



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, DECEMBER 4, 2024

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

AGENDA

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

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

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

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

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

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



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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

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

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

CONSENT AGENDA

1. Approval of Resolution No. 2024-055 to add 2.00 regular duration Health Services FTE
2. Acceptance of a grant from the Oregon Health Authority for a Behavioral Health Initiative for Older Adults and authorization to add 1.0 FTE
3. Consideration of Board Signature on letter reappointing Dr. Peter Boehm for service on the Public Health Advisory Board
4. Consideration of Board Signature on letters thanking Nyle Head, and appointing Wil Hansen and Maria McKee, for service on the Panoramic Access Special Road District
5. Consideration of Board Signature on letters thanking Chris McLeod, and appointing Tom Emmons and Walter Dutra, for service on the River Forest Acres Special Road District
6. Approval of the minutes of the BOCC joint meeting on October 16, 2024 with the Deschutes County Circuit Court
7. Approval of the minutes of the BOCC meetings of October 16, 21, 23 and 28, 2024

ACTION ITEMS

8. **9:05 AM** Public Hearing and consideration of Order No. 2024-048 approving the annexation of 63220 Johnson Road into Rural Fire Protection District #2
9. **9:10 AM** Public Hearing and consideration to authorize subscription commingled recycling collection service and rate adjustments for Wilderness Garbage and Recycling, Bend Garbage and Recycling, High Country Disposal
10. **9:35 AM** Amendment to an OHA grant (180009-14) to roll over funding, provide additional funding, and update program descriptions

- [11.](#) **9:45 AM** ARPA Funding: Consideration to amend the ARPA grant agreement with Mountain View Community Development and recategorize other funds
- [12.](#) **10:15 AM** Request to add 1.0 Onsite Wastewater Specialist I or II position
- [13.](#) **10:30 AM** Review of draft Board Decision on a proposed Plan Amendment and Zone Change at 19975 Destiny Court
- [14.](#) **10:45 AM** Deliberations for a proposed Plan Amendment and Zone Change for approximately 20.36 acres at 65110 N Highway 97, 64994 Deschutes Market Road, and 64975 Deschutes Pleasant Ridge Road (Last Ranch, LLC)

LUNCH RECESS

Continued ACTION ITEMS

- [15.](#) **1:00 PM** Healthy Schools 2023-24 Annual Report
- [16.](#) **1:35 PM** Deschutes County 2025-2027 Biennium STIF and FTA 5310 Projects
- [17.](#) **1:45 PM** 2024 Rural Housing Profile

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.

18. Executive Session under ORS 192.660 (2) (h) Litigation

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Approval of Resolution No. 2024-055 to add 2.00 regular duration Health Services FTE

RECOMMENDED MOTION:

Move approval of Resolution No. 2024-055 to add 2.00 Regular Duration Health Services FTE.

BACKGROUND AND POLICY IMPLICATIONS:

On November 18, 2024, the Board of County Commissioners approved the addition of 2.00 regular duration FTE. These positions will be funded by transitioning two telehealth contracted providers to two in-person providers.

BUDGET IMPACTS:

The fiscal year 2025 estimated cost for adding a 1.00 Psychiatric Nurse Practitioner FTE and 1.00 Psychiatrist FTE will be \$276,365.

The contract with Iris Telehealth will be reduced from \$765,313 to \$488,948 and Personnel appropriations increased from \$2,887,331 to \$3,163,696.

Oregon Local Budget Law allows a transfer within the Program Expense category; therefore, a Board approved budget adjustment is not necessary.

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 *
FTE Within the 2024-25 * RESOLUTION NO. 2024-055
Deschutes County Budget *

WHEREAS, the Deschutes County Health Services department presented to the Board of County Commissioners on November, 18 2024 with regards to adding a 1.00 regular duration Psychiatric Nurse Practitioner FTE and 1.00 regular duration Psychiatrist FTE in support of the Behavioral Health medical team, and

WHEREAS, Deschutes County Policy HR-1 requires that the creation of or increase 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 FTE be added to the FY 2024-25 Deschutes County Budget

Job Class	Position Number	Type	Effective Hiring Date	FTE
Psychiatric Nurse Practitioner (1275)	n/a	Regular Duration	11/25/2024	1.00
Psychiatrist (9475)	n/a	Regular Duration	11/25/2024	1.00
Total FTE				2.00

Section 2. 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 November 2024.

BOARD OF COUNTY COMMISSIONERS OF
DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ATTEST:

ANTHONY DEBONE, Vice-Chair

Recording Secretary

PHIL CHANG, Commissioner



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Acceptance of a grant from the Oregon Health Authority for a Behavioral Health Initiative for Older Adults and authorization to add 1.0 FTE

RECOMMENDED MOTION:

Move approval of Chair Signature of Document No. 2024-871 accepting a grant from the Oregon Health Authority for an Older Adult Behavioral Health Initiative.

BACKGROUND AND POLICY IMPLICATIONS:

On October 9, 2024, the Board of County Commissioners approved an application for the Oregon Health Authority's (OHA) Older Behavioral Health Initiative funding. OHA has subsequently awarded DCHS \$96,667 of funding.

OHA's Older Adult Behavioral Health Initiative was launched to meet the needs of Oregon's older adults by improving timely access to care from qualified providers who work together to provide coordinated, quality and culturally responsive behavioral health and wellness services. OHA currently funds and supports Specialists statewide who are trained in social work or psychology. The Specialists promote collaboration and coordination among core stakeholders and partners, provide complex case consultation for older adults and people with disabilities, and offer workforce development training to professionals as well as community education. OHA has requested Deschutes County Health Services (DCHS) take on this scope of work.

DCHS is requesting approval to accept funding and to hire a regular, 1.0 full-time equivalent (FTE) Behavioral Health Specialist (BHS) II. The BHS II would perform the duties described above and additionally provide direct care to complex older adults. The program provides up to \$145,000 annually this biennium, with the potential for higher annual funding for the next biennium. Health Services is recommending the position be regular because funding is anticipated to be ongoing; however, should funding not be continued, DCHS will consider the future of these positions within the budgeting process.

If approved, DCHS intends to use the funds as follows:

- \$63,744 of funding would support the BHSII, with an anticipated start date of January 2024.
- \$5,000 - Furniture and Fixtures
- \$3,000 - Computer and Peripherals
- \$8,453 - Program Expense
- \$3,681 - Travel and Training
- \$180 Cell Phone
- \$12,609 (15%) indirect expenses

BUDGET IMPACTS:

\$96,667 revenue for the term November 1, 2024 - June 30, 2025. Contingent on the Board's approval, a budget and FTE resolution will follow.

ATTENDANCE:

Kara Cronin, Behavioral Health Program Manager

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications, and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@odhsoha.oregon.gov or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

AGREEMENT # PO-44300-00026008

**EIGHTH AMENDMENT TO
OREGON HEALTH AUTHORITY
2024-2025 INTERGOVERNMENTAL AGREEMENT
FOR THE FINANCING OF COMMUNITY MENTAL HEALTH, ADDICTION TREATMENT,
RECOVERY, & PREVENTION, AND PROBLEM GAMBLING SERVICES**

This **Eighth** Amendment to Oregon Health Authority 2024-2025 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services effective as of January 1, 2024 (as amended, the “Agreement”), is entered into, as of the date of the last signature hereto, by and between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and **Deschutes County** (“County”).

RECITALS

WHEREAS, OHA and County wish to modify the Financial Assistance Award set forth in Exhibit C of the 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:

AGREEMENT

1. The financial and service information in the Financial Assistance Award is hereby amended as described in Attachment 1 attached hereto and incorporated herein by this reference. Attachment 1 must be read in conjunction with the portion of Exhibit C of the Agreement that describes the effect of an amendment of the financial and service information.
2. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
3. County represents and warrants to OHA that the representations and warranties of County 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. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
5. 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.

6. Signatures.

Deschutes County

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

State of Oregon, acting by and through its Oregon Health Authority

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

Approved by: Director, OHA Health Systems Division

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

Approved for Legal Sufficiency:

Exempt per OAR 137-045-0050(2)

_____	_____
Oregon Department of Justice	Date

ATTACHMENT 1
EXHIBIT C
Financial Pages

MODIFICATION INPUT REVIEW REPORT

MOD#: M0918

CONTRACT#: 026008

CONTRACTOR: DESCHUTES COUNTY

INPUT CHECKED BY: _____ DATE CHECKED: _____

SE#	FUND	PROJ	CPMS	PROVIDER	EFFECTIVE	SLOT	RATE	OPERATING	STARTUP PART	PART	BAAF	CLIENT	SP#
		CODE			DATES	CHANGE/TYPE		DOLLARS	DOLLARS ABC	IV	CD	BASE	CODE

FISCAL YEAR: 2024-2025

35	804	GERO		GERO	11/1/2024 - 6/30/2025	0 /NA	\$0.00	\$96,666.66	\$0.00	A	35A	1	Y	1
								<u>\$96,666.66</u>	<u>\$0.00</u>					
TOTAL FOR SE# 35								<u>\$96,666.66</u>	<u>\$0.00</u>					
TOTAL FOR 2024-2025								<u>\$96,666.66</u>	<u>\$0.00</u>					
TOTAL FOR M0918 026008								<u>\$96,666.66</u>	<u>\$0.00</u>					

OREGON HEALTH AUTHORITY
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: DESCHUTES COUNTY
DATE: 10/24/2024

Contract#: 026008
REF#: 010

REASON FOR FAAA (for information only):

Older or Disabled Adult Mental Health Services (MHS 35A Gero Specialist) funds have been awarded.

The following special condition(s) apply to funds as indicated by the special condition number in column 9. Each special condition set forth below may be qualified by a full description in the Financial Assistance Award.

M0918 1 These funds are for MHS 35A Gero Specialist Services to provide one FTE for the Older Adult BH Initiative within Deschutes County.

Confidential

CONTRACTOR TAX IDENTIFICATION INFORMATION

For Accounting Purposes Only

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

Document number: PO-44300-00026008-8-8 _____

Legal name *(tax filing)*: _____

DBA name *(if applicable)*: _____

Billing address: _____

City: _____

Phone: _____

FEIN: _____

- OR -

SSN: _____

Certificate Of Completion

Envelope Id: 41489D787D254D449CF72A5B509600A0	Status: Sent
Subject: PO-44300-00026008-8 Deschutes County Amendment	
Source Envelope:	
Document Pages: 5	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Larry Briggs
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	Larry.O.Briggs@odhsoha.oregon.gov
	IP Address: 209.112.106.2

Record Tracking

Status: Original	Holder: Larry Briggs	Location: DocuSign
10/28/2024 8:05:31 AM	Larry.O.Briggs@odhsoha.oregon.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Carahsoft OBO Oregon Health Authority - CLM	Location: DocuSign

Signer Events**Signature****Timestamp**

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Jon Collins
jon.c.collins@oha.oregon.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Ebony Clarke
ebony.s.clarke@oha.oregon.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp**

Grace Evans	Sent: 10/28/2024 8:07:00 AM
grace.evans@deschutes.org	Viewed: 10/30/2024 5:35:04 PM
Contract Specialist	
Deschutes County Health Services	

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Accepted: 9/22/2021 9:13:25 AM
ID: 1c2f1b1a-bce9-4e77-a9ac-00927d21eb03

Intermediary Delivery Events**Status****Timestamp****Certified Delivery Events****Status****Timestamp**

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO Oregon Health Authority - CLM (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO Oregon Health Authority - CLM:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mick.j.mitchell@dhsoha.state.or.us

To advise Carahsoft OBO Oregon Health Authority - CLM of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mick.j.mitchell@dhsoha.state.or.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO Oregon Health Authority - CLM

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mick.j.mitchell@dhsoha.state.or.us and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO Oregon Health Authority - CLM

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to mick.j.mitchell@dhsosha.state.or.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO Oregon Health Authority - CLM as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO Oregon Health Authority - CLM during the course of your relationship with Carahsoft OBO Oregon Health Authority - CLM.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Public Hearing and consideration of Order No. 2024-048 approving the annexation of 63220 Johnson Road into Rural Fire Protection District #2

RECOMMENDED MOTION:

Following the public hearing, move approval of Order No. 2024-048 approving a petition to annex 63220 Johnson Road into Rural Fire Protection District #2.

BACKGROUND AND POLICY IMPLICATIONS:

John Barberich and Anne Morrison submitted a petition to annex 63220 Johnson Road into Rural Fire Protection District #2. The Assessor's Office, County Clerk and Community Development reviewed the petition and the District approved the annexation.

BUDGET IMPACTS:

None

ATTENDANCE:

Kim Riley, Legal Counsel

REVIEWED
[Signature]
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Order Approving Barberich annexation into Rural Fire Protection District #2

ORDER NO. 2024-048

WHEREAS, John M. Barberich and Anne Morrison (“Petitioners”) submitted a petition requesting annexation of the property identified in Exhibit A in the petition attached to this Order, into Rural Fire Protection District #2 (“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 Community Development Department reviewed this petition to ensure it is consistent with Title 18, Deschutes County Zoning Ordinance, and Title 23, Deschutes County Comprehensive Plan, as indicated in Exhibit C; and

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

WHEREAS, the Board held a duly noticed public hearing on December 4, 2024, 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 fire protection services.

Dated this _____ day of _____, 2024.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, CHAIR

ANTHONY DeBONE, VICE CHAIR

ATTEST:

Recording Secretary

PHIL CHANG, COMMISSIONER

**PETITION TO ANNEX PROPERTY TO DESCHUTES COUNTY
RURAL FIRE PROTECTION DISTRICT #2**

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 198.705 to 198.955
2. This annexation Petition affects only Deschutes County and Deschutes County Rural Fire Protection District #2 (DCRFPD #2)
3. The principal act for DCRFPD #2 is ORS 478.0-01, et seq.
4. The territory that is subject to this petition for annexation is primarily inhabited. The attached petitions in support of this annexation are signed by land owners and registered voters in the area proposed to be annexed as indicated opposite their respective signatures, and that all signatures were obtained on or after the 9th day of OCTOBER, 2024
5. It is requested that the proceedings be taken for the annexation of said territory to Deschutes County Rural Fire Protection District #2, Deschutes County, Oregon. A description of the boundaries of the territory to be annexed is attached hereto and marked Exhibit "A".
6. That said petition has been signed by 15 percent of the electors, or 100 electors whichever number is lesser, or 15 owners or owners of 10 percent of the land, (whichever is greater) within the area proposed to be annexed.


Dated this 9th day of OCTOBER, 2024.

NAME <u>JOHN M BARBERICH</u>	NAME <u>ANNÉ E MORRISON</u>
ADDRESS <u>63220 JOHNSON ROAD</u>	ADDRESS <u>63220 JOHNSON ROAD</u>
<u>BEND, OR 97703</u>	<u>BEND, OR 97703</u>
<u>John M Barberich</u>	<u>Anné E Morrison</u>
PHONE <u>781-248-5298</u>	PHONE <u>978-302-8184</u>

Approved by the Board of directors of Deschutes County Rural Fire Protection District #2 this _____ day of _____

Approved by City of Bend

Board of Directors DCRFPD #2

By: _____ By: 

BOARD MEMBER
DCRFPD #2
STEVEN DAVIDSON

FOR BARBERICH PROPERTY
63220 JOHNSON ROAD
BEND, OR 97703

EXHIBIT A

12/04/2024 Item #8.

Order No.: WT0204672

EXHIBIT "A"
Legal Description

A tract of land located in the Southeast Quarter of the Southwest Quarter of Section 14, Township 17 South, Range 11, East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at the South Quarter corner of said Section 14; thence North 89°54'40" West, 306.58 feet to a point on the centerline of Johnson Road, as constructed; thence along said centerline North 04°11'22" East, 114.62 feet; thence around a 350 foot radius curve right, 93.77 feet, long chord bears North 11°51'52" East, 93.49 feet; thence North 19°32'22" East, 481.81 feet to a point; thence South 89°51'49" East, 117.75 feet; thence South 00°00'34" East, 660.15 feet to the point of beginning.

EXCEPTING THEREFROM a tract of land located in the Southeast Quarter of the Southwest Quarter of Section 14, Township 17 South, Range 11, East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at a 2 1/2" brass cap in a 2" iron pipe marking the South Quarter corner of said Section 14; thence North 89°54'01" West, 312.71 feet to a point on the centerline of Johnson Road, as constructed; thence along said centerline North 04°11'22" East, 100.25 feet; thence South 89°54'01" East, 304.73 feet to a point on the Easterly boundary of said tract; thence South 00°22'26" East, 100.00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion lying within the right of way of Johnson Road.

TOGETHER WITH a tract of land located in the Southwest Quarter of the Southeast Quarter of Section 14, Township 17 South, Range 11, East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

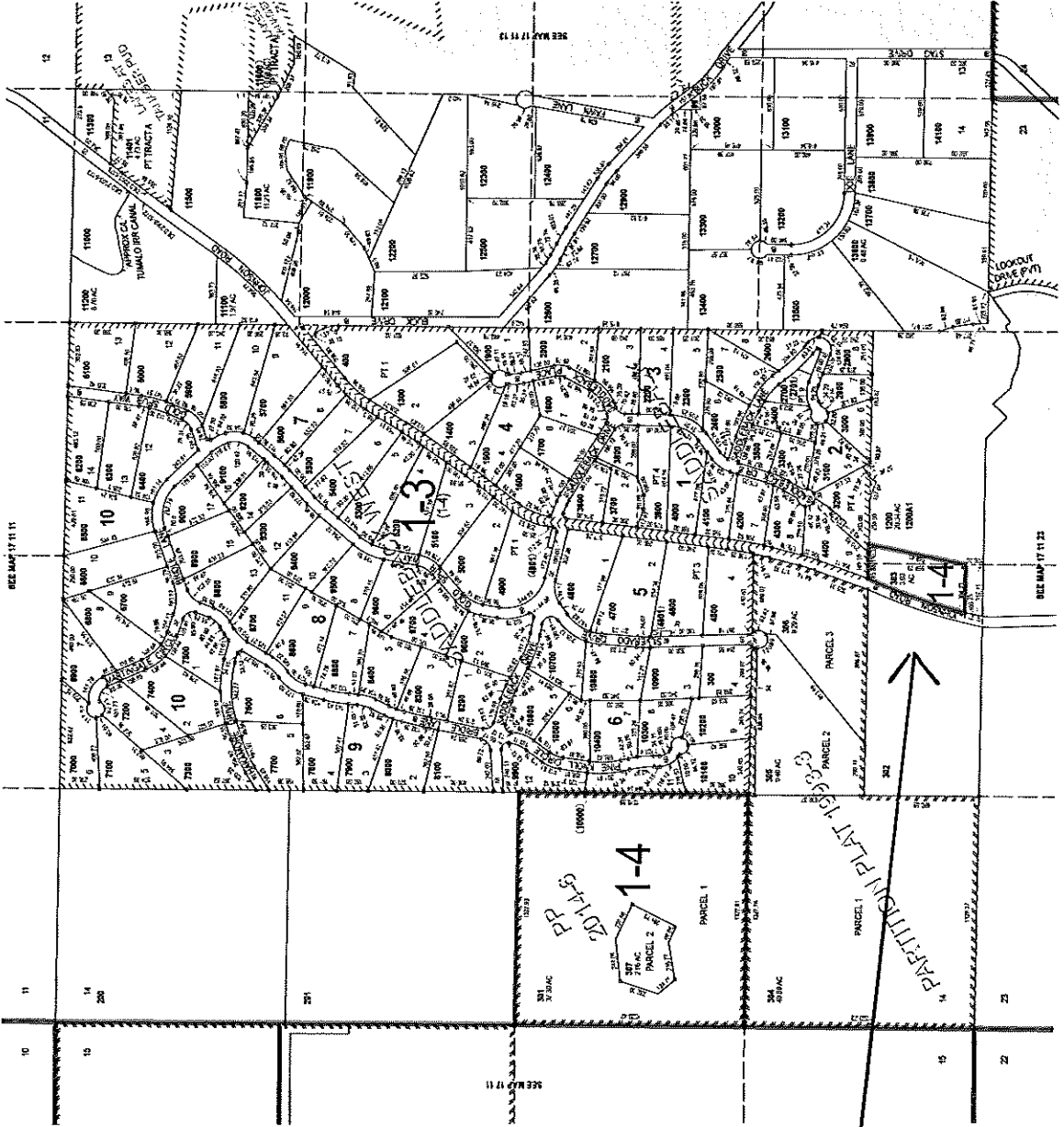
Beginning at a point on the Westerly boundary line of said tract which bears North 00°22'26" West, 100.00 feet from a 2 1/2" brass cap in a 2" iron pipe marking the South Quarter corner of said Section 14; thence North 00°22'26" West, 559.70 feet to a point marking the Northwest corner of said tract; thence along the North boundary of said tract South 89°47'17" East, 110.33 feet; thence South 10°47'53" West, 569.41 feet to the Point of beginning.

17 11 14

SECTION 14 T.17S. R.11E. WM.
DESCHUTES COUNTY

1" = 400'

Canceled Nos.
100 thru 104
105 thru 1100
11400
11700



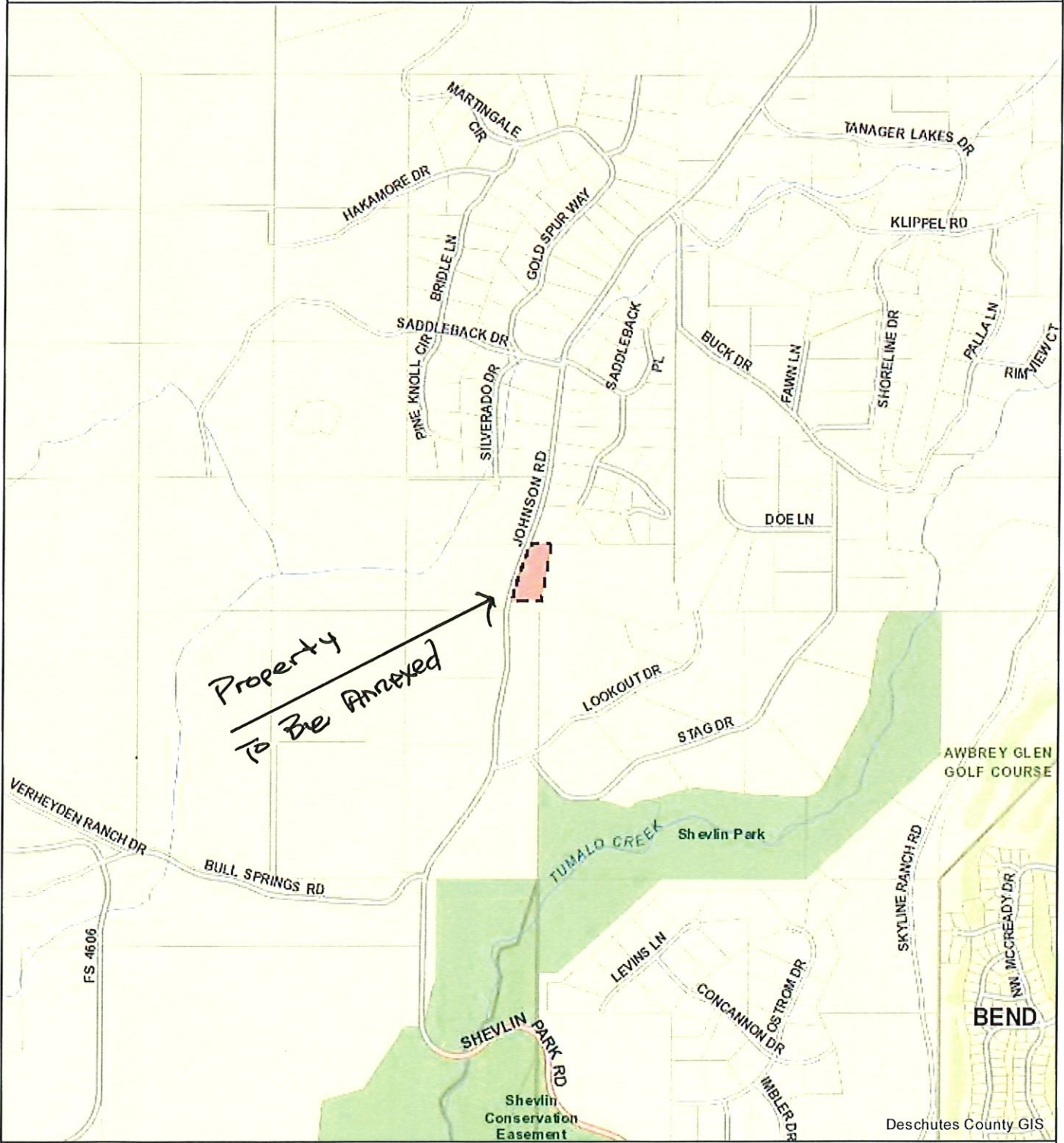
17 11 14

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

8/16/2022

Property
To B
ANNEXED

Deschutes County Property Information - Dial Road Map



Map and Taxlot: 1711140000303

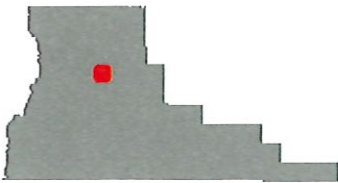


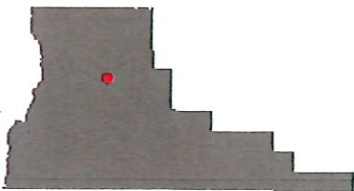
EXHIBIT A
Deschutes County Property Information - Diagram

Overview Map



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Deschutes County GIS

Map and Taxlot: 1711140000303



1212 SW
Simpson Ave
Bend, Oregon 97702
(541) 322-6300
FAX 322-6321



Todd Riley
Fire Chief

October 20, 2024

Executive Director Marshall,

This letter is intended to articulate Bend Fire & Rescue's (BF&R) commitment to respond to fire incidents at 63220 Johnson Road until the affected property is annexed into Deschutes County Rural Fire Protection District #2.

Please reach out to me if you have any questions or concerns at triley@bendoregon.gov or at 541-322-6310.

Sincerely,



Todd Riley, Fire Chief



County Clerk

**Petition for Annexation to
Deschutes County Rural Fire Protection District #2
(63220 Johnson Rd, Bend, Taxlot 1711140000303)**

Clerk's Certification

I, Steve Dennison, Deschutes County Clerk, do hereby certify that the signatures on the attached petition sheet have been verified and the two (2) signers are valid registered voters within the proposed area to be annexed. There is a total of three (3) registered voters within the proposed area to be annexed.

Dated this 14th day of November, 2024.

A handwritten signature in blue ink, appearing to read "Steve Dennison", is written over a horizontal line.

Steve Dennison
Deschutes County 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 14, 2024

Steve Dennison

Deschutes County Clerk

Re: DC Rural Fire Protection District #2 (BARBERICH, JOHN M & MORRISON, ANNE E)

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



TO: Deschutes County Board of Commissioners

FROM: Will Groves, Planning Manager

DATE: November 14, 2024

SUBJECT: Land Use Compatibility, 63220 Johnson Road - Deschutes County Rural Fire Protection District #2 Annexation

The materials contained in the petition propose to annex lands to the Deschutes County Rural Fire Protection District #2

This annexation is consistent with Title 18, Deschutes County Zoning Ordinance, and Title 23, Deschutes County Comprehensive Plan. There are no local land use regulations or policies that specifically address this annexation¹.

¹ Policy 3.6.1 “encourages the formation of special service districts to serve rural needs rather than have the County serve those needs.” Policy 3.8.1 recognizes the importance to “cooperate with public agencies and local park districts to provide park and recreation lands, facilities and opportunities.”

EXHIBIT D
Boundary Change Preliminary Review

DOR 9-P129- 12/04/2024 Item #8.



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

Deschutes County RFPD 2
Executive Director
1212 SW Simpson Ave
Bend OR 97702

November 13, 2024

Documents received: 10/21/2024, 11/4/2024
From: Gary Marshall

This letter is to inform you that the Description and Map for your planned Annexation to Deschutes County RFPD No 2 (John M. Barberich and Anne E. Morrison) 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.

Show all bearings and distances on the map when submitting for final approval

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



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Public Hearing and consideration to authorize subscription commingled recycling collection service and rate adjustments for Wilderness Garbage and Recycling, Bend Garbage and Recycling, High Country Disposal

RECOMMENDED MOTION:

First, hold a public hearing; then consider authorizing Republic Services to offer subscription-based residential commingle recycling services in select distant rural collection zones serviced by Wilderness Garbage and Recycling, Bend Garbage and Recycling, and High Country Disposal, for a service rate not to exceed \$20 per month for Republic Services curbside collection. The service areas to be offered this service are as follows:

- (1) South of Sunriver, north of La Pine State Rec Rd., west of Highway 97
- (2) Area between Bend, Redmond and Sisters referred to as the Golden Triangle. The Golden Triangle is defined as the area generally bounded by Highway 97, Highway 20, and Highway 126, but will include residential properties within a reasonable distance of the bounded by area on either side of the highways

This service will be conditional in each of the above referenced service area upon 600 households subscribing to the service. When subscription minimums have been met, an order to approve new rates will be brought to the Board for consideration.

BACKGROUND AND POLICY IMPLICATIONS:

Franchise Waste and Recyclables Collection Services & Deschutes Transfer

The Solid Waste Management Plan (SWMP) adopted by Deschutes County in 2019 calls for the expansion of residential collection of recyclables where practical. The Department of Solid Waste has been working with the franchised collectors, exploring the possibilities and timing of such an expansion of services. Two events have occurred since the adoption of the SWMP that have shaped the actions proposed in this report. First, the Sunriver Owners Association (SROA) has expanded their universal collection services to include commingle recycling collection to all residents in Sunriver as of January, 2023. Subsequently, as of October 31, 2024, SROA has closed the Recycling Depot that had been serving Sunriver and

the surrounding communities for the past two decades. The following is a summary of the types of services that are currently offered to Deschutes County residents.

- Residential Collection: Collection of waste and/or recyclables at customer residences by their franchised collection company. This can be accomplished by:
- Curbside collection: Waste and recycling carts furnished by the franchise collector are placed at the curb for collection. The service is automated where a mechanical arm empties the cart into the collection truck, which eliminates the need for the driver to exit the vehicle or manually empty the cart. This is the most desirable collection approach as it is the most efficient collection method and helps reduce worker injuries, which are a substantial issue in the waste/recycling collection industry.
- Side yard collection: Waste and recyclables are placed in containers located at the residence, typically beside the house/garage or in an enclosure that hides the trash and recycling containers from view. This is much less efficient, requiring the collection driver to walk up to the containers to retrieve the waste and recyclables. Additionally, it exposes collection workers to a higher risk of workplace injuries. Often, in order to gain efficiencies, drivers take a larger, wheeled cart with them and manually empties material from 2-3 residences into their cart before returning to the truck to unload. This is common in developments like Sunriver where curbside collection is not allowed.
- Mandatory Service: All residences in a local government's jurisdiction are required to take trash and recycling collection services. Fees are usually paid to the collection company. The cities of Redmond and Sisters operate in this fashion.
- Universal Service: All customers participating in franchised collection services have access to trash and recycling collection services as a single service package (waste collection and all available recycling collection). Services and rates are established by the local government and all required services are available to the resident for a single fee. Participation is optional and customers who sign up must pay the full fee, whether they elect to use all the services provided or not. The City of Bend and the "Rural" designed districts of Deschutes County receive this service.
- Subscription Service: All customers participating in the franchised collection service have access to a "menu" of available collection services where the customer can select and pay for only those services they desire. As an example, a resident may sign up for waste collection only, while their neighbor subscribes to both waste and recycling collection. Fees for subscription service tends to be higher than the universal service approach as the cost of trucks and labor is spread over a smaller number of customers and participation can be more dispersed than what is seen under the universal model. Yard-waste services in the cities of Bend and Redmond are offered in this manner.
- Recycling Depots Service: All residents of the County have access to drop-off service at no charge for an expanded list of recyclable materials, including commingled recycling, glass, scrap metals, cardboard, batteries, motor oil, and electronics at all the County operated transfer stations. Republic Services offices in Redmond, Bend, and La Pine. The City of Sisters also provides a recycling drop-off option for commingled recycling and glass.

RECYCLING HISTORY & BACKGROUND

The landmark Opportunity to Recycle Act passed by the Oregon legislature in the mid 1980's requires that all Oregon citizens have the opportunity to recycle. The law has provisions requiring curbside collection of recyclables in cities above a certain threshold population, including their Urban Growth Boundary. In unincorporated areas, the opportunity to recycle requirement is met by providing locations where citizens can drop recyclables at DEQ permitted disposal sites (landfills and transfer stations).

Soon after the law went into effect, citizens in unincorporated areas of Deschutes County began requesting more convenient options for recycling. These requests typically came from resort developments and larger subdivisions, which led to the establishment of recycling depots in those areas. The depots were a partnership between the community requesting the service and the Solid Waste Department, where the community provides a location for the depot and the Department would provide containers and service. The number of depots has varied over the years; currently three depots are available to residents in Deschutes County:

- La Pine Depot, located in Wilderness Disposal's corporate yard in La Pine
- Sisters Depot located in the city of Sisters
- Black Butte Ranch Depot, located at the Black Butte Ranch corporate yard

The responsibility for servicing these depots is borne by the franchised collector responsible for the service area where the depot is located. With the exception of the Black Butte Ranch Depot, the cost for servicing the depots is included in the base fee for all of the collector's customers. Additionally, the Department of Solid Waste provides some funding assistance to the franchised collectors to help offset depot operating costs. As the Black Butte Ranch Depot is restricted to use by Black Butte Ranch residents only and not available to the general public, that facility does not receive any financial assistance from the Department. The cost of servicing that depot is borne by Black Butte Ranch rather than the franchised collector's entire customer base.

SUNRIVER RECYCLING

Sunriver and the surrounding area had been served by a recycling depot located in the SROA Public Works yard. It was very popular but woefully inadequate to handle the volumes of materials coming in. With the addition of residential commingled recycling collection to all households along with SROA's desire to repurpose the space where the depot was located for other public works needs resulted in SROA recommending the closure of the recycling depot. The County will no longer be providing funding in support of recycling in Sunriver.

RURAL & DISTANT RURAL FRANCHISE SERVICE AREAS

In addition to the depot system used to collect recyclables in unincorporated areas, limited curbside collection of recyclables has been implemented in certain higher density subdivisions/areas in unincorporated Deschutes County. Areas where residential recyclable collection services are available have been designated as the Rural Collection Zone. Areas that are more sparsely populated and have no curbside recyclables collection are designated as the Distant Rural Collection Zone. The attached map shows the extent of these service areas for the franchised collectors.

Since residential recycling services in unincorporated areas of the County are not required under the Opportunity to Recycle Act, the County has some latitude in how services are approached and implemented in both the Rural and Distant Rural Zones. For example, when recyclable collection was implemented in the Rural Zone, glass collection was not included due to the expense and market value at the time.

As services are expanded, the boundaries of these zones may change, or be eliminated. Ideally, every collection customer would have the full suite of services available through universal service which would include weekly trash collection, every other week recyclable collection (both commingle and glass), and yard debris collection in the alternate week. This is a very ambitious expansion, and we do not expect to accomplish it in a single phase. It is likely that some areas will never have the full suite of services and implementation in some areas may need to wait until population densities make collection more efficient and affordable.

APPROACH TO SERVICE EXPANSION

The Solid Waste Department has been working with each of the franchise collectors to come up with service expansions that meet the needs of both residents and the collection companies. Each franchise is unique in size, customer base, commercial versus residential make up, customer density, and homeowner restrictions.

Cascade Disposal: Most of their collection area outside of the City of Bend is in the Rural Collection Zone and those customers currently receive residential collection of commingled recyclables as a universal service with their trash collection. Their service area designated as Distant Rural Collection Zone was made up of predominately Sunriver, with approximately 100 additional households outside of that community. With the approval by the BOCC of the service rate in 2023 for the expansion of weekly side yard commingle and glass recyclables collection as a universal service, Cascade Disposal decided to offer biweekly commingled recycling as a Universal service to those last remaining customers without it at their existing rate structure. As is the current arrangement for waste collection, residents are provided their own container for commingle recyclables.

Republic Services: Republic Services owns and operates three (3) different collection companies/franchises, and their service areas for the County unincorporated service areas are referred to as North County (Redmond region unincorporated areas and Sisters region unincorporated areas) and South County (unincorporated areas south of Sunriver). Currently Republic Services provides universal service in all of the Rural Collection Zones around the cities of Bend Sisters and Redmond for commingled recycling. With the closure of the Sunriver Recycling Depot, the communities that are adjacent and to the south, which include Three Rivers and Caldera Springs have inquired as to the opportunity to receive collection services from both Republic Services and the County. Republic has offered to the County the option to provide commingled recycling subscription service to those residents in their Distant Rural Collection Zone north of La Pine State Recreation Road at a rate of \$20 per month for biweekly collection service. This subscription service and rate would be contingent upon over 600 residents signing onto receiving this service in this designated area.

Additionally, Republic Services has also offered to provide a subscription service option for the North County Distant Rural Collection Zone in the “Golden Triangle” region currently outside of the Rural Collection Zone service areas. This service would also be contingent upon them signing up a minimum of 600 subscription service customer. It is also being offered at a \$20 per month service rate.

UNIVERSAL SERVICE VESUS SUBSCRIPTION SERVICE

It should be noted that the universal approach to adding services is the standard industry approach and is the service structure the County has used when expanding recycling services into the Rural Collection Zone. Once an acceptable level of service has been decided, that service is required to be provided by all franchised collection companies in the appropriate collection zone. The subscription approach is not recognized by the State as a qualifying recycling program for complying with the Opportunity to Recycle Act as it is felt that this approach provides a disincentive to participation.

The cities of Bend and Redmond broke with this tradition when implementing curbside collection of yard debris/food-waste, implementing it on a subscription basis where customers only pay for the added service if they choose to use it. This worked well for in Bend and Redmond primarily because the local fire departments in the cities banned all back yard burning in conjunction with the new service.

RECYCLING MODERNIZATION ACT IMPACTS

Since the County is in compliance with the law in unincorporated areas by providing for the collection of recyclables at disposal sites, we have no compliance issues if a subscription approach is desirable. In fact in this circumstance it might be preferred. In July of 2025 the Recycling Modernization Act (RMA) will begin to be implemented. The RMA will over time provide for financial support for the expansion into rural communities, as well as to the City of La Pine, including funding for the purchasing of new collection vehicles and carts in areas where universal service is not provided. By rolling out subscription service, the County and the franchise haulers will maintain eligibility for that funding. Republic Services is able to offer the subscription services in these areas with their existing fleet, with a nominal number of carts needing to be purchased. This will help allow for a more modest impact on the rate payers when rolled out to the remaining customers in the future.

BUDGET IMPACTS:

There are no budget impacts for the franchise collection service rate adjustments. Funds have been budgeted in the FY25 Solid Waste Operating Budget for the Deschutes Transfer rate increase.

ATTENDANCE:

Tim Brownell, Director of Solid Waste



November 12, 2024

Tim Brownell
Solid Waste Director
61050 SE 27th Street
Bend, OR 97702

Mr. Brownell,

As one of Deschutes County's waste and recycling providers, Republic Services is proud to both provide solutions and to be a partner to Deschutes County. As you are aware, on July 1, 2025, the Recycling Modernization Act will go into effect and areas without universal recycling services may be eligible for RMA program expansion funds. We recognize that the demand for recycling services, however, is growing rapidly. To meet that demand, we can provide subscription-based services to bridge a gap between consumer need and the implementation of universal programs, with the understanding that the transition from subscription-based service to universal services will require collaboration and partnership.

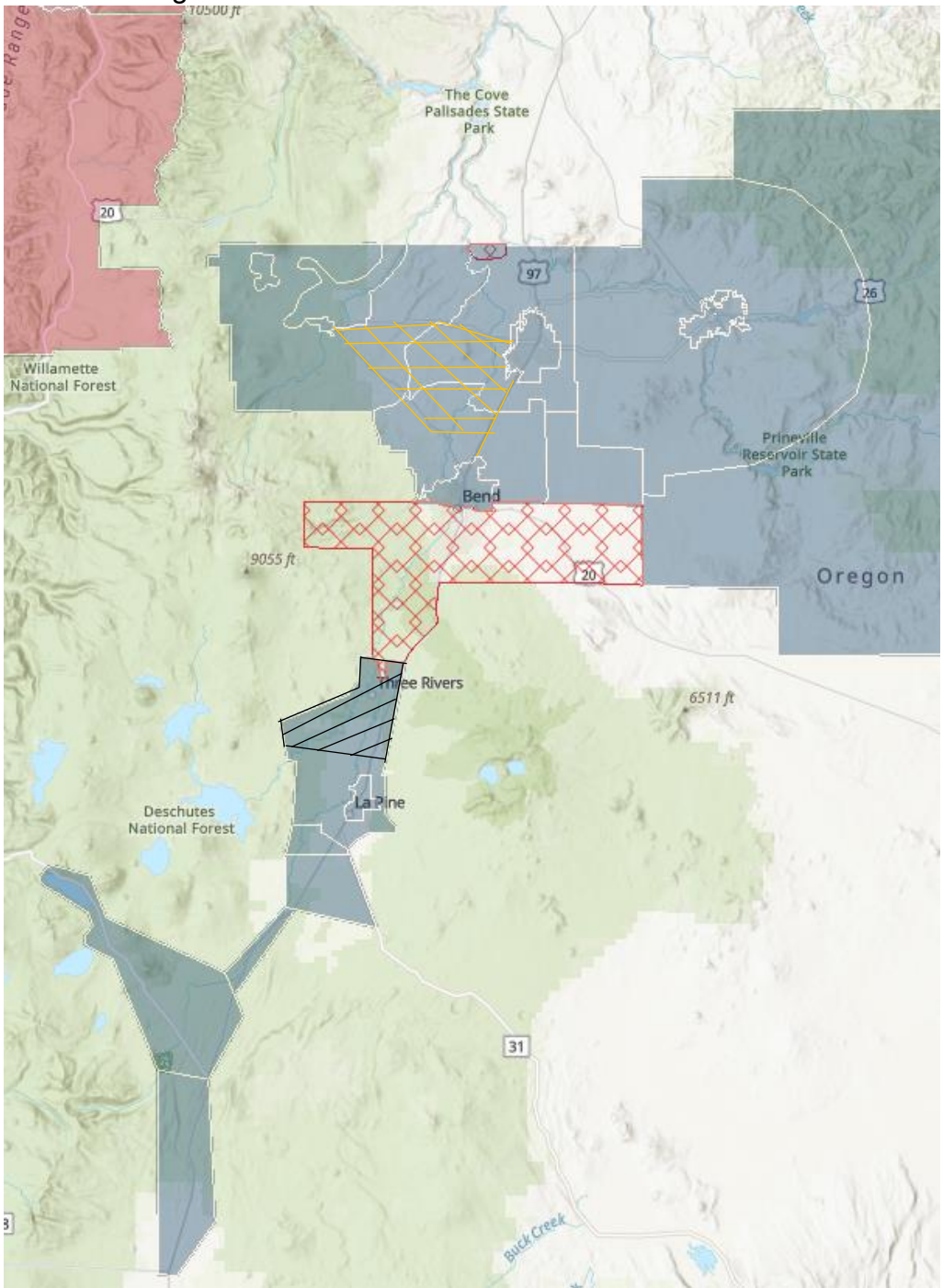
- **Service Areas:** Republic Services can provide subscription based residential commingle recycling services in Deschutes County (1) south of the Sunriver (at the Cascade-Republic Service territory line), north of La Pine State Rec Rd., west of Highway 97 (2) in the area between Bend, Redmond and Sisters referred to as the Golden Triangle. The Golden Triangle is defined as the area generally bounded by Highway 97, Highway 20, and Highway 126, but will include residential properties within a reasonable distance of the bounded by area on either side of the highways.
- **Cost for Subscription Service:** up to \$20 per month billed monthly.
- **Service Frequency:** Every other week. Customers will be provided a 95 gallon recycle roll cart and important education information about what to put in their cart.
- **Minimum Participation Required:** Before launching the service, we will need to enroll approximately 600 of the customers eligible for the service. This will enable us to maximize route efficiencies and provide effective service. Customers will not be charged for the service until the service is offered. Service will begin 60 days after the minimum participation threshold is reached.
- **Sign Up Details:** Once approved by the Deschutes County Board of County Commissioners, eligible customers will be provided program rates and sign-up information.

We appreciate our long history of partnership and are happy to provide additional information and answer any questions you may have.

Sincerely,
Courtney Voss
Municipal Manager
Republic Services of Central Oregon
cvoss@republicservices.com

Service Territory Overview

This map shows the service areas for the entire county. Area in Red is serviced by Cascade Disposal. Area in Black is the proposed South County Service Area. Area in gold is the proposed Golden Triangle Service Area.



Subscription Service Area 1: South County Service Area - South of Sunriver and North of La Pine State Recreation Road (core service area referred to as Three Rivers).

This service area will be bounded by:

- Spring River/South Century (which is the boundary for the Cascade Republic Service Area in Sunriver) on the North
- 97 Highway on the East
- La Pine State / Recreation Road on the South
- The franchise service boundary on the West

Subscription Service Area 2: Area between Redmond, Sisters, and Bend (golden triangle).

This service area will generally be bounded by:

- Highway 97,
- Highway 20, and
- Highway 126
- Residential customers within a reasonable distance of these highways will be provided service upon request, even if they are not within the bounded by area.



NOTICE OF PUBLIC HEARING

The Deschutes County Board of County Commissioners will hold a public hearing on a proposal to allow Republic Services to provide subscription-based residential commingle recycling services in select Distant Rural Collection Zones serviced by Wilderness Garbage and Recycling, Bend Garbage and Recycling, and High Country Disposal for a service rate of \$20 per month for Republic Services curbside collection. The service areas to be offered this service are as follows:

- (1) South of Sunriver, north of La Pine State Rec Rd., west of Highway 97
- (2) Area between Bend, Redmond and Sisters referred to as the Golden Triangle. The Golden Triangle is defined as the area generally bounded by Highway 97, Highway 20, and Highway 126, but will include residential properties within a reasonable distance of the bounded by area on either side of the highways

This service will be conditional in each service area upon six hundred (600) households subscribing to the service.

Date: December 4, 2024
 Time: During the Board of County Commissioners meeting which will begin at 9:00 am
 Location: Barnes and Sawyer Rooms, Deschutes Services Building
 1300 NW Wall Street, Bend, Oregon

Members of the public may view the meeting in real time via YouTube using this link: <http://bit.ly/3mmlnzy>.

Public testimony can be provided in person or virtually via Zoom. Time limits may apply. To join the meeting from a computer, copy and paste this link: 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, 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.

Questions? Contact the Board of Commissioners Office at 541-388-6570 or board@deschutes.org.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Amendment to an OHA grant (180009-14) to roll over funding, provide additional funding, and update program descriptions

RECOMMENDED MOTION:

Move approval of Chair signature on Document No. 2024-861 to amend a grant agreement with the Oregon Health Authority.

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 Deschutes County, the local public health authority, for fiscal year (FY) 2025. This amendment #14 updates Program Element (PE) 36, Alcohol and Drug Prevention and Education Program description, rolls over funding from FY 2024 to FY 2025, and provides additional funding of \$455,811.

