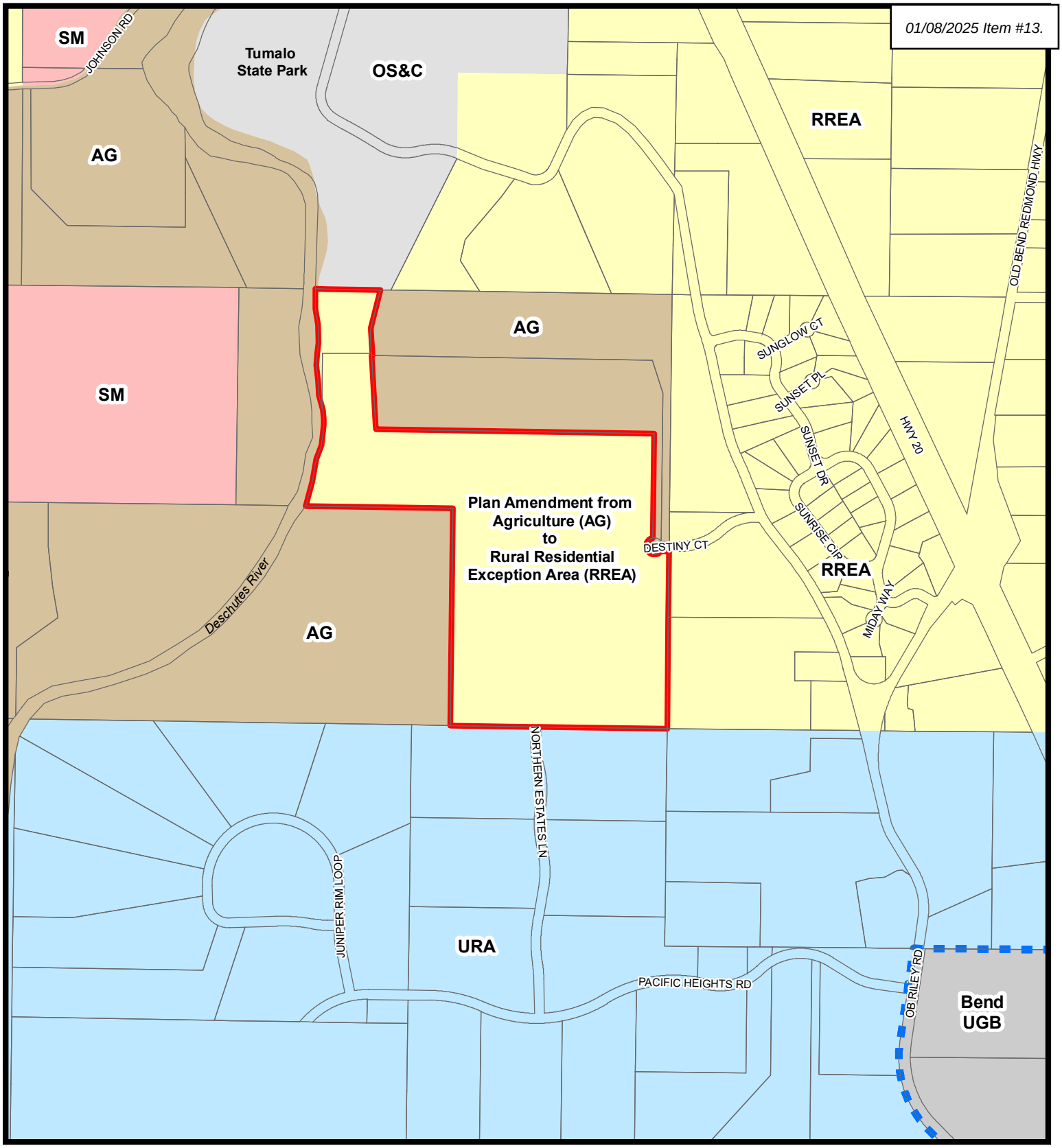
Exhibit "A" To Ordinance 2024-012

Legal Description of Subject Property

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO DESTINY COURT PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, IN DOCUMENT NO. 2021-61291, DESCHUTES COUNTY OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID DESTINY COURT PROPERTIES, SAID NORTHWEST CORNER BEING ON THE CENTERLINE OF THE DESCHUTES RIVER AND BEARING, ALONG THE NORTH LINE OF SAID SECTION 7, S89°35'43"E 432.83 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE CONTINUING ALONG SAID NORTH LINE, S89°35'43"E 425.47 FEET TO A POINT; THENCE DEPARTING SAID NORTH LINE, S13°11'48"W 239.62 FEET TO A POINT; THENCE S3°48'59"E 152.39 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S89°52'26"W 298.75 FEET TO A POINT; THENCE S0°00'00"E 366.21 FEET TO A POINT; THENCE S5°57'50"W 178.47 FEET TO A POINT; THENCE S11°00'43"W 127.94 FEET TO A POINT; THENCE S15°48'44"W 92.60 FEET TO A POINT ON SAID DESCHUTES RIVER CENTERLINE; THENCE ALONG SAID CENTERLINE, S16°08'19"W 179.19 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE ALONG SAID SOUTH LINE, S89°38'02"E 914.03 FEET TO THE NORTHEAST SIXTEENTH (NE1/16) CORNER OF SAID SECTION 7; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE1/4 NE1/4) OF SAID SECTION 7, S0°12'11"W 1320.01 FEET TO THE CENTER EAST SIXTEENTH CORNER (CE1/16) OF SAID SECTION 7; THENCE ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 7, S89°37'30"E 1318.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 7, BEING THE SOUTHEAST CORNER OF PARCEL C OF PARTITION PLAT 1996-55; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL C THE FOLLOWING COURSES: N0°08'26"E 1080.22 FEET; THENCE N89°37'33"W 50.00 FEET; THENCE 193.64 FEET ALONG THE ARC OF A 50-FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 221°53'48" (THE CHORD OF WHICH BEARS N32°08'04"W, 93.39 FEET); THENCE N0°07'29"E 634.22 FEET TO A POINT ON THE EASTERLY LINE OF SAID DESTINY COURT PROPERTIES, LLC TRACT; THENCE ALONG SAID EASTERLY LINE, N89°36'12"W 1684.60 FEET; THENCE N3d48'59"W 461.08 FEET THE **TRUE POINT OF BEGINNING.**

CONTAINING A TOTAL AREA OF 65.11 ACRES, MORE OR LESS.



Plan Amendment Boundary

Bend Urban Growth Boundary

Comprehensive Plan Designation

- AG - Agriculture
- OS&C - Open Space & Conservation
- URA - Urban Reserve Area
- SM - Surface Mining
- RREA - Rural Residential Exception Area

PROPOSED PLAN AMENDMENT

Exhibit "B"
to Ordinance 2024-012

0 400 800 1,600 Feet

December 5, 2024

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
Patti Adair, Chair

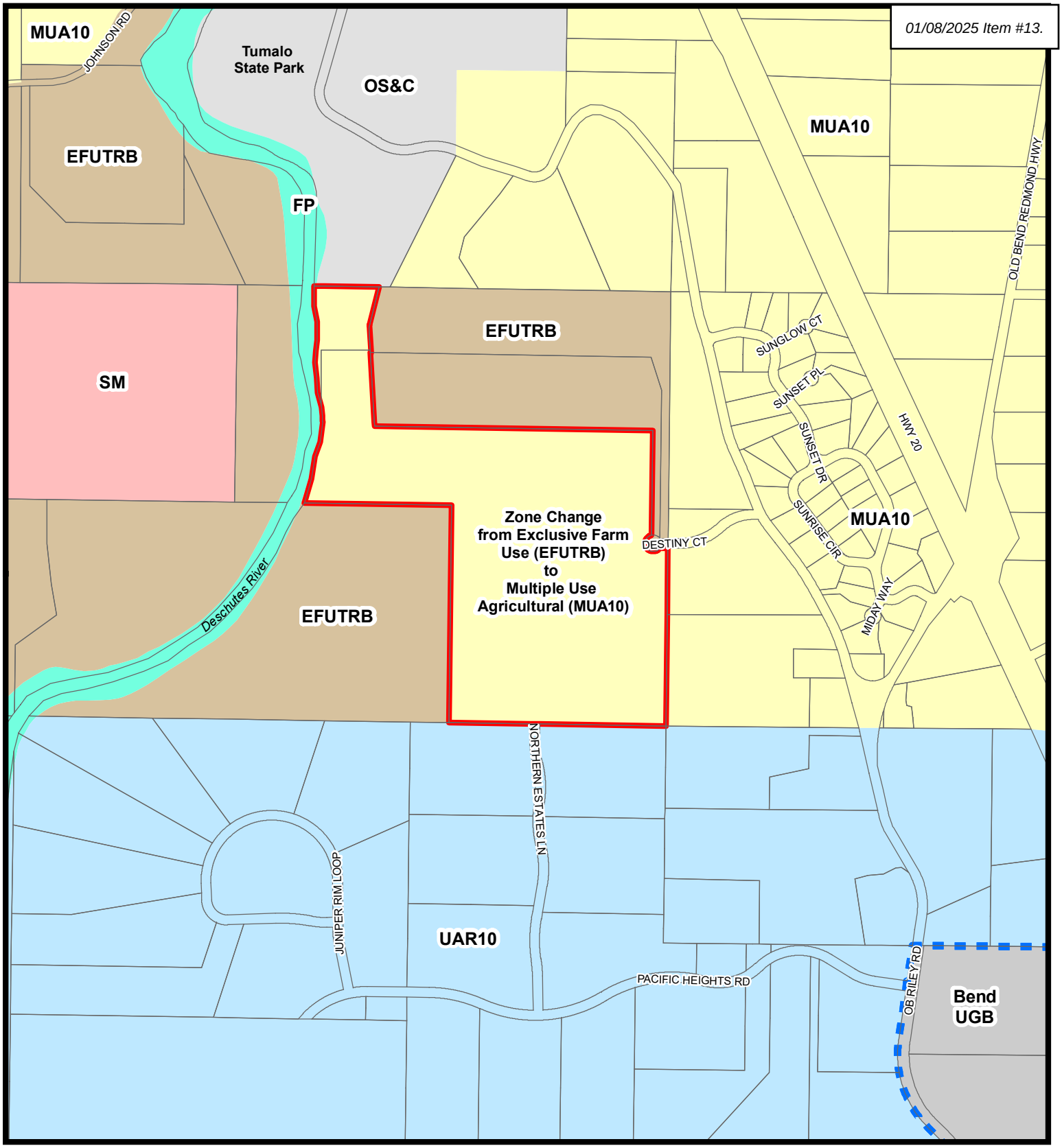
_____
Anthony DeBone, Vice Chair

_____
Phil Chang, Commissioner

_____
ATTEST: Recording Secretary

Dated this _____ day of _____

Effective Date: _____



Zone Change Boundary

Bend Urban Growth Boundary

County Zoning

- EFUTRB - Tumalo/Redmond/Bend Subzone
- FP - Flood Plain
- MUA10 - Multiple Use Agricultural
- OS&C - Open Space and Conservation
- SM - Surface Mining
- UAR10 - Urban Area Reserve

PROPOSED ZONING

Exhibit "C"
to Ordinance 2024-012

0 400 800 1,600 Feet

December 5, 2024

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
Patti Adair, Chair

_____
Anthony DeBone, Vice Chair

_____
Phil Chang, Commissioner

_____
ATTEST: Recording Secretary

Dated this _____ day of _____

Effective Date: _____

Exhibit "D" to Ordinance 2024-012 – Comprehensive Plan Section 23.01

TITLE 23 COMPREHENSIVE PLAN

CHAPTER 23.01 COMPREHENSIVE PLAN

A. [Repealed by Ordinance 2024-007]

B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.

C. [Repealed by Ordinance 2013-001, §1]

D. [Repealed by Ordinance 2023-017]

E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.

F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.

G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.

H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.

I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.

J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.

K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.

L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.

M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.

N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.

O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.

P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.

Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.

Exhibit "D" to Ordinance 2024-012 – Comprehensive Plan Section 23.01

R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.

S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.

T. [Repealed by Ordinance 2016-027 §1]

U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.

V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.

W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.

X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.

Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.

Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.

AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.

AB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.

AC. [repealed by Ord. 2019-010 §1, 2019]

AD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.

AE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.

AF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.

AG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.

AH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.

AI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.

Exhibit "D" to Ordinance 2024-012 – Comprehensive Plan Section 23.01

AJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.

AK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.

AL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.

AM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.

AN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.

AO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.

AP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.

AQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.

AR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.

AS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.

AT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.

AU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-002, are incorporated by reference herein.

AV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-005, are incorporated by reference herein.

AW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-008, are incorporated by reference herein.

AX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-001, are incorporated by reference herein.

AY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-003, are incorporated by reference herein.

AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.

Exhibit "D" to Ordinance 2024-012 – Comprehensive Plan Section 23.01

BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-010, are incorporated by reference herein.

BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-011, are incorporated by reference herein. (superseded by Ord. 2023-015)

BC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-013, are incorporated by reference herein. (supplemented and controlled by Ord. 2024-010)

BD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-001, are incorporated by reference herein.

BE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-007, are incorporated by reference herein.

BF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-010 are incorporated by reference herein.

BG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-018, are incorporated by reference herein.

BH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-015, are incorporated by reference herein.

BI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-025, are incorporated by reference herein.

BJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-001, are incorporated by reference herein.

BK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-003, are incorporated by reference herein.

BL. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2024-007 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.

BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-010, are incorporated by reference herein.

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

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

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

Exhibit "D" to Ordinance 2024-012 – Comprehensive Plan Section 23.01

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

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

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

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

2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.
2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal 11 to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial

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

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

2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.
2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-001	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.

2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal 11 (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.
2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.

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

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

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

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

Exhibit "F" to Ordinance 2024-012

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

FILE NUMBERS: 247-22-000436-ZC, 247-22-000443-PA, 247-23-000651-MA

SUBJECT PROPERTY/
OWNER/
APPLICANT: DESTINY COURT PROPERTIES, LLC
Map and Taxlot: 171207A000100
Account: 113037
Situs Address: 19975 DESTINY CT, BEND, OR 97703

APPLICANT'S
ATTORNEY: Elizabeth Dickson, Dickson Hatfield LLP

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

REQUEST: Comprehensive Plan Amendment from Agricultural to Rural Residential Exception Area and Zone Change from Exclusive Farm Use to Multiple Use Agricultural Zone.

I. SUMMARY OF DECISION

In this decision, the Board of County Commissioners ("Board") considers whether to approve the proposed Comprehensive Plan Amendment and Zone Change. Hearings Officer Frank recommended approval in his April 26, 2024, recommendation, after a Public Hearing held on February 27, 2024. No appeals were filed. Land Use File Numbers 247-22-000436-ZC, 247-22-000443-PA and 247-23-000051-MA contain the Hearings Officer's Recommendation ("Recommendation") and related documents as referenced herein. The Board considered the applications *de novo*, incorporating the Record below, and a public hearing before the Board was held on July 24, 2024.

On October 9, 2024, following deliberation, the Board voted 2-1 finding the applicant had met their burden of proof, and moved to uphold the Recommendation and approving the Comprehensive Plan Amendment and Zone Change applications on the subject property.

The Recommendation dated April 26, 2024, is hereby incorporated as part of this decision, including any and all interpretations of the County's code, and modified as follows. In the event of conflict, the findings in this decision control.

II. BASIC FINDINGS OF FACT:

The Board adopts and incorporates by reference the code interpretations, findings of fact, and conclusions of law in the Recommendation as set forth in Section I, Applicable Criteria, and Section II, Basic Findings. The Recommendation is attached as Exhibit G to the Board's Decision. The following additions are made to the basic findings in the Recommendation.

A. PROCEDURAL HISTORY: A public hearing was held before a Hearings Officer on February 27, 2024, and the Recommendation was issued on April 26, 2024. The Board conducted a *de novo* hearing on July 24, 2024. The Board left the record open until August 7, 2024, for all parties to submit written legal argument; until August 14, 2024, for all parties to submit rebuttal; and until August 21, 2024, for applicant's final argument. The Board rendered its oral decision after deliberations on October 9, 2024, affirming the Recommendation and modifying the findings as described herein. This written Decision memorializes that decision.

B. REVIEW PERIOD: The applications were submitted on May 27, 2022. Planning Division deemed the applications incomplete on June 24, 2022. Applicant submitted First Supplement on November 23, 2022, a Second Supplement and Modification of Application on September 1, 2023. The 150-day clock does not apply to the applications for the Comprehensive Plan Amendment and Zone Change.

The Board takes note that the subject property achieved its current configuration via property line adjustment approval 247-23-000653-LL.

C. PUBLIC COMMENTS: Planning Division received three comments from the public between the issuance of the Recommendation and the close of the Public Record for public comment after the Board Public Hearing on August 14, 2024. The Planning Division also received one comment from a public agency, Department of Land Conservation and Development ("DLCD"), on August 7, 2024, in response to the Planning Division's inquiry about applicability of a recent statute adopted to allow Accessory Dwelling Units ("ADUs"). The Cherrie Brooks comment dated July 16, 2024, did not address relevant criteria to the application. Consequently, the Board did not consider these comments. Carol Macbeth filed two comments on behalf of Central Oregon Land Watch, one on July 24, 2024, and a second comment on August 8, 2024. Both contained arguments regarding subjects raised before the Hearings Officer below, and introduced additional facts. Applicant addressed all relevant arguments

raised within the allowed time periods for rebuttal, submitting supplemental evidence where needed. The Board considered all arguments raised in deliberations, finding the Macbeth arguments unpersuasive.

Planning Division's inquiry to DLCD addressed whether ADUs could be allowed on the Subject Property if it were rezoned. DLCD entered a comment into the Record on the afternoon of the last day of the Open Comment Period, noting that the unusual circumstances of the proposed rezone make the approval of ADUs "entirely up to the county…." [underline original]. Applicant, in rebuttal period, addressed the possibility of the rezone impact with additional evidence and argument. The Board considered the argument in deliberations, finding Applicant addressed the issue to the Board's satisfaction.

III. FINDINGS

This Board adopts the Recommendation for Approval, as supplemented by noted Findings related to matters which arose after the Recommendation was issued.

1. Subject Property as "Agricultural Land" with respect to Soils

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

FINDING: The Board adopts the Recommendation unanimously, finding that the Subject Property is predominantly NRCS Class VII and VIII soils, and consequently is not Agricultural Land.

2. Subject Property as "Agricultural Land" with respect to Factors

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

This rule analyzes what constitutes "Agricultural Land" as referenced in Statewide Planning Goal 3. One of those factors is "existing and future availability of water for farm irrigation purposes." At the time of the Public Hearing before Hearings Officer Frank and in the Open Record period leading up to draft of the Recommendation by Hearings Officer Frank, confirmation from Swalley Irrigation District was not available to verify the status of irrigation water appurtenant to the Subject Property. The Hearings Officer's Findings noted on Page 46, paragraph 2, that irrigation rights did exist at the Subject Property. He went on to note that existence may be suggestive of agricultural land, but standing alone, did not determine that the land was agricultural land.

On August 7, 2024, Applicant submitted Exhibit 42 into the Record before the Board. That Exhibit conclusively determined by letter from Swalley Irrigation District dated August 1, 2024, that there are no longer any Swalley water rights on the Subject Property.

FINDING: The Board adopts the Recommendation regarding "Agricultural Land" where it is determined that the Subject Property is not properly characterized as Agricultural Land. By correction, the Board finds that no irrigation water rights exist at the Subject Property, as evidenced by Exhibit 42 in the Record, Swalley Letter of No Appurtenant Water Rights. This does not change the Hearings Officer's conclusion that the Subject Property is not Agricultural Land.

The Board adopts the Recommendation by a vote of 2 to 1, finding that the Subject Property is not Agricultural Land when considering factors established by the Goal, the Administrative Rules, Oregon Revised Statutes, and relevant common law.

3. Subject Property as "Agricultural Land" when considering Adjacent or Nearby Agricultural Lands

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

FINDING: The Board unanimously adopts the Recommendation, finding no adjacent or nearby agricultural lands and no evidence to suggest that a nearby farm would benefit from agricultural use of the Subject Property including use as a storage or maintenance facility.

4. Goal 14 Exception Requirement

Statewide Planning Goal 14

FINDING: The Board adopts the Recommendation by a vote of 2 to 1, finding that the Plan Amendment / Zone Change proposed will not result in urbanization such that an exception to Goal 14 is required.

5. Allowance of Accessory Dwelling Units under ORS 215.495, ORS 215.501 on Rural Lands, such as Subject Property

Transportation Planning Rule, OAR 660-012-0060, DCC 18.116.310(E)(4)

A question posed by a member of the public at a public hearing preceding the subject application on July 24, 2024, raised the issue of whether ADUs would be allowed on rural lands rezoned without necessity of exception to Statewide Planning Goals under ORS 215.495 and ORS 215.501, recently effective. Such additional use could pose concerns related to increased density on rural lands and rural roadways. Planning Division staff addressed the question to the DLCD. DLCD's response was received and submitted into the Record on August 7, 2024. The Department's response was inconclusive, noting that "[t]he department concludes approved rezones of resource land could result in the development of ADUs if the county permits rural ADUs on non-resource lands."

Applicant subsequently submitted Transight Consulting Transportation's Errata, providing an analysis of possible ADU impacts resulting from approval of the subject rezone. It is entered into the Record as Exhibit 43. It concludes that the additional ADU-related trips would not violate applicable standards.

FINDING: The Board finds unanimously that ADUs, if allowed on the Subject Property, are not foreseen to reduce operation levels on OB Riley Road and Destiny Court to an unacceptable level of service, based on the expected trip generation for 14 ADUs. The Board further finds ADUs would not change the functional classification of existing roads, change standards implementing a functional classification system, or result in types of travel that are inconsistent with the functional classification of existing roads. For purposes of the Transportation Planning Rule (OAR 660-012-0060) a significant impact does not occur with or without the inclusion of ADUs on the Subject Property.

IV. DECISION:

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of County Commissioners hereby **APPROVES** the Applicant's application for a Deschutes Comprehensive Plan Amendment and Zone Change for the Subject Property.

Exhibit G to Ordinance No. 2024-012

HEARINGS OFFICER RECOMMENDATION

FILE NUMBERS: 247-22-000436-ZC / 247-22-000443-PA / 247-23-000651-MA

HEARING: February 27, 2023, 6:00 p.m.
Zoom & Barnes & Sawyer Rooms

SUBJECT PROPERTY APPLICANT/OWNER: Mailing Name: DESTINY COURT PROPERTIES LLC ("Applicant")
Maps and Tax Lots: 1712070000100[1]
Accounts: 113037
Situs Address: 19975 DESTINY CT, BEND, OR 97703
("Subject Property")

***Note**: The Subject Property has been recently reconfigured as part of a property line adjustment.*

APPLICANT'S ATTORNEY: Elizabeth Dickson ("Dickson"), Dickson & Hatfield LLP

REQUEST: The Applicant requested a Deschutes County Comprehensive Plan Amendment to change the designation of the Subject Property from Agricultural ("AG") to Rural Residential Exception Area ("RREA"); and a Zone Change to rezone the Subject Property from Exclusive Farm Use – Tumalo/Redmond/Bend Subzone ("EFU") to Multiple Use Agricultural ("MUA").

