



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 13, 2022

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

(541) 388-6570 | [www.deschutes.org](http://www.deschutes.org)

### AGENDA

**MEETING FORMAT:** The Oregon legislature passed House Bill (HB) 2560, which requires that public meetings be accessible remotely, effective on January 1, 2022, with the exception of executive sessions. Public bodies must provide the public an opportunity to access and attend public meetings by phone, video, or other virtual means. Additionally, when in-person testimony, either oral or written is allowed at the meeting, then testimony must also be allowed electronically via, phone, video, email, or other electronic/virtual means.

**Attendance/Participation** options are described above. Members of the public may still view the BOCC meetings/hearings in real time via the Public Meeting Portal at [www.deschutes.org/meetings](http://www.deschutes.org/meetings)

**Citizen Input:** Citizen Input is invited in order to provide the public with an opportunity to comment on any meeting topic that is not on the current agenda. Citizen Input is provided by submitting an email to: [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or by leaving a voice message at 541-385-1734. Citizen input received by noon on Tuesday will be included in the Citizen Input meeting record for topics that are not included on the Wednesday agenda.

**Zoom Meeting Information:** Staff and citizens that are presenting agenda items to the Board for consideration or who are planning to testify in a scheduled public hearing may participate via Zoom meeting. The Zoom meeting id and password will be included in either the public hearing materials or through a meeting invite once your agenda item has been included on the agenda. Upon entering the Zoom meeting, you will automatically be placed on hold and in the waiting room. Once you are ready to present your agenda item, you will be unmuted and placed in the spotlight for your presentation. If you are providing testimony during a hearing, you will be placed in the waiting room until the time of testimony, staff will announce your name and unmute your connection to be invited for testimony. Detailed instructions will be included in the public hearing materials and will be announced at the outset of the public hearing.

**For Public Hearings,** the link to the Zoom meeting will be posted in the Public Hearing Notice as well as posted on the Deschutes County website at <https://www.deschutes.org/bcc/page/public-hearing-notices>.

## 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](mailto:citizeninput@deschutes.org) or you may leave a brief voicemail at 541.385.1734. To be timely, citizen input must be received by noon on Tuesday in order to be included in the meeting record.*

## CONSENT AGENDA

1. Consideration of Board Order No. 2022-021, Appointing Wayne Lowry as Deschutes County Tax Collector

## ACTION ITEMS

2. **9:05 AM** PROCLAMATION: Declaring April 2022 as Fair Housing Month
3. **9:15 AM** Consideration of Chair Signature of Document No. 2022-094, a Notice of Intent to Award for the Pedestrian Ramp Improvements – La Pine Maintenance Zone Project
4. **9:25 AM** Consideration of Chair Signature of Document No. 2022-248, a Notice of Intent to Award Contract for Engineering Services for the Powell Butte Hwy/Butler Market Rd Intersection Improvement Project
5. **9:35 AM** Consideration of Chair signature of document #2022-330, OHA agreement #173133-3
6. **9:45 AM** 2nd Reading: Ordinance 2022-001 and Ordinance 2022-002 – Central Oregon Irrigation District (COID) Plan Amendment/Zone Change
7. **9:55 AM** FY 2023 Video Lottery Fund Allocations

## 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.*

8. Executive Session under ORS 192.660 (2) (e) Real Property Negotiations
9. Executive Session under ORS 192.660 (2) (d) Labor Negotiations

## **LUNCH RECESS**

## **ADJOURN**



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

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Deschutes County Board of Commissioners  
1300 NW Wall St., Suite 200, Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

**AGENDA REQUEST & STAFF REPORT**

**For Board Business Meeting of April 13, 2022**

**DATE:** April 6, 2022

**FROM:** Dave Doyle                      Legal                      388-6625

**TITLE OF AGENDA ITEM:**  
Order Appointing Wayne Lowry as Tax Collector

**PUBLIC HEARING ON THIS DATE?** No.

**BACKGROUND AND POLICY IMPLICATIONS:**  
With the departure of Greg Munn, the County is required to designate a Tax Collector, pursuant to ORS 311.055. Admin staff has met with Wayne and he has agreed to serve as Tax Collector during his temporary term as CFO.

**FISCAL IMPLICATIONS:**  
None.

**RECOMMENDATION & ACTION REQUESTED:**  
Move Board adoption of Order No. 2022-021

**ATTENDANCE:** Admin

**DISTRIBUTION OF DOCUMENTS:**  
Admin, Finance

REVIEWED  
*DM*  
LEGAL COUNSEL

04/13/2022 Item #1.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Appointing Wayne Lowry as Deschutes  
County Tax Collector

\*  
\*  
\*

ORDER NO. 2022-021

WHEREAS, Greg Munn has resigned his position as Deschutes County Chief Financial Officer as of April 1, 2022; and

WHEREAS, Greg Munn, upon direction of the Board of County Commissioners, and in his capacity as Chief Financial Officer also served as and assumed the responsibilities of Deschutes County Tax Collector; and

WHEREAS, the Board of Commissioners desires that the responsibilities and position of Deschutes County Tax Collector, as described in ORS 311.005 be assigned to Wayne Lowry; and

WHEREAS, Wayne Lowry, is willing to assume the responsibilities and position of Deschutes County Tax Collector, with compensation for same, if any, more fully described and identified in a separate MOU/Stipend document; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS AS FOLLOWS:

Section 1. Pursuant to ORS 311.055, Wayne Lowry is appointed as Deschutes County Tax Collector effective April 13, 2022.

Section 2. Compensation associated with the duties and responsibilities of serving as Deschutes County Tax Collector, if any, is more fully described and identified in a separate MOU/Stipend document.

Section 3. This Order shall take effect upon adoption.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2022

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
PATTI ADAIR, Chair

\_\_\_\_\_  
ANTHONY DEBONE, Vice Chair

\_\_\_\_\_  
PHIL CHANG, Commissioner

ATTEST:

\_\_\_\_\_  
Recording Secretary



BOARD OF  
COMMISSIONERS

**AGENDA REQUEST & STAFF REPORT**

**MEETING DATE:**      Wednesday, April 13, 2022

**SUBJECT:** Consideration of Board Order No. 2022-021, Appointing Wayne Lowry as  
Deschutes County Tax Collector

**ATTENDANCE:**  
*County Counsel David Doyle*



BOARD OF  
COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** Wednesday, April 13, 2022

**SUBJECT:** PROCLAMATION: Declaring April 2022 as Fair Housing Month

**ATTENDANCE:**

*Whitney Hale, Deputy County Administrator*



For Recording Stamp Only

BEFORE THE BOARD OF COMMISSIONERS OF DESCHUTES COUNTY, OREGON

**PROCLAMATION**  
**Declaring April 2022 as Fair Housing Month**

**WHEREAS**, The Fair Housing Act, enacted on April 11, 1968, enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and

**WHEREAS**, The Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, familial stats, national origin, and disability, and commits recipients of federal funding to affirmatively further fair housing in their communities; and

**WHEREAS**, Deschutes County is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all; and

**WHEREAS**, Our social fabric, the economy, health, and environment are strengthened in diverse, inclusive communities; and

**WHEREAS**, More than fifty years after the passage of the Fair Housing Act, discrimination persists, and many communities remain segregated; and

**WHEREAS**, Acts of housing discrimination and barriers to equal housing opportunity are repugnant to a common sense of decency and fairness; and



**WHEREAS**, Deschutes County is an inclusive community committed to fair housing, and to promoting appropriate activities by private and public entities to provide and advocate for equal housing opportunities for all residents and prospective residents of Deschutes County.

**NOW THEREFORE BE IT RESOLVED** that the Board of County Commissioners does hereby declare the month of April 2022 as Fair Housing Month.

Dated this \_\_\_ day of \_\_\_\_\_ 2022 by the Deschutes County Board of Commissioners.

\_\_\_\_\_  
Patti Adair, Chair

\_\_\_\_\_  
Anthony DeBone, Vice Chair

\_\_\_\_\_  
Phil Chang, Commissioner

ATTEST:

\_\_\_\_\_  
Recording Secretary



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 13, 2022

SUBJECT: Consideration of Chair Signature of Document No. 2022-094, a Notice of Intent to Award for the Pedestrian Ramp Improvements – La Pine Maintenance Zone Project

RECOMMENDED MOTION:

Move approval of Board Chair signature of Document No. 2022-094.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Road Department prepared bid solicitation documents for the Pedestrian Ramp Improvements – La Pine Maintenance Zone project. The project scope of work includes removal and replacement of 44 pedestrian ramps, including adjoining sidewalks, curbs, shoulder paving, and signs, within the City of La Pine. The project was advertised in the Daily Journal of Commerce and The Bulletin on March 9, 2022. The Department opened bids at 2:00 P.M. on March 30, 2022.

Two (2) bids were received for this project. The bid results are as follows:

<u>BIDDER</u>	<u>TOTAL BID AMOUNT</u>
Van Nevel Concrete and Curb, Inc.	\$ 290,543.62
Cascade Civil Corp.	\$ 314,170.00
Engineer’s Estimate	\$ 238,372.00

This action issues a Notice of Intent to Award the contract to the apparent low bidder, Van Nevel Concrete and Curb, Inc., and allows seven days for concerned parties to protest the award. If there is no protest within the seven-day period, the contract will be awarded to the apparent low bidder. The bid tabulation, including the Engineer's estimate, is attached.

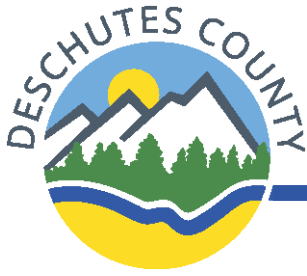
BUDGET IMPACTS:

A portion of the project cost is budgeted in the Road Capital Improvement Plan (CIP)

budget for Fiscal Year 2022. The remaining project cost will be included in the proposed Road CIP budget for Fiscal Year 2023.

**ATTENDANCE:**

Cody Smith, County Engineer



BOARD OF COUNTY COMMISSIONERS

April 13, 2022

\*\*Posted on the Deschutes County, Oregon Bids and RFPs website at <http://www.deschutescounty.gov/rfps> prior to 5:00 PM on the date of this Notice.\*\*

Subject: **Notice of Intent to Award Contract**  
Contract for Pedestrian Ramp Improvements – La Pine Maintenance Zone

To Whom It May Concern:

On April 13, 2022, the Board of County Commissioners of Deschutes County, Oregon considered proposals for the above-referenced project. The Board of County Commissioners determined that the successful bidder for the project was VANNEVEL CONCRETE & CURB INC., with a bid of Two Hundred Ninety Thousand Five Hundred Forty Three and 62/100 Dollars. (\$290,543.62).

This Notice of Intent to Award Contract is issued pursuant to Oregon Revised Statute (ORS) 279C.375. Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice may submit a written protest within seven (7) calendar days after the issuance of this Notice of Intent to Award Contract to the Board of County Commissioners of Deschutes County, Oregon, at Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703. **The seven (7) calendar day protest period will end at 5:00 PM on April 20, 2022.**

Any protest must be in writing and specify any grounds upon which the protest is based. Please refer to Oregon Administrative Rules (OAR) 137-047-0740. If a protest is filed within the protest period, a hearing will be held at a regularly-scheduled business meeting of the Board of County Commissioners of Deschutes County Oregon, acting as the Contract Review Board, in the Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703 within two (2) weeks of the end of the protest period.

If no protest is filed within the protest period, this Notice of Intent to Award Contract becomes an Award of Contract without further action by the County unless the Board of County Commissioners, for good cause, rescinds this Notice before the expiration of the protest period.

If you have any questions regarding this Notice of Intent to Award Contract or the procedures under which the County is proceeding, please contact Deschutes County Legal Counsel: telephone (541) 388-6625; FAX (541) 383-0496; or e-mail to [david.doyle@deschutes.org](mailto:david.doyle@deschutes.org).

Be advised that if no protest is received within the stated time period, the County is authorized to process the contract administratively.