Rollover Funding: \$972,187 of funding has been removed from FY 2024 with \$961,783 being rolled over to FY 2025. Funding being rolled over includes the following:

- \$200,231 for PE 01-09, COVID-19 Active Monitoring
• \$255,436 for PE 51-01, LPHA Leadership, Governance and Program Implementation
• \$3,162 for PE 51-02, Regional Partnership Implementation
• \$473,341 for PE 51-05, CDC PH Infrastructure Funding
• \$29,613 for PE 79, MRC-STTRONG (Medical Reserve Corps)

Additional Funding: OHA has provided \$455,811 of additional funding for FY 2025, of which \$20,000 was anticipated for PE 13, Tobacco Prevention and Education, and \$435,811 is one time funding as follows:

- \$342,657 - The Oregon Opioid Settlement Prevention Treatment and Recovery Board has allocated additional one-time opioid settlement funding. The purpose of the funding is for primary prevention of substance use, substance use disorder and overdose in local communities. Funds will be distributed through Program Element (PE) 36-01 OSTPR Board Primary Prevention Funding for use over the next three fiscal years. DCHS intends to use the funding as follows:

- FY25: \$29,385 total
 - \$4,552 personnel
 - \$21,000 materials and supplies, and
 - \$3,833 (15%)

- FY26 and FY 27: \$313,272

\$93,154 - OHA's Injury and Violence Prevention Program was selected to receive a federal Garrett Lee Smith Memorial Act grant. The grant term is for five years, and each budget period—September 30 to September 29—runs with the federal fiscal year. OHA is passing down funding for the first two budget periods to counties already selected to receive these funds, including DCHS. Funding for years three through five will be competitive.

DCHS has been awarded a total of \$241,534 (\$120,767 for each of the two budget periods). Funds are being distributed through PE 60, Suicide Prevention, Intervention and Postvention. The remaining awarded funds will be distributed in FY 2026 and FY 2027. DCHS intends to use the \$93,154 awarded for the period through June 30, 2025, as follows:

- \$34,329 Personnel
- \$46,675 Materials and Services
- \$12,150 Indirect

BUDGET IMPACTS:

\$445,407 net revenue. Subsequent to the Board's approval, a resolution will be submitted to formalize the budget adjustments.

ATTENDANCE:

Heather Kaisner, Deputy Director, Public Health
 Jessica Jacks, Public Health Program Manager

Agreement #180009



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

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Fourteenth 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 set of Program Element Descriptions set forth in Exhibit B of the Agreement

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 **September 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 A “Definitions”, Section 18 “Program Element” is hereby amended to add Program Element titles and funding source identifiers as follows:

<u>PE NUMBER AND TITLE</u> • SUB-ELEMENT(S)	<u>FUND TYPE</u>	<u>FEDERAL AGENCY/ GRANT TITLE</u>	<u>CFDA#</u>	<u>HIPAA RELATED (Y/N)</u>	<u>SUB-RECIPIENT (Y/N)</u>
--	------------------	--	--------------	----------------------------	----------------------------

PE036 - Alcohol and Drug Prevention and Education Program (ADPEP)

<u>PE 036</u> Alcohol and Drug Prevention Education Program	FF	SAMHSA/ Substance Abuse Prevention & Treatment Block Grant	93.959	N	Y
	OF	N/A	N/A	N	N
	GF	N/A	N/A	N	N
<u>PE 036-01</u> OSTPR Board Primary Prevention Funding	OF	N/A	N/A	N	N

- b. Exhibit B Program Elements (PE) #036 “Alcohol and Drug Prevention and Education Program (ADPEP)” is hereby superseded and replaced by Attachment A attached hereto and incorporated herein by this reference.
 - c. Exhibit C, Section 1 of the Agreement, entitled “Financial Assistance Award” for FY24 is hereby deleted and replaced in its entirety by Attachment B, entitled “Financial Assistance Award (FY24)”, attached hereto and incorporated herein by this reference. Attachment B 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” (FY24) is amended to add to the federal award information datasheet as set forth in Attachment C, attached hereto and incorporated herein by this reference.
 - e. Exhibit C, Section 1 of the Agreement, entitled “Financial Assistance Award” for FY25 is hereby deleted and replaced in its entirety by Attachment D, entitled “Financial Assistance Award (FY25)”, attached hereto and incorporated herein by this reference. Attachment D must be read in conjunction with Section 3 of Exhibit C.
 - f. 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 E, 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 Program Element Descriptions

Program Element #036: Alcohol and Drug Prevention and Education Program (ADPEP)

OHA Program Responsible for Program Element:

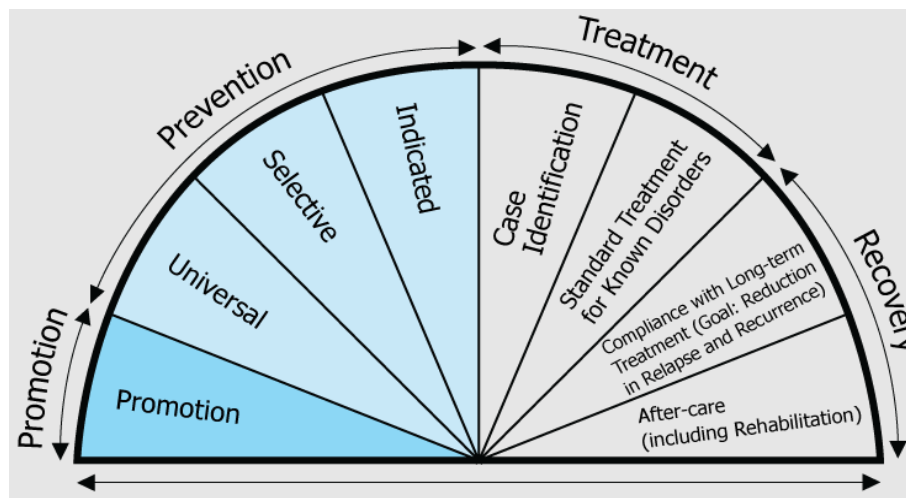
Public Health Division/Center for Health Prevention & Health Promotion/ Health Promotion and Chronic Disease Prevention Section

1. Description.

Funds provided under this Agreement for this Program Element may only be used in accordance with, and subject to, the requirements and limitations set forth below, to deliver the Alcohol and Drug Prevention and Education Program (ADPEP). ADPEP is a comprehensive program that encompasses community and state interventions, surveillance and evaluation, communications, screening interventions, and state administration and management to prevent alcohol, tobacco and other drug use and associated effects, across the lifespan. The program goals are to plan, implement and evaluate strategies that prevent substance use by reducing risk factors and increasing protective factors associated with alcohol, tobacco and other drugs.

The ADPEP program falls within the National Academies of Science Continuum of Care prevention categories, include promotion, universal direct, universal indirect, selective, and indicated prevention.

- Promotion and universal prevention addresses the entire population with messages and programs aimed at prevention or delaying the use of alcohol, tobacco and other drugs.
- Selective prevention targets are subsets of the total population that are deemed to be at risk for substance abuse by virtue of membership in a particular population segment.
- Indicated prevention is designed to prevent the onset of substance abuse in individuals who do not meet criteria for addiction but who are showing elevated levels of risk and early danger signs.



The funds allocated to the Local Public Health Authority (LPHA) supports implementation of the Center for Substance Abuse Prevention's (CSAP) six strategies:

- a. Information Dissemination;
- b. Prevention Education;
- c. Alcohol, Tobacco & Other Drug (ATOD) Free Alternatives;
- d. Community Based Processes;
- e. Environmental/Social Policy; and

f. Problem Identification and Referral.

This Program Element contains two sub-elements:

- a. Alcohol and Drug Prevention and Education Program (ADPEP) funding (PE 36)
- b. The Opioid Settlement Prevention, Treatment and Recovery (OSPTR) Board Primary Prevention (PE 36-01 funding to support LPHAs to bolster workforce capacity and evidence-based primary prevention strategies for substance use, substance use disorder, and overdose).

This Program Element, and all changes to this Program Element are effective the first day of the month noted in Issue Date section of Exhibit C of the Financial Assistance Award unless otherwise noted in Comments and Footnotes of Exhibit C of the Financial Assistance Award.

2. Definitions Specific to this Program Element

Not applicable

3. Alignment with Modernization Foundational Programs and Foundational Capabilities.

The activities and services that the LPHA has agreed to deliver under this Program Element align with Foundational Programs and Foundational Capabilities and the public health accountability metrics (if applicable), as follows (see [Oregon’s Public Health Modernization Manual](http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf), (http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf):

a. Foundational Programs and Capabilities (As specified in Public Health Modernization Manual)

Program Components	Foundational Program					Foundational Capabilities						
	CD Control	Prevention and health promotion	Environmental health	Population Health	Access to clinical preventive services Direct services	Leadership and organizational competencies	Health equity and cultural responsiveness	Community Partnership Development	Assessment and Epidemiology	Policy & Planning	Communications	Emergency Preparedness and Response
<i>Asterisk (*) = Primary foundational program that aligns with each component</i>					<i>X = Foundational capabilities that align with each component</i>							
<i>X = Other applicable foundational programs</i>												
Information Dissemination		*		X	X	X	X	X	X	X	X	
Prevention Education		*		X	X	X	X	X	X	X	X	
Alcohol, Tobacco & Other Drug (ATOD) Free Alternatives		*		X		X	X	X	X	X	X	
Community Based Processes		*		X		X	X	X	X	X	X	

Environmental/Social Policy		*	X	X		X	X	X	X	X	X	
Problem Identification and Referral		*		X	X	X	X	X	X	X	X	

b. The work in this Program Element helps Oregon’s governmental public health system achieve the following Public Health Accountability Metric:

Not applicable

c. The work in this Program Element helps Oregon’s governmental public health system achieve the following Public Health Modernization Process Measure:

Not applicable

4. Procedural and Operational Requirements.

By accepting and using the Financial Assistance awarded under this Agreement and for this Program Element, LPHA agrees to conduct activities in accordance with the following requirements:

a. Requirements that apply to PE 36 Alcohol and Drug Prevention and Education Program (ADPEP) funding:

- (1) Submit to OHA for approval on a timeline proposed by OHA and outlined in the biennial program plan guidance, a Biennial Local Alcohol and Other Drug Prevention Program Plan which details strategies to be implemented, as outlined in this Section 4.a., of this Program Element.
- (2) Throughout the biennium, implement the OHA-approved Biennial Local Alcohol and Other Drug Prevention Program Plan, including but not limited to, the following types of activities:
 - (a) Information Dissemination -- increase knowledge and awareness of the dangers associated with drug use (e.g. local implementation of media campaigns; Public Service Announcements (PSA));
 - (b) Prevention Education -- build skills to prevent substance use (e.g. assuring school policy supports evidence-based school curricula and parenting education and skill building; peer leadership; and classroom education);
 - (c) Alcohol, Tobacco & Other Drug (ATOD) Free Alternatives -- organize activities that exclude substances (e.g. youth leadership and community service projects that support policy strategies and goals; and mentoring programs);
 - (d) Community Based Processes – provide networking and technical assistance to implement evidence-based practices, strategies in schools, law enforcement, communities and agencies (e.g. strategic planning, community engagement and mobilization; and building and effectively managing prevention coalitions);
 - (e) Environmental/Social Policy -- establish strategies for changing community policies, standards, codes and attitudes toward alcohol and other drug use (e.g. school policies and community or organizational rules and laws regarding alcohol, tobacco and other drugs; and advertising restrictions);
 - (f) Problem Identification and Referral – identify individuals misusing alcohol and other drugs and assess whether they can be helped by educational services (e.g. sustainable referral systems to evidence-based health care systems, services, and providers).

- (3) Use funds for this Program in accordance with its approved Local Program Budget on a timeline proposed by OHA and outlined in the biennial program plan guidance approved by OHA. (The LPHA shall submit the local budget for approval by OHA within a timeframe designated by OHA.)
 - (a) Budget adjustments of up to 10% of the cumulative award amount are allowable between or within Budget categories and line items. Modification to the Local Program Budget exceeding 10% of the cumulative award amount between or within the Budget categories and line items may only be made with prior written approval of the OHA Agreement Administrator.
 - (b) Consistent with the OHA-approved Local Program Budget, OHA may reimburse the LPHA for local mileage, per diem, lodging and transportation to conduct program activities under this Agreement and attend OHA required and requested meetings as OHA deems such expenses to be reasonable and reasonably related to performance under this Agreement. Travel to attend out of state events or conferences is permitted if content is applicable to the ADPEP Local Program Plan. Federal per diem rates limit the amount of reimbursement for in state and out of state travel – see U.S. General Services Administration Per Diem Rates at www.gsa.gov/perdiem. All travel must be conducted in the most efficient and cost-effective manner resulting in the best value to OHA and the State of Oregon.

b. Requirements that apply to PE 36-01 Opioid Settlement Prevention, Treatment and Recovery (OSTPR) Board Primary Prevention funding:

- (1) Submit to OHA for approval by November 15, 2024, a Substance Use Primary Prevention Local Program Plan which details strategies to be implemented, as outlined in this Section 4.b., of this Program Element, to prevent substance use, substance use disorder and overdose.
- (2) Implement the OHA-approved Substance Use Primary Prevention Local Program Plan by conducting primary prevention activities to prevent substance use, substance use disorder and overdose. The activities include but are not limited to:
 - (a) Support community-based prevention strategies, education, or intervention (e.g., build community resilience, improve emotional wellbeing, increase social connectedness).
 - (b) Improve access to community resources and supports for at-risk populations (e.g., mental health resources, access to healthy food, positive after school activities).
 - (c) Increase strategies that target affordable housing, education and employment.
 - (d) Develop targeted outreach or media campaigns.
 - (e) Increase workforce development and training for primary prevention.
- (3) Submit to OHA for approval by November 15, 2024 a Local Program Budget that outlines use of funds in accordance with OHA-approved Substance Use Primary Prevention Local Program Plan.
 - (a) Budget adjustments of up to 10% of the PE 36-01 award amount are allowable between or within Local Program Budget categories and line items. Modification to the Local Program Budget exceeding 10% of the PE 36-01 award amount between or within the Local Program Budget categories and line items may only be made with prior written approval of the OHA Agreement Administrator.

- (b) Consistent with the OHA-approved Local Program Budget and Plan, funds may be used for local mileage, per diem, lodging and transportation to conduct program activities under this Agreement and attend OHA required and requested meetings as OHA deems such expenses to be reasonable and reasonably related to performance under this Agreement. Travel to attend out of state events or conferences is permitted if content is applicable to the Substance Use Primary Prevention Local Program Plan. Federal per diem rates limit the amount of reimbursement for in state and out of state travel – see U.S. General Services Administration Per Diem Rates at www.gsa.gov/perdiem. All travel must be conducted in the most efficient and cost-effective manner resulting in the best value to OHA and the State of Oregon.
- c. LPHA must coordinate efforts among diverse stakeholders and related programs (e.g. other alcohol and drug efforts such as prescription drug overdose, tobacco prevention, mental health and suicide prevention) in local communities. Such coordination offers a shared benefit of coordinated mobilization and leveraged resources to achieve local policy and environmental change goals and measurable improvement in health status. LPHA must determine how best to coordinate with local Tobacco Prevention and Education Program (TPEP) to include in the biennial plan detail of coordinated strategies.
- d. LPHA must participate in site visits, state trainings, meetings and evaluation activities as requested or required by OHA.

5. General Revenue and Expense Reporting.

LPHA must complete an “Oregon Health Authority Public Health Division Expenditure and Revenue Report” located in Exhibit C of the Agreement. These reports must be submitted to OHA each quarter on the following schedule:

Fiscal Quarter	Due Date
First: July 1 – September 30	October 30
Second: October 1 – December 31	January 30
Third: January 1 – March 31	April 30
Fourth: April 1 – June 30	August 20

6. Reporting Requirements.

a. For PE 36, LPHA must:

- (1) Report to OHA semi-annually to describe progress made in completing activities and achieving the goals and objectives set forth in the LPHA’s OHA-approved Local Alcohol and Other Drug Program Plan. (**Semi-Annual Progress Reports Due:** on an ongoing basis through the term of this Agreement each six months and as otherwise requested by OHA).
- (2) Submit written annual Progress reports to OHA using forms and procedures provided by OHA to describe results in achieving the goals, objectives through implementing the evidence-based strategies set forth in the LPHA’s OHA-approved Local Program Plan as well as any obstacles encountered, successes and lessons learned. (**Annual Progress Reports Due:** within 30 days following the end of the state fiscal year).

b. For PE 36-01, LPHA must:

- (3) Submit written Progress Reports to OHA using forms and procedures provided by OHA to describe results and progress toward achieving the goals and objectives through implementing the evidence-based strategies set forth in the LPHA’s OHA-approved Substance Use Primary Prevention Local Program Plan, as well as any obstacles encountered, successes and lessons learned. The first Progress Report is due on July 30, 2025 covering the reporting period of October 1, 2024 through June 30, 2025. Thereafter, progress reporting will occur on the following schedule for each year during the Agreement term:

Reporting Period	Due Date
July 1 – December 31	January 30
January 1 – June 30	July 30

7. Performance Measures.

- a. If LPHA completes fewer than 75% of the planned activities in its OHA-approved Biennial Local Alcohol and Other Drug Prevention Program Plan for two consecutive calendar quarters in one state fiscal year LPHA will not be eligible to receive funding under this Program Element during the next state fiscal year.
- b. LPHA must operate the Alcohol and Other Drug Prevention and Education Program (ADPEP) described in its OHA-approved Biennial Local Alcohol and Other Drug Prevention Program Plan.
- c. If LPHA completes fewer than 75% of the planned primary prevention activities in its OHA-approved Substance Use Primary Prevention Local Program Plan for two consecutive calendar quarters in one state fiscal year LPHA will not be eligible to receive funding under this Program Element during the next state fiscal year.

**Attachment B
Financial Assistance Award (FY24)**

State of Oregon Oregon Health Authority Public Health Division		
1) Grantee Name: Deschutes County Street: 2577 NE Courtney Dr. City: Bend State: OR Zip: 97701-7638	2) Issue Date Sunday, September 1, 2024	This Action Amendment
	3) Award Period 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	\$645,823.36	(\$200,231.60)	\$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)	\$123,319.88	(\$10,404.03)	\$112,915.85
PE12-04	MRC-STTRONG (changing to PE79 in SFY25)	\$137,755.00	(\$29,613.21)	\$108,141.79
PE13	Tobacco Prevention and Education Program (TPEP)	\$732,549.98	\$0.00	\$732,549.98
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	\$161,713.00	\$0.00	\$161,713.00
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	\$73,317.00	\$0.00	\$73,317.00
PE43-01	Public Health Practice (PHP) - Immunization Services	\$47,791.00	\$0.00	\$47,791.00

4) OHA Public Health Funds Approved				
Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
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
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	\$788,004.00	(\$255,436.07)	\$532,567.93
PE51-02	Regional Partnership Implementation	\$542,974.00	(\$3,161.82)	\$539,812.18
PE51-03	ARPA WF Funding	\$214,556.96	\$0.00	\$214,556.96
PE51-05	CDC PH Infrastructure Funding	\$622,298.28	(\$473,340.63)	\$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
		\$7,447,411.80	(\$972,187.36)	\$6,475,224.44

Footnotes and Comments on following pages.

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.

Comments on following page.

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	10/2023: 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
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 C

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

PE01-09 COVID-19 Active Monitoring - ELC

Federal Award Identification Number:	NU50CK000541
Federal Award Date:	05/18/20
Budget Performance Period:	08/01/2019-07/31/2024
Awarding Agency:	CDC
CFDA Number:	93.323
CFDA Name:	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)
Total Federal Award:	98,897,708
Project Description:	Oregon 2019 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC)
Awarding Official:	Brownie Anderson-Rana
Indirect Cost Rate:	17.64%
Research and Development (T/F):	FALSE
HIPPA	No
PCA:	53708
Index:	50401

Agency	UEI	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$445,591.76	\$445,591.76

PE12-01 Public Health Emergency Preparedness and Response (PHEP)

Federal Award Identification Number:	NU90TP922036	NU90TP922036
Federal Award Date:	06/07/23	06/07/23
Budget Performance Period:	07/01/2023-06/30/2024	07/01/2023-06/30/2024
Awarding Agency:	CDC	CDC
CFDA Number:	93.069	93.069
CFDA Name:	Public Health Emergency Preparedness (PHEP)	Public Health Emergency Preparedness (PHEP)
Total Federal Award:	8,466,536.00	8,466,536.00
Project Description:	Public Health Emergency Preparedness (PHEP)	Public Health Emergency Preparedness (PHEP)
Awarding Official:	Ms. Sylvia Reeves	Ms. Sylvia Reeves
Indirect Cost Rate:	18.06	18.06
Research and Development (T/F):	FALSE	FALSE
HIPPA	No	No
PCA:	53628	53516
Index:	50407	50407

Agency	UEI	Amount	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$101,508.97	\$11,406.88	\$112,915.85

PE12-04 MRC-STTRONG (changing to PE79 in SFY25)

Federal Award Identification Number:	U3REP230687
Federal Award Date:	06/01/23
Budget Performance Period:	06/01-2023-05/31/2025
Awarding Agency:	DHHS/ASPR
CFDA Number:	93.008
CFDA Name:	Medical Reserve Corps Small Grant Program
Total Federal Award:	2500000
Project Description:	MRC-STTRONG - The project aims to address challenges and advance volunteers and MRC Coordinator readiness.
Awarding Official:	Claudia Roman-Stolte
Indirect Cost Rate:	18.06
Research and Development (T/F):	FALSE
HIPPA	No
PCA:	53515
Index:	50407

Agency	UEI	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$108,141.79	\$108,141.79

PE51-05 CDC PH Infrastructure Funding

Federal Award Identification	NE110E000080	NE110E000080
Federal Award Date:	11/29/22	12/05/23
Budget Performance Period:	12/1/2022-11/30/2023	12/1/23-11/30/24
Awarding Agency:	CDC	CDC
CFDA Number:	93.967	93.967
CFDA Name:	CDC's Collaboration with Academia to Strengthen Public Health	CDC's Collaboration with Academia to Strengthen Public Health
Total Federal Award:	\$30,054,888	\$38,754,643.00
Project Description:	Oregon Health Authority, Public Health Division's application for Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems (CDC-RFA-OE22-2203)	OHA, PHD's application for Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems
Awarding Official:	Lauren Bartell Billick	Lauren Bartell Billick
Indirect Cost Rate:	4%	4%
Research and Development (T/F):	FALSE	FALSE
HIPPA	No	No
PCA:	50297	50317
Index:	50107	50107

Agency	UEI	Amount	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$79,455.96	\$69,501.69	\$148,957.65

Attachment D Financial Assistance Award (FY25)

State of Oregon Oregon Health Authority Public Health Division		
1) Grantee Name: Deschutes County Street: 2577 NE Courtney Dr. City: Bend State: OR Zip: 97701-7638	2) Issue Date Sunday, September 1, 2024	This Action Amendment
	3) Award Period 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	\$0.00	\$200,231.60	\$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)	\$476,491.43	\$20,000.00	\$496,491.43
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	\$36,014.00	\$0.00	\$36,014.00
PE36-01	OSTPR Board Primary Prevention Funding	\$0.00	\$342,657.00	\$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	\$483,979.95	\$255,436.07	\$739,416.02
PE51-02	Regional Partnership Implementation	\$878,978.00	\$3,161.82	\$882,139.82
PE51-05	CDC PH Infrastructure Funding	\$0.00	\$473,340.63	\$473,340.63
PE60	Suicide Prevention, Intervention and Postvention	\$0.00	\$93,153.75	\$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)	\$159,245.00	\$29,613.21	\$188,858.21
		\$5,741,703.17	\$1,417,594.08	\$7,159,297.25

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
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 \$1,872.80 from PE 12-04 07/2024: SFY25 Funds 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 pages.

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

PE01-09 COVID-19 Active Monitoring - ELC

Federal Award Identification Number:	NU50CK000541
Federal Award Date:	10/13/23
Budget Performance Period:	08/01/2023-07/31/2026
Awarding Agency:	CDC
CFDA Number:	93.323
CFDA Name:	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)
Total Federal Award:	2,486,047.00
Project Description:	Oregon 2019 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC)
Awarding Official:	Zoe Kaplan
Indirect Cost Rate:	17.64%
Research and Development (T/F):	FALSE
HIPPA	No
PCA:	53708
Index:	50401

Agency	UEI	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$200,231.60	\$200,231.60

PE51-05 CDC PH Infrastructure Funding

Federal Award Identification Number:	NE11OE000080
Federal Award Date:	12/05/23
Budget Performance Period:	12/1/23-11/30/24
Awarding Agency:	CDC
CFDA Number:	93.967
CFDA Name:	CDC's Collaboration with Academia to Strengthen Public Health
Total Federal Award:	\$2,339,080.00
Project Description:	OHA, PHD's application for Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems
Awarding Official:	Lauren Bartell Billick
Indirect Cost Rate:	4%
Research and Development (T/F):	FALSE
HIPPA	No
PCA:	50317
Index:	50107

Agency	UEI	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$473,340.63	\$473,340.63

PE79 MRC-STTRONG (changing from PE12-04 in SFY25)

Federal Award Identification Number:	U3REP230687
Federal Award Date:	06/01/23
Budget Performance Period:	06/01/2023-05/31/2025
Awarding Agency:	DHHS/ASPR
CFDA Number:	93.008
CFDA Name:	Medical Reserve Corps Small Grant Program
Total Federal Award:	2500000
Project Description:	MRC-STTRONG
Awarding Official:	Claudia Roman-Stolte
Indirect Cost Rate:	18.06
Research and Development (T/F):	FALSE
HIPPA	No
PCA:	53515
Index:	50407

Agency	UEI	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$188,858.21	\$188,858.21



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: ARPA Funding: Consideration to amend the ARPA grant agreement with Mountain View Community Development and recategorize other funds

RECOMMENDED MOTIONS:

- 1. Move approval of Document No. 2024-658, amending Mountain View Community Development's original ARPA grant agreement (Document No. 2023-826).
2. Move to recategorize \$250,000 in ARPA funds from CHRO Operations to Revenue Replacement.

BACKGROUND AND POLICY IMPLICATIONS:

In August of 2023, the Deschutes County Board of Commissioners allocated remaining ARPA funds. At today's meeting, staff will provide information regarding two of those allocations.

Mountain View Community Development

The Board of Commissioners allocated \$200,000 of ARPA funds to Mountain View Community Development (MVCD) for a transitional shelter community RV park. Approved components of the work included site work, infrastructure investment, community building, and restroom/laundry outbuildings.

MVCD has requested use of the funds to support feasibility study work for the purposes below:

- 1. To determine possible avenues for development of the county owned property on the north side of Highway 126 adjacent to Oasis Village.
2. To determine proof of concepts that could be replicated for the property, focusing on housing for those falling in the 0 to 30% of AMI.
3. To identify potential partners for the development of the site.

Deschutes County Legal Counsel advises that this work falls outside of the existing approved grant agreement scope and requires an amendment to proceed. A draft amendment is provided for the Board's review and consideration.

Coordinated Houseless Response Office

The Board of Commissioners allocated \$250,000 for Coordinated Houseless Response Office (CHRO) operations in years three, four and five, as years one and two were covered by a grant from the State of Oregon. Staff has since learned of the possibility that these funds may no longer be needed for this purpose, and recommends the recategorization of the \$250,000 to Revenue Replacement so as not to lose the opportunity to use the funds before the December 31, 2024 obligation deadline. If desired, the Board of Commissioners can determine any amount of these funds to remain earmarked in the general fund ARPA reserve for CHRO support.

BUDGET IMPACTS:

The proposed MVCD grant amendment would only revise the grant agreement scope of work, and would not affect the amount of the ARPA grant.

Any funds reallocated to the Revenue Replacement category would increase funds within the already established General Fund Reserve for recategorized ARPA funds, and be available to earmark for specific projects.

ATTENDANCE:

Rick Russell, Mountain View Community Development
Erik Kropp, Deputy County Administrator
Laura Skundrick, Management Analyst

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

**DOCUMENT NO. 2024-658
AMENDING DESCHUTES COUNTY GRANT AGREEMENT NO. 2023-826**

THAT CERTAIN AGREEMENT, Deschutes County Grant Agreement No. 2024-826 dated September 19, 2023, by and between DESCHUTES COUNTY, a political subdivision of the State of Oregon ("County") and Mountain View Community Development ("Grantee"), is amended, effective upon signing of all parties, as set forth below. Except as provided herein, all other provisions of the contract remain the same and in full force.

County's performance hereunder is conditioned upon Contractor's compliance with provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235, which are hereby incorporated by reference. In addition Standard Contract Provisions contained in Deschutes County Code Section 2.37.150 are hereby incorporated by reference. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

The above listed contract is amended as follows:

In addition to the previously listed uses for this award, below outlines the additional use for feasibility study work as outlined below:

1. To determine possible avenues for development of the county owned property on the north side of Highway 126 adjacent to Oasis Village.
2. To determine proof of concepts that could be replicated for the property, focusing on housing for those falling in the 0 to 30% of AMI.
3. To identify potential partners for the development of the site.

GRANTEE: MOUNTAIN VIEW COMMUNITY DEVELOPMENT

Authorized Signature

Dated this _____ of _____, 20__.

COUNTY:

Dated this _____ of _____, 20__

BOARD OF COUNTY COMMISSIONERS

PATTI ADAIR, CHAIR

ANTHONY DeBONE, VICE CHAIR

ATTEST:

Recording Secretary

PHIL CHANG, COMMISSIONER



**BOARD OF
COMMISSIONERS**

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Request to add 1.0 Onsite Wastewater Specialist I or II position

RECOMMENDED MOTION:

Move approval to add 1.0 Onsite Wastewater Specialist FTE within the Community Development Department.

BACKGROUND AND POLICY IMPLICATIONS:

The Community Development Department requests the addition of one full-time regular position in the Onsite Wastewater Division (OWW) to perform investigation of environmental issues and inspections of onsite wastewater systems. During the FY 25 budget process, the Community Development Department removed two unfilled full-time regular positions from the onsite wastewater team—one onsite wastewater specialist and one administrative assistant. These unfilled positions were removed to align staffing with lower permitting volumes and concerns with financial stability. However, permitting volumes have experienced an increase in applications submitted and corresponding inspections, resulting in longer permit issuance turn-around times.

BUDGET IMPACTS:

Onsite wastewater fees and if necessary, Reserve Fund 300, can fully fund the onsite wastewater specialist position. The fully loaded annual rate is within a range of \$112K to \$124K, depending on the applicant’s qualifications, and \$3K for materials and services. This adjustment will reduce Contingency by a maximum of \$127K and increase Personnel Services and Materials and Services by the same amount. CDD estimates a \$30K reduction of its vehicle replacement balance for the purchase of a new vehicle.

ATTENDANCE:

- Peter Gutowsky, Community Development Director
- Sherri Pinner, Senior Management Analyst
- Todd Cleveland, Onsite Wastewater Manager



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners
Nick Lelack, County Administrator
FROM: Peter Gutowsky, CDD Director
Sherri Pinner, Sr. Management Analyst
DATE: December 2, 2024
SUBJECT: Community Development Onsite Wastewater Staffing Request

I. SUMMARY

The purpose of this memorandum is to request the addition of one (1) full-time regular position in the Onsite Wastewater Division (OWW) to perform investigation of environmental issues and inspections of onsite wastewater systems.

Specifically, CDD proposes to:

- Add one (1) full time regular onsite wastewater specialist (OWWI or OWW II) to ensure continuity in investigation of environmental issues, permit issuance and inspections of onsite wastewater systems.

II. SITE EVALUATION APPLICATIONS RECEIVED, SEPTIC PERMITS ISSUED AND NEW SYSTEM PERMIT ISSUANCE TURN-AROUND

Following a two-year period of declining application submissions, CDD is seeing an application volume increase. Currently, site evaluations received are 24% higher than last calendar year and septic permits issued are 29% higher than last calendar year.

Figure 1 highlights onsite wastewater site evaluation applications received between January and October for the past 10 years.

Figure 1 - Onsite Wastewater Site Evaluation Applications Received

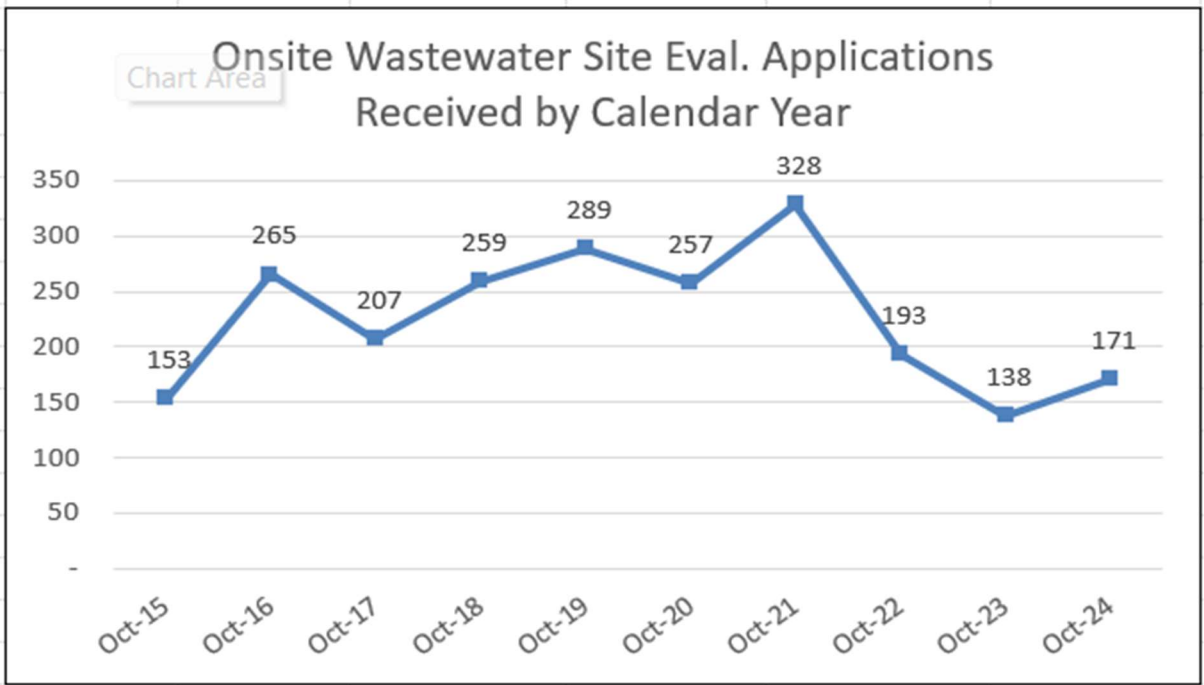


Figure 2 highlights onsite wastewater permits issued between January and October for the past 10 years.

Figure 2 - Onsite Wastewater Permits Issued

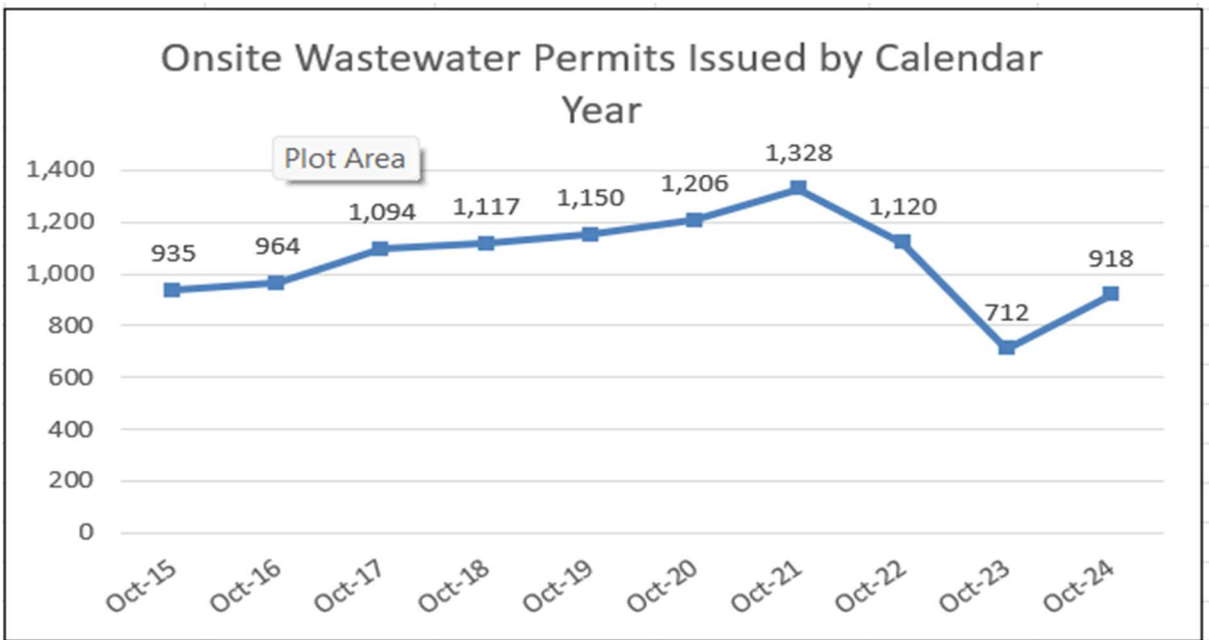
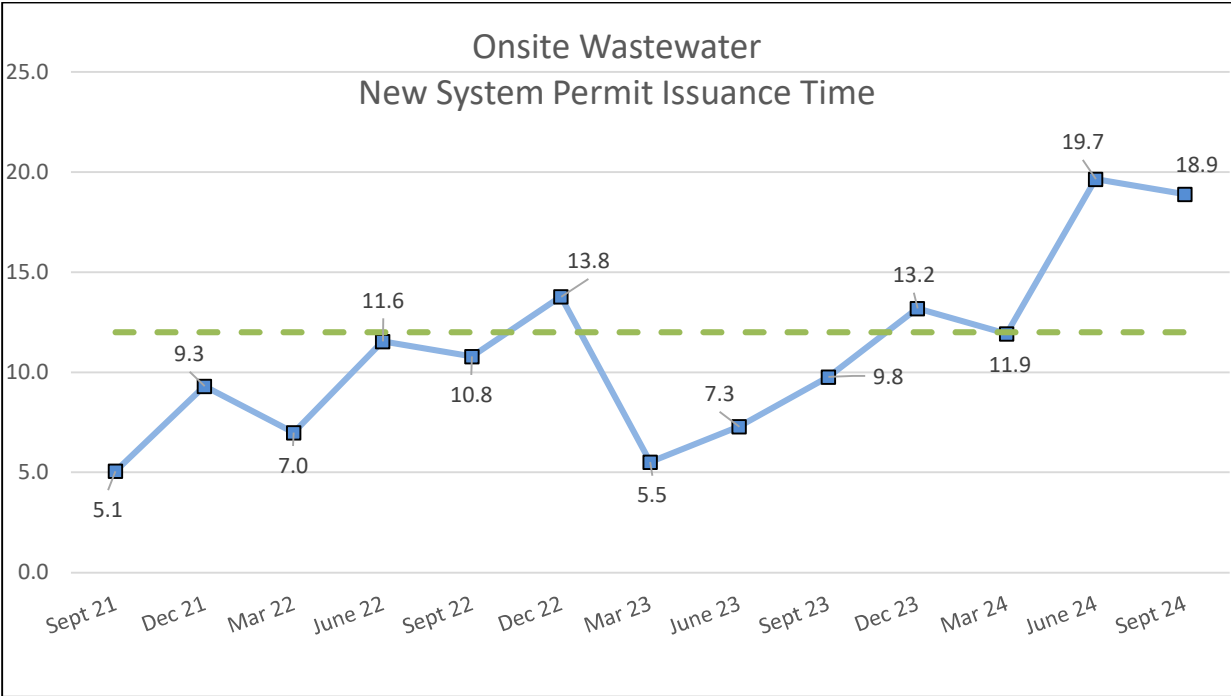


Figure 3 highlights onsite wastewater new system permit issuance goal of 12 days or less for quarters ended September 2021 through September 2024.

Figure 3 – Onsite Wastewater New System Issuance Time



Challenges

- CDD’s performance measure for new system issuance within 12 days of submission of a completed application was last met during spring 2024. The current fully staffed team of three (3) full time regular specialist, has issued new systems within an average of 19 days over the last six (6) months.
- Assignment of field duties by area location within a large geographic area.
- Increased email and phone inquiries.
- Re-assigning and cross-training onsite wastewater specialist on administrative tasks, including assigned hours for front counter customer service.
- Historically, recruitment for an onsite wastewater specialist position can be lengthy.
- Applicants may need additional training and certifications, which can take several years to obtain.

III. FINANCIAL IMPACT

Onsite wastewater fees and if necessary, Reserve Fund 300, can fully fund the OWW specialist position. The fully loaded annual rate range is approximately \$111,500 to \$124,000 with an additional expense of \$3,000 for computers and field tools. CDD estimates a \$30,000 reduction to its vehicle replacement balance for the purchase of a new vehicle.

IV. BOARD DIRECTION

- Approve/deny the addition of one (1) full time regular OWW specialist.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Review of draft Board Decision on a proposed Plan Amendment and Zone Change at 19975 Destiny Court

RECOMMENDED MOTION:

Review the draft Board decision. Upon conclusion of the Board’s review, the Board may:

- Make a motion to approve the decision as presented;
• Make a motion to approve the decision with edits; or
• Make a motion to rewrite the decision based on Board direction.

BACKGROUND AND POLICY IMPLICATIONS:

The applicant, Destiny Court Properties, LLC, requests that Deschutes County change the Comprehensive Plan designation of the property from Agricultural to Rural Residential Exception Area. The applicant also requests a change to the zone of the property from Exclusive Farm Use to Multiple Use Agricultural.

A public hearing before a Hearings Officer was held on February 27, 2023, with the Hearings Officer issuing a recommendation of approval. A public hearing before the Board was held on July 24, 2024. The Board conducted deliberations on October 9, 2024, and voted 2-1 to approve the Plan Amendment and Zone Change.

BUDGET IMPACTS:

None

ATTENDANCE:

Anthony Raguine, Principal Planner

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

**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/ DESTINY COURT PROPERTIES, LLC
APPLICANT: 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 A 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 DLCDC. DLCDC’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.

Dated this _____ 2024

BOARD OF COUNTY COMMISSIONERS
FOR DESCHUTES COUNTY

Patti Adair, Chair

Anthony DeBone, Vice Chair

Phil Chang, Commissioner

THIS DECISION BECOMES FINAL WHEN SIGNED. PARTIES MAY APPEAL THIS DECISION TO THE LAND USE BOARD OF APPEALS WITHIN 21 DAYS OF THE DATE ON WHICH THIS DECISION IS FINAL.

EXHIBIT

- A.** Hearings Officer's Decision dated April 26, 2024

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: 1712070000100¹
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).

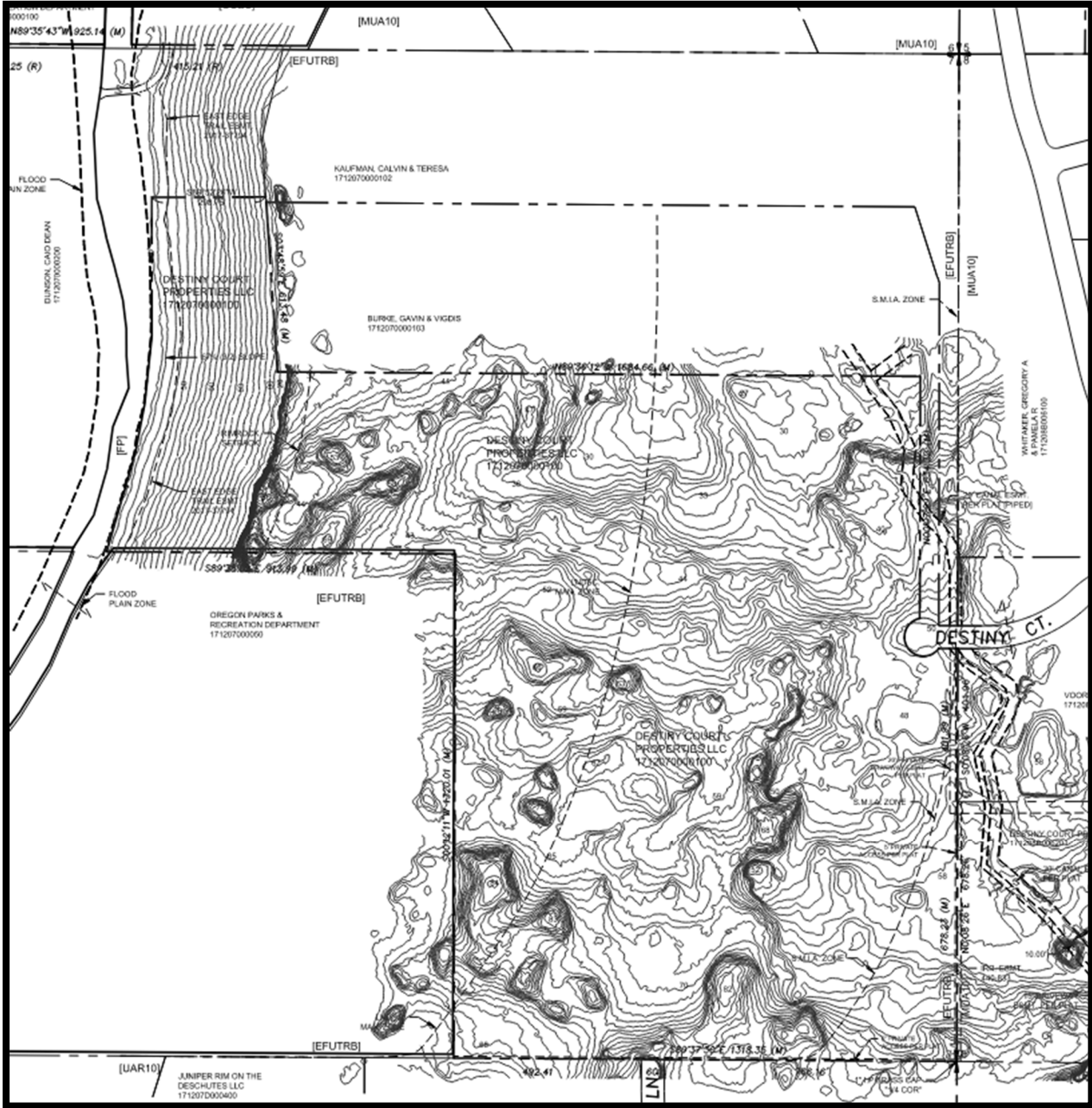
SITE DESCRIPTION: According to the Applicant’s materials, the Subject Property is +/-65.1 acres in size, irregularly shaped, and there are no structures or improvements on the Subject Property except for a small pond adjacent to the eastern property line and near the terminus of Destiny Court. Some areas 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 Road², terminates at the northeastern Subject Property line and Northern Estates Lane, a paved Local Access Road³, 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 Licksillet 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 following⁴:

“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 lot 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, 2022⁶.

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 is 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 courts¹¹, 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)
Outright: 18, including 2 dwelling types
Special: 11, including 2 dwelling types
Cndnl: 37, including 5 dwelling types,

MUA-10 Uses
Outright: 11, including 2 dwelling types
Special: None
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 possibly 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:

[I]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 outcroppings [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 material]

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 corner 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 1-2%, 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 Oregon¹²;***
- (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.