***Note**: The Applicant also applied for conditional use and tentative plan approval for a 14-lot residential Planned Unit Development ("PUD"). The development proposal request is **not a part of this review**.*

STAFF PLANNER: Caroline House, Senior Planner
Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
https://www.deschutes.org/cd/page/247-22-000436-zc-247-22-000443-pa-destiny-court-properties-llc-comprehensive-plan-amendment

I. APPLICABLE CRITERIA

Deschutes County Code ("DCC")
- Title 18, Deschutes County Zoning Ordinance
  - Chapter 18.04, Title, Purpose, and Definitions
  - Chapter 18.16, Exclusive Farm Use Zones ("EFU")
  - Chapter 18.32, Multiple Use Agricultural ("MUA10")
  - Chapter 18.56, Surface Mining Impact Area Combining Zone ("SMIA")
  - Chapter 18.84, Landscape Management Combining Zone ("LM")
  - Chapter 18.136, Amendments

[1] The Deschutes County Assessor's Office updated the tax map between the mailing of the Notice of Public Hearing and the release of The County Planning Staff Report. The Subject Property is now identified as a singular tax lot and account (ref. TL 100 / 113037).

Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.20.055, Modification of Application

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

Oregon Administrative Rules ("OAR") Chapter 660
Division 6, Forest Lands
Division 12, Transportation Planning
Division 15, Statewide Planning Goals
Division 33, Agricultural Land

II. BASIC FINDINGS

LOT OF RECORD: The Subject Property is one (1) legal lot of record (County file no. 247-22-000433-LR) and its current configuration reflects a recently perfected property line adjustment (County file no. 247-23-000653-LL). The Hearings Officer incorporates as additional findings for this section the Applicant's comments (Supplemental Rebuttal, 11/23/2022, pages 3 – 4) and the decisions rendered in 247-22-000433-LR/247-23-000653-LL.

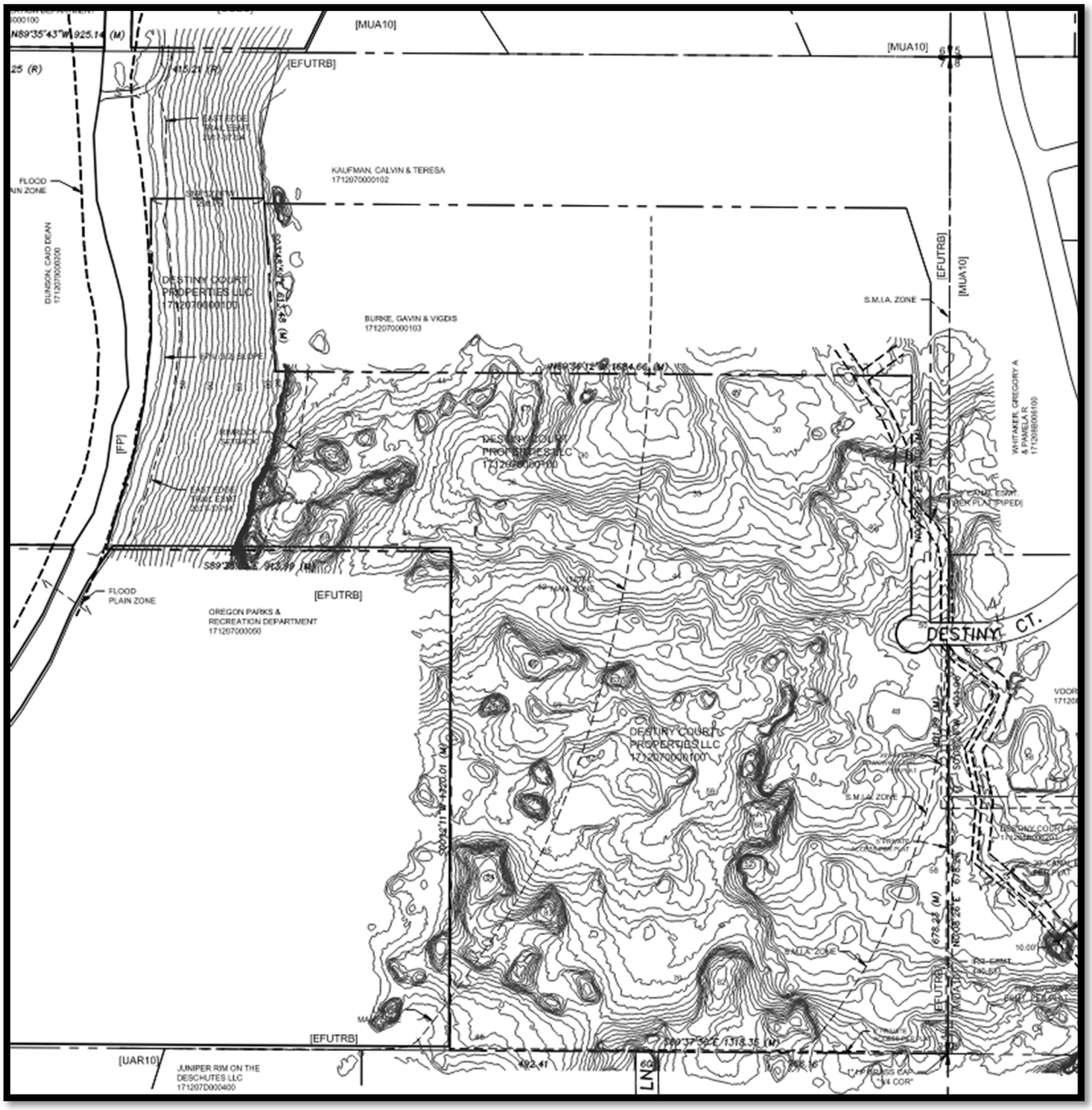
ZONING: The Subject Property is zoned EFU-TRB subzone and is partially located in the LM and SMIA Combining Zones. The recently perfected property line adjustment removed all Flood Plain ("FP") zoned areas on the Subject Property (County file no. 247-23-000653-LL) and the Applicant filed a Modification of application to incorporate the changes associated with the reconfigured property (County file no. 247-23-000651-MA).

SITE DESCRIPTION: According to the Applicant's materials, the Subject Property is +/-65.1 acres in size, irregularly shaped, and there are no structures or improvements on the Subject Property except for a small pond adjacent to the eastern property line and near the terminus of Destiny Court. Some areas of the Subject Property have been previously used for raising livestock and/or horses. Irrigation water rights (Swalley Irrigation District), once existing at the Subject Property but may have been transferred. The Subject Property is not currently being used for farming purposes. The remaining undisturbed areas of the Subject Property consist of native vegetation and rock outcroppings.

Destiny Court, a paved County Road[2], terminates at the northeastern Subject Property line and Northern Estates Lane, a paved Local Access Road[3], terminates at the southern Subject Property line. As shown in *Figure 1* below, grade varies across the property with the most dramatic changes along the northwestern corner of the Subject Property, which consists of rimrock along the Deschutes River canyon. The nearest boundary for the City of Bend's Urban Growth Boundary ("UGB") is located approximately 2,000 feet to the southeast of the Subject Property.

[2] Per DCC 12.04.060, "County Road" means a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016 and maintained by Deschutes County.
[3] Per DCC 12.04.060, "Local Access Road" means any public street or road which is not maintained by the County but over which the County has jurisdictional authority.

Figure 1 – Topographical Map of the Subject Property



SOILS: The Natural Resources Conservation Service ("NRCS") map shown on the County's DIAL GIS mapping program identifies three (3) soil complex units on the Subject Property: 38B, Deskamp-Gosney complex, 0 to 8 percent slopes, 58C, Gosney-Rock outcrop-Deskamp complex, 0-15 percent slopes, and 106E, Redslide Lickskillet complex, 30-50 percent slopes.

An Agricultural Soils Capability Assessment (Order 1 Soil Survey – referred to by the Hearings Officer as the "Site-Specific Study") was conducted by Brian T. Rabe, CPSS, WWS, for the majority of the Subject Property and found the following[4]:

"Cascade Earth Sciences (CES) was retained to conduct a site-specific soil survey on a substantial portion

[4] Ref. Applicant's Exhibit 3 and Exhibit 24.

of the above referenced parcels (Site) consisting of approximately 63 acres. The subject acreage is zoned Exclusive Farm Use Tumalo Redmond Bend (EFUTRB). Those areas not specifically evaluated generally consisted of steeper slopes with rocky soils leading into the adjacent Deschutes River canyon. We understand that an application to Deschutes County is being prepared to request a zone change to a non-resource designation (rural residential). The soil-related criteria for this process is contained in Oregon Administrative Rules (OAR) 660-033. Parcels need to consist predominately of soils in land capability classes VII and VIII to be considered for a non-resource designation.

…

SUMMARY AND CONCLUSIONS

The purpose of this report is to present the results of an assessment to verify and, where necessary, refine the soils, map units, and boundaries mapped on the Site and to determine whether the soils on the Site meet the land capability classification criteria for a non-resource zoning designation. The published soil survey information was reviewed and direct observations of soil conditions were made at representative locations across the Site. CES has determined that the information from the published soil survey was generally consistent with observations on the ground with boundary refinements limited to delineating components of the complexes mapped by the NRCS. CES has determined that 41.35 acres, or 65.8 percent, of the Site consists of Class VII and Class VIII soils. Since the Site is predominantly Class VII and Class VIII soils and does not otherwise meet the criteria for further consideration as agricultural land, the Site meets the soils criteria for consideration of a non-resource zoning designation."

Further discussion regarding soils is found in the findings related to DCC 18.04.030 and Statewide Planning Goal 3 below.

LAND USE HISTORY:

- **LR-94-42:** The County approved a Lot of Record Verification.
- **MP-94-29:** The County approved a three-parcel partition. The Subject property was originally platted as a part of Parcel 1 (ref. PP1995-05).
- **CU-95-68:** The County conditionally approved a non-farm dwelling on Parcel 1 of MP-94-29.
- **MP-96-07/FPA-96-39:** The County approved a three-parcel partition. The Subject Property was platted as a part of Parcel C (ref. PP1995-05).
- **V-97-3/LL-97-10:** The County approved a minor variance and a lot line adjustment between the Subject Property and properties identified on Assessor's Map 17-12-07, as tax lots 102 and 103.
- **E-97-16:** The County approved a 1-year extension of CU-95-68.
- **E-98-28**: The County approved a 2-year extension of CU-95-68.
- **E-99-26:** The County approved a second 2-year extension of CU-95-68.
- **LM-00-195/SMA-00-33:** Site plan approval for the previously approved non-farm dwelling in the Landscape Management and Surface Mining Impact Area Combining Zones. However, the non-farm dwelling use was never initiated and the approvals expired.
- **247-22-000433-LR:** The County found the Subject Property is recognized as one legal lot of record.
- **247-23-000653-LL:** The County approved a property line adjustment between the Subject Property and a property identified on Assessor's Map 17-12-07, as tax lox 200.

SURROUNDING LAND USES: Staff (Staff Report, pages 5 - 6) provided the following descriptive summary of surrounding uses and zoning:

North: The two closest properties to the north are zoned EFU-TRB and are developed with non-farm dwellings. Beyond these two properties is Tumalo State Park and other residentially developed MUA10 zoned properties. Tumalo State Park is zoned Open Space & Conservation Zone "(OS&C"), FP, MUA10, and EFU-TRB.

East: The properties to the east are zoned MUA10 and are predominantly developed with residential uses. The lot sizes vary from less than one (1) acre to 16 acres. State Highway 20 is approximately 1,700 feet to the east.

South: The properties to the south-southwest are platted 10-acre residential lots in the Pacific Cascade Heights and Juniper Rim subdivisions. These properties are zoned Urban Area Reserve Zone ("UAR10"). The properties to the south-southeast are also residentially developed and zoned UAR10. However, these lots are not part of a recorded subdivision or partition and range in size from +/- .96 acres to +/- 17.84 acres. Further to the south is a large UAR10-zoned tract of land owned by the Elkins Revocable Trust and Bend Metro Parks & Recreation District's Riley Ranch Reserve. As noted above, the City of Bend's UGB is approximately 2,000 feet to the southeast and properties within the UGB are in the City of Bend's zoning jurisdiction.

West: The Oregon Parks & Recreation Department owns the abutting land to the west-southwest. The Deschutes River crosses this property and continues generally in a north-south direction. This Oregon Parks & Recreation Department property is zoned EFU-TRB and FP and appears to be undeveloped. However, there is a public trail along the banks of the Deschutes River connecting Tumalo State Park, to the north, and Riley Ranch Reserve, to the south. Abutting the northwest corner of the property is a privately owned EFU and FP zoned property that is developed residentially and also includes a segment of the publicly accessible trail connecting Tumalo State Park and Riley Ranch Reserve. Further to the west is Surface Mining Site No. 303, which Oregon Department of Geology and Mineral Industries ("DOGAMI") identifies as a "permitted"[5] surface mine, and privately owned EFU-TRB zoned properties.

Applicant provided additional comments related to the site description in its March 19, 2024 record submission. The Hearings Officer incorporates the Applicant March 19, 2024 (pages 6 – 10) surrounding property descriptions as additional findings for this section. See also the Hearings Officer's findings for Section 2.7, Open Spaces, Scenic Views and Sites Open Space and Scenic View Designations and Protections.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 3, 2022, and September 9, 2023, to several public agencies and received the following comments:

Bend Fire & Rescue, Jason Bolen

A three-page letter was submitted by Bend Fire & Rescue and is incorporated herein by reference.

STAFF REPORT COMMENT: The Bend Fire & Rescue comments appear to be related to the Fire Department standards that apply to the 14-lot PUD. This request is not a part of this review.

Deschutes County Addressing Coordinator, Tracy Griffin

> Addresses and street names for this proposed subdivision will be determined and approved during the tentative plat phase of this development.

[5] DOGAMI's *Mining Permit & Status Code Reference* defines "permitted" as Certificate, Exemption, or Permit has been approved and issued - does not necessarily indicate site is active.

Deschutes County Building Division, Randy Scheid

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

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

Deschutes County Onsite Wastewater Division, Todd Cleveland

Prior to final plat approval, each proposed residential lot must have a complete approved site evaluation.

Deschutes County Road Department, Cody Smith

I have reviewed the application materials for the above-referenced file numbers, proposing 14-lot PUD subdivision of Tax Lots 100 and 101 on County Assessor's Tax Map 17-12-07 and Tax Lot 6201 on County Assessor's Tax Map 17-12-08B. The subject property is accessed by Destiny Court, which presently terminates at the eastern boundary of the subject property, and Northern Estates Lane, which presently terminates at the southern boundary of the subject property. Road Department records indicate that both roads have the following attributes where they abut or provide access to the subject property:

Destiny Court

- Road Status: County Road
- Surface Type: Asphalt Concrete
- Surface Width: 28 feet
- Functional Classification: Rural Local
- Right of Way Width: 60 feet
- Right of Way Instrument: Partition Plat No. 1995-5

Northern Estates Drive

- Road Status: Local Access Road
- Surface Type: Asphalt Concrete
- Surface Width: 28 feet
- Functional Classification: Rural Local
- Right of Way Width: 60 feet
- Right of Way Instrument: Partition Plat No. 1995-5

Where they provide access to or abut the subject property, Destiny Court and Northern Estates Drive meet or exceed the minimum rural local road standards given in Deschutes County Code (DCC) 17.48A

The applicant has proposed an interior private road system that would be an extension of both Destiny Court and Northern Estates Drive. Staff note that the site traffic report submitted with the application materials recommends that "All internal streets should be constructed within a dedicated public access easement." State law and DCC do not differentiate between "public access easements" and "public rights of way"; they are one and the same. Road Department staff assume that the applicant's intent is to build public internal roads to the private road standard.

Deschutes County Road Department requests that approval of the proposed land uses be subject to the following conditions:

Prior to construction of road improvements:

- Applicant shall submit road improvement plans and stormwater drainage report to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. The roads shall be designed to the minimum road standard given in 17.48.160, 17.48.180, and 17.48A. Stormwater drainage shall be designed in accordance with DCC 17.48.190 and the latest edition of the Central Oregon Stormwater Manual. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48.

Prior to final plat approval by Road Department:

- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- If roads are dedicated to the public, applicant shall dedicate internal road rights of way to provide for the minimum standard rural local road right of way width of 60 ft. pursuant to DCC 17.16.105, 17.36.040, 17.36.060, and 17.48A. Dedication shall be by plat declaration.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
- The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

STAFF REPORT COMMENT (page 8): Most of the comments above appear to be related to DCC standards that apply to the 14-lot residential PUD. This request is not a part of this review.

Deschutes County Senior Transportation Planner, Peter Russell (June 23, 2022)

I have reviewed the transmittal materials for 247-22-000346-ZC/438-TP/439-CU/443-PA/433-LR/434-LR/435-LR for properties totaling approximately 83 acres to change the Comprehensive Plan designation from Agriculture to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The properties lie in the Exclusive Farm Use (EFU), Surface Mining

Impact Area (SMIA), Landscape Management (LM) and Flood Plain (FP) zones and add a 14-lot Planned Unit Development (PUD) at 19975 and 19995 Destiny Ct., aka County Assessor's Maps 17-12-07, Tax Lots 100 and 101 and 17-12-08B, Tax Lot 6201. For reasons discussed below, staff finds more information is needed to address the Transportation Planning Rule (TPR).

Deschutes County Code (DCC) 18.116.310€(4) requires a 20-year analysis for zone changes. The application has submitted what in essence is a trip generation memo from Transight, the applicant's traffic engineer, that is dated Sept. 15, 2021. The memo does not have any operational analysis regarding performance of affected intersections. Staff therefore cannot determine compliance with the TPR at Oregon Administrative Rule (OAR) 660-012-0060 for significant effect. The applicant needs to provide operational analysis of the affected intersections pre-zone change and post-zone change. Staff does agree with the consultant that the difference in trip generation between EFU and MUA-10 is negligible. Historically, staff has used single-family home as its base case for reasonable worst-case scenario for uses in the EFU zone. The outright permitted uses are listed at DCC 18.16.020. The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual lists Single Family Detached Home (Land Use 210) has having 9.43 weekday trips. Staff has also reviewed the outright permitted uses in the MUA-10 at DCC 18.32.020 as well as the outright permitted uses listed in Oregon Revised Statute (ORS) 215.213(1) and 215.283(1).

The property accesses Destiny Court, a public road maintained by Deschutes County, and functionally classified as a local. The property has an access permit approved by Deschutes County (#247-SW1403) and thus complies with the access permit requirements of DCC 17.48.210(A).

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of $4,757 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC RATE IS ONLY VALID UNTIL JUNE 30, 2022. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

BEGINNING JULY 1, 2022, THE SDC RATE WILL INCREASE TO $5,080 PER PEAK HOUR TRIP AND LAST UNTIL JUNE 30, 2023. AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.

STAFF REPORT COMMENT (page 9): In response to Mr. Russell's comments above, the Applicant submitted a supplemental transportation memorandum dated August 8, 2022[6].

[6] Ref. 2023-09-15 E. Dickson - Destiny Transportation Analysis Response.

Deschutes County Senior Transportation Planner, Tarik Rawlings, October 17, 2023

I have reviewed the transmittal materials for 247-23-000651-MA, 652-MA, 653-LL which modifies original files 247-22-000436-ZC/438-TP/439-CU/443-PA/433-LR/434-LR/435-LR for properties totaling approximately 83 acres to change the Comprehensive Plan designation from Agriculture (AG) to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The properties lie in the Exclusive Farm Use (EFU), Surface Mining Impact Area (SMIA), Landscape Management (LM) and Flood Plain (FP) zones and add a 14-lot Planned Unit Development (PUD) at 19975 and 19995 Destiny Ct. recognized on County Assessor's Maps 17-12-07 as Tax Lots 100 and 101 and 17-12-08B as Tax Lot 6201. For reasons discussed below, originally stated in response to the initial Plan Amendment/Zone Change/Tentative Plat application, staff finds that the additional information provided by the applicant and their traffic engineer addresses the requests made in the County Transportation Planner's original June 23, 2022 comment.

I have reviewed Mr. Bessman's August 8, 2023, Site Traffic Report/TPR Analysis related to the subject application and I agree with the assumptions, methodology, and conclusions contained therein. As Mr. Bessman utilizes the 2040 planning horizon year (reflective of the most recent data included in the County's forthcoming Transportation System Plan update) this analysis appears to comply with relevant criteria. Mr. Bessman utilizes the acceptable road segment standard of 13,900 Average Daily Trips (ADT) which is incorporated into the County's most recent 2020-2040 Transportation System Plan. The analysis and references therein related to peak hour trips (16 to 22 total weekday p.m. peak hour trips) are adequate. Staff agrees with Mr. Bessman's summary of Transportation Planning Rule (TPR) Compliance and finds that relevant TPR provisions appear to be satisfied through the submittal of this additional information.

The property accesses Destiny Court, a public road maintained by Deschutes County, and functionally classified as a local. The property has an access permit approved by Deschutes County (#247-SW1403) and thus complies with the access permit requirements of DCC 17.48.210(A).

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of $5,603 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC RATE IS ONLY VALID UNTIL JUNE 30, 2024. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

BEGINNING JULY 1, 2024, THE SDC RATE WILL INCREASE AND LAST UNTIL JUNE 30, 2025. AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.

Oregon Department of Land Conservation & Development, Hilary Foote

DLCD has reviewed a soil assessment as requested by Ron Cochran for QRR Properties LLC. Attached are the soil assessment, DLCD completeness review, and DLCD application form.

In accordance with OAR 660-033-0045(6)(a), the Department of Land Conservation and Development (DLCD) finds that this soils assessment is complete. DLCD has reviewed the soils assessment for

completeness only and has not assessed whether the parcels qualify as agricultural land as defined in OAR 660-033-0020(1) and 660-033-0030.

The county may make its own determination as to the accuracy and acceptability of the soils assessment.

Oregon Parks and Recreation Department, Fiona Noonan

Based on the information in this Notice of Application, tax lots 1712070000100, 1712070000101, and 1712070000200 are all within the Middle Deschutes State Scenic Waterway. To my understanding, no structural development has been proposed here yet, but please correct me if I'm wrong. If/when the relevant property owners wish to build or remodel any structures, remove/alter vegetation, or conduct other similar activities, they will need to submit a Notification of Intent Application to the State Scenic Waterway Program. If possible, please have them reach out to me directly beforehand.

The following agencies did not respond to the notice: 911, Bend Metro Parks & Recreation, Deschutes County Assessor, Deschutes County Sheriff, Deschutes County Surveyor, Oregon Department of Agriculture – Land Use Planning Coordinator, Oregon Department of Environmental Quality, Oregon Department of Fish & Wildlife, Oregon Water Resources Department (Watermaster – District 11), and Swalley Irrigation District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the Subject Property on June 3, 2022, and September 9, 2023. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on June 15, 2022. Eleven (11) public comments were received. Staff, in the Staff Report, provided the following summary of the public comments:

1. *Road and traffic impacts*
2. *Design consistency of roads between developments*
3. *Damage to Northern Estates Lane during construction or development*
4. *Small Lot sizes*
5. *Lots should be at least 10 acres*
6. *Loss of natural habitat*
7. *Impacts on rural character of the area*
8. *Concerns the applications are incomplete*
9. *Need for the County to require a Road Maintenance Agreement*
10. *Comments in support of the PA/ZC request, but opposed to the 14-lot Planned Development*
11. *Need for equitable sharing of road maintenance costs*
12. *Concerns the applicable criteria are generally not met*
13. *Increased traffic impacts on O.B. Riley Road*
14. *Desire for a "peaceful wilderness environment" near Tumalo State Park*
15. *Spatial restrictions/5-acre minimum lot sizes associated with the LM Combining Zone*
16. *Open space acreage requirements*
17. *Cluster Development standards not being met*
18. *Lot of Record issues*
19. *Need for Goal 14 Exception*
20. *Establishment of "neighborhood-style subdivision housing" outside of the UGB*
21. *Need for fire gates between the proposed subdivision and Pacific Cascade Heights to reduce road maintenance, trespassing, vagrants, houseless, camping, speed contests, etc.*

STAFF REPORT COMMENT (page 12)*: Most of the comments above appear to apply standards that will be evaluated during the review of the 14-lot residential PUD. As part of the County's review of those applications,*

staff or the hearings body will address these comments and their relevancy to the applicable standards. Compliance with the applicable rural growth and transportation standards for a comprehensive Plan Amendment and Zone Change are addressed below. Staff notes the Lot of Record issue has been resolved as part of files nos. 247-22-000433-LR / 247-22-000435-LR / 247-23-000653-LL. The subject property is recognized as one (1) lot of record."