Sincerely,

\_\_\_\_\_  
Patti Adair, Chair



PEDESTRIAN RAMP IMPROVEMENTS  
 LA PINE MAINTENANCE ZONE  
 DESCHUTES COUNTY, OREGON  
 PROJECT # WRAMPS

**BID RESULTS**

BID OPENING : 2:00 PM 3/30/2022

				ENGINEER'S ESTIMATE		VANNEVEL CONCRETE & CURB INC. P.O. BOX 1922 REDMOND, OR 97756		CASCADE CIVIL CORP 6990 SW 77TH STREET REDMOND, OR 97756	
ITEMS	UNIT	QNTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	
1	Mobilization	LS	1	\$12,000.00	\$12,000.00	\$21,000.00	\$21,000.00	\$31,000.00	\$31,000.00
2	Temporary Work Zone Traffic Control, Complete	LS	1	\$21,000.00	\$21,000.00	\$16,744.00	\$16,744.00	\$26,630.00	\$26,630.00
3	Erosion Control	LS	1	\$2,500.00	\$2,500.00	\$4,290.00	\$4,290.00	\$6,700.00	\$6,700.00
4	Removal of Curb Ramp, Walk, Curb, Surfacing	SQYD	494	\$45.97	\$22,709.18	\$118.00	\$58,292.00	\$105.00	\$51,870.00
5	Asphalt Pavement Sawcutting	FOOT	238	\$5.39	\$1,282.82	\$6.00	\$1,428.00	\$5.00	\$1,190.00
6	Adjusting Boxes	EACH	1	\$693.00	\$693.00	\$500.00	\$500.00	\$450.00	\$450.00
7	Aggregate Base	TON	131	\$72.24	\$9,463.44	\$200.00	\$26,200.00	\$85.00	\$11,135.00
8	Commercial Asphalt Concrete Pavement	TON	6	\$216.20	\$1,297.20	\$1,380.00	\$8,280.00	\$350.00	\$2,100.00
9	Extra for Pavement Repair	SQFT	289	\$5.13	\$1,482.57	\$14.30	\$4,132.70	\$9.00	\$2,601.00
10	Concrete Curbs, Standard Curb	FOOT	756	\$61.60	\$46,569.60	\$45.16	\$34,140.96	\$44.00	\$33,264.00
11	Concrete Walks	SQFT	3,911	\$16.19	\$63,319.09	\$14.36	\$56,161.96	\$12.00	\$46,932.00
12	Extra for Existing Concrete Walk Modifications	LS	1	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00	\$2,200.00	\$2,200.00
13	Extra for New Curb Ramps	EACH	44	\$557.50	\$24,530.00	\$800.00	\$35,200.00	\$1,693.00	\$74,492.00
14	Truncated Domes on New Surfaces	SQFT	468	\$51.85	\$24,265.80	\$30.00	\$14,040.00	\$30.00	\$14,040.00
15	Truncated Domes on Existing Surfaces	SQFT	10	\$220.00	\$2,200.00	\$40.00	\$400.00	\$40.00	\$400.00
16	Remove and Reinstall Existing Signs	LS	1	\$500.00	\$500.00	\$800.00	\$800.00	\$1,800.00	\$1,800.00
17	Sign Support Footings	LS	1	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$2,800.00	\$2,800.00
18	Perforated Steel Square Tube Slip Base Sign Supports	LS	1	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$1,400.00	\$1,400.00
19	Signs, Standard Sheeting, Sheet Aluminum	SQFT	22	\$19.25	\$423.50	\$97.00	\$2,134.00	\$28.00	\$616.00
20	Remove and Reinstall Chain Link Fence	FOOT	30	\$12.86	\$385.80	\$60.00	\$1,800.00	\$85.00	\$2,550.00
<b>TOTAL =</b>				<b>\$238,372.00</b>	<b>\$238,372.00</b>	<b>TOTAL =</b>	<b>\$290,543.62</b>	<b>TOTAL =</b>	<b>\$314,170.00</b>



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 13, 2022

SUBJECT: Consideration of Chair Signature of Document No. 2022-248, a Notice of Intent to Award Contract for Engineering Services for the Powell Butte Hwy/Butler Market Rd Intersection Improvement Project

RECOMMENDED MOTION:

Move approval of Board Chair signature of Document No. 2022-248.

BACKGROUND AND POLICY IMPLICATIONS:

Powell Butte Highway is a north-south arterial with an average daily traffic volume of approximately 6,547 vehicles per day connecting US 20 to OR 126 east of Bend. Butler Market Road is an east-west arterial with an average daily traffic volume of approximately 2,337 vehicles per day connecting the City of Bend to Powell Butte Highway at the Bend Municipal Airport. The intersection of Powell Butte Highway and Butler Market Road is presently a three-legged intersection with stop sign control on the Butler Market Road leg.

The Powell Butte Highway/Butler Market Road Intersection Improvement project is identified in the County's 2010-2030 Transportation System Plan as a high-priority project. The scope of the project will include:

- Constructing a single-lane roundabout at the intersection.
• Installing illumination.
• Other incidental work

The Department issued a request for proposals (RFP) for engineering and related services for the project on December 15, 2021. Four (4) proposals were received in response to the RFP from the following firms:

- Century West Engineering Corporation
• Harper Houf Peterson Righellis, Inc.
• Kittelson and Associates
• AKS Engineering and Forestry LLC

The Department scored the proposals using a qualifications-based selection process pursuant to ORS 279C.110. Based on this process, Century West Engineering Corporation (“Consultant”) was selected as the top-ranking proposer on February 16, 2022. A summary of the proposal scoring is attached. Department staff conducted negotiations with the Consultant between February 16, 2022 and April 6, 2022.

**BUDGET IMPACTS:**

A portion of the project engineering cost is budgeted in the Road Capital Improvement Plan (CIP) budget for Fiscal Year 2022. The remaining project cost will be included in the proposed Road CIP budget for Fiscal Year 2023.

**ATTENDANCE:**

Cody Smith, County Engineer



## BOARD OF COUNTY COMMISSIONERS

April 13, 2022

\*\*Posted on the Deschutes County, Oregon Bids and RFPs website at <http://www.deschutescounty.gov/rfps> prior to 5:00 PM on the date of this Notice.\*\*

Subject: **Notice of Intent to Award Contract**  
 Contract for Engineering Services for Powell Butte Hwy/Butler Market Rd Intersection Improvement

To Whom It May Concern:

On April 13, 2022, the Board of County Commissioners of Deschutes County, Oregon considered proposals for the above-referenced project. The Board of County Commissioners determined that the contract for the above-referenced project shall be awarded to CENTURY WEST ENGINEERING and that the maximum compensation under the contract shall be Three Hundred Fifty Five Thousand Sixty Nine dollars (\$355,069.00).

Any entity which believes that they are adversely affected or aggrieved by the intended award of contract set forth in this Notice of Intent to Award Contract may submit a written protest within seven (7) calendar days after the issuance of this Notice to the Board of County Commissioners of Deschutes County, Oregon, at Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703. **The seven (7) calendar day protest period will end at 5:00 PM on Wednesday, April 20, 2022.**

Any protest must be in writing and specify any grounds upon which the protest is based. Please refer to Oregon Administrative Rules (OAR) 137-047-0740. If a protest is filed within the protest period, a hearing will be held at a regularly-scheduled business meeting of the Board of County Commissioners of Deschutes County Oregon, acting as the Contract Review Board, in the Deschutes Services Building, 1300 NW Wall Street, Bend, Oregon 97703 within two (2) weeks of the end of the protest period.

If no protest is filed within the protest period, this Notice of Intent to Award Contract becomes an Award of Contract without further action by the County unless the Board of County Commissioners, for good cause, rescinds this Notice before the expiration of the protest period.

If you have any questions regarding this Notice of Intent to Award Contract or the procedures under which the County is proceeding, please contact Deschutes County Legal Counsel: telephone (541) 388-6625; fax (541) 383-0496; or e-mail to [david.doyle@deschutes.org](mailto:david.doyle@deschutes.org).

Be advised that if no protest is received within the stated time period, the County is authorized to process the contract administratively.

Sincerely,

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Patti Adair, Chair





ROAD DEPARTMENT

February 16, 2022

Subject: Request for Proposals  
Engineering Consultant Services –  
Powell Butte Hwy/Butler Market Rd Intersection Improvement  
Proposal Scoring Results

To Whom It May Concern:

The proposal evaluation committee has completed evaluation and scoring of the proposals received for the above-referenced project. The scoring results are as follows:

<u>Proposer</u>	<u>Total Score</u>	<u>Rank</u>
Century West Engineering Corporation	277	1
Harper Houf Peterson Righellis, Inc.	268	2
Kittelson and Associates	267	3
AKS Engineering and Forestry LLC	248	4

The County will immediately begin contract negotiation with the top-ranked proposer, Century West Engineering Corporation. If the County and the top-ranked proposer are not able to negotiate a contract, the County will initiate negotiation with the second-ranked proposer. Upon executing a professional services contract for the Project, the Department will make the proposals and evaluation comments available for public inspection.

Please contact me at [cody.smith@deschutes.org](mailto:cody.smith@deschutes.org) or (541)-322-7113 with any questions or concerns.

Sincerely,

Cody Smith, PE  
County Engineer



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 13, 2022

SUBJECT: Consideration of Chair signature of document #2022-330, OHA agreement #173133-3

RECOMMENDED MOTION:

Move approval of Chair signature of document #2022-330, OHA agreement #173133-3

BACKGROUND AND POLICY IMPLICATIONS:

The Intergovernmental Agreement #173133 with Oregon Health Authority (OHA) outlines the services and financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services for January 1, 2022 to December 31, 2022. This amendment #3 provides funding in the amount of \$363,064.14 for start-up activities related to Mobile Crisis. The County is required to submit a request for disbursement of funds.

Deschutes Health Services' Mobile Crisis Assessment Teams (MCAT) respond to crisis calls and coordinate service delivery. MCAT serves children and adults who are in need of emergency intervention. Community Crisis services may include assessment, triage, and intervention to individuals experiencing the sudden onset of psychiatric symptoms or the serious deterioration of mental or emotional stability or functioning. Services are of a limited duration and are intended to stabilize the individual and prevent further serious deterioration of individual's mental state or mental health condition.

These startup funds are intended to help expand mobile crisis teams across the State to allow for a non-law enforcement response to the community. Funding will be used to hire one additional Behavioral Health Specialists I to expand the Mobile Crisis Assessment Team (MCAT) in an effort to respond to certain calls, in pairs of two, without law enforcement. As additional funds become available, further expansion may occur to allow for non-law enforcement response capability 24/7. A resolution will be forthcoming for your consideration.

**BUDGET IMPACTS:** \$363,064.14 revenue for the period January 1, 2022 through December 31, 2022.

**ATTENDANCE:**

Holly Harris, Program Manager, Behavioral Health

**DESCHUTES COUNTY DOCUMENT SUMMARY**

(NOTE: This form is required to be submitted with ALL contracts and other agreements, regardless of whether the document is to be on a Board agenda or can be signed by the County Administrator or Department Director. If the document is to be on a Board agenda, the Agenda Request Form is also required. If this form is not included with the document, the document will be returned to the Department. Please submit documents to the Board Secretary for tracking purposes, and not directly to Legal Counsel, the County Administrator or the Commissioners. In addition to submitting this form with your documents, please submit this form electronically to the Board Secretary.)

Please complete all sections **above** the Official Review line.

**Date:**

**Department:**

**Contractor/Supplier/Consultant Name:**

**Contractor Contact:**  **Contractor Phone #:**

**Type of Document:** Amendment #3 to Oregon Health Authority Intergovernmental Agreement #173133

**Goods and/or Services:** The Intergovernmental Agreement (#173133) outlines the services and financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services for January 1, 2022 to December 31, 2022.

This amendment #3 provides funding in the amount of \$363,064.14 for start-up activities related to Mobile Crisis. The County is required to submit a request for disbursement of funds.

**Background & History:** The Oregon Health Authority (OHA) was created by the 2009 Oregon legislature to bring most health-related programs in the state into a single agency to maximize its purchasing power. OHA is at the forefront of lowering and containing costs, improving quality and increasing access to health care in order to improve the lifelong health of Oregonians.

Deschutes County Behavioral Health helps County residents facing serious mental health and addiction issues. Priority populations include Oregon Health Plan members, uninsured County residents with nowhere else to turn and people in crisis, who are often in unstable situations or are a danger to themselves or others. The department also coordinates services for County residents in care at the State Hospital or served through other agencies or facilities. These services assist people in need, alleviate community problems, promote client health and prevent more costly care and intervention.

Deschutes Health Services' Mobile Crisis Assessment Teams (MCAT) respond to crisis calls and coordinate service delivery. MCAT serves children and adults who are in need of emergency intervention. Community Crisis services may include assessment, triage, and intervention to individuals experiencing the sudden onset of psychiatric symptoms or the serious deterioration of mental or emotional stability or functioning. Services are of a limited duration and are intended to stabilize the individual and prevent further serious deterioration of individual's mental state or mental health condition.