OAR 660-033-0030, Identifying Agricultural Land

- (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.

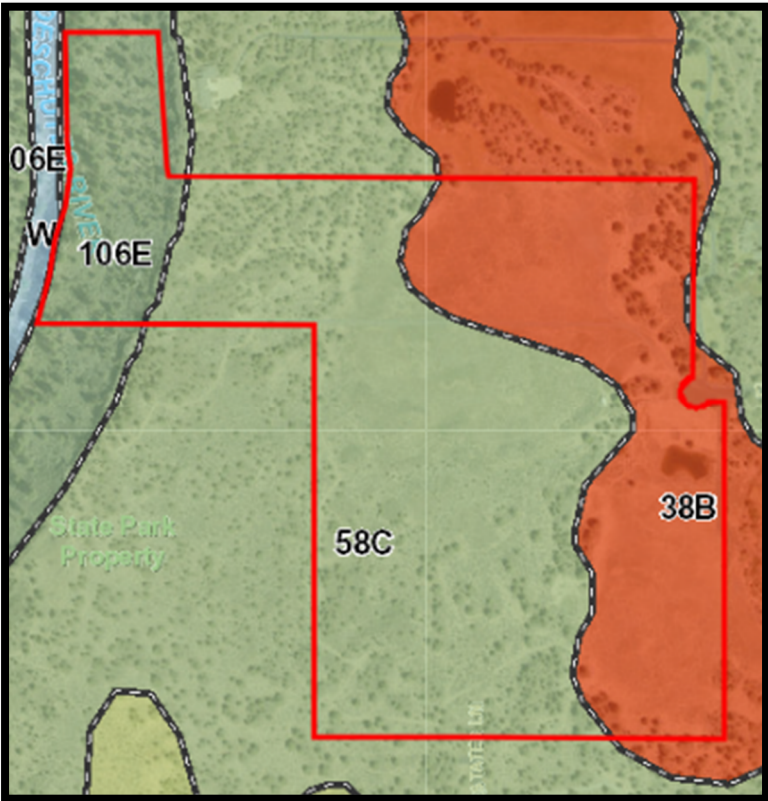
- (b) **If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange 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 south¹³, 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.

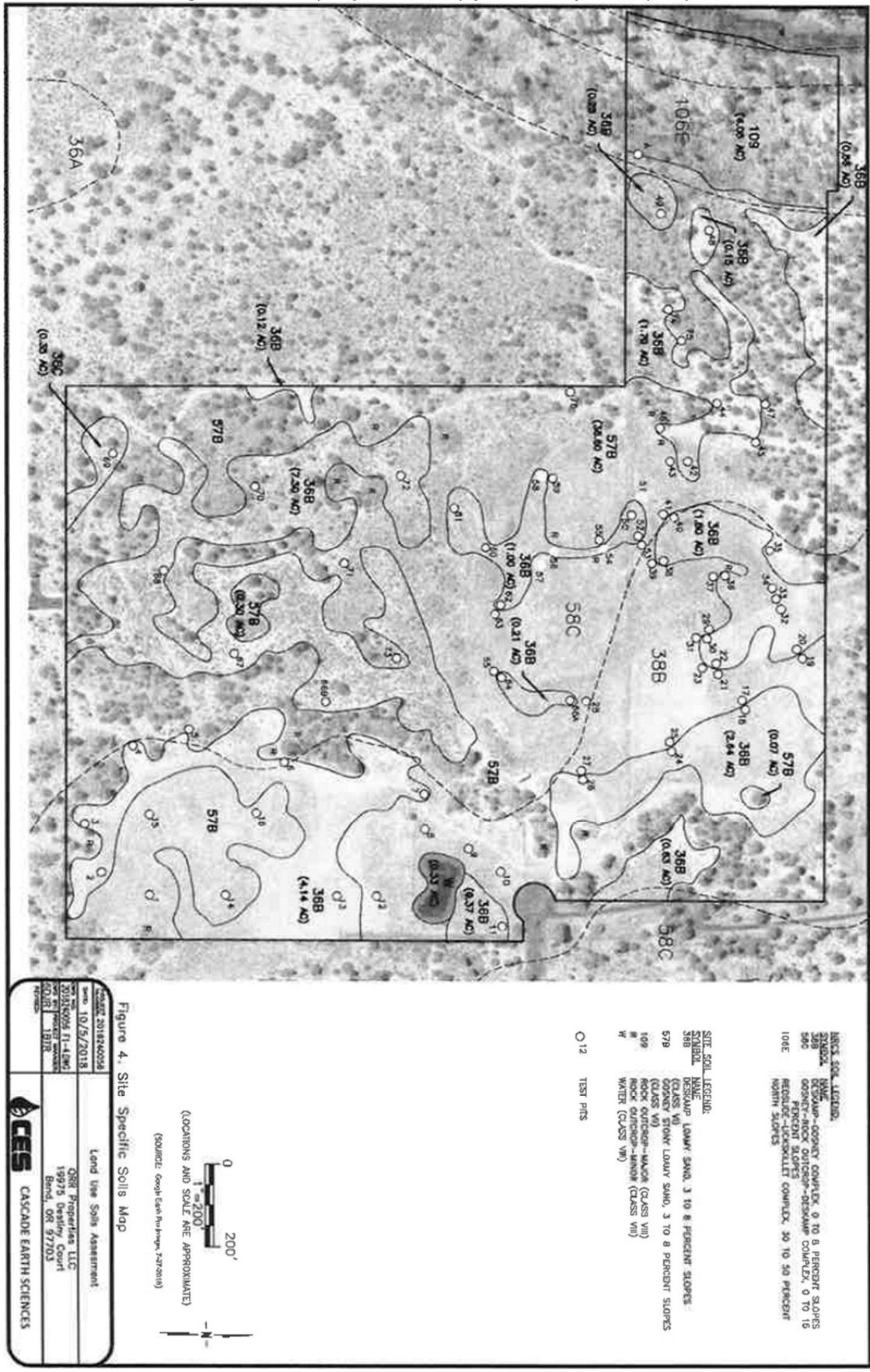
The soil types described in the soil study are shown below as Figure 3. Additionally, the Summary and Conclusions sections of the soil study states:

'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
Deschutes County Hearings Officer

owner	agent	inCareOf	address	cityStZip	type	cdd id	email
Destiny County Properties, LLC			18624 Pinehurst Rd	Bend, OR 97703	Hoff Rec	22-436-ZC 22-443-PA 23-651-MA	cochraninbend@gmail.com
Dickson Hatfield LLP	Liz Dickson		400 SW Bluff Dr, Ste. 240	Bend, OR 97702	Hoff Rec	22-436-ZC 22-443-PA 23-651-MA	eadickson@dicksonhatfield.com



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Board deliberations for a proposed Plan Amendment and Zone Change for approximately 20.36 acres at 65110 N Highway 97, 64994 Deschutes Market Road, and 64975 Deschutes Pleasant Ridge Road (Last Ranch, LLC)

RECOMMENDED MOTION:

Conduct deliberations to determine whether the proposed Plan Amendment (PA) and Zone Change (ZC) should be approved or denied.

Upon conclusion of the deliberations, the Board may:

- Approve the PA/ZC;
• Deny the PA/ZC; or
• Continue deliberations to a date to be determined.

BACKGROUND AND POLICY IMPLICATIONS:

The applicant, Last Ranch, LLC, requests that the Comprehensive Plan designation of the property be changed from Agricultural to Rural Industrial and that the Zone be changed from Exclusive Farm Use to Rural Industrial. A public hearing before a Hearings Officer was held on March 21, 2023, with the Hearings Officer issuing a recommendation of denial. A public hearing before the Board was held on June 12, 2024.

BUDGET IMPACTS:

None

ATTENDANCE:

Anthony Raguine, Principal Planner

**Pat Kliewer
60465 Sunridge Drive
Bend, OR 97702**

**GOAL 5 ECONOMIC, SOCIAL, ENVIRONMENTAL AND ENERGY
CONSEQUENCES ANALYSIS**

Last Ranch LLC

File Nos. 247-22-000573-ZC/574-PA

August 13, 2024

INTRODUCTORY NOTE

The Applicant spoke at length to Amanda Punton, Natural Resource Specialist at the Oregon Department of Land Conservation and Development, on July 18, 2024. Ms Punton said that no two ESEEs should be the same. They can be quite short, only a few pages, if there is no opposition to the application. They should be longer if there is opposition. The ESEEs should highlight new conflicts with the new zone, RI. For each RI use, consider whether the use should be allowed, limited or prohibited to adequately protect the resource. Uses can be grouped together where impacts are similar. The social portion of the analysis should be from the point of view of motorists on the highway. Do not take into consideration the impact on neighbors. Use the applicable codes to determine how each use might look on the parcels and think about how the RI Code, the LM Code and the Conditional Use Code will affect the development. If a use needs to be limited, be very specific about it so people in the future will understand what is intended. Sometimes it is cleaner to prohibit a conflicting use rather than to limit it. There is no one right way to write ESEEs. Applicant sent the draft ESEEs to Ms Punton on August 2, 2024, for comment. Ms Punton wrote that she had only time to do a cursory review but it looked as if the document covered all of the elements that we talked about.

1. SUMMARY

The applicant, Last Ranch LLC, applied on July 13, 2022, for a Deschutes County Comprehensive Plan Amendment to re-designate the property from Agriculture to Rural Industrial and for a corresponding Zoning Map Amendment (Zone Change) to rezone 20.36 acres from Exclusive Farm Use, Tumalo/Redmond/ Bend Subzone (EFU-TRB) to Rural Industrial Zone (RI). The property is within ¼ mile from US 97 and for this reason is subject to the scenic protections provided through the Landscape Management (LM) Zone.

Where a post acknowledgment plan amendment is proposed, the statewide planning goals apply. OAR 660-023, the Goal 5 implementing rules, applies to PAPAs that affect a Goal 5 resource. In this case, the rule applies because the PAPA allows new uses that could be conflicting uses with the “scenic and natural appearance of the landscape as seen from the designated county roadways. OAR 66-023-0250(3)(b).

As explained in greater detail below, the natural scenic quality of the subject property is quite low. This is because of existing topography as well as the surrounding conditions that limit the ability to view the property. Existing use, development and design limitations imposed through the RI zone, the LM zone and the Conditional Uses Code will significantly constrain development opportunities and ensure that the County will have broad discretion to ensure that any RI-authorized development is compatible with and not detract from the natural quality of the highway area.

Based on the evaluation of the economic, social, environmental and energy consequences analysis that follows, the County should decide to allow all uses authorized within the RI zone except for the following:

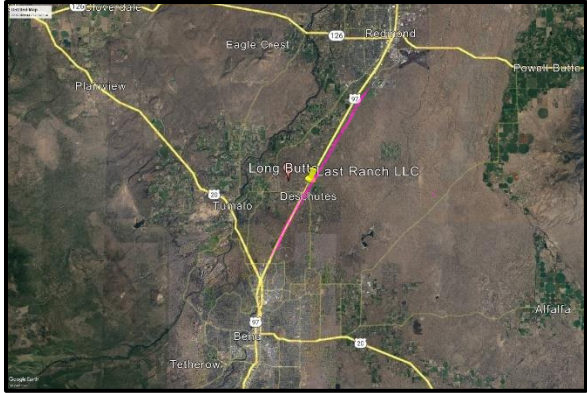
Prohibited Uses

- Automotive wrecking yard totally enclosed by a sight obscuring fence.
- Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.
- Pulp and paper manufacturing.
- Any use permitted by DCC 18.100.010, which is expected to exceed the following standards: Lot coverage in excess of 70 percent. Generation of any odor, dust fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.

2. BACKGROUND

The Creation of the Highway Landscape Management Roads

The Landscape Management Corridor was designated by the BOCC on November 25, 1992, by County Ordinance 92-052. It includes a quarter mile on each side of the centerline from a list of county roadways that taken together, total 465 miles. Of this total, 54.5 miles of US 97 are on the list of designated resources. These US 97 designations are broken down into three sections, from the north county line to the south county line excluding the portion of the highway within the Bend and Redmond city limits:



2023 Google Earth Map. The Pink line is along the middle section of the US Highway 97 landscape Management Corridor between the city limits of Redmond and Bend. This corridor is now approximately 9 miles long. The subject property is 2,200 feet long. It is located at the yellow tick. The percentage of the length of the corridor that is along the subject property on the eastern side of the highway at Long Butte is 0.023%, less than a quarter of 1%.

The purpose for this designation was to maintain the:

“scenic and natural appearance of the lands adjacent to the roadways because providing “areas of good visual quality” along roadways, attract more visitors, making them want to stay longer, inducing new businesses and residents who rely on and experience these travel corridors throughout the county, maintain visual quality of road-side rest areas and parks to increase desirability to visitors and recreationists, increase recreation-related expenditures, and maintain and enhance the tourism and recreational experience for all.”

The only conflicting use identified in Ordinance 92-052 is:

“Development within the one-quarter mile overlay zone which would excessively interfere with the scenic or natural appearance of the landscape as seen from the road or alteration of existing landscape by removal of vegetative cover.”

Allowing Permitted Uses and Limiting Conflicts by Applying the LM Combining Zone

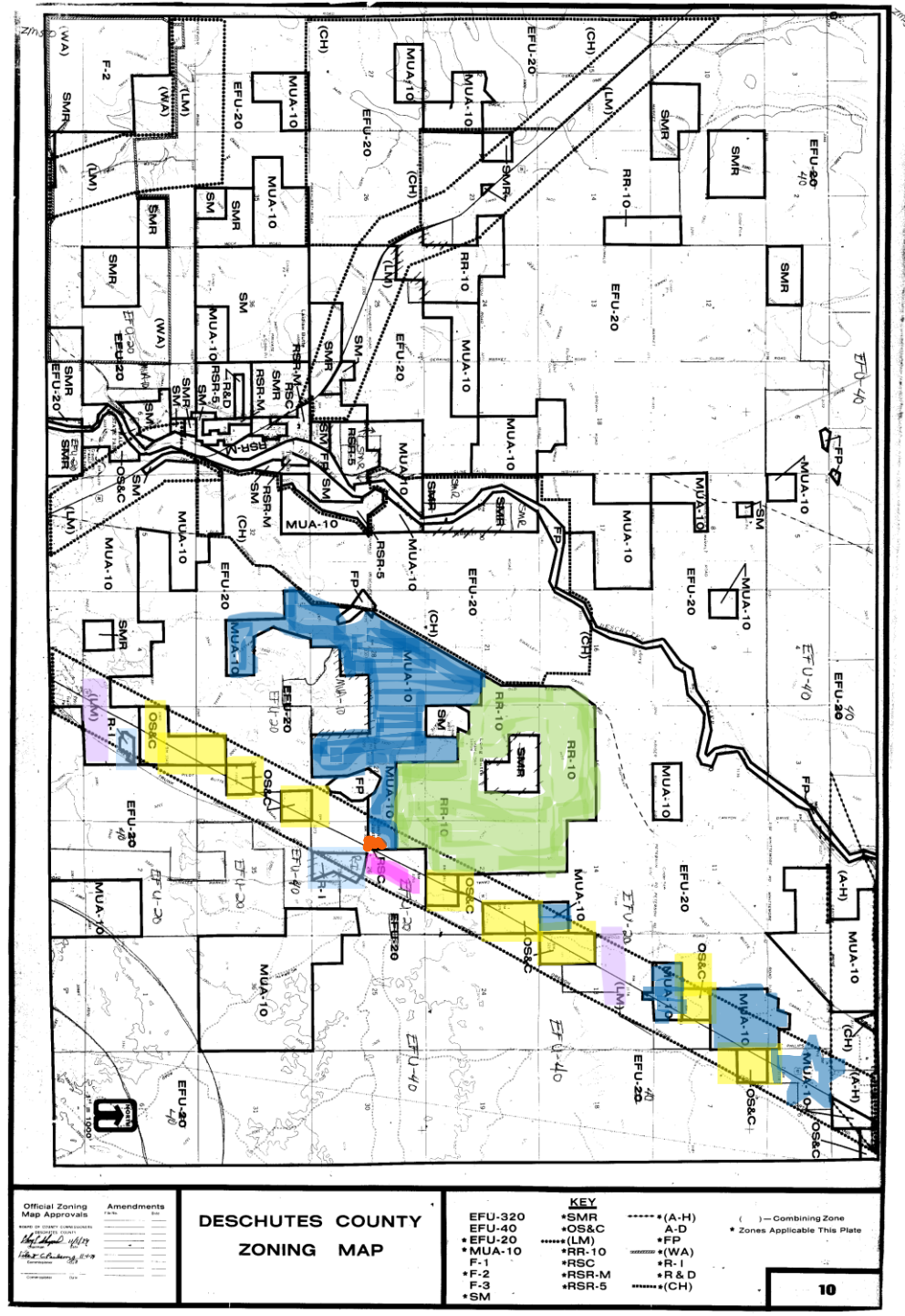
After evaluating the various factors, the 1992 Ordinance’s ESEEs concludes that these travel corridor scenic qualities should be protected by limiting conflicting uses to some degree. The County accomplished this limitation by adopting the LM Overlay Combining Zone. More specifically, Ord 92-052 relating to Landscape Management Roads ends with, “*For implementing measures, see Deschutes County Code Title 18.84, the Landscape Management (LM) Combining Zone as adopted by 92-033 and 92-034.*” (P 9 of Ordinance 92-052).

Nothing in the original designation or protection documents suggests any intent to constrain otherwise permitted uses through these scenic overlay protections. Rather the idea was that development and design standards could serve to make the permitted development compatible with the natural surroundings. This same objective can be realized considering the RI permitted or conditional uses, as discussed in greater detail below.

Many Zones in 1979 in the Corridor: RI, OS&C, MUA-10, RR-10 and RSC

In 1992, there were many zones in the land along the US 97 scenic corridor between Redmond and Bend. The designated zones included RSC, RI, OS&C, MUA-10, RR-10 and EFU. The original zoning map was completed in 1979 and it demonstrates that there were Rural Industrial zoned parcels within the LM zone and the County concluded that the LM overlay protections were sufficient limits to any RI-authorized conflicting uses. Following is the County’s 1979 Zoning Map.

DESCHUTES COUNTY NOVEMBER 1, 1979 ZONING MAP



The dotted lines on either side of US 97 indicate the 1/2 mile wide corridor of the US 97 Landscape Management Corridor, with 1/4 mile on each side of the centerline. The pink indicates the general location of the subject property. Zones indicated in this area of the corridor are RSC, RI, OS&C, MUA-10, and RR-10. The RI zoning is indicated with light blue and is in two places. LM is indicated in purple. RSC is orange at the SE corner of the property west of the subject site. There are eight approximately 40-acre parcels of OS&C.

Ordinance Includes Provisions for Future Development

Ordinance 92-052 was not meant to prohibit rezones or development in the scenic view corridor but rather was meant to balance the uses and allow development in a limited way. On page 9, it says, *“Program for Resource Protection: Based on the ESEE Analysis, the resource and the conflicting uses are important relative to each other, and the identified ESEE consequences should be balanced so as to allow the conflicting uses but in a limited way to as to protect the resource to a desired extent.”*

Rather than protect the entire ¼ mile width of the scenic corridor, the Landscape Management Combining Zone code creates a 100-foot setback from the designated road right-of-way. The LM zone restrictions, discussed in greater detail below, will constrain what can be built on the property and limit the public’s view of it, but do not prohibit development.

Development allowed at the time of designation were also uses permitted within the EFU-TRB zone. In addition to farm and forest uses, this zone allows a wide array of non-farm permitted and conditional uses including:

- community centers and churches,
- utility facilities necessary for public services,
- farmstands,
- farm and forest crop processing facility,
- a landscape contracting business,
- commercial dog boarding kennel and equine counselling activities. DCC 18.16.025 and .030.

The ESEE set forth in Ordinance 92-052 explains that it is the scenic beauty of land in its natural condition when it is visible within a roadway corridor that attracts more visitors and induces people to stay longer. By protecting the visual impacts along the corridor, people do not need “to drive further to enjoy a recreational or visual experience similar to the level prior to the conflicting use being allowed.” In order to realize this objective, the County determined that it needed to limit the conflicting uses on all zones to some degree by imposing the Landscape Management (LM) Combining Zone.

Ordinances No 92-033 and 92-034 identified the necessary protections. First, Ord 92-033 adopting amendments to the County’s Comprehensive Plan, explains that the policies, including the scenic highway protections were:

“developed with the intent of reaching the identified goals but in ways that restrict only as is necessary and with consideration of the individuals who may be affected by the needs of the public.” P 2.

The relevant plan policy amendments adopted within Ord 92-033 include:

“4. Approval of any such development in the Landscape Management Zone will be dependent on site screening by existing natural cover and/or compatibility with the landscape as seen from the river stream or road.”

“6. The primary purpose of the landscape management site plan review shall be to obtain a structure as compatible with the site and existing scenic vistas as

orange. The Subject Property is yellowed. The Scenic Corridor goes as far east as the double BNSF railroad tracks indicated by the eastern blue line.

All of these regulations and restrictions assist the county in protecting the scenic vistas and natural landscape, but also reduce profits and add costs to any RI development that will occur.

3. IDENTIFY THE CONFLICTING USES

The term “conflicting use” is defined by OAR 660-023-0010 to include “a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource.” These findings will examine those new uses that could be allowed within the RI zone and utilize an ESEE (Economic, Social, Environmental and Energy) analysis to consider potential scenarios for those conflicting uses to inform the proposed amendments.

As noted above, the conflicting use identified in Ordinance 92.052 was development that would interfere with the scenic and natural appearance of the landscape as seen from the road. This same concern – loss of the natural appearance of the landscape, could result within uses permitted outright or conditionally in the RI zone. Although detailed in greater detail below, these possible uses include:

- Farm or forest product processing, treatment, storage and distribution (similar to farm and forest crop processing facility)
- Freight Depot
- Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing (similar to landscape contracting business)
- Ice or cold storage plant.
- Wholesale distribution outlet including warehousing, but excluding open outside storage (similar to landscape contracting business)
- Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing (similar to landscape contracting business)
- Kennel or a Veterinary clinic (similar to EFU-permitted dog kennel or equine therapy).
- Lumber manufacturing and wood processing except pulp and paper manufacturing (similar to farm and forest crop processing facility)
- Road or street projects and operation of irrigation systems (similar to utility facilities necessary for public services)

The list of conditional uses:

- Concrete or ready-mix plant.
- Petroleum products storage and distribution.
- Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.
- Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.
- Railroad trackage and related facilities.
- Pulp and paper manufacturing.

- Intensive industrial uses where lot coverage exceeds 70 percent, generates noise dust and fumes
- Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.
- Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.
- Public Land Disposal Site Transfer Station, including recycling and other related activities.
- Mini-storage facility.
- Automotive wrecking yard totally enclosed by a sight-obscuring fence.
- Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.
- Marijuana retailing, subject to the provisions of DCC 18.116.330.
- Psilocybin testing laboratories.

4. DETERMINE THE IMPACT AREA

The “impact area” is defined by OAR 660-023-0010(3) to include the “geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.”

Visual Characteristics of the Highway Corridor as the Impact Area

As noted above, the significant Goal 5 resource extends for a total of 465 miles. Of this total, 54 miles exist along US 97 and the area between Bend and Redmond was 12 miles in 1992 and is now 9 miles. The subject property is 2,200 feet long. The percentage of the length of the US 97 corridor between Bend and Redmond that borders the subject property on the eastern side of the highway at Long Butte is 0.023%, less than one quarter of 1%.

There are locations along the southern portion of the designated US 97 corridor south of Bend where motorists have views of forests, rivers, and the Cascade Mountain peaks. However, between Bend and Redmond they can see the native scrub lands and the Cascade Mountains. On the eastern side of the highway between Long Butte and Bend is a 1,500-acre parcel of scrub juniper forest owned by the City of Bend, unofficially called “Dirt World” and officially named “Juniper Ridge”. A rock spine, juniper trees and a large unofficial homeless camp, trash, and port-a-potties are visible there. On the west side is the 280-acre Redmond-Bend Juniper Wayside, rocky government land in native juniper and sage brush. The highway south of Long Butte goes through two miles of federal scrub land on the west.

Along the highway, including one about 200 feet north of the subject parcel on both sides of the highway, are eight undeveloped 35-40-acre parcels of scrub juniper forest owned by the Oregon Parks and Recreation Department.

In the corridor between Bend and Redmond are dozens of residences, three long standing mobile home parks, a recreational vehicle park, a historic motel now used for long term rentals, Happy Tales dog and cat kennels, a solar panel farm, an old wrecking yard, a taxidermist, two

power plants on canals, two rental yards for construction vehicles, two commercial hay barns and feed dealers, Varnam Crane Service, Canutt's Gems rock shop and concrete fountain manufacturing plant, an RV storage facility, a used vehicle sales yard, two ministorage facilities, Rock Supremacy's office, hay farms, a concrete paver dealer, two rock crushing businesses, two vehicle repair shops, excavators, a farm equipment rental yard and used sales, and other businesses.

Between Long Butte and Redmond, primarily on the western side, are some pastures and hay farms.

Visual Characteristics of the Area between Deschutes Pleasant Ridge Road Exits

Following is a 2023 Google Earth photo of the southeast corner of Long Butte, including the subject property that shows the degraded view of scenic or natural features at Long Butte.



The above 2023 Google earth photo shows the subject site outlined in pink and its surrounding uses within the ½ mile landscape management road corridor. There is no agriculture in the landscape management corridor at Long Butte. The approximately 29 acres of land due west of the subject property with a number “1” is zoned MUA10 and RC and is continuing with a non-conforming use permit industrial and commercial uses started in 1937. South of the subject property is 57 acres of RI zoned land including Jct. 97 Storage, a ministorage business, marked “2”; Robinsons 4-R Equipment headquarters; and gpEnergy (3), the rock crushing operation at 4-R equipment (4); and (8) Deschutes RV Storage. Numbers 5 and 6 are parts of the Anthony Aceti 20 acres of land that is now zoned RI and is used to park trucks. The streets and houses in the upper left corner marked “7” are on Long Butte in Whispering Pines Estates subdivision encompassing 1,095 residential lots originally subdivided in 1968. Number “9” is the 64.51 acres of unfarmable fallow land recently purchased by Hooker Creek Excavation and Construction. The Burlington Northern Santa Fe Railroad tracks run parallel to US 97 about 500

feet east of the subject site. The 1904 Pilot Butte Canal following the terrain winds between the highway and the BNSF RR. Along the west side of US 97 in the top of this photo are non-conforming roadside businesses with some of them dating back to before 1972.

There is no scenic view at Deschutes Junction. The adjacent 57 acres of properties south of the Subject Site and east of US 97 are all zoned RI. The 20.01-acre property catty corner southwest of the Subject Site is zoned RI. The 29-acre property across the highway west of the site is zoned RC and MUA-10 and has a Non-Conforming Use Permit. The 19.12-acre Hermeling/Johnson property 2000 feet northwest of the site is zoned RI. Whispering Pines subdivision on the hill of Long Butte has 1,095 residential lots that generally vary from 1-5 acres in size. Many houses and other commercial and rural industrial development are visible from the highway at Deschutes Junction.

There are no significant scenic views in this area, no Cascades, no Deschutes River, no farms and no forest, not even any juniper scrub lands. It is highly developed. Most of the land along the corridor was developed prior to 1960 in residential, commercial and industrial uses. A small acreage subdivision, a gas station, a motorcycle racetrack, a restaurant, a mechanics shop, a tire shop, a convenience store, the ODOT rock quarry, and Cascade Pumice and its lab and garages were at the location as early as 1937.

Although this ESEE analysis considers views and conflicts for the 9-mile stretch of US 97, as a practical matter, a driver or their passengers can only experience what is within their field of vision as they pass through. For this reason, what the travelling public will see when they travel along this particular stretch at the US Highway 97 on and off ramps to Deschutes Pleasant Ridge Road is one focus of this impact analysis. This property has been degraded and is not scenic. The rock spine and the juniper trees are the only natural features visible to the east from the highway. There is no easterly view past it.

The overpass is built into the rock spine. Then, the rock spine continues to the north bound off ramp, creating the hill up and over the rock onto Deschutes Pleasant Ridge Road. The natural rock spine begins about 230 feet from the highway at the property's southern end. It exits the property about half-way through it, where the parcel is 425 feet wide. About 30 stunted juniper trees grow along the rock spine and screen the eastern part of Lot 800. The berm built in 1904 to contain the water in the 50-foot-wide Pilot Butte Canal blocks any view of anything further north and east. About ten juniper trees grow along the canal. The canal curves toward the highway as it runs northwest and falls into a pipe and flows under the highway.

The Subject Property has an uninspired, limited, constrained view no more than 395 feet into the property. It is feather shaped, with a rock spine dividing it into two elevations. Staff in the 1992 Conditional Use Permit application staff report called its view, "diminished" on the east side of the highway. The parcel looks much as it did in 1992. Lot 101 had been added to the parcel in 1991, the previous year. Sparse weeds are growing on more than half of the subject property. A five-page description of the property is in Section 9, "Site Description" in the Application. Photos of the property and north and south of it taken from the US Highway 97 from a point 0.1 mile south of the Deschutes Junction Overpass to a point 300 feet north of the property at 261612A Lot 200 were included in the January 24, 2024, submission.

The visibility of any development on this site is significantly constrained for several reasons that have nothing to do with any proposed development. The presence of the four-lane US Highway 97 on its western property line, the presence of the two-lane Deschutes Pleasant Ridge Road (also acting as the north-bound on and off ramps) on the southern property line, the 12-15-foot

tall rock spine running through the southern half of the property, the Pilot Butte Canal on the entire eastern and northern edges of the property and the two triangular levels of the property. The upper triangle is about 872 feet long and tapers from 158 to 75 feet wide. A ramped interior trail connects the upper and lower portions of the parcel. One driveway into the property is along the southern side onto Deschutes Pleasant Ridge Road.

The property is only 400 feet wide along Deschutes Pleasant Ridge Road. It widens slightly to 425 feet across the heart-shaped pond and narrows to 387 feet wide at the canal waterfall. It is 356 feet wide at the historic rock wall between Lots 101 and 800, and to only ten feet wide at its northern end. The canal's waterfall is not visible except when one is walking right beside it on the berm, in the canal easement. The canal is on average 50-feet wide and COID has an easement beside it for operation and maintenance of the canal.

Further, the subject property is difficult to see when considered from the perspective of a vehicle travelling at speeds more than 65 mph. There is no scenic view onto the subject property. It is on the east side of the highway. The Cascade Mountains are to the west. The Deschutes River is three miles to the west. Motorists can see some juniper trees and some of the rock spine. The Pilot Butte Canal is on the far eastern and northern property lines and the weed covered berms hold in the water and prevent it from being visible to motorists. At the northern property line next to the highway the water enters a pipe that conveys it under the highway. There is a 19-foot drop in elevation from the southeastern corner down toward the highway.

US 97 is very wide at this location. It was constructed as a two-lane highway with a gravel surface in 1937. Then it was paved. It was crossed by some of the earliest roads in the area. The east-west roads came first. Tumalo Road was designated a Crook County road in 1908.

After dozens of traffic accidents, injuries and fatalities at this location over the years, the highway was widened to four lanes in 1998. Since 1998, with on and off ramps both north and south bound, deceleration and acceleration lanes on both sides of the highway, its pavement width is about 150 feet. But, at the intersection with Tumalo Place and with Deschutes Pleasant Ridge Road in the southwest corner of the Subject Property, the intersection itself is 280 feet wide. The northbound acceleration lane adjacent to the subject property is especially long, 660 feet, where slow moving drivers going downhill on Deschutes Pleasant Ridge Road make a 90-degree turn and reach over 65 MPH to merge into the through lanes.

On the northbound through lanes, motorists must be especially vigilant, with vehicles going under the overpass, entering a short deceleration lane, turning 90 degrees up the hill onto Deschutes Pleasant Ridge Road, while other vehicles fly west down the hidden hill, turning 90 degrees to the right onto the long acceleration lane and speeding up to merge into northbound thru traffic. Drivers do not have time to relax and investigate the subject property.

In 1992, the average daily traffic count at 0.30 mile north of its intersection with Highway 20 was 24,000. The traffic volume on US 97 near Deschutes Junction has grown by approximately 14,761 vehicles since 1992 to 38,761, with volumes going up to 50,000 on some days.

In 1992, US 97 beside the subject property was a two-lane paved highway with a 100-foot-wide right-of-way. It is now four lanes with on and off ramps and merge lanes.

Since 1992 ODOT has spent tens of millions of dollars at the Deschutes Junction intersections to make them safer. Some of the changes to the highway system at this location include:

- a) widening US 97 from two to four lanes which involved taking about 25 feet of land from all the properties along the right-of-way,
- b) construction of the Deschutes Junction Overpass and approaches,
- c) realignment of Deschutes Market Road,
- d) realignment of Tumalo Road,
- e) creation of Tumalo Place,
- f) closing of the north end of Pleasant Ridge Road at the intersection with US 97,
- g) closing the at grade crossing at the railroad tracks at the former Deschutes Market Road,
- h) creation of Greystone Lane,
- i) creation of the traffic circle at the new intersection of Tumalo Place and Tumalo Road,
- j) building a new underpass under Deschutes Market Road for private properties,
- k) installation of on and off ramps to the overpass and local collectors on each side of the highway,
- l) installation of flashing lights and acceleration and deceleration lanes at 61st Street north of Long Butte, and
- m) installation of New Jersey barriers in the area.

The centerline of US 97 has remained close to where it was in 1992. Land has been taken from the subject parcels for widening the road.

In 2024, at this location, the width of the US 97 right-of-way is 175 feet wide south of the overpass and 280 feet wide between Tumalo Place and Deschutes Pleasant Ridge Road. North of the acceleration lane, the highway tapers down to 175 feet and then to 150 feet.

During 1992, having to fend with fewer distractions, drivers could have relaxed more than they can today in this corridor. On the two-lane paved highway with lower speeds and lower volumes, they could have glanced at the Cascade Mountains between Redmond and Long Butte, excepting at Long Butte. If they wanted to take a photo, they could have pulled off the road and onto the shoulder and stopped for a while. Now, with the speed profile around 70 mph and with the four lanes of fast traffic right beside one another, it is treacherous to pull off and merge back on to the highway. The noise and wind created by the traffic is a deterrent.

It takes concentration to drive safely in this corridor, as the number of reported accidents attests. ODOT says the large number of connecting county roads and driveways entering and exiting directly onto the highway and the 65-mph speed limit are partially to blame. Distractions and icy roads half of the year cause people to drive out of their lanes leading to serious accidents. New Jersey barriers have been installed to separate north and south bound traffic in some areas. The necessary vigilance results in people looking to the sides.

The Potential for Impact is further Constrained by Existing Zoning Code Limitations

The existing adopted zoning codes will serve to limit any conflicting uses. The LM Combining Zone takes away an additional 50 feet next to the US 97 for development and adds other restrictions to protect the view corridor. The RI Zoning Code Section 18.100.030 Use Limitations, Section 18.100.040 Dimensional Standards, Section 18.100.050 Off Street Parking and Loading, Section 18.100.060 Site Design, and Section 18.100.070 Additional Requirements also add limitations that limit density and add compatibility. The Conditional Use Limitation in Section 18.128 are the most complex, adding somewhat arbitrary regulations that ensure case by case compatibility. Following are some regulations that will ensure compatible and low-

density development on site after the rezone.

Don Kliewer PE, Retired, provided an analysis of how the existing zoning LM zoning limitations would serve to restrict the potential area of impact: "Figure 22. Diagram Of Developable Acres, Using Easements And Setbacks From Property Lines" increases the setbacks along US 97 from the usual 50 feet to 100 feet for the LM Zone. That action resulted in a reduction of developable acres of 1.23 acres, from 14.85 acres to 13.62 acres.

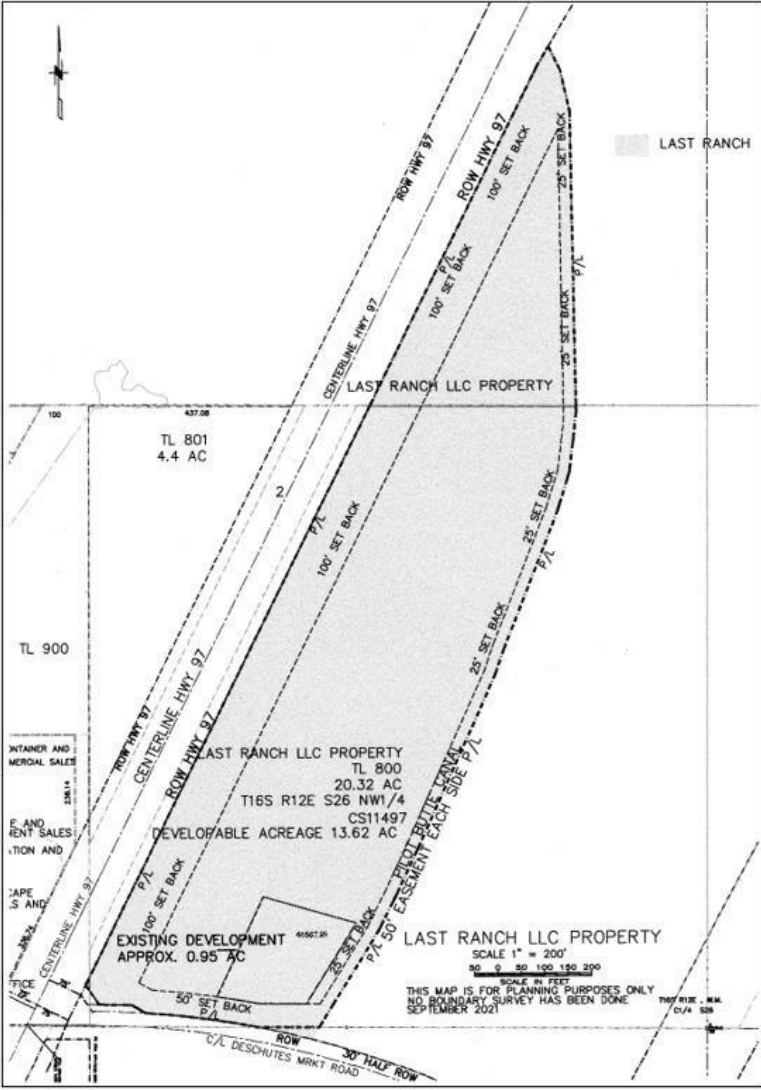
The total developable acres in the subject parcels are 13.62 acres, after setbacks from the Pilot Butte Canal and its 50-foot-wide easement from the centerline of the canal, LM setbacks, property line setbacks and road setbacks are subtracted. The 13.62 acres includes the 2.46 acres already used for the well, septic systems with drain fields, the two houses, garage/store, shop, barn, two cisterns, the heart-shaped pond, landscaping, and other improvements. If the current improvements are retained, only 11.16 acres could be further developed. The diagram uses 0.95 acres for the houses, garage, shop, barn and parking area. The total acreage indicates the acreage in Tax lots 161226B000101 and Tax lot 161226B000800. The 0.01 acre in Tax lot 161226B000700 is within a setback and is not developable.

The county will have much discretion to ensure all of the resulting development will be compatible with the scenic corridor and with the nearby residences.

Also, there are existing easements that must be avoided by development. They include the 50-foot-wide easement from the centerline of the Pilot Butte Canal that runs the entire length north to south of the property. This is shown on the developable acre map.

All the development codes will keep the density of development on this parcel low and ensure that the development is compatible with the site and existing scenic vistas.

DIAGRAM OF DEVELOPABLE ACRES, USING EASEMENTS AND SETBACKS FROM PROPERTY LINES. 2022 Image Source: Don Kliewer, PE, Retired



The Existence of Nearby Houses and other Rural Industrial Zoning Limitations will Constrain the Development Area Limiting the Impacts

Using other County codes for the RI zone, because two houses are within 600 feet of the property, only 70% of the land could be developed: 14.52 developable acres. Because of the two residences that are on the west side of the highway, all of the uses, including permitted uses, will be conditional uses.

18.100.040. B. requires “No conditional use permitted by DCC 18.100.030 (Use limitations) that is located within 600 feet of a residential use, lot in a platted subdivision or a residential zone shall exceed 70 percent lot coverage by all buildings, storage areas or facilities and required off-street parking and loading area.” This code applies because there is a home 549 feet to the

west on lot 161226B000300 and a house 340 feet west on the northwest corner of US 97 and Tumalo Place on lot 161226B000500.

Setbacks

18.100.040. C. says, “*The minimum setback between a structure and a street or road shall be 50 feet.*” The property is bordered by US 97 on its entire western property line. A portion of its southern property line is on Deschutes Pleasant Ridge Road. However, because US 97 is in a Landscape Management Combining Zone, the setback from it will be 100 feet. The map of developable land shows those setbacks.

18.100.040. D. says, “*The minimum setback between a structure and a property line adjoining a residential lot or use shall be 50 feet.*” The setback between the two houses on the west of US 97 and the western property is already 100 feet, double the 50 feet that this code requires. There are no residential zones nearby. Two houses west of US 97 are within 600 feet. One is located on EFU-TRB and the other is located on Rural Commercial. Therefore, this setback will be moot.

18.100.040. E. says, “*The minimum rear or side yard setback shall be 25 feet unless a greater setback is required by DCC 18.100.050 C or D.*” This setback applies to all buildings and was not computed because the number of buildings that will be developed and redeveloped over time is not known. However, this setback will reduce the amount of land covered by buildings.

Maximum Heights

18.100.040. F. says, “*The maximum building height for any structure shall be 30 feet on any lot adjacent to or across a street from a residential use or lot and 45 feet on any other lot.*” In this case, because of the two houses on the west side of US 97, the maximum building height limit would be 30 feet. At this time, it is not clear if this code will apply or not, since the two houses are across a four-lane highway. It is likely that it will only apply within the 600-foot circles. Additionally, US Highway 97 was constructed about four feet above the subject property for its 2,200-foot length beside the subject property. Buildings placed on the edge of the 100-foot LM setback will appear 4 feet shorter than the 30 feet they are allowed to be, or 26 feet.

Maximum Size

18.100.040. H. 1. “*The maximum size of a building is 7,500 square feet of floor space. The maximum square footage in a building or buildings for a single allowable use, as defined in DCC 18.100.020 and 18.100.030, on an individual lot or parcel shall not exceed 7,500 square feet.*” There is no building size limit for uses that are for the primary processing of raw materials produced in rural areas.” This limitation was used for our calculations and the TIA. Two story buildings would have smaller footprints.

Sewers and Storm Water

On site sewer systems for industrial and commercial users must adhere to State of Oregon regulations for the discharge of waste. A third of the parcel can be used for sewage disposal systems according to the Soil Scientist, Gary Kitzrow. Storm water runoff must meet the Central Oregon Stormwater Manual. This will be another constraint on the actual acres of development, further keeping the final uses low density.

Ability to Apply Conditions

As noted above, because all uses developed on this site will require a conditional use permit, DCC 18.128.020 empowers the decision maker to impose additional conditions. Subsection 11 of that provision authorizes conditions as necessary to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources. This will authorize an independent view of the visual impacts from development to ensure compatibility with the natural surroundings.

When applied, all of the RI and LM regulations will result in a development that will be uncrowded and well buffered. It will be set back at least 100 feet from the highway, will be no more than 30 feet tall and buildings will be in less than 7500 square feet. All buildings will be painted a neutral color. It will have setbacks all around the buildings and lighting that faces downward. It will be screened with natural screening or sight obscuring fencing. The rock spine will break up the development and the 19-foot change in elevations across the parcels will result in a varied development. There are 42 juniper trees on site, primarily along the rock spine and the canal that will serve to block views of structures on the upper triangular portion of the property, as they do for the structures there now.

For these reasons, the Board of Commissioners should find that compliance with the development and design standards within the RI and LM zone will be sufficient to ensure compatibility with the natural landscape as seen from the road.

5. ECONOMIC, SOCIAL, ENVIRONMENTAL, and ENERGY CONSEQUENCES ANALYSIS

This ESEE analysis addresses all RI uses listed in Deschutes County RI Zoning Code, DCC 18.110.010 Uses Permitted Outright and DCC 18.100.020, Conditional Uses. It is important to remember that this evaluation is focused on evaluating the visual impacts to the scenic resource resulting from allowing, limiting or prohibiting the proposed conflicting use. This is less about evaluating the pros and cons of a use generally and is instead focused on how an RI permitted use will make the county a less attractive place to live, will deter visitors from visiting Deschutes County and desiring to stay.

As noted above, many of the outright permitted uses in the RI zone are similar to non-farm uses conditionally allowed in the EFU-TBR zone. Examples of these comparable uses include farm / forest product processing, utility facilities, animal medical facilities and construction / landscape contractor facilities. Although several conditional uses permitted within the RI zone are more industrially intensive, the visual impact of removing the existing natural scenic condition to accommodate RI zone uses is not substantially different from the impacts one could expect from the EFU-TBR zoned use. Stated differently, the loss of natural area abutting the highway is visually the same whether this area is replaced by a livestock barn (an EFU-TBR permitted use) or a wood processing plant (a RI conditional use). In either case, the result is a structure less than 30-feet in height that must be setback, buffered by existing tree and shrub covered, finished with muted earthtone colors and any other measures taken to reduce the visual impact. For these reasons, the County could conclude that the loss of the natural surroundings do not create conflicting uses to any greater degree than the existing zone.

Another thing that many of the uses in the RI zone have in common is that they provide services to the public. As commercial operations, these uses will have component elements like access

drives, septic drainfields, and off-street parking areas, that will have the effect of displacing natural vegetated areas. Given the elevation change between the surface of the highway and the subject property, it will be difficult, if not impossible to see property improvements like circulation drives or parking areas. To the extent there might be tree removal associated with construction, the LM zone expressly exempts these accessory elements from the buffering requirements under DCC 18.84.080. For this reason, the visual impact from these use supportive elements need not be considered.

The County could conclude that the existing RI Zoning Code, the Conditional Use Code, and the LM zone protections limit development to a large degree and are sufficient to ensure that no conflicting uses could occur. However, out of an abundance of caution, a detailed evaluation of the impacts resulting from potentially conflicting uses authorized within the RI zone follows:

18.100.010, USES PERMITTED OUTRIGHT IN THE RI ZONING CODE

A. Farming or forest use.

Comments: This use is the same for EFU-TRB and RI. The property is designated EFU-TRB, a zone in which farm and forest uses are allowed. It is not designated as a forest. The 42 juniper trees buffer the property and can continue to shield the upper portion of the property above the rock spine from the view of motorists on the highway. One can see only glimpses of the two historic one-story houses and barn and other improvements from the highway because of the juniper trees, landscaping, and the rock spine. There are no structures west of the rock spine. Grass at the southwest corner and weeds grow on the flatter western portion of land that is visible from the highway. The 38,761 vehicles per day on US 97 going around 65-70 MPH along the western property line create a dizzying noisy environment. Carl Juhl's letter in the record describes how this precludes any livestock raising on site. Livestock jumping the fence or otherwise getting on the roadway could cause fatalities. Tony Aceti's letter and Dean Pettijohn's letter describe why as contract farmers they would not take on farming this parcel. Bev and Harry Fagen's letter says the property has never been farmed. The soil types preclude farming on all but six acres next to the highway. Six acres is not enough for a profitable farm next to a busy highway. For these reasons, it is highly unlikely that if it was rezoned to RI uses, it would be put to any farm or forest use.