The Hearings Officer concurs with the Staff characterizations and conclusions set forth in the above "Staff Comment." The Hearings Officer addresses, in the context of findings for relevant approval criteria, concerns related to less than 10 acres (#5 above), rural character (#7 above), application incomplete (#8 above), lot of record (#18 above) and Goal 14 (#19 above) above in the findings for relevant approval criteria.

HEARING NOTICE: On January 19, 2024, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property, public agencies, and parties. A Notice of Public Hearing was also published in the Bend Bulletin on Sunday, January 21, 2024. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development ("DLCD") on January 19, 2024.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change application is not subject to the 150-day review period.

III. FINDINGS & CONCLUSIONS

A. PRELIMINARY FINDINGS

1. Purpose of the Preliminary Findings

The Hearings Officer, in these Preliminary Findings, responds to issues raised by Central Oregon LandWatch ("COLW") and the Staff. General public comments also raised one issue, also raised by COLW (Goal 14), addressed below. These Preliminary Findings are intended to provide an overview of the COLW issues, discussion of the relevant laws/rules related to those issues and the Hearings Officer's legal interpretation of various sections of the DCC and State statutes/regulations relevant to the COLW issues. The Hearings Officer incorporates these Preliminary Findings as additional findings for relevant approval criteria.

2. Scope of this Recommendation

This recommendation focuses solely upon the Applicant requests to change the comprehensive plan designation and zone change designation for the Subject Property. For context, the Applicant initially requested approval for a Comprehensive Plan Amendment, Zone Change, Conditional Use/Tentative Plan (14-lot residential Planned Unit Development – PUD). Applicant removed the Conditional Use/Tentative Plan request. Approval criteria related to the Conditional Use/Tentative Plan request are **not** relevant approval criteria in this case.

Applicant also modified its proposal. In summary, the modification removed from the original application areas of the property zoned FP which reconfigured/reduced the area included in the Comprehensive Plan and Zone Change requests. The Hearings Officer will address criteria related to Applicant's modification in the findings below.

3. Overview of Issues Raised by COLW

COLW (9/14/2024 email to Staff) raised "concerns" about Staff's processing of the applications in this case. COLW expressed multiple concerns related to Applicant's proposed site plan. These concerns related to Applicant's initial request for conditional use/tentative plan approval. As noted in the Scope of Review section above, the Applicant removed the Conditional Use/Tentative Plan request from consideration in this case. COLW's site plan concerns, as expressed in its 9/14/2024 email, are not relevant to the Hearings Officer's decision in this case.

COLW, in the 9/14/2024 email, also expressed concerns related to tax lot 101; whether tax lot 101 is a lot of record ("Lot of Record Issue") and raised concerns related to the applications in this case meeting Goal 14 ("Goal 14 Issue"). The Hearings Officer addressed above, in the findings set forth in Section II. Basic Findings, Lot of Record, COLW's Lot of Record issue.

McBeth testified at the February 27, 2024 public hearing on behalf of COLW. McBeth, during her hearing testimony, suggested that the Planning Staff processing of the applications in this case "violated county process and procedures." McBeth, during her hearing testimony, also argued that Statewide Planning Goals 3, 5 and 14 were applicable and that the applications did not adequately address those Goals. COLW, in an open-record submission (March 26, 2024), expanded upon its Goal 3 and 14 arguments.

4. Oregon Statewide Planning Goal 14

COLW argued that Applicant, in this case, failed to properly address Statewide Planning Goal 14. COLW, in a February 27, 2024 (page 4) record submission, stated the following:

> *"Goal 14 obligates local governments to establish urban growth boundaries that 'identify and separate urbanizable land from rural land.' The policy of Goal 14 is to contain urbanization within acknowledged UGBs. 1000 Friends of Oregon v. LCDC, 301 Or 447, 451-452 n3, 724 P2d 268 (1986) (Curry County). Goal 14 prohibits development that will undermine the effectiveness of an established UGB. Id. at 474.*
>
> *This land is outside the Bend UGB. Deschutes County may not adopt a development pattern that conflicts with Goal 14 and its implementing rules. Sandy v. Clackamas County, 3 LCDC 139, 149-50 (1979) ('If this development is allowed, then there may as well not be urban growth boundaries. [This] ...is a perfect example of how Goal 14 may, little by little, case by case, be rendered ineffective and useless in controlling urban sprawl.').*
>
> *The applicant's Burden of Proof explained:*
>
> > *'Applicant proposes a planned development of fourteen approximately 1.75 acre lots on the newly zoned MUA-10 lands, grouped together and appropriately set back beyond the rimrock above the Deschutes River on the current Tax Lot 100.'*
>
> *One dwelling per 1.75 acres is an urban density. This land outside the Bend UGB cannot be developed to an urban density without an exception to Goal 14.*
>
> *In order to allow land use which any goal would prohibit, a local government must take an "exception" to that goal. Conversion of rural land to urban uses must be supported either by compliance with the requirements of Goal 14, or by an exception to that goal. Curry County, 301 Or at 477.*
>
> *The Supreme Court has held that local governments must support any exceptions to Goal 14 by demonstrating that it is impracticable to allow any rural uses in the exception area. Id. at 489. It is not impracticable to allow*

any rural uses on the subject property. As explained above, the property could be used for a riding school or other farm uses.

The integrity of the planning system depends on local governments starting from the assumption that lands will be used in compliance with the goals, unless specific circumstances justify departure from the state policy embodied in a particular goal.

The application does not demonstrate that it is impracticable to allow any rural uses on the subject property. No exception to Goal 14 has been proposed, and if it were, the application would not qualify. Therefore the application must be denied."

COLW, in a March 26, 2024 submission (pages 1 – 2) stated the following:

"The policy embodied in Goal 14 is that land cannot be converted to urban uses prior to inclusion within an acknowledged urban growth boundary. The purpose of the goal is to provide for an orderly and efficient transition from rural to urban land use. Perkins v. City of Rajneeshpuram, 300 Or 1, 12 n. 15, 706 P2d 949 (1985).

The developer is mistaken that the density planned for the property is irrelevant. March 19, 2024 letter, p. 13. The record shows the applicant's objective is to develop a subdivision with 1.75- acre lots. The 2022 Burden of Proof refers to the 1.75-acre lot subdivision at pages 13, 24, 26, 32, 40, 44, 46, 47, 48, and 64. This objective is not denied by the developer.

In the unlikely event that the applicant prevails in this proceeding while denying it plans a subdivision with 1.75-acre lots on the property, the applicant will be estopped from requesting a subdivision with 1.75-acre or similar lots on the property in the future. Moreover such denial would raise the issue of candor toward the tribunal.

The decision in this case must be based on evidence in the record. The record shows the applicant's intent is a subdivision with small lot sizes at an urban density. Urban land uses in Oregon are restricted to lands inside an urban growth boundary. The applicant has not met its burden of showing compliance with Goal 14."

The Hearings Officer finds that COLW raised a number of Goal 14 issues that must be addressed in this section of the Preliminary Findings. The Hearings Officer concurs with COLW that consideration of Goal 14, in this case, is relevant. *1000 Friends of Oregon v. Josephine County*, LUBA No. 2023-022 (2023) citing *Hess v. City of Portland*, 23 OR LUBA 343, 345 (1992). The Hearings Officer also notes that LUBA, in the 1000 Friends of *Oregon v. Josephine County* opinion, stated that

"*a petitioner who alleges that a decision violates Goal 14 by allowing conversion of rural land to urban uses must explain what urban use the decision allows.*" citing *Wood v. Crook County*, 55 Or LUBA 165, 176-77 (2007)

The Hearings Officer interprets COLW's above-quoted statements as asserting that the application in this case violates Goal 14 by (1) proposing a lot size of 1.75 acres (or, per Applicant's final argument 1.7 acres), (2) failing to request a Goal 14 exception, (3), if an exception to Goal 14 was requested by Applicant it must demonstrate that it is impracticable to allow any rural uses in the exception area and (4) undermining the effectiveness of an established UGB. The Hearings Officer addresses these concerns in the findings below.

The first COLW Goal 14 issue relates to the possibility of Applicant utilizing a planned development type approach to develop the Subject Property. This possibility resulted in an application by the Applicant for conditional use and tentative plan approval for a 14-lot residential planned development. The conditional use/tentative plan

applications are not part of this case; this recommendation is limited to addressing approval criteria relevant to the comprehensive Plan Amendment and Zone Change applications. As such the Hearings Officer cannot consider specific lot sizes proposed in separate applications.

The Applicant seeks to change the comprehensive plan map designation from Agricultural ("AG") to Rural Residential Exception Area ("RREA") and the zoning map from Exclusive Farm Use ("EFU") to Multiple Use Agricultural (MUA"). The Hearings Officer takes official notice that the current Deschutes County Comprehensive Plan ("DCCP") has been acknowledged by the Oregon Department of Land Conservation and Development ("DLCD"). The Hearings Officer finds that DLCD's acknowledgment is properly interpreted to mean that the current Deschutes County Comprehensive Plan met/satisfied all relevant Statewide Planning Goals including Goal 14.[7]

The Hearings Officer finds COLW did not argue that the comprehensive plan RREA designation or the zoning MUA zoning designation, per se, conflict with Goal 14. If COLW believes it did make such argument then the Hearings Officer finds that COLW argument was not sufficiently developed to allow the Hearings Officer to authoritatively respond.

The Hearings Officer finds that the MUA zoning (DCC 18.32.040 A) provides for various development alternatives. The Hearings Officer finds that each of the MUA alternative development alternative complies with Goal 14. Therefore, the Hearings Officer finds all allowed densities provided for in DCC 18.32.040 A comply with Goal 14. The Hearings Officer finds no Goal 14 exception is required for an application seeking a development alternative allowed by DCC 18.32.040 A.

The Hearings Officer finds Applicant did not seek an exception to Goal 14. The Hearings Officer finds it would be speculative and impermissible to, as part of this recommendation, to assess the likelihood of approval of a Goal 14 exception.

COLW argued (February 27, 2024, page 5) that the Oregon Supreme Court, in *1000 Friends of Oregon v. Land Conservation and Development Commission (Curry County)* 310 Or 447 @ 489 (1986) must demonstrate "that it is impracticable to allow any rural uses in the *exception area*." [*emphasis* added by Hearings Officer]

The Hearings Officer finds that the COLW "impracticable" argument is not sufficiently described to allow the Hearings Officer, or a participant in this case, to authoritatively respond. Also, the Hearings Officer finds that there is no evidence in the record that the Subject Property is in an "exception area" and therefore COLW's *Curry* reference to "exception area" is either inappropriate or misleading. In the alternative, the Hearings Officer responds to COLW's "impracticable" argument by finding that the proposed RREA and MUA designations are rural uses (not urban uses); therefore, the Applicant's proposal in fact involves rural uses.

The last COLW argument (as summarized by the Hearings Officer above) suggests that approval of the proposals in this case should be denied because they "undermine the UGB." The Hearings Officer finds that this COLW argument is not sufficiently developed to allow the Hearings Officer, or any participant in this case, to authoritatively respond.

Additionally, the Hearings Officer finds that the purpose of the requested MUA zone is

[7] *Central Oregon LandWatch v. Deschutes County,* LUBA 2023-006 (2023) (hereafter referred to as the "*710 Properties Decision"*): "*The DCCP provides that the RREA comprehensive plan designation is implemented by the RR-10 and Multiple Use Agriculture (MUA) zones. We have no reason to believe that DLCD's acknowledgment of the 2015 amendments as consistent with Goal 14 was premised on anything other than the conclusion that the RREA plan designation facially does not allow urban uses of rural land…We similarly conclude that the board of commissioners did not err in relying on DLCD's acknowledgment of the 2016 amendments to conclude that the RR-10 zone facially complies with Goal 14*."

"to preserve the rural character of various areas of the County while permitting development consistent with that character."

The MUA zone also is intended to "provide for an orderly and efficient transition from rural to urban land use." (See DCC 18.32.010). The Hearings Officer finds, based upon this quoted language, is properly interpreted to mean that the MUA zone allows (current) rural uses in anticipation of (future) urban uses; a transitional zone.

The Hearings Officer takes note that the Subject Property is relatively close to the City of Bend UGB. However, that fact does not imply that a MUA level development of the Subject Property is somehow an urban use. Developing the Subject Property, consistent with the MUA zoning requirements, will result in a rural use and not an urban use.

Applicant, in its May 27, 2022 Burden of Proof, March 19, 2024 open-record submission and April 2, 2024 final argument set forth evidence and argument related to the so-called *Curry/Shaffer* urban versus rural determination factors. The Hearings Officer adopts those Goal 14 related Applicant comments as additional findings for this Preliminary Finding. The Hearings Officer finds the *Curry/Shaffer* factors are satisfied in this case and that the RREA plan designation and MUA zone allow rural and not urban uses. Further, the Hearings Officer reiterates that LUBA, in the *710 Properties Case* (*Central Oregon LandWatch v. 1000 Friends of Oregon*, LUBA 2023-006) clearly stated that the Deschutes County RREA plan designation and MUA zone designation, as acknowledged by DLCD, are rural designations and a site-specific *Curry/Shaffer* analysis is not necessary.

In conclusion, the Hearings Officer finds COLW's Goal 14 legal arguments are not persuasive.

5. Oregon Statewide Planning Goal 3

Staff (Staff Report, pages 39 to 49) addressed various aspects of Goal 3 in the context of the evidence in the record for this case. Staff requested the Hearings Officer to address a number of Goal 3 issues. COLW raised Goal 3 issues in record submissions (February 27, 2024 and March 26, 2024) and in testimony offered at the public hearing.

a. Past Use of Subject Property

COLW (February 27, 2024, page 2) stated the following:

"The applicant's materials indicate the property has been used for the raising of irrigated crops, a farm use. Thus the property meets the definition of 'agricultural land.' It is impossible to find that land that has already been in farm use cannot be put to farm use."

COLW proffered the "past farming" argument in the past. *Central Oregon LandWatch v. Deschutes County*, LUBA No. 2023-049 (hereafter the "*Marken Decision*"). COLW, in the *Marken Decision,* argued that there was evidence in the record that the property in that case was used (2005 to 2023) for growing hay and other crops which the owner received income. LUBA, in the *Marken Decision,* concluded:

"We agree with intervenor that petitioner has not established that photographic evidence of crops growing on a property is conclusive evidence that a property is 'suitable for farm use,' given that the definition of farm use includes farm activities undertaken 'for the primary purpose of obtaining a profit,' where other evidence demonstrates that growing crops did not generate a profit. OAR 660-033-0020(1)(a)(B); ORS 215.203(2)(a)."

The Hearings Officer rejects COLW's argument that evidence of past farming practices on a property conclusively determines that a property is "agricultural land" under relevant Oregon law. The Hearings Officer, consistent with the *Marken Decision* finds that the Hearings Officer should consider past farming of the Subject Property in the context of all evidence contained in the record.

b. Irrigation Rights

COLW (March 26, 2024, page 3) asserted that the Subject Property has irrigation rights and those rights have been used in the past for crop production. COLW concluded that the existence and use of irrigation water rights constitutes "*irrefutable evidence that the land can be put to farm use for the production of irrigated crops*." The Hearings Officer, for the reasons stated above in the "past farming" findings, disagrees with this COLW argument. The Hearings Officer finds that the existence of irrigation rights and the past use of those irrigation rights for crop production must be considered in the context of all evidence contained in the record.

c. Profitability

COLW (March 26, 2024, page 3) provided the following statement related to "profitability":

> *"The applicant misinterprets the applicable law in arguing that profitability in its March 19, 2024 letter. Profit is not a consideration in the definition of agricultural land use in Deschutes County. DCC 18.04.030 (land put to the listed farm uses meets the definition of agricultural use 'whether for profit or not.')"*

DCC 18.04.030 defines "agricultural land" as follows:

> *"… lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominately Class I-VI soils, and other lands in different soil classes which are suitable for farm use, taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural lands in any event.'"*

The Hearings Officer agrees with COLW that the word "profit" is not included in the above-quoted definition. However, this section of the DCC is essentially the same as OAR 660-033-0020(1); COLW references OAR 660-033-0020(1) in its February 27, 2024 record submission in the context of Goal 3.

The standard analysis of Goal 3 starts with the text of Goal 3 and OAR 660-033-0030 and then references OAR 660-033-0020(1)(A). DCC 18.04.030 (definition of "agricultural land") and OAR 660-033-0020 (1)(A) both reference "accepted farming practices" which has consistently been interpreted to incorporate the definition of "farm use" found in ORS 215.203(2)(a). See *Marken Decision and 710 Properties Decision*.[8]

LUBA has consistently considered profitability in the context of ORS 215.203 and OAR 660-033-0020. What weight to be given to profitability, on the other hand, has been the subject of significant debate. The Hearings Officer disagrees with COLW's statement that profitability is not a factor to be considered in determining whether the Subject Property is, or is not, agricultural land.[9]

[8] *Central Oregon LandWatch v. 1000 Friends of Oregon*, LUBA Nos. 2023-006, & 2023-009 (2023) (the *710 Properties LUBA Decision* stated "…OAR 660-033-0020(1)(a)(B) defines "agricultural land" to include land that is 'suitable for farm use' based on a number of factors, and ORS 215.203(2)(a) defines 'farm use' to include farm activities that are undertaken 'for the primary purpose of obtaining a profit in money.'

[9] See DCC 18.04.030 definition of "Farm Use" does include the word "profit."

d. Multiple (Alternative) Farm Uses

COLW suggests that multiple farm uses should, and perhaps must, be considered when determining whether the Subject Property is "agricultural land." COLW referenced uses such as poultry, grapes, goats, honeybees, training of equines and riding lessons as examples of alternative farm uses. The Hearings Officer conceptually agrees that considering multiple farm related uses, such as suggested by COLW, may be appropriate on one or more properties in Deschutes County. The Hearings Officer notes that any alternative use must be considered in the context of the DCC 18.04.030 and OAR 660-033-0020(1)(a)(B) factors. The Hearings Officer finds that mere speculation of possible alternative uses in not sufficient to, standing alone, demonstrate that the Subject Property is "agricultural land."

The Hearings Officer discusses the "multiple (alternative) farm uses" issue, in greater detail, in the findings for OAR 660-033-030.

e. Open Space

COLW provided the following comments (March 3, 2024, page 3) related to "open space" and "agricultural land:"

> *"The definition of agricultural land in Oregon is purposefully broad to meet the objectives of the states agricultural land use policy. ORS 215.243. While the legislature protects farmland primarily to protect Oregon's agricultural sector, it has also declared that open space protected for agricultural use is 'an important physical, social aesthetic and economic asset to all of the people of the state.' ORS 215.243(1)"*

The Hearings Officer finds that COLW failed to describe its "open space" argument with sufficient specificity as to allow the Hearings Officer, or any participant, the ability to meaningfully respond.

6. Modification of Application

COLW, through hearing testimony of McBeth, suggested that Applicant's Modification application and the County's handling of that application was somehow improper. The Hearings Officer reviewed McBeth's testimony and concludes that COLW failed to identify any specific legal problem with the modification process. The Hearings Officer finds COLW's modification argument was not presented with sufficient legal or factual specificity to allow the Hearings Officer, or any participant, the ability to authoritatively respond. COLW did not provide relevant law, code or relevant approval criteria potentially offended by Applicant's Modification proposal or the County's response to such application.

In the alternative, the Hearings Officer adopts as findings for this recommendation, Applicant's comments contained in its March 19, 2024 record submission (pages 1 – 3, section titled "Application Compliance with Modification Law").

7. *710 Properties Decision*

Staff (Staff Report, pages 41 – 44) expressed concern about issues raised and decided in the *710 Properties Decision.* Staff provided the following comments:

> *"…since the subject request was received, LUBA remanded a locally approved Plan Amendment and Zone Change request back to Deschutes County for failing to fully address the requirements under OAR 660-033-0020(1)(a)(B) and OAR 660-033-0020(1)(a)(C).*

LUBA reached the following conclusions in their Final Opinion and Order for Central Oregon Landwatch et al v. Deschutes County (LUBA Nos. 2023-006/2023-07, July 28, 2023)[10]:

> *'[T]he Board of commissioners erroneously concluded (1) that it need not consider whether forage grown on-site can be supplemented by feed imported from off-site, (2) that land is suitable for the construction and maintenance of equipment and facilities used for farm activities only if those farm activities occur on the same land, and (3) that it need not consider nearby or adjacent land at all.*
>
> *…*
>
> *On Remand, the board of commissioners must consider the ability to use the subject property for farm use in conjunction with other property, including the Keystone property, and may not limit its review to the profitability of farm use of the subject property as an isolated unit. The board of commissioners must consider the ability to import feed for animals and may not limit its consideration to the raising of animals where adequate food may be grown on the subject property. The board of commissioners must also consider whether the subject property is suitable for farm use as a site for construction and maintenance of farm equipment. Furthermore, the board of commissioners must consider the evidence and adopt findings addressing the impacts of redesignation of the property related to water, wastewater, and traffic and whether retaining the property's agricultural designation is necessary to permit farm practices on adjacent or nearby lands.'*

Staff asks the Hearings Officer to determine if the Applicant has sufficiently addressed the requirements of OAR 660-033-0020(1)(a)(B) and make detailed findings on this issue."

The Hearings Officer finds LUBA was clear, in the *710 Properties Decision,* that it is necessary and integral, when assessing whether a property is "agricultural land," to consider nearby and adjacent lands. Restated, LUBA clearly held that limiting analysis solely to the property subject to a plan amendment/zone change application is not appropriate. Less clear to this Hearings Officer is "how" such consideration of the various LUBA identified factors are to be analyzed.

LUBA, in the *710 Properties Decision*, addressed "source of feed," "on-site construction and maintenance of equipment and facilities," and "necessity of retaining the current Subject Property planning/zoning designations to permit farm practices on adjacent or nearby lands" as factors to be considered in the context of "nearby and/or adjacent" properties. The Hearings Officer finds the "source of feed" and "on-site construction and maintenance of equipment and facilities" are best analyzed in the context of the OAR 660-033-0020 evaluation factors (discussed above and later in relevant Goal 3 findings) and what use(s) is/are made of nearby and adjacent land parcels. The Hearings Officer finds the necessity of retaining the current planning/zoning designation analysis should also focus on the use characteristics of the nearby/adjacent properties and the transportation connections between the Subject Property and the nearby/adjacent properties. Finally, the Hearings Officer finds that all of the *710 Properties Decision* issues discussed above should be considered in the context of whether a reasonable farmer would have an expectation of obtaining a profit in money from growing crops or engaging in some other farm use on the Subject Property.

[10] The Oregon Court of Appeals has affirmed LUBA's Final Order and Opinion and at this time it is unknown if a Petition for Judicial Review has been filed to the Oregon Supreme Court. [this footnote is part of the above-quoted Staff Report comments]

Title 18, Deschutes County Zoning Ordinance

Chapter 18.136, Amendments

Section 18.136.010, Amendments

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

FINDING: The Applicant requested a quasi-judicial Plan Amendment and filed the applications for a Plan Amendment and Zone Change. The Applicant filed the required Planning Division's land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the DCC.