**Agreement Starting Date:**

**Ending Date:**

**Total Payment:**

Insurance Certificate Received (check box)  
Insurance Expiration Date:

Check all that apply:

- RFP, Solicitation or Bid Process
- Informal quotes (<\$150K)
- Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)

**Funding Source:** Included in current budget?  Yes  No

If **No**, has budget amendment been submitted?  Yes  No

Is this a Grant Agreement providing revenue to the County?  Yes  No

If a new FTE will be hired with grant funds, confirm that Personnel has been notified that it is a grant-funded position so that this will be noted in the offer letter:  Yes  No

Contact information for the person responsible for grant compliance: Name:   
Phone #:

Departmental Contact and Title:

**Deputy Director Approval:**

**Department Director Approval:**

**Signature:** Janice Garceau  
Janice Garceau (Apr 4, 2022 13:24 PDT)

**Signature:** Erik Kropp  
Erik Kropp (Apr 4, 2022 15:02 PDT)

**Email:** janice.garceau@deschutes.org

**Email:** erik.kropp@deschutes.org

**Title:** Behavioral Health Director

**Title:** Interim Health Services Director

**Company:** Deschutes County Health Services

**Company:** Deschutes County

**Distribution of Document:** Grace Justice Evans, Health Services.

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**Official Review:**

County Signature Required (check one):  BOCC  Deputy Director (if <\$50K)

Administrator (if >\$50K but <\$150K; if >\$150K, BOCC Order No. \_\_\_\_\_)

Legal Review \_\_\_\_\_ Date \_\_\_\_\_

Document Number: 2022-330



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**THIRD AMENDMENT TO  
OREGON HEALTH AUTHORITY  
2022 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF  
COMMUNITY MENTAL HEALTH, ADDICTION TREATMENT, RECOVERY, &  
PREVENTION, AND PROBLEM GAMBLING SERVICES #173133**

This Third Amendment to Oregon Health Authority 2022 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services effective as of January 1, 2022 (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 are 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:

Approved by Steven Marlowe, Senior Assistant Attorney General, Department of Justice, Tax and Finance Section, on November 18, 2021; e-mail in contract file.

**ATTACHMENT 1**  
**EXHIBIT C**  
**Financial Pages**

MODIFICATION INPUT REVIEW REPORT

MOD#: M0604

CONTRACT#: 173133

CONTRACTOR: DESCHUTES COUNTY

INPUT CHECKED BY: \_\_\_\_\_

DATE CHECKED: \_\_\_\_\_

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

FISCAL YEAR: 2021-2023

SE#	FUND	CODE	CPMS	PROVIDER	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP PART DOLLARS ABC	PART IV	PAAF CD	BASE	CLIENT CODE	SP#
37	806		STARTUP		1/1/2022 - 12/31/2022	0 /N/A		\$0.00	\$363,064.14	C	1	N		1
TOTAL FOR SE# 37								\$0.00	\$363,064.14					
TOTAL FOR 2021-2023								\$0.00	\$363,064.14					
TOTAL FOR M0604 173133								\$0.00	\$363,064.14					



OREGON HEALTH AUTHORITY  
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: DESCHUTES COUNTY  
DATE: 03/15/2022

Contract#: 173133  
REF#: 004

REASON FOR FAAA (for information only):

Start-up - Community Mental Health Services (MHS 37), funds are 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.

M0604 1A. The expenditure of financial assistance subject to this special condition may only be used for start-up activities related to Mobile Crisis. Exhibit 37-StartUp to Service Description MHS 37 applies to the financial assistance subject to this special condition. B) Per email sent by Steve Allen on Wednesday 3/2/2022 with a PDF attached titled, "Mobile Crisis Memo for CMHP directors\_CFAA amendment\_SA Signed", dated 3/1/2022.

**Certificate Of Completion**

Envelope Id: 0F61C5DD0FB540BC900BE1E4D5974E09	Status: Sent
Subject: 173133-3 Deschutes County	
Source Envelope:	
Document Pages: 4	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@dhsoba.state.or.us
	IP Address: 209.112.106.2

**Record Tracking**

Status: Original	Holder: Larry Briggs	Location: DocuSign
3/24/2022 10:48:03 AM	LARRY.O.BRIGGS@dhsoba.state.or.us	
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

Mick Mitchell

mick.j.mitchell@dhsoba.state.or.us

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Margie Stanton

MARGIE.C.STANTON@dhsoba.state.or.us

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Accepted: 5/26/2020 8:11:14 AM  
ID: 20e5e982-b92b-49ae-b319-83ecdb2ac0b5

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

Grace Evans

grace.evans@deschutes.org

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

Sent: 3/24/2022 10:55:46 AM

Viewed: 3/25/2022 3:22:38 PM

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

<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
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amhcontract.administrator@dhsosha.state.or.us  
amhcontract.administrator@dhsosha.state.or.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Candice Powley  
candy.c.powley@dhsosha.state.or.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Envelope Sent	Hashed/Encrypted	3/24/2022 10:55:46 AM
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<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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## **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](mailto: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](mailto: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](mailto: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](mailto: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:** Wednesday, April 13, 2022

**SUBJECT:** 2<sup>nd</sup> Reading: Ordinance 2022-001 and Ordinance 2022-002 – Central Oregon Irrigation District (COID) Plan Amendment/Zone Change

**RECOMMENDED MOTION:**

*Move to approve 2<sup>nd</sup> reading of Ordinance 2022-001 and Ordinance 2022-002*

**BACKGROUND AND POLICY IMPLICATIONS:**

*The Board of County Commissioners (Board) will consider a second reading of Ordinance 2022-001 and Ordinance 2022-002 on April 13, 2022 for a request for a Plan Amendment and Zone Change (file nos. 247-21-000400-PA, 401-ZC) for a 36.65-acre property to the east of the City of Bend, submitted by COID. The address associated with the subject property is 61781 Ward Rd, Bend, OR 97702.*

**BUDGET IMPACTS:**

*None*

**ATTENDANCE:**

*Tarik Rawlings, Associate Planner*



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners (Board)

**FROM:** Tarik Rawlings, Associate Planner  
Will Groves, Planning Manager

**DATE:** April 6, 2022

**SUBJECT:** Consideration of Second Reading of Ordinance 2022-001 and Ordinance 2022-002 - Central Oregon Irrigation District (COID) Plan Amendment and Zone Change

---

The Board of County Commissioners (Board) will consider a second reading of Ordinance 2022-001 and Ordinance 2022-002 on April 13, 2022 to consider a request for a Plan Amendment and Zone Change (file nos. 247-21-000400-PA, 401-ZC) for a 36.65-acre property to the east of the City of Bend.

**I. BACKGROUND**

The applicant, COID, is requesting a Comprehensive Plan Amendment to redesignate the subject property from Agriculture to Rural Residential Exception Area and a Zoning Map Amendment to rezone the property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

A public hearing before a Hearings Officer was conducted on August 31, 2021 with the Hearings Officer’s recommendation of approval issued on October 13, 2021. The Board held a public hearing on January 26, 2022 and initiated a 21-day open record period, which concluded February 16, 2022 at 4:00pm. On March 2, 2022, the Board deliberated to approve the requests. The Board conducted first reading of Ordinance 2022-001 and Ordinance 2022-002 on March 30, 2022.

**II. SECOND READING**

The Board is scheduled to conduct the second reading of Ordinance 2022-001 and Ordinance 2022-002 on April 13, 2022, fourteen (14) days following the first reading.

**ATTACHMENTS:**

- 1. Area Map
- 2. Draft Ordinance 2022-001 and Exhibits
  - Exhibit A: Legal Description
  - Exhibit B: Proposed Plan Amendment Map



Exhibit C: Comprehensive Plan Section 23.01.010, Introduction

Exhibit D: Comprehensive Plan Section 5.12, Legislative History

Exhibit E: Hearings Officer Recommendation/Decision

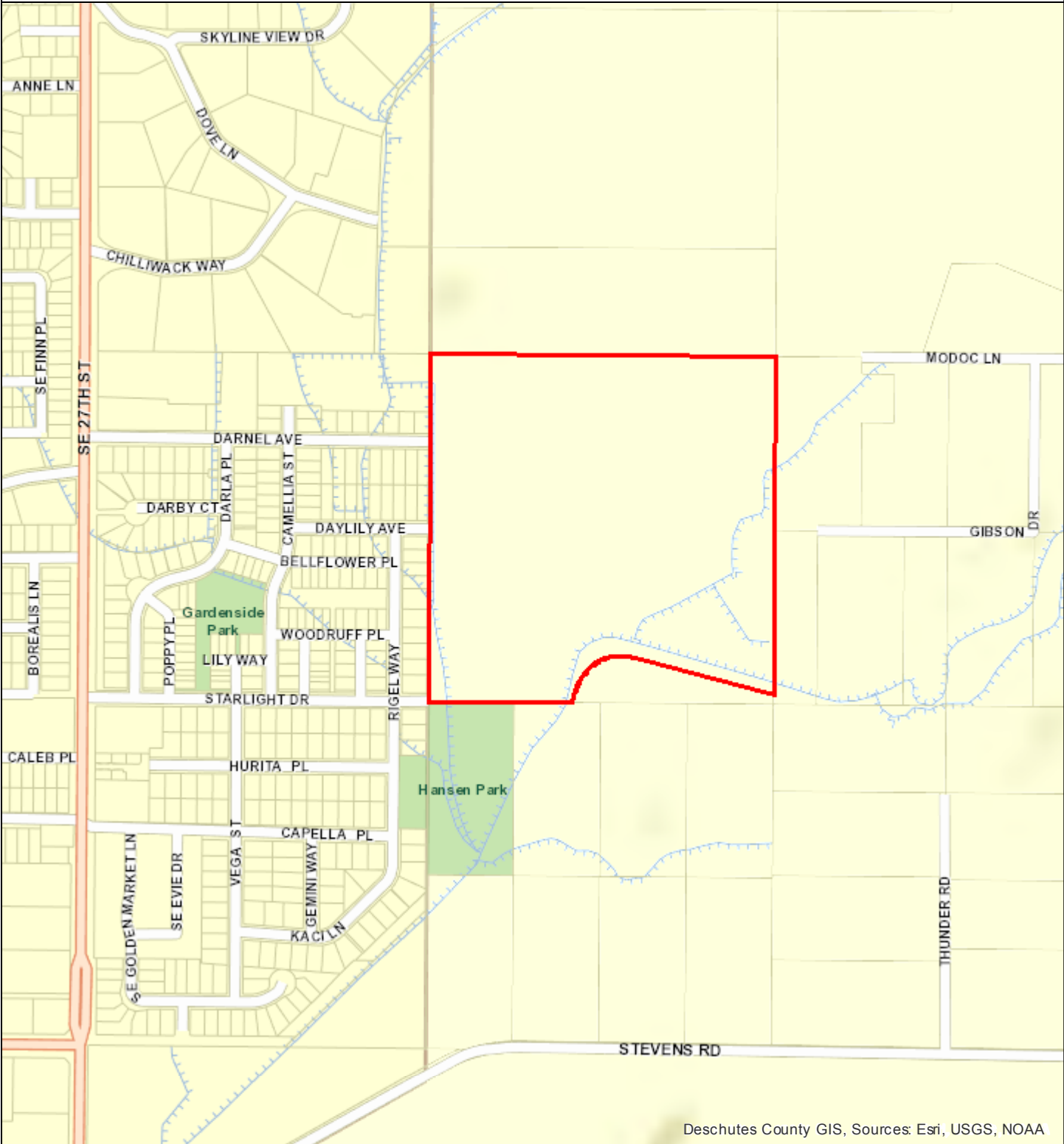
3. Draft Ordinance 2022-002 and Exhibits

Exhibit A: Legal Description

Exhibit B: Proposed Zone Change Map

Exhibit C: Hearings Officer Recommendation/Decision

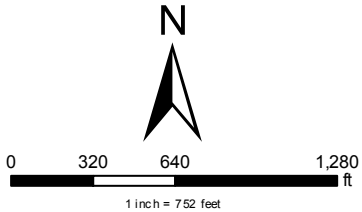
# 247-21-000400-PA, 401-ZC



Deschutes County GIS, Sources: Esri, USGS, NOAA



Date: 8/5/2021



REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code \*  
Title 23, the Deschutes County Comprehensive Plan, \*                   ORDINANCE NO. 2022-001  
to Change the Comprehensive Plan Map Designation \*  
for Certain Property from Agriculture to Rural  
Residential Exception Area and Prescribing an  
Effective Date on the 90<sup>th</sup> Day After the Date of  
Adoption.