Economic Impact: The economic impact of farming the parcel would result in a financial loss to the owner. Two-thirds of the parcel is Class 7 or 8 soil with or without irrigation. All of Lot 101 has never been farmed and is unfarmable. The 2.5 acres in the southeast corner is unfarmable. It is covered with buildings and a paved parking lot and is Class 8 soil. The property formerly was owned by people with other sources of income. It derived some of its income from a roadside attraction, the Funny Farm, under a conditional use permit for the last 32 years, along with residential rental income. The owners of that business have both died, leading to its sale to the current owner. It has never earned an income by agriculture. The property is isolated and surrounded by non-agricultural uses. The surrounding uses are over a thousand residential lots, and industrial and commercial uses. The economic effects of retaining the EFU-TRB zoning would be to keep this property unproductive and unprofitable. Leaving the property as it is today would provide insignificant views from the highway and would have no economic effect on tourism.

Social Impact: This is a tight community of property owners. Many have owned their parcels to the south and west since the early and mid-1990s. They help one another. Letters are in the

record in favor of the zone change from neighbors Tony Aceti and Bev and Harry Fagen. Hooker Creek Excavation and Construction Materials is a new owner of the 66 acres of land to the north and east, but their representative, former Deschutes County Commissioner Linda Swearingen, gives her support to this application. Since the property is already zoned to allow farm and forest uses, there will not be an adverse social impact from the rezone and plan amendment change.

Environmental Impact: Assuming that this property is not put to farm and forest uses, the environmental impact of the rezone will be positive. The chemicals needed to farm the 6 acres of this property that has poor to horrible soil would likely partially blow onto the roadways and the neighboring properties with non-agricultural uses and cause hazards. Maintaining good visual quality on the highway is important in this highway corridor. Thick dust, fertilizers, pesticides, herbicides, ph. balancing products, and other chemicals blowing across the highway has a negative effect in this busy location.

Energy Impact: As covered in the application, the rezone from EFU-TRB to RI will allow a use other than farming that will likely create jobs for a few of the 4,000 residents of Deschutes Junction. That will reduce their miles traveled to jobs in Bend and Redmond and reduce energy usage.

Allow Use	X
Limit Use	
Prohibit Use	

B. Primary processing, packaging, treatment, bulk storage and distribution of the following products:

- 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.**
- 2. Ornamental horticultural products and nurseries.**
- 3. Softwood and hardwood products excluding pulp and paper manufacturing.**
- 4. Sand, gravel, clay and other mineral products.**

Comments: Jack Robinson and Sons through 4-R Equipment has a yard for sand, rock and gravel within the highway view corridor below the Deschutes Market Road overpass south of the subject property. Tall piles of sand and gravel and heavy equipment are visible from the highway and the overpass. The RI zoning was applied for and the use approved about 14 years ago, since the LM corridor was approved in 1992. The storage of sand and gravel is not significantly distinct from natural property in this vicinity. An agricultural or wood processing, packaging, storage or distribution facility would consist of a building less than 7,500 square feet of footprint that is natural colors and is screened by natural screening. The visual impact would be that some portion of this structure would be visible from the highway.

Economic Impact: The expected economic impacts to the county and to owners of the businesses processing, packaging, treatment, bulk storage or distribution of agricultural products, wood products, horticultural products and nurseries, or mineral products would likely be positive. The current zoning of the property, EFU-TRB, does not produce a profit.

Social Impact: Because these are some of the uses now in the scenic view corridor on the RI-zoned properties south of the subject property, they will likely continue to be accepted by the motorists. The first industrial use in the area was by Cascade Pumice in 1942 that lasted almost forty years. Cascade Pumice brought in truckloads of pumice rock and processed it on

site leading to piles of crushed rock taller than one-story buildings. Some pumice was loaded onto railroad cars. 4-R Equipment south of the subject site and Fagen’s parcel across the highway to the west now are sites with several businesses on this list. As incubators for industries supporting the agricultural communities, such businesses will be interesting to motorists. The Fagen’s uses go back to 1937 when the Allison’s intensely used the property to sell and repair vehicles, sell firewood, pump gasoline, feed the travelers in their restaurant, and sell general store items. Today, they store, prepare, and sell logs and landscape products and prepare mineral products. With the low density and screening of the building or buildings, and by following the RI and LM codes, there will not be an adverse effect to motorists or the surrounding property residents or employees. The zoning codes will result in development set at least 100 feet from the highway right-of-way, whereas without the LM zone they would allow development 50 feet from the highway. Additional requirements such as the only 11-13 acres that can be developed out to the 20 acres on site, not exceeding a 30-foot height maximum, not exceeding a 7500 square feet floor maximum, natural colors, landscaping, screening and making the development attractive and unobtrusive due to colors and roofing may add expense to the projects but will result in less impact to the motorists. The Conditional Use Code Section 18.128.020 included above will allow the County to ensure more compatibility at its discretion.

Environmental Impact: The environmental impacts from these uses will likely be positive in this location. The double tracks of the Burlington Northern Santa Fe Railroad are about 500 feet east of the site. Trucking products to and from the near-by railroad loading area would be efficient. The location has the best transportation system in the county, with the US 97 Highway next door and Highway 20 only three miles west. The central location in the county allows easy access to Bend, Redmond, and Sisters. The Applicant is not aware of any complaints about air quality from the public or neighbors of similar uses nearby.

Energy Impact: For the reasons outlined above, the energy impact at this location will be positive and result in less transportation costs. It will not have any visual impact on energy expenditures of travelers.

Allow Use	X
Limit Use	
Prohibit Use	

C. Residence for caretaker or night watchman on property.

Comments: The property already contains two houses that are setback from the highway. Of the structures likely to house RI permitted uses, these residences would likely be the smallest and have been there for 100 years.

Economic Impact: This use is likely to have a positive economic impact, as the property has two houses that could be used as residences for caretakers or night watchmen. The economy of adaptively reusing a house for this use is likely to be more economical than building a new house from scratch. Even if built new, caretaker’s housing would provide greater security for the property.

Social Impact: This use is unlikely to have any impact because the property already has two houses on it that could be used as a residence for a caretaker or night watchman. One was built around 1912 and the other house was built about 1920. The visual impact when viewed by motorists would be slight because the existing small homes, which are screened, are difficult to see from the highway.

Environmental Impact: This environmental impact is that the two houses on the property that could be reused. It would reduce the negative carbon impact of being demolished.

Energy Impact: Reusing the existing houses will save energy to provide residences for a caretaker or night watchman instead of building such structures from scratch.

Allow Use	X
Limit Use	
Prohibit Use	

D. Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.

Comments: Building a freight depot would likely require a warehouse where goods could be loaded, unloaded and stored for transfer. This use would include one or two buildings that are typically one story tall and less than 7500 square feet. The visual impact from the highway for a depot of this type of warehousing structure would be similar to any other type of use housed within a structure where some portion of a building may be visible from the highway rather than the existing natural landscape.

Economic Impact: The economic impacts from these types of uses will likely be positive in this location. The double tracks of the Burlington Northern Santa Fe Railroad are about 500 feet east of the site. Trucking products to and from the railroad loading area would be efficient. The location has the best transportation system in the county, with the US 97 Highway next door and Highway 20 only three miles west. The central location in the county and the Deschutes Junction Overpass allows easy access to Bend, Redmond, and Sisters. These freight centers have only enhanced the economic generators within the County without having any impact on the travelling public's interest in visiting or living within the County. The uses will provide income for the county and the business owners and will be compatible and will not negatively affect the traveling public.

Social Impact: These uses are already being used in the adjacent area south of the Deschutes Pleasant Ridge Road across the street. It is likely to foster social activity between the business owners. A neighboring gas dealership has drivers drive trucks to Portland daily to fill with gasoline and return to Deschutes County to distribute the gas region wide. It is like Willamette Greystone, which brings masonry products from the west side of the Cascades and stores and sells them county wide from their central location at Deschutes Junction. The Hay Depot across the highway has been driving semitrucks with pup trailers of hay to the Portland shipyards for over twenty years. MillAnn Farms uses the property today to distribute farm crops.

Environmental Impact: The environmental impact of these uses is positive. The central location should cut down on miles traveled and therefore vehicle emissions as compared to other locations. Site runoff and any noise can be controlled. Water use will be low. The Applicant is unaware of any complaints about air quality from the public or neighbors of the similar uses next door, such as some of the businesses adjacent to the railroad on 4-R Equipment land zoned RI.

Energy Impact: The environmental impacts from these uses will likely be positive in this location. The double tracks of the Burlington Northern Santa Fe Railroad are about 500 feet east of the site. Trucking products to and from the railroad loading area would be efficient. The location has the best transportation system in the county, with the US 97 Highway next door and

Highway 20 only three miles west. The central location in the county allows easy access to Bend, Redmond, and Sisters, saving transportation energy.

Allow Use	X
Limit Use	
Prohibit Use	

E. Contractor’s or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.

Comments: Construction contracting-related businesses will require construction of a building to house the business along with some enclosed building for the storage of materials (or outside storage surrounded by sight obscuring fencing) with parking for vehicles. It is assumed that buildings for this use would be one story tall and could vary in size up to 7,500 square feet. The visual impact from the highway for this type of construction-related business would be like any other type of use housed within a structure where some portion of a large building may be visible from the highway rather than the existing landscape.

Economic Impact: These business uses will likely produce jobs and economic growth. These trades are necessary throughout the county. Jobs created would be an economic benefit to the community.

Social Impact: The code itself is friendly to the public as it restricts these uses to the inside of a building and to outside storage areas with sight-obscuring fencing. They will be unobtrusive and will likely not have any adverse effect on the motorists on the highway. The former United Pipe warehouse is directly south of the subject property. The yellow building is next to the highway and all materials are enclosed within it. Willamette Greystone is a similar use that has been across the street to south for thirty years, beginning ten years after the landscape management corridor was initiated. It has both buildings and a sight obscuring fence. The business is popular in the county.

Environmental Impact: The Site has plenty of water, with the domestic water well drilled in 1992, Avion Water and two cisterns with non-potable Pilot Butte Canal water. Septic tanks and drain fields can be put on the lower six acres. There should not be any runoff, dust or chemicals that could cause trouble. Stormwater will be managed on site.

Energy Impact: Pacific Power’s substation is located close by on Pleasant Ridge Road northeast of the property. A will-serve letter shows Pacific Power’s ability and willingness to serve the site. Locating those uses here in this central location will likely result in reduced transportation costs, less gasoline and fewer gallons of diesel fuel.

Allow Use	X
Limit Use	
Prohibit Use	

F. Ice and cold storage plant.

Comments: An ice and cold storage plant is typically a facility that stores ice and perishable goods at controlled temperatures. These uses require refrigeration systems to maintain ideal temperatures and humidity levels for storing perishable goods. These facilities can help extend

the shelf life of products, reduce waste, and ensure safe consumption. Construction of these types of plants would require construction of an enclosed structure similar to a warehouse. It is assumed that buildings accommodating this use would be less than 30 feet tall and could vary in size up to 7500 square feet. The visual impact from the highway for an ice or cold storage plant would be similar to any other type of use housed within a structure where some portion of a large building may be visible from the highway rather than the existing natural landscape.

Economic Impact: Jobs created would be an economic benefit to the community. There are many businesses that need to use ice and cold storage plants, such as those that serve the traveling public, restaurants, food trucks and some entertainment venues like the Hayden Homes Amphitheater and the Deschutes County Fairgrounds.

Social Impact: This business will not adversely affect the motorists and tourists and in general will serve them. It is no different than any business in the RI zone. It produces a product that is difficult to obtain for grocery, entertainment, non-profit events and other venues. The regulations will ensure the business is unobtrusive to the traveling public. The traveling public will benefit from the region having more ice and cold storage.

Environmental Impact: Power is nearby and can be delivered by Pacific Power. Avion already delivers water to the site. The Site has plenty of water, with the domestic water well drilled in 1992 and Avion Water. There is no known adverse environmental effect. The central location between Sisters, Redmond and Bend, will reduce vehicle emissions as the trucks deliver the products to the customers.

Energy Impact: This type of business is well insulated but could use a significant amount of power. Pacific Power’s substation is located close by on Pleasant Ridge Road northeast of the property. A will-serve letter shows Pacific Power’s ability and willingness to serve the site. The environmental impacts from these uses will likely be positive in this location. Trucking products to and from the site would be efficient. The location has the best transportation system in the county, with the US 97 Highway next door and Highway 20 only three miles west. The central location in the county allows easy access to Bend, Redmond, and Sisters, saving transportation energy.

Allow Use	X
Limit Use	
Prohibit Use	

G. Wholesale distribution outlet including warehousing but excluding open outside storage.

Comments: Like the other storage or warehousing related uses, a wholesale distribution outlet would likely be one to two stories tall and could vary in size up to 7500 square feet. The visual impact from the highway for wholesale distribution outlet would be similar to any other type of use housed within a structure where some portion of a large building may be visible from the highway rather than the existing natural landscape.

Economic Impact: Jobs would be created adding money to the county, the business and the local economy. Products would be more proximate to the stores or businesses and will reduce wait time for customers. End time delivery would be faster.

Social Impact: This use is similar to current uses in buildings on neighboring properties. The touring public will find the warehouse distribution outlet visually unobtrusive with the natural screening, height standards, footprint standards, setbacks and design standards. Outside

storage is prohibited. This use will be unobtrusive and will not adversely affect the traveling public.

Environmental Impact: Delivery trucks may arrive and depart the site in low numbers, but they will use diesel or gasoline to power them. Because no wild animals or birds have been seen on the constrained site in years, due to being surrounded by the highway, roads, and the canals, there should not be any adverse consequences from a delivery use to them. Interior forklifts are likely to be electric. External lighting will be shielded and the color of lighting will be regulated. Stormwater will be contained on site and wastewater can be treated on site.

Energy Impact: Energy needs for power are expected to be low for internal and exterior lighting which will be provided by Pacific Power. Pacific Power’s substation is located close by on Pleasant Ridge Road northeast of the property. A will-serve letter shows Pacific Power’s ability and willingness to serve the site. Trucking products to and from the site would be efficient. The location has the best transportation system in the county, with the US 97 Highway next door and Highway 20 only three miles west. The central location in the county allows easy access to Bend, Redmond, and Sisters, saving transportation energy and using less gasoline and fewer gallons of diesel fuel.

Allow Use	X
Limit Use	
Prohibit Use	

H. Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.

Comments: Like the other storage or warehousing related uses, the visual impact of a welding, sheet metal or machine shop would be similar to the visual impact from processing, storage or warehousing business. The shop would likely be one to two stories tall and could vary in size up to 7500 square feet. The visual impact from the highway for wholesale distribution outlet would be similar to any other type of use housed within a structure where some portion of the building may be visible from the highway rather than the existing natural landscape.

Economic Impact: This business will employ skilled people to do the jobs that will be provided in a way that vacant and unfarmable property or warehousing will not. Jobs created would be an economic benefit to the county and to the Deschutes community. More jobs will be created with these uses than by many of the others.

Social Impact: These businesses will fit in well in this neighborhood. Tony Aceti, who has a college degree in welding, has a welding shop in his barn catty-corner from the subject site. Some of these trades are provided on the adjacent McCauley’s RV repair shop. Harry Fagen has a machine shop on Tumalo Road. Social connections can be made. The smaller buildings will be unobtrusive to the motoring public with all the business being inside low buildings, using natural screening and sight-obscuring fencing. This use will be unobtrusive and will not adversely affect the visual impact on the traveling public.

Environmental Impact: The welding, sheet metal or machine shop businesses do not pose any special environmental concerns.

Energy Impact: These businesses will use normal amounts of energy for lighting, and heating and cooling and to run equipment. Pacific Power can provide the necessary energy. The central location will result in vehicle energy efficiency.

Allow Use	X
Limit Use	
Prohibit Use	

I. Kennel or a Veterinary Clinic

Comments: A kennel use typically consists of one or two low structures and enclosed outdoor spaces suitable for providing shelter for dogs and/or cats. A veterinary clinic provides health care for animals, small and large and has about two or more rooms. The visual impact from the highway for a kennel or veterinary clinic will be similar to any other type of use housed within a small structure where some portion of a building may be visible from the highway rather than the existing natural landscape. If placed on the upper level, given the elevation change and the existing natural screening, it would be unlikely that any of the building or outdoor kennel-related activities would be visible from the highway.

Economic Impact: These businesses can create technically trained and college degreed jobs that benefit the Deschutes community and the traveling public who need care or local boarding for their pets. The positive economic benefits will benefit the owners, the employees and the county. The economic impact will be positive.

Social Impact: These uses will likely create social connections in the Deschutes Community of 4,000 residents who use it for their pets. Boarding between Bend and the Redmond airport will be convenient for travelers. The uses will likely be acceptable to motorists.

Environmental Impact: Since the site has no known habitat for large or small vertebrate animals, amphibians, insects, or birds, there should not be any adverse wildlife impacts. The uses do not generate dust or discharge into the air. The uses will not have any unusual runoff when done correctly. However, the noise and vibrations from the highway may make an outdoor kennel at this location a poor choice as it may be upsetting to animals who board there. But the long-term existing indoor kennel north of Long Butte does not have any problems due to the road noise. This use will be smaller than other warehousing or processing uses, be unobtrusive and will not adversely affect the traveling public and may serve them.

Energy Impact: Water and power usage should be average or lower than average when compared with EFU-TBR permitted uses. Travel times from the community of 4,000 people to the kennel or veterinary clinic at this location will save vehicle fuels that would be needed to drive to other businesses in Bend or Redmond.

Allow Use	X
Limit Use	
Prohibit Use	

J. Lumber manufacturing and wood processing except pulp and paper manufacturing.

Comments: The visual impact of a lumber or wood processing operation would be similar to an agricultural processing use. This use would occur largely within a one-story building, less than 7500 square feet. Presumably, this use would require the storage of logs and finished lumber in a yard outside. The visual impact would be that some portion of this structure and perhaps piles of lumber would be visible from the highway.

Economic Impact: This industry has nearly vanished in this area. Bend had lumber manufacturing mills that were among the largest in the world, but they are gone now. Having

this use on this constrained site would be difficult but welcome. It could provide good jobs. The Fagen property west of the highway has had logging businesses since 1937. Logging trucks and equipment are parked there and firewood, fence posts, and cut logs for log houses have been manufactured there for 80 years. Jobs and income will be created benefitting the local area and the county.

Social Impact: Lumber mills and wood processing are iconic Oregon businesses. Employee teams may create strong bonds with one another. Tourists may find this use of natural forest products a welcome site. The uses will likely be acceptable to motorists.

Environmental Impact: Environmental effects must be monitored and will be regulated by the County and the State. Noise, power and water uses may be higher than most of the uses on the permitted list.

Energy Impact: Energy impacts involve the cost of running vehicles, bringing in logs and distributing products. The energy needed to run the saws and lighting, among other things, will be provided by Pacific Power. The central location could result in shorter trips from forests to and from the west and south than to the existing mills in Prineville.

Allow Use	X
Limit Use	
Prohibit Use	

K. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.

Comments: A road improvement project necessary to serve a residential development is unlikely to occur because there is no residential zoned land on the east side of the highway in the vicinity to be served. Also, the Pilot butte Canal forms the entire north and east property lines, creating a barrier to streets. As explained above, road or street improvements would be at ground level and would not be visible to the travelling public.

Economic Impact: A street or road project will remove land from the subject site so will have an adverse economic effect on the usability of the subject site. A project to improve accessibility or to correct a safety hazard may have a positive effect on land values by increasing desirability of the land and making it more accessible. The project will employ many individuals short term from engineers to heavy equipment operators to plan and construct the road.

Social Impact: Once completed, a public road project may make the area more desirable for the motoring public. However, during construction, the public drivers may avoid the area and find alternate routes. The uses will likely be acceptable to motorists.

Environmental Impact: Road projects always have environmental impacts during construction such as the need for water to keep the dust down, the need to reduce site water runoff and dust in the air. Usually when the projects are completed, the environmental impacts are positive, such as reducing travel time and increasing safety.

Energy Impact: The energy impacts of constructing a road or street re large including the use of large construction vehicles with inefficient engines and exhaust, the need for employees to drive to the site, the need for lighting when it is dark which takes power, and the need to haul in construction materials and equipment. The projects are short lived and necessary.

Allow Use	X
Limit Use	
Prohibit Use	

L. Class III road or street project

Comments: A “class III project” consist of improvements to existing roads or streets. Since there is no road or street on within this property, it is unlikely that this use would arise. In any event, any road or street improvements would be at ground level and would not be visible to the travelling public.

Economic Impact: A street or road project will remove land from the subject site so therefore will have an adverse economic effect on the usability of the subject site. A project to improve accessibility or to correct a safety hazard may have a positive effect on land values by increasing desirability of the land and making it more accessible. The project will in the short term employ many individuals from engineers to heavy equipment operators to plan and construct the road.

Social Impact: The project may make the area more desirable for the motoring public. However, during construction, the drivers may avoid the area and find alternate routes. The uses will likely be acceptable to motorists.

Environmental Impact: Road projects always have environmental impacts during construction such as the need for water to keep the dust down, the need to reduce site water runoff and dust in the air. Usually when the projects are completed, the environmental impacts are positive, such as reducing travel time and increasing safety.

Energy Impact: The energy impact of constructing a road is large including the use of large construction vehicles with inefficient engines, the need for employees to drive to the site, the need for lighting when it is dark which takes power, and the need to haul in construction materials and equipment. The use is temporary and necessary.

Allow Use	X
Limit Use	
Prohibit Use	

M. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

Comments: Most irrigation system uses consist of piping or canal conveyance systems located on the surface or under the ground such that they will not usually be visible to the travelling public.

Economic Impact: The piping projects are very expensive, costing tens of millions of dollars. They are often paid for with federal grants. The projects temporarily employ many people, from engineers doing the design to the suppliers, to contractors, to the laborers. Being able to deliver unused irrigation water to Jefferson County may dramatically improve the economy of farming there, with adequate or improved irrigation water available. COID has more senior water rights and North Unit has junior water rights. Usually, the supplier is out of the area and would also benefit economically.

Social Impact: The canals are attractive to look at in three spots near the highway between Long Butte and Redmond. However, the canals are piped and not visible along the highway between the city of Bend and just south of the Deschutes Junction Overpass where they each

enter power plants on either side of the highway, the Pilot Butte Canal on the east and the Swalley Canal on the west. The concrete block power plants are close to the highway and within the view corridor. Piping the canal will eliminate the view of water and small waterfalls in the canal that are very close to the highway. The project will be detrimental to the motorists in the landscape management corridor.

Environmental Impact: Having water from the Deschutes River flow into 9' diameter pipes instead of into the open Pilot Butte Canal built in native rock in 1904 may prevent water from seeping into the soil and therefore reduce the loss of water from the canals. However, 120-year-old trees and other vegetation growing next to the canals may perish, and wildlife habitat in and along the canals will be lost, as has been the case in other piping projects. However, the district does not plan to leave a significant amount of saved water in the Deschutes River. Cooperatively, it will pass on the saved water to the North Unit District in Crook County where the farmers will be able to have more irrigation water. The water delivery systems from the North Unit Canal and the Pilot Butte Canal come together just south of Smith Rock State Park and the Crooked River east of Terrebonne.

Energy Impact: A tremendous amount of energy is needed to make the pipe and deliver it to the site. However, for 120 years the canal was flowing with gravity, taking no energy. It is unknown if the district will require pumps to pressurize the pipe. Pumps will take electricity.

Allow Use	X The BOCC and the COID District have determined that the advantage of saving water and passing it on to Jefferson County farmers is more important than the intermittent view and habitat created by the open canal between Long Butte and Redmond.
Limit Use	
Prohibit Use	

18.100.020 RI Conditional Uses

The following uses may be allowed subject to DCC 18.128:

- A. Any use permitted by DCC 18.100.010, which is located within 600 feet of a residential dwelling, a lot within a platted subdivision or a residential zone.**

Comments: Because there are two existing residences within 600 feet of whatever use will be proposed within the RI zone, a conditional use permit will be required. The effect of requiring conditional use review for any RI use is that the County will have the discretion to limit the visual impact in ways that it would not be able to otherwise. Providing this additional review also has the potential to consider and mitigate any adverse consequences that might follow from allowing the use that are identified below.

- B. Any use permitted by DCC 18.100.010, which involves open storage.**

Comment: Outdoor storage of materials is currently permitted for any use within the EFU-TBR zone. Several of the RI Zone Outright Permitted Uses prohibit outdoor storage. Where they do not, it would make sense to require conditional review for outdoor storage for RI uses because (1) any adverse consequences would be considered as part of the conditional use review; (2) outdoor storage uses could be buffered through land contouring or landscaping through the LM overlay and (3) the existing change in elevation between the highway and the development area will provide natural buffering from any outdoor storage use as well. As such, the economic,

social and environmental and energy consequences of an outdoor storage use balance in favor of allowing the use, subject to conditional use review.

C. Concrete or ready-mix plant.

Comments: A concrete or ready-mix plant typically includes components that mix and batch concrete and other materials including bins for storing aggregates, structures for housing materials and scales for measuring and batching cement, conveyors, and stationary or truck mixers. Like any other construction contractor related uses, a concrete plant could typically include a one-story structure much less than 7500 square feet.

Economic Impact: This business will provide jobs for many people who live at Deschutes. It will also form a market for the raw minerals that are necessary to make concrete or ready mix.

Social Impact: This business will be unobtrusive if it is located on the upper level and is screened by native and added evergreen trees. The visual impact from the highway for a concrete plant is different from the other uses because much of the processing work occurs outside and not inside a building. The use can be located on the upper eastern triangle of land where the site is already buffered by juniper trees. If it is located on the western portion of the land, acceptable buffering using landscaping and trees may be possible.

Environmental Impact: These plants have many State and County regulations to follow so they will be environmentally friendly. Dust may blow across the highway causing a hazard if it is located on the lower level. Water is used to keep down dust. Water is available.

Energy Impact: Locating this business here will save about twenty miles round trip for most customers, thereby reducing fuel and emissions. Water needs and power needs are compatible with the site.

Allow Use	X
Limit Use	
Prohibit Use	

D. Petroleum products storage and distribution.

Comment: The visual impact of a petroleum product storage and distribution operation would be similar to any other type of warehousing and distribution use. This use would occur largely within a large, one-or-two story building under 30 feet tall and much less than the 7500 square feet maximum. Presumably, this use would not require any outdoor storage. The visual impact would be that some portion of this structure would be visible from the highway.

Economic Impact: A business like this is gpEnergy, located on 4-R Equipment land just south of the subject site on a parcel zoned RI. It distributes gasoline to gas stations in the county. Drivers go to Portland daily to fill their gas truck tanks with gasoline and bring it back to distribute. This creates driving and delivery jobs, maintenance jobs and office jobs. gpEnergy is unobtrusive with few people noticing it. Most trucks and drivers are gone during the daylight hours. The use of this location will also create jobs. The business needs only a small building for the office and truck maintenance. The vehicles are parked neatly on site for a short time at night. They are on the road during the day.

Social Impact: This business can be attractive and unobtrusive to motorists. It would likely be placed on the upper level, closer to the driveway. The business will be unobtrusive and unnoticed by the motorists.

Environmental Impact: The environmental impact of this business is very low. The trucks may raise some dust if they are on internal dirt streets.

Energy Impact: The energy impacts on site are very low. However, heavy trucks take fuel and emit carbon, no matter where the business is located.

Allow Use	X
Limit Use	
Prohibit Use	

E. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.

Comment: This use is the longest continuing use at Deschutes Junction. Components of this use would include processing equipment such as conveyors, screens, the outdoor storage of piles of gravel or rock and the storage of dump trucks and other heavy vehicles and equipment needed to transport these materials. Like any other construction contractor related uses, these uses could include one story structures of variable sizes for offices. A maintenance building for one or more trucks is also possible.

Economic Impact: This use has been ongoing at Deschutes Junction since 1942 when Cascade Pumice was established between US 97 and the railroad tracks, just south of the subject property. Its testing lab and heavy equipment garages were in four small buildings that remain in the view corridor along what is now Tumalo Place. The pumice rock was hauled in, crushed, and made into pumice blocks in the neighboring RI zoned land just south of the subject site. The pumice blocks that form the garage, shop, and house on the subject property were made by Cascade Pumice. The crushed pumice and products were loaded on the railroad cars in the spur of the double tracks at this location. This use was active for two generations. 4-R Equipment has profitably operated the hauling, storage, crushing and processing of rock adjacent to the highway south of the overpass for the past twenty years. This use will continue to provide many varied well-paying jobs and a market for minerals and rock, which is plentiful.

Social Impact: If this plant is located on the upper eastern level, it will be unobtrusive. Acceptable buffering using evergreen landscaping trees may be possible. A business that uses the plentiful natural rock and other minerals will not likely be offensive to the motorists.

Environmental Impact: State and County regulations will keep this business environmentally friendly. Cascade Pumice and 4-R Equipment are examples of good environmentally sound businesses in this view corridor.

Energy Impact: This business requires heavy machinery that will use fuel and emit carbon emissions. But power and water uses will be low overall.

Allow Use	X
Limit Use	
Prohibit Use	

F. Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.

Comment: These high intensity agricultural operations would include structures and animal storage pens necessary to process cattle or other animals for slaughter. Without the animals, the visual impacts would be similar to other uses – structures and animal enclosures. To the extent that any portion of this operation was visible, it would be highly objectional to the travelling public and may actively discourage visitors to the county.

Economic Impact: This location is not suitable for this use but any such consideration would be evaluated against the conditional use criteria. Expert testimony in the record tells us that livestock will not gain weight when they are next to the highway with its high Average Daily Trips and speed profile. Livestock are not grown commercially for butchering in Deschutes. Livestock who spooked and got out on the roads and highways would be a great hazard to motorists. Cost to truck in feed are high. It is not known if this use can be profitable at this location. A few jobs will be created.

Social Impact: As a conditional use, the sight and smell of a feedlot, stockyard, slaughterhouse and rendering plant would be objectionable to motorists, the Three Sisters Adventist Christian School, and to the 4,000 residents in the Deschutes Community.

Environmental Impact: The environmental impact of this business may be high due to the manure smell and the runoff and other regulations. The cattle trucks may raise dust if they are on internal dirt streets. Water needs will be high.

Energy Impact: The energy impact on site is low. However, heavy trucks take fuel and emit carbon, no matter where the business is located.

Allow Use	
Limit Use	
Prohibit Use	X The sight and smell of the use would be objectional to motorists.

G. Railroad trackage and related facilities.

Comment: The Burlington Northern Santa Fe railroad is located 500 feet to the east. It already has two tracks and loading areas in Deschutes. Although this site might be suitable for additional railroad supportive facilities, it is unlikely given the proximity of existing and long-established loading areas. The topography of the site itself makes the use unfeasible.

Economic Impact: An extension of the railroad track in this location would require bridges across Pleasant Ridge Road and the Pilot Butte Canal. That would be costly to extend the railroad only 250 feet. The parcel would lose acres of usable space. It is unlikely that enough land is available for this use.

Social Impact: The social impact would be the noise of the trains. It is likely that it would be tolerated by motorists.

Environmental Impact: Environmental impacts will be minimal.

Energy Impact: Railroads are efficient ways to transport goods.

Allow Use	X
Limit Use	
Prohibit Use	

H. Pulp and paper manufacturing.

Comment: A pulp mill works to convert wood chips or other plant fibers into a thick fiberboard called pulp. Pulp can be made using mechanical, semi-chemical, or chemical methods. Paper mills use pulp to make paper by matting the cellulose fibers from the pulp into sheets. This use is fairly unlikely because pulp and paper mills require a great deal of water used for washing, cooling and steaming pulp to make paper.

Economic Impact: The use requires a much larger parcel. The subject site is too small and too constrained for this use. Any investment in the 11-13 acres that are available for the use will not likely be profitable. The raw materials are not readily available. If it was located here, round-the-clock jobs would be created.

Social Impact: Pulp and Paper manufacturing plants are busy places day and night. It is highly unlikely that one would locate here on this small, constrained site. It is unlikely that it would be accepted by the motorists as it does not fit into the small scale of development along the highway. Lighting may be distracting.

Environmental Impact: This use requires a great amount of water that is precious in the high desert. It may be more than can be provided. Discharge may also be great.

Energy Impact: A great amount of electricity will be needed.

Allow Use	
Limit Use	
Prohibit Use	X Energy use will be high. Water uses may exceed what is available. The scale is too large for the site. Raw materials are not available to the extent needed.

I. Any use permitted by DCC 18.100.010, which is expected to exceed the following standards:

- 1. Lot coverage in excess of 70 percent.**
- 2. Generation of any odor, dust fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.**

Comment: No specific uses are mentioned. Given the existing topographic constraints and LM setback areas, it would be exceedingly difficult for any use to cover over 70 percent of the existing property. Any such land intensive or nuisance-type uses would be a conditional use review and would consider the impacts to the scenic overlay as part of this review. The visual and nuisance-laden use, assuming it were allowed, would likely bring significant employment benefits to the county. They would not outweigh any potential negative consequences to the scenic resource experienced by the travelling public.

Allow Use	
Limit Use	
Prohibit Use	X Lot coverage exceeding 70% or the dust, glare, lights, or noise would be detrimental to motorists.

J. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn, or similar materials,

provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic, or other factors.

Comment: The visual impact of a business used to manufacture products from any of these materials would be similar to any of the manufacturing process uses mentioned above. These processes would occur entirely within a one-or two-story building less than 30 feet tall and less than 7,500 square feet. The visual impact would be that some portion of this structure would be visible from the highway.

Economic Impact: Many jobs would be created for these uses. Local residents and companies would have a market to sell some of the materials. Repairing items is usually less expensive than having to replace them with new products, so money can be saved.

Social Impact: A business on this list is likely to be in a smaller building. If it was located on the upper level, it would not be visible from the highway. If it was placed 100 feet east of the highway, it could be made unobtrusive with vegetative screening and the other requirements of the LM, RI, and Conditional Use codes.

Environmental Impact: This list of varied businesses with the listed restrictions and state and county environmental regulations are likely to be environmentally friendly. Avion Water Company, a well dug in 1992, and two cisterns supply water.

Energy Impact: The energy needs of these varied businesses are unknown. Pacific Power can supply the electricity. The substation is to the northeast along Pleasant Ridge Road. Some businesses will use the nearby double railroad tracks to load their products. They can also use the excellent centrally located transportation system to reduce energy needs and emissions.

Allow Use	X
Limit Use	
Prohibit Use	

K. Processing, packaging and storage of food or beverages including those requiring distillation and fermentation.

Comment: Like all of the other processing and storage-related uses identified above, food or beverage processing, packages or storage would occur largely within a building, less than 7500 square feet. The visual impact would be that some portion of this structure would be visible from the highway.

Economic Impact: This use may provide many varied jobs that will require a variety of training and education. The economic impact would be positive to the businesses and to the county. t

Social Impact: This use may be very attractive to some tourists and travelers to the region. Tasting rooms are popular such as at distillers, wineries or breweries. The building can be made to be unobtrusive and may be made to be iconic and attractive when they are part of the business’s image by following the applicable codes.

Environmental Impact: This use must meet many regulations and will be environmentally compatible with the site.

Energy Impact: Energy impacts may be higher than others on this list due to the need to run specialized equipment, cooling and heating, a kitchen, and exterior and interior lighting.

Allow Use	X
Limit Use	
Prohibit Use	

L. Public Landfill Transfer Station, including recycling and other related activities.

Comment: A landfill transfer station use would consist of covered structures used to house refuse and recycling materials for transfer. In order to address environmental requirements, all elements of this type of use would have to occur within a structure. This use would likely occur within one or two enclosed warehouse type structures. The visual impact would be that some portion of these structures would be visible from the highway.

Economic Impact: When landfills or transfer stations are close by, more people use them. Likely, refuse companies will use one at this central location to consolidate waste before they drive to the landfill. Some transfer stations include recycling facilities which would offer services to people in the central county area. County jobs would be created. The economic impact will be positive.

Social Impact: Recycling will be easier. Some recycling centers and transfer stations are enclosed in buildings and so could one at this site, making it attractive to the motoring public. Having it screened but 100 feet from the highway could remind people to take their recyclable items there.

Environmental Impact: Engineers will design the facility and it will be operated in an environmentally friendly way that meets all the federal, state, and local regulations.

Energy Impact: Energy for interior and exterior lighting and for some heavy equipment that could be electric will be needed, but it will not be excessive.

Allow Use	X
Limit Use	
Prohibit Use	

M. Mini-storage facility.

Comment: The visual impact of a mini-storage facility would be similar to a warehouse or other storage type use. This use would occur largely within a one-story building, less than 7500 square feet. The visual impact would be that some portion of this structure would be visible from the highway.

Economic Impact: The Jct 97 Mini Storage business is just 250 feet southeast of the subject site on RI land adjacent to the railroad tracks on Deschutes Pleasant Ridge Road. It is attractive with landscaping and clean lines. It hires one part-time employee and has limited hours with a part-time attendant. These facilities are often inexpensive to build and are profit centers. Employment opportunities are there but will be limited. The economic impact will be positive.

Social Impact: Mini-storage facilities are very common today. The traveling public will likely need a mini-storage facility if they choose to move to an apartment in the area or if they come often and want to store sports equipment, an off-road vehicle, a snow mobile or a boat or something similar. It may be a positive business for travelers. Recent inquiries have shown nearly all mini-storage units are now full.

Environmental Impact: The environmental impact will be low.

Energy Impact: The energy use will also be low, except for the power needed for air-conditioned units. Downward facing efficient exterior lighting is normal and has low energy needs. People in the area or on the way home from vacation who need to store their equipment would save energy by going somewhere close instead of to the cities.

Allow Use	X
Limit Use	
Prohibit Use	

N. Automotive wrecking yard totally enclosed by a sight obscuring fence.

Comments: An automotive wrecking yard is a business that dismantles wrecked or decommissioned vehicles. The yard's purpose is to recycle and repurpose the materials from these vehicle and typically requires stacking of vehicles within the yard to height that it would be difficult to fence out of view from the highway. For this reason, it is unlikely that this use would ever occur.

Economic Impact: A positive economic impact is on the jobs created by this business. Customers would also benefit by being able to save money on used vehicle parts they need to repair their vehicle.

Social Impact: This business will be nearly impossible to fence or screen to prevent a view into the wrecking yard located four feet below the highway. To prevent an eyesore to the traveling public, it must be located on the upper level near the Pilot Butte Canal so it will not be visible to the people on the highway or roadway. However, there is not likely to be enough acreage up there.

Environmental Impact: State and County regulations will prevent any adverse environmental impacts.

Energy Impact: Having the wrecking yard between Redmond and Bend will allow county residents to obtain the car parts without going to Salem or Portland, saving much gasoline or diesel fuel and carbon emissions.

Allow Use	
Limit Use	
Prohibit Use	X The use will not be able to be screened.

O. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 19.116.250(A) or (B).¹

Comment: The visual impact of a cell tower would be different from many of the other uses because it could be 50 feet tall rather than the 30-foot height limit applicable to structures. At these taller heights, this use would be more visible. That said, this use is also conditionally allowed today in the EFU-TRB zone so it would have no greater visual impact within the RI zone than it does today.

¹ The limitation imposed by this reference is not clear as it does not appear to exist in the DCC. The reference may be to the wireless communication siting standards in DCC 20.12.090.

Economic Impact: Good cellphone coverage is essential for any populated area. This will enhance the ability of users to communicate in their personal lives and in business for a positive economic impact. The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Social Impact: The motorists and passengers on US 97 will benefit from better cell phone coverage. The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Environmental Impact: There should be no adverse environmental concerns. The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Energy Impact: Other than employees to service and maintain the facility, there should be very few trips to the facility. The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Allow Use	X
Limit Use	
Prohibit Use	

P. Utility facility.

Comment: The visual impact of a utility facility, like so many of the other uses discussed above, would include a structure of some kind and perhaps some above-ground utility generation element like solar panels. Depending on the height of the various use element, this use might be somewhat visible from the highway. However, this same use is currently allowed in the EFU-TRB zone so it will have no greater visual impact within an RI zone than it could under current zoning. There is no potential for greater any greater conflict.

Economic Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone. It would have a positive economic impact.

Social Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Environmental Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Energy Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Allow Use	X
Limit Use	
Prohibit Use	

Q. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.

Comment: The visual impact of farm or forest equipment sales or repair yard would be a structure with its concomitant visual impacts as well as the outdoor storage of farm / forest equipment. To the extent that this equipment storage can be viewed from the highway, it would have the same visual impact as if it were a farm or forest, road maintenance, mineral extraction

or construction use. Since this equipment is not a significant distraction when it is in use, it would similarly not be a distraction when it is parked awaiting repair or service.

Economic Impact: This use is already occurring on RC and MUA-10 land with a conditional use permit at Deschutes Junction on the Fagen property at the northwest corner of the intersection of US 97 and Tumalo Place. Its use began in 1937 and the owners report that there are more customers than they can serve. Tony Aceti invented the Hay Squeeze in his barn. The Deschutes County Planning Commission took testimony on the need for space to invent and produce items and vehicles for farm and forest use and to service them. The impact of this use will be to create jobs and produce a necessary service for members of the rural area. It would have a positive economic impact.

Social Impact: While any development on the subject property could impact the scenic quality from US 97, the unattractive sight of dry weeds now is not an improvement. All the codes and the LM zoning code will limit any adverse appearances from buildings necessary for this use. If the uses do not need buildings, they will be related to natural farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities that are expected along the highway.

Environmental Impact: There should not be any adverse environmental impacts from this business.

Energy Impact: The energy impact of this business will be low. It should not have any adverse impacts. Locating these businesses in a central location will make it easier for rural people to have their equipment and materials manufactured, stored, repaired and serviced along with allowing rentals. It will reduce vehicle miles traveled to Madras and Prineville, as well as to Redmond and Bend.

Allow Use	X
Limit Use	
Prohibit Use	

R. Electrical substation.

Comment: Like a utility facility, the visual impact of an electrical substation would be the location of transformers and transmission towers. Depending on the height of the various use element, this use might be somewhat visible from the highway. However, this same use is currently allowed in the EFU-TRB zone so it will have no greater visual impact within an RI zone than it could under current zoning. There is no potential for greater any greater conflict.

Economic Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Social Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Environmental Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Energy Impact: The use is a conditional use in the EFU-TRB zone and would have no different impacts in the RI zone.

Allow Use	X
Limit Use	
Prohibit Use	

S. Marijuana retailing, subject to the provisions of DCC 18.116.330.

Comments: DCC 18.116.330 provides specific standards for the siting of marijuana retail facilities including school spacing standards. Since this is a conditional use, and the Three Sisters Adventist Christian School testified loudly against the pending permit when a marijuana retail business was considering locating on the parcel located at the northwest corner of Tumalo Place and US 97, just across the highway, it is likely that the school would complain again if a marijuana store was to be in this location. It is unclear if it would be allowed as a conditional use, even though the distance of 1,000 feet away from schools is met. In any event, the visual impact of such a store would be similar to other uses that would be housed within a building. It is likely that any such store would be one story and much less than 7,500 square feet. The visual impact of such development from the travelling public would be seeing some portion of a structure that is could be screened through the LM standards.

Economic Impact: These types of retail businesses are open long hours, 7am to 10 pm, requiring several shifts of employees per day. Retail jobs will be created. The economic impact will be positive.

Social Impact: The traveling public may not know about this store and will have no opinion of it. The store is likely to be small and may not be visible from the highway because signs are limited by the codes.

Environmental Impact: The restrictions in DCC 18.116.330 will ensure there are no negative environmental impacts, including odor.

Energy Impact: There should not be any unusual energy needs for this business. Customers in Deschutes and Redmond will save money and gasoline as the distance to marijuana stores in Bend is farther away and this site is closer to them.

Allow Use	X
Limit Use	
Prohibit Use	

T. Psilocybin testing laboratories.

Comments: The visual impact of a psilocybin lab, like so many of the other uses discussed above, would include a one to two story structure of some kind that would be used to house testing facilities. The visual impact of such development from the travelling public would be seeing some portion of a structure that can be screened through the LM standards.

Economic Impact: Varied technical jobs would be created. The use would have a positive economic impact.

Social Impact: The traveling public would not be bothered by a small building with this use in it. The laboratory is likely to be small and may not be visible from the highway.

Environmental Impact: The business will likely not have any unusual environmental impacts.

Energy Impact: There should not be any unusual energy needs for this business. Customers in Deschutes and Redmond will save money and gasoline as the distance to work or to be a customer of the business will be closer to them.

Allow Use	X
Limit Use	
Prohibit Use	

5. CONCLUSION AND PROGRAM TO ACHIEVE GOAL 5

Based upon this ESEE analysis, the County allows most of the RI permitted and conditional uses that could result from the rezone, and that would fit on the site, be placed apart from one another, and designed to be visually compatible, as discussed above. Because of the two residences that are on the west side of the highway, all of the uses, including outright permitted uses, will be conditional uses. The county will have much discretion to ensure all the resulting development will be compatible with the scenic corridor and with the nearby residences.

According to the State rules, in order to protect Goal 5 resources, local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached regarding conflicting uses for a significant resource site:

“(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.” OAR 660-023-0040(5).

As shown in this analysis, both the subject parcel and the view corridor are important. The resource site and the conflicting uses are important compared to each other. Based on the ESEE analysis, most of the possible conflicting uses permitted within the RI zone should be permitted in a way that protects the resource site to the desired extent. This approach would echo the methodology that guided the County in 1992 to create the Landscape Management Roads scenic area and the LM zone to protect it.

The property is not visually prominent. The ESEE analysis shows that allowing all of the RI Uses Permitted Outright and most of the RI Conditional Uses as developed under the RI and LM codes listed above will not significantly diminish the Goal 5 resource. Approving the application will not result in further impact to the scenic corridor. Low density development will not be in conflict and will not significantly adversely affect the Landscape Management Roads scenic area. To the low extent that there may be any conflicts for those uses, the extensive County’s existing RI Zoning Code, LM zoning code, and the Conditional Use Code protections will continue to protect the inventoried resource after the plan amendment and zoning are changed to RI. Also, the economic benefits of allowing rural industrial development will outweigh any development impacts.

No conflicting uses will be limited or prohibited to protect the landscape management corridor.

Four conflicting uses from the Conditional Use list will be prohibited to clearly protect the landscape management corridor.

- a. **Automotive wrecking yard totally enclosed by a sight obscuring fence.**
- b. **Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.**
- c. **Pulp and paper manufacturing.**
- d. **Any use permitted by DCC 18.100.010, which is expected to exceed the following standards: Lot coverage in excess of 70 percent. Generation of any odor, dust fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.**

In conclusion, the county should ensure the motorists in this constrained area have an attractive view while driving on the highway. The subject site can be developed in an attractive low-density way by following the RI Zoning Code, LM zoning codes and the Conditional Use Code. The ESEEs show that it is beneficial to all concerned to rezone the property to RI.

The Comprehensive Plan Map should be amended from Agriculture to Rural Industrial and the zoning should be reassigned from EFU-TRB to RI subject to the use restrictions identified above.