Section 18.136.020, Rezoning Standards

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

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

FINDING: The DCCP's introductory statement explains land use must comply with the statewide planning system and sets out the legal framework set by State law. It also summarizes the Statewide Planning Goals and explains the process the County used to adopt the current DCCP. Prior Deschutes County quasi-judicial zoning approvals, some of which have been affirmed by LUBA and other appellate courts[11], have found that the introductory statement of the Comprehensive Plan is aspirational in nature and not necessarily approval criteria and it is appropriate to only respond to the DCCP goals that apply to a particular request.

The Applicant identified applicable DCCP provisions on pages 10-15 of their Burden of Proof. Staff (Staff Report, page 13) requested that the Hearings Officer consider, in greater depth, DCCP provisions related to protected Goal 5. The Hearings Officer addresses conformance with the DCCP and consistency with the applicable DCCP provisions in the Preliminary Findings and in subsequent findings for this recommendation.

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

FINDING: The Applicant provided the following response to this provision (Burden of Proof, pages 15 – 16):

"The proposed zone change from EFU to MUA-10 is consistent with the purpose and intent of the MUA zone classification. Per DCC 18.60, the stated purposes of the MUA-10 zone are:

> *'The purposes of the Multiple Use Agricultural Zone is 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 sited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest*

[11] *Central Oregon Landwatch v. Deschutes County*, 75 Or LUBA 441 (*Aceti II*), aff'd, 288 Or App 378, 405 P3d 197 (2017), *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (*Aceti III*), aff'd, 298 Or App 375, 449 P3d 534 (2019), *Central Oregon Landwatch v. Deschutes County*, ___ Or LUBA _ (LUBA No 2021-028, June 18, 2021) (*Aceti IV*), aff'd, 315 Or App 673, 501 P3d 1121 (2021), and *Central Oregon Landwatch v. Deschutes County,* (LUBA No 2022-075, December 6, 2022) (*Aceti V*).

lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.'

The MUA-10 zone is the optimal county zone to transition the Subject Property to a rural residential use. As detailed above and incorporated herein by reference, the subject property is not suited for agricultural use. This property is more appropriately zoned MUA-10. The Subject Property is currently zoned Exclusive Farm Use (EFU) likely due to general classification as undeveloped, rather than consideration of the agricultural capability of the land. The Property has never been successfully used for farming or pasture, despite repeated attempts over many years. Agricultural uses are also not practical or compatible with the existing residential uses surrounding the similar property, already zoned MUA-10.

This Comprehensive Plan Map and Zoning Map Amendment request will resolve the incorrect classification of the subject properties. Because most surrounding properties are used as MUA-10 properties, there is an incompatibility between the presently zoned EFU permitted uses and the adjacent, surrounding lands developed or committed for urban and residential uses. The requested Comprehensive Plan Map and Zoning Map amendments will result in a zoning assignment that is compatible with neighboring properties and the realities of the site, rather than the current EFU zoning, which poses potential conflict with established residential uses.

Rezoning of the Subject Property from EFU to MUA-10 will resolve the latent conflict between EFU permitted uses and the immediately adjacent rural residential uses. Furthermore, the Comprehensive Plan Map and Zone Map change will serve the interests of the northwest Bend residents, surrounding neighborhoods, and public investments in public facilities and services. This development will allow infrastructure to go "to and through" the subject property, connecting the development to the south with Destiny Court, giving better connectivity to the neighborhood, rather than a series of dead-ends and inaccessible lots.

The requested Rural Residential Comprehensive Plan Map designation is also sought at this time promote a logical transition for inclusion in a future expansion of the Bend UGB and/or in the designation of urban reserves. This request to re-designate and re-assign the Comprehensive Plan and Zoning Maps from Agriculture to Rural Residential and MUA-10, respectively, will allow this site to be developed in a transitional use.

The requested MUA-10 zone emphasizes the conservation of open spaces and the protection of natural and scenic resources. While the subject property is not suitable for agriculture, it does represent a significant planned open space area. The MUA-10 zone will encourage that preservation and protection while also maintaining consistency with the MUA-10 lands in the vicinity.

By allowing for single family dwellings as an outright permitted use (DCC 18.32.020(8)), the MUA-10 zone recognizes that rural lands may sometimes be better suited for residential use than agricultural uses, depending on their resource value. Other non-resource land uses are conditionally permitted; any nonresource land development proposal on the property other than a single family dwelling would not be allowed unless it was found to be consistent with the surrounding properties and the applicable conditional use evaluation standards. Therefore, the proposed change in zoning is consistent with the intent and purpose of the MUA-10 zone, and will be compatible with surrounding properties."

The Hearings Officer finds the Applicant's above-quoted statements are credible and adequately address this provision. The Hearings Officer finds the Applicant demonstrated the change in classification is consistent with the purpose and intent of the MUA Zone.

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

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

FINDING: The Applicant provided the following response related to this provision (Burden of Proof, page 16):

> *"The proposed change from EFU will not require the extension of new public services to the subject property, other than expansion of the existing road system in the area. The site is already adjacent to urban infrastructure (Destiny Court and Northern Estates Lane). The site will be served by Avion Water Co. and on-site septic systems, accommodated by planned patterns of development. Thus, public facilities are available and can be efficiently provided to the site.*
>
> *There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Development of the property under MUA-10 zoning would need to comply with applicable requirements of the DCC, including land use permits, building permits, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified."*

The Applicant also provided the following response as part of their modification application (Applicant's Second Supplemental Submittal, page 10):

> *"Public Facilities and Services demand will still be able to accommodate the proposal's impacts, including Bend's high school systems which added Caldera High School in the fall of 2021."*

The Subject Property is located in the Bend Rural Fire Protection District, Bend La Pine School District, and police services are provided by the Deschutes County Sheriff's Office. Adjacent and nearby properties to the north, east, and south contain dwellings. These properties are served by Avion Water Company or onsite wells, onsite sewage disposal systems, electrical service, telephone service, and the regional public service providers noted above. No issues have been identified in the record regarding service provision to the surrounding area. The southeast corner of the Subject Property is located +/-2,000 feet from the City of Bend's UGB.

The Hearings Officer finds that the close proximity to urban development will likely result in efficiency of providing necessary public services. The application materials include will-serve letters indicating electrical service and water service are available to the subject property. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the Subject Property, the Applicant will be required to comply with the applicable requirements of the DCC, including approval of required land use, building, and onsite wastewater disposal permits. Through the review of these development permits, assurance of adequate public services and facilities will be verified. The Hearings Officer finds this provision is met.

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

FINDING: The Applicant provided the following response related to this provision (Burden of Proof, pages 16-17):

> *"The relevant goals of the Comprehensive Plan are implemented through the MUA-10 purpose statement in the zoning ordinance, as set forth above. The zone is unique in that it serves as a transition between EFU*

lands with productive soils and other rural lands that are "not suited to full time commercial farming" and are more appropriately suited for "diversified or part time agricultural uses." The MUA-10 zone retains consistency with EFU lands by allowing a limited array of rural uses and mandating a 10-acre minimum lot size (except in planned developments, in which the smaller lot sizes are offset by the 65% open space requirement). There are only a limited number of uses allowed in the MUA-10 zone that are not also allowed in the EFU zone. Further, the majority of the different non-resource land uses in the MUA-10 zone are conditional, thereby ensuring that potential impacts on surrounding land uses will be further reviewed by the County during each site specific land use application.

In summary, the MUA-10 zone remains a rural zone devoted to a mix of part-time agricultural and residential uses. This minimizes potential impacts on surrounding lands. The MUA-10 zoning would emphasize the continued protection of the open space and wildlife values of the property with the planned development design proposed, which distances homesites from the river's rim as well as surrounding uses."

In addition to the above-quoted comments, the Applicant provided specific findings for specific goals and policies contained within the DCCP, which are addressed below. DCCP goals and policies related to protected Goal 5 resources are addressed in the Preliminary Findings and relevant approval criteria later in this recommendation. Based upon the Preliminary Findings and subsequent findings related to Goal 5 the Hearings Officer finds that the Applicant demonstrated the impacts on surrounding land use will be consistent with all the relevant goals and policies contained within the DCCP.

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

FINDING: The Applicant proposed to rezone the Subject Property from EFU to MUA. The Applicant provided the following response to this provision (Burden of Proof, page 17):

"Circumstances have changed since the zoning of the property. When the property was first given an EFU zoning assignment, it was in the early days of Oregon zoning, approximately half a century ago. Much of our undeveloped and unirrigated lands were zoned EFU, for lack of a better zone or label, even though these parcels were dry and not farmable. If they weren't forest or already developed in a denser pattern, they were zoned farm by default. This property was zoned without detailed or site specific consideration given to its soil, geologic, and topographic characteristics. Now that a certified soils scientist has conducted a detailed Soils Investigation (See Exhibit 3), it is documented that the parcels do not qualify as farmland. The change in circumstance is the soil study. It also evidences a mistake of sorts in classifying poor soil as farmland.

In summary, the County's zoning of agricultural lands has been a process of refinement since the 1970s. The Subject Property has never been suitable for agriculture and has never been actively farmed successfully due to its poor soil. Although it was assigned EFU zoning, this property likely should not have been originally zoned EFU due to its location, soils, and geology. Therefore, the parcels should be rezoned to MUA-10, consistent with the zoning of adjacent rural-residential uses. The MUA-10 zoning assignment supports logical, compatible, and efficient use of the land."

The Hearings Officer finds that the Applicant demonstrated there has been a change in circumstances since the property was zoned to warrant rezoning the Subject Property from EFU to MUA.

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.20, Review of Land Use Action Applications

Section 22.20.055, Modification Of Application

A. An applicant may modify an application at any time during the approval process up until the close of the record, subject to the provisions of DCC 22.20.052 and DCC 22.20.055.

FINDING: The Applicant filed a Modification on September 1, 2023, which was 462 days following the submittal of the original applications and prior to the close of the record. Compliance with the remaining requirements of DCC 22.20.052 is addressed below.

The Hearings Officer incorporates, as additional findings for DCC 22.20.055 A, B, C and D, the Applicant's comments contained in its March 19, 2024 record submission (pages 1-3). The Hearings Officer also incorporates the Preliminary Findings (III.A.3 - **Overview of Issues**) as additional findings for DCC 22.20.055 B, C and D.

B. The Planning Director or Hearings Body shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in DCC 22.04) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 150-day time clock as of the date the modification is submitted. The 150-day time clock for an application, as modified, may be restarted as many times as there are modifications.

FINDING: The Applicant applied for a Modification, paid all required modification fees, and agreed in writing to restart the 150-day time clock as of the date the Modification was submitted. The Plan Amendment and Zone Change are not subject to the 150-day clock. The Hearings Officer finds this criterion is met.

C. The Planning Director or Hearings Body may require that the application be re-noticed and additional hearings be held.

FINDING: Notice of the Modification was mailed to all parties on September 8, 2023. The initial hearing was held on February 27, 2024. The Hearings Officer finds that no additional hearings are necessary beyond what is required for a Plan Amendment and Zone Change request pursuant to DCC Title 22.

D. Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Planning Director or Hearings Body's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.

FINDING: The initial hearing occurred on February 27, 2024. The Planning Director determined the Applicant's submittal constitutes a modification. DCC 22.04.020 establishes the following definition:

"Modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site lay out (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or

pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

The Hearings Officer incorporates the Preliminary Findings (III.A.3 - **Overview of Issues)** related to COLW's concern related to Applicant's Modification as additional findings for this section. The Hearings Officer takes note of Applicant's open-record submission (Dickson, March 19, 2024, pages 1-3). The Hearings Officer finds Applicant's open-record submission is credible and correctly characterizes Applicant's Modification actions in the context of relevant County law (DCC 20.20).

The Modification changes the site lay out in a manner that would require the findings of fact to be changed. The Modification removed the FP Zoned areas of the property and reconfigured/reduced the area included in the subject Plan Amendment and Zone Change request, which requires the findings of fact to be changed. To the extent a party wishes to challenge the County's decision to require a modification of application, it is appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.

The Hearings Officer finds Applicant's Modification proposal met/satisfied relevant County law.

Deschutes County Comprehensive Plan ("DCCP")

Chapter 2, Resource Management

Section 2.2, Agricultural Lands

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

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 11):

"As discussed below, the Applicant's soil study, NRCS soil data, and the submitted burden of proof effectively demonstrate that the subject property is not suitable for designation as Agriculture in the Comprehensive Plan. It does not contain the soils required for agricultural use. See Soil Study attached as Exhibit 3. These properties are not "agricultural" as defined by state statute and administrative rules. They are properly rezoned to exception land in accordance with their character."

The Applicant submitted into the record (Exhibit 24) a copy of the DLCD Soil Assessment Completeness Review, deeming said analysis complete. Applicant also provided supplementary evidence (March 19, 2024) and argument (April 2, 2024) addressing this section. The Hearings Officer finds the Applicant's Burden of Proof, March 19, 2024 evidentiary submission, and April 2, 2024 final argument are credible and persuasive with respect to this Goal. The Hearings Officer also incorporates, as additional findings for this section, Preliminary Findings for Goal 3 (III.A.5. – Oregon Statewide Planning Goal 3) and the Goal 3 findings set forth later in this recommendation. The Hearings Officer finds nothing in the record to dispute the Applicant's evidence and legal conclusions that soils are predominantly Class VII and VIII.

The Hearings Officer finds, based upon the evidence in the record and the incorporated findings that the Subject Property is not "agricultural land." The Hearings Officer also finds, based upon the record and incorporated findings, that approval of the requested Plan Amendment and Zone Change will not negatively impact the agricultural industry.

Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

FINDING: The Applicant is not seeking to amend the subzone that applies to the Subject Property; rather, the Applicant requests a change under Policy 2.2.3 and has provided evidence to support rezoning the Subject Property to MUA.

Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this policy.

Applicant requested approval of a Plan Amendment and Zone Change to re-designate the property from AG to RREA and rezone the property from EFU to MUA. The Applicant does not seek an exception to Goal 3 – Agricultural Lands, but rather to demonstrate that the Subject Property does not meet the state definition of "agricultural land" as defined in Statewide Planning Goal 3 (OAR 660-033-0020).

The Applicant provided the following response related to this Policy (Burden of Proof, page 11):

"The Applicant has applied for a Zone Change to rezone Tax Lots 100 and 101 from EFU(TRB) to MUA-10. The Applicant has also applied for a Plan Amendment to support this Zone Change, which would designate the approximately 69 acres as Rural Residential rather than Agricultural. Rather than pursuing an exception to Goal 3, which would ordinarily be the method of effectuating such a change, the Applicant has attempted to demonstrate that the subject property does not meet the state definition of "Agricultural Land", as defined in Statewide Planning Goal 3 (OAR 660-033-0020). Neither of the tax lots are in farm production of any type and are unirrigated. It should be noted that farm production has been repeatedly attempted and has consistently failed. Now that the soil study has been performed, this result is understandable.

The Land Use Board of Appeals (LUBA) allowed this approach in Wetherell v. Douglas County, 52 Or LUBA 677 (2006). The County Hearings Officer also accepted this method in file PA-10-5 (Rose & Associates) and in Wetherell v. Douglas County, LUBA states at pp. 678-679:

> *'As we explained in* DLCD v. Klamath County*, 16 Or LUBA 817, 820 (1988), there are two ways a county can justify a decision to allow nonresource use of land previously designated and zoned for farm use or forest uses. One is to take an exception to Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). The other is to adopt findings which demonstrate the land does not qualify either as forest lands or agricultural lands under the statewide planning goals. When a county pursues the latter option, it must demonstrate that despite the prior resource plan and zoning designation, neither Goal 3 or Goal 4 applies to the property.* Caine v. Tillamook County*, 25 Or LUBA 209, 218 (1993); DLCD v*. Josephine County*, 18 Or LUBA 798,802 (1990).'*

The facts pertinent to the subject application are sufficiently similar to those in PA-10-5 to allow the Applicant to attempt to show that the subject property is not agricultural land, rather than seeking an exception to Goal 3 under state law. This criterion is satisfied."

Additionally, the Applicant submitted the following as part of their Incomplete Letter Response titled Supplemental Submittal dated November 23, 2022:

> *"The Applicant has applied for a Zone Change to rezone Tax Lots 100 and 101 from EFU(TRB) to MUA-10. The Applicant has also applied for a Plan Amendment to support this Zone Change, which would designate the approximately 69 acres as Rural Residential rather than Agricultural.*
>
> *Applicant submits to the record with this submittal a copy of the DLCD Soil Assessment Completeness Review, deeming said analysis complete, as Exhibit 24. Applicant submits to the record with this submittal an Affidavit by Mr. and Mrs. Ferguson attesting to their attempts to farm the subject property of the PA/ZC, and their failure to succeed. This is submitted as Exhibit 25."*

Staff agreed (Staff Report, page 21) that the evidence and argument presented by the Applicant in their Burden of Proof are similar to those in the *Wetherell* decisions and in the aforementioned Deschutes County Plan Amendment and Zone Change decision. Based upon the Applicant's Burden of Proof (quoted above), supplemental discussion (quoted above), the Preliminary Findings for Goal 3 and the findings later in this recommendation related to Goal 3, the Hearings Officer finds that the Applicant has adequately demonstrated that the Subject Property is not "agricultural land" and does not require an exception to Goal 3 under state law.

> ***Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.***

FINDING: The Applicant provided the following response to this Policy (Burden of Proof, page 12):

> *"This provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. In the findings for the previous Plan Amendment and Zone Change for the subject property, the County found that this policy does not impose a moratorium on requests for applications of this type, and that nothing in this policy prohibits the conversion of EFU parcels to other designations (see PA-1 1-7, also 247 -16-000318-PA, PA-10-5, PA-07-1). Previous determinations and the proposal are consistent with this policy*."

The Hearings Officer concurs with the Applicant's analysis of prior decisions by the County and finds the requested Plan Amendment and Zone Change proposal is consistent with this policy.

> ***Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.***
>
> ***Policy 2.2.13 Identify and retain accurately designated agricultural lands.***

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this policy.

This DCCP policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicant argued the Subject Property was not accurately designated as demonstrated by the soil study and record submissions (Burden of Proof, March 19, 2024 and April 2, 2024). Further discussion on the soil analysis is detailed under the OAR Division 33 criteria below.

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

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

FINDING: In *Aceti IV* (247-20-000438-PA, 439-ZC), the Hearings Officer and the Board of County Commissioners ("BOCC") adopted the following finding:

"The Hearings Officer found in Aceti 1 that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2 and ZC-14-2 that stated, "Nevertheless, in my decision in NNP I held it is not clear from this plan language what ''water impacts" require review -- impacts to water supplies from use or consumption on the subject property, or Impacts to off-site water resources from development on the subject property." The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County's land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review ''water impacts" because the Applicant has not proposed any particular land use or development. Thus, there are no "significant land uses or developments" that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County's land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant's requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant's Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development."

The Applicant is not proposing a specific development application as part of the application requests to be decided in this case. The Hearings Officer finds, consistent with the analysis in *Aceti IV* (247-20-000438-PA, 439-ZC), the Applicant is not required to demonstrate the water impacts associated with development. Rather, the Applicant will be required to address this criterion during a development application for the Subject Property. A subsequent development application would be reviewed under any necessary land use review process for the Subject Property (i.e., conditional use and tentative plan approval).

A County Hearings Officer made, and the BOCC adopted, similar findings in the *LBNW, LLC* decisions (County planning files 247-23-000398-A, 247-21-000881-PA, 882-ZC). The Hearings Officer in this case finds that the above-referenced findings are relevant and applicable to this recommendation.

Section 2.7, Open Spaces, Scenic Views and Sites

Open Space and Scenic View Designations and Protections
…
Scenic view protection is implemented through the Landscape Management Combining Zone regulations, with the list of landscape management roads and rivers in the Goal 5 resource list in Chapter 5 of this Plan.

Goal and Policies
Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: The Applicant provided the following response to these policies (Burden of Proof, page 12):

"The subject property is not within the Open Space and Conservation (OS&C) Zone. The properties are located within a Landscape Management (LM) Combining Zone associated with designated scenic highways, roads, rivers, and streams.

It should be noted that no actual development of the property is proposed at this time."

The western portion of the Subject Property is located within the LM Combining Zone associated with the Deschutes River scenic corridor. The standards associated with the LM Combining Zone are generally reviewed for compliance when a new structure or substantial alternation of an existing structure is proposed.

LUBA recently held in *Central Oregon Landwatch v. Deschutes County* (LUBA No. 2023-008, April, 24 2023)(the "*LBNW Decision*") the following:

"Goal 5 is '[t]o protect natural resources and conserve scenic and historic areas and open spaces.' OAR 660-023-0250(3) provides:

'Local governments are not required to apply Goal 5 in consideration of a PAPA [Post-Acknowledgement Plan Amendment] unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

** * * **
"(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list[.]' Footnote 11

Footnote 11 – If Goal 5 applies, then the local government is required to comply with OAR 660-023-0040 and OAR 660-023-0050."

The BOCC addressed this issue in their remand decision for *LBNC Decision* (ref. files nos. 247-23-000398-A, 247-21-000881-PA, 882-ZC). The Applicant for the *LBNC Decision* case also requested a Plan Amendment and Zone Change for a property located in a LM Combining Zone and the BOCC in that case found:

> *"As stated within OAR 660-023-0030(1), this rule's purpose is 'to compile or update a list of significant Goal 5 resources in a jurisdiction.' Importantly here, the inventory process has already been completed. Accordingly, the Board finds that Section 5.5 of the Deschutes County Comprehensive Plan ('DCCP') entitled Goal 5 Inventory: Open Spaces, Scenic Views and Sites identifies an area extending ¼-mile on either side of the centerline of certain roadways, including Highway 97 between the Bend and Redmond Urban Growth Boundaries ('UGBs'), as a Goal 5 scenic view resource.*
>
> *…*
>
> *[T]he Board finds that the LUBA Decision already 'identified conflicting uses' in this case, i.e., the first step as set forth in OAR 660-023-0040(1)(a) and further identified in OAR 660-023-0040(2). The Board unanimously finds that those 'identified conflicting uses' are those uses allowed outright or conditionally under the RI zone on the subject Properties that would not have otherwise been allowed under the current EFU zoning. Accordingly, these findings focus on the second, third, and fourth steps in the ESEE [Economic, Soil, Environmental & Energy] Decision Process as further detailed by OAR 660-023-0040(3) through (5).*
>
> *…*
>
> *The Board accepts and agrees with the identification of the conflicting uses as identified in the LUBA Decision, as those uses allowed outright or conditionally under the RI zone on the Subject properties that would not have otherwise been allowed under the current EFU zoning.*
>
> *…*
>
> *The Board presumes that the Applicant initially suggested such a limited impact area because of the second sentence in OAR 660-023-0040(3) stating that that the impact area should 'include only the area in which allowed uses could adversely affect the identified resources.'*
>
> *…*
>
> *As understood by the Board, this 'impact area' disagreement between the Applicant and COLW [Central Oregon LandWatch] stems from the Applicant focusing on the second sentence set forth in OAR 660-023-0040(3) and COLW focusing on the third sentence. The Board further notes that it is hard to reconcile what appears to be contradictory direction provided by those two sentences. Nevertheless, the Board does not need to resolve that issue presently because the Applicant's July 19 rebuttal submittal and July 26 final legal argument both proposed an expanded impact area to address COLW's concerns. Consistent with the Applicant's aforementioned submittals, the Board unanimously finds that the appropriate impact area in this case includes 'those properties to the west of Highway 97 and within the existing LM Zone (i.e., within ¼-mile of the centerline of Highway 97) between the 61st Street intersection to the north and the Tumalo Road off ramp to the south.' The Board favors this expanded impact area for three reasons.*
>
> *…*
>
> *As understood by the Board, every ESEE analysis is intended to be context specific, and the Board is "afforded fairly broad discretion in considering potential impacts from allowing or prohibiting a particular use * **." See Central Oregon LandWatch v. Deschutes County,__Or LUBA __ (LUBA No 202-019, March 22, 2021) (internal citations omitted). Pursuant to OAR 660-023-0040(1), the Board again notes that an "ESEE analysis need not be lengthy or complex but should enable the reviewers to gain a clear understanding of the conflicts and the consequences to be expected." In this case, the majority of the Board () finds that the Updated ESEE Analysis provides a "clear understanding of the conflicts and consequences to be expected" if the RI uses are allowed on the subject Properties."*

DCCP Section 5.5 also identifies Goal 5 scenic view resources as the land within the boundaries of a state scenic waterway or a federal wild and scenic river corridor; and all land within 660 feet of the ordinary high water mark of portions the following designated rivers and streams which are not designated as state scenic waterways or

federal wild and scenic rivers. This would include the area of the Subject Property located within the LM Combining Zone is an inventoried Goal 5 scenic view resource associated with the Deschutes River.