WHEREAS, Central Oregon Irrigation District (COID) applied for a Comprehensive Plan Amendment (247-21-000400-PA) to Deschutes County Code (“DCC”) Title 23, to change the Comprehensive Plan Map Designation for the subject property from an Agricultural (AG) designation to a Rural Residential Exception Area (RREA) designation; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on August 31, 2021 before the Deschutes County Hearings Officer and, on October 12, 2021 the Hearings Officer recommended approval of the Comprehensive Plan Map change;

WHEREAS, pursuant to DCC 22.28.030(C), the Board of County Commissioners (“Board”) heard the application for a comprehensive plan designation change from Agriculture (AG) to Rural Residential Exception Area (RREA) through a *de novo* public hearing held on January 26, 2022 after notice was given in accordance with applicable law; and

WHEREAS, Deschutes County Ordinance 2000-017 ordained the Plan Map to be a component of Title 23 and, therefore, any amendment to the Plan Map is an amendment to Title 23; now, therefore,

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

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

Section 2. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit “C” attached and incorporated by reference herein, with new language underlined.

Section 3. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit “D” attached and incorporated by reference herein, with new language underlined.

Section 4. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit “E” and incorporated by reference herein.

///

Section 5. EFFECTIVE DATE. This Ordinance takes effect on the 90<sup>th</sup> day after the date of adoption.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
PATTI ADAIR, Chair

\_\_\_\_\_  
ANTHONY DeBONE, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_ day of \_\_\_\_\_, 2022.

Date of 2<sup>nd</sup> Reading: \_\_\_\_ day of \_\_\_\_\_, 2022.

Commissioner	Record of Adoption Vote			
	Yes	No	Abstained	Excused
Patti Adair	_____			
Anthony DeBone	_____			
Phil Chang	_____			

Effective date: \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST

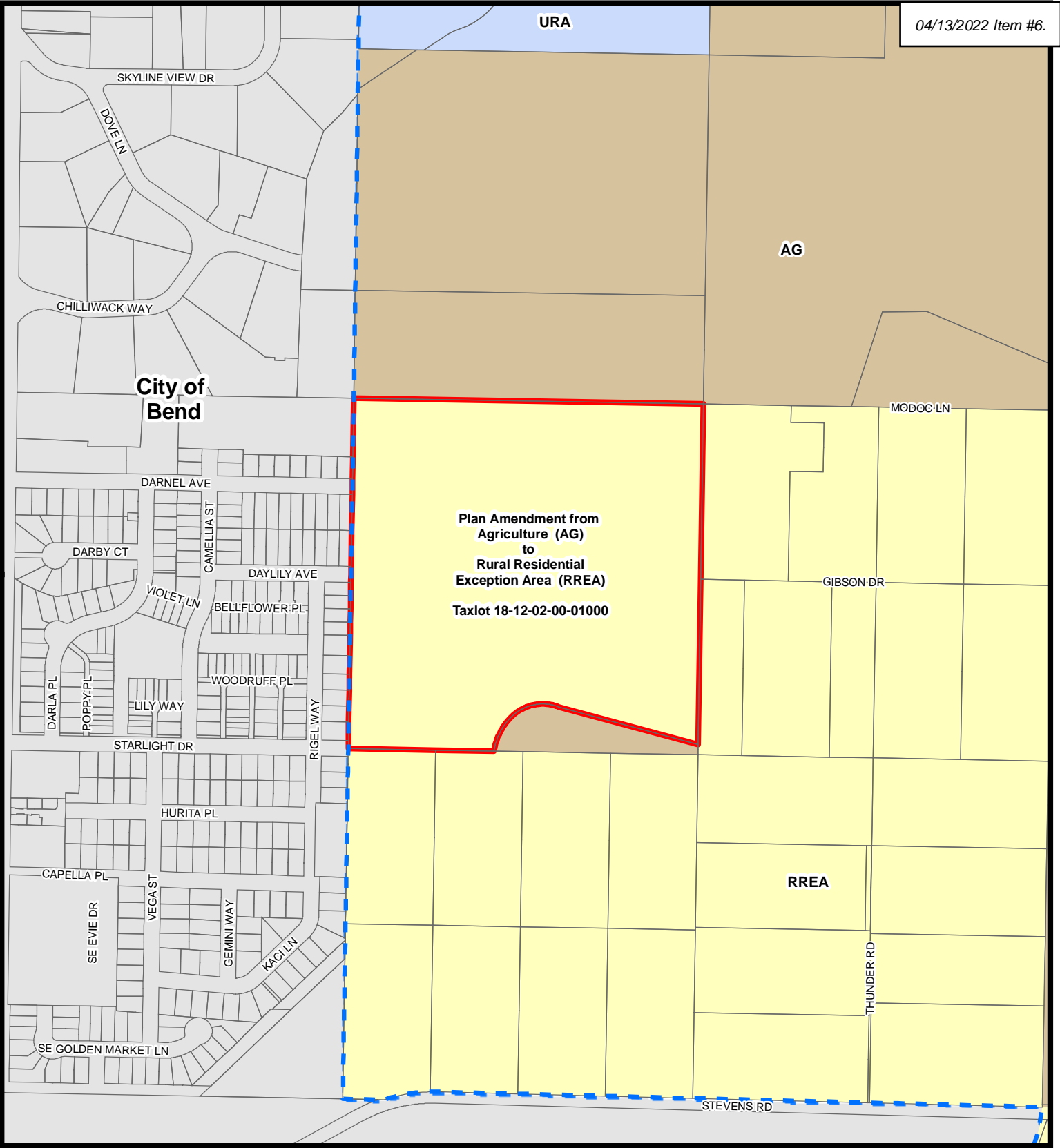
\_\_\_\_\_  
Recording Secretary

**Exhibit "A"**

Legal Description

A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section Two (2), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County Oregon, more particularly described as follows:

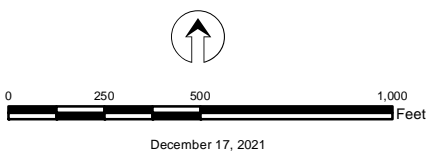
All of that portion of the Northeast Quarter of the Southwest Quarter of Section 2 lying north of the centerline of the Central Oregon Canal.



# PROPOSED COMPREHENSIVE PLAN MAP

Exhibit "B"  
to Ordinance 2022-001

- Legend**
- Proposed Plan Amendment Boundary
  - AG - Agriculture
  - RREA - Rural Residential Exception Area
  - URA - Urban Reserve Area
  - Bend Urban Growth Boundary



BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
Patti Adair, Chair

\_\_\_\_\_  
Tony DeBone, Vice Chair

\_\_\_\_\_  
Phil Chang, Commissioner

ATTEST: Recording Secretary

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022  
Effective Date: \_\_\_\_\_, 2022

**Chapter 23.01 COMPREHENSIVE PLAN**

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-001, are incorporated by reference herein.
- T. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.

- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-005, are incorporated by reference herein.
- CC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- DD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- EE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- FF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- GG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.
- HH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.
- II. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.
- JJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.
- KK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.
- LL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.
- MM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.
- NN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.
- OO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.
- PP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.
- QQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.
- RR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.
- SS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.



TT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-02, are incorporated by reference herein.

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

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

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

(Ord. 2022-001 §1, 2022; Ord. 2021-008 §1; Ord. 2021-005 §1, 2021; Ord. 2021-002§3, 2020; Ord. 2020-013§1, 2020; Ord. 2020-009§1, 2020; Ord. 2020-006§1, 2020; Ord. 2020-007§1, 2020; Ord. 2020-008§1, 2020; Ord. 2020-003 §1, 2020; Ord. 2020-002 §1, 2020; Ord. 2020-001 §26, 2020; Ord. 2019-019 §2, 2019; Ord. 2019-016 §3, 2019; Ord. 2019-006 § 1, 2019; Ord. 2019-011 § 1, 2019; Ord. 2019-004 §1, 2019; Ord. 2019-003 §1, 2019; Ord. 2019-001 §1, 2019; Ord. 2019-002 §1, 2019; Ord. 2018-008 §1, 2018; Ord. 2018-005 §2, 2018; Ord. 2018-011 §1, 2018; Ord. 2018-006 §1, 2018; Ord. 2018-002 §1, 2018; Ord. 2017-007 §1, 2017; Ord. 2016-029 §1, 2016; Ord. 2016-027 §1, 2016; Ord. 2016-005 §1, 2016; Ord. 2016-022 §1, 2016; Ord. 2016-001 §1, 2016; Ord. 2015-010 §1, 2015; Ord. 2015-018 § 1, 2015; Ord. 2015-029 § 1, 2015; Ord. 2015-021 § 1, 2015; Ord. 2014-027 § 1, 2014; Ord. 2014-021 §1, 2014; Ord. 2014-12 §1, 2014; Ord. 2014-006 §2, 2014; Ord. 2014-005 §2, 2014; Ord. 2013-012 §2, 2013; Ord. 2013-009 §2, 2013; Ord. 2013-007 §1, 2013; Ord. 2013-002 §1, 2013; Ord. 2013-001 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord. 2011-017 repealed; Ord.2011-003 §3, 2011)

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

## Section 5.12 Legislative History

### Background

This section contains the legislative history of this Comprehensive Plan.

**Table 5.12.1 Comprehensive Plan Ordinance History**

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

2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.

2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal II to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone

2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial
2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.

2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
2019-011	05-01-19/05-16/19	23.01.010, 4.2	Comprehensive Plan Map Amendment to adjust the Bend Urban Growth Boundary to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area I boundary. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.

2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-001	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal II (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.

2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.
2020-006	08-12-20/11-10-20	23.01.01, 2.11, 5.9	Comprehensive Plan and Text amendments to update the County's Resource List and Historic Preservation Ordinance to comply with the State Historic Preservation Rule.
2020-009	08-19-20/11-17-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add reference to J turns on US 97 raised median between Bend and Redmond; delete language about disconnecting Vandevent Road from US 97.
2020-013	08-26-20/11/24/20	23.01.01, 5.8	Comprehensive Plan Text And Map Designation for Certain Properties from Surface Mine (SM) and Agriculture (AG) To Rural Residential Exception Area (RREA) and Remove Surface Mining Site 461 from the County's Goal 5 Inventory of Significant Mineral and Aggregate Resource Sites.
2021-002	01-27-21/04-27-21	23.01.01	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)



2021-005	06-16-21/06-16-21	23.01.01, 4.2	Comprehensive Plan Map Amendment Designation for Certain Property from Agriculture (AG) To Redmond Urban Growth Area (RUGA) and text amendment
2021-008	06-30-21/09-28-21	23.01.01	Comprehensive Plan Map Amendment Designation for Certain Property Adding Redmond Urban Growth Area (RUGA) and Fixing Scrivener’s Error in Ord. 2020-022
<u>2022-001</u>	<u>TBD/TBD</u>	<u>23.01.010</u>	<u>Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)</u>

**DECISION OF THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** 247-21-0000400-PA, 401-ZC

**HEARING:** August 31, 2021, 6:00 p.m.  
Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97708

**APPLICANT/  
OWNER:** CENTRAL OREGON IRRIGATION DISTRICT

**LOCATION:** Map and Taxlot: 1812020001000  
61781 WARD RD, BEND, OR 97702

**ATTORNEY  
FOR APPLICANT:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702

**TRANSPORTATION  
ENGINEER:** Joe Bessman  
Transight Consulting, LLC

**REQUEST:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the property from Agricultural (AG) to Rural Residential Exception Area (RREA). The applicant also requests approval of a corresponding Zone Change to rezone the property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

**HEARINGS OFFICER:** Stephanie Marshall

**STAFF CONTACT:** Tarik Rawlings, Associate Planner<sup>1</sup>  
Phone: 541-317-3148  
Email: [Tarik.Rawlings@deschutes.org](mailto:Tarik.Rawlings@deschutes.org)

**RECORD CLOSED:** September 23, 2021

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<sup>1</sup> This matter was originally assigned to Brandon Herman, Assistant Planner. It was re-assigned to Mr. Rawlings prior to the public hearing.

**I. STANDARDS AND APPLICABLE CRITERIA**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

- Chapter 18.04, Title, Purpose, and Definitions
- Chapter 18.16, Exclusive Farm Use Zones (EFU)
- Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
- Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

- Deschutes County Comprehensive Plan
  - 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 and Guidelines
  - Division 33, Agricultural Land

- Oregon Revised Statutes (ORS)
  - Chapter 215.211, Agricultural Land, Detailed Soils Assessment

**II. FINDINGS OF FACT**

**A. LOCATION:** The subject property has a situs address of 61781 Ward Road, Bend, and is further identified as Tax Lot 1000 on Assessor’s Map 18-12-02.<sup>2</sup>

**B. LOT OF RECORD:** Tax Lot 1000 is 36.65 acres in size and has not previously been verified as a legal lot of record. Per DCC 22.04.040 Verifying Lots of Record, lot of record verification is required for certain permits:

- B. Permits requiring verification**
  - 1. Unless an exception applies pursuant to subsection (B)(2) below,**

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<sup>2</sup> Several commentators expressed concern regarding the address of the subject property, particularly related to future access if and when the property is developed in the future. Staff stated at the public hearing that an address coordinator will be assigned with respect to future development permit application(s) and the address(es) will be vetted through emergency services.