APPENDIX

- A. OAR 660-023-00250 and (3)", page 41**
- B. CHAPTER 18. Conditional Uses, page 43**
- C. CHAPTER 18.84 Landscape Management Combining Zone: LM, page 44**
- D. CHAPTER 18.100 Rural Industrial Zone; RI, page 51**

A. OAR 660-023-00250 and (3)”:

Land Conservation and Development Department

Division 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0250

Applicability

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section “initiated” means that the local government has deemed the PAPA application to be complete.

(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:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

(4) Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, division 16.

(5) Local governments are required to amend acknowledged plan or land use regulations at periodic review to address Goal 5 and the requirements of this division only if one or more of the following conditions apply, unless exempted by the director under section (7) of this rule:

(a) The plan was acknowledged to comply with Goal 5 prior to the applicability of OAR 660, division 16, and has not subsequently been amended in order to comply with that division;

(b) The jurisdiction includes riparian corridors, wetlands, or wildlife habitat as provided under OAR 660-023-0090 through 660-023-0110, or aggregate resources as provided under OAR 660-023-0180; or

(c) New information is submitted at the time of periodic review concerning resource sites not addressed by the plan at the time of acknowledgement or in previous periodic reviews, except for historic, open space, or scenic resources.

(6) If a local government undertakes a Goal 5 periodic review task that concerns specific resource sites or specific Goal 5 plan or implementing measures, this action shall not by itself require a local government to conduct a new inventory of the affected Goal 5 resource category, or revise acknowledged plans or implementing measures for resource categories or sites that are not affected by the work task.

(7) The director may exempt a local government from a work task for a resource category required under section (5) of this rule. The director shall consider the following factors in this decision:

(a) Whether the plan and implementing ordinances for the resource category substantially comply with the requirements of this division; and

(b) The resources of the local government or state agencies available for periodic review, as set forth in ORS 197.633(3)(g).

(8) Local governments shall apply the requirements of this division to work tasks in periodic review work programs approved or amended under ORS 197.633(3)(g) after September 1, 1996. Local governments shall apply OAR 660, division 16, to work tasks in periodic review work programs approved before September 1, 1996, unless the local government chooses to apply this division to one or more resource categories, and provided:

(a) The same division is applied to all work tasks concerning any particular resource category;

(b) All the participating local governments agree to apply this division for work tasks under the jurisdiction of more than one local government; and

(c) The local government provides written notice to the department. If application of this division will extend the time necessary to complete a work task, the director or the commission may consider extending the time for completing the work task as provided in OAR 660-025-0170.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

B. Conditional Uses

Because two residences are within 600 feet of the property, all uses, including permitted uses, will be conditional uses.

Section 18.128 of the County Code, Conditional Uses, will apply to each use.

Section 18.128 of the County Code regulates Conditional Uses. One section of 18.128 follows. The section will allow the Planning Director or Hearings Body to ensure that any RI development on this property is compatible.

18.128.020 Conditions

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

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

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 83-037 §24 on 6/1/1983

Amended by Ord. 91-020 §1 on 5/29/1991

Amended by Ord. 91-038 §3 on 9/30/1991

C. The Landscape Management Combining Zoning Code

The ESEE analysis evaluated each of the 18.100.010 RI Uses Permitted Outright and 18.100.020 RI Conditional Uses and considered the possible appearance of each use on the subject property, at Long Butte, on the east side of the Landscape Management Corridor. In addition to using the RI Zoning Code, the County implements its Landscape Management Corridor by applying Chapter 18.84 Landscape Management Combining Zone. Using the code will affect the ESEEs. The code follows:

CHAPTER 18.84 LANDSCAPE MANAGEMENT COMBINING ZONE; LM

- [18.84.010 Purpose](#)
- [18.84.020 Application Of Provisions](#)
- [18.84.030 Uses Permitted Outright](#)
- [18.84.040 Uses Permitted Conditionally](#)
- [18.84.050 Use Limitations](#)
- [18.84.060 Dimensional Standards](#)
- [18.84.070 Application](#)
- [18.84.080 Design Review Standards](#)
- [18.84.085 Imposition Of Conditions](#)
- [18.84.090 Setbacks](#)

18.84.010 Purpose

The purposes of the Landscape Management Combining Zone are to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams.

HISTORY

- Adopted by Ord. [PL-15](#) on 11/1/1979*
- Amended by Ord. [90-020](#) §1 on 6/6/1990*
- Amended by Ord. [91-020](#) §1 on 5/29/1991*
- Amended by Ord. [92-034](#) §2 on 4/8/1992*
- Amended by Ord. [95-075](#) §3 on 11/29/1995*
- Amended by Ord. [2001-016](#) §2 on 3/28/2001*
- Amended by Ord. [2021-013](#) §11 on 4/5/2022*

18.84.020 Application Of Provisions

The provisions of DCC 18.84 shall apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map. The provisions of DCC 18.84 shall also apply to all areas within the boundaries of a State scenic waterway or Federal wild and scenic river corridor and all areas within 660 feet of rivers and streams otherwise identified as landscape management corridors in the comprehensive plan and the County Zoning Map. The distance specified above shall be measured horizontally from the center line of designated landscape management roadways or from the nearest ordinary high water mark of a designated landscape management river or stream. The limitations in DCC 18.84.20 shall not unduly restrict accepted agricultural practices.

HISTORY

- Adopted by Ord. [PL-15](#) on 11/1/1979*
- Amended by Ord. [90-020](#) §1 on 6/6/1990*

Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [92-034](#) §2 on 4/8/1992
Amended by Ord. [95-075](#) §3 on 11/29/1995
Amended by Ord. [2001-016](#) §2 on 3/28/2001

18.84.030 Uses Permitted Outright

Uses permitted in the underlying zone with which the LM Zone is combined shall be permitted in the LM Zone, subject to the provisions in DCC 18.84.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979
Amended by Ord. [90-020](#) §1 on 6/6/1990
Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [92-034](#) §2 on 4/8/1992
Amended by Ord. [95-075](#) §3 on 11/29/1995
Amended by Ord. [2001-016](#) §2 on 3/28/2001

18.84.040 Uses Permitted Conditionally

Uses permitted conditionally in the underlying zone with which the LM Zone is combined shall be permitted as conditional uses in the LM Zone, subject to the provisions in DCC 18.84.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979
Amended by Ord. [90-020](#) §1 on 6/6/1990
Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [92-034](#) §2 on 4/8/1992
Amended by Ord. [95-075](#) §3 on 11/29/1995
Amended by Ord. [2001-016](#) §2 on 3/28/2001

18.84.050 Use Limitations

1. Any new structure or substantial exterior alteration of a structure requiring a building permit or an agricultural structure within an LM Zone shall obtain site plan approval in accordance with DCC 18.84 prior to construction. As used in DCC 18.84 substantial exterior alteration consists of an alteration which exceeds 25 percent in the size or 25 percent of the assessed value of the structure.
2. Structures which are not visible from the designated roadway, river or stream and which are assured of remaining not visible because of vegetation, topography or existing development are exempt from the provisions of DCC 18.84.080 (Design Review Standards) and DCC 18.84.090 (Setbacks). An applicant for site plan review in the LM Zone shall conform with the provisions of DCC 18.84, or may submit evidence that the proposed structure will not be visible from the designated road, river or stream. Structures not visible from the designated road, river or stream must meet setback standards of the underlying zone.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979
Amended by Ord. [90-020](#) §1 on 6/6/1990
Amended by Ord. [91-020](#) §1 on 5/29/1991
Amended by Ord. [92-034](#) §2 on 4/8/1992
Amended by Ord. [95-075](#) §3 on 11/29/1995

Amended by Ord. [2001-016](#) §2 on 3/28/2001

Amended by Ord. [2015-016](#) §5 on 3/28/2016

18.84.060 Dimensional Standards

In an LM Zone, the minimum lot size shall be as established in the underlying zone with which the LM Zone is combined.

HISTORY

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

Amended by Ord. [90-020](#) §1 on 6/6/1990

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [92-034](#) §2 on 4/8/1992

Amended by Ord. [95-075](#) §3 on 11/29/1995

Amended by Ord. [2001-016](#) §2 on 3/28/2001

18.84.070 Application

An application for site plan approval for development in the LM Zone shall be submitted to the Planning Division. The site plan application shall include the following:

1. A plot plan, drawn to scale, showing:
 1. Location and dimensions of existing and proposed structures.
 2. Setbacks from lot lines (and river and rimrock, if present).
 3. Existing and proposed access.
 4. Existing and proposed exterior lighting.
2. A drawing of the proposed structure elevations showing:
 1. Exterior appearance.
 2. Height dimensions.
 3. Siding and roofing material and color.
 4. Location and size of windows, including skylights.
3. A landscape plan drawn to scale, showing:
 1. Location, size and species of existing trees six inches in diameter or greater, or existing shrub vegetation higher than four feet, between the proposed development and the designated landscape management road, river or stream. Where a significant amount of vegetation exists, a landscape plan may be accepted which generalizes and explains how the existing trees and shrubs provide screening.
 2. Proposed location and species of introduced vegetation which will screen the proposed development from the designated landscape management road, river or stream.
4. A minimum of two colored photographs taken from documented locations, oriented between the protected resource (river, stream or road) and the proposed development, showing the extent of existing vegetation or other screening.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [92-034](#) §2 on 4/8/1992

Amended by Ord. [93-043](#) §12 on 8/25/1993

Amended by Ord. [95-075](#) §3 on 11/29/1995

Amended by Ord. [2001-016](#) §2 on 3/28/2001

Amended by Ord. [2003-034](#) §1 on 10/29/2003

18.84.080 Design Review Standards

The following standards will be used to evaluate the proposed site plan:

1. Except as necessary for construction of access roads, building pads, septic drainfields, public utility easements, parking areas, etc., the existing tree and shrub cover screening the development from the designated road, river, or stream shall be retained. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act, or agricultural use of the land.
2. It is recommended that new structures and additions to existing structures be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site.
3. No large areas, including roofs, shall be finished with white, bright or reflective materials. Roofing, including metal roofing, shall be non-reflective and of a color which blends with the surrounding vegetation and landscape. DCC 18.84.080(C) shall not apply to attached additions to structures lawfully in existence on April 8, 1992, unless substantial improvement to the roof of the existing structure occurs.
4. Subject to applicable rimrock setback requirements or rimrock setback exception standards in DCC 18. 84.090(E), all structures shall be sited to take advantage of existing vegetation, trees and topographic features in order to reduce visual impact as seen from the designated road, river or stream. When more than one nonagricultural structure is to exist and no vegetation, trees or topographic features exist which can reduce visual impact of the subject structure, such structure shall be clustered in a manner which reduces their visual impact as seen from the designated road, river, or stream.
5. Structures shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream. Within the LM Zone along a state scenic waterway or federal wild and scenic river, the height of a structure shall include chimneys, antennas, flag poles or other projections from the roof of the structure. DCC 18.84.080(E) shall not apply to agricultural structures located at least 50 feet from a rimrock.
6. New residential or commercial driveway access to designated landscape management roads shall be consolidated wherever possible.
7. New exterior lighting, including security lighting, shall be sited and shielded so that it is directed downward and is not directly visible from the designated road, river or stream.
8. The Planning Director or Hearings Body may require the establishment of introduced landscape material to screen the development, assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation or enhance the overall appearance of the development while not interfering with the views of oncoming traffic at access points, or views of mountains, forests and other open and scenic areas as seen from the designated landscape management road, river or stream. Use of native species shall be encouraged. (Formerly section 18.84.080 (C))
9. No signs or other forms of outdoor advertising that are visible from a designated landscape management river or stream shall be permitted. Property protection signs (No Trespassing, No Hunting, etc.,) are permitted.

10. A conservation easement as defined in DCC 18.04.030 "Conservation Easement" and specified in DCC 18.116.220 shall be required as a condition of approval for all landscape management site plans involving property adjacent to the Deschutes River, Crooked River, Fall River, Little Deschutes River, Spring River, Whychus Creek and Tumalo Creek. Conservation easements required as a condition of landscape management site plans shall not require public access.

HISTORY

- Adopted by Ord. [PL-15](#) on 11/1/1979*
- Amended by Ord. [90-020](#) §1 on 6/6/1990*
- Amended by Ord. [91-020](#) §1 on 5/29/1991*
- Amended by Ord. [92-034](#) §2 on 4/8/1992*
- Amended by Ord. [93-043](#) §12A and 12B on 8/25/1993*
- Amended by Ord. [95-075](#) §3 on 11/29/1995*
- Amended by Ord. [97-068](#) §1 on 11/26/1997*
- Amended by Ord. [2001-016](#) §2 on 3/28/2001*
- Amended by Ord. [2015-016](#) §5 on 3/28/2016*
- Amended by Ord. [2018-006](#) §11 on 11/20/2018*
- Amended by Ord. [2020-007](#) §13 on 10/27/2020*

18.84.085 Imposition Of Conditions

The standards of DCC 18.84 may be met by the imposition of conditions drawn to ensure that the standards will be met.

HISTORY

- Adopted by Ord. [92-034](#) §2 on 4/8/1992*
- Amended by Ord. [95-075](#) §3 on 11/29/1995*
- Amended by Ord. [2001-016](#) §2 on 3/28/2001*

18.84.090 Setbacks

1. Except as provided in DCC 18.84.090, minimum setbacks shall be those established in the underlying zone with which the LM Zone is combined.
2. Road Setbacks. All new structures or additions to existing structures on lots fronting a designated landscape management road shall be set back at least 100 feet from the edge of the designated road right-of-way unless the Planning Director or Hearings Body finds that:
 1. A location closer to the designated road would more effectively screen the building from the road; or protect a distant vista; or
 2. The depth of the lot makes a 100-foot setback not feasible; or
 3. Buildings on both lots abutting the subject lot have front yard setbacks of less than 100 feet and the adjacent buildings are within 100 feet of the lot line of the subject property, and the depth of the front yard is not less than the average depth of the front yards of the abutting lots.

If the above findings are made, the Planning Director or Hearings Body may approve a less restrictive front yard setback which will be appropriate to carry out the purpose of the zone.
3. River and Stream Setbacks. All new structures or additions to existing structures shall be set back 100 feet from the ordinary high water

mark of designated streams and rivers or obtain a setback exception in accordance with DCC 18.120.030. For the purpose of DCC 18.84.090, decks are considered part of a structure and must conform with the setback requirement.

The placement of on-site sewage disposal systems shall be subject to joint review by the Planning Director or Hearings Body and the Deschutes County Environmental Health Division. The placement of such systems shall minimize the impact on the vegetation along the river and shall allow a dwelling to be constructed on the site as far from the stream or lake as possible. Sand filter systems may be required as replacement systems when this will allow a dwelling to be located further from the stream or to meet the 100-foot setback requirement

- 4. Rimrock Setback. New structures (including decks or additions to existing structures) shall be set back 50 feet from the rimrock in an LM Zone. An exception to this setback may be granted pursuant to the provisions of DCC 18.84.090(E).
 - 5. Rimrock Setback Exceptions. An exception to the 50-foot rimrock setback may be granted by the Planning Director or Hearings Body, subject to the following standards and criteria.
1. An exception shall be granted when the Planning Director or Hearings Body finds that:
 1. A lesser setback will make the structure less visible or completely screened from the river or stream; or
 2. The subject lot or parcel was a lot of record prior to the adoption of this ordinance; or
 3. Dwellings (including decks) on both lots or parcels abutting the subject lot within 50 feet of the rimrock and the adjacent buildings are within 100 feet of the lot line of the subject property; or
 4. Adherence to the 50-foot setback would prevent the structure from being sited on the lot.
 2. A dwelling qualifying for a rimrock setback exception under the criteria set forth in the above shall be located as follows:
 1. The structure shall be designed and sited to minimize the visual impact when viewed from the ordinary high water mark on the far side of the river. This shall be determined by viewing the property from the ordinary high water mark immediately across from the center of the river frontage on which the structure is proposed with like evaluations being made 300 feet upstream and downstream on either side of that point over the entire length of river frontage on which the structure is proposed.
 2. Existing trees and shrubs which reduce the visibility of the proposed structure shall be retained.
 3. The height of the structure shall not exceed the setback from the edge of the rimrock, except as described in the exception section (f), below.
 4. No structure (including decks) shall be located closer than 20 feet from the edge of the rimrock unless the Planning Director or Hearings Body finds that the lesser setback will make the structure less visible or the

structure is completely screened from the river or stream except as described in the exception section (f), below.

5. Where multiple nonagricultural structures are proposed on a lot or parcel, the structures shall be grouped or clustered so as to maintain a general appearance of open landscape for the affected area. This shall require a maintenance of at least 65 percent open space along rimrocks within subject lots or parcels.
6. Exception: For vacant lots or parcels less than one-half acre, existing prior to the adoption of Ordinance 92.034, with undulating rimrock, and where there are lawfully established residences within 100 feet of the lot line on the subject property on both of the abutting lots with rimrock setbacks less than the depth required in section (d) above, the residential structure setback shall meet the following criteria:
 1. The setback shall be the average distance between the abutting houses as measured from the subject lot's front yard line to the furthest point of each abutting home facing the river or stream.
 2. The height of the structure shall not exceed the height of the tallest abutting residence and in no case shall exceed 24 feet high, except for chimneys.
 3. The highest ridgeline shall slope up and away from, and run parallel with, the river or stream.
 4. Dormers are prohibited on the riverside or streamside of the residence and allowed on the street-side of the residence with the height not exceeding the height of the ridgeline.
 5. The setback for decks on the rimrock side of the dwelling shall be the average of the decks on the abutting lots or parcels as measured from the front yard line of the subject property and in no case shall extend and protrude over the rimrock.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) on 5/29/1991

Amended by Ord. [92-034](#) §2 on 4/8/1992

Amended by Ord. [95-075](#) §3 on 11/29/1995

Amended by Ord. [2000-033](#) §3 on 12/6/2000

Amended by Ord. [2001-016](#) §2 on 3/28/2001

Amended by Ord. [2005-002](#) §1 on 1/5/2005

Amended by Ord. [2007-020](#) §5 on 2/6/2008

D. The Rural Industrial Zoning Code

CHAPTER 18.100 RURAL INDUSTRIAL ZONE; R-I

18.100.010 Uses Permitted Outright

18.100.020 Conditional Uses

18.100.030 Use Limitations

18.100.040 Dimensional Standards

18.100.050 Off-Street Parking And Loading

18.100.060 Site Design

18.100.070 Additional Requirements

18.100.080 Solar Setback

18.100.090 Limited Use Combining Zone; Deschutes Junction

18.100.010 Uses Permitted Outright

In an R-I Zone, the following uses and their accessory uses are permitted outright except as limited by DCC 18.100.040, and unless located within 600 feet from a residential dwelling, a lot within a platted subdivision or a residential zone.

1. Farming or forest use.
2. Primary processing, packaging, treatment, bulk storage and distribution of the following products:
 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.
 2. Ornamental horticultural products and nurseries.
 3. Softwood and hardwood products excluding pulp and paper manufacturing.
 4. Sand, gravel, clay and other mineral products.
3. Residence for caretaker or night watchman on property.
4. Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.
5. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.
6. Ice or cold storage plant.
7. Wholesale distribution outlet including warehousing, but excluding open outside storage.
8. Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.
9. Kennel or a Veterinary clinic.
10. Lumber manufacturing and wood processing except pulp and paper manufacturing.
11. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
12. Class III road or street project.
13. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

HISTORY

Adopted by Ord. PL-15 §4.220(2) on 11/1/1979

Amended by Ord. 91-038 §1 on 9/30/1991

Amended by Ord. 93-043 §16 on 8/25/1993

Amended by Ord. [2001-016](#) §2 on 3/28/2001
 Amended by Ord. [2001-039](#) §12 on 12/12/2001
 Amended by Ord. [2002-126](#) §1 on 12/11/2002
 Amended by Ord. [2015-004](#) §8 on 4/22/2015
 Amended by Ord. [2016-015](#) §8 on 7/1/2016
 Amended by Ord. [2021-004](#) §5 on 5/27/2021

18.100.020 Conditional Uses

The following uses may be allowed subject to DCC 18.128:

1. Any use permitted by DCC 18.100.010, which is located within 600 feet of a residential dwelling, a lot within a platted subdivision or a residential zone.
2. Any use permitted by DCC 18.100.010, which involves open storage.
3. Concrete or ready-mix plant.
4. Petroleum products storage and distribution.
5. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.
6. Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.
7. Railroad trackage and related facilities.
8. Pulp and paper manufacturing.
9. Any use permitted by DCC 18.100.010, which is expected to exceed the following standards:
 1. Lot coverage in excess of 70 percent.
 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.
10. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.
11. Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.
12. Public Land Disposal Site Transfer Station, including recycling and other related activities.
13. Mini-storage facility.
14. Automotive wrecking yard totally enclosed by a sight-obscuring fence.
15. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
16. Utility facility.
17. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.
18. Electrical substations.
19. Marijuana retailing, subject to the provisions of DCC 18.116.330.
20. Psilocybin testing laboratories.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979
 Amended by Ord. [86-018](#) §15 on 6/30/1986
 Amended by Ord. [90-014](#) §38 on 7/12/1990

Amended by Ord. [91-020](#) §1 on 5/29/1991
 Amended by Ord. [91-038](#) §1 on 9/30/1991
 Amended by Ord. [97-063](#) §3 on 11/12/1997
 Amended by Ord. [2001-016](#) §2 on 3/28/2001
 Amended by Ord. [2001-039](#) §12 on 12/12/2001
 Amended by Ord. [2002-126](#) §1 on 12/11/2002
 Amended by Ord. [2004-013](#) §10 on 9/21/2004
 Amended by Ord. [2016-015](#) §8 on 7/1/2016
 Amended by Ord. [2018-006](#) §12 on 11/20/2018
 Amended by Ord. [2021-004](#) §5 on 5/27/2021
 Amended by Ord. [2022-014](#) §6 on 4/4/2023
 Amended by Ord. [2023-001](#) §14 on 5/30/2023

18.100.030 Use Limitations

In an R-I Zone, the following limitations and standards shall apply to all permitted and conditional uses:

1. Properties subject to a limited use combining zone shall be limited to those uses and conditions specified in the limited use combining zone.
2. No use expected to generate more than 30 truck-trailer or other heavy equipment trips per day to and from the subject property shall be permitted to locate on a lot adjacent to or across a street from a residential dwelling, a lot in a platted subdivision or a residential zone.
3. No use shall be permitted that generates more than 20 auto or truck trips during the busiest hour of the day to and from the premises unless served directly by an arterial or collector or other improved street or road designed to serve the industrial use which does not pass through or adjacent to residential lots in a platted subdivision or a residential zone.
4. Any use on a lot adjacent to or across the street from a residential dwelling, a lot in a platted subdivision or a residential zone shall not emit odor, dust, fumes, glare, flashing lights, noise, or similar disturbances perceptible without instruments more than 200 feet in the direction of the affected residential use or lot.
5. All parking demand created by any use permitted by DCC 18.100.010 or 18.100.020 shall be accommodated on the applicant's premises entirely off-street.
6. No use permitted by DCC 18.100.010 or 18.100.020 shall require the backing of traffic onto a public or private street or road right of way.
7. There shall be only one ingress and one egress from properties accommodating uses permitted by DCC 18.100.010 or 18.100.020 per each 300 feet or fraction thereof of street frontage. If necessary to meet this requirement, permitted uses shall provide for shared ingress and egress.
8. All uses permitted by DCC 18.100.010 or 18.100.020 shall be screened from adjoining residential uses by a sight-obscuring fence.
9. No use shall be permitted to operate for business between the hours of 11:00 p.m. and 7:00 a.m. if located adjacent to or across the street from a residential dwelling, a lot in a platted subdivision or a residential zone except as is consistent with DCC 8.08.
10. No use shall be permitted which has been declared a nuisance by state statute, County ordinance or a court of competent jurisdiction. No use requiring contaminant discharge permits shall be approved by the Planning Director or Hearings Body prior to review by

the applicable state or federal permit-reviewing authority, nor shall such uses be permitted adjacent to or across a street from a residential use or lot.

11. Residential and industrial uses shall be served by DEQ approved on-site sewage disposal systems.

12. Residential and industrial uses shall be served by on-site wells or public water systems.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [2002-126](#) §1 on 12/11/2002

Amended by Ord. [2004-013](#) §10 on 9/21/2004

Amended by Ord. [2009-008](#) §2 on 4/20/2009

Amended by Ord. [2018-006](#) §12 on 11/20/2018

18.100.040 Dimensional Standards

In an R-I Zone, the following dimensional standards shall apply:

1. The minimum lot size shall be determined subject to the provisions of DCC 18.100.050.
2. No conditional use permitted by DCC 18.100.020 that is located within 600 feet of a residential use, lot in a platted subdivision or a residential zone shall exceed 70 percent lot coverage by all buildings, storage areas or facilities and required off-street parking and loading area.
3. The minimum setback between a structure and a street or road shall be 50 feet.
4. The minimum setback between a structure and a property line adjoining a residential lot or use shall be 50 feet.
5. The minimum rear or side yard setback shall be 25 feet unless a greater setback is required by DCC 18.100.070(A).
6. The maximum building height for any structure shall be 30 feet on any lot adjacent to or across a street from a residential use or lot and 45 feet on any other lot.
7. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
8. Maximum industrial use floor area.
 1. The maximum size of a building is 7,500 square feet of floor space. The maximum square footage in a building or buildings for a single allowable use, as defined in DCC 18.100.020 and 18.100.030, on an individual lot or parcel shall not exceed 7,500 square feet. There is no building size limit for uses that are for the primary processing of raw materials produced in rural areas.
 2. A lawfully established use that existed on or before 02/25/03 may be expanded to occupy a maximum of 10,000 square feet of floor area or an additional 25 percent of the floor area currently occupied by the existing use whichever is greater.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-008](#) §26 on 6/8/1994

Amended by Ord. [95-075](#) §1 on 11/29/1995

Amended by Ord. [2002-126](#) §1 on 12/11/2002

Amended by Ord. [2018-006](#) §12 on 11/20/2018

18.100.050 Off-Street Parking And Loading

Off-street parking and loading shall be provided subject to the provisions of DCC 18.100.070 and DCC 18.116.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

18.100.060 Site Design

All uses except farm, forest and residential uses are subject to the provisions of DCC 18.124, Site Plan Review.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [2002-126](#) §1 on 12/11/2002

18.100.070 Additional Requirements

As a condition of approval of any use proposed within an R-I Zone, the Planning Director or Hearings Body may require:

1. An increase in required setbacks.
2. Additional off-street parking and loading facilities.
3. Limitations on signs or lighting, hours of operation, and points of ingress and egress.
4. Additional landscaping, screening and other improvements.

HISTORY

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

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [2018-006](#) §12 on 11/20/2018

18.100.080 Solar Setback

The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.

HISTORY

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

Amended by Ord. [83-037](#) §20 on 6/1/1983

Amended by Ord. [91-020](#) §1 on 5/29/1991

18.100.090 Limited Use Combining Zone; Deschutes Junction

2. For the property at Deschutes Junction that is described in Exhibit "C" and identified on Exhibit "D", attached to Ordinance 2009-007 and incorporated by reference herein, the storage, crushing, processing, sale and distribution of minerals and their accessory uses are permitted outright and do not require site plan review.
3. For the property at Deschutes Junction that is described in Exhibit "D" identified on Exhibit "E", attached to Ordinance 2010-030 and incorporated by reference herein, the storage, crushing, processing, sale and distribution of minerals are subject to conditional use and site plan approval.

HISTORY

Adopted by Ord. [2009-008](#) §2 on 4/20/2009

Amended by Ord. [2010-031](#) §1 on 2/22/2011

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

Issue Area	Applicable Criteria	Objections	Support	Board Decision	
1	<p>Is the subject property agricultural land with respect to soils?</p>	<p>Goal 3 and Oregon Administrative Rule ("OAR") 660-033-0020(1)(a)(A).</p> <p>In Eastern Oregon, agricultural lands are those lands classified by the U.S. Natural Resources Conservation Service as predominantly Class I-VI soils.</p>	<p>The record includes the following arguments and evidence:</p> <ul style="list-style-type: none"> • The NRCS designation of the property can be relied upon to determine whether the property qualifies as agricultural land. • The NRCS designation rates the property as having Class III-VI soils. • The property qualifies as agricultural land. • An exception to Goal 3 is required. 	<p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> • The Land Use Board of Appeals ("LUBA") has consistently found that Oregon Revised Statute ("ORS") ORS 215.211 allows a site-specific analysis of soils where such information would assist a county in determining whether land qualifies as agricultural land. • The submitted soils study is consistent with OAR 660-033-0030(5), which implements ORS 215.211. • Based on the soils study, the property is predominantly composed of Class VII and VIII soils. • The property does not qualify as agricultural land. 	<p>Is the subject property agricultural land with respect to soils?</p> <ol style="list-style-type: none"> 1. If no, the Board of County Commissioners ("Board") can continue deliberations and move to approve the PA/ZC. 2. If yes, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

	Issue Area	Applicable Criteria	Objections	Support	Board Decision
2	Is the property agricultural land with respect to applicable OAR factors?	<p>Goal 3 and OAR 660-033-0020(1)(a)(B).</p> <p>This OAR requires the decision-maker to determine whether the property is agricultural land by considering the following factors:</p> <ul style="list-style-type: none"> • 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. • Accepted farm practices. 	<p>The record includes the following arguments and evidence:</p> <ul style="list-style-type: none"> • The property is in farm tax deferral. • The property has water rights. • The property includes farm structures – goat barn and farm implement garage. • The property could accommodate a number of farm uses. 	<p><u>Applicant</u></p> <ul style="list-style-type: none"> • Since 1941, property owners consisted mostly of retirees who did not engage in farming activities. • Prior to 1941, there were limited farming activities on the property. • The farm structures were associated with hobby scale farming not for-profit farming. • Recent use of the property consisted of the “Funny Farm.” • Climatic conditions include a limited growing season, cold temperatures and current drought conditions. • The land use pattern is not conducive to agriculture because the property is surrounded by nonfarm uses. • Per the soils study: <ul style="list-style-type: none"> ➢ The property does not have fertile soil; ➢ The soils on-site are not suitable for grazing; and ➢ Irrigating the soils on-site does not improve their quality for farm uses. • The technological and energy inputs required to conduct farm uses are too great. <p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> • It is more likely than not that the property is not suitable for farm use. • While it may be possible to conduct some farm activities on the property, that is not the same as employing the land for the primary purpose of obtaining a profit in money from those activities. • The subject property is not agricultural land with respect to applicable OAR factors. 	<p>Is the property agricultural land with respect to applicable OAR factors?</p> <ol style="list-style-type: none"> 1. If no, the Board can continue deliberations and move to approve the PA/ZC. 2. If yes, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

	Issue Area	Applicable Criteria	Objections	Support	Board Decision
3	Is the property agricultural land considering adjacent or nearby agricultural lands?	Goal 3 and OAR 660-033-0020(1)(a)(C). This OAR requires the decision-maker to consider whether the property is necessary to permit farm practices on adjacent or nearby agricultural lands.	<p>The record includes the following arguments and evidence:</p> <ul style="list-style-type: none"> The presence of the Central Oregon Irrigation District ("COID") canal, which conveys irrigation water to other farms, demonstrates the property qualifies as agricultural land. (Canal Argument). The property was once a part of Howard Ranch, which is still in active irrigated pasture and livestock production. The property can continue to be used in conjunction with Howard Ranch. Insufficient identification of nearby agricultural uses. The county does not have the authority to remove the Exclusive Farm Use ("EFU") designation from the property. The county must pursue the legislative process under ORS 215.788 and ORS 215.794 to re-designate agricultural land and not the quasi-judicial, case-by-case, process it has adopted. (Legislative Process Argument) An exception to Goal 3 is required. 	<p><u>Applicant</u></p> <ul style="list-style-type: none"> Very few farm practices occur on adjacent or nearby lands. Testimony from Jack Holt, owner of the eastern portion of Howard Ranch, stating the subject property is not suitable for farm use either alone or in conjunction with nearby farms. By its own terms, ORS 215.788 states that the county <u>may</u> redesignate agricultural land via a legislative process. This permissive language means that a legislative process is not the <u>only</u> process to redesignate agricultural land. Nothing in the ORS or OAR prohibits a quasi-judicial zone change. LUBA rejected the Legislative Process Argument in <i>Central Oregon Landwatch v. Deschutes County</i>, ___ Or LUBA ___ (LUBA No. 2023-009, July 28, 2023). <p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> The Canal Argument is based on the idea that the canal is necessary to permit farm practices on adjacent or nearby properties. This OAR asks whether the property itself, not a canal owned by a third party, is necessary to permit farm practices on adjacent or nearby properties. There is no evidence to suggest that a nearby farm would benefit from the agricultural use of the property. The property does not qualify as agricultural land because the property is not necessary to permit farm practices on adjacent or nearby agricultural lands. 	<p>Is the property agricultural land considering adjacent or nearby agricultural lands?</p> <ol style="list-style-type: none"> If no, the Board can continue deliberations and move to approve the PA/ZC. If yes, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

Issue Area	Applicable Criteria	Objections	Support	Board Decision	
4	<p>Will the proposed change to Rural Industrial Zone result in new uses that would conflict with the scenic corridor associated with Highway 97?</p>	<p>Goal 5 and OAR 660-023-0250(3).</p> <ul style="list-style-type: none"> Pursuant to OAR 660-023-0250(3), the county does not have to apply Goal 5 as part of a Post Acknowledgment Plan Amendment ("PAPA") unless the PAPA affects a Goal 5 resource. Pursuant to OAR 660-023-250(3)(b), a PAPA affects a Goal 5 resource if the PAPA would allow new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list. The Highway 97 scenic corridor is the Goal 5 resource. 	<p>Objections in the record include:</p> <ul style="list-style-type: none"> The county has never conducted an Economic, Social, Environmental and Energy ("ESEE") analysis to allow redesignation (rezoning) of properties within the Highway 97 scenic corridor. The 1992 ESEE for Highway 97 protected existing views, which included farmland and open space. The Landscape Management ("LM") Combining Zone will not protect the scenic corridor from views of factories and other industrial uses. Conversion to the RI Zone introduces new conflicting uses that have never been found to comply with Goal 5. <p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> Recommended denial because the applicant did not adequately address Goal 5. It may be possible for the applicant to: <ul style="list-style-type: none"> Show that the County's prior Goal 5 analysis considered industrial development on the subject property; or Demonstrate that the new uses allowed on the subject property do not significantly affect a Goal 5 resource. 	<p><u>Applicant</u></p> <ul style="list-style-type: none"> At the time of the 1992 ESEE, lands within ¼-mile of Highway 97 were designated a number of different zones including EFU, Multiple Use Agricultural ("MUA10"), Open Space and Conservation ("OS&C"), Rural Service Center ("RSC") and RI. In 1991, the properties at Deschutes Junction were developed with a variety of uses including lumber business, firewood sales, Cascade Pumice, United Pipe, antique store, mini-storage, roadside amusement park, bookstore and heavy equipment rental. At the time of the 1992 ESEE, the EFU zone allowed utility facilities, schools and churches as outright permitted uses, with landfills, mineral processing and forest product processing allowed as conditional uses. Although today's RI Zone would not allow schools or churches, the EFU Zone in 1992 would allow those uses with buildings that could be larger, taller, and cover more of the property than would be allowed for RI uses. In 1992, the RSC Zone allowed retail stores, office or service uses, automobile service stations and restaurants as outright permitted uses, with kennels/animal hospitals allowed as a conditional use. A kennel/veterinary office is allowed in today's RI Zone. In 1992, the RSC Zone would allow 13,000 square feet of building coverage for a one-acre property (30 percent coverage) with a 25-foot height limit or 30-foot height limit for split-level buildings. By comparison, today's RI Zone allows a maximum floor area of 7,500 square feet with a 30-foot height limit. Today's RI Zone requires greater setbacks than the 1992 RSC Zone. Allowable uses in 1992 overlap with uses allowed in today's RI Zone. The 1992 ESEE did not focus on specific conflicting uses but rather on the aesthetic impact of development, which acknowledges a wide variety of allowed uses. In 1992, the existing zones allowed for a wider variety of uses and a more intensive level of development than would be allowed under today's RI Zone. The RI Zone on this property will not introduce new uses that would conflict with the Highway 97 scenic corridor. <p><u>Adam Smith</u></p> <ul style="list-style-type: none"> At the time of the 1992 ESEE, there were RI-zoned properties in the scenic corridor. Consequently, the County considered the impact of RI uses on the scenic corridor in addition to all other development allowed in the various zones along the corridor, as part of the 1992 ESEE. Changing the base zone does not introduce a new use, therefore a site-specific ESEE is not required. 	<p>Will the proposed change to Rural Industrial Zone result in new uses on the subject property that would conflict with the scenic corridor associated with Highway 97?</p> <ol style="list-style-type: none"> If no, the Board can find that a site-specific ESEE is not required and can continue deliberations and move to approve the PA/ZC. If yes, an ESEE analysis is required, and the Board must determine if the ESEE submitted by the applicant is sufficient. The Board can move to Issue Area #5.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

Issue Area	Applicable Criteria	Objections	Support	Board Decision
<p>5</p> <p>An ESEE analysis is required if the Board decides that the PAPA would introduce new conflicting uses. Even if the Board decides that a site-specific ESEE is not required, the Board can include an ESEE as part of its decision in support of alternative findings.</p> <p>Does the Board adopt the applicant's ESEE analysis as their own?</p>	<p>Goal 5 and OAR 660-023-0040. Pursuant to OAR 660-023-0040(1), the steps in the ESEE process are:</p> <ul style="list-style-type: none"> • Identify conflicting uses; • Determine the impact area; • Analyze the ESEE consequences; and • Develop a program to achieve Goal 5. <ul style="list-style-type: none"> ➢ Allow the conflicting uses without limitation; ➢ Allow the conflicting uses with limitations; or ➢ Prohibit the conflicting uses. 	<p>Objections in the record include:</p> <ul style="list-style-type: none"> • Structures associated with industrial uses will adversely affect the scenic views along the corridor. • Replacing agricultural land and open space with industrial uses will destroy the scenic resource. 	<p><u>Applicant</u></p> <ul style="list-style-type: none"> • A site-specific ESEE analysis is not required because the PAPA will not result in new conflicting uses. • In the alternative, the applicant submitted a revised ESEE analysis dated August 13, 2024. • The August 2024 ESEE addresses the 4-step process outlined under OAR 660-023-0040(1). 	<p>Does the Board adopt the applicant's August 2024 ESEE analysis as their own?</p> <ol style="list-style-type: none"> 1. If yes, the Board can continue deliberations and move to approve the PA/ZC. 2. If no: <ol style="list-style-type: none"> A. Staff can return to the Board with a matrix tailored to the ESEE analysis; or B. The Board can deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

	Issue Area	Applicable Criteria	Objections	Support	Board Decision
6	Has the applicant demonstrated compliance with Goal 6 and is an exception to Goal 6 required?	Goal 6, which requires local governments to consider protection of air, water and land resources from pollution and pollutants when developing comprehensive plans. No associated OARs.	<p>The following are the objections and arguments related to this issue area:</p> <ul style="list-style-type: none"> The applicant cannot satisfy Goal 6 without identifying the specific uses that will be developed on the property. (Specific Uses Objection) Goal 6 exception required. 	<p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> The Specific Uses Objection does not address the application materials. No other argument or evidence refuting the applicant's position that Goal 6 is satisfied was submitted. Goal 6 exception not required. 	<p>Has the applicant demonstrated compliance with Goal 6 and is an exception to Goal 6 required?</p> <ol style="list-style-type: none"> If yes, the Board can continue deliberations and move to approve the PA/ZC. If no, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

	Issue Area	Applicable Criteria	Objections	Support	Board Decision
7	Has the applicant demonstrated compliance with Goal 11?	Goal 11 and OAR 660-011. Goal 11 requires jurisdictions to develop and adopt a public facilities plan.	The record includes the following argument: <ul style="list-style-type: none"> A Goal 11 exception is required. 	<u>Hearings Officer</u> <ul style="list-style-type: none"> The record only includes the statement that a Goal 11 exception is required. No other argument or evidence is presented. The objection is not developed with enough specificity for the Hearings Officer to address it. No exception to Goal 11 is required. 	Has the applicant demonstrated compliance with Goal 11? <ol style="list-style-type: none"> If yes, the Board can continue deliberations and move to approve the PA/ZC. If no, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

	Issue Area	Applicable Criteria	Objections	Support	Board Decision
7	Will the PA/ZC result in urbanization such that an exception to Goal 14 is required?	Goal 14 and its implementing rules "provide for an orderly and efficient transition from rural to urban land use." OAR 660-015-0000(14).	<p>Objections in the record include:</p> <ul style="list-style-type: none"> The property is several miles from the nearest Urban Growth Boundary ("UGB"). The PA/ZC would result in "leap frogging development" that undermines the Bend and Redmond UGBs. The PA/ZC would allow urban-like or intensive uses in violation of Goal 14. The county must apply the <i>Shaffer</i> analysis to determine whether the proposed Rural Industrial ("RI") Zone would allow urban uses. <i>Shaffer v Jackson County</i>, 17 Or LUBA 922 (1989). Expansion of urban uses into rural areas will increase the cost of community services; introduce conflicts with neighboring farms; and result in the loss of open space and natural beauty. A Goal 14 exception is required. 	<p><u>Hearings Officer</u></p> <ul style="list-style-type: none"> The county has previously determined that all uses in the RI Zone are rural in nature. LUBA and the Court of Appeals upheld this determination in <i>Central Oregon Landwatch v Deschutes County</i>, __ Or LUBA __ (LUBA No. 2022-075, Dec. 6, 2002); aff'd 324 Or App 655 (2023). LUBA addressed the same issue in LUBA No. 2023-008 and reiterated its conclusion "that the county was entitled to rely on its acknowledged RI zone to ensure compliance with Goal 14. Consequently, the <i>Shaffer</i> analysis is not required. Goal 14 is satisfied. A Goal 14 exception is not required. 	<p>Will the PA/ZC result in urbanization such that an exception to Goal 14 is required?</p> <ol style="list-style-type: none"> If no, the Board can continue deliberations and move to approve the PA/ZC. If yes, the Board can move to deny the PA/ZC.

BOARD DELIBERATION MATRIX

LAST RANCH PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000573-ZC, 574-PA

Issue Area	Applicable Criteria	Objections	Support	Board Decision	
8	Adequacy of the Hearings Officer's findings on remaining approval criteria.	All applicable criteria as detailed in the Hearings Officer's decision.	None.	None.	<p>Does the Board adopt the Hearings Officer's findings as their own, except as modified by the deliberations?</p> <ol style="list-style-type: none"> 1. If yes, the Board can move to approve the PA/ZC. 2. If no, the Board can identify specific approval criteria for continued deliberations.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Healthy Schools 2023-24 Annual Report

RECOMMENDED MOTION:

N/A; update only.

BACKGROUND AND POLICY IMPLICATIONS:

The [Healthy Schools program](#) has released its 2023-24 Annual Report, a synopsis of its third year of operations in Bend-La Pine Schools (BLS). The 2023-24 school year was the program's first year of full implementation which includes all 14 secondary schools. County staff and BLS students will share results and highlights.

The [Healthy Schools program](#) embeds Deschutes County Public Health Specialists (PHSs) into the school system to provide schools with essential public health services. PHSs work to ensure that schools promote health and prevent student health issues from beginning or worsening. PHSs do not take over the roles of school staff, but guide staff to use more effective practices.

Schools are a logical and efficient setting for public health interventions for youth. Children and adolescents spend nearly half of their waking hours at school for 13 years of their critical developmental life. In BLS, 50% of middle and high school students report feeling stressed, anxious, or depressed as a barrier to learning.¹ Additionally, about a quarter report their health or family's health (28%) and their personal relationships (23%) as a barrier to learning.¹

This high rate of youth mental health issues exceeds the capacity of available treatment providers and requires partnerships between public health, schools, youth and family, health care, and other organizations to address the causes and link those in need to services. [Healthy Schools](#) programming provides this important work to support communities, students, families, teachers, and schools.

The 2023-24 Annual Report will be available online starting December 3rd, 2024 at www.deschutes.org/healthyschools

BUDGET IMPACTS:

n/a

ATTENDANCE:

Jessica Jacks, Deschutes County, Prevention and Health Promotion Program Manager
Aimee Snyder, Deschutes County, Prevention and Health Promotion Supervisor
Ella Bacigalupi, Bend-La Pine Schools, Bend Senior High Student

¹ YouthTruth Student Survey (2023). Bend-La Pine Schools Middle and High School Student Survey Data Reports.



**BOARD OF
COMMISSIONERS**

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: Deschutes County 2025-2027 Biennium STIF and FTA 5310 Projects

RECOMMENDED MOTION:

Move approval of the 2027-2027 biennium STIF Projects and FTA 5310 Projects for Deschutes County as presented.

BACKGROUND AND POLICY IMPLICATIONS:

See attached memorandum and associated attachments from Derek Hofbauer, COIC Outreach and Engagement Administrator, dated November 25, 2024.

BUDGET IMPACTS:

The budget action will fully allocate available pass-through funding from state and/or federal resources.

ATTENDANCE:

Derek Hofbauer, COIC Outreach and Engagement Administrator

Memorandum

To: Deschutes County Board of County Commissioners (BOCC)
From: Derek Hofbauer, COIC Outreach and Engagement Administrator
CC: Chris Doty, Deschutes County Road Department Director and STIF Program Administrator
Date: November 25, 2024
Subject: Request to approve Deschutes County 2025-2027 Biennium STIF and FTA 5310 Projects

Background

COIC was delegated by Deschutes County to administer its Statewide Transportation Improvement Fund (STIF) Program. The Deschutes County STIF advisory committee met on October 9, 2024 to review, prioritize, and approve Deschutes County STIF projects for the 2025-2027 biennium. The advisory committee also approved the list of Federal Transit Administration (FTA) 5310 projects that were included in the same solicitation cycle. The Deschutes County STIF and FTA 5310 projects are presented in Attachments A and B.

COIC staff recommendation

COIC staff recommend the Deschutes County Board of County Commissioner’s approval of the Deschutes County 2025-2027 biennium STIF and FTA 5310 projects. The total amount of the 2025-2027 STIF Plan is \$15,684,481, including carry-over funds from the previous biennium. The total amount of the FTA 5310 projects is 1,697,318, including matching funds.

Next steps

Once the BOCC approves the list of STIF Projects, the Deschutes County STIF Administrator will submit the STIF Plan to ODOT prior to the due date of January 16, 2024. ODOT staff will then review all transit agency STIF Plans for any clarifications or questions before submitting the list of STIF Plans to the Oregon Transportation Commission for final approval. Funding for 2025-2027 STIF projects will be available starting July1, 2025.

Example motion

If the BOCC chooses to approve the Deschutes County 2025-2027 STIF and FTA 5310 projects, an example motion is provided below:

“I move to approve the Deschutes County 2027-2027 biennium STIF Projects and FTA 5310 Projects as presented”

Attachment A

Deschutes County STIF Project Summaries, 2025-2027 Biennium

The total for all projects is \$15,684,481 including carry-over funds.

Project 1: Carry Over Program Reserve Funds

This project supports continuing Central Oregon Intergovernmental Council STIF projects, such as operations, admin, capital projects and capital match or sub-Recipient projects as needed. Also provide grant match support for other state or federal funds as needed.