Applicant provided an open-record evidentiary submission (March 19, 2024, pages 10-12) comparing uses allowed in the EFU zone to those uses allowed under the proposed MUA zoning. The Hearings Officer finds that the Applicant's March 19, 2024 record submission addressed the primary LUBA concern raised in the *LBNC Decision*; would approval of a plan designation change and zone change allow "new uses" (compared the existing plan/zone) that "could conflict with Goal 5 resources."

Applicant, in its Final Argument (April, 2, 2024, pages 7-9), provided a legal analysis of the Goal 5 evidence already in the record. The Hearings Officer sets forth the Applicant's Goal 5 legal analysis, in full, below:

"The Deschutes River scenic corridor runs along the western side of the subject property (though not bordering most of it as a result of the 2024 4-acre sale to the adjoining property owner, Dunson, ***Exhibit 36****). Approximately ½ of the subject property is located within the LM Combining Zone as protection for the corridor. New structures within the view area of the river are commonly regulated by this standard. It is a designated Goal 5 resource. LUBA recently broadened previous interpretations of how a PA/ZC or PAPA should be analyzed when Goal 5 lands are involved.*

The Site 303 "Pink Pit" is also an inventoried Goal 5 resource. Approximately 2/3 of the subject property is overlaid with the Combining Zone for this protected use. Because the same analysis and caselaw applies to both resources, the compliance analysis is combined here in summary.

Aceti V, discussed above, is an illustration of this broadened analysis. A more recent application of the Aceti V analysis of Goal compliance was made by LUBA in Central Oregon Landwatch v. Deschutes County and LBNW LLC, (LUBA No 2023-008, April 24, 2023)("LBNW"). LUBA remanded Deschutes County's first approval in Ordinance No. 2022-011 on March 14, 2022. ***Goal 5*** *Compliance was central to LUBA's remand, finding that Deschutes County misconstrued the applicable law because it did not evaluate "whether the new RI zoning allows uses on the subject property that were not allowed under the previous EFU zoning and whether those uses could conflict with protected* ***Goal 5*** *resources." (LBNW, Page 35). LUBA went on to find that because the approval "allows new uses that could conflict with inventoried Goal 5 resources. . .the county is required to comply with OAR 660-023-0250(3)." (LBNW, Page 36).*

OAR 660-023-0250 is part of LCDC's rules governing "Procedures and Requirements for Complying with Goal 5" as addressed in prior submittals. See Applicant's March 19, 2024 Open Record Submittal, Pages 10-12.

> *(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a* ***Goal 5*** *resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:*
> ******
> *(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. . ."*

Applicant's March 19, 2024 Open Record Submittal provided the allowed, conditional, and special uses for both EFU and MUA-10 zones. See ***Exhibit 41****. These allow for the analysis of the change of uses proposed, comparing the two zones. Impactful uses include:*

EFU Uses (Non-HV Farmland)	*MUA-10 Uses*
Outright: 18, including 2 dwelling types	*Outright: 11, including 2 dwelling types*
Special: 11, including 2 dwelling types	*Special: None*
Cndnl: 37, including 5 dwelling types,	*Cndnl: 34, including 5 dwelling types,*

res. facilities, agri-tourism, equine, guest dog, aquatic species farms *lodge, bed & breakfast*

EFU zoning allows significantly more uses than MUA-10 as summarized above and detailed in previously submitted Exhibit 41. The specific resource zones on the subject property, mineral and river, have been analyzed for potential conflicts in the change to MUA-10 zoning and Rural Residential Exception Area plan designation as required by recent caselaw interpretation of the OAR.

The Site 303 "Pink Pit" and the Deschutes River are the Protected Goal 5 Resources impacting the TL 100 Subject Property. Exhibit 23 was submitted with Supplemental Submittal dated November 23, 2022, and is described in the narrative on page 5. The 1989 ESEE Findings and Decision identifies on Page 0457 that site characteristics include "residential acreages" including 40-acre residential acreages to the south, residential property between the mine and the river, and Tumalo Rim subdivision within a half mile to the north on ½ acre lots. The Land Use Conflicts analysis that follows starting on page 0459-0461 notes that the existing residential uses in the area, "[s]pecifically, the residential uses in the nearby 40-lot Tumalo Rim Drive subdivision to the North and the adjacent residence to the East would be subject to noise near the subdivision and possible dust impacts." The first paragraph on Page 0461 closes with this comment on the subject property, "The site would be most visible from the undeveloped land to the East." That finding was likely based on viewing the Pink Pit from the high rim of the subject property overlooking the Deschutes River ravine. Current setback rules and Scenic River visual setbacks would preclude any construction along the viewable (or viewing) rim, but instead would be set back, similar to the layout proposed in Applicant's Tentative Plan.

Despite these conflicts identified with 1989 and future uses, the Deschutes County Board of Commissioners decided in 1989 to classify the area as "SM" or Surface Mining, concluding that the different uses between the nearby residential uses and the Goal 5 resource were not sufficiently significant to preclude that the two uses could co-exist though different, and determining that the mineral resource was properly protected by a Goal 5 designation. It is reasonable to conclude that now that the site is largely inactive and possible depleted to preclude further profitable extraction and processing, the potential conflict between the mineral resource and MUA-10 uses would be significantly less than it was in 1989, when such uses were allowed in conjunction with an active and resource-rich mining site. Even if fully active as it was at that time, the area MUA-10 and other rural residential uses did not obstruct use of the mining resource. The allowed uses under MUA-10 zoning do not pose a potential conflict different from the existing EFU use conflicts, except that perhaps there will be fewer of them.

The Deschutes River scenic corridor is a designated scenic view resource. Its views are protected from structural changes by setback review which is not relevant to a PA/ZC analysis where no structural changes are proposed. The changes in uses identified in Exhibit 41, analyzed in Applicant's Open Record submittal on March 19, 2024, and the impactful uses compared above, show no potentially conflicting uses to the scenic corridor, where all proposed uses under the MUA-10 zone would be subject to setback review and could be located back from the rim without being seen from the Deschutes River below."

The Hearings Officer finds that the above-quoted Applicant final argument statement references credible and substantial evidence previously submitted into the record of this case and the evidence and argument fairly reflects the intent of Goal 5 and related administrative rules. The Hearings Officer finds that Applicant did undertake a thorough review of the EFU and MUA zoning code provisions related to allowed, special and conditional uses.

The Hearings Officer finds the two identified Goal 5 resources, in this case, are the Deschutes River (with associated public ownership) and the surface mining property referred to as the "Pink Pit." The Hearings Officer takes note that building setback requirements limit the visibility of any EFU or MUA allowed use from the

Deschutes River. The Hearings Officer finds uses allowed in the EFU zone are more varied and potentially more impactful than MUA allowed residential uses. As a practical matter lawful development of the Subject Property under the current EFU zone or proposed MUA zone will not negatively impact the Deschutes River Goal 5 resource.

The Hearings Officer finds that residential use is allowed in the EFU zone and MUA zone and that there will be no new use, if this application is approved, that will impact the Goal 5 identified "Pink Pit" resource.

The Hearings Officer adopts, as additional findings for this section, the Applicant's above-quoted final argument statements. The Hearings Officer finds, based upon the November 23, 2022 Supplemental Submittal, March 19, 2024 open-record submission and April 2, 2024 final argument that this policy is satisfied.

Section 2.10, Surface Mining

Goal 1, Protect and utilize mineral and aggregate resources while minimizing adverse impacts of extraction, processing and transporting the resource.

Policy 2.10.3 Balance protection of mineral and aggregate resources with conflicting resources and uses.

FINDING: The Hearings Officer incorporates the findings for Section 2.7, 2.73 and 2.75, as set forth immediately above as additional findings for this policy. The Subject Property, except for the southeast corner, is located within the SMIA Combining Zone associated with Surface Mining Site No. 303 (the "Pink Pit"). This mining site is approximately 400 feet to the west and County records indicate pumice and aggregate can be extracted from approximately 30 acres of the 80-acre Surface Mine ("SM") zoned property.

The Hearings Officer finds that Applicant did conduct a review of EFU and MUA uses to determine if any new uses would be introduced that would conflict with the Pink Pit surface mining Goal 5 resource. The Hearings Officer concurs with Applicant's conclusion reached in its November 23, 2022 Supplemental Submittal, March 19, 2024 open-record submission and April 2, 2024 final argument documents that approval of the MUA zone would not add any new use that would conflict with the Pink Pit surface mining Goal 5 resource.

Chapter 3, Rural Growth Management

Section 3.2, Rural Development

Growth Potential

As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns, changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.

…

- ***2009 legislation permits a new analysis of agricultural designated lands***
- ***Exceptions can be granted from the Statewide Planning Goals***
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

FINDING: This section of the DCCP does not contain goals or policies but does provide the guidance above. The Applicant provided the following response to this provision (Burden of Proof, page 13):

"The County Comprehensive Plan notes that "Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential." The requested Plan amendment is based on the results of the submitted Soils Investigation which has demonstrated that the subject property is made up of "poor soils" so does not constitute "agricultural lands" as defined in the Goal, based upon a site-specific soils study conducted by a certified, professional soil scientist (Brian Raby). Therefore, the proposal is consistent with this section of the Comprehensive Plan, given that the subject property has been determined to be non-resource land, so appropriate for rural residential development.

It should also be noted that the MUA-10 Zone is a rural residential zone and as discussed above, there are many adjacent and surrounding properties that are zoned MUA-10. This proposal fits well with this criterion."

The MUA Zone is a rural residential zone and as discussed in the Basic Findings above. Adjacent and nearby properties to the east, northeast, and north are zoned MUA. This guidance text also references poor soil quality as a consideration, which is discussed in more detail under the OAR Division 33 criteria below.

Section 3.3, Rural Housing

Rural Residential Exception Areas

In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal 2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.

In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 14):

"To the extent that the quoted language above represents a policy, it appears to be directed at a fundamentally different situation than the one presented in this application. The quoted language addresses conversions of "farm" or "forest" land to rural residential use. In those cases, the language indicates that some type of exception under state statute and DLCD rules will be required in order to support a change in Comprehensive Plan designation. See ORS 197.732 and OAR 660, Division 004.

That is not what this application seeks to do. The analysis below explains that the Applicant has been successful in demonstrating that the subject property is composed predominantly of nonagricultural soil types and is unirrigated. It is not "agricultural." Therefore, it is permissible to conclude that the property is not "farmland" as defined under state statute, DLCD rules, and that it is not correctly zoned for exclusive farm use.

It is important to distinguish that this application does not seek to convert "agricultural land" to rural residential use. If the land is demonstrated to not be composed of agricultural soils, then there is no

"exception" to be taken. There is no reason that the Applicant should be made to demonstrate a reason, developed or committed exception under state law because the subject property is not composed of the type of preferred land which the exceptions process was designed to protect. For all these reasons, Applicant should not be required to obtain an exception to Goal 3. It is reasonable to conclude that the requirement of an Exception is not applicable here."

Staff (Staff Report, page 29) noted that prior Deschutes County Hearings Officer and BOCC interpretations have found the above language is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Hearings Officer, in this case, concurs.

The Applicant has provided evidence in the record addressing whether the Subject Property qualifies or does not qualify as agricultural or forest land. The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and the findings set forth later in this recommendation related to Goal 3 (including, Goal 2, Land Use Planning, PART I – PLANNING, EXCEPTIONS, PART III -- USE OF GUIDELINES, Goal 3, Agricultural Lands and Division 33 - Goal 3 - Agricultural Lands and OAR 660-015-0000) as additional findings for this section.

The Hearings Officer finds, based upon Applicant's above-quoted statements and Staff comments and the incorporated findings that the proposed RREA plan designation is the appropriate plan designation to apply to the Subject Property assuming the applicable standards identified in this recommendation are met.

Section 3.7, Transportation

The Transportation System was adopted in Ordinance 2012-005 and is hereby incorporated into this Plan as Appendix C. The Deschutes County Transportation System Plan Map will be retained in official replica form as an electronic map layer within the County Geographic Information System and is adopted as part of this Comprehensive Plan.

DCCP Appendix C – Transportation System Plan
Executive Summary
…
ARTERIAL AND COLLECTOR ROAD PLAN
…
Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

…

Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

FINDING: Staff noted (Staff Report, page 29) the heading for this section of the Transportation System Plan ("TSP") is titled "Arterial and Collector Road Plan." Staff (Staff Report, page 29) suggested that it is unclear whether the goals and policies included in this section of the TSP apply to properties without frontage or clear impacts on a roadway classified as an arterial or collector. Staff noted that prior Hearings Officer recommendations and Board decisions have included the following finding for similarly situated properties without frontage on an arterial or collector:

"This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The County will comply with this direction by

determining compliance with the Transportation Planning Rule ("TPR"), also known as OAR 660-012, as described below in subsequent findings."

The Subject Property does not have frontage on an arterial or collector. The Subject Property abuts Destiny Court (County Road) and Northern Estates Drive (Local Access Road). Additionally, the Traffic Reports and TPR Analysis submitted by the Applicant do not identify any impacts on any arterial or collector roadway.

The Hearings Officer concurs generally with the above-quoted statement. The Hearings Officer finds that while the section is titled "Arterial and Collector Road Plan" Policy 4.4 describes the transportation system more holistically; not limited to just arterial and collector roads. The Hearings Officer policy 4.4 is a relevant consideration in this case.

The Hearings Officer incorporates the findings for Division 12 -Transportation Planning as additional findings for this section. Further, the Hearings Officer finds, for the purposes of a plan amendment/zone change application, the Applicant's Site Traffic Report/TPR analysis addresses affected roadway function, classification, and capacity. The Hearings Officer finds County transportation planning staff reviewed Applicant's transportation submittals and concurred with Applicant that proposed plan and zoning designations do not exceed the planned capacity of the transportation system**.** The Hearings Officer finds this policy is met.

OAR Chapter 660, Land Conservation and Development Department

Division 6, Forest Lands

OAR 660-006-0005, Definitions

(7) "Forest lands" as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

(a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and

(b) Other forested lands that maintain soil, air, water and fish and wildlife resources.

FINDING: The Applicant provided the following response to this provision (Burden of Proof, page 18):

"The subject property is not zoned for forest lands, nor are any of the surrounding properties. The property does not contain merchantable timber and there is no evidence in the record that the property has been employed for forestry uses historically. None of the soil units comprising the parcel are rated for forest uses according to NRCS data. The property does not appear to qualify as forest land and there is no evidence of it ever having been zoned as such. This standard is not applicable."

The Hearings Officer finds that the Subject Property is not zoned for forest lands, nor are any of the properties zone for forest lands within a 1.5-mile radius. The Subject Property does not contain merchantable tree species and there is no evidence in the record that the Subject Property has been employed for forestry uses historically. Additionally, none of the soil units comprising the parcel are rated for forest uses according to NRCS data. The Hearings Officer finds the Subject Property does not qualify as forest land.

Division 12, Transportation Planning

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

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

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

FINDING: This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed Plan Amendment would change the comprehensive plan designation of the Subject Property from AG to RREA and change the zone from EFU to MUA. The Applicant is not proposing any land use development of the Subject Property as a part of this review request.

The Applicant submitted a Site Traffic Report/TPR analysis dated September 15, 2021, and prepared by Joe Bessman of Transight Consulting LLC. As noted in the Agency Comments section above, the County's Senior Transportation Planner identified deficiencies with the submitted STR and TPR analysis and requested additional information. The Applicant then submitted a memorandum, dated August 8, 2022, and prepared by Joe Bessman, to supplement the information provided in the original STR/TPR analysis.

The memorandum was reviewed by the County's Senior Transportation Planner who agreed with the Applicant's updated traffic report conclusions. The County Senior Transportation Planner found that the proposed Plan Amendment and Zone Change would be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. The County Senior Transportation Planner found that the proposed Zone Change would not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. Regarding the memorandum dated August 8, 2022, the County's Transportation Planner provided the following comments in an email dated October 17, 2023:

"I have reviewed Mr. Bessman's August 8, 2023, Site Traffic Report/TPR Analysis related to the subject application and I agree with the assumptions, methodology, and conclusions contained therein. As Mr. Bessman utilizes the 2040 planning horizon year (reflective of the most recent data included in the County's forthcoming Transportation System Plan update) this analysis appears to comply with relevant criteria. Mr. Bessman utilizes the acceptable road segment standard of 13,900 Average Daily Trips (ADT) which is incorporated into the County's most recent 2020-2040 Transportation System Plan. The analysis and references therein related to peak hour trips (16 to 22 total weekday p.m. peak hour trips) are adequate. Staff agrees with Mr. Bessman's summary of Transportation Planning Rule (TPR) Compliance and finds that relevant TPR provisions appear to be satisfied through the submittal of this additional information."

Based on the County Senior Transportation Planner's comments and the traffic study from Transight Consulting LLC, the Hearings Officer finds compliance with the Transportation Planning Rule has been effectively demonstrated.

Division 15, Statewide Planning Goals and Guidelines

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

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

Goal 1, Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

RESPONSE: Deschutes County has adopted and publicized a program for citizen involvement in policy formulation and implementation. This program complies with this goal as part of an acknowledged Comprehensive Plan. In this case, the public in the area will be mailed notices, a notice will be published in the local newspaper, and a sign was posted on the Subject Property. In addition, at least two public hearings will be held on the proposed plan amendment before it can be approved - one before the Hearings Officer and one before the Deschutes County Board of Commissioners. The citizenry will have notice and opportunity to be involved in the process that is the subject of this application. This program, as practiced, complies with this goal.

Goal 2, Land Use Planning.

PART I -- PLANNING To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

PART II – EXCEPTIONS

PART III -- USE OF GUIDELINES

RESPONSE: Deschutes County's land use planning process and policy framework are acknowledged. The processes rely on factual offerings of proof from knowledgeable and verified sources on which to base quasi-judicial and legislative decisions.

An exception to one of the Goals is not requested by this application.

Deschutes County's guidelines comply with state law as required.

This application complies with Deschutes County's Code regarding land use planning. Deschutes County's land use planning system and implementation comply with this Goal. Therefore, this application complies with the Goal.

> **Goal 3, Agricultural Lands. To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.**

RESPONSE: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section.

Applicant asserts that the Subject Property is not Goal 3 "agricultural land" and therefore no exception from Goal 3 is required. Applicant provided, in its Burden of Proof and subsequent record submissions, evidence and argument in support of its conclusion that the Subject Property is not "agricultural land" as defined in relevant sections of the DCC, ORS, OAR as interpreted by LUBA and the courts.

The Hearings Officer finds the Applicant included in the record a site -specific soil analysis of the Subject Property and the site-specific study concluded that soils on the Subject Property are predominately Class VII and VIII (65.8%). The Hearings Officer finds no persuasive evidence in the record to dispute credibility of the site-specific soil study conclusion that the Subject Property is predominately Class VII and VIII soils. The Hearings Officer finds the soil characteristics standard set forth in OAR 660-033-0020(1)(a)(A) defines "agricultural land" to be (Eastern Oregon) predominately Class I through and including VI. The Hearings Officer finds, based on the site-specific soil study, that the Subject Property is not "agricultural land" under the OAR 660-033-0020(1)(a)(A) test.

OAR 660-033-0020 (1)(a)(B) & (C) necessitate additional analysis. OAR 660-033-0020(1)(a)(B) is often referred to as the "suitable for farm use" test or standard.

OAR 660-033-0020(1)(a)(B) requires consideration of the following:

* Soil suitability for grazing; and
* Climatic conditions; and
* Existing and future availability of water for farm irrigation purposes; and
* Existing land use patterns; and
* Technological and energy inputs required; and
* Accepted farming practices.

OAR 660-033-0020(1)(a)(C) requires consideration of adjacent or nearby agricultural lands to determine if the Subject Property is necessary to permit farm practices on those adjacent or nearby lands.

The Hearings Officer finds that it is important that the Hearings Officer accurately reflect the evidence in the record related to the "agricultural land" issue. The Hearings Officer, therefore, includes below the entire Applicant March 19, 2024 Goal 3 open-record submission. The Hearings Officer will address relevance and credibility issues related to Applicant submission in later findings.

Applicant's Goal 3 (March 19, 2024, pages 3 - 10) submission follows:

> *"Two separate issues have been raised regarding Goal 3. These are:*

A. Compliance with Goal 3
B. Need for an Exception to Goal 3

These shall be addressed separately below.

A. Compliance with Goal 3

ORS 197.175 (2)(a) requires local governments to comply with LCDC goals as part of Plan Amendments. Goal 3 is one of LCDC's goals.

Goal 3: Agricultural Lands OAR 660-015-0000(3)
To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land policy expressed in ORS 215.243 and 215.700.

Recent caselaw has focused on the definition of "Agricultural Land" and has seemingly broadened long standing and established legal interpretations, at least in the cases decided at LUBA and the Court of Appeals. What is meant by "Agricultural Land" is pivotal to understanding the Goal's proper implementation.

The Statewide Planning Goal defines Agricultural Land in eastern Oregon as follows:

[l]n eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils... and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.

Here's the administrative rule definition, which notes the above definition also applies:

Division 33 Agricultural Land
660-033-0020
For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class... I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns, technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than...I-VI that is adjacent to or intermingled with lands in capability classes... I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed....

RESPONSE: *Since the OAR definition is different from the Goal definition, and the OAR definition expressly notes that the Goal definition is also valid, we address elements of both.*

Soil Classification Method: Exhibit 3 is the Site-Specific Soil Survey of the Subject Property. Figure 4 is the site-specific soils map. 62.87 acres were evaluated (excluding most of rock ravine, which was too steep to be sampled). See pages 4-5. In summary, 34.2% tested as Class VI or less, leaving 65.8% soils testing as Class VII-VIII. It is reasonable to conclude that under either definition, the "predominantly Class VI (or less) soils" of the Goal, or the (1)(a)(A) definition of the OAR, the Subject Property does not qualify as "Agricultural Land" by soil classification.

Other Lands Analysis

The Goal identifies "other lands which are suitable" based on other factors. These are:

Soil Fertility

The Subject Property was studied for soil fertility in the Site-Specific Soil Survey Report, Exhibit 3. The Page 5 summary notes 'These soils are predominantly shallow with sandy textures (low clay content) and low organic matter content. These conditions result in a low Cation Exchange Capacity (CEC) that limits the ability of these soils to retain nutrients. Fertilizer must be applied to achieve optimum yields. Proper management requires that fertilizers be applied in small doses on a frequent basis. The revenue from most locally adapted crops are not expected to cover the cost of inputs and management.'