**verifying a lot parcel pursuant to subsection (C) shall be required to the issuance of the following permits:**

- a. Any land use permit for a unit of land in the Exclusive Farm Use Zones (DCC Chapter 18.16), Forest Use Zone – F1 (DCC Chapter 18.36), or Forest Use Zone – F2 (DCC Chapter 18.40);**
- b. Any permit for a lot or parcel that includes wetlands as show on the Statewide Wetlands Inventory;**
- c. Any permit for a lot or parcel subject to wildlife habitat special assessment;**
- d. In all zones, a land use permit relocating property lines that reduces in size a lot or parcel'**
- e. In all zones, a land use, structural, or non-emergency on-site sewage disposal system permit if the lot or parcel is smaller than the minimum area required in the applicable zone;**

In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, the Hearings Officer held to a prior Zone Change Decision (*Belveron* ZC-08-04) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the applicant will be required to receive lot of record verification prior to any development on the subject property. Therefore, the Hearings Officer finds this criterion does not apply.

**C. ZONING AND PLAN DESIGNATION:** The subject property is zoned Exclusive Farm Use (EFU) and is designated Agricultural (AG) in the Deschutes County Comprehensive Plan. The property does not have any Goal 5 resource designations.

**D. PROPOSAL:** The applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the subject property from an Agricultural (AG) designation to a Rural Residential Exception Area (RREA) designation. The applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the subject property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The applicant asks that Deschutes County change the zoning and the plan designation because the subject property does not qualify as "agricultural land" under Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) definitions. The applicant states that no exception to Statewide Planning Goal 3, Agricultural Land, is required because the subject property is not agricultural land. The application does not include a development proposal. The applicant notes that it could subdivide the property under Title 17 or through the County's cluster subdivision rules in Title 18, or could hold the property for future urbanization consistent with the development pattern of the surrounding lands.

The applicant's attorney stated at the public hearing that the proposed re-designation and rezoning would allow the property to be considered in the next UGB expansion by the City of Bend. She stated there were no immediate plans to develop the property in the near future.

Submitted with the application is an Order 1 Soil Survey of the subject property, titled "Soil Assessment for 37.7-Acre Parcel Lot 1000, Bend, Oregon" (hereafter referred to as the "soil study") prepared by soil scientist Andy Gallagher, CPSSc/SC 03114 of Red Hill Soils. The applicant also submitted a traffic analysis prepared by Transight Consulting, LLC titled "61781 Ward Road Rezone" hereby referred to as "traffic study." Additionally, the applicant submitted an application form, a burden of proof statement, and other supplemental materials, all of which are included in the record for the subject applications.

**E. SITE DESCRIPTION:** The subject property is approximately 36.65 acres in size and is adjacent to both Bend's city limits and Urban Growth Boundary (UGB) to the west. The property is relatively level with mild undulating topography and collapsed lava tube features. Vegetation consists of juniper, sage brush, and grasses. A portion of the site was historically mined for dirt and fill for maintenance purposes of Central Oregon Irrigation District's (COID) delivery systems. The site is undeveloped except for COID's main canal located along the southern border and offshoot irrigation ditches in the southwestern and southeastern portions of the subject property. Access to the site is provided by stubbed local street connections including Darnel Avenue and Daylily Avenue, located in residential subdivisions in the City of Bend to the west.

The subject property does not have water rights, and has not been farmed or used in conjunction with any farming operation in the past. The Natural Resources Conservation Service (NRCS) map shown on the County's GIS mapping program identifies two soil complex units on the property: 36A, Deskamp loamy sand and 58C, Gosney-Rock outcrop-Deskamp complex. The predominant soil complex on the subject property is 58C, which is not a high-value soil as defined by DCC 18.04; 36A is not considered a high-value soil when irrigated.

The subject property has no irrigation, no historical use of being farmed, and is overgrown with western Juniper, sagebrush, rabbit brush and bunch grasses. COID has intermittently used the property over the years to mine for dirt that was used for maintenance and repairs of the District's delivery systems.

As discussed in detail below in the Soils section, an Agricultural Soils Capability Assessment (Order 1 soil survey) was conducted on the property by Certified Professional Soil Scientist Andy Gallagher which determined that the property is not agricultural land; Class 3 irrigated and Class 6 non-irrigated soils exist in small pockets interspersed with lava tubes and rocky, shallow soils, creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands.

There is a private easement along the COID canal. In addition, as noted in the Bend Park and Recreation District's public comment, BMPRD has a planned trail, the Central Oregon Historic Canal Trail, identified in its comprehensive plan that runs through the subject property.

**F. SOILS:** According to Natural Resources Conservation Service (NRCS) maps of the area,

the subject property contains two different soil types as described below. The subject property contains 58C – Gosney-Rock Outcrop-Deskamp complex and 36A – Deskamp loamy sand.

The applicant submitted a soil study report (applicant's Exhibit 5, Soil Assessment for 37.7-Acre Parcel Lot 1000, Bend, Oregon, dated December 2, 2020), which was prepared by a qualified soils professional approved by the Department of Land Conservation and Development (DLCD), which can be used by property owners to determine the extent of agricultural land as defined in Oregon Administrative Rule (OAR) 660-033 Agricultural Land,

The certified soils scientist and soil classifier conducted field work which included 41 test pits and observations of surface rock outcrops and determined the subject property is comprised of soils that do not qualify as Agricultural Land<sup>4</sup>. The purpose of this soil study was to inventory and assess the soils on the subject property<sup>5</sup> and to provide more detailed data on soil classifications and ratings than is contained in the NRCS soils maps. The NRCS soil map units identified on the property are described below.

36A, Deskamp loamy sand, 0 to 3 percent slopes: This soil complex is composed of 85 percent Deskamp soil and similar inclusions, and 15 percent contrasting inclusions. The Deskamp soils are somewhat excessively drained with a rapid over moderate permeability, and about 5 inches of available water capacity. Major uses of this soil type are irrigated cropland and livestock grazing. The agricultural capability rating for 36A soils are 3S when irrigated, and 6S when not irrigated. This soil is high-value when irrigated. Approximately 33.7 percent of the subject parcel is made up of this soil type.

58C, Gosney-Rock Outcrop-Deskamp complex, 0 to 15 percent slopes: This soil type is comprised of 50 percent Gosney soil and similar inclusions, 25 percent rock outcrop, 20 percent Deskamp soil and similar inclusions, and 5 percent contrasting inclusions. Gosney soils are somewhat excessively drained with rapid permeability. The available water capacity is about 1 inch. Deskamp soils are somewhat excessively drained with rapid permeability. Available water capacity is about 3 inches. The major use for this soil type is livestock grazing. The Gosney soils have ratings of 7e when unirrigated, and 7e when irrigated. The rock outcrop has a rating of 8, with or without irrigation. The Deskamp soils have ratings of 6e when unirrigated, and 4e when irrigated. Approximately 66.3 percent of the subject parcel is made up of this soil type..

58C is not a high value soil as defined by DCC 18.04 ("High Value Farmland"). 36A is considered a high value soil when irrigated. There is no irrigation on the property.

<sup>3</sup> As defined in OAR 660-033-0020, 660-033-0030

<sup>4</sup> As defined in OAR 660-033-0020, 660-033-0030.

<sup>5</sup> The canals were not rated for capability class, but for purposes of the assessment were included with the acreage that is not suited to agricultural production.

Through numerous soil test pits and observations on the property Soil Scientist Andy Gallagher remapped the soils using a high intensity Order 1 soil survey and concluded that the subject property is comprised predominantly of Class 7 and 8 soils (nearly 64%) and is not agricultural land. The Class 3 irrigated and 6 non irrigated soils exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands. An excerpt of Mr. Gallagher’s summary and conclusions of his findings follows:

*In the revised Order-1 soil mapping, the Deskamp (Class 3 irrigated and 6 nonirrigated) are mapped as a consociation and only make up 29 percent of the parcel. The Gosney soils along with very shallow soils and rock outcrops are mapped as the Gosney-Rock Outcrop Complex because all three components of the complex are capability Class 7 or 8. This complex makes up 63.7 percent of the parcel. The irrigation canals make up 7.4 percent of the area. Based upon the findings of this Order-1 soil survey, the subject parcel is predominantly Class 7 and 8 soils and therefore is not “agricultural land” within the meaning of OAR 660-033-0020(1)(a)(A).*

*The soil mapping and on-site studies also show the subject property is not agricultural land within the meaning of OAR 660-033-0020(1)(b) as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit. The class 3 irrigated and 6 non irrigated soils on the subject property have not been farmed or utilized in conjunction with any farming operation in the past. These soil units exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use either alone or in conjunction with other lands.*

No rebuttal evidence was presented to refute the applicant’s evidence regarding soils. The applicant’s soils study has been verified by DLCD.

**G. SURROUNDING LAND USES:** The subject property is surrounded by urban development to the west within the Bend city limits; to the east and south are County exception lands zoned MUA10 developed with homes and small-acreage irrigation for pasture and hobby farm uses; and irrigated farmland zoned EFUTRB to the north and northeast. The adjacent properties are outlined below in further detail:

*North:* North and northeast of the subject property is an area of EFU-zoned property. The adjacent property to the north, Tax Lot 1001 (Assessor’s Map 18-12-02) is a 12.45-acre EFU-zoned property that is partially irrigated and developed with a nonfarm dwelling (approved under County file CU-01-75). Northeast is Tax Lot 201 (Assessor’s Map 18-12-02), a 53.30-acre farm parcel that is irrigated, receiving farm tax deferral, and developed with a single-family dwelling and accessory structures.

*East:* East of the subject property are two parcels zoned MUA10. Tax Lot 1102 (Assessor’s Map 18-12-02) is a 5.55-acre parcel developed with a single-family dwelling, accessory

structures, and is partially irrigated. Tax Lot 1001 (Assessor’s Map 18-12-02) is a 2.5-acre parcel developed with a single-family dwelling, accessory structures, and is partially irrigated.

*West:* West of the subject property are residential subdivisions located in the City of Bend and developed to urban standards. These include Rosengarth Estates and Gardenside PUD in the RS Zone. Northwest is a 2-acre parcel zoned RL and developed with a residence.

*South:* The abutting parcel southeast of COID’s main canal is a 3.34-acre lot zoned EFUTRB and developed with a single-family dwelling and is partially irrigated. Southwest is Hansen Park (Tax Lot 1404 of Assessor’s Map 18-12-02), a 5-acre undeveloped park zoned MUA10 and owned by Bend Metro Parks and Recreation District. East of Hansen Park is a 5-acre parcel zoned MUA10 and developed with a residence (Tax Lot 1407 of Assessor’s Map 18-12-02).

**H. PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice of the applications on June 11, 2021 to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Peter Russell

*I have reviewed the Transight April 13, 2021, traffic study to change the comp plan designation from Agriculture to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10) for 36.65 acres at 61781 Ward Rd, aka 18-12-02, TL 1000. Staff finds the study needs to be modified to comply with the Transportation Planning Rule and Deschutes County’s accepted practices to analyze plan amendments and zone changes.*

*For “reasonable worst-case scenario” the County compares and contrasts the highest trip generator permitted outright in both the current zone and the requested zone. DCC 18.16.020 lists those uses permitted outright in EFU. DCC 18.16.025 lists other outright permitted uses that meet applicable criteria in either DCC 18.16.038, 18.16.042, and review under DCC 18.124. The TIA cites to marijuana production facility, which the County has analyzed under the Warehouse category of the Institute of Traffic Engineers (ITE) Trip Generation Manual. However, the County has opted out of the state’s marijuana processing program and thus this use and its analog of Warehouse should not be used. Instead, staff would utilize Winery (DCC 18.16.025(F)) as a reasonable worst case scenario.*

*DCC 18.32.020 lists outright permitted uses for MUA-10. The highest trip generator is a cluster development of single-family homes within one-mile of a UGB, per DCC 18.32.040(A), as the traffic study correctly notes.*

*The study needs to be redone to show the difference between winery and a cluster development to determine if there is a significant effect and any difference in the number of p.m. peak hour trips. This would also require the volumes for the trip distribution figures to be redone as well.*



Upon receipt of the County Senior Transportation Planner’s initial comment, above, the applicant submitted a revised traffic study, dated June 8, 2021. No further comments were offered by the County’s Senior Transportation Planner.