Subrecipient	FY 2026	FY 2027	Total
COIC / Cascades East Transit	\$2,000,000	-	\$2,000,000

Project 2: STIF Program Administration

This project supports the continuation of administration, planning, supporting, marketing and supervising both the Cascade East Transit and Deschutes County STIF programs without interruption. These activities include: STIF program management, supervision, and oversight, STIF quarterly reporting, STIF committee creation, STIF bylaw adherence, STIF outreach and promotion. This project will also support planning for future transit expansion and needs, as well as provide grant match support for other state or federal funds as needed.

Subrecipient	FY 2026	FY 2027	Total
COIC / Cascades East Transit	\$1,000,000	\$1,000,000	\$2,000,000

Project 3: STIF Program Operations

This project will continue to serve the public transportation needs of the older adults and people with disabilities through Cascades East Transit Dial-A-Ride services in LaPine, Redmond, Sisters, and Bend, as well as rural veteran health care transportation and future expanded Dial-A-Ride boundaries. This project also supports existing Cascades East Transit Community Connector routes serving Deschutes County, including routes 24, 25, 28, 29 and 30 and future increases in service frequency and future route expansion. Also provide grant match support for other state or federal funds as needed.

Subrecipient	FY 2026	FY 2027	Total
COIC / Cascades East Transit	\$3,202,241	\$3,202,240	\$6,404,481

Project 4: CET Capital Projects and Capital Match

Provide funding to either leverage other grant funding sources for capital projects or fund capital projects. Match can be used for State or Federal grant opportunities. Capital Projects include projects such as City of Bend and City of Sisters mobility hubs, other items related to mobility hub expansion, signage, equipment and buses.

Subrecipient	FY 2026	FY 2027	Total
COIC / Cascades East Transit	\$2,200,000	\$1,300,000	\$3,500,000

Project 5: Cascades East Transit Subrecipient Projects

Provide operating funds for inter-city providers: Central Oregon Breeze, Pacific Crest Bus Lines and Opportunity Foundation. Continue to provide match funds for other funding sources for Central Oregon Breeze and Pacific Crest Bus lines to serve cities outside of Bend such as Portland and Klamath Falls. Continue to provide transit operations funding to opportunity foundation to support their client transport needs.

Subrecipient	FY 2026	FY 2027	Total
Central Oregon Breeze	\$240,000	\$240,000	\$480,000
Pacific Crest Bus Lines	\$90,000	\$90,000	\$180,000
Opportunity Foundation	\$60,000	\$60,000	\$120,000
Total Subrecipient Projects			\$780,000

Project 6: Cascades East Transit Vanpool Program

Continued support for the already established Central Oregon vanpool program, as well as any expansion efforts. Also provide grant match support for other state or federal funds as needed.

Subrecipient	FY 2026	FY 2027	Total
COIC / Cascades East Transit	\$500,000	\$500,000	\$1,000,000

Attachment B

Deschutes County Federal Transit Administration (FTA) Project Summaries, 2025-2027

The total for all projects is \$ 1,697,318 including matching funds.

Project 1: Deschutes County Rural Dial-A-Ride

Funding will pay for demand response (Dial-A-Ride) and community connector services that serve seniors and individuals with disabilities in the rural communities of Deschutes County.

Subrecipient	Grant Funds	Match	Total
COIC / Cascades East Transit	\$644,029	\$73,712	\$717,741

Project 2: Deschutes County Small Urban for Bend Dial-A Ride

Funding will pay for contracted demand response services (Dial-A-Ride) within the Bend Urbanized Area (UZA).

Subrecipient	Grant Funds	Match	Total
COIC / Cascades East Transit	\$577,436	\$144,359	\$721,795

Project 3: Deschutes County Preventative Maintenance

Funding will pay for preventative maintenance services for vehicles that provide transportation to seniors and individuals with disabilities within Deschutes County.

Subrecipient	Grant Funds	Match	Total
COIC / Cascades East Transit	\$231,308	\$26,474	\$257,782



STIF Plan 2025-27

- [STIF Program Guidebook](#)
- [STIF Plan Application Instructions](#)

For alternative formats / accessibility questions please reach out to:
The Regional Transit Coordinator in your region or Brian Roth: brian.roth@odot.oregon.gov

Sections 1-5 Visibility *

Show Hide

1. Qualified Entity

Qualified Entity Name *

Qualified Entity Address *

STIF Plan Contact Name *

STIF Plan Contact Title *

STIF Plan Contact Email *

STIF Plan Contact Phone Number *

Employer Identification Number (EIN) *

Will any of the projects in this STIF Plan use funds jointly managed with one or more other Qualified Entities? *

1.2 Sub-Recipients in STIF Plan

⊗ Provider 1

Are any Sub-Recipients included in this STIF Plan? *

Provider Name *

Sub-Recipient Contact Name *

Sub-Recipient Contact Title *

Sub-Recipient Phone Number *

Sub-Recipient Email *

Sub-Recipient Type *

Sub-Recipient Employer Identification Number (EIN) *

Sub-Recipient Website *

+ Add Provider

2. Advisory Committees

2.1 Advisory Committee Website

By checking this box, I agree that all the requirements for Advisory Committees set out in OARs 732-040-0030, 732-040-0035 and 732-042-0020 have been met, including, but not limited to the following:

- The Advisory Committee is guided by written bylaws that contain all the information required in OAR 732-040-0030(5)(a).
- The Advisory Committee’s bylaws, meeting notices, and meeting minutes have been made available to the public in a reasonable and timely manner and are retained for the period required by Oregon public records laws.
- The Advisory Committee has the membership composition required by OAR 732-040-0035.
- For all Projects submitted as part of this application and/or any sub-recipient application, the Advisory Committee has engaged in the review process described by OAR 732-042-0020, to recommend approval or rejection of all proposed Projects and to recommend prioritization of approved Projects.

Please include a link to an Advisory Committee Website.

<https://www.coic.org/transportation/stif/>

This website should include the information required by OARs 732-040-0030, 732-040-0035 and 732-042-0020, and show how the Advisory Committee’s bylaws, meeting notices, and meeting minutes are made available to the public.

If some or all of the information required by OARs 732-040-0030, 732-040-0035 and 732-042-0020 is not available on a website, please upload any additional documentation showing how you met the Advisory Committee requirements and how the Advisory Committee’s bylaws, meeting notices, and meeting minutes are made available to the public.

or drag files here.

Limit 100 MB

Did the QE’s Advisory Committee or Governing Body convene an optional work group as outlined in OAR 732-040-0030? *

- Yes
- No

3. Local Plan Compliance

3.1 Existing Local Plans from which project(s) are derived.

Remember to add more than one plan if you are using a combination of multiple plans to meet this requirement.

⊗ **Local Plan 1**

Local Plan Name *

CET 2040 Transit Master Plan

Governing Body that adopted Local Plan *

Central Oregon Intergovernme

Plan Adoption Date *

9/3/2020 

Local Plan Web Address *

<https://cascadeseasttransit.com/about/2040-transit-master-plan/>

Upload copy of Local Plan if it is not available on a website.

or drag files here.

Limit 100 MB

⊗ **Local Plan 2**


Local Plan Name *

Central Oregon Coordinated T

Governing Body that adopted Local Plan *

Deschutes County Board of C

Plan Adoption Date *

6/20/2018 

Local Plan Web Address *

https://www.coic.org/wp-content/uploads/2020/01/2018-11-06_central-or-coord-plan_final_sig

Upload copy of Local Plan if it is not available on a website.

or drag files here.

Limit 100 MB

⊗ **Local Plan 3**

Local Plan Name *

City of Bend Transportation Sy

Governing Body that adopted Local Plan *

Bend City Council

Plan Adoption Date *

8/20/2020 

Local Plan Web Address *

<https://www.bendoregon.gov/city-projects/transportation-system-plan>

Upload copy of Local Plan if it is not available on a website.

or drag files here.

Limit 100 MB

3.2 Local Plan requirements

I agree that the Local Plan(s), either separately or together, contain all of the information required by OAR 732-040-0005(19). *

- Yes
- No, the Local Plan(s) are not yet consistent with STIF rule requirements.

4. Accountability

4.1 Accountability methods

- Qualified Entity Accountability: By checking this box, I affirm that all of the necessary policies and procedures are in place to provide reasonable assurance that compliance of the Qualified Entity with OAR 732, Divisions 40 and 42 is met, and to achieve the goals and outcomes specified in this STIF Plan, including, but not limited to: program and financial management, operations management, procurement, use and maintenance of equipment, records retention, compliance with state and federal laws, civil rights, and compliance with ADA.

- Sub-Recipient Accountability: By checking this box, I affirm that all of the necessary policies and procedures are in place to provide reasonable assurance that compliance of all Sub-Recipients with OAR 732, Divisions 40 and 42 is met to achieve the goals and outcomes specified in this STIF Plan, address deficiencies in Sub-Recipient performance, and to provide reasonable assurance that the Qualified Entity can accomplish the applicable requirements of these rules, including but not limited to: audit and compliance requirements, accounting requirements, capital asset requirements, and reporting requirements.

4.2 Sub-Allocation method

You may insert a web address in place of a description or document upload, as long as the website includes all the information needed to support approval of the STIF Plan and comply with STIF Rule.

- By checking this box, I affirm that all data used to develop the sub-allocation method was shared with each Public Transportation Service Provider and other potential sub-recipients, as relevant.

Describe the Qualified Entity’s method for sub-allocating STIF Formula Fund moneys and the collaborative process used to work with Public Transportation Service Providers and other potential Sub-Recipients, as relevant, to develop the sub-allocation method. *

The population of Deschutes County is 206,549; Bend is 103,254; Redmond is 36,409; Sisters is 3,003, and La Pine is 2,536. Deschutes County will consider, as a starting point for funding prioritization, where payroll tax originated (by city or region), using population as a general proxy for payroll. Deschutes County will support projects that serve and connect all communities within the County and fund multi-county projects proportionately based on their value to residents. Deschutes County will support projects formerly funded by STF (Special Transportation Funds) that serve older adults and people with disabilities, as well as projects more efficiently and effectively served by other Providers to create employer vanpools and connections outside of Central Oregon. The amount of sub allocation is not considered a guaranteed entitlement, but rather is looked at as a starting point for Deschutes County to consider the overall reach or priority of projects individually and as a who

Limit 1000 Characters

Upload Response

or drag files here.

Limit 100 MB

4.3 High Percentage of Low-Income Households

You may insert a web address in place of a description or document upload, as long as the website includes all the information needed to support approval of the STIF Plan and comply with STIF Rule.

Explain how the STIF Plan defines and identifies communities with a high percentage of Low-Income Households. *

Deschutes County defines a high percentage of Low-Income Households as a census tract or census designated place with a higher percent of Low-Income Households than the statewide average.

The definition should also be in your STIF Advisory Committee's bylaws.

Limit 1000 Characters

Upload Response

or drag files here.

Limit 100 MB

5. STIF Plan Period and Adoption

5.1 Period Covered By STIF Plan

Provide start and end dates for projects proposed for funding in this STIF Plan. The earliest possible start date is July 1, 2025.

Start Date: *

7/1/2025

End Date *


6/30/2027

5.2 STIF Plan Adoption

STIF Plan Advisory Committee recommendation date *

10/9/2024 

STIF Plan Governing Body adoption date *

12/4/2024 

Website where Governing Body adoption document is located *

<https://www.coic.org/transportation/stif/>

Upload Governing Body adoption document if website is unavailable.

or drag files here.

Limit 100 MB

Did the Governing Body modify the Advisory Committee's recommended STIF Plan? *

No 

6. Projects

You may upload Sub-Recipient Project Applications instead of manually entering the information for each sub-recipient. All uploaded Sub-Recipient Project Applications must have been submitted to the Qualified Entity's STIF Advisory Committee, approved by the Qualified Entity's Governing Body, and will be part of the Qualified Entity's STIF Plan.

In addition to this, any Qualified Entities with their own Projects may enter that information directly into the STIF Plan, or may choose to upload their own Sub-Recipient Project Application. In all cases, you cannot split information for a single entity between the STIF Plan and an uploaded Sub-Recipient Project Application. All project information for a given entity must be contained either solely within the Sub-Recipient Project Application or STIF Plan itself.

Important note: If you'd like to use this optional upload feature, please enter the total amount from each Sub-Recipient Project Application in the conditional boxes that will appear below (this information can be found in the last section of the Sub-Recipient Project Application). This will ensure that the sum of all Qualified Entity and sub-recipient projects are included in STIF Plan section 7. STIF Plan Summary.

Would you like to upload any approved Sub-Recipient Project Applications for this STIF Plan? *

Yes


No

6.1 Project Detail Entry

Sub-Recipient 1

Upload Project Application Here *

or drag files here.

 [Deschutes County 25-27 Subrecipient Project Application-COIC Submitted...](#)

0.4 MB

Sub-Recipient Name *

Central Oregon Intergovernmental Council

Sub-Recipient Project Application Total *

\$15,684,481.00

Planned Carry Forward *

\$0.00

FY 2026 Total STIF Funds *

\$9,292,241.00

FY 2027 Total STIF Funds *

\$6,392,240.00

FY 2026 Student STIF Funds *

\$1,030,336.15

FY 2027 Student STIF Funds *

\$630,336.00

**FY 2026
Percent of STIF
Funds
supporting
student
transportation ***
11%

**FY 2027
Percent of STIF
Funds
supporting
student
transportation ***
10%

**FY 2026 Older
and Disabled
Persons STIF
Funds**

\$1,588,672.30

**FY 2027 Older
and Disabled
Persons STIF
Funds**

\$1,188,672.00

**FY 2026 Total
STIF
Funds From
Previous Cycle ***

\$3,000,000.00

*Includes Prior Biennia
STIF Funds, Prior
Biennia Interest Accrued
(FY 23-25)*

**FY 2027 Total
STIF
Funds From
Previous Cycle ***

\$200,000.00

*Includes Prior Biennia
STIF Funds, Prior
Biennia Interest
Accrued (FY 23-25)*

+ Add Sub-Recipient

6.1 Project Detail Entry

Project 1

Project Visibility *

Show Hide

+ Add Project

7. STIF Plan Summary

STIF Plan Grand Total

\$15,684,481.00

STIF Plan Grand Total: Includes STIF Plan Total, as well as Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

Planned Carry Forward Total

\$0.00

Planned Carry Forward Total: The total amount of funding that is set aside to pay for project expenses in a future biennium.

STIF Plan Total (Plan Maximum)

\$12,484,481.00

STIF Plan Total: The total amount of funding that ODOT will be authorized to distribute under this plan when it is approved by the OTC. This does not include Prior Biennia STIF Funds or Prior Biennia Interest Accrued (FY 23-25).

FY 2026 Total Prior Biennia Funds

\$3,000,000.00

The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2027 Total Prior Biennia Funds

\$200,000.00

The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2026 Total STIF Funds

\$9,292,241.00

FY 2027 Total STIF Funds

\$6,392,240.00

FY 2026 Total STIF Funds from Sub-Recipient Applications

\$9,292,241.00

FY 2027 Total STIF Funds from Sub-Recipient Applications

\$6,392,240.00

FY 2026 Student STIF Funds

\$1,030,336.15

FY 2027 Student STIF Funds

\$630,336.00

FY 2026 Percent of STIF Funds supporting student transportation	FY 2027 Percent of STIF Funds supporting student transportation
11.09%	9.86%

Unless it is not practicable, each year, the percentage of STIF Funds supporting student transportation must equal or exceed 1% of the FY Total STIF Funds.

FY 2026 Older and Disabled Persons STIF Funds	FY 2027 Older and Disabled Persons STIF Funds
\$1,588,672.30	\$1,188,672.00

FY 2026 Percent of STIF Funds supporting older and disabled persons transportation	FY 2027 Percent of STIF Funds supporting older and disabled persons transportation
17.10%	18.60%

The amount of STIF Funds that support transit services for Older and Disabled Persons. This amount must equal or exceed the Qualified Entity's allocation of population-based formula funds.

Effective Date

This STIF Plan shall become effective as of the date it is approved by the Oregon Transportation Commission and it shall terminate as of the end date specified in Section 5 of the approved STIF Plan.

Signature

This STIF Plan serves as a legally binding agreement between the Qualified Entity and the State of Oregon, acting by and through its Department of Transportation.

Download the signature page here:

[STIF Plan Signature Page](#)

Upload signature page here. *

or drag files here.

Limit 100 MB

Submit STIF Plan

Save



Subrecipient Project Application 2025-27

For alternative formats / accessibility questions please reach out to: The Regional Transit Coordinator in your region or Brian Roth: brian.roth@odot.oregon.gov

1. Subrecipient Information

Service Provider Name

Central Oregon Intergovernmental Council

Service Provider Contact Name

Robert "Bob" Townsend

Service Provider Contact Title

Transportation Director

Service Provider Phone Number

(541) 980-8952

Service Provider Email

rtownsend@coic.org

Service Provider Type

Intergovernmental Entity

Employer Identification Number (EIN)

93-0620261

Service Provider Website

<https://www.coic.org/>

2. Qualified Entity representing Subrecipient

Qualified Entity Name

Deschutes County

STIF Plan Contact Name

Chris Doty

STIF Plan Contact Title

Road Department Director

STIF Plan Contact Phone Number

(541) 322-7105

STIF Plan Contact Email

chris.doty@deschutes.org

This email address will receive the completed PTSP Project Template.

End Date of QE STIF Plan

6/30/2027

3. Local Plan Compliance

3.1 Existing Local Plans from which project(s) are derived.

Remember to add more than one plan if you are using a combination of multiple plans to meet this requirement.

Local Plan 1

Local Plan Name

CET 2040 Transit Master Plan

Governing Body that adopted Local Plan

Central Oregon Intergovernmental Council

Plan Adoption Date

9/3/2020

Local Plan Web Address

<https://cascadeseasttransit.com/about/2040-transit-master-plan/>

Local Plan 2

Local Plan Name

Central Oregon Coordinated Human Services Plan

Governing Body that adopted Local Plan

Board of County Commissioners

Plan Adoption Date

6/1/2018

Local Plan Web Address

https://chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.coic.org/wp-content/uploads/2020/01/2018-11-06_central-or-coord-plan_final_signed.pdf

Local Plan 3

Local Plan Name

2040 Bend Transportation System Plan

Governing Body that adopted Local Plan

Bend City Council

Plan Adoption Date

8/19/2020

Local Plan Web Address

<https://www.bendoregon.gov/home/showpublisheddocument?id=47764>

3.2 Local Plan requirements

I agree that the Local Plan(s), either separately or together, contain all of the information required by OAR 732-040-0005(19).

Yes

No, one or more Local Plans are not yet consistent with STIF rule requirements.

4. Projects

4.1 Project Detail Entry

Project 1

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

Carry Over Program Reserve Funds

Limit 50 characters

Project Description

Continue to support all current Central Oregon Intergovernmental Council STIF projects, such as operations, admin, capital projects and capital match or sub-Recipient projects as needed. Also provide grant match support for other state or federal funds as needed.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

- Yes
- No

Please be aware that you will need to add a new project for each planned carry forward expense. For example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

30%

Maintain Service

70%

Please explain why all or part of this project is maintaining an existing service.

Unspent funds from the previous plans should be applied towards maintaining existing service first.

Limit 500 Characters

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page numbers E-1, 2,3,5,17,18

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Support continuing Central Oregon Intergovernmental Council STIF projects, such as operations, admin, capital projects and capital match or sub-Recipient projects as needed. Also provide grant match support for other state or federal funds as needed.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Project Administration Task Category

Task Category Amount

\$2,000,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$0.00	\$0.00			\$0.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$2,000,000.00	\$0.00			\$2,000,000.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$2,000,000.00	\$0.00	\$0.00	\$0.00	\$2,000,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in

section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles	Revenue Hours	Rides
201,380	16,038.00	41,141

4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households.
4. Procurement of low or no emission buses for use in areas with 200,000 or more.
5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity's service area.
6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
7. Implementation of programs to provide student transit service for students in grades 9-12.
8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$2,000,000.00	\$0.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal

year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	0%	0%		
Criterion 2	10%	0%		
Criterion 3	10%	0%		
Criterion 4	0%	0%		
Criterion 5	40%	0%		
Criterion 6	0%	0%		
Criterion 7	20%	0%		
Criterion 8	20%	0%		
	100.00%	0.00%	0.00%	0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name

Carry Over Program Reserve Funds

Subrecipient Project Total

\$2,000,000.00

*Includes Prior Biennia STIF
Funds and Prior Biennia Interest
Accrued (FY 23-25)*

**FY 2026 STIF Project
Total**

\$2,000,000.00

*Includes Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

**FY 2027 STIF Project
Total**

\$0.00

*Includes Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

Funds Supporting Student Transportation

**FY 2026 STIF Funds
supporting student
transportation**

\$400,000.00

**FY 2027 STIF Funds
supporting student
transportation**

\$0.00

**FY 2026 percent of STIF
Funds supporting
student transportation**
20%

Funds Supporting Older and Disabled Persons Transportation

**FY 2026 STIF Funds
supporting older and
disabled persons
transportation**

\$400,000.00

**FY 2027 STIF Funds
supporting older and
disabled persons
transportation**

\$0.00

**FY 2026 percent of STIF
Funds supporting older
and disabled persons
transportation**
20%

Funds from Previous Biennia

**FY 2026 STIF Funds
From Previous Cycle**

**FY 2027 STIF Funds
From Previous Cycle**

\$2,000,000.00	\$0.00
<i>The total of Prior Biennia STIF Funds and Prior Biennia Interest</i>	<i>The total of Prior Biennia STIF Funds and Prior Biennia Interest</i>
<i>Accrued (FY 23-25)</i>	<i>Accrued (FY 23-25)</i>

Project 2

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

STIF Program Administration

Limit 50 characters

Project Description

Project supports the continuation of administration, planning, supporting, marketing and supervising both the Cascade East Transit and Deschutes County STIF programs. Also provide grant match support for other state or federal funds as needed.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

- Yes
- No

Please be aware that you will need to add a new project for each planned carry forward expense. For example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

30%

Maintain Service

70%

Please explain why all or part of this project is maintaining an existing service.

This project will allow the current STIF services to continue without interruption. These activities include: STIF program management, supervision, and oversight, STIF quarterly reporting, STIF committee creation, STIF by-law adherence, STIF outreach and promotion. This project will also support planning for future transit expansion and needs. Also provide grant match support for other state or federal funds as needed.

Limit 500 Characters

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page #'s E-1, 2,3,5

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Project supports the continuation of administration, planning, supporting, marketing and supervising both the Cascade East Transit and Deschutes County STIF programs. Also provide grant match support for other state or federal funds as needed.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase

- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Project Administration Task Category

Task Category Amount

\$2,000,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$800,000.00			\$800,000.00
STIF Payroll Funds	\$0.00	\$0.00			\$0.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$1,000,000.00	\$200,000.00			\$1,200,000.00

Prior Biennia Interest Accrued

\$0.00

\$0.00

\$0.00

\$1,000,000.00 \$1,000,000.00 \$0.00 \$0.00 \$2,000,000.00

- By checking this box, I confirm that this project task is only funded by STIF.
- Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles	Revenue Hours	Rides
201,380	16,038.00	41,141

Other Measure

Plans Created

Number of Units:

1

4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a

high percentage of Low-Income Households.

- 4. Procurement of low or no emission buses for use in areas with 200,000 or more.
- 5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity’s service area.
- 6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
- 7. Implementation of programs to provide student transit service for students in grades 9-12.
- 8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$1,000,000.00	\$1,000,000.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	15%	15%		
Criterion 2	15%	15%		
Criterion 3	5%	5%		
Criterion 4	0%	0%		
Criterion 5	20%	20%		
Criterion 6	15%	15%		
Criterion 7	15%	15%		
Criterion 8	15%	15%		
	100.00%	100.00%	0.00%	0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name

STIF Program Administration

Subrecipient Project Total

\$2,000,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2026 STIF Project Total

\$1,000,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2027 STIF Project Total

\$1,000,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

Funds Supporting Student Transportation

FY 2026 STIF Funds supporting student transportation

\$150,000.00

FY 2027 STIF Funds supporting student transportation

\$150,000.00

FY 2026 percent of STIF Funds supporting student transportation

15%

FY 2027 percent of STIF Funds supporting student transportation

15%

Funds Supporting Older and Disabled Persons Transportation

FY 2026 STIF Funds supporting older and disabled persons transportation
\$150,000.00

FY 2027 STIF Funds supporting older and disabled persons transportation
\$150,000.00

FY 2026 percent of STIF Funds supporting older and disabled persons transportation
15%

FY 2027 percent of STIF Funds supporting older and disabled persons transportation
15%

Funds from Previous Biennia

FY 2026 STIF Funds From Previous Cycle
\$1,000,000.00
The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2027 STIF Funds From Previous Cycle
\$200,000.00
The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

Project 3

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

STIF Program Operations

Limit 50 characters

Project Description

Continue to serve the public transportation needs of the Elderly and Disabled population through Cascades East Transit Dial-A-Ride services in La Pine, Redmond, Sisters, and Bend, as well as rural veterans' health care transportation services and future expanded Dial-A-Ride boundaries. Also continue Cascades East Transit Community Connector routes serving Deschutes County, including routes 24, 28, 29 and 30, shopper shuttles, and future increases in service frequency and future route expansion. Also provide grant match support for other state or federal funds as needed.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

Yes

No

Please be aware that you will need to add a new project for each planned carry forward expense. For

example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

30%

Maintain Service

70%

Please explain why all or part of this project is maintaining an existing service.

This project will continue to support current STIF Program Operations for Deschutes County and all cities within the county. These services include both community connectors and dial a ride services and rural veteran health care transportation. Also provide grant match support for other state or federal funds as needed.

Limit 500 Characters

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page #'s 29, 33, 34, 85, 101, 111

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Continue to serve the public transportation needs of the Elderly and Disabled population through Cascades East Transit Dial a ride services in LaPine, Redmond, Sisters, Bend and rural veteran health care transport. Along with future expanded Dial a ride boundaries. Also to provide local match for other state and federal funding sources.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

Fixed Route Demand Response Deviated Fixed Route

Operations Task Category

Task Category Amount

\$3,202,240.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$507,618.00	\$0.00			\$507,618.00
STIF Payroll Funds	\$1,093,502.00	\$1,601,120.00			\$2,694,622.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$1,601,120.00	\$1,601,120.00	\$0.00	\$0.00	\$3,202,240.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Minimum required measures for operations tasks

Revenue Miles	Revenue Hours	Rides
201,380	16,038.00	41,141

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)
71,061

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)
6,304

Number of new shared stops with other transit providers (reducing fragmentation in transit services)

0

Is this project supporting student transportation?

Yes

Choose at least one

Operations

- Number of students in grades 9-12 with free or reduced fare transit pass
- Number of students in grades 9-12 attending a school served by transit
- Number of rides provided to students in grades 9-12
- Other

Operations - Demand Response

- Number of students in grades 9-12 served by demand response

Number of rides provided to students in grades 9-12

4,114

Number of students in grades 9-12 served by demand response

1,371

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles

201,380

Revenue Hours

16,038.00

Rides

41,141

Task 2

Task Description

Continue Cascades East Transit Community Connector routes serving Deschutes County, examples include route 30, 24, 25, 29 and 28 and future increases in service frequency and future route expansion. Also provide local match to leverage other state and federal funding sources.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.

- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

Fixed Route Demand Response Deviated Fixed Route

Operations Task Category

Task Category Amount

\$3,202,241.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you

received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as "Prior Biennia Interest Accrued," for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$1,601,121.00	\$1,601,120.00			\$3,202,241.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$1,601,121.00	\$1,601,120.00	\$0.00	\$0.00	\$3,202,241.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Minimum required measures for operations tasks

Revenue Miles	Revenue Hours	Rides
155,910	7,238.00	43,807

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)

71,067

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)

6,304

Number of new shared stops with other transit providers (reducing fragmentation in transit services)

0

Is this project supporting student transportation?

Yes

Choose at least one

Operations

- Number of students in grades 9-12 with free or reduced fare transit pass
- Number of students in grades 9-12 attending a school served by transit
- Number of rides provided to students in grades 9-12
- Other

Number of rides provided to students in grades 9-12

4,114

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

Other Measure

Ridership Percentage Increased

Number of Units:

3%

4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households.
4. Procurement of low or no emission buses for use in areas with 200,000 or more.
5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity’s service area.
6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
7. Implementation of programs to provide student transit service for students in grades 9-12.
8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$3,202,241.00	\$3,202,240.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	10%	10%		
Criterion 2	10%	10%		
Criterion 3	5%	5%		
Criterion 4	0%	0%		
Criterion 5	30%	30%		
Criterion 6	0%	0%		
Criterion 7	15%	15%		

Criterion 8	30%	30%		
	100.00%	100.00%	0.00%	0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name
STIF Program Operations

Subrecipient Project Total
\$6,404,481.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2026 STIF Project Total	FY 2027 STIF Project Total
\$3,202,241.00	\$3,202,240.00
<i>Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>	<i>Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>

Funds Supporting Student Transportation

FY 2026 STIF Funds supporting student transportation	FY 2027 STIF Funds supporting student transportation
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\$480,336.15 \$480,336.00

FY 2026 percent of STIF Funds supporting student transportation
15% **FY 2027 percent of STIF Funds supporting student transportation**
15%

Funds Supporting Older and Disabled Persons Transportation

FY 2026 STIF Funds supporting older and disabled persons transportation
\$960,672.30 **FY 2027 STIF Funds supporting older and disabled persons transportation**
\$960,672.00

FY 2026 percent of STIF Funds supporting older and disabled persons transportation
30% **FY 2027 percent of STIF Funds supporting older and disabled persons transportation**
30%

Funds from Previous Biennia

FY 2026 STIF Funds From Previous Cycle
\$0.00 **FY 2027 STIF Funds From Previous Cycle**
\$0.00
The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25) *The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)*

Project 4

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

CET Capital Projects & Capital Match

Limit 50 characters

Project Description

Funding to either leverage other grant funding sources for capital projects or fund capital projects. Match could be for State or Federal grant opportunities. Capital Projects would include things such as mobility hubs in Deschutes County, other items related to mobility hub expansion, signage, equipment and buses.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

- Yes
- No

Please be aware that you will need to add a new project for each planned carry forward expense. For example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

100%

Maintain Service

0%

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page #'s 57,103

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Funding to either leverage other grant funding sources for capital projects or fund capital projects. Match could be for State or Federal grant opportunities. Capital Projects would include things such as mobility hubs, signage and other items related to mobility hub expansion.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to

public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

117-00 Other Capital Items Activity Type

- Third Party Contracts 11.71
- Force Accounts 11.72
- Real Estate (R/W) 11.75
- Real Estate (Other) 11.76

Real Estate (R/W) 11.75 Activity Detail

- 11.75.91 Acquisition
- 11.75.92 Relocation (Actual)
- 11.75.93 Demolition
- 11.75.94 Appraisal
- 11.75.95 Utility Relocation
- 11.75.96 Construction
- 11.75.97 Rehabilitation
- 11.75.98 Lease

Other Capital Items Task Category

Task Category Amount

\$1,500,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF

funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$750,000.00	\$750,000.00			\$1,500,000.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$750,000.00	\$750,000.00	\$0.00	\$0.00	\$1,500,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

Other Measure

Capital Improvements Completed

Number of Units:

1

Task 2

Task Description

Funding to either leverage other grant funding sources for capital projects or fund capital projects for vehicle expansion. Match could be for State or Federal grant opportunities. Capital Projects would include things such as buses, equipment, signage.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00

- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

By checking this box, I affirm that all projects requesting funds for capital expenses are in compliance with the Capital Asset Requirements outlined in OAR 732-042-0040.

What type of capital vehicle purchases are included in this task?

- Replacement
- Expansion
- Lease
- Rebuild
- Vehicle Overhaul

Vehicle Expansion 11.13

11.13 Vehicle Information

Vehicle ALI	Make/Model	Quantity	Cost Each	Total	Length	# of seats / # ADA stations	# of seats with ADA deployed	Fuel System
11.1X.03 Bus 30 FT	Freightliner/M2	3	\$300,000.00	\$900,000.00	30	38/2	32	Diesel
11.1X.04 Bus < 30 FT	Freightliner/Challenger	3	\$200,000.00	\$600,000.00	25	30/2	23	Diesel

\$1,500,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are

carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as "Prior Biennia Interest Accrued," for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$300,000.00	\$0.00			\$300,000.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$1,200,000.00	\$0.00			\$1,200,000.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$1,500,000.00	\$0.00	\$0.00	\$0.00	\$1,500,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles	Revenue Hours	Rides
201,380	16,038.00	41,141

Other Measure
Vehicles Purchased

Number of Units:
6

Task 3

Task Description
Funding to either leverage other grant funding sources for capital projects or fund capital projects for vehicle replacement. Match could be for State or Federal grant opportunities. Capital Projects would include things such as buses, equipment, signage.

- Examples:**
- Purchase and installation of up to 12 branded bus stop signs.
 - This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
 - Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?
 Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?
 Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?
100%

- Category**
- Communications 44.26.14
 - Equipment Purchase
 - Facility Purchase
 - Mobility Management 11.7L.00
 - Operations 30.09.00 (State Operating Assistance)
 - Planning 44.20.00
 - Preventive Maintenance 11.7A.00
 - Program Reserve/Contingency 11.73.00
 - Project Administration 11.79.00

- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

By checking this box, I affirm that all projects requesting funds for capital expenses are in compliance with the Capital Asset Requirements outlined in OAR 732-042-0040.

What type of capital vehicle purchases are included in this task?

- Replacement
- Expansion
- Lease
- Rebuild
- Vehicle Overhaul

Vehicle Replacement 11.12

Replacement Vehicle Information

1. Vehicles to be Replaced

Year	Make/Model	Category	VIN	Total Seats / ADA Seats	Current Miles
2,011	Freightliner/Champion	B (11.XX.02)	1FVACXDT1CHBL5705	38/2 Ex. 24/2	210,825
2,011	Freightliner/Champion	B (11.XX.02)	1FVACZDTZCHBL5704	38/2 Ex. 24/2	237,874
2,011	Freightliner/Champion	B (11.XX.02)	1FVACXDT7CHBL5708	38/2 Ex. 24/2	198,831
2,011	Freightliner/Champion	B (11.XX.02)	1FVACXDT6CHBN3925	38/2 Ex. 24/2	192,902
2,011	Freightliner/Champion	B (11.XX.02)	1FVACXDT8CHBL5703	38/2 Ex. 24/2	234,359
2,011	Freightliner/Champion	B (11.XX.02)	1FVACXDT3CHBL5706	38/2 Ex. 24/2	243,260
2,011	Freightliner/Champion	B (11.XX.02)	1FVACWDT1HHJC3905	38/2 Ex. 24/2	180,087

2,016	Freightliner/Champion	B (11.XX.02)	1FVACWDTXGHH R8321	37/2 Ex. 24/2	375,001
2,016	Freightliner/Champion	B (11.XX.02)	1FVACWDT1GHH R8319	37/2 Ex. 24/2	437,057
2,016	Freightliner/Champion	B (11.XX.02)	AFVACWDT8GHH R8320	37/2 Ex. 24/2	240,127
2,019	Freightliner/Champion	B (11.XX.02)	4UZADRFC3LCL W3907	38/2 Ex. 24/2	231,576
2,021	Freightliner/Champion	B (11.XX.02)	4UZADRFC6MCM P7384	38/2 Ex. 24/2	167,419
2,011	Freightliner/Champion	B (11.XX.02)	1FVACWDU1CHB L5710	29/2 Ex. 24/2	371,463

2. Condition of Vehicles

VIN	Condition	Vehicle Maintenance History (Issues, Repairs, etc.)
1FVACXDT1CHBL5705	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACZDTZCHBL5704	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACXDT7CHBL5708	Poor	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACXDT6CHBN3925	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACXDT8CHBL5703	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.

1FVACXDT3CHBL5706	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACWDT1HHJC3905	Poor	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACWDTXGHHR8321	Marginal	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
1FVACWDT1GHHR8319	Poor	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.
AFVACWDT8GHHR8320	Adequate	This vehicle will be coming up on its useful life during this biennium and needs to be replaced to ensure CET fleet remain in a state of good repair.
4UZADRFC3LCLW3907	Adequate	This vehicle will be coming up on its useful life during this biennium and needs to be replaced to ensure CET fleet remain in a state of good repair.
4UZADRFC6MCMP7384	Adequate	This vehicle will be coming up on its useful life during this biennium and needs to be replaced to ensure CET fleet remain in a state of good repair.
1FVACWDU1CHBL5710	Poor	This vehicle is beyond its useful life and the maintenance and repair costs are increasing significantly. This vehicle needs to be replaced.

11.12 Vehicle Information

Vehicle ALI	Make/Model	Quantity	Cost Each	Total	Length	# of seats / # ADA stations	# of seats with ADA deployed	Fuel System
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11.1X.03 Bus 30 FT	Freightlin er M2	13	\$300,000. 00	\$3,900,00 0.00	30	38/2	32	Diese l
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**\$3,900,000
.00**

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$1,000,000.00	\$400,000.00			\$1,400,000.00
Federal	\$142,200.00	\$0.00			\$142,200.00
Other State	\$1,650,460.00	\$707,340.00			\$2,357,800.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00

Prior Biennia Interest Accrued

\$0.00

\$0.00

\$0.00

\$2,792,660.00 \$1,107,340.00 \$0.00 \$0.00 \$3,900,000.00

- By checking this box, I confirm that this project task is only funded by STIF.
- Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles	Revenue Hours	Rides
201,380	16,038.00	41,141

Other Measure

Vehicles Purchased

Number of Units:

13

Task 4

Task Description

Funding to either leverage other grant funding sources for capital projects or fund capital projects for vehicle expansion. Match could be for State or Federal grant opportunities. Capital Projects would include things such as equipment, signage.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

- Yes No

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

By checking this box, I affirm that all projects requesting funds for capital expenses are in compliance with the Capital Asset Requirements outlined in OAR 732-042-0040.

Equipment Purchase

Equipment Information

Description	Quantity	Unit Cost	Total Cost
Equipment needed for hubs and shop to support transit operations	1	\$300,000.00	\$300,000.00
			\$300,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$150,000.00	\$150,000.00			\$300,000.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$150,000.00	\$150,000.00	\$0.00	\$0.00	\$300,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below

by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households.
4. Procurement of low or no emission buses for use in areas with 200,000 or more.
5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity’s service area.
6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
7. Implementation of programs to provide student transit service for students in grades 9-12.
8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$2,200,000.00	\$1,300,000.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	0%	0%		
Criterion 2	0%	0%		
Criterion 3	0%	0%		
Criterion 4	0%	0%		
Criterion 5	100%	100%		

Criterion 6	0%	0%		
Criterion 7	0%	0%		
Criterion 8	0%	0%		
			100.00%	100.00%
			0.00%	0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name

CET Capital Projects & Capital Match

Subrecipient Project Total

\$3,500,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2026 STIF Project Total

\$2,200,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2027 STIF Project Total

\$1,300,000.00

Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

Funds Supporting Student Transportation

FY 2026 STIF Funds supporting student transportation
\$0.00

FY 2027 STIF Funds supporting student transportation
\$0.00

FY 2026 percent of STIF Funds supporting student transportation
0%

FY 2027 percent of STIF Funds supporting student transportation
0%

Funds Supporting Older and Disabled Persons Transportation

FY 2026 STIF Funds supporting older and disabled persons transportation
\$0.00

FY 2027 STIF Funds supporting older and disabled persons transportation
\$0.00

FY 2026 percent of STIF Funds supporting older and disabled persons transportation
0%

FY 2027 percent of STIF Funds supporting older and disabled persons transportation
0%

Funds from Previous Biennia

FY 2026 STIF Funds From Previous Cycle
\$0.00

FY 2027 STIF Funds From Previous Cycle
\$0.00

The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

Project 5

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

Cascades East Transit Sub-Recipient Projects

Limit 50 characters

Project Description

Operating funds for inter-city providers: Central Oregon Breeze, Pacific Crest Bus Lines and Opportunity Foundation.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

- Yes
- No

Please be aware that you will need to add a new project for each planned carry forward expense. For example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

0%

Maintain Service

100%

Please explain why all or part of this project is maintaining an existing service.

Continue to provide match funds for other funding sources for Central Oregon Breeze and Pacific Crest Bus lines. Central Oregon Breeze provides transit from Bend to Portland and Pacific Crest Bus Lines provides transit from Bend to Klamath Falls. Continue to provide transit operations funding to opportunity foundation to support their client transport needs.

Limit 500 Characters

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page #'s 8,10,11,17,125,127

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Provide Central Oregon Breeze with match funds for other state or federal funding sources to continue to support the Bend to Portland transit route.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.

- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

Fixed Route Demand Response Deviated Fixed Route

Operations Task Category

Task Category Amount

\$480,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for

another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$240,000.00	\$240,000.00			\$480,000.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00
Other Funds	\$0.00	\$0.00			\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00			\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00			\$0.00
	\$240,000.00	\$240,000.00	\$0.00	\$0.00	\$480,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Minimum required measures for operations tasks

Revenue Miles Revenue Hours Rides

79,040

1,248.00

4,160

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)

90,000

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)

8,000

Number of new shared stops with other transit providers (reducing fragmentation in transit services)

0

Is this project supporting student transportation?

No

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

Other Measure

Ridership Percentage Increased

Number of Units:

3%

Task 2

Task Description

Provide Pacific Crest Bus Lines with match funds for other state or federal funding sources to continue to support the Bend to Klamath transit route.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to

public transit?

Yes No

What percentage of the funding for this task is supporting the pedestrian/bike project?

100%

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

Fixed Route Demand Response Deviated Fixed Route

Operations Task Category

Task Category Amount

\$180,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
-----------	---------	---------	---------	---------	-------

STIF Population Funds	\$0.00	\$0.00		\$0.00
STIF Payroll Funds	\$90,000.00	\$90,000.00		\$180,000.00
Federal	\$0.00	\$0.00		\$0.00
Other State	\$0.00	\$0.00		\$0.00
Local	\$0.00	\$0.00		\$0.00
Other Funds	\$0.00	\$0.00		\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00		\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00		\$0.00
	\$90,000.00	\$90,000.00	\$0.00	\$0.00
				\$180,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Minimum required measures for operations tasks

Revenue Miles	Revenue Hours	Rides
216,300	6,767.00	5,982

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)

Number of new shared stops with other transit providers (reducing fragmentation in transit services)

0

Is this project supporting student transportation?

No

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

Other Measure

Ridership Percentage Increased

Number of Units:

3%

Task 3

Task Description

Continued support for Opportunity Foundation client transportation services, including matching other funding sources to leverage these funds.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00

- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

- Fixed Route
- Demand Response
- Deviated Fixed Route

Operations Task Category

Task Category Amount

\$120,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for another funding source.

“Prior Biennia STIF Funds” refers to “old” STIF money. It includes any unspent STIF money that you received during the 2023-2025 biennium (including any unspent program reserves), which you are carrying forward for use during the 2025-2027 biennium. It does not include interest earned on STIF money during the 2023-2025 biennium, which should be listed as “Prior Biennia Interest Accrued,” for use during the 2025-2027 biennium.

Expenditures by Fund Source and Fiscal Year

Fund Type	FY 2026	FY 2027	FY 2028	FY 2029	Total
STIF Population Funds	\$0.00	\$0.00			\$0.00
STIF Payroll Funds	\$60,000.00	\$60,000.00			\$120,000.00
Federal	\$0.00	\$0.00			\$0.00
Other State	\$0.00	\$0.00			\$0.00
Local	\$0.00	\$0.00			\$0.00

Other Funds	\$0.00	\$0.00	\$0.00
Prior Biennia STIF Funds	\$0.00	\$0.00	\$0.00
Prior Biennia Interest Accrued	\$0.00	\$0.00	\$0.00

\$60,000.00 \$60,000.00 \$0.00 \$0.00 \$120,000.00

By checking this box, I confirm that this project task is only funded by STIF.

Check this box if you are using STIF funding in this task as a match another source of funding. Please make sure you have indicated that information in your task description above in section 4.1.1.

4.1.3 Outcome Measures

Minimum required measures for operations tasks

Revenue Miles	Revenue Hours	Rides
196,248	13,956.00	35,800

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)
71,061

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)
6,304

Number of new shared stops with other transit providers (reducing fragmentation in transit services)
0

Is this project supporting student transportation?
No

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

Outcome Measures for Older Adults and People with Disabilities

Revenue Miles	Revenue Hours	Rides
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196,248	13,956.00	35,800
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4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households.
4. Procurement of low or no emission buses for use in areas with 200,000 or more.
5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity's service area.
6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
7. Implementation of programs to provide student transit service for students in grades 9-12.
8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$390,000.00	\$390,000.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	0%	0%		
Criterion 2	0%	0%		
Criterion 3	0%	0%		

Criterion 4	0%	0%
Criterion 5	20%	20%
Criterion 6	60%	60%
Criterion 7	0%	0%
Criterion 8	20%	20%

100.00% 100.00% 0.00% 0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name

Cascades East Transit Sub-Recipient Projects

Subrecipient Project Total

\$780,000.00
Includes Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)

FY 2026 STIF Project Total	FY 2027 STIF Project Total
\$390,000.00	\$390,000.00
<i>Includes Prior Biennia STIF Funds and Prior</i>	<i>Includes Prior Biennia STIF Funds and Prior</i>

*Biennia Interest
Accrued (FY 23-25)*

*Biennia Interest
Accrued (FY 23-25)*

Funds Supporting Student Transportation

**FY 2026 STIF Funds
supporting student
transportation**
\$0.00

**FY 2027 STIF Funds
supporting student
transportation**
\$0.00

**FY 2026 percent of STIF
Funds supporting
student transportation**
0%

**FY 2027 percent of
STIF Funds supporting
student transportation**
0%

Funds Supporting Older and Disabled Persons Transportation

**FY 2026 STIF Funds
supporting older and
disabled persons
transportation**
\$78,000.00

**FY 2027 STIF Funds
supporting older and
disabled persons
transportation**
\$78,000.00

**FY 2026 percent of STIF
Funds supporting older
and disabled persons
transportation**
20%

**FY 2027 percent of
STIF Funds
supporting older and
disabled persons
transportation**
20%

Funds from Previous Biennia

**FY 2026 STIF Funds
From Previous Cycle**
\$0.00

**FY 2027 STIF Funds
From Previous Cycle**
\$0.00

*The total of Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

*The total of Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

Project 6

Subrecipient or Qualified Entity Name

Central Oregon Intergovernmental Council

Project Name

VanPool Program

Limit 50 characters

Project Description

Continued support for Central Oregon vanpool program.

Limit 1000 Characters

Project using planned carry forward funding:

Do you plan to set aside funding that you receive during this biennium to pay for expenses related to this project in a future biennium?

- Yes
- No

Please be aware that you will need to add a new project for each planned carry forward expense. For example, if you intend to use carry forward funds to (1) accumulate sufficient funds for a capital project that costs more than can be funded during a single STIF Formula funding cycle; (2) make bond payments on the acquisition of a capital asset; and (3) pay for a planning expense during the next biennium, you will need to add a project for each of these planned uses of your carry forward funding.

Project budget share to improve, expand or maintain public transportation service

Improve or Expand Service

30%

Maintain Service

70%

Please explain why all or part of this project is maintaining an existing service.