These scientists concluded that the soils do not contain sufficient nutrients and do not have the capacity to retain artificially applied nutrients in the form of fertilizers. Attempts to irrigate and grow pasture have also failed, as described in the Ferguson affidavit, Exhibit 25, described in more detail in the next section. It is reasonable to conclude that this tract does not have sufficient soil fertility to qualify as "agricultural land."

Suitability for Grazing

The CEC Site-Specific Soil Survey Report (Exhibit 3) also evaluated this factor on Pages 5-6. In summary, the scientists found that forage production potential, at 912.5 pounds of dry matter needed to feed a cow and calf pair for one month (animal unit month -AUM), the Subject Property 'does not represent a sufficient number of AUM for a commercially viable livestock operation.'

The scientific conclusion is verified by actual site experience. In 2012, Applicant Member Manager Ron Cochran leased the Subject Property to Mark and Cathy Ferguson to graze 12 head of cattle over the summer season. Two small pivots were positioned to water about 28 of the 62 acres. This was 'the only real area with enough soil to support pasture' according to the Ferguson affidavit, Exhibit 25. Even the best area proved to be too uneven and rocky. The Fergusons gave up after a month, and Mr. Cochran, convinced they'd made best efforts, released them from the agreement.

By both scientific analysis and actual site experience, it is reasonable to conclude that the Subject Property is not suitable for grazing as a means to qualify as 'agricultural land'

Climatic Conditions

The nearest urban area tracking climate data is the city of Bend, less than a mile to the south. Bend averages 3,623' elevation. Average snowfall is 33 inches per year. The last spring frost averages on June 14 and first fall frost averages on September 12, leaving approximately 89 days on average for a traditional growing season. This is considered to be a 'short' growing season and precludes successful farming of most commercial crops.

The CEC Site-Specific Soils Analysis, Exhibit 3, summarizes Climatic Conditions on Page 6. The report also notes an approximately three-month growing period and goes on to note that the region receives less than 12 inches of annual rainfall, 'with very little falling during the growing season.' Native rangeland grasses "are the only realistic crop" without irrigation. As noted above in the Ferguson affidavit, irrigation isn't productive due to the uneven and rocky nature of the site. The CEC report concludes 'the Site would not support a commercial livestock operation.'

It is reasonable to conclude that climatic conditions on the site are such that it would not qualify as 'agricultural land' under this definitional category.

Existing and future availability of Water for farm irrigation purposes

Irrigation water is available to the site. Irrigation has been tried on the site by both the current owner and at least one previous owner. See Ferguson Exhibit 25. Current irrigation water supplies provided to the Subject Property are delivered by Swalley Irrigation District, a district that stores its reserves in the Crane Prairie Reservoir and delivers to the north Bend area through the Deschutes River main diversion. The Riley sublateral stubs out in the area of the Subject Property. Swalley is part of a basin-wide push to pipe all canals, laterals, and sub laterals and eliminate wasteful deliveries to meet conservation goals by returning water to the Deschutes River for habitat conservation as part of a Federal agreement, and in keeping with Oregon Water Resources Department administrative rules.

Irrigation water delivery facilities do exist to the site. However, irrigating the site has proven to waste a precious resource, while yielding little to no productive growth to justify the expense and resource waste. Going forward, surface water in the entire Deschutes Basin is expected to be scrutinized for efficiency and productivity, since surface and groundwater are deemed by the USGS to be commingled in the Basin, and demand for potable water is projected to increase exponentially in the coming years with population growth.

In summary, water is available for now, but both science and experience have proven that irrigating the Subject Property won't improve it sufficiently to qualify it as 'agricultural land.'

Existing Land-use Patterns

Deschutes County tracks land-use patterns and provides reports over 1 mile radius around the Subject Property. A packet prepared for the Subject Property and surrounds is submitted as Exhibit 37. It contains the following information relevant to surrounding land-use patterns:

- *EFU-zoned parcels (list and map) -Pages 1, 2*

There are 3 other parcels zoned EFU on the same side of the Deschutes River ravine as the subject property. The two to the north, TLs 102 and 103 belonging to Kaufman and Burke respectively, are not in farm-deferral,

are both less than 20 acres (23 acres is the minimum EFU TRB zoned tract allowed to allow for profitable agricultural use) and are not farmed. The tract to the south, TL 502, was traded by Deschutes County to the Oregon State Parks and Recreation Department. It is part of a contiguous tract bordering the Deschutes River ravine. It is not farmed or cultivated in any way. None of the parcels west of the ravine are in farm deferral for 1600 feet, or approximately 1/3 mile.

It is reasonable to conclude that no tracts within 1 mile of the Subject Property on the east side of the Deschutes River ravine are zoned EFU and actually being farmed.

- *Soils (NRCS Classification) Map- Page 3*

As noted above, the site-specific analysis provided as Exhibit 3 provides data that is superior for the Subject Property. The 1-Mile Packet Map shows a total of 5 general soil classifications on the east side of the ravine in the 1-mile radius. Based on the Map Unit Description Table, these are mostly Class VII soils, but 38B can be Class VI in some circumstances. Across the ravine to the west, 13 soil classifications are mapped, indicating a different soil set. This is also the area where there is some farm deferral land in the 1-mile study area. These are 1/3 mile from the Subject Property or more and separated by the deep ravine and the Deschutes River. See Exhibit 38, previously submitted into the Record.

- *Properties in Tax Deferral Map - Page 4*

While tax deferral is not a clear indicator of lands being used for commercial agriculture, it is generally accepted that owners looking to make an agricultural profit will seek out property tax deductions to improve the profit margin, and are more likely to qualify for it. As the map shows, there is no property in tax deferral on the east side of the ravine, indicating there are no owners using lands for commercial agriculture on the Subject Property side of the river.

- *EFU-zoned parcels by acreage Map - Page 5*

Parcel size is another indicator of land use. Larger parcels are needed to make farming profitable, in keeping with Deschutes County's 23 acre minimum for EFU-TRB tracts. The Map indicates that the larger parcels, apart from the Subject Property, are those owned by Oregon State Parks and Recreation Department. (Ownership by tract is listed in the table on Page 1 of the packet). Even the nearest tax deferred tract is approximately 17 acres. This is not an area of commercially productive agricultural tracts based on acreages.

- *Year Built (1900-1978, 1979-1992, 1993-Present) Map-Page 6*

The 'Year Built' map can provide data that's useful to understand development trends in the 1- mile area. This specific data is questionable, since the subdivision to the south of the subject property has undergone extensive development in recent decades but is not shown. We have included it as part of the packet provided, but do not cite to it for guidance as it appears unreliable in understanding development patterns in all but the EFU zoned tracts, and lands to the south and west are not zoned EFU.

- *Last Conditional Use Permit (non-traditional EFU) Map - Page 7*

Similar to the map on Page 6, a map of 'Last Conditional Use Permit' indicates where uses have been applied that do not fit squarely within the outright uses allowed in the respective zone. As shown, most of the surrounding tracts have received conditional use permits, indicating non-traditional uses within that zone. The legend confirms all are EFU-zoned properties.

- *Last Administrative Determination Map - Page 8*

This map is included as part of the packet, but is not a likely indicator of agricultural uses in the area.

■ *1985 Aerial Photo showing cleared land (farm, desert, or mining) - Page 9*

This aerial photo, taken almost 40 years ago, when compared to current tax lot maps included in the packet, shows extensive development has taken place to the south as the City of Bend's UGB expanded considerably in a northerly direction. What was undeveloped is now developed to the north, west, and south of the Subject Property. The Urban Area Reserve is now right on the southern boundary of the Subject Property. Development is moving in the direction of the instant tract, and surrounds it already on 3 sides.

■ *NRCS estimated soil classifications (not site-specific) - Pages 10-17*

This general data is a starting point in determining farmability of area soils. As the aerial shows, there are no crop circles or irrigated fields in the color photo on or near the Subject Property. It appears there is one possibly irrigated field to the north near Highcroft Road, but it is not well defined or well irrigated.

The remainder of the packet sheets through page 17 are intended to provide soil classification data used by NRCS. These are general, and not as reliable as the site-specific analysis provided by the CES scientists in Exhibit 3.

The County 1-Mile Packet (Exhibit 37), read together, provides detailed and site-specific data to yield the following conclusions about existing land use patterns:

► *No commercial farming is conducted on the east side of the ravine within the 1 mile radius of the Subject Property.*
► *Soils on the east side of the ravine are not predominantly Class VI or better, so agricultural use is not likely to be viable in the future.*
► *Tax deferral maps show the nearest commercial agricultural land use is approximately 1/3 mile away, and that is across the ravine.*
► *Tract sizes have already been divided below EFU minimums to make farming impracticable, with the exception of Oregon State Parks Recreation Department tracts which are reserved for recreational use.*
► *Most EFU parcels near the Subject Property have developed with conditional uses (not traditional agricultural uses)*
► *Development since 1985 around the Subject Property on three sides has been residential development, not agricultural development, indicating a trend going forward.*

Technological and Energy Inputs Required

The CES Survey Report (Exhibit 3) analyzes this factor on Page 6-7. The scientific analysis concludes "[t]here is nothing that has been revealed during the course of this investigation that would suggest there is any technological or energy-related reason to retain the subject property in an agricultural classification." It is reasonable to conclude that this factor does not indicate the Subject Property is properly agricultural land.

Accepted Farming Practices

The Deschutes County 1-Mile Packet includes a table of "Common Farm Practices" used within the entire County (Exhibit 37, Pages 18-21). The practices listed are mostly not feasible on the Subject Property, due to soils, rocks, topography, and short growing season, according to the CES Analysis (Exhibit 3). The remainder

would not be profitable, per CES. Potential for conflicts is also analyzed by CES, and the report concludes on Page 7 that "[s]ince the Site is surrounded by parcels that are not managed for farm use and there does not appear to be any recent history of farm use, the re-zoning of this parcel is not likely to represent any significant increase in the potential for conflicts with accepted agricultural practices.

This detailed analysis of the factors identified in both the Goal and the related OAR indicate that this tract does not qualify as Agricultural Land.

The OAR goes on to identify additional factors that may contribute to a tract qualifying as 'Agricultural Land.'

> ***(A) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands**.*

Analysis of this factor requires identifying 'adjacent or nearby agricultural lands.' In summary, based on the Exhibit 37 1-Mile Packet Data discussed above, there are none on the eastern side of the ravine within one mile of the Subject Property. On the western side of the ravine, there appears to be one 17 acre parcel in tax deferral and zoned EFU, but it's 1/3 mile away in aerial distance (Exhibit 38) and the ravine is not crossable by a motor vehicle in the area, since the ravine is very deep and there are no public bridges in the area between the Subject Property and the EFU lot. The nearest route would require travelling north on O.B. Riley Road to a bridge which intersects with Johnson Road, travelling southwest to the 17 acre parcel. This is a distance of approximately 2.5 miles. See Exhibit 40, incorporated by this reference.

Applied to the language of the rule above, "adjacent or nearby" does not identify any qualified farm parcels that meet this definition. If there are no 'adjacent or nearby' agricultural lands, it is logical to conclude this land is not "necessary to permit farm practices" on such lands.

> ***(b) Land in capability classes other than... I-VI that is adjacent to or intermingled with lands in capability classes... I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed....***

This factor similarly requires identification of qualifying categories to perform the analysis required. The Subject Property contains Class VI, VII, and VIII soils, though the VII and VIII soils are predominant (Exhibit 3). 'Adjacent or intermingled Class I-VI soils' do exist on the Subject Property, but are so erratically interspersed and difficult to irrigate as to be unfarmable. As noted in the Ferguson Affidavit and discussed below, it has been tried. See Figure 4, Site Specific Soils Map, within Exhibit 3. See Page 4, last paragraph, Discussion of Observations and Results. 'Of the 62.87 acres evaluated, 21.52 acres or 34.2 percent are represented by Deskamp (Class VI) soils, in 14 irregularly shaped delineations ranging in size from 0.12 to 4.14 acres.'

The Deskamp soil is included in the area that Ferguson tried to irrigate for pasture production. See Exhibit 25. He was unsuccessful, despite use of two pivots covering 28 acres of the 'only real area with enough soil to support pasture." He notes in his affidavit that the "uneven nature of the land and rock outcropping's [sic] caused the pivot to frequently get out of line and would automatically shut down. Even where irrigation covered the ground not enough grass grew to support the herd. The soil was just too thin and would support only one or two animals. We ended the agreement after a month or so because it was obvious to both of us that the 62 acres wouldn't grow enough to support grazing.' The Ferguson affidavit packet includes the Lease Agreement, evidence of lease payment, and liability insurance on the Subject Property (last address listed on Policy Declaration sheet).

The "adjacent or intermingled" factor has been carefully analyzed by the CES scientists and found to be so interspersed as to be unfarmable. The reality of the Subject Property has been tested by Ferguson, and his

conclusions align with the CES Site-Specific Soil Survey Report. It is reasonable to conclude that even with approximately 35% of the soil qualifying as Class VI, it is so far apart and in such small sections and mixed with such uneven topography and rock as to make it not suitable as Agricultural Land.

All factors identified as possible qualifiers for Agricultural Land have been analyzed carefully and evidence - has been introduced into the Record to prove that the Subject Property does not qualify as Agricultural Land as defined in the Goal and the applicable administrative rule.

B. Need for an Exception to Goal 3

Applicant's original Burden of Proof Statement, submitted on May 27, 2022, analyzes the need for a Goal 3 Exception on Pages 18-20. That reasoning still applies. Recent caselaw has broadened the definition of 'Agricultural Land.' Applicant has addressed the new interpretation in the analysis above, proving that even under the new standards, the Subject Property does not meet the legal definition of 'Agricultural Land.'

Because the Subject Property is not legally 'Agricultural Land,' the regulatory nature of Goal 3 does not apply the Subject Property. As a result, no exception to it is required."

*[**End of Applicant's March 19, 2024 Goal 3 quoted materia**l]*

As noted earlier in the findings for Goal 3 the Hearings Officer found the Applicant's site-specific soil study (Applicant Exhibit 3) to be credible and persuasive. The Hearings Officer found that the Subject Property soils were predominately Class VII and VIII.

The Hearings Officer next addresses the OAR 660-033-0020(1)(a)(B) factors:

* soil fertility,
* suitability for grazing,
* climatic conditions,
* existing and future availability of water for farm irrigation purposes,
* existing land use patterns, technological and energy inputs required and accepted farming practices).

The Hearings Officer, relying upon Applicant's site-specific soil study and the quoted comments above, finds that the Subject Property does not have sufficient soil fertility to qualify as "agricultural land."

The Hearings Officer notes that the Applicant's site-specific soil study evaluated the "suitability for grazing" factor. Further, Applicant included a statement by individuals who attempted to graze 12 head of cattle on the Subject Property during a summer season. These individuals utilized irrigation water. These individuals abandoned the grazing use of the Subject Property after only one month concluding that the Subject Property was not economically feasible to use for grazing. (See Applicant's Exhibit 25, pages 1 – 2). There is no evidence in the record indicating that the Subject Property is "agricultural land" for "grazing of livestock." The Hearings Officer finds, based upon Applicant's site-specific soil study grazing analysis and the statement by individuals who attempted to use the Subject Property for grazing, that the Subject Property is not "suitable for grazing."

The Hearings Officer finds consideration of "climatic conditions," as an independent "agricultural land" review factor, to be challenging. Generally, the climate for Deschutes County, is relatively dry and allows for a short growing season. No evidence is in the record to suggest that the Subject Property is located in a micro-climate area which distinguishes the Subject Property location from the Deschutes County climate as a whole. The Hearings Officer finds that "climatic conditions" (relatively little rainfall and short growing season) suggest the

Subject Property could possibly be "agricultural land" depending upon other OAR 660-033-0020(1)(a)(B) factors. However, the Hearings Officer finds that "climatic conditions," standing alone, is not a determinative independent factor leading to a conclusion that the Subject Property is "agricultural land."

The Hearings Officer finds irrigation rights do exist at the Subject Property (Applicant admission, March 19, 2024, page 6). The Hearings Officer finds that the existence of water for farm irrigation purposes at the Subject Property is suggestive that the Subject Property is "agricultural land." However, similar to the Hearings Officer's findings related to "climatic conditions," the Hearings Officer finds that the availability of water for farm purposes at the Subject Property, standing alone, is not determinative that the Subject Property is "agricultural land."

The individuals who attempted to farm the Subject Property utilizing irrigation water concluded, after one month, "grazing livestock," even with irrigation water, was not feasible. Those individuals commented (Applicant Exhibit 25, letter dated June 25, 2022) that irrigation water failed to enhance the soils at the Subject Property sufficiently to profitably farm because of the "uneven nature of the land" and the "existence of rock outcroppings." Those individuals stated that the "soil was just too thin and would only support one or two animals." The Hearings Officer finds that the site-specific soil study (Applicant Exhibit 3) and letter (Applicant Exhibit 25, letter dated June 25, 2022) from the above-referenced individuals constitute substantial evidence that the Subject Property is not suitable for grazing even with the existence of water for farm irrigation purposes.

Applicant (quoted comments above) provided a thorough inventory and analysis of existing land use patterns in the vicinity of the Subject Property. The Hearings Officer finds the Applicant's inventory and analysis of existing land use patterns to be credible and constitutes substantial and persuasive evidence relating to the OAR 660-033-0020(1)(a)(B) "existing land use patterns" factor. The Hearings Officer concurs with Applicant's summary of land use patterns in the vicinity of the Subject Property (March 19, 2024, page 8). The Hearings Officer finds existing land use patterns in the vicinity of the Subject Property suggest that the Subject Property is not "agricultural land."

The Hearings Officer agrees with Applicant's above-quoted discussion and conclusion that there is nothing in the record to suggest that additional, alternative or supplementary technology or energy related inputs would improve the prospects for the Subject Property to be considered "agricultural land." The Hearings Officer finds, based upon the record of this case, that additional technology or energy inputs would not make up for the poor quality of soil and the topographical limitations existing at the Subject Property.

Applicant's site-specific soil study discussed "accepted farming practices" at the Subject Property. Applicant's site-specific soil study concluded that utilizing "accepted farming practices" would not offset the poor soil quality, rocks, topography and short growing season at the Subject Property. The Hearings Officer also takes note of the letter from the only individuals who did attempt to farm (Applicant Exhibit 25, letter dated June 25, 2022). These individuals concluded that grazing livestock, even utilizing the irrigation water rights, was not economically viable. The Hearings Officer finds, based upon the evidence in the record, that the Subject Property is not "agricultural land" based upon a review of the OAR 660-033-0020(1)(a)(B) factors.

OAR 660-033-0020(1)(a)(C) requires analysis of the Subject Property in the context of adjacent and nearby properties. Applicant, in the above-quoted comments, addressed this factor/standard. The Hearings Officer finds no adjacent properties being farmed (used as "agricultural land"). Applicant did note (April 2, 2024, page 6) the following:

> *"There are 3 other parcels zoned EFU on the same side of the Deschutes River ravine as the subject property. The two to the north, TLs 102 and 103 belonging to Kaufman and Burke respectively, are not in farm-deferral, are both less than 20 acres (23 acres is the minimum EFU-TRB zoned tract to allow profitable agricultural use) and are not farmed. The tract to the south, TL 502, was traded by Deschutes County to the Oregon State Parks and Recreation Department. It is part of a contiguous tract bordering the Deschutes River ravine. It is not*

farmed or cultivated in any way. None of the parcels west of the ravine are in farm deferral for 1600 feet, or approximately 1/3 mile. It is reasonable to conclude that no tracts within 1 mile of the Subject Property on the east side of the Deschutes River ravine are zone EFU and actually being farmed."

Based upon the record in this case the Hearings Officer finds that the Subject Property is not necessary to permit farm practices to be undertaken or maintained on adjacent or nearby agricultural lands; there simply are no adjacent farm uses or adjacent "agricultural lands." The Hearings Officer also finds that there is no evidence in the record suggesting that a nearby farm use would benefit from the "agricultural use" of the Subject Property; including, but not limited to, providing additional feed resources to the Subject Property or the use of the Subject Property to locate storage or maintenance facilities for the nearby properties.

Finally, the Hearings Officer addresses COLW's "alternative farm uses" argument (February 27, 2024, pages 2 – 3 and March 26, 2024, page 3). The Hearings Officer believes, as suggested by COLW, that consideration of ORS 215.203(2)(a) is a good analysis starting point. ORS 215.203(2)(a) lists/defines "farm use" to include significant number of farm related activities including (COLW listed many of these potential farm uses as alternative uses at the Subject Property):

* poultry,
* lambs,
* mules,
* donkeys,
* fur-bearing animals,
* honeybees,
* eggs,
* hogs,
* pigs,
* dairying,
* other horticultural uses,
* animal husbandry,
* preparation, storage and disposal products raised on such land,
* stabling or training equines,
* propagation, cultivation, harvesting of aquatic, bird and animal species under the jurisdiction of the State Fish and Wildlife Commission,
* the on-site construction and maintenance of equipment and facilities used for farm use activities.

This Hearings Officer does not believe every listed "farm use" in ORS 215.203(2)(a) needs to be individually/independently analyzed as part of every Goal 3 "agricultural land" determination process. The Hearings Officer finds it is unnecessary for the Applicant to demonstrate (provide documentation and analysis) that the Subject Property is not "agricultural land" because it is not feasible to use the property, for example, to use that property as a dairy or for the propagation and harvest of aquatic species. The Hearings Officer finds that requiring every listed OAR 215.203(2)(a) potential farm use to be analyzed in every case does not represent the spirit and intention of ORS 215.203 or associated OAR's. The Hearings Officer finds that the goal of ORS 215.213 and associated OAR's is to thoughtfully consider what a reasonable farmer would consider when assessing a particular property's ability to be profitably farmed.

The Hearings Officer finds that there are common agricultural uses in every geographical area of Oregon and that the viability of a specific farm use of any property is dependent upon the factors set forth in OAR 660-033-0020. The Hearings Officer believes that a reasonable farmer is going to consider such factors as soils, topography, orientation to the sun, transportation access and water access when assessing potential farm uses of a particular

property. The Hearings Officer does not, however, believe a reasonable farmer would take the list of potential farm uses set forth in ORS 215.203(2)(a) and pragmatically consider the pros and cons of every one of those activities on a particular Deschutes County property. The reasonable farmer may consider one or more use not listed in ORS 215.203(2)(a) or fewer uses depending on the site characteristics of a particular property.

LUBA, in *Friends of the Creek v. Jackson County*, 36 Or LUBA 562 (1999) stated "we do not believe the legislature intended, by requiring that the land be currently employed 'for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops,' to require an inquiry into the primary actual motivation of particular land owners." (See also *Cox v. Polk County*, 39 Or LUBA 1 (2000)). LUBA concluded, in the *710 Properties Decision*, that the appropriate test is "whether a reasonable farm would be motivated to put the land to agricultural use, for the primary purpose of obtaining a profit in money."

The Hearings Officer finds the "objective" reasonable farmer approach is relevant in the context of answering the question: How does a reasonable farmer analyze what potential farm uses are to be considered for a particular property? The Hearings Officer finds that what use a reasonable farmer would make of the Subject Property is best demonstrated by historical use of that particular property, the historical uses of nearby and adjacent properties and general farming trends in the area.