Bend Park and Recreation District, Henry Stroud, AICP, Planner

*The Bend Park and Recreation District has a planned trail, the Central Oregon Historic Canal Trail, identified in our comprehensive plan that runs through the subject property. While we understand that this application is just for a zoning change, the District would like to work with the applicant to acquire a trail easement for the COHCT prior to any future development of the property.*

The following agencies did not respond to the notice: Deschutes County Assessor, Bend Fire Department, City of Bend Planning Department, City of Bend Public Works Department, ODOT Region 4, and City of Bend Growth Management Department.

**I. PUBLIC COMMENTS:** The Planning Division mailed notice of the conditional use application to all property owners within 750 feet of the subject property on June 11, 2021. 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 25, 2021. Public comments were received from neighboring property owners. Public comments are summarized as follows:

The first comment was received from Jeff Sundberg, a resident and owner of property located at 61710 Gibson Drive, Bend, OR 97702 on June 15, 2021:

*Hi Brandon,*

*I received a letter from Deschutes County regarding COID applying for new permits. I live at 61710 Gibson Drive, Bend, Or, 97702. I live next to the property in question, 61781 Ward Road. It looks like COID is requesting to go from agricultural and farm use zoning to rural residential exception area and multiple use agricultural zoning.*

*Does this mean they want to put in a housing development?*

*I was wondering if this response by email will suffice if I want to be notified of public hearings related to this application or if I still have to write a letter requesting to be notified of any decision or public hearing.*

*Does any of this change my easement with COID or should I contact them directly?  
Thanks and let me know anything you can about this land change please.*

Staff responded to Mr. Sundberg’s email on June 16, 2021 as follows:

Hi Jeff,

Thanks for reaching out.

As you noted, this is an application for a Comprehensive Plan/Zoning change so I am unaware of what COID intends to do with the property in the future. If they were to take the residential route, a minimum subdivision lot size of 10 acres still applies to the property. Because you received the Notice of Application, you are also on the list to receive the Notice of Public Hearing, which is tentatively set for July 27<sup>th</sup>.

With regards to your easement agreement, I am not inclined to think this will change anything but contacting COID directly is a good idea.

Let me know if you have any other questions.

Take care,

Brandon

The second comment was received from Kecia Weaver, a resident of 21435 Modoc Lane, Bend, OR 97702 on June 18, 2021:

*"My name is Kecia Weaver I live at 21435 Modoc Lane Bend, OR 97702 with my spouse who is listed property owner, Patrick McCoy. On 6/17/21 I read the notice of application for the above listed property. I would like to formally dispute the requested zoning changes. I have several concerns, to include the following:*

- 1) *Irrigation/Water Rights – As a small farm operator with seasonal livestock I am concerned that the proposed changes may further draw from my water access which has been limited and may be further limited due to drought conditions. More users in the proposed Multiple Use Agriculture may further draw down water allocations.*
- 2) *Wildlife Habitat – Having lived here for over 6 years. I know the proposed area to be home to deer, rabbits, birds and other wildlife which will be disturbed.*
- 3) *Extensive residential development in the immediate area- Over the past few months, extensive development has been proposed both to the north and south of our neighborhood specifically several hundred acres south of Stevens Road and north of Bear Creek Road adjacent to Ward Road.*
- 4) *Traffic concerns – increased traffic will occur in the area with other proposed developments. I am concerned the points of entrance and egress to this proposed area will add to the impact to our neighborhood as well.*
- 5) *Overall rapid growth concerns for Deschutes County- As observed by pitfalls of the*

*rapid growth in the City of Bend over the past decade, I would encourage Deschutes County to adhere to a slower growth model.*

- 6) *Decrease in property value- This proposed change will drastically impact the view to the west of my property when it is developed.*

*With respect to the natural beauty and appeal of this County we have chosen to call home and as a taxpayer and voter, I implore the Deschutes County planning department to deny this application at this time. I wish to be notified of all public hearings related to this application and any decision. My address is 21435 Modoc Lane Bend, OR 97702."*

The third comment was received from Patrick McCoy, a neighboring property owner and resident of 21435 Modoc Lane, Bend, OR 97702 on June 18, 2021:

*"My name is Patrick McCoy a home and landowner at 21435 Modoc Lane Bend, OR 97702. On 6/17/21 I received the notice of application for the above listed property. With little time to research to this proposal, based on the information I have obtained, I would like to formally dispute the requested zoning changes. My concerns are numerous and I will highlight the following:*

- 1) *Irrigation/Water Rights – As a small farm operator with seasonal livestock I am concerned that the proposed changes may further draw from my water access which has been limited and may be further limited due to drought conditions. More users in the proposed Multiple Use Agriculture may further draw down water allocations.*
- 2) *Wildlife Habitat – Having lived here for over 6 years. I know the proposed area to be home to deer, rabbits, birds and other wildlife which will be disturbed.*
- 3) *Extensive residential development in the immediate area- Over the past few months, extensive development has been proposed both to the north and south of our neighborhood specifically several hundred acres south of Stevens Road and north of Bear Creek Road adjacent to Ward Road.*
- 4) *Traffic concerns – increased traffic will occur in the area with other proposed developments. I am concerned the points of entrance and egress to this proposed area will add to the impact to our neighborhood as well.*
- 5) *Overall rapid growth concerns for Deschutes County- As observed by pitfalls of the rapid growth in the City of Bend over the past decade, I would encourage Deschutes County to adhere to a slower growth model.*
- 6) *Decrease in property value- This proposed change will drastically impact the view to the west of my property when it is developed.*

*With respect to the natural beauty and appeal of this County we have chosen to call home and as a taxpayer and voter, I implore the Deschutes County planning department to deny this application at this time. I wish to be notified of all public hearings related to this application and any decision. My address is 21435 Modoc Lane Bend, OR 97702."*

The fourth public comment was received from Kyle Weaver on June 18, 2021:

*"I am writing to express by objection to the proposed changes east of 27<sup>th</sup> in the pursuit of yet another neighborhood development. The East side of Bend is the current hotspot for housing expansion but some caution must be taken and not simply rubber stamping these applications through and knocking down yet more trees and eliminating farm lands and mountain views. Neighborhoods are popping up in all directions all over town and the construction industry frenzy is full throttle with little interest in these types of nature/aesthetic concerns. I don't begrudge people making some money and Bend is certainly a desirable place to live, but things need to be planned out in a more thoughtful and deliberate fashion. There is nothing wrong with taking a slower and more measured approach as we all consider Bend's growth in the coming years. I have lived in Bend for just over 20 years and have family and friends in the proposed development area and it would drastically reduce their enjoyment of their property. I urge you to decline this request on behalf of many other community members who feel the same way."*

The fifth public comment was received from Treva Weaver on June 18, 2021:

*"Re: 1812020001000 Central Or. Irrigation District*

*I am opposed to the proposed land use change by the above referenced owner.....*

*The loss of open space in Central Oregon continues as the growth proponents seem mainly interested in jumping on the bandwagon and making as much profit as possible. The East side of Bend, where I have lived the past 21 years, has hundreds, if not thousands of housing sites already started or proposed. Until all this land is developed and houses sold, there is no need to venture east of 27<sup>th</sup> where this property is located.....My great grandfather came to Oregon at age 9 in 1846 and our family has very deep roots in this state. I spend a large amount of time at my daughter's home which is directly east of the proposed development. We enjoy riding our horses in her arena and also enjoy family gatherings in her backyard. The view would be drastically changed if this land is developed. What is wrong with leaving some land in its natural state? It will be many many years before additional housing is needed in this area. Please decline this request change and leave some land in its more natural state."*

The sixth public comment was received from John Schaeffer, a neighboring property owner at 61677 Thunder Road, Bend, OR 97702 on June 19, 2021:

*"I am writing on behalf of myself and several neighbors in the Stevens Road – Thunder Road neighborhood. We are opposed to COID's proposed changes to the Comprehensive Plan and Zoning for taxlot 1812020001000. We realize this is not a request for development but know that it will lead to development in the next few years, that it is the first step in making the property more marketable, should it be brought into the UGB during the next update.*

*Development has been increasing in this area, especially with the inclusion of the Stevens Road tract in the current UGB, and its subsequent sale by the state. We feel it is important to leave some natural open areas for people and animals near the city limits. This is especially critical now that the Stevens Road tract is being developed, along with all the other development in this area. A few years ago, it was possible to take our dogs walking in the Stevens Road tract and meet few people. The use in this area has increased remarkably over the last several years, consistent with Bend's growth.*

*The COID parcel is isolated and not readily accessible by cars, with varied topography, including a small canyon. It has significant native vegetation and, when I was there a couple of days ago, there were many birds, much more than in the nearby areas where there are houses and the vegetation has been cleared.*

*Right now, the average size of the parcels between the city limits to the west and Ward Road to the east, and between Stevens Road to the south and to approximately where Skyline View Drive would be if extended into the area on the north, is 8 acres. If you consider only the MUA zoned parcels, the average size is 4.8 acres. If the COID property was developed to that level, this would mean 7-8 houses in the area. I do not know what would be allowed under the Rural Residential Exception area but suspect it would probably be even denser housing.*

*As Bend continues to grow at what may be an unsustainable pace the value of open space increases. We urge you to consider open space as a relevant and beneficial resource when you weigh the issues inherent in this kind of a zoning change.*

*Sincerely,  
John Schaeffer and Patti Bailey  
James and Janet Lake  
Julie Naslund, Michael, and Miles Nevill  
Mike Quick  
Jill Harrell and Mike King"*

The seventh public comment was received from Cathy DeCoursey, a property owner and resident of 61718 Rigel Way, Bend, OR 97702 on June 21, 2021:

*"I am responding to a letter I received regarding COID's application to rezone the property behind me. File # 247-21-0000400-PA, 401-ZC. 36.65 Acres. My understanding is they want to change the zoning from Agriculture and Exclusive Farm Use Zone to Rural Residential Exception Area and Multiple Use Agricultural. I've read the Application prepared by Tia M. Lewis. I have 3 concerns:*

- 1. The water supply says wells are to be drilled for household use. There are 2 very old (55yrs) Well Reports included in her submission. I find this very odd that 7 new homes will be drilling and using well water for approximately 5 acre mini ranches. Surely the water table has lowered over time? The depth of one shows 619 feet. One report seems to be missing*

*the gallons per minute amount. Would you explain where the household and irrigation water will be coming from for these 7 lots?*

- 2. *At what point can the MUA-10 Zoning be changed to create a subdivision of smaller sized lots?*
- 3. *Will there be more than 7 lots created? The stubbed access roads listed are already narrow and congested with parked cars and traffic coming and going to 27th which has no turn lanes onto or off of Darnel.*

*Thank you for your time and response."*

The eighth public comment was received from Jennifer Neil, a property owner and resident of 61723 Rigel Way, Bend, OR 97702 on June 21, 2021:

*"My name is Jennifer Neil, and I am Bend homeowner concerned about the above-mentioned proposed land use. The proposed land use will change what is a small, open space next to the Central Oregon canal from farm use to more residential use. I'm saddened to not only lose the space I walk on twice a day, but to see it turned into more overpriced homes that the city and the community is not able to support. The area of SE Bend where this property is located has already out-grown all of the infrastructure to support more housing. It has become extremely difficult to access my home because of the traffic and congestion along 27th street. This congestion will only increase with the addition of the new High School. Finally, I'm also very concerned that 4 of my neighbors, who are also homeowners and have properties directly next to this proposed land use change, did not receive any notice of this land use. I notified them! I hope that the city planners will consider the impact more houses will have in this area, and improve the infrastructure first that is already necessary before destroying more open space."*

The ninth public comment was received from Brent N. Wilkins, an owner and resident of property at 61764 SE Camellia Street, Bend, OR 97702, on June 21, 2021:

*"I am a resident of the Rosengarh Subdivision. I am submitting these written comments relating to the proposed zoning changes by the Central Oregon Irrigation District ("COID") for the real property located at 61781 Ward Road, Bend, OR 97702 ("Property").*

*For the reasons noted below, including due to the level of development in East Bend in close proximity to the Property, the Property's rural nature that serves as a place of recreation, and the high level of traffic and lack of a left-hand turn lane from the major arterial (27<sup>th</sup> Street) that will likely service the Property if/once developed, I ask that the Deschutes County Planning Division ("Planning Division") not approve COID's application. I request to be notified of any decision or public hearing related to this application, and this notice may be sent to:*

*Brent N. Wilkins  
61764 SE Camellia Street  
Bend, OR 97702*

*As noted on page 3 of COID's Burden of Proof Statement, COID will have the ability to attempt to develop and subdivide the Property into a subdivision if the permit is granted. This would potentially occur through Title 17 or Title 18 of Deschutes County's rules. This permit should not be granted as further development in the proximity of the Property will not serve the County or community.*