Continue to support the already established Central Oregon vanpool program along with expansion efforts as well. Also provide grant match support for other state or federal funds as needed.

Limit 500 Characters

Local Plan this project is derived from:

CET 2040 Transit Master Plan, page #'s8,10,11,17,125,127

Multi-Phase Project

Is your project part of a larger multi-phase project?

No

4.1.1 Project Scope

Task 1

Task Description

Continue to support the already established Central Oregon vanpool program along with expansion efforts as well. Also provide local match for other state or federal funding to support and expand this program.

Examples:

- Purchase and installation of up to 12 branded bus stop signs.
- This task provides resources for additional peak service to accommodate increased demand associated with implementation of the Youth Fare program.
- Local matching funds for Federal Grant to purchase a new vehicle

Limit 250 Characters

Is this task supporting services for older adults and people with disabilities?

Yes No

Is this task supporting a pedestrian or bike project with a physical or functional relationship to public transit?

Yes No

Category

- Communications 44.26.14
- Equipment Purchase
- Facility Purchase
- Mobility Management 11.7L.00
- Operations 30.09.00 (State Operating Assistance)
- Planning 44.20.00
- Preventive Maintenance 11.7A.00
- Program Reserve/Contingency 11.73.00
- Project Administration 11.79.00
- Signs/Shelters Purchase
- Vehicle Purchase 111-00
- Capital 117-00 Other Capital Items (Bus)

Specify the mode that this task will support.

Fixed Route Demand Response Deviated Fixed Route

Operations Task Category

Task Category Amount

\$1,000,000.00

4.1.2 Expenditure Estimates

Enter estimates of all expenditures for activities in this task denoting both fund source and fiscal year of expenditure.

“Federal,” “Other State,” “Local,” and “Other Funds” categories may be used for funding other than STIF funding that is allocated to this task, including when STIF money is being used as matching funds for

100,000 3,750.00 12,500

Number of people with access to transit (within 1/2 mile of transit stop for fixed route)
71,067

Number of Low-Income Households with access to transit (within 1/2 mile of transit stop for fixed route)
6,304

Number of new shared stops with other transit providers (reducing fragmentation in transit services)
0

Is this project supporting student transportation?
No

Optional Outcome Measures

Please select at least one outcome measure that best reflects the benefit of this task.

Outcome Measure 1

All Project Types

Other Measure

Ridership Percentage Increased

Number of Units:

3%

4.2 Allocation of STIF funds by project

Please identify what percentage of this STIF project budget is allocated to each of the criteria listed below by fiscal year.

Note: More information about requirements for criterion #7 can be found in [OAR 732-042-0015\(3\)\(j\)](#). More information about requirements for criterion #8 can be found in [OAR 732-042-0010\(1\)\(a\)](#).

STIF Criteria

1. Increased frequency of bus service to areas with a high percentage of Low-Income Households.
2. Expansion of bus routes and bus services to serve areas with a high percentage of Low-Income Households.
3. Fund the implementation of programs to reduce fares for public transportation in communities with a

high percentage of Low-Income Households.

- 4. Procurement of low or no emission buses for use in areas with 200,000 or more.
- 5. The improvement in the frequency and reliability of service between communities inside and outside of the Qualified Entity’s service area.
- 6. Coordination between public transportation service providers to reduce fragmentation in the provision of transportation services.
- 7. Implementation of programs to provide student transit service for students in grades 9-12.
- 8. Services for older adults and people with disabilities.

FY 2026 STIF Total	FY 2027 STIF Total	FY 2028 STIF Total	FY 2029 STIF Total
\$500,000.00	\$500,000.00	\$0.00	\$0.00

Fund Allocation (Must not exceed 100% per criterion per fiscal year)

If some criteria don't apply to this project, fill in with zeros. Do not add or remove any criteria from the table.

Criterion	FY 2026	FY 2027	FY 2028	FY 2029
Criterion 1	0%	0%		
Criterion 2	0%	0%		
Criterion 3	0%	0%		
Criterion 4	0%	0%		
Criterion 5	100%	100%		
Criterion 6	0%	0%		
Criterion 7	0%	0%		
Criterion 8	0%	0%		
	100.00%	100.00%	0.00%	0.00%

4.3 Oregon Public Transportation Plan Goals

Select at least one goal.

For more information about these goals, please refer to page eight of the [Oregon Public Transportation Plan](#).

Select the OPTP goals that apply to your STIF Plan Projects.

- Goal 1 Mobility: Public Transportation User Experience
- Goal 2: Accessibility and Connectivity
- Goal 3: Community Livability and Economic Vitality
- Goal 4: Equity
- Goal 5: Health
- Goal 6: Safety and Security
- Goal 7: Environmental Sustainability
- Goal 8: Land Use
- Goal 9: Funding and Strategic Investment
- Goal 10: Communication, Collaboration, and Coordination

4.4 Project Summary

Project Name

VanPool Program

Subrecipient Project Total

\$1,000,000.00

*Includes Prior Biennia STIF
Funds and Prior Biennia Interest
Accrued (FY 23-25)*

**FY 2026 STIF Project
Total**

\$500,000.00

*Includes Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

**FY 2027 STIF Project
Total**

\$500,000.00

*Includes Prior Biennia
STIF Funds and Prior
Biennia Interest
Accrued (FY 23-25)*

Funds Supporting Student Transportation

**FY 2026 STIF Funds
supporting student
transportation**

\$0.00

**FY 2027 STIF Funds
supporting student
transportation**

\$0.00

**FY 2026 percent of STIF
Funds supporting
student transportation**

0%

**FY 2027 percent of
STIF Funds supporting
student transportation**

0%

Funds Supporting Older and Disabled Persons Transportation

FY 2026 STIF Funds supporting older and disabled persons transportation \$0.00	FY 2027 STIF Funds supporting older and disabled persons transportation \$0.00
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FY 2026 percent of STIF Funds supporting older and disabled persons transportation 0%	FY 2027 percent of STIF Funds supporting older and disabled persons transportation 0%
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Funds from Previous Biennia

FY 2026 STIF Funds From Previous Cycle \$0.00 <i>The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>	FY 2027 STIF Funds From Previous Cycle \$0.00 <i>The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>
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5. All Projects Totals

Subrecipient Projects Grand Total \$15,684,481.00 Subrecipient Projects Grand Total: <i>Includes Subrecipient Projects Total, as well as Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>	Planned Carried Forward \$0.00 Planned Carry Forward Total: <i>The total amount of funding that is set aside to pay for project expenses in a future biennium.</i>
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Subrecipient Projects Total
\$12,484,481.00

Subrecipient Projects Total: This does not include Prior Biennia STIF Funds or Prior Biennia Interest Accrued (FY 23-25).

FY 2026 Total Prior Biennia Funds \$3,000,000.00 <i>The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>	FY 2027 Total Prior Biennia Funds \$200,000.00 <i>The total of Prior Biennia STIF Funds and Prior Biennia Interest Accrued (FY 23-25)</i>
--	--

FY 2026 Total STIF Funds	FY 2027 Total STIF Funds
---------------------------------	---------------------------------

\$9,292,241.00

\$6,392,240.00

FY 2026 Student STIF Funds

\$1,030,336.15

FY 2027 Student STIF Funds

\$630,336.00

FY 2026 Percent of STIF Funds supporting student transportation

11.09%

FY 2027 Percent of STIF Funds supporting student transportation

9.86%

FY 2026 Older and Disabled Persons STIF Funds

\$1,588,672.30

FY 2027 Older and Disabled Persons STIF Funds

\$1,188,672.00

FY 2026 Percent of STIF Funds supporting older and disabled persons transportation

17.10%

FY 2027 Percent of STIF Funds supporting older and disabled persons transportation

18.60%

By signing below, I certify that I am authorized to submit this Subrecipient Project Application to Deschutes County on behalf of Central Oregon Intergovernmental Council.

Name of authorized representative

Michelle Leigh Williams

Title of authorized representative

COIC Fiscal Manager and Deputy Director

Signature

Signature Date

9/27/2024

Michelle Williams



**BOARD OF
COMMISSIONERS**

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 4, 2024

SUBJECT: 2024 Rural Housing Profile

RECOMMENDED MOTION:

N/A--information only.

BACKGROUND AND POLICY IMPLICATIONS:

Staff will present the 2024 Rural Housing Profile, which is an update of the original report produced in 2020.

BUDGET IMPACTS:

None

ATTENDANCE:

Tanya Saltzman, Senior Planner
Will Groves, Planning Manager
Peter Gutowsky, Community Development Director



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner
Will Groves, Planning Manager

DATE: November 6, 2024

SUBJECT: 2024 Rural Housing Profile

Staff is presenting to the Board of County Commissioners (Board) the 2024 Rural Housing Profile, which is an update of the original report produced in 2020.

I. BACKGROUND

During the summer and autumn of 2020, Long Range Planning staff met with the Board several times to produce a Rural Housing Profile, stemming from the Board’s continual interest in housing issues in the rural county. The housing profile and maps provided a broad-brush survey of existing conditions within the rural county, with respect to population, income, housing value and vacant parcels. The 2020 housing profile identified up to 5,888 vacant lots in the rural county where residential uses are permitted outright.¹ During the discussions that shaped the final report, the Board prioritized rural housing opportunities, which were addressed in the report, which was finalized on November 23, 2020.

Four years later, the County has updated the report in order to provide a current snapshot of the housing environment in the rural county. This includes a presentation of current and projected demographic data, an analysis of vacant residential lands, and a summary of recent and current housing partnerships and opportunities. Staff anticipates regular updates to this report in the future.

¹
https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/16511/housing_profile_2020-11-23.pdf. See Tables 8 (Resort Areas), 9 (Rural Residential Areas) and 10 (Future Opportunities for Rural Residential Lots).

II. REPORT HIGHLIGHTS – EXISTING CONDITIONS

As noted, the updated report presents selected existing conditions concerning demographics (population, income, housing tenure, etc.) along with a vacant residential lands analysis, which illustrates the location and number of lots that could currently accommodate a dwelling as of right (in other words, those located in rural residential lands or resort communities), prior to factoring in individual site constraints. In addition, there is discussion of existing residential opportunities, housing consortium partnerships, a 12-month market analysis, and emerging opportunities.

Vacant Residential Land

In general, the number of vacant residential properties has decreased since 2020 as the County continues to be developed and as population grows. The tables below illustrate the 2020 and 2024 vacant residential parcels. (For full methodology as well as illustrative maps, please refer to the report.)

Table 1, Resort Areas	Number of Vacant Lots in 2020	Number of Vacant Lots in 2024
Destination Resorts		
Caldera Springs (*includes Phase 2)	101	* 198
Eagle Crest	139	70
Pronghorn/Juniper Preserve	285	261
Tetherow	200	74
Resort Communities		
Black Butte	27	16
Inn of the 7th Mountain/Widgi Creek	12	3
Urban Unincorporated Area		
Sunriver	118	92
Total Vacancies, Resort Areas	882	714

Table 2, Rural Residential Areas	Number of Vacant Lots in 2020	Number of Vacant Lots in 2024
Rural Residential Zones		
Rural Residential	2439	2121
Multiple Use Agriculture	518	433
Suburban Low Density Rural Residential	32	23
Urban Area Reserve	292	131
West Side Transect	not platted	90
Rural Communities		
Tumalo (TUR/TUR5)	32	27
Terrebonne (TER/TER5)	134	119
Total Vacancies, Rural Residential Areas	3447	2944

Twelve-Month Market Analysis

Initially, the Housing Profile examines several factors that affect housing supply and demand in the county: population trends and vacant land. However, the existence of vacant land does not necessarily mean it will be affordable. This section summarizes recent county sales data provided by the Central Oregon Association of Realtors (COAR) in an effort to better understand the dynamics of housing cost in various areas of Deschutes County over the last year. Tables 3 and 4 summarize single-family and manufactured home sale prices over the last 12 months (September 2023 - August 2024). Sale prices are separated by geographic sub-region, including resort communities; they largely correspond to the areas utilized in the Vacant Residential Lands Analysis in the Rural Housing Profile.

Table 3, 12-Month Average Sale Prices in Rural Residential Areas (Sept. 2023-2024)

Bend Unincorporated	Average price
392 Homes	\$1,259,299
34 Manufactured Homes	\$500,135
Redmond Unincorporated	Average price
233 Homes	\$744,715
14 Manufactured Homes	\$480,571
Sisters Unincorporated	Average price
84 Homes	\$1,126,216
8 Manufactured Homes	\$447,688
La Pine Unincorporated	Average price
124 Homes	\$508,405
111 Manufactured Homes	\$345,790
Between Tumalo & Sisters	Average price
47 Homes	\$1,553,516
3 Manufactured Homes	\$681,333
Three Rivers South	Average price
138 Homes	\$1,060,348
30 Manufactured Homes	\$406,298

Table 4, 12-Month Average Sale Prices in Resort Areas (Sept. 2023-2024)

Sunriver	Average price
106 Homes	\$989,451
Black Butte	Average price
29 Homes	\$1,239,741
Inn of 7th Mt.	Average price
7 Condo	\$271,842
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Caldera Springs	Average price
30 Homes	\$2,027,900
Tetherow	Average price
22 Homes	\$2,343,177
Eagle Crest	Average price
67 Homes	\$900,677
Pronghorn/Juniper Preserve	Average price
4 Homes	\$1,850,000

The most real estate activity in non-resort communities occurred near Bend and Redmond, the county’s largest population centers. Newer destination resorts are experiencing higher real estate values compared to the other older resorts. South County has the lowest relative real estate values, especially for manufactured homes, but manufactured homes continue to represent a more affordable form of housing.

Existing Residential Opportunities in Rural Deschutes County

Rural Deschutes County possesses numerous types of residential development options. Many listed below (*) are exclusive to Deschutes County.

- Cluster Development: Miller Tree Farm, Westgate and Skyline Ranch i.e. Westside Transect Zone (WTZ) *

- Destination Resorts: Caldera Springs, Eagle Crest, Pronghorn, Tetherow, Thornburgh – proposed *
- Destination Resort Eligible Areas *
- Dwellings in Exclusive Farm Use zone: farm dwelling, accessory farm dwelling, relative-help dwelling, non-farm dwelling, lot-of-record dwelling, replacement dwelling, and temporary hardship dwelling
- Dwellings in Forest Use zone: lot-of-record dwelling, large tract dwelling, template dwelling, temporary hardship dwelling, and caretaker dwelling for fish hatchery or park
- Exclusive Farm Use Subzones *
- Historic and Rural Accessory Dwelling Units may be developed on a property subject to certain criteria.
- Measure 37 and 49: Property rights claims – the right to land divide and/or build homes as compensation for land use regulations imposed after owners acquired their properties.
- Resort Communities: Black Butte, Inn of 7th Mountain, Widgi Creek *
- Rural Residential Exception Areas: RR-10, MUA-10, UAR-10, SR 2.5, WTZ *
- Unincorporated Communities: Terrebonne, Tumalo, Sunriver *

Deschutes County offers the most rural residential housing opportunities in Oregon along with Clackamas, Lane and Jackson counties based on population outside of UGBs. It has the most resort communities and destination resorts as well as one of the largest urban unincorporated communities, Sunriver. It is also the only county with EFU subzones that allow for the smallest EFU parcel sizes in Oregon. The County rates in the top third annually for the number of approved nonfarm dwellings. It appears to have the largest number of lots located in rural residential exception areas, leading to notable cluster developments.

III. REPORT HIGHLIGHTS: EMERGING OPPORTUNITIES

In addition to the existing conditions and options for residential development listed above, there are several emerging opportunities in the County, including those already in progress, those poised to be initiated if desired, as well as those that require additional action or exploratory work prior to initiating.

Clear and Objective Standards for Rural Housing / HB 3197

HB 3197 (2023) requires counties to adopt and apply clear and objective standards, conditions, and procedures regulating housing in unincorporated communities, Rural Residential Exception Areas, and nonresource lands. It is effective on July 1, 2025. This law requires amending definitions, land division code, five rural residential zones, Sunriver Urban Unincorporated Community zones, Tumalo and Terrebonne Rural Community zones, Flood Plain Zone, and Landscape Management, Sensitive Bird and Mammal, and Wildlife Area Combining Zones, with detailed findings, including those relating to Goal 5. This project is currently in progress.

Recreational Vehicles / Rental Dwellings / SB 1013

Deschutes County is considering amending DCC, Title 18, County Zoning, and Title 19, Bend UGB Zoning Ordinance to allow recreational vehicles (RV) as rental dwellings in rural residential exception areas subject to certain criteria of SB 1013 (2023). SB 1013 authorizes a county to allow an owner of a lot or parcel in a rural area to site on the property one RV that is used for residential purposes and is subject to a residential rental agreement and additional criteria outlined below. It shares some criteria with recent rural ADU legislation in SB 391, such as the requirement to provide sewage disposal, and differs in other ways—for instance, no fire hardening requirements are written into SB 1013. The Board reopened the written record until November 1. Deliberations will occur on November 13.

County-Owned Property Audit

Some of the land owned by the County could present opportunities for residential development depending on a number of factors. Staff—Property Management and Facilities, with assistance from the Planning Division and Information Technology—could audit County-owned land by size (removing parcels less than 0.75 acre, for example), zoning designation, groundwater constraints and related factors to determine development potential.

La Pine Neighborhood Planning Area

If initiated, this project would create area plans for the 368 acres of County-owned property in the Newberry Neighborhood in La Pine—a unique and timely opportunity to add to the regional housing supply and increase the available mix of housing types. The current comprehensive plan and development code are a mix of legacy zoning from when the County was the land use authority prior to La Pine’s 2006 incorporation and the City’s first comprehensive plan and development code. By delineating the allowable densities, this project could provide a range of housing types from single-family to multi-family; lay out a network of pedestrian and bicycle facilities; identify neighborhood commercial nodes to reduce travel outside the neighborhood; identify open spaces to increase livability; and provide general directions on residential designs to encourage visual cohesion. If initiated, the project would review and amend as necessary the City’s comprehensive plan and development code to implement the area plans.

IV. INSTITUTIONAL CHALLENGES

Although Deschutes County has numerous opportunities to expand residential development as noted in the sections above, it is important to note before committing to any specific initiative that some of these opportunities face challenges with respect to state law and the Oregon land use system. The Oregon land use system is designed to concentrate the majority of growth within urban growth boundaries; the following laws could potentially affect certain initiatives.

- Goal 3, Agricultural Lands and OAR 660, Division 33 contains rigorous standards for siting a dwelling on EFU lands. Recent case law may limit nonresource lands opportunities (*DLCD et al vs. Douglas County*).

- ORS 215.264 and OAR 660-033-0145 restrict land dividing EFU and Forest Use lands.
- Goal 4, Forest Lands and OAR 660, Division 6 contains rigorous standards for siting a dwelling on Forest Use lands. Recent case law may limit nonresource lands opportunities (*DLCD et al vs. Douglas County*).
- OAR 660, Division 4: Prohibits new rural residential areas from having a minimum lot size lower than 10 acres without taking an exception to Goal 14 (Urbanization).
- Goal 11 exception to allow sewer systems in South County regionally was remanded by the Land Use Board of Appeals (LUBA) in 2015.

V. CONCLUSION

If directed by the Board, staff can provide regular updates to the Rural Housing Profile in order to provide background information and context for emerging projects or analyses.

Attachment

2024 Rural Housing Profile

Deschutes County

2024 Rural Housing Profile



Rendering: Simpson Community



Prepared by:
Deschutes County
Community Development Department
www.deschutes.org/cd

ACKNOWLEDGMENTS

Deschutes County Board of Commissioners

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Anthony DeBone, Vice Chair
Phil Chang, Commissioner

Community Development Department

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Table of Contents

PURPOSE 4

SECTION 1: DESCHUTES COUNTY TODAY

EXISTING POPULATION / HOUSING PROFILE 4

- Population 4
- Median Household Income..... 5
- Median Value of Owner-Occupied Housing Units 5
- Owner and Renter Occupied Housing Units 6

POPULATION PROJECTIONS 7

HOUSING NEED 8

- Average Number of Persons Per Household 8
- Estimated Housing Need..... 8
- Building Permits Issued 8

VACANT RURAL RESIDENTIAL LAND SUPPLY 9

- Methodology 10
- Map Overview 10
- Data Summary 11
- Anticipated Residential Lots 12
- Conclusion 13

TWELVE-MONTH MARKET ANALYSIS 13

- Key Points 14

EXISTING RESIDENTIAL OPPORTUNITIES 14

- Nonfarm Dwelling Approvals 14
- Forestland Dwelling Approvals 15
- Key Points 15

CURRENT HOUSING INITIATIVES 15

- City of Bend Affordable Housing Projects 15
- City of Redmond Affordable Housing Project 16
- Housing Consortium Partnerships 16
- Terrebonne and Tumalo Sanitary Districts 18
- Non-Resource Lands Amendments 18
- Zoning Amendments 19

SECTION 2: LOOKING FORWARD

EMERGING OPPORTUNITIES 19

- Clear and Objective Standards for Rural Housing / HB 3197..... 19
- Recreational Vehicles / Rental Dwellings / SB 1013 19
- County-Owned Property Audit 20
- La Pine Neighborhood Planning Area 20

OREGON LAND USE LIMITATIONS / COORDINATION 20
Institutional Challenges 20
Initiatives Requiring Legislative Action 21

APPENDIX

Appendix A – Maps
Vacant Rural Residential Land Maps

PURPOSE

This report updates Deschutes County’s 2020 Rural Housing Profile.¹

Housing is consistently identified by Deschutes County residents as an issue of concern. But what does this actually mean? Is it the cost, availability, quality, location, or some combination of these factors? This updated report provides background and existing conditions in unincorporated Deschutes County as they relate to population, demographics, and vacant residential lands. Section 1 explores existing conditions in Deschutes County, including demographics, vacant lands, market analyses, and residential development opportunities currently available. Section 2 examines options to move forward with respect to housing, from opportunities currently afforded by state or local code to those that require further action or lobbying.

SECTION 1: DESCHUTES COUNTY TODAY

This section provides a snapshot of Deschutes County, summarizing numerous elements that have the potential to affect housing—whether directly or indirectly. While the information provided is just a starting point, it strives to illustrate some of the contrasts that exist between availability and affordability, between geographic regions, and some of the tools that currently exist to help manage these issues.

EXISTING POPULATION / HOUSING PROFILE

The following subsections provide an overview of the population of Deschutes County with respect to the number of residents, household income, and housing units. In some cases, information is provided for the incorporated cities separately as well as the unincorporated rural county; unless otherwise noted, however, data is for the entirety of Deschutes County, including its cities. Full methodology and explanations of source data are found in the footnotes. Much of the data comes from Portland State University Population Research Center and American Community Survey (ACS), which is a yearly survey produced by the U.S. Census that is sent to a subset of approximately 3.5 million people in the United States.

Population

Table 1 below illustrates Deschutes County’s total population estimates for July 2023 for its cities and the unincorporated area. The population of the unincorporated area represents approximately 29 percent of Deschutes County.

¹ <https://www.deschutescounty.gov/cd/page/deschutes-county-housing-strategies>

Table 1, Deschutes County Population Estimate (2023)²	
Deschutes County (including cities)	212,141
City of Bend	106,275
City of Redmond	38,208
City of La Pine	1,952
City of Sisters	3,823
Unincorporated County	61,883

Median Household Income

Table 2 illustrates the median household income for the same geographies, with the exception of the unincorporated county, for which data is not provided by the American Community Survey.

Table 2, Deschutes County Median Household Income (2022: ACS 5-Year Data Profile)³	
Deschutes County (including cities)	\$82,042
City of Bend	\$82,671
City of Redmond	\$72,798
City of La Pine	\$50,625
City of Sisters	\$84,088

The median household income for Deschutes County (including cities), is 9% higher than that of the State of Oregon (\$76,632). Income is a critical factor when examining the potential affordability of housing. A commonly-used metric by financial and housing analysts is that the cost burden of housing (whether rent or mortgage) should be no more than approximately one-third of household income.

Median Value of Owner-Occupied Housing Units

As shown in Table 3, the median value (\$526,000) of owner-occupied housing units—note that this is different than the average sale price, which is discussed below—in Deschutes County (including cities) is significantly higher than that of the State of Oregon (\$475,600). Given that median income is on par with the state yet housing value is not could be an indicator of a potential imbalance. It is also important to note that second and vacation homes are not included in this figure, which is intended to capture the value of housing units used as primary residences.

² Portland State University Population Research Center. Certified 2023 Population Estimate. https://docs.google.com/spreadsheets/d/1n9AXuVU1DaoBwOstEJj_ft_LWR5yKcl/edit#gid=843235416

³[https://data.census.gov/table?t=Income%20\(Households,%20Families,%20Individuals\)&g=040XX00US41_050XX00US41017_160XX00US4105800,4141050,4161200,4167950&d=ACS%205-Year%20Estimates%20Data%20Profiles](https://data.census.gov/table?t=Income%20(Households,%20Families,%20Individuals)&g=040XX00US41_050XX00US41017_160XX00US4105800,4141050,4161200,4167950&d=ACS%205-Year%20Estimates%20Data%20Profiles)

Table 3, Median value of owner-occupied housing units (2022: ACS 5-Year Estimates)⁴	
Deschutes County (including cities)	\$526,200
City of Bend	\$576,900
City of Redmond	\$379,600
City of La Pine	\$313,400
City of Sisters	\$546,400

Owner and Renter Occupied Housing Units

The data in Table 4 below illustrates the breakdown of owner-occupied versus renter-occupied homes in Deschutes County as a whole as well as its incorporated cities and the unincorporated county. The U.S. Census defines “owner occupied” as: “... the owner or co-owner lives in the unit, even if it is mortgaged or not fully paid for. The owner or co-owner must live in the unit and usually is Person 1 on the [Census] questionnaire.”

Table 4, Housing Tenure (2022)⁵	Deschutes County	City of Bend	City of La Pine	City of Redmond	City of Sisters	Unincorporated County
Total Housing Units	94,911	45,468	1,000	13,383	1,612	33,448
Owner Occupied	56,821	25,814	552	8,367	1,044	21,044
Owner Occupied (Percent of Total Housing Units)	60%	57%	55%	63%	65%	63%
Renter Occupied	24,660	16,337	417	4,658	299	2,949
Renter Occupied (Percent of Total Housing Units)	26%	36%	42%	35%	19%	9%

While the owner- and renter-occupancy rate varies significantly among the cities, it is worth noting that in all jurisdictions, the sum of owner-occupied and renter-occupied housing units does not add up to the total number of housing units. This is likely primarily attributable to second homes, vacation homes, or homes used for short-term rentals—all of which are common in tourism-oriented areas. In the unincorporated county, which accommodates a significant number of destination resorts and resort communities, a full 28 percent of homes are neither owner- or renter-occupied.

⁴https://data.census.gov/table?t=Housing%20Value%20and%20Purchase%20Price&g=040XX00US41_050XX00US41017_160XX00US4105800,4141050,4161200,4167950&d=ACS%205-Year%20Estimates%20Data%20Profiles

⁵https://data.census.gov/table/ACSDP5Y2022.DP04?g=040XX00US41_050XX00US41017_160XX00US4105800,4141050,4161200,4167950&d=ACS%205-Year%20Estimates%20Data%20Profiles

POPULATION PROJECTIONS

Understanding the future population of Deschutes County can inform rural housing strategy goals. Since the enactment of state legislation in 2013 to centralize population forecasts with consistent methodology across Oregon, population forecasts have been conducted by the Population Research Center (PRC) at Portland State University. Population forecasts are performed on a four-year cycle by region; the most recent forecast for Deschutes County was published in 2022.⁶ It is important to note that these population figures for 2022 and beyond may differ slightly from estimates provided by the United States Census due to different base year estimates and forecast methodology; for cities’ geography, PRC uses Urban Growth Boundaries (UGBs) rather than city limits, which can differ slightly.

The PRC 2022 Forecast Report notes that the total population of Deschutes County will likely grow at a faster pace in the near-term (2022-2047) compared to the long-term (2047-2072). This is largely due to an eventual decrease in birth rates versus death rates—owing to an aging population as well as a smaller population of women in their childbearing years—despite increases from in-migration. As shown in Table 5, Deschutes County’s total population (including cities) is forecast to increase by more than 91,000 over the next 25 years (2022-2047) and by more than 184,000 over the entire 50-year forecast period (2022-2072).

Table 5, Deschutes County and Sub-Area Population Forecasts⁷	2022	2047	2072	Average Annual Growth Rate 2022 - 2047	Average Annual Growth Rate 2047 - 2072
Deschutes County	207,921	298,937	392,790	1.5%	1.1%
Bend UGB	103,976	160,361	225,619	1.7%	1.4%
Redmond UGB	37,342	60,060	82,601	1.9%	1.3%
Sisters UGB	3,437	7,911	14,881	3.3%	2.5%
La Pine UGB	2,736	5,129	8,336	2.5%	1.9%
Outside UGB (Unincorporated County)	60,430	65,476	61,352	0.3%	-0.3%

The growth rate for unincorporated Deschutes County, however, does not mirror that of the county as a whole or its cities. While the growth rates for the county as well as its cities are all projected to slow down between 2047 and 2072, the growth rate slows more dramatically for the unincorporated county as shown in Table 6. As a result, the population of the unincorporated county becomes a smaller proportion of the county as a whole by 2047 and 2072.

⁶ <https://www.pdx.edu/population-research/sites/g/files/znlchr3261/files/2022-06/Deschutes.pdf>

⁷ Ibid.

Table 6, Deschutes County and Sub-Areas Share of County Forecasts ⁸	Share of County		
	2022	2047	2072
Deschutes County	n/a	n/a	n/a
Bend UGB	50%	54%	57%
Redmond UGB	18%	20%	21%
Sisters UGB	2%	3%	4%
La Pine UGB	1%	2%	2%
Outside UGB (Unincorporated County)	29%	22%	16%

HOUSING NEED

While not intended to replace an in-depth housing needs analysis that considers elements such as geography, income, and price point, some basic calculations can give a general feel for housing needs in the County with respect to population growth.

Average Number of Persons Per Household

The average number of persons per household in Deschutes County, including its cities, is 2.43.⁹

Estimated Housing Need

Utilizing the population projections provided in Table 5 above, Deschutes County outside of its UGBs is expected to grow from 60,430 people in 2022 to 65,476 in 2047—an addition of 5,046 residents. Dividing this number by average household size indicates that approximately 2,077 housing units may be required to accommodate this growth. Of note, this number does not take into account mortality rates, out-migration and related factors that could make existing housing available.

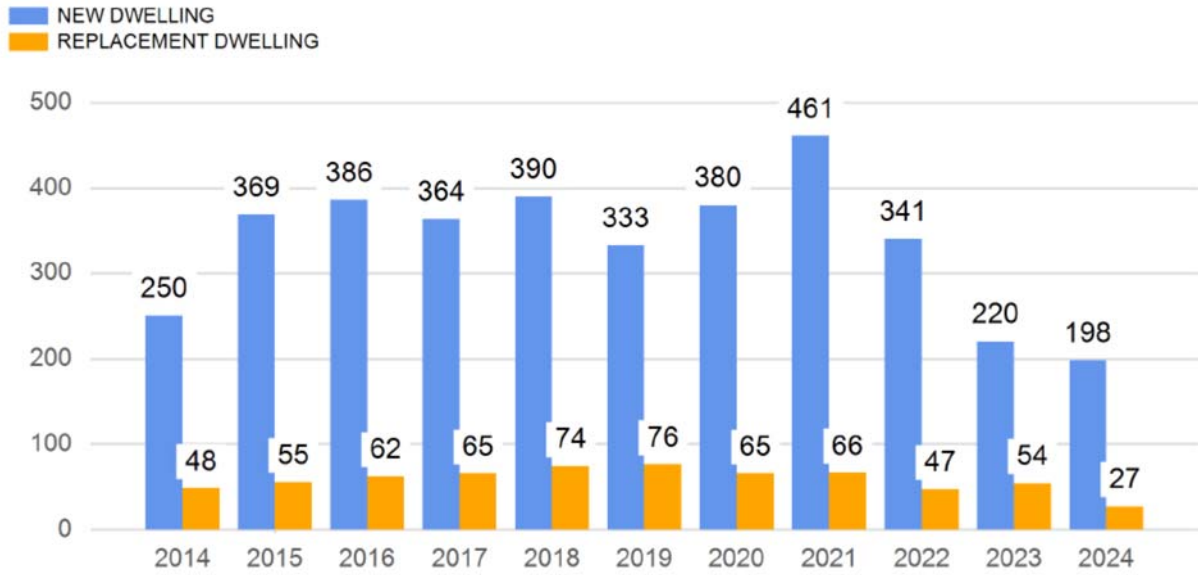
Building Permits Issued

Table 7 below illustrates the number of new and replacement dwelling building permits issued each year by the Deschutes County Community Development Department since 2014. The most recent five years of data show an average yearly total of 320 new dwelling building permits issued. This annual addition to the housing stock is the first step towards meeting the County’s housing needs, but does not take into account factors such as price, type of home, or whether the homes are primary residences or second homes.

⁸ Ibid.

⁹ <https://www.census.gov/quickfacts/deschutescountyoregon>

Table 7, Dwelling Permits Issued by Year
New and Replacement Dwellings by Year



VACANT RURAL RESIDENTIAL LAND SUPPLY

What does the housing landscape in Deschutes County look like right now? Often, housing affordability is affected by housing availability; that is, if availability of a resource (in this case, homes for sale or buildable land) is low, and desire for that resource is high, that pressure generally causes the price of that resource to rise. Low housing inventory is not the only factor that affects affordability, particularly in a location like Deschutes County, with its high draws from tourism, its second homes, Goal 8 resorts and resort communities.

The following maps illustrate the location and number of vacant residential lands throughout the county. First, it is important to distinguish between vacant residential lands and a buildable lands analysis. **Vacant residential land** is a general summary of parcels or lots in areas zoned for rural residential use that are designated in the county database as vacant; that is, no existing structure currently exists on the lot or parcel, and therefore a single-family home could theoretically be built there as an outright permitted use. A **buildable lands analysis** takes this several steps further, utilizing a more complex and labor-intensive analysis, considering site-specific data such as setbacks, flood plains, steep slopes, environmental soils, existing structures, and other constraints that could render a lot or parcel undevelopable. In addition, a buildable lands analysis could incorporate non-farm dwellings on land zoned for Exclusive Farm Use (EFU) and template dwellings on land zoned Forest Use (F1 / F2), which require a conditional use permit. For the purposes of this report, which examines general patterns and trends, just a vacant residential land analysis was conducted.

Methodology

The following methodology was utilized to create the vacant residential lands database using SQL Server. As outlined below, the analysis began with all properties in zoning districts that allow single-family dwellings outright. Properties were subsequently reduced by several factors to be categorized as vacant.

1. Tax lots were used that exist within the following zoning districts: RR10, MUA10, TER, TER5, TUR, TUR5, SR-2.5, UAR10 and WTZ. Properties that exist within Resort Communities and Destination Resorts: Black Butte Ranch, Caldera Springs, Eagle Crest, Pronghorn, Inn of the Seventh Mountain/Widgi Creek, Sunriver and Tetherow.
2. All properties within the zoning districts mentioned above that had the following structures present within the Assessor's Office 2024 tax roll using Property Class and Stat Class codes were removed: Accessory Dwelling Unit, Single-Family Dwelling, Duplex, Triplex, Four-Plex, Condominium, Manufactured Dwelling, Mobile Home Park and Manufactured Account Structures, along with all properties with commercial development. Properties that were considered Unbuildable, Non-Assessable, Utility, Forest and Resort Commercial were not included as vacant. Properties where their center point lies within the 0-2' or 2' Depth To Groundwater GIS feature class (red lots) were deemed Unbuildable. Note: Stat Class codes excluded because of existing residential development: 111-299, 13A-14T, 411-491, 511-873, 0551. Properties deemed Unbuildable, Utility, Forest and Resort Commercial reside within Property Class Codes: 000, 003, 005, 010, 020, 026, 030, 060, 080, 305, 460, 501, 600, 821, 830, 831. Non-Assessable properties excluded use a tax status of 'N'.
3. Tax year considered for all analysis was 2024. Analysis included development that existed, was permitted and under construction as of January 1, 2024. Any property on which permits were issued or construction began after January 1, 2024 is not included in this report.

Map Overview

Area maps illustrating vacant residential parcels are provided as follows:

- Vacant lots and in Destination Resorts, Resort Communities, and Sunriver Urban Unincorporated Community
- Vacant lots and associated rural residential zoning throughout the county – these maps illustrate the boundaries of residential zoning districts, which is useful when examining neighboring development constraints, such as resource land.

Taken together, these maps are intended to provide a general snapshot of where vacancies exist today and how they are distributed across the county.

Data Summary

A summary of the number of vacant parcels is provided in Tables 8 and 9 below, illustrating changes in vacant lots from 2020 to 2024.

Table 8, Resort Areas	Number of Vacant Lots in 2020	Number of Vacant Lots in 2024
Destination Resorts		
Caldera Springs (*includes Phase 2)	101	* 198
Eagle Crest	139	70
Pronghorn/Juniper Preserve	285	261
Tetherow	200	74
Resort Communities		
Black Butte	27	16
Inn of the 7th Mountain/Widgi Creek	12	3
Urban Unincorporated Area		
Sunriver	118	92
Total Vacancies, Resort Areas	882	714

Table 9, Rural Residential Areas	Number of Vacant Lots in 2020	Number of Vacant Lots in 2024
Rural Residential Zones		
Rural Residential	2439	2121
Multiple Use Agriculture	518	433
Suburban Low Density Rural Residential	32	23
Urban Area Reserve	292	131
West Side Transect	not platted	90
Rural Communities		
Tumalo (TUR/TUR5)	32	27
Terrebonne (TER/TER5)	134	119
Total Vacancies, Rural Residential Areas	3447	2944

Vacant residential land varies greatly among destination resorts and resort communities. For instance, Pronghorn/Juniper Preserve has approximately 261 vacant lots out of 503 total, whereas Black Butte Ranch has just 16 vacant lots of its 1255 total. Vacant residential lots in destination resorts can potentially be attributed to a number of factors, including price point, target demographic, amenities, and location. Despite the complexity of these factors, each vacant lot nevertheless represents at its most basic level a potential unit of housing.

Looking at residential subdivisions in the Bend area, it appears that vacant residential lots are fairly evenly distributed around the periphery of the City of Bend’s UGB, with opportunities slightly concentrated to the north and east.

La Pine’s vacant residential lands are fairly evenly distributed in one general area to the north and west of the city, even when accounting for high ground water lots that are undevelopable; development constraints due to Forest Service and BLM land lie to the south and east.

In Redmond, residential development is constrained in the southeast by BLM land and to the east by Deschutes County-owned land; vacant parcels of varying sizes are scattered around the remaining periphery, with a cluster of vacancies in Terrebonne to the north. There are few vacant residential parcels adjacent or nearly adjacent to the Redmond UGB.

Vacant residential lands in the Sisters area are largely found to the northeast in areas zoned Rural Residential (RR10). While Forest Service land restricts development to the west, south, and northwest, there is also a loose cluster of vacant parcels along U.S. 20 between Tumalo and the City of Sisters.

In the residential subdivision areas south of Sunriver, development areas, which are zoned RR-10, are largely surrounded by public lands owned by the Forest Service and BLM, but areas of vacant residential land extend in clusters down to La Pine.

Anticipated Residential Lots

Table 10 lists potential opportunities for future residential development; that is, areas not yet platted but slated for applications or approval in the future. This list consists of recent plan amendment zone changes with an estimate of the number of lots that could be platted as a standard subdivision.

Table 10, Future Opportunities for Rural Residential Lots	Count
Central Oregon Irrigation District (21-401-ZC)	3
Swisher (21-617-ZC)	8
Eden (21-1044-ZC)	71
Marken (22-354-ZC)	5
Destiny Court (22-436-ZC)	6
Te Amo (22-313-ZC)	9
Griffin (22-793-ZC)	4
Miller Pit (23-548-ZC)	6
Groves (23-211-ZC)	4
Gopher Gulch Tentative Plan	10
Future Opportunities, Rural Residential Lots	126

Conclusion

The number of vacant residential tax lots provides one aspect of the housing picture in rural Deschutes County, indicating simply that currently it is possible to locate a property on which a dwelling might be built. A more in-depth buildable lands analysis would likely remove some of the mapped vacancies from the list due to individual site constraints, but the potential for nonfarm and template dwellings could provide a counterbalance to this reduction.

TWELVE-MONTH MARKET ANALYSIS

Thus far, this report has summarized several factors that affect housing supply and demand in the county: population trends and vacant land. However, the existence of vacant land does not necessarily mean it will be affordable. This section summarizes recent county sales data provided by the Central Oregon Association of Realtors (COAR) in an effort to better understand housing cost in various areas of Deschutes County over the last year. Tables 11 and 12 summarize single-family and manufactured home sale prices over the last 12 months (September 27, 2023 - September 27, 2024). Sale prices are separated by geographic sub-region, including resort communities; they largely correspond to the areas utilized in the Vacant Residential Lands Analysis.

Table 11, 12-Month Average Sale Prices in Rural Residential Areas

Bend Unincorporated	Average price
392 Homes	\$1,259,299
34 Manufactured Homes	\$500,135
Redmond Unincorporated	Average price
233 Homes	\$744,715
14 Manufactured Homes	\$480,571
Sisters Unincorporated	Average price
84 Homes	\$1,126,216
8 Manufactured Homes	\$447,688
La Pine Unincorporated	Average price
124 Homes	\$508,405
111 Manufactured Homes	\$345,790
Between Tumalo & Sisters	Average price
47 Homes	\$1,553,516
3 Manufactured Homes	\$681,333
Three Rivers South	Average price
138 Homes	\$1,060,348
30 Manufactured Homes	\$406,298

Table 12, 12-Month Average Sale Prices in Resort Areas

Sunriver	Average price
106 Homes	\$989,451
Black Butte	Average price
29 Homes	\$1,239,741
Inn of 7th Mt.	Average price
7 Condo	\$271,842
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22 Homes	\$2,343,177
Eagle Crest	Average price
67 Homes	\$900,677
Pronghorn/Juniper Preserve	Average price
4 Homes	\$1,850,000

Key Points

The most real estate activity in non-resort communities occurred in areas near Bend and Redmond. Newer destination resorts are experiencing higher real estate values compared to the older resorts. South County has the lowest relative real estate values, especially for manufactured homes. Manufactured homes continue to be a more affordable option than traditional single-family homes, with average sale prices of manufactured homes at roughly half that of traditional single-family homes.

EXISTING RESIDENTIAL OPPORTUNITIES

Rural Deschutes County possesses numerous types of residential development options currently available to residents, provided criteria codified in Deschutes County Code are met. Many listed below (*) are exclusive to Deschutes County.

- Cluster Development: Miller Tree Farm, Westgate and Skyline Ranch i.e. Westside Transect Zone (WTZ) *
- Destination Resorts: Caldera Springs, Eagle Crest, Pronghorn, Tetherow, Thornburgh – proposed *
- Destination Resort Eligible Areas *
- Dwellings in Exclusive Farm Use zone: farm dwelling, accessory farm dwelling, relative-help dwelling, non-farm dwelling, lot-of-record dwelling, replacement dwelling, and temporary hardship dwelling
- Dwellings in Forest Use zone: lot-of-record dwelling, large tract dwelling, template dwelling, temporary hardship dwelling, and caretaker dwelling for fish hatchery or park
- Exclusive Farm Use Subzones *
- Historic and Rural Accessory Dwelling Units may be developed on a property subject to certain criteria.
- Measure 37 and 49: Property rights claims – the right to land divide and/or build homes as compensation for land use regulations imposed after owners acquired their properties.
- Resort Communities: Black Butte, Inn of 7th Mountain, Widgi Creek *
- Rural Residential Exception Areas: RR-10, MUA-10, UAR-10, SR 2.5, WTZ *
- Unincorporated Communities: Terrebonne, Tumalo, Sunriver *

Nonfarm Dwelling Approvals

As noted above, nonfarm dwellings are one type of residential development currently available to Deschutes County residents in EFU zones. According to the 2020-2021 Farm and Forest Report issued by the Department of Land Conservation and Development (DLCDD) in November 2021 (the most recent report published to date), Deschutes County issued the most nonfarm dwelling

approvals (904) in Oregon between 1994 and 2021.¹⁰ In 2020 and 2021, Deschutes County issued 17 and 21 nonfarm dwelling approvals respectively. Subsequently, there were 13 nonfarm dwelling approvals in 2022, 10 in 2023, and 6 to date in 2024 according to County records.

Forestland Dwelling Approvals

According to the 2020-2021 Farm and Forest Report, in 2020 and 2021, Deschutes County issued 2 and 14 forestland dwelling approvals respectively. The most were 16 template dwellings in 2021. Subsequently, there were 7 forestland dwelling approvals in 2022, 7 in 2023, and 4 to date in 2024 according to County records

Key Points

Deschutes County offers the most rural residential housing opportunities in Oregon along with Clackamas, Lane and Jackson counties based on population outside of UGBs. It has the most resort communities and destination resorts as well as one of the largest urban unincorporated communities, Sunriver. It is also the only county with EFU subzones that allow for the smallest EFU parcel sizes in Oregon. The County rates in the top third annually for the number of approved nonfarm dwellings. It appears to have the largest number of lots located in rural residential exception areas, leading to notable cluster developments.

CURRENT HOUSING INITIATIVES

Deschutes County's commitment to address housing is captured below with a sampling of recent initiatives and programs. Some of these projects are underway while others have recently begun, but all have the potential to affect housing in varying capacities.

City of Bend / Affordable Housing Projects

House Bill (HB) 4079 (2016) pilot project was part of an initiative by the Oregon Legislature to increase affordable housing. It allowed the City of Bend to expand their UGB without having to comply with Goal 14, provided that at least 30% of the new housing is affordable and remains so for at least 50 years. The City of Bend selected a 35-acre site on the eastern border and amended their UGB in coordination with Deschutes County in 2022. Bend City Council approved Hayden Homes' master plan and annexation for "Parkside Place," in 2023. A land division application consistent with the approved master plan and a Site Plan Review application for the multi-unit development portion of the project are forthcoming.

The City of Bend utilized HB 3318 (2021) to approve a concept plan to develop the Stevens Road Tract, a 261-acre parcel of land located southeast of Bend, adjacent to the city's limits in 2022.

¹⁰ https://www.oregon.gov/lcd/Publications/2020-2021_Farm_Forest_Report.pdf. Appendix 2, Table 12.

The City in coordination with the County amended their UGB in 2023. The Oregon Department of State Lands is now putting the property on the market for sale to a developer who will be required to develop a master plan for the Tract according to the requirements of the City of Bend's Comprehensive Plan and Development Code. The policies adopted into the Comprehensive Plan require Stevens Road Tract to be developed as a mixed-use community, providing connected street and multi-use path network, over 2,400 new housing units at a mix of densities and income levels, and at least 39 acres of parks and open space.

In August 2024, the City of Bend initiated a notice of solicitation of site application for inclusion within their UGB under Senate Bill (SB) 1537 (2024). SB 1537 provides qualifying local governments a one-time site addition to their UGB. Site applications are required to include a draft conceptual plan meeting the requirements of SB 1537 section 55(3), including but not limited to, land uses, transportation networks including diverse transportation options and connectivity, urban services, consistency with Statewide Land Use Planning Goals, a diversity of housing types and demonstration of how the affordable housing requirements will be met. Before adopting an UGB amendment under section 50 of SB 1537, a city is required to adopt a binding conceptual plan as an amendment to its comprehensive plan. Site applications are due in October. Bend City Council hopes to make a selection in December.