COLW (February 27, 2024, page 2) argues that many of the ORS 215.203(2)(a) listed farm uses "are not dependent on any particular soil type" and therefore those uses need to be considered. Again, the Hearings Officer believes the LUBA findings related to the "reasonable farmer" standard would infuse some level of common sense into the ORS 215.203(2)(a) and OAR 660-033-0020 "agricultural land" analysis. It is conceivable and possible, for example, that a honeybee farmer or grape grower might find a particular property located in central Oregon to be appropriate for honeybee/grape farming. However, as a practical matter how long does a property owner have to wait for a honeybee or grape farmer to "discover" a particular property? Evidence in the record shows that only one farmer attempted to use the Subject Property as "agricultural land;" that was in 2012 for one month. There is no evidence that a honeybee farmer, wine grower, or any other person/entity desiring to make use of the Subject Property for any ORS 215.203(2)(a) use ever expressed interest in farming the Subject Property beyond the 2012 livestock grazing user.

The Hearings Officer finds that the Applicant in this case was not required to consider all uses listed in ORS 215.203 (2)(a) or by COLW. Rather, the Hearings Officer finds that the Applicant is required to consider only uses that a "reasonable farmer" for the Subject Property would consider in light of the OAR 660-033-0020(1)(a)(B) factors. The Hearings Officer does not believe that the Applicant in this case is obligated to independently/individually analyze and assess each and every one of the ORS 215.203 (2)(a) or COLW listed possible uses.

The Hearings Officer finds it is important to note that OAR 660-033-0021(1)(a)(B) does list one "farm use" that is required to be considered; "livestock grazing." The Hearings Officer finds that "livestock grazing" is a farm use that must be considered during each and every "agricultural land" analysis. Further, the Hearings Officer finds that "livestock grazing" is a farm use that is common in Deschutes County. The Hearings Officer finds "livestock grazing" to be a use that a reasonable farmer might consider at the Subject Property. The Hearings Officer finds, in this case, the Applicant provided persuasive evidence that a reasonable farmer would not consider "livestock grazing" to be a "farm use" that would be entered into for the primary purpose of obtaining a profit in money.

The Hearings Officer, based upon the Preliminary Findings, the evidence and argument in the record, concludes that the Subject Property is not "agricultural land" and no Goal 3 exception is required.

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 Hearings Officer incorporates the findings for DCCP Policies 2.2.3 and 2.7 as additional findings for this section. The Hearings Officer reiterates that this recommendation relates only to Applicant's request for a comprehensive plan designation change and a zone change; not to any specific development proposal.

The Hearings Officer notes a parcel of land to the west of the Subject Property has been removed from the proposal in this case. The removed parcel fronts the Deschutes River with a trail running along the river in this location. The removal of the parcel reduces potential Goal 5 related impacts (I.e., scenic views and trail interference) that could potentially be created by approval of the application in this case.

The Hearings Officer finds that the proposed comprehensive plan designation and zone are consistent with preservation of open space, as well as protection of both uses and views of the Deschutes River, while recognizing that the true "highest and best use" of the Class VII and VIII land is not farmland.

Goal 6, Air, Water and Land Resources Quality. To maintain and improve the quality of the air, water and land resources of the state.

RESPONSE: As specified in Goal 6, the Plan buffers potential residential uses allowed in the MUA zone from residential uses. The proposal is consistent with Goal 6 because it will not result in any adverse impact on air or water quality and land resources.

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

RESPONSE: Statewide Planning Goal 7 focuses on natural hazard areas and accommodations needed for them. In Central Oregon, these are most likely wildfires and steep slopes. Deschutes County has devoted planning to both. On the Subject Property, the rimrock issue is relevant. Construction along rimrock is protected with setbacks and no construction is allowed in this area. This Goal has been considered, and future development must be planned accordingly.

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: The Deschutes River is located to the west of the Subject Property. The river has carved a deep canyon into this portion of the County, creating steep rimrock ledges. Future development must be located back and away from the rim, allowing the river and riverbanks to be preserved in their natural state, without visual infringement by private homes.

A dedication to the Oregon State Game Commission for foot travel "adjacent to the east side of the Deschutes River and between said trail and the center of the Deschutes River" has been defined and perpetually protected through a dedication by Ronald Cochran, member manager of Applicant. See Exhibit 6, including both the 2017-37794 surveyed dedication of trail easement, and the 1957 prior dedication. Dedications to OPRD, provides more recreational benefit to Oregon's citizens, and allows more recreational access to the river without reducing the visual enjoyment of this resource as a recreational center of the County. The application is consistent with this Goal.

Goal 9, Economy of the State. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

RESPONSE: The proposal is consistent with Goal 9 because it will not adversely impact economic activities in the state. Deschutes County development does not generally involve economic development and the commercial and industrial development at its core, but it can, with a little vision. Applicant, in its Burden of Proof, addressed these concerns in the following comments:

> *"Economic stability is central to this Goal. Trend analysis shows the City of Bend is growing quickly and the current urban area reserve is immediately south and east of the subject property. This is a factor somewhat unique to this County site. It is foreseeable that future Bend UGB expansion will include the subject property. It is currently approximately 1500 feet from the SE comer of the subject property, and the Urban Reserve Area is on the southern property line of the subject property. The property is not comprised of "agricultural land", so rezoning to MUA-10 is a logical transition of classification of use. Further, by arranging the homesites in a "T" formation, future development may fill around the homesites as urban needs for density dictate. This form of transition lends predictability, and so stability to land use patterns in keeping with concerns of Goal 9.*
>
> *Goal 9 implementation requires that plans should take such regional conditions into account. Coordinating regional and local economic plans and programs is an essential part of good governance, as applied to land use decisions on a case-by-case basis. In this instance, where the EFU zoning designation is error now that soil classifications are known, a transition to non-resource designation is good economic planning as envisioned by Statewide Planning Goal 9."*

The Hearings Officer concurs with the above-quoted Applicant comments.

> **Goal 10, Housing. To provide for the housing needs of citizens of the state.**

RESPONSE: Like Goal 9, Deschutes County does not traditionally focus on Goal 10 Housing. However, there are facets of the goal that merit consideration while considering this Application. Applicant, in its Burden of Proof, provided the following comments:

> *"Buildable lands for residential use are a particular concern in these times of housing shortages. This proposal will provide 14 new homesites on land that is currently underutilized because it is improperly zoned. Deschutes County's Board of County Commissioners and Planning Commission have devoted time and resources to the search for more buildable lands. This application is an example of using critical thinking to identify mis-zoned properties that can be opened up for residential use."*

The Hearings Officer concurs with the above-quoted Applicant comments.

> **Goal 11, Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**

RESPONSE: The proposal is consistent with Goal 11 because the proposed plan amendment and zone change will have little impact upon the provision of public facilities and services to the subject property. As a rural development pattern, Avion Water Co. and septic systems will serve the parcels proposed under the MUA zone; consistent with rural lands.

When City of Bend urban density demands reach the Subject Property, transition will be customary to provide public facilities and services at that time.

> **Goal 12, Transportation. To provide and encourage a safe, convenient and economic transportation system.**

RESPONSE: Deschutes County's Transportation System Plan, incorporated into the Comprehensive Plan and adopted as Exhibit C to it, is part of the acknowledged County Plan. The proposal is consistent with that plan, complying with County Level of Service standard D. The proposal is compliant with the TPR as well, and therefore is also consistent with Goal 12 as demonstrated by the attached, professionally prepared Transportation Analysis. See Exhibit 4.

Goal 13, Energy Conservation. To conserve energy.

RESPONSE: No known sources of non-renewable energy exist on the Subject Property. Any proposed development, under the MUA zone will be required to address energy conservation strategies. The proposal is consistent with this goal because it will have no negative impact on energy use or conservation.

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: The Hearings Officer incorporates the Preliminary Findings related to Goal 14 (III.A.4 – **Oregon Statewide Planning Goal 14**) and the Division 15, Statewide Planning Goals and Guidelines findings related to Goal 14. Further, the Hearings Officer also finds the following Staff (Staff Report, page 37) comments to be credible and persuasive and adopts these Applicant statements as additional findings for this section.

"Like Goals 9 and 10, this Goal doesn't traditionally utilize significant portions of County Planning resources. And like Goals 9 and 10, population growth in the County and the cities within it, is changing that focus. Portland State University's (PSU) Oregon Population Forecast Program provided its latest datum in March, 2022. That forecast predicted a continued annual growth rate of l-zyo, in contrast to the national Average Annual Growth Rate ("AAGR") which has been generally declining since 1980. Deschutes County's population in 2022 is 207,921, at a growth rate of 2.2%. Using conservative growth rates, Deschutes County's 2050 forecast population is 308,894, over 100,000 its current population, and almost double what it is now.

Bend's population is also forecast to grow, despite shrinking nationwide trends. Bend's 2022 population is calculated to be 106,062. In 2047, it is conservatively forecast to have 164,835 people, over half again as many as it has today. Bend is now 51% of Deschutes County's population. In 2047, it will be 55.1%.

Forecasting housing needs, both Bend and Deschutes County will need more housing. Because this property is approximately 1500 feet from the northeast edge of Bend's UGB and right on the boundary of Bend's URA, it's likely to be part of Deschutes County's growth in the immediate future, then part of Bend's growth after the next legislative UGB expansion. Either way, it's much needed based on the PSU forecasts.

Statewide Planning Goal 14 focuses not only on housing supply, but also "an orderly and efficient transition from rural to urban. . . ." This site's optimal location, just outside of Bend's current urban boundary, makes it an excellent candidate for rezoning, particularly where we now know the soil is not suitable for farming. It's not really "agricultural land." It is properly exception land, ideally developed in a less sprawled configuration in preparation for a more dense housing pattern in the future. These factors make it an excellent candidate for planned development in MUA-10 zoning.

This proposal meets the needs set out in Statewide Planning Goal 14. In summary, the proposal is consistent with Goal 14 for the following reasons:

1. *The proposal does support a likely, though not certain, eventual transition from rural to urban land use that responds to identified needed lands;*
2. *The proposal represents an orderly growth pattern that eventually will efficiently enhance and utilize public facilities and services;*
3. *The proposal will ultimately result in the maximum efficiency of land uses on the fringe of the existing urban area;*
4. *The subject property has been found to be not predominantly agricultural land as defined in OAR 660-033-0020; and*
5. *The proposal will promote compatibility with surrounding urban uses and will not adversely impact any nearby commercial agricultural uses because there are none.*

The Applicant's responses demonstrate compliance with the applicable Goals."

The Hearings Officer finds Goal 14 has been satisfactorily addressed by Applicant and that the Applicant's proposal is consistent with Goal 14 and no exception is required/necessary.

Division 33 - Goal 3 - Agricultural Lands

OAR 660-015-0000, Purpose Statewide Planning Goals and Guidelines #1 through #14

(3) To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:
(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon[12];

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section.

[12] OAR 660-033-0020(5): *"Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.*

The Applicant's basis for not requesting an exception to Goal 3 is that the Subject Property is not "agricultural land." The Hearings Officer concurred with Applicant that the Subject Property is not "agricultural land."

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

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section. While the Applicant did not provide a specific response to this subsection of OAR 660-033-0020 the Applicant did provide a listing of nearby and adjacent lands in the context of uses made of those lands. There is no evidence in the record of this case indicating that the Subject Property was used along with or intermingled as a farm unit with any adjacent or nearby land. The Hearings Officer finds that the Subject Property is **not** intermingled with lands in capability classes I – VI as a "farm unit."

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

FINDING: The Subject Property is not within an acknowledged urban growth boundary or land within acknowledged exception areas for Goals 3 or 4.

<u>OAR 660-033-0030, Identifying Agricultural Land</u>

(1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section.

(5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land.

However, the more detailed soils data shall be related to the NRCS land capability classification system.

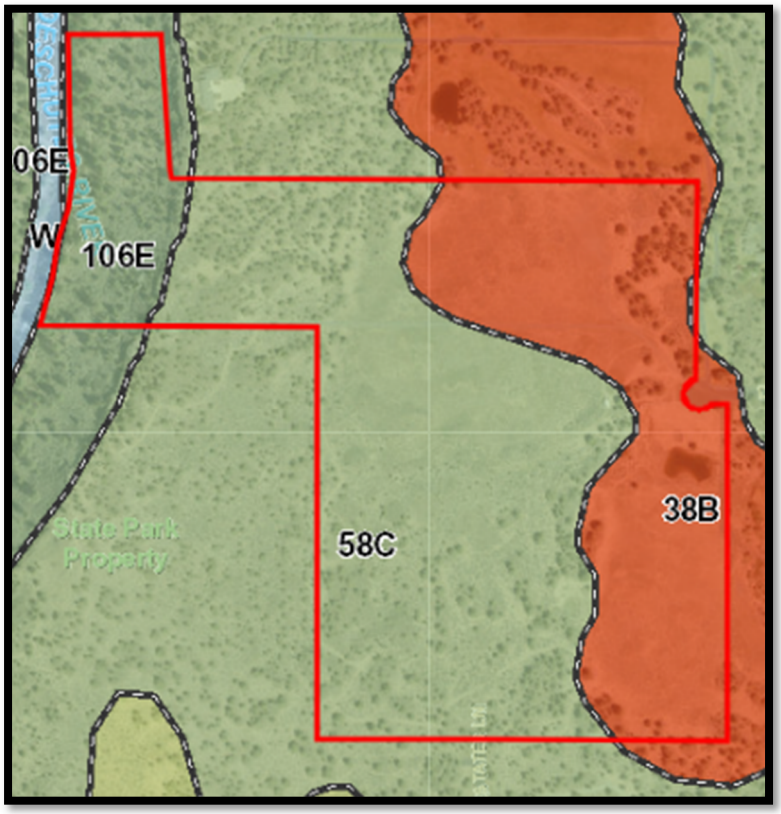
(b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section. The Hearings Officer also finds the Staff Report statements/comments/maps below are credible and relevant to this section. The Hearings Officer incorporates the following Staff (Staff Report, page 44) statements/comments/maps as additional findings for this section:

"The soil study prepared by Brian T. Rabe, CPSS, WWS of Cascade Earth Sciences, provides more detailed soils information than contained in the NRCS Web Soil Survey. NRCS sources provide general soils data for large units of land. The soil study provides detailed and accurate information about individual parcels based on numerous soil samples taken from the subject property. The soil study is related to the NCRS Land Capability Classification ("LLC") system that classifies soils class I through VIII. An LCC rating is assigned to each soil type based on rules provided by the NRCS.

The NRCS mapping for the subject property is shown below in Figure 2. According to the NRCS Web Soil Survey tool, the subject property contains +/- 31 percent 38B soils, +-58 percent 58C soils, and +/- 11 percent 106E soils.

Figure 2 – NRCS Soil Mapping for Subject Property



The soil study finds the soil types on the subject property vary from the NRCS identified soil types. Staff notes the soil study was prepared before the most recent property line adjustment. For this reason, the study area doesn't include the northwestern corner of the property (+/-3 acres). Nevertheless, the topography of this area appears to match the area directly south[13], which Mr. Rabe classified as "rock outcrop – major" with a Class VIII rating in the soil study. Given the similarities of the terrain shown in the Applicant's topographical map, staff believes it is reasonable to presume this area does not need further review as part of an amended soil study.

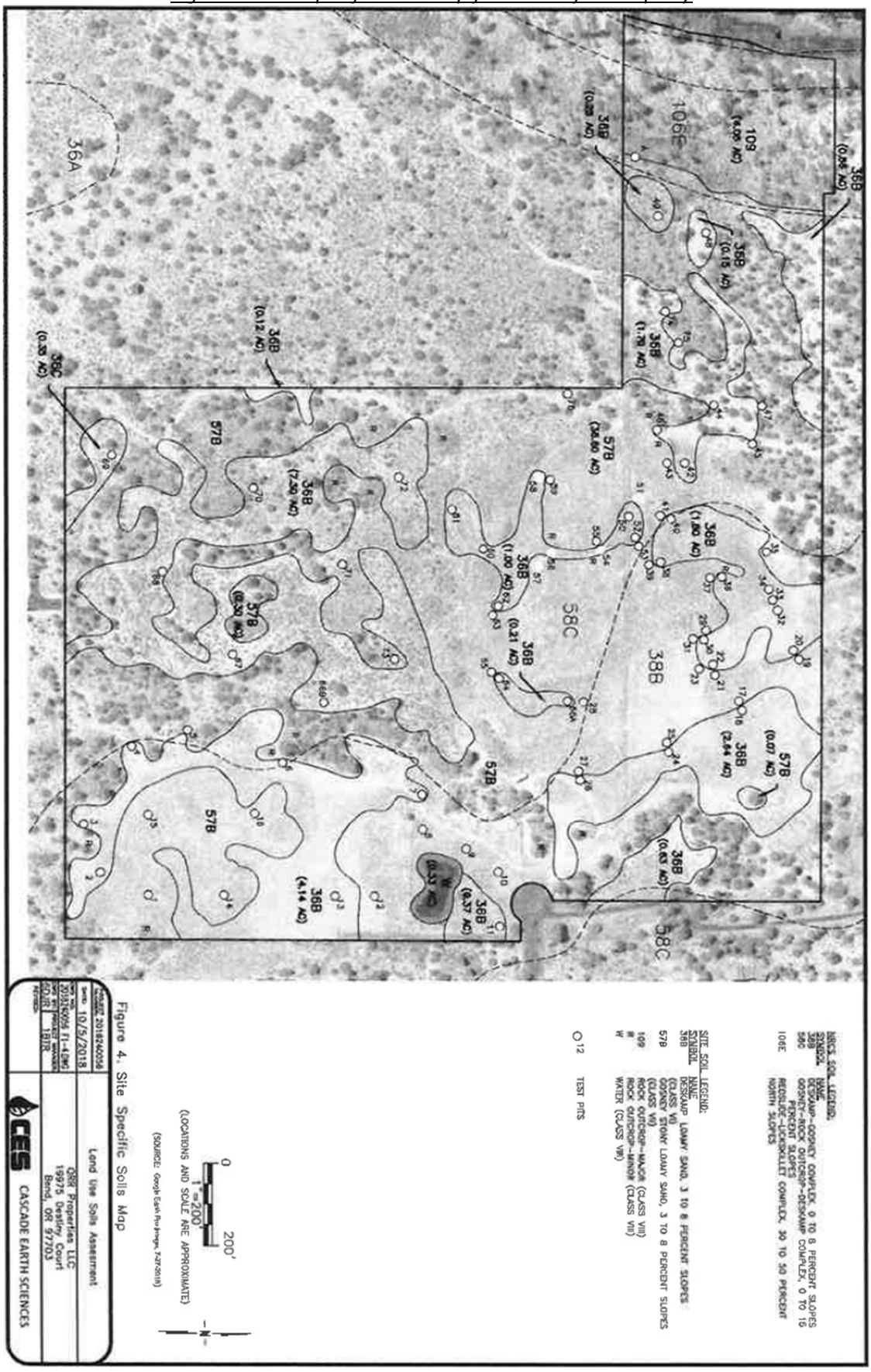
The soil types described in the soil study are shown below as Figure 3. Additionally, the Summary and Conclusions sections of the soil study states:

> *'The purpose of this report is to present the results of an assessment to verify and, where necessary, refine the soils, map units, and boundaries mapped on the Site and to determine whether the soils on the Site meet the land capability classification criteria for a non-resource zoning designation. The published soil survey information was reviewed and direct observations of soil conditions were made at representative locations across the Site. CES has determined that the information from the published soil survey was generally consistent with observations on the ground with boundary refinements limited to delineating components of the complexes mapped by the NRCS. CES has determined that 41.35 acres or 65.8 percent, of the Site consists of Class VII and Class VIII soils. Since the Site is predominantly Class VII and Class VIII soils and does not otherwise meet the criteria for further consideration as agricultural land, the Site meets the soils criteria for consideration of a non-resource zoning designation.'*

The soil study concludes that 65.8% of +/-63 acres of the subject property consists of Class VII and Class VIII soils. As noted above, staff believes it is reasonable to assume the northwestern corner of the property is also comprised of Class VII and Class VIII soils, which potentially increases the percentage of Class VII and Class VIII soils to 66.6%. The submitted soil study is accompanied in the submitted application materials by correspondence from DLCD. The DLCD correspondence confirms that the soil study is complete and consistent with the reporting requirements for agricultural soils capability as dictated by DLCD. Based on Mr. Rabe's qualifications as a certified Soil Scientist and Soil Classifier, staff finds the submitted soil study to be definitive and accurate in terms of site-specific soil information for the subject property.

[13] Ref. *Figure 1* above.

Figure 3 – Site Specific Soils Map for the Subject Property



(c) This section and OAR 660-033-0045 apply to:

(A) A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and

FINDING: The Hearings Officer incorporates the Preliminary Findings related to Goal 3 (III.A.5 – **Oregon Statewide Planning Goal 3**) and *710 Properties Decision* (III.A.7. – ***710 Properties Decision***) as additional findings for this Goal 3 section. The Hearings Officer also incorporates the findings for **Deschutes County Comprehensive Plan ("DCCP"), Chapter 2, Resource Management,** Section 2.2, Agricultural Lands as additional findings for this section. The Applicant requested approval of a non-resource plan designation on the basis that the Subject Property is not defined as agricultural land. In prior findings the Hearings Officer concluded, based upon the evidence in the record, that the Subject Property is not "agricultural land."

(d) This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.

FINDING: The Applicant submitted a soil study dated December 19, 2018. The soils study was submitted following the ORS 215.211 effective date. The Applicant also submitted acknowledgement from Hilary Foote, Farm/Forest Specialist with the DLCD, dated November 14, 2022, that the soil study is complete and consistent with DLCD's reporting requirements. The Hearings Officer finds this criterion to be met based on the submitted soil study and confirmation of completeness and consistency from DLCD.

(e) This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.

FINDING: The Applicant has provided a DLCD certified soil study as well as NRCS soil data. The Hearings Officer finds the Applicant has demonstrated compliance with this provision.

IV. CONCLUSION & RECOMMENDATION

The Hearings Officer finds that the application to change the Comprehensive Plan designation from AG to RREA and Zoning for the Subject Property from EFU to MUA complies with all relevant approval criteria. The Hearings Officer recommends approval of the Applicant's requested Comprehensive Plan and Zone change requests.

DESCHUTES COUNTY HEARINGS OFFICER

Gregory J. Frank

Gregory J. Frank
Deschutes County Hearings Officer

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 8, 2025

SUBJECT: Presentation: Deschutes County Civic Assembly on Youth Homelessness

RECOMMENDED MOTION:
None—presentation only.

BACKGROUND AND POLICY IMPLICATIONS:
This past June, the Board approved a Memorandum of Understanding with Healthy Democracy to convene a citizens/civic assembly ("Assembly") for the purpose of developing recommendations on how to address youth homelessness in Central Oregon. The Assembly, comprised of 30 Deschutes County residents who were selected by a civic lottery, worked to find common ground and form recommendations on policies and programs which could be implemented to address youth homelessness.

BUDGET IMPACTS:
None

ATTENDANCE:
Josh Burgess, Central Oregon Civic Action Project Director
Erik Kropp, Deputy County Administrator

Deschutes Assembly on Youth Homelessness

Modeling a pragmatic, concrete way to bridge divides in Deschutes County

Quick Facts

Citizens'/Civic Assemblies are a democratic innovation taking root around the world to solve tough policy problems amidst political division. The proposed Assembly in Deschutes County will be a unique democratic exercise that engages a representative sample of everyday residents to tackle the complex issue of youth houselessness.