#### *A. Development & Traffic Impacts*

*The Property at issue is surrounded by areas that have been recently developed. This includes the DR Horton subdivision off of Pettigrew Drive, the Hayden Homes Subdivision off of Pettigrew Drive, as well as the Rosengarth Subdivision. 27<sup>th</sup> Street has not been able to keep up resulting increased traffic flow as a result of the development to date. Excluding this Property, there is now significant further development occurring in this immediate area that 27<sup>th</sup> Street will service. The development at this time includes a new commercial lot being developed at 27<sup>th</sup> Street and Reed Market that will consist of multiple businesses, a new subdivision between Reed Market and Starlight Drive on the east side of 27<sup>th</sup> Street, and significant development off of 27<sup>th</sup> Street on Stevens Road. The Property will also heavily utilize 27<sup>th</sup> Street through the likely extension of Darnel Avenue and/or Daylily Avenue.*

*The collective effect of all of this development is that the rural nature of East Bend is being lost and 27<sup>th</sup> Street is becoming unsafe. 27<sup>th</sup> Street at this time does not adequately handle the levels of traffic that occur each morning around 8:00 am, each afternoon around 5:00 pm as well as when school lets out, and during the weekends. I have routinely sat in my car for more than two minutes trying to turn left onto 27<sup>th</sup> Street. I have also waited more than a minute to even to try to turn right onto 27<sup>th</sup> Street. A photograph showing the line of traffic on 27<sup>th</sup> Street is enclosed. (See Ex. 1). Also, there is no left turn lane when turning left from 27<sup>th</sup> Street onto Darnel Avenue from 27<sup>th</sup>. This has resulted in unsafe conditions, including vehicles passing the turning vehicle on the right where there is no developed shoulder or lane. There are tracks on the ground where this happens, and it is not safe for those vehicles, the turning vehicle, or oncoming traffic. Eastside Gardens is also located at 27<sup>th</sup> Street and Darnel Avenue. Vehicles pull in and out of that parking lot at that intersection and from the parking lot itself. This cause an irregular, unsafe traffic flow that will only be exacerbated by further use.*

*Moreover, due to Darnel Avenue serving as a primary access point for homes throughout the existing neighborhoods and Gardenside Park, there is already a high level of traffic and vehicles often driving fast. There is also significant on street parking that restricts views for drivers and pedestrians. This includes large 'sprinter' vans, large trucks, and sometimes trailers. (See Ex. 2). There are numerous young families in the neighborhoods, including along Camellia Street, Darnel Avenue and Gardenside Park. These families have children that run, play, skateboard, ride scooters, and bike throughout the neighborhood, including on the streets. The existing neighborhood traffic levels poses a danger to children. The proposed permit will likely result in increased traffic within the neighborhood and pose additional risk to these young families and*

children. Any consideration of the Permit, and any possible approval, must address this dynamic.

Finally, with the recent approval of the Southeast Area Plan for the 'Elbow', the level of traffic in East Bend and 27 Street will only increase. This will also result in the displacement of birds and other wildlife, which is further covered below, and will need a place to go.

**B. Preservation**

The Property at issue is an area that is highly utilized for recreation and embodies Central Oregon high desert landscape. In the winters, the area can serve as a place for cross-country skiing. (See Ex. 3). People regularly ride bikes, run, and go for walks. The aerial photo that was enclosed with the Notice of Application also shows the walking path through the middle of the Property. The wildlife that calls this place home includes ducks, jackrabbits, geese, and numerous other birds. There is also a rimrock canyon on the Property that is quite unique and should be preserved (See Ex. 4). The Property also has views of the Cascades, Powell Butte, and Newberry Caldera (See Ex. 5). It is also quite peaceful and has a gentle, rolling landscape full of trees, grasses, and sagebrush. (See Ex. 6). During the mornings and evenings one can go for walks and hear the songs of birds and enjoy an escape from the busy work day and pace of life. In other words, changing the Property's zoning classification and leading to the possibility (if not the eventual or imminent likelihood) of development that will further change the rural nature of Bend is not in the public's interest for rezoning standards or otherwise.

**C. Conclusion**

The existing development and use of 27 Street, the development already approved and under construction, and the future development of Stevens Road and the 'Elbow' makes changing the Property's zoning classification to not be in the public interest. There simply is not adequate infrastructure to support all of these additions in a safe manner. Until the access to the neighborhoods from 27<sup>th</sup> Street is improved, no further development or changes of zoning classifications should occur. Approving the permit will also likely result in the irreparable loss of rural landscape and habitat once the Property is developed, including possibly without any restrictions or preservation criteria.

*In sum, the proposed permit application should be denied, or at least not approved in its current form. At a minimum, a hearing should be set for in person comments and for further deliberation to occur."*

The public comment from Mr. Wilkins includes 10 photographs depicting the various conditions outlined in his written comment. These photographs and the full written comment are included in public record for the subject application.

The tenth public comment was received from Crystal Garner on June 22, 2021:



*"I would like to request a hearing for the proposed land development for 61781 Ward Rd, Bend, OR 97702. We live about 4 houses down from this property, it is a great and safe place for our family and so many others in the neighborhood to take walks, ride bikes, and walk dogs. The thought of this land being developed on and losing those opportunities, as well as possibly compromising the safety of our children in our neighborhood bring a heavy heart to so many of us. Please consider a hearing to recant this decision."*

The eleventh public comment was received from William Kepper on June 29, 2021:

*"Sorry for the late response to the changes associated with Map and Taxlot: 1812020001000. The notification was not received timely. The notification is vague to exactly what changes will occur. If the changes have anything to do with the cultivation of marijuana or hemp we and our neighbors are against it. It would destroy ours and our neighbors quality of life. There are numerous small children and teenagers in the neighborhoods who should not be subjected to these types of grow farms. Also there is a child day care facility close by off 27<sup>th</sup> Street. I hope I'm wrong about the 'Rural Residential Exception Area and Multiple Use Agricultural, respectively' statement. Thanks for listening to my concerns. I'd appreciate additional information on exactly what Multiple Use Agricultural Zone (MUA10) means."*

The twelfth public comment was received from David Morrison on August 30, 2021:

*Tarik,*

*I may wish to participate in this hearing if I have questions or concerns not addressed by others. I plan to participate via Zoom. My wife is dealing with serious health issues and may require attention at any time which might cause me to miss all or some.*

*So, I would like to go on record as 100% against re-zoning said COID property at this time. I feel that with the already in the works developments south of Stevens Rd and north of Bear Creek Rd, that the road system is already severely inadequate. Also, with the drought conditions and worsening water supplies in not just Bend but all of Deschutes and surrounding counties, I would like to see this request 'tabled', to be revisited in no fewer than 5 years. The county needs to greatly improve roads and water supply issues before allowing more and more building and deteriorating areas that will make this area more desirable to live in. I enjoy watching all of the natural wildlife that lives in this space, they will disappear with development, as will our natural view that was the biggest reason for us purchasing our property which is immediately adjacent to said property.*

*I am also concerned about the stated address of said property, Ward Rd is no where near the property. If it should be re-zoned, where exactly will it be accessed?*

*I fear the continued rapid growth will quickly and severely deteriorate the quality of life for all of Bend.*

*Thank you for considering my our [sic] concerns, David & Nancy Morrison*

**J. LAND USE HISTORY:** There is no history of prior land use permits having been granted for the subject property.

**K. UTILITY SERVICES:** The subject property is served by Pacific Power and water will be provided by a well (see Exhibit 7 for will serve letter and well logs).

**L. PUBLIC SERVICES:** The subject property is in the Deschutes County Rural Fire Protection District #2 (Exhibit 6). The Bend Rural Fire Protection Station 304 is located a few miles northeast of the subject property near the corner of Hamby and Neff Roads. The Pilot Butte Station on NE 15<sup>th</sup> Street and Highway 20 is also within a few miles of the subject property. The Deschutes County Sheriff provides police and public safety services. Access to the subject property is provided from the stubbed local street connections of Darnel Avenue and Daylily Avenue to the west. The Bend Municipal Airport is located several miles northeast of the property. The property is within the Bend-La Pine School District and is in the Buckingham Elementary School boundary, the Pilot Butte Middle School boundary and the Bend High School boundary. The property is outside of the Bend Parks and Recreation District boundary; however, Bend Parks and Recreation District has plans to develop Hansen Park Trailhead located south of the subject property that will serve the Central Oregon Historic Canal Trail system.

**M. NOTICE REQUIREMENT:** On August 6, 2021, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the subject property and agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, August 8, 2021. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on July 26, 2021.

The applicant complied with the posted notice requirements of DCC 22.24.030(B). The applicant submitted a Land Use Action Sign Affidavit, dated June 25, 2021, indicating the applicant posted notice of the land use action on June 25, 2021.

Deschutes County sent notice of the proposed change to its comprehensive plan and land use regulation to the Oregon Department of Land Conservation and Development, received by DLCD on July 26, 2021.

**N. REVIEW PERIOD:** The subject applications were submitted on April 20, 2021, and deemed complete by the Planning Division on May 20, 2021. 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. **CONCLUSIONS OF LAW**

**Title 18 of the Deschutes County Code, County Zoning**

**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, also the property owner, has 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 is reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code. The Hearings Officer finds these criteria are met.

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 applicant provided the following response in its submitted burden of proof statement:

*Per prior Hearings Officers decisions [Powell/Ramsey (file no. PA-14-2 / ZC-14-2) and Landholdings (file no. 247-16-000317-ZC, 318-PA)] for plan amendments and zone changes on EFU-zoned property, this paragraph establishes two requirements: (1) that the zone change conforms to the Comprehensive Plan and (2) that the change is consistent with the plan's introductory statements and goals. Both requirements are addressed below:*

- 1. Conformance with the Comprehensive Plan: The applicant proposes a plan amendment to change the Comprehensive Plan designation for the subject property from Agriculture to Rural Residential Exception Area. The proposed rezoning from EFU-TRB to MUA-10 will need to be consistent with its proposed new plan designation.***

2. *Consistency with the Plan's Introductory Statement and Goals. In previous decisions, the Hearings Officer found the introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. However, the Hearings Officer in the Landholdings decision found that depending on the language, some plan provisions may apply and found the following amended comprehensive plan goals and policies require consideration and that other provisions of the plan do not apply as stated below in the Landholdings decision:*

*"Comprehensive plan statements, goals and policies typically are not intended to, and do not, constitute mandatory approval criteria for quasi-judicial/and use permit applications. Save Our Skyline v. City of Bend, 48 Or LUBA 192 (2004). There, LUBA held:*

*'As intervenor correctly points out, local and statutory requirements that land use decisions be consistent with the comprehensive plan do not mean that all parts of the comprehensive plan necessarily are approval standards. [Citations omitted.] Local governments and this Board have frequently considered the text and context of cited parts of the comprehensive plan and concluded that the alleged comprehensive plan standard was not an applicable approval standard. [Citations omitted.] Even if the comprehensive plan includes provisions that can operate as approval standards, those standards are not necessarily relevant to all quasi-judicial land use permit applications. [Citation omitted.] Moreover, even if a plan provision is a relevant standard that must be considered, the plan provision might not constitute a separate mandatory approval criterion, in the sense that it must be separately satisfied, along with any other mandatory approval criteria, before the application can be approved. Instead, that plan provision, even if it constitutes a relevant standard, may represent a required consideration that must be balanced with other relevant considerations. [Citations omitted.]'*

*LUBA went on to hold in Save Our Skyline that it is appropriate to 'consider first whether the comprehensive plan itself expressly assigns particular role to some or all of the plan's goals and policies.' Section 23. 08. 020 of the county's comprehensive plan provides as follows:*

*The purpose of the Comprehensive Plan for Deschutes County is not to provide a site-specific identification of the appropriate land uses which may take place on a particular piece of land but rather it is to consider the significant factors which affect or are affected by development in the County and provide a general guide to the various decision which must be made to promote the greatest efficiency and equity possible, while managing the continuing growth and change of the area. Part of that process is identification of an appropriate land use plan, which is then*

*interpreted to make decision about specific sites (most often in zoning and subdivision administration) but the plan must also consider the sociological, economic and environmental consequences of various actions and provide guidelines and policies for activities which may have effects beyond physical changes of the land (Emphases added by applicant.)*

*The Hearings Officer previously found that the above-underscored language strongly suggests the county's plan statements, goals and policies are not intended to establish approval standards for quasi-judicial land use permit applications.*