City of Redmond / Affordable Housing Project

In 2019, the City of Redmond was selected by the State for a pilot affordable housing program as provided by House Bills 4079 and 2336. In December 2019, the City and County entered into a land donation agreement outlining the Deschutes County's commitment to donate 40 acres in east Redmond to the City for the development of 450 housing units of affordable, workforce, and market rate housing. The City completed the partition process for the 40 acres and the land has been conveyed to the City. The vision of the 40-acre subject property, "Northpoint," is to serve as a model for mixed-income housing development in both Central Oregon and across the state. The project seeks to incorporate sustainable design, commercial uses, including space for childcare, parks, trail connectivity, community amenities, transit opportunities and other infrastructure. The City of Redmond is currently working to finalize a working relationship with master developers DeChase Miksis + Edlin & Co. with groundbreaking anticipated in 2024 or 2025.

Housing Consortium Partnerships

Deschutes County partners with NeighborImpact, Housing Works, Veterans Village, and other organizations to address affordable housing. Notable initiatives in recent years include:

- In 2019, Bend Heroes Foundation approached the County concerning a project to provide housing to homeless veterans. When HB 4212 passed, County-owned property located on the Public Safety Campus in the City of Bend was identified for the project and subsequently, the County committed to providing the 1.25 acres and limited funding to capitalize and operate the program. The Central Oregon Veterans Village is a now

community of transitional shelters designed to provide shelter and services for homeless veterans. The project is a Joint Venture between the Bend Heroes Foundation and Central Oregon Veterans Outreach (COVO). It is being managed as a public-private partnership with the City of Bend, Deschutes County, and the State of Oregon. The Village became fully operational on Veterans Day 2021. It is being modeled after a successful program in Clackamas County. The Village has 15 shelters and a community building with kitchen, dining, case management offices, laundry, restrooms, and showers.

- In 2022, the County sold 1.14-acres at the NE corner of Connors and 27th, Bend, to Housing Works for \$1,000,000 for the development 30-40 affordable housing units with clinical space on the ground floor.
- In 2023, the County in collaboration with the City of Bend, sold to Kôr Community Land Trust and Housing Works approximately 7.12 acres of County-owned land on the west side of Bend to support the development of 100 affordable housing units that will include a combination of multi-family and single family homes. Oregon Housing Community Services funded \$7,360,000 through its Local Innovation and Fast Track program. Oregon Community Foundation also provided a mission-aligned loan of \$1,000,000 that provides early capital to increase the speed at which the affordable housing can be completed. Additionally, Bend Municipal Planning Organization awarded Kôr Community Land Trust and Housing Works \$589,370.16 to support the transportation infrastructure.
- In 2023, the County in collaboration with the City of Redmond and Hayden Homes, made approximately 12 acres of land available in east Redmond for Oasis Village, a low barrier transitional shelter. The county also awarded \$367,500 in Federal ARPA funds to Oasis Village. Opened in 2024, it will house up to 20 adults in 15 100-square-foot 'bedroom shelters', along with communal laundry, kitchen, pet area, garden and RV storage area. Project leaders plan to expand to 30-bedroom shelters within two years.
- In 2023, the County donated 5.02 acres in the City of La Pine Newberry Neighborhood for Habitat for Humanity for 34 affordable housing townhome lots. Infrastructure planning is occurring in 2024.
- In 2023, the County sold 8.35 acres to the City of Redmond at a discount of \$240,000 for the development of 26-30 housing units, and undevelopable portions of the property as open space.
- In 2024, the County donated 39.31 acres in East Redmond known as Northvista Point (formerly Skyline Village) to the City of Redmond in accordance with HB 4079 and HB 2336 for the development of +/- 450-units of affordable, workforce and conventional housing.
- In 2024, the County approved funding up to \$100,000 towards the addition of 7 new shelter units at Veterans Village. Additionally, the County provided funding associated with system development charges due to the additional 7 shelter units imposed by the

City of Bend in the amount of \$55,000, and Bend Parks and Recreation in the amount of \$53,000.

- In 2024, the County approved funding for a new pilot program that encourages builders to construct and sell new homes at prices attainable to median-income earners. The program, called Workforce Home Ownership for Median-income Earners (Workforce HOME), was established in partnership with NeighborImpact, Housing Works and the Central Oregon Builders Association (COBA). It will provide developers a \$30,000 builder credit for each home they build that is sold within a price range that is affordable for the workforce in Deschutes County. Buyers must earn between 80 and 120 percent of the area median income and be currently employed by or have an accepted offer of employment from a Deschutes County employer to qualify. A deed restriction will be placed on each home constructed through the Workforce HOME program to ensure that any future sales price remains affordable to qualified buyers for 20 years. The County has allocated \$320,000 in support of the project.

In 2024, the County authorized the use of approximately 10 acres in East Redmond for the operation of a supported/managed camp. The managed camp will offer basic hygiene services, an area for service providers and case management.

Terrebonne and Tumalo Sanitary Districts

In March 2023, Terrebonne voters approved forming a sanitary district. A Board of Directors was established four months later in July. While the design, funding, contractor bidding, and construction process is estimated to take a minimum of 3 years, the District is emphasizing that this timeframe is subject to change based on a variety of factors, including funding availability and project approval. The newly formed board will be pursuing additional grant funds and sewer customers (through annexation), to keep connection costs and monthly rates down

In August 2024, the Board of County Commissioners approved the petition for a Tumalo Sewer District. Deschutes County commissioned a feasibility study by an engineering firm in 2022 due to the continued reliance on on-site septic systems for wastewater disposal. Based on existing conditions and analysis of projected failures, the engineering team identified alternatives for implementation to provide sewer service to the Tumalo Community. As a result of the 2022 feasibility study, community members that had formed the Tumalo Basin Sewer Committee in 2023, concluded that the best mechanism to organize, fund, and operate the proposed community sewer system would be the formation of a sanitary district under ORS Chapter 450.

Non-Resource Lands Amendments

According to a DLCD Rural Resource Lands Report, from 2008 to 2018, 24 plan amendment / zone changes (PA/ZCs) from EFU to non-resource designations occurred in Oregon. More than 25% took place in Deschutes County. Since 2020, 8 more PA/ZCs have been acknowledged, encompassing 566 acres. Five PA/ZCs are pending.

Zoning Amendments

- Conventional Housing Combining Zone:** Deschutes County repealed the Conventional Housing Combining Zone, DCC Chapter 18.92 in 2023. The CHC zone (DCC Chapter 18.92) was created by petition prior to the adoption of PL-15, Deschutes County Zoning Ordinance in 1979. It required homes to be “conventional or modular housing permanently attached to real property.” The “permanent attachment” requirement precluded people from living out of mobile homes on CHC properties. The zoning district applied to three large areas near Bend to the north, northwest, and east. Repealing the CHC zone now give those properties the potential to provide affordable housing in the form of mobile or manufactured homes, which are less expensive alternatives to stick-built or modular housing.
- Rural Accessory Dwelling Units in Unincorporated Communities:** Deschutes County adopted Rural Accessory dwellings units into DCC per SB 391 (2021). To date, CDD has received 23 land use applications and 33 site evaluations.

SECTION 2: LOOKING FORWARD

Supplementing the existing options for residential development listed in Section 1, staff has identified additional housing strategies that may be worth pursuing. Some efforts have the tools in place and are poised to be initiated if desired; others require action or exploratory work prior to initiating.

EMERGING OPPORTUNITIES

Clear and Objective Standards for Rural Housing / HB 3197

HB 3197 (2023) requires counties to adopt and apply clear and objective standards, conditions, and procedures regulating housing in unincorporated communities, Rural Residential Exception Areas, and nonresource lands. It is effective on July 1, 2025. This law requires amending definitions, land division code, five rural residential zones, Sunriver Urban Unincorporated Community zones, Tumalo and Terrebonne Rural Community zones, Flood Plain Zone, and Landscape Management, Sensitive Bird and Mammal, and Wildlife Area Combining Zones, with detailed findings, including those relating to Goal 5.

Recreational Vehicles / Rental Dwellings / SB 1013

Deschutes County is considering amending DCC, Title 18, County Zoning, and Title 19, Bend UGB Zoning Ordinance to allow recreational vehicles (RV) as rental dwellings in rural residential

exception areas subject to certain criteria of SB 1013 (2023). SB 1013 authorizes a county to allow an owner of a lot or parcel in a rural area to site on the property one RV that is used for residential purposes and is subject to a residential rental agreement and additional criteria outlined below. It shares some criteria with recent rural ADU legislation in SB 391, such as the requirement to provide sewage disposal, and differs in other ways—for instance, no fire hardening requirements are written into SB 1013. The Board reopened the written record until November 1. Deliberations will occur on November 13.

County-Owned Property Audit

Some of the land owned by the County could present opportunities for residential development depending on a number of factors. Staff—Property Management and Facilities, with assistance from the Planning Division and Information Technology—could audit County-owned land by size (removing parcels less than 0.75 acre, for example), zoning designation, groundwater constraints and related factors to determine development potential.

La Pine Neighborhood Planning Area

If initiated, this project would create area plans for the 368 acres of County-owned property in the Newberry Neighborhood in La Pine—a unique and timely opportunity to add to the regional housing supply and increase the available mix of housing types. The current comprehensive plan and development code are a mix of legacy zoning from when the County was the land use authority prior to La Pine’s 2006 incorporation and the City’s first comprehensive plan and development code. By delineating the allowable densities, this project could provide a range of housing types from single-family to multi-family; lay out a network of pedestrian and bicycle facilities; identify neighborhood commercial nodes to reduce travel outside the neighborhood; identify open spaces to increase livability; and provide general directions on residential designs to encourage visual cohesion. If initiated, the project would review and amend as necessary the City’s comprehensive plan and development code to implement the area plans.

OREGON LAND USE LIMITATIONS / COORDINATION

Institutional Challenges

Although Deschutes County has numerous prospects to expand residential development as noted in the sections above, it is important to emphasize before committing to any specific initiative that some of these opportunities face challenges with respect to state law. The Oregon land use system is designed to concentrate the majority of growth within UGBs; the following laws could potentially affect certain initiatives.

- Goal 3, Agricultural Lands and OAR 660, Division 33 contains rigorous standards for siting a dwelling on EFU lands. Recent case law may limit nonresource lands opportunities (*DLCD et al vs. Douglas County*).
- ORS 215.264 and OAR 660-033-0145 restrict land dividing EFU and Forest Use lands.
- Goal 4, Forest Lands and OAR 660, Division 6 contains rigorous standards for siting a dwelling on Forest Use lands. Recent case law may limit nonresource lands opportunities (*DLCD et al vs. Douglas County*).
- OAR 660, Division 4: Prohibits new rural residential areas from having a minimum lot size lower than 10 acres without taking an exception to Goal 14 (Urbanization).
- Goal 11 exception to allow sewer systems in South County regionally was remanded by the Land Use Board of Appeals (LUBA) in 2015.

Initiatives Requiring Legislative Action

Given the challenges noted above, the following housing opportunities would require action by the Legislature in order to pursue.

- **Remove “pilot” from HB 4079 (large cities) and HB 2336 (small cities)** to allow UGB expansions for mixed market rate and affordable housing neighborhoods.
- **Other**

Destination Resorts:

- Allow affordable housing onsite for employees.

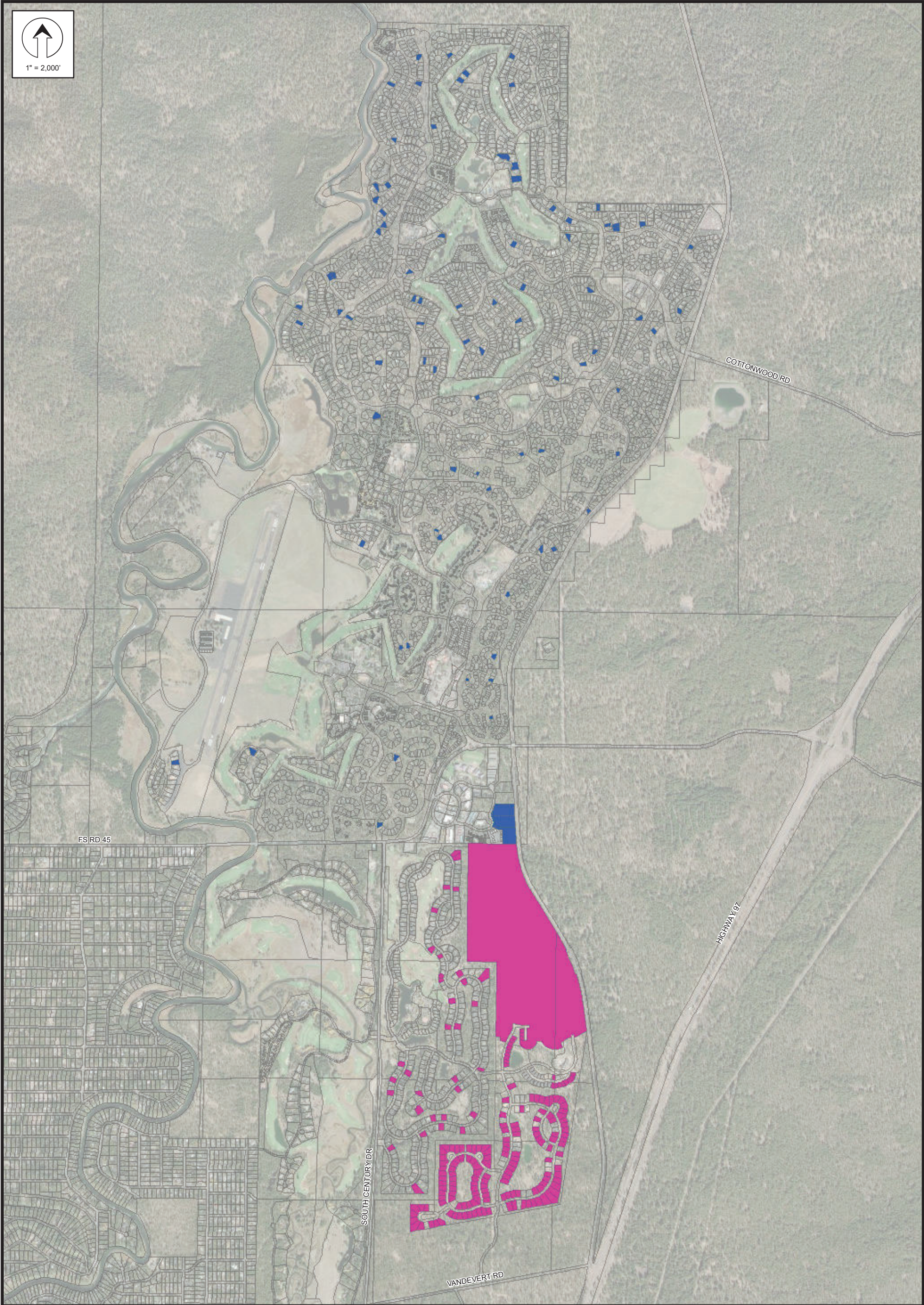
Manufactured Home Parks:

- Allow new and expanded manufactured home parks.
- Allow manufactured home park lots to be subdivided and allow tiny homes rather than just manufactured homes.

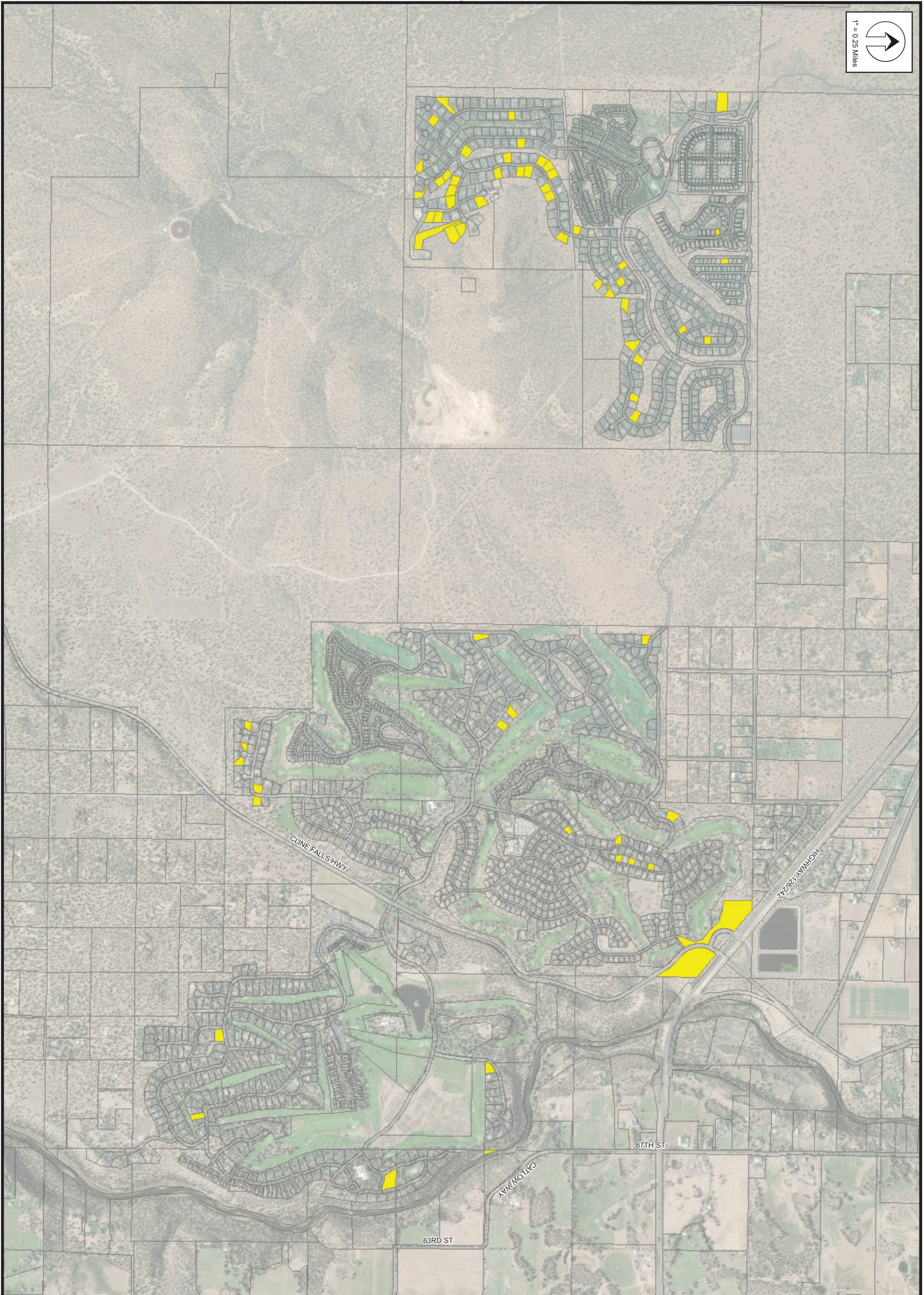
Other

VACANT RESIDENTIAL LANDS MAPS

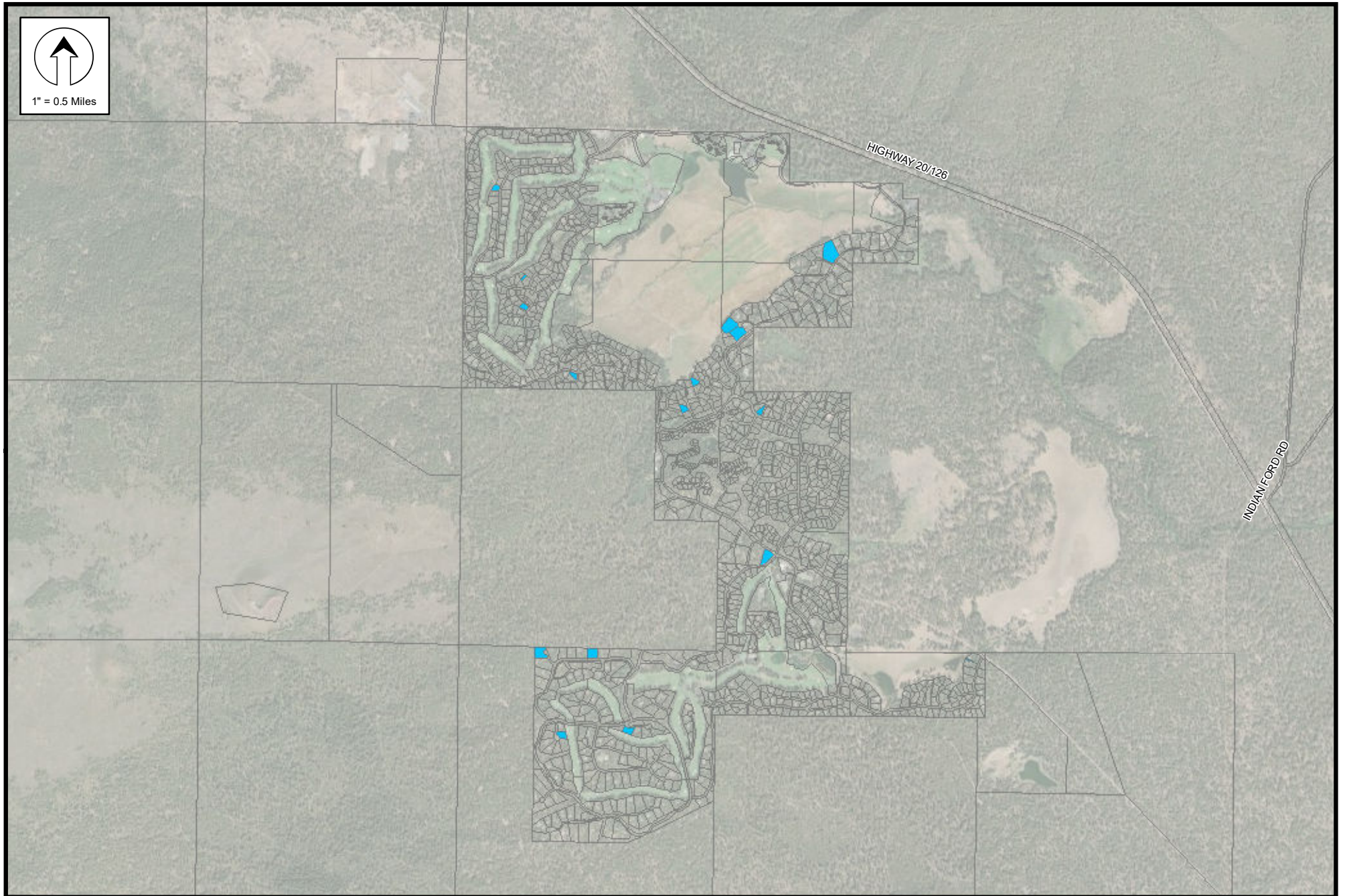
Sunriver / Caldera Springs - Vacant Residential Lands



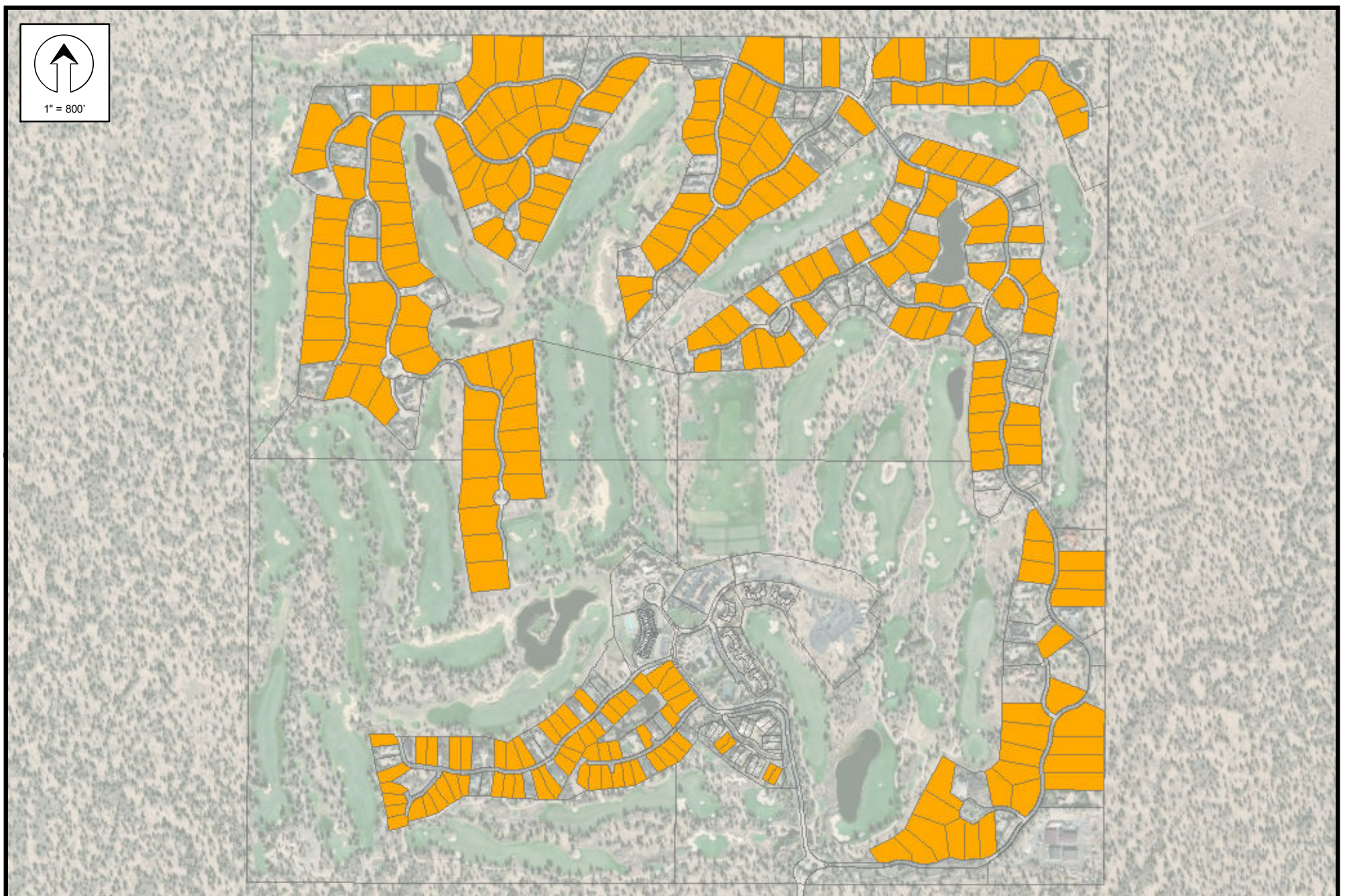
Eagle Crest - Vacant Residential Lands



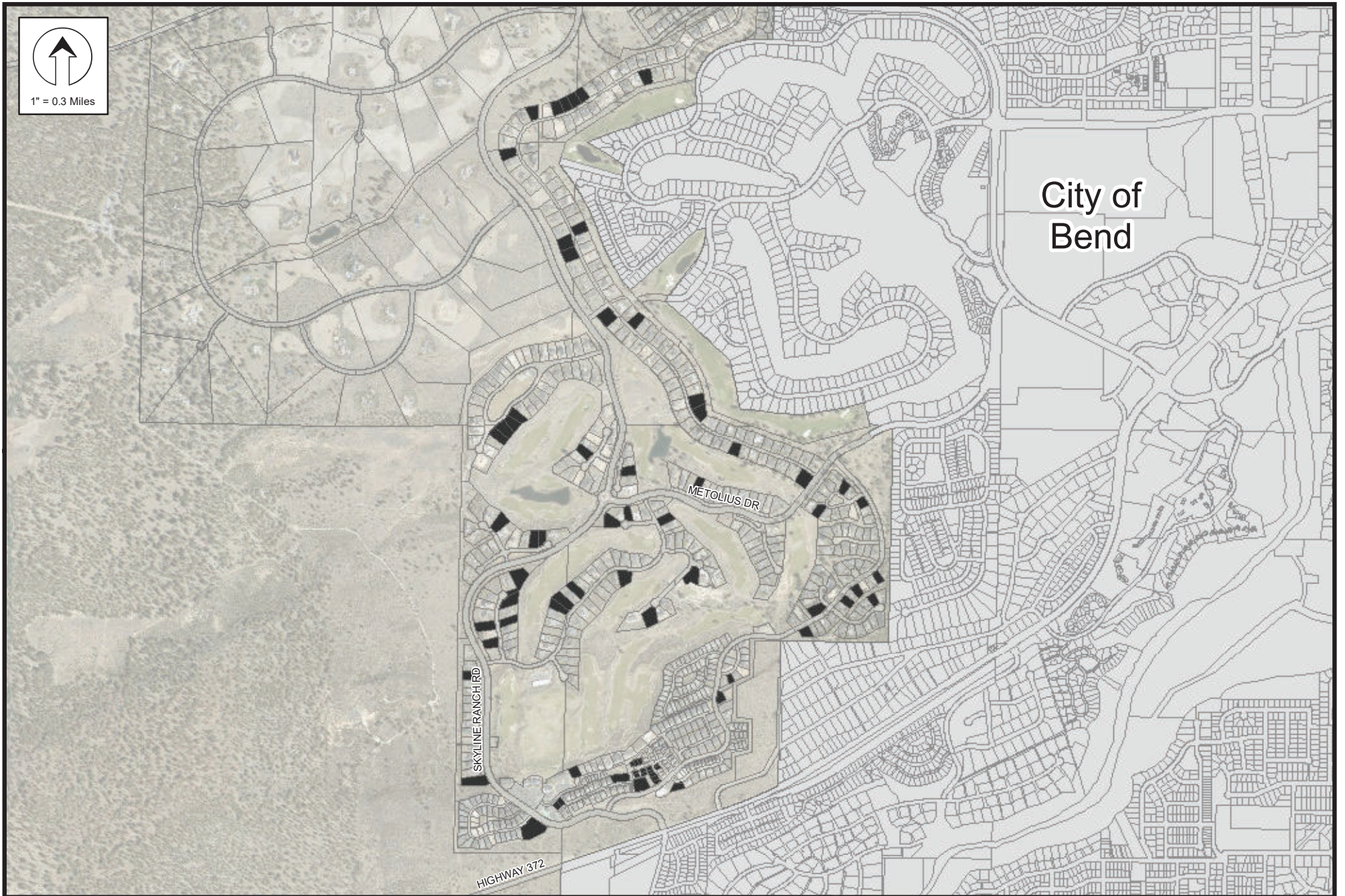
Black Butte Ranch - Vacant Residential Lands



Juniper Preserve - Vacant Residential Lands



Tetherow - Vacant Residential Lands



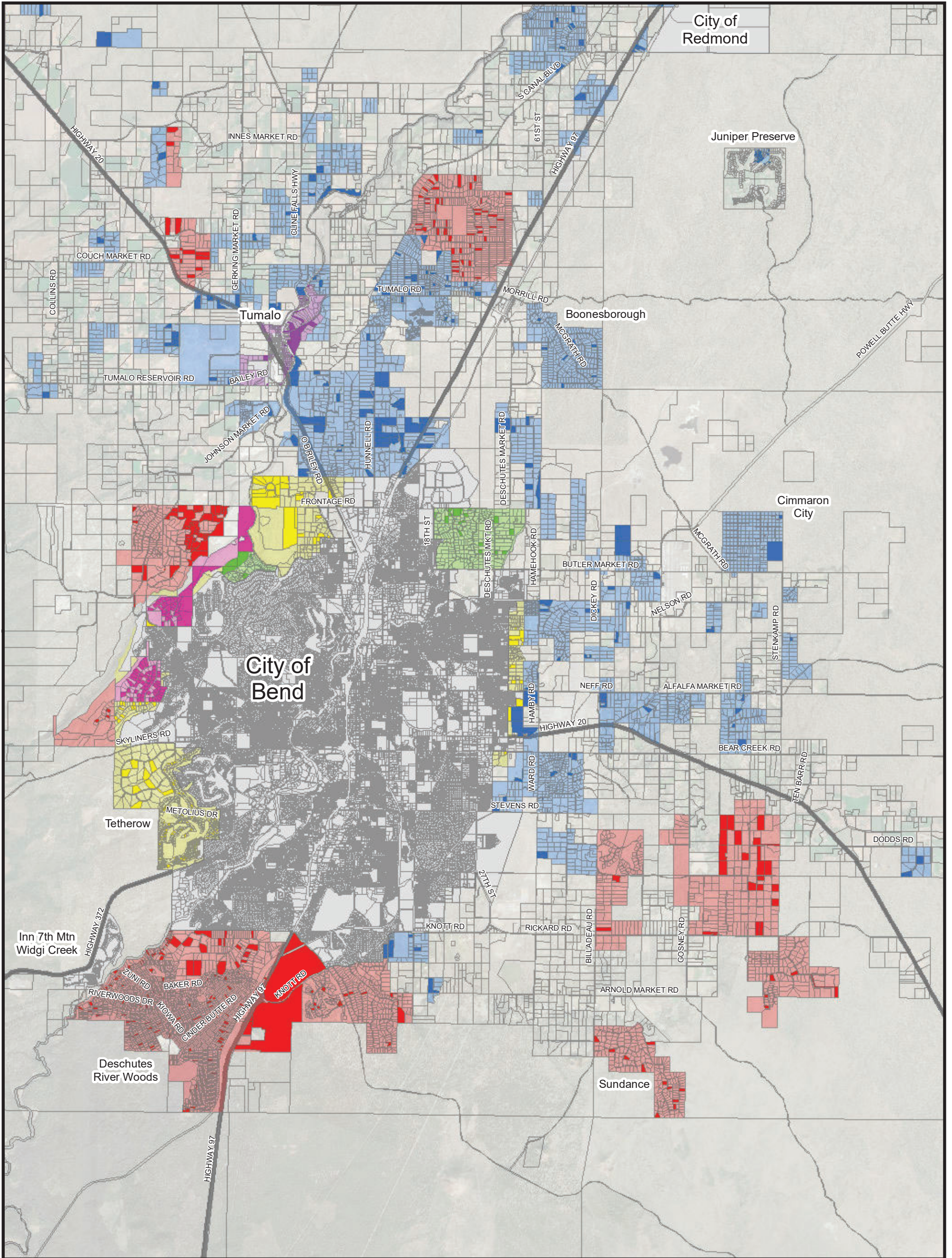
Inn of the 7th Mtn / Widgi Creek - Vacant Residential Lands





1" = 1.5 Miles

Bend Area - Vacant Residential Lands



Vacant Land By Zone

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- SR2-1/2 - Suburban Residential
- TUR & TUR5 - Tumalo Residential
- UAR10 - Urban Area Reserve
- WTZ- Westside Transect

Zoning

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- SR2-1/2 - Suburban Residential
- TUR & TUR5 - Tumalo Residential
- UAR10 - Urban Area Reserve
- WTZ- Westside Transect

Deschutes County

Rural Housing Profile Bend Area

DISCLAIMER:
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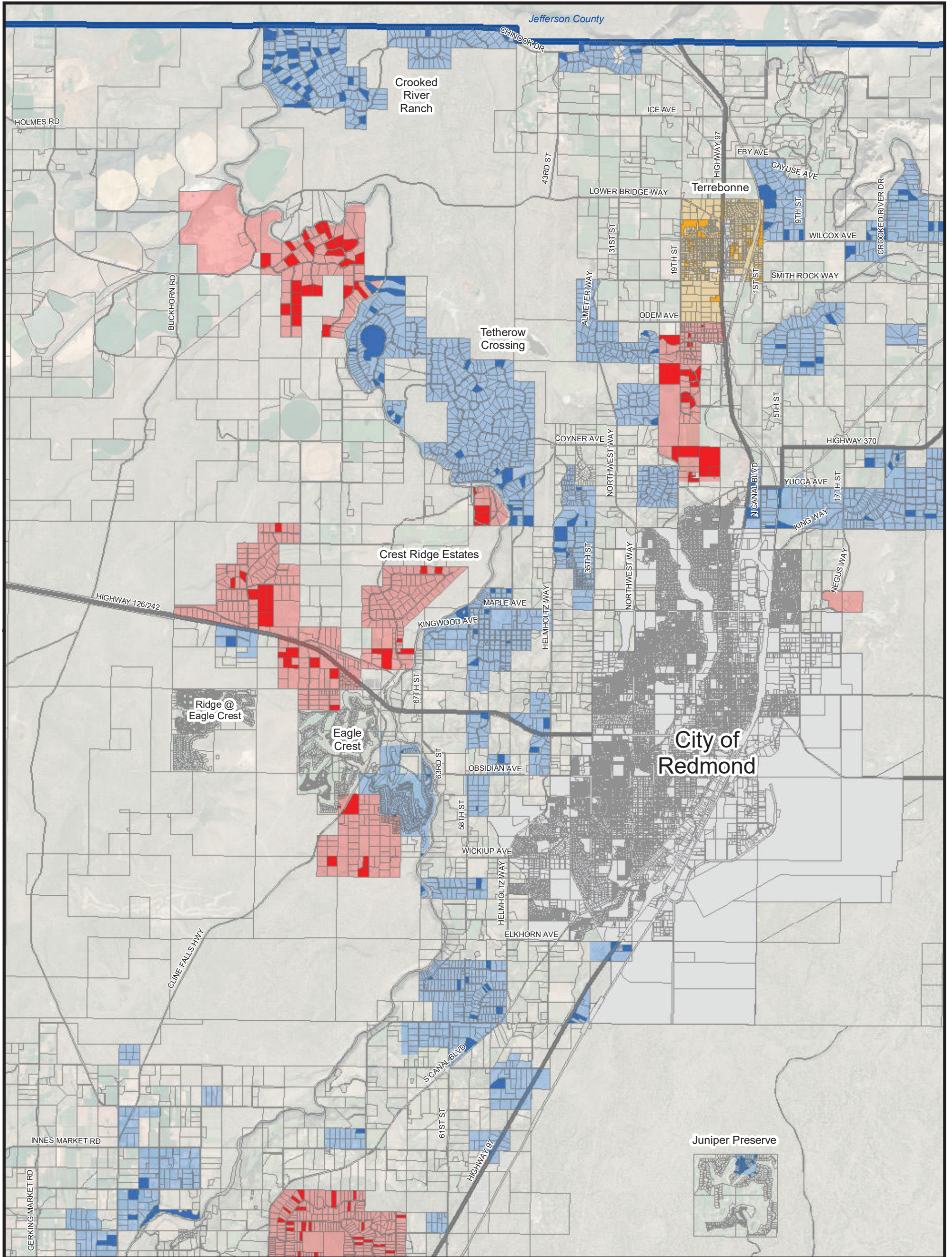
November 4, 2024

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1" = 1.1 Miles

Redmond Area - Vacant Residential Lands



Vacant Land By Zone

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- TER & TER5 - Terrebonne Residential

Zoning

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- TER & TUR5 - Terrebonne Residential

Deschutes County

Rural Housing Profile Redmond Area

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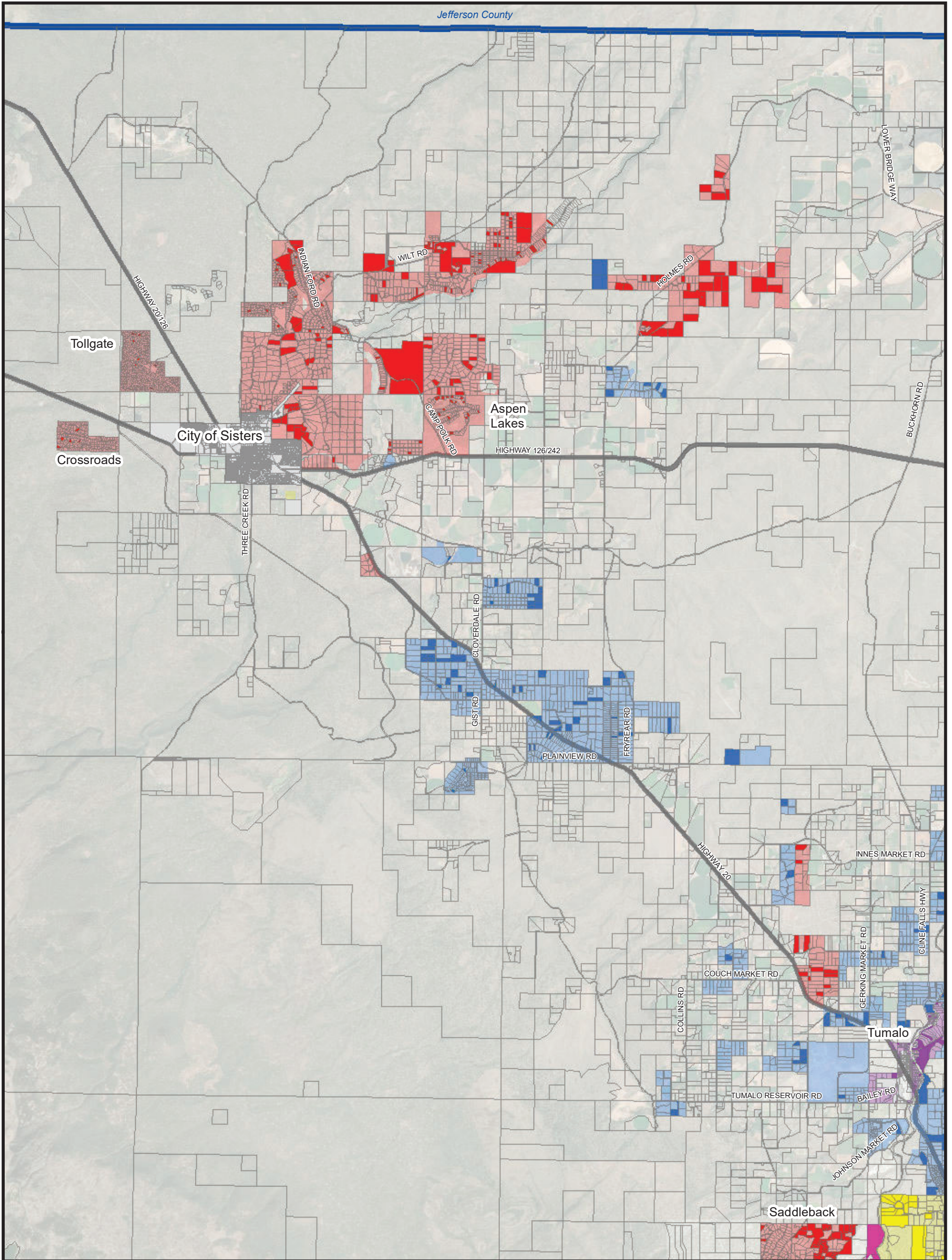
November 1, 2024

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1" = 1.5 Miles

Sisters Area - Vacant Residential Lands



Vacant Land By Zone

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- TUR & TUR5 - Tualo Residential
- UAR10 - Urban Area Reserve
- WTZ- Westside Transect

Zoning

- MUA10 - Multiple Use Agricultural
- RR10 - Rural Residential
- TUR & TUR5 - Tualo Residential
- UAR10 - Urban Area Reserve
- WTZ- Westside Transect

Deschutes County

Rural Housing Profile Sisters Area

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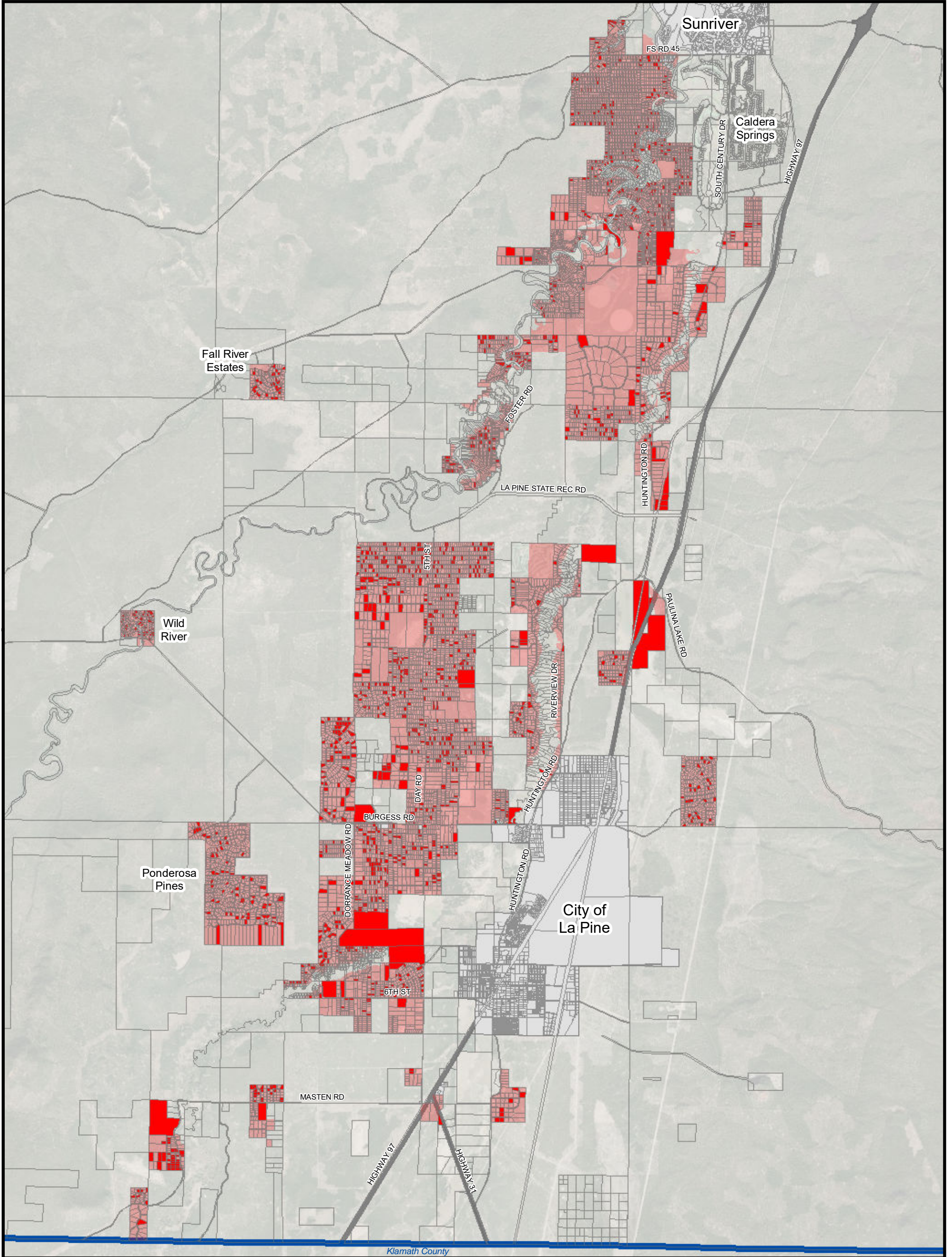
November 4, 2024

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1" = 1.3 Miles

Sunriver / La Pine Area - Vacant Residential Lands



Klamath County

Deschutes County

Rural Housing Profile
Sunriver / La Pine Area

Vacant Land By Zone

■ RR10 - Rural Residential

Zoning

■ RR10 - Rural Residential

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October 29, 2024

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