- **30 Assembly Members**, selected by democratic lottery (sortition), to form a cross-section of the community (based on gender, age, race/ethnicity, and other factors)
- **5 days** of in-depth deliberation in September and October 2024,
- **Robust accessibility measures**, including substantial stipends and expense reimbursements, to make sure *all* Assembly Members can meaningfully participate.
- **In-depth learning phase.** Members hear from all sides of the issue – via written background materials, stories collected from the broader community, and diverse stakeholder and expert presenters.
- **Broad community connections.** Collaboration with a standing Youth Action Board, made up of young people with lived experience, and integration of a tech platform that will enable hundreds more community members to join the conversation.
- **New model for collaborative decision making.** With meticulous deliberative process design and specifically trained small group moderation, Members are empowered with the tools to unlock collaboration and identify common ground solutions.
- **Regional policy impact.** The Assembly will present its recommendations to the Deschutes County Commission and local city councils – all of whom will publicly discuss and consider implementation of the Assembly's recommendations.
- **National media strategy** that proves a *different kind of democracy* is possible amidst a polarized election.

Context

Deschutes County sits at a socio-political crossroads. In many ways it is a microcosm of our country's cultural divides, with its growing tech and recreation industries contrasting with its agricultural and logging roots. Bend is also one of the fastest growing cities in the United States, with a population that has more than doubled since 2000 – and is forecast to do so again in the next 30 years. Accompanying this is the fourth highest cost of living growth rate in the country, and a level of income inequality in the top 12% among all cities nationally in 2022. Central Oregon ranks in the top five rural places nationwide for its rate of families and unaccompanied youth experiencing houselessness. Paired with a major grant from HUD on the same topic, the Assembly will be well-positioned to implement creative solutions to a wicked local challenge.

Partners

This project is a partnership between the Central Oregon Civic Action Project, Democracy Next, Healthy Democracy, and OSU–Cascades. Multiple officials f rom COIC, Deschutes County, and the City of Bend have also pledged t heir s upport f or t he project.

*For more information, visit http://cocap.us/homelessness/#FAQ

Deschutes Civic Assembly on Youth Homelessness

Key Recommendations

October 14, 2024

The following Recommendations were created and prioritized by the Delegates of the 2024 Deschutes Civic Assembly on Youth Homelessness. The Assembly addressed the following question: ***What should our priorities be for building community solutions to prevent and end youth homelessness?***

The Recommendations below were written by the Assembly after more than 30 hours of in-person information gathering and deliberation between Sept. 14 and Oct. 6. Recommendations that achieved supermajority (75%+) support from among all voting Delegates are included in this report. Recommendations with lower levels of support will be included in the project's later comprehensive report. In addition to their primary text, some Recommendations also include additional Rationales and Implementation Notes. With the exception of this explanatory text in italics, this report is composed exclusively of the words of Delegates themselves, with no additions, deletions, or edits by staff.

Official recipients of these Recommendations include the Central Oregon Youth Action Board, Deschutes County, the City of Bend, and the Central Oregon Intergovernmental Council. Representatives of these entities have committed to receiving the results, thoroughly considering them, and issuing a public response. Additional governmental and nongovernmental bodies are expected to receive and consider the Assembly's Recommendations on an unofficial basis. This project was a partnership between the Central Oregon Youth Action Board, the Central Oregon Civic Action Project, the Laboratory for the American Conversation at OSU–Cascades, Healthy Democracy, DemocracyNext, and MIT's Center for Constructive Communication. It was funded by contributions from dozens of local individual donors and foundations – including the Ford Family Foundation, the Roundhouse Foundation, the Wade Family Foundation, and Brooks Resources – as well as by national foundations, including the Rockefeller Foundation, Omidyar Network, and Quadrivium.

Delegates were randomly selected from across Deschutes County, reflecting a microcosm of the county in terms of age, gender, race/ethnicity, geographic location of residence, political party, housing status, and educational attainment. A preliminary demographic profile of the Assembly has previously been released. Healthy Democracy will release a subsequent comprehensive report, which will include a final demographic profile of the Assembly, notes related to Delegate selection, in-room process details, and the rest of the Assembly's work: a prioritized list of Guiding Principles and all Proposed Recommendations that did not receive supermajority support. This comprehensive report, as well as all further communication related to the Assembly, will be posted at cocap.us.

Recommendations in this report were ordered first by their total score, based on:

- *2 points for "Strongly Agree"*
- *1 point for "Somewhat Agree"*
- *0 points for "Neutral / Don't Know"*
- *-1 point for "Disagree"*

In the case of ties, Recommendations were then ordered by their level of agreement ("Strongly Agree" + "Somewhat Agree"), and then by the number of Delegates who marked "Strongly Agree." Note: Recommendation 22 did not achieve 75% agreement from the Assembly, despite receiving a higher total score than Recommendation 23; hence, Recommendation 22 is not included in this report.

Recommendation 1

95% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
16	5	1	0	**37**

Develop programs to help 18-year-olds transition out of the foster care system.

Teach life skills, inform of available resources, assist with finding housing, incorporate work/trade options.

Rationale:

Reduces likeliness of being homeless for 18+ age bracket.

Implementation Notes:

Recommendation 2

95% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
15	6	1	0	**36**

A central hub that would have the following:
-A recreation center that would be run by Bend Parks and Recreation.
-A safe space for at-risk teens.
-Designated space for programs and non-governmental organizations that would allow teens to access benefits at one central location.

Would increase availablity of resources and foster awareness and involvement with the community. Bend Parks and Recreation has an extensive volunteer core that would be a valuable resource to tap into.

Rationale:

Implementation Notes:

Recommendation 3

91% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
16	4	2	0	**36**

Improve foster care system.

The foster care system needs to provide more resources for those exiting the foster care system to access housing, jobs training, and education.

Rationale:

-Youth literally run away from the system.
-There is not help with transitioning out of the system as they age out.
-There is currently no access to life skills training within the system.

Implementation Notes:

The lawsuit settlement from Wyatt B. vs. Kotek in Federal District Court is intended to improve the system.

Recommendation 4

91% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
15	5	2	0	**35**

Schools to follow up on students intentionally who are protected under the McKinney-Vento Act if student is not present in school for 10 days. Follow-up should be on a case-by-case basis.

Rationale:

A school district policy that automatically drops McKinney-Vento students after 10 days of unexcused absence, with no regard for the causes of the absences, the impact of homelessness, or interventions to support attendance, is a serious violation of the McKinney-Vento Act.

Implementation Notes:

1

Recommendation 5

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
16	3	3	0	**35**

Childcare support for families with young children to help break the cycle of poverty.

Creating a Co-Op and utilizing COCC, RPA, and high school students who are studying Early Childhood Education.

Rationale:

Parents can't go to work if they can't leave their small children somewhere safe.

Implementation Notes:

Engage community and community assets, contacting school Early Childhood Education Directors, churches, and city officials.

Recommendation 6

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
14	5	2	0	**33**

Allow overrule to the 10-day-drop rule.

Allow school staff to overrule the 10-day-drop rule on a case-by-case basis.

Rationale:

Implementation Notes:

Recommendation 7

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
14	5	2	1	**32**

Use social media advertisements and posters in public spaces to increase public awareness of available services and indicate who to contact for more information.

Rationale:

Public awareness is lacking.

Implementation Notes:

Recommendation 8

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
13	6	2	0	**32**

Expand public transit in Deschutes County.

Rationale:

Public transportation services help homeless youth.

Implementation Notes:

Recommendation 9

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
15	3	3	1	**32**

Provide permanent and dedicated funding to J Bar J.

The goal is to provide youth homeless services and prevention, including administrative, staff, and marketing funding.

Rationale:

J Bar J is a successful umbrella organization in our area.

Implementation Notes:

Recommendation 10

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
11	8	3	0	**30**

Allow Family Access Network advocates to give hotspots and/or internet access to families with students, and to provide funding for this.

Students can use the internet to do their homework and access services available through the internet.

Rationale:

Students will have equal access and be more likely to stay in school.

Implementation Notes:

Collaborate with internet providers.

Recommendation 11

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
13	5	4	1	**30**

Redefine the Oregon Department of Human Services objective of reunification of families with the goal of incorporating the voice of the youth affected.

Youth should be allowed to have input about their futures and that input should be prioritized.

Rationale:

Family reunification is not always in the best interest of the child.

Implementation Notes:

Recommendation 12

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
11	7	3	0	**29**

Create another civic assembly in the future, dedicated to the housing affordability crisis.

The housing affordability crisis is the core of not only youth homelessness, but a host of other issues in the community, and if not addressed, can render all other efforts moot.

Rationale:

Implementation Notes:

Recommendation 13

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
11	7	3	0	**29**

Vocational schools and/or programs

Currently there are very few, and they are hard to get into or they are designated specifically for adjudicated youth.

Rationale:

Many kids, especially if they are homeless, are not college bound. They need job skills that can transfer to strong wages to help them transition out of homelessness and maintain it.

Implementation Notes:

Recommendation 14

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
10	9	2	1	**28**

Provide education on homelessness and human trafficking, starting as early in the education process as school districts deem appropriate and feasible throughout Deschutes County.

Rationale:

Implementation Notes:

Recommendation 15

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
11	7	3	1	**28**

Provide specified training for adults who interact with unhoused youth to help with identification of youth in need.

This training would be focused on parents, school faculty, officers, Oregon Department of Human Services staff, and others.

Rationale:

This trains those who are most in contact with unhoused youth. This is a good way to educate the public.

Implementation Notes:

Recommendation 16

86% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
10	9	1	2	**27**

Prioritize funding for inpatient psychiatric care for minors.

Deschutes County to prioritize funding and seek healthcare partners, such as St. Charles and Mosaic Medical, to provide local access to inpatient psychiatric care for minors.

Rationale:

There is a lack of inpatient psychiatric care for minors in Central Oregon.

Implementation Notes:

Recommendation 17

82% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
10	8	3	1	**27**

Education requirements in school districts to include mandatory financial literacy and critical thinking education courses.

Options to partner in senior year with finance sector for credit options?

Rationale:

"Prepare the child for the road; not the road for the child." Lowering standards (Senate Bill 744) doesn't improve overall community health in short or long term. This is the preventative measure that helps support what we kept hearing from those who came through the foster care system. Young adults are not prepared and do not have the necessary life skills, especially if they are lacking the family support to provide these transitional buffers.

Implementation Notes:

Recommendation 18

77% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
10	7	4	1	**26**

Social media marketing reaching caregivers, letting them know they can access resources without jeopardizing their families.

Rationale:

Implementation Notes:

Recommendation 19

77% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
10	7	2	2	**25**

Give non-governmental organizations the ability to be flexible with how they spend their funds.

Flexibility in areas not directly related to housing, including personnel, nonpersonnel, and administration, with increased transparency.

Rationale:

Reducing restrictions on funding will allow organizations the freedom to spend funds as they deem to be effective.

Implementation Notes:

Recommendation 20

77% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
9	8	3	2	**24**

Reform local housing policy to serve local community members and foster sustainable growth for all.

Examples: taxes on second or additional properties, tax on non-owner-occupied properties, allow for the creation of tenants' unions, promote rent-to-own programs, restructure incentives to serve residents over developers.

Rationale:

Implementation Notes:

Recommendation 21

77% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
8	9	4	1	**24**

Direct Deschutes County and the Coordinated Homeless Response Office to dedicate funding to partner with J Bar J and other non-governmental organizations to educate the general public about youth homelessness and prevention.

Rationale:

Community awareness leads to more resources.

Implementation Notes:

Recommendation 23

77% Agree

Strongly Agree	*Somewhat Agree*	*Neutral / Don't Know*	*Disagree*	**Total Score**
8	9	3	2	**23**

Create a government mechanism/process/service that would allow the homeless to quickly get government identification, and/or birth certificate, and/or social security card.

Rationale:

Access to identification and/or documentation has been cited as a major barrier to access government services and participate in society, especially for homeless youth.

Implementation Notes:

2024 Deschutes Civic Assembly Demographic Profile (rev. Sept. 13)	**% of Deschutes Population** of All Ages	Aged 16+	Assembly Target (Aug. 1)	Responded to Mailing	**% of All Replies**	Initial (Aug. 1) Selected	**% of All Delegates**	Assembly, Day 1 (Sept. 13)
Age Range								
16–24		10.8%	2–4	6	4.9%	4	13.3%	4
25–34		16.1%	4–6	19	15.4%	5	16.7%	4
35–44		16.6%	4–6	20	16.3%	6	20.0%	4
45–54		15.2%	4–6	25	20.3%	4	13.3%	4
55–64		16.5%	4–6	16	13.0%	5	16.7%	5
65–74		15.6%	4–6	18	14.6%	4	13.3%	5
75+		9.1%	2–4	19	15.4%	2	6.7%	3
County Planning Commission Areas								
Sisters Area	4.5%		2	7	5.7%	2	6.7%	2
Redmond Area	22.6%		6–8	27	22.0%	6	20.0%	7
Tumalo Area	3.7%		2	3	2.4%	2	6.7%	2
Bend Area	59.5%		17–19	72	58.5%	17	56.7%	15
South County Area (La Pine, Sunriver)	9.8%		2–4	14	11.4%	3	10.0%	3
Party Registration								
Democratic Party		28.6%	8–10	63	51.2%	10	33.3%	8
Republican Party		26.8%	7–9	26	21.1%	8	26.7%	7
Another party / Unaffiliated / Not registered		44.6%	12–14	34	27.6%	12	40.0%	14
Housing Status								
Own	70.7%		20–22	86	69.9%	20	66.7%	18
Rent	28.4%		8–10	34	27.6%	8	26.7%	10
Unhoused	0.9%		2	3	2.4%	2	6.7%	1
Gender								
Female	48.5%		14–16	73	59.3%	14	46.7%	13
Male	48.5%		14–16	46	37.4%	14	46.7%	15
Another gender identity	~3%		2	4	3.3%	2	6.7%	1
Race/Ethnicity								
Asian / Pacific Islander	1.2%		1	4	3.3%	1	3.3%	1
Black / African American	0.4%		1	2	1.6%	1	3.3%	1
Hispanic/Latina/e/o/x	8.5%		*0*	1	0.8%	0	0.0%	1
Multiracial	3.8%		1–2	4	3.3%	1	3.3%	2
Native American / Alaska Native	0.5%		1	2	1.6%	1	3.3%	0
White	85.7%		*25–26*	110	89.4%	26	86.7%	24
Educational Attainment								
Some schooling; no diploma		9.0%	2–4	2	1.6%	2	6.7%	1
High school diploma or equivalent		19.7%	5–7	18	14.6%	7	23.3%	6
Some college or Associate's degree		34.0%	9–11	36	29.3%	9	30.0%	10
Bachelor's degree or higher		37.2%	10–12	67	54.5%	12	40.0%	12
Total	100%	100%	30	123	100%	30	100%	29

2024 Deschutes Civic Assembly Demographic Profile (rev. Sept. 13)	**% of All Delegates**
Age Range	
16–24	13.8%
25–34	13.8%
35–44	13.8%
45–54	13.8%
55–64	17.2%
65–74	17.2%
75+	10.3%
County Planning Commission Areas	
Sisters Area	6.9%
Redmond Area	24.1%
Tumalo Area	6.9%
Bend Area	51.7%
South County Area (La Pine, Sunriver)	10.3%
Party Registration	
Democratic Party	27.6%
Republican Party	24.1%
Another party / Unaffiliated / Not registered	48.3%
Housing Status	
Own	62.1%
Rent	34.5%
Unhoused	3.4%
Gender	
Female	44.8%
Male	51.7%
Another gender identity	3.4%
Race/Ethnicity	
Asian / Pacific Islander	3.4%
Black / African American	3.4%
Hispanic/Latina/e/o/x	3.4%
Multiracial	6.9%
Native American / Alaska Native	0.0%
White	82.8%
Educational Attainment	
Some schooling; no diploma	3.4%
High school diploma or equivalent	20.7%
Some college or Associate's degree	34.5%
Bachelor's degree or higher	41.4%
Total	100%

Central Oregon Civic Action Project

DESCHUTES
CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

COCAP | Your seat at the table.

Josh Burgess, Director | josh@demnext.org

What should our priorities for building community solutions to prevent and youth homelessness?

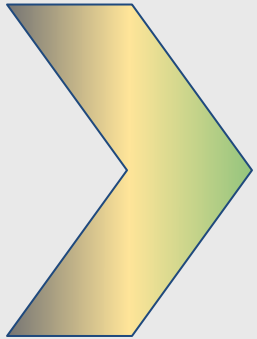
CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

Objectives

Improve Governance Outcomes

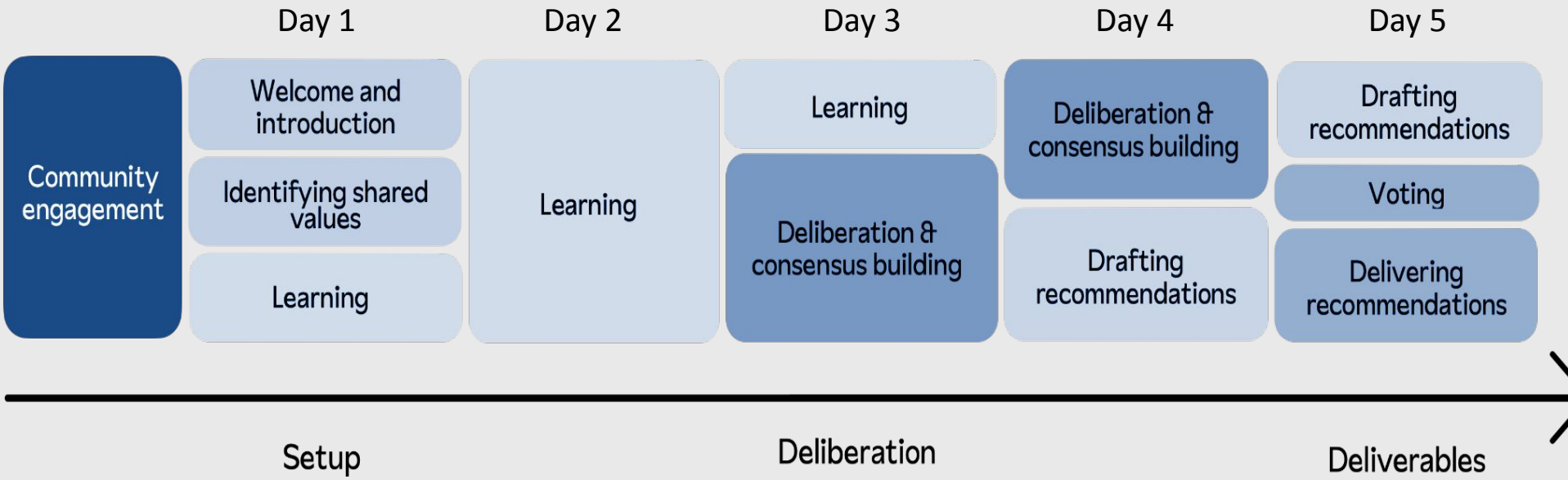
Build Civic Spirit and Capacity

Strengthen Social Fabric



Create a Virtuous Cycle of Trust

Process

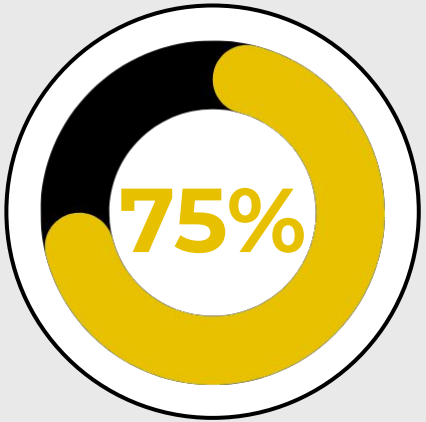

Day 1
Day 2
Day 3
Day 4
Day 5
Community engagement
Welcome and introduction
Identifying shared values
Learning
Learning
Learning
Deliberation & consensus building
Deliberation & consensus building
Drafting recommendations
Drafting recommendations
Voting
Delivering recommendations
Setup
Deliberation
Deliverables

CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

By the numbers

Delegates

Hours of deliberation



Super-majority consensus required

Recommendations

CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

Impact

Delegate Voices

- *"...the words running through my head right now are gratitude and hope. I was really scared coming into this process that I was going to be walking into a room full of people diametrically opposed...the cordiality and the ability for this community to come together is inspiring..."*

- *"...I came into this process a skeptic… thanks for giving me hope..."*

- *“...this is the first time in my life that I ever felt like my voice mattered…”*

- *"I don't speak up very often, but I want you to know it's been an incredible pleasure to be with all of you..."*

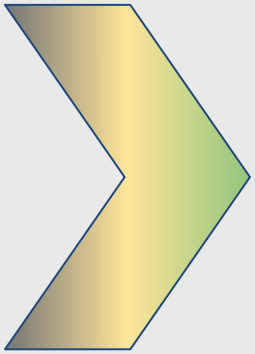
Impact

Final Recommendations

Beyond the scope of local government

Community engagement

Directly or indirectly applicable locally



ADVOCATE

EDUCATE

IMPLEMENT

COCAP | Your seat at the table.

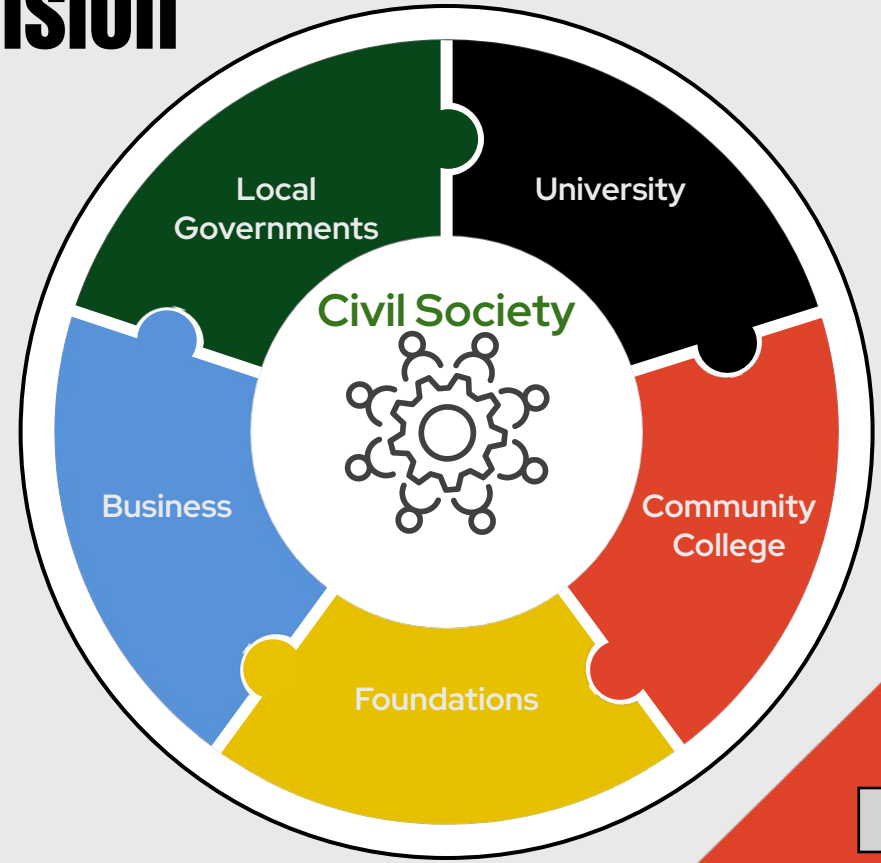
CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

Shared Vision

A future Public Private Partnership

&

Regional Civic Hub for all of Central Oregon



CIVIC ASSEMBLY
ON YOUTH HOMELESSNESS

THANK YOU TO OUR PARTNERS

CITY OF BEND