*In Bothman v. City of Eugene, 51 Or LUBA 426 (2006), LUBA found it appropriate also to review the language of specific plan policies to determine whether and to what extent they may in fact establish decisional standards. The policies at issue in that case included those ranging from aspirational statements to planning directives to the city to policies with language providing 'guidance for decision-making' with respect to specific rezoning proposals. In Bothman LUBA concluded the planning commission erred in not considering in a zone change proceeding a plan policy requiring the city to '[r]ecognize the existing general office and commercial uses located \* \* \* [in the geographic area including the subject property] and discourage future rezonings of these properties.' LUBA held that:*

*\*\*\* even where a plan provision might not constitute an independently applicable mandatory approval criterion, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant considerations, pursuant to ordinance provisions that require \*\*\* consistency with applicable plan provision.' (Emphasis added.) The county's comprehensive plan includes a large number of goals and policies. The applicant's burden of proof addresses goals for rural development, economy, transportation, public facilities, recreation, energy, natural hazards, destination resorts, open spaces, fish and wildlife, and forest lands. The Hearings Officer finds these goals are aspirational in nature and therefore are not intended to create decision standards for the proposed zone change."*

*Hearings Officer Karen Green adhered to these findings in the Powell/Ramsey decision (file nos. PA-14-2/ZC-14-2), and found the above referenced introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. This Hearings Officer also adheres to the above findings herein. Nevertheless, depending upon their language, some plan provisions may require "consideration" even if they are not applicable approval criteria. Save Our Skyline v. City of Bend, 48 Or LUBA 192, 209 (2004). I find that the following amended comprehensive plan goals and policies require such consideration, and that other provisions of the plan do not apply:"*

*The comprehensive plan goals and polices that the Landholdings Hearings Officer found to apply include the following...*

The applicant utilizes the analysis provided in prior Hearings Officers' decisions to determine and respond to only the Comprehensive Plan Goals and policies that apply, which are listed below in the Comprehensive Plan section of this Decision. The Hearings Officer finds the above provision is met, based on Comprehensive Plan conformance as set forth in subsequent findings.

***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 in the submitted burden of proof statement:

*The applicant is proposing to change the zone classification from EFU to MUA-10. Approval of the application is consistent with the purpose of the MUA-10 zoning district, which stated in DCC 18.32.010 as follows:*

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

*The subject property is not suited to full-time commercial farming as discussed in the findings above. The MUA-10 zone will allow property owners to engage in hobby farming. The low-density of development allowed by the MUA-10 zone will conserve open spaces and protect natural and scenic resources. In the Landholding's case, the Hearings Officer found:*

*I find that the proposed change in zoning classification from EFU is consistent with the purpose and intent of the MUA-10 zone. Specifically, the MUA-10 zone is intended 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. Approval of the proposed rezone to MUA-10 would permit applications for low-density development, which will comprise a transition zone between EFU rural zoning, primarily to the east and City zoning to the west.*

*The maximum density of the approximately 36.65-acre property if developed with a cluster development under Title 18 is 7 lots. This low density will preserve open space, allow owners to engage in hobby farming, if desired, and preserve natural and scenic resources and maintain or improve the quality of air, water, and land resources. The MUA-10 zoning provides a proper transition zone from City, to rural zoning to EFU zoning.*

The applicant’s burden of proof statement also includes analysis in the Introduction section at pages 1-2. There, the applicant stated, in relevant part:

*For the past several years, Deschutes County has recognized the value in rezoning non-productive agricultural lands and has issued decisions in support of plan amendments and zone changes where the applicant demonstrates the property is not agricultural land and, therefore, Statewide Goal 3, Agricultural Lands, does not apply. These cases are the foundation for the subject request. Cases pertinent to the proposed request include:*

**Kelly Porter Burns Landholdings LLC (“Landholdings”)/File nos. 247-16-000317-ZC/318-PA**

*On November 1, 2017, the Board approved Kelly Porter Burns Landholdings LLC’s request to change the plan designation on certain property from Agricultural to Rural Residential Exception Area and to change the zone designation from EFU-TRB to MUA-10 zone. The property consists of about 35 acres and abuts the applicant’s property to the west (Exhibit 1).*

*Based on the Order 1 soil survey for the property and the submitted evidence, the Hearings Officer found that the Landholdings property does not constitute agricultural land and does not merit protection under Goal 3, and therefore, approved the change in Plan designation and Zoning of the property from Agriculture/EFU-TRB to RREA/MUA-10.<sup>6</sup>*

**Division of State Lands Decision/File Nos. PA-11-7 and ZC-11-2**

*The Division of State Lands case was a 2013 approval by the Board for a plan amendment from Agriculture to Rural Residential Exception Area and a zone change from EFU-TRB to Multiple Use Agricultural (MUA-10). Based on the Order 1 soil survey for the property and the submitted evidence, the Board found that the property was not agricultural land and therefore, Goal 3 did not apply (Exhibit 2).*

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<sup>6</sup> The Board adopted as its findings the Hearings Officer’s decision with one exception: that if the property is divided, it must be developed as a cluster development and the two irrigation ponds must be included in the common area. In addition, the Board required the applicant to sign a Conditions of Approval agreement to “assure that future residential development of the property will be harmonious with existing development in the area and so that a part of the property may be developed at urban densities if and when the property is annexed to the City of Bend.”

**Paget Decision/File Nos. PA-07-1, ZC-07-1**

*The Paget decision was a 2007 approval of a plan amendment from Agriculture to Rural Residential Exception Area and a zone change from EFU to MUA-10. The Board adopted the Hearings Officer’s decision, which found that the property did not constitute “agricultural land” and therefore, the plan amendment and zone change to MUA-10 was consistent with Goal 3 (Exhibit 3).*

**The Daniels Group/File Nos. PA-08-1, ZC-08-1**

*The Daniels Group decision was a 2011 Board decision approving a change to the Comprehensive Plan map from Surface Mine and Agriculture to Rural Residential Exception Area and a zone change from EFU-LB and Surface Mining to Rural Residential (RR-10). The Board found that the property did not constitute “agricultural land” as defined in Goal 3, was not subject to protection under Goal 3, and therefore, the plan amendment and zone change did not require an exception to Goal 3. (Exhibit 4).*

The Hearings Officer finds the applicant has demonstrated the change in classification is consistent with the purpose and intent of the MUA-10 Zone. A change in classification will preserve the rural character of the subject property, due to the low density of development allowed in the MUA-10 zone, while permitting development consistent with that character. As set forth in the findings below, the subject property is not suited to full-time commercial farming but could be used for hobby farming. Low density development will also conserve open spaces and protect natural and scenic resources. The Hearings Officer finds that approval of the proposed rezone to MUA-10 would permit applications for low-density development, and will comprise a transition zone between the City and EFU zoning to the east.

The Hearings Officer’s findings regarding agricultural land and Goal 3 exception are set forth in the findings below.

- 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:** There is no proposal to develop the property at this time. The above criterion asks if the proposed zone change will *presently* serve public health, safety, and welfare. The applicant provides the following response in the submitted burden of proof statement:

*Necessary public facilities and services are available to serve the subject property, including electrical power from Pacific Power and well logs showing water services are available to serve the property. Exhibit 7.*



*Transportation access to the property is available from the stubbed local street connections of Darnel Avenue and Daylily Avenue to the west in the City of Bend Urban Growth Boundary. MUA-10 zoning and a standard subdivision would allow the creation of up to 3 residential lots and a cluster development would allow up to 7 residential lots. If developed with a cluster development, the property could generate up to 49 additional daily trips, which according to the traffic report by Transight Consulting is a slight increase in trips, but the impact of these trips is negligible on the transportation system and the functional classification of all the adjacent roadways will not be affected with the proposed rezone. The existing road network is available to serve the use of the property if developed.*

*The property receives police services from the Deschutes County Sheriff and is in Rural Fire Protection District #2 with the nearest fire station nearby. Neighboring properties contain residential uses, which have water service from a municipal source or wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.*

Neighboring properties contain residential and commercial uses, which have water service from a quasi-municipal source or wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.

Public commentators expressed concern about access to the subject property. One commentator stated that Ward Road is ¾ mile away and that the property is not accessible other than via a canal road, which is gated. Other commentators stated that access from City of Bend roads (Daylily Avenue and Darnel Avenue) that are currently stubbed at the edge of the eastern boundary of the Bend UGB, through existing subdivisions will be dangerous. The applicant’s attorney stated that there are no current plans to develop the property. The applicant may offer the property for sale or develop as MUA-10 zone. Alternatively, the applicant could hold onto the property until the next Bend UGB expansion process.

The Hearings Officer finds that no access to the subject property is required to be established for purposes of consideration of the re-designation and rezoning applications. Any future development will have to establish access in compliance with applicable zoning regulations and the comprehensive plan.

Prior to development of the property, the applicant will be required to comply with the applicable requirements of the Deschutes County Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

The Hearings Officer finds this criterion 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’s submitted burden of proof statement addresses potential impacts on surrounding land uses as related to each individual policy and goal item within the County’s Comprehensive Plan in subsequent findings. Analysis of consistency with each applicable goal and policy is set forth in the findings below.

The Hearings Officer finds that the MUA-10 zoning is the same zoning of many other properties in the areas east and south of the subject property. As the Hearings Officer found above, MUA-10 zoning provides a proper transition zone from the City to EFU zoning. The requested zone change will not impose new impacts on EFU-zoned land to the north of the subject property because that property is a small parcel, approximately 12 acres in size, that is not engaged in commercial farm use and is developed with a nonfarm dwelling. Further, MUA-10 zoning will have minimal impacts on EFU-zoned land adjacent to the northeast corner of the subject property.

As determined by the applicant’s soil scientist, Andy Gallagher, it is not practical to farm the subject property because it is comprised primarily of Class 7 and 8 soils and is characterized by a cut-up landscape. The Hearings Officer finds the subject property is not land that could be used in conjunction with the adjacent property. Any future development of the subject property will be subject to building setbacks.

The Hearings Officer finds this criterion is met.

**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 is proposing to rezone the property from EFU to MUA10 and re-designate the property from Agriculture to Rural Residential Exception Area. The applicant has provided the following response in the submitted burden of proof statement:

**1. Mistake:** *The EFU zoning designation was likely based on the best available soils data that the County had at the time in the County in the late 1970's when the comprehensive plan and map were adopted and where agricultural zoning was applied to land with no history of farming<sup>78</sup>.*

<sup>7</sup> Gallagher’s soils analysis report for the subject property determined that the subject property was previously mapped by the USDA-SCS Soil Survey of the Deschutes County Area and compiled by NRCS into the Web Soil Survey. The property was previously mapped at 1:20,000 scale, which is generally too small a scale for detailed land use planning and decision making, according to Gallagher.

<sup>8</sup> Source: Agricultural Lands Program, Community Involvement Results, Community Development, Deschutes County. June 18, 2014.

**2. Change in Circumstances:** *There clearly has been a change in circumstances since the property was last zoned in the 1970s:*

Soils: *New soils data provided in the Gallagher soils report shows the property does not have agricultural soils.*

Farming economics and viability of farm uses in Central Oregon *have significantly changed. Making a profit in farming, particularly on smaller parcels such as the subject property, is difficult as stated below in the stakeholder interview of the Deschutes County Farm Bureau in the County's 2014 Agricultural Lands Program, Community Involvement Results:*

*Today's economics make it extremely difficult for commercial farmers in Deschutes County to be profitable. Farmers have a difficult time being competitive because other regions (Columbia Basin, Willamette Valley) produce crops at higher yields, have greater access to transportation and consumer markets, and experience more favorable growing climates and soils. Ultimately, the global economy undermines agricultural opportunities in the county because commodities derived from outside the region can be produced at a lower cost. Water limitations also play a role. Junior water right holders are constrained as the summer progresses and they lose their rights to those with higher priority dates.*

Decline in farm operations *have steadily declined in Deschutes County between 2012 and 2017, with only a small fraction of farm operators achieving a net profit from farming in 2017. (Exhibit 8).*

Encroaching development *east of Bend's Urban Growth Boundary has brought both traffic and higher density residential uses and congestion to the area.*

The applicant's attorney argued at the public hearing that it is not economical or fiscally responsible to retain the subject property as agricultural/farm land given the fact that it is non-productive land.

Patrick McCoy testified at the public hearing that there are several other parcels/tracts that are "getting ready to do the same thing" as the applicant. He also stated that a 59-acre parcel was allowed to "go dead" to meet requirements for a rezone. He is concerned about slowing down growth in this area and further expressed concerns that the subject property is landlocked. Mr. McCoy stated that there is a lot of development occurring within a 2-mile radius of his property.

Matt Carey testified at the public hearing that development is increasingly encroaching on green space and animals are getting pushed out. He also expressed concerns about access to the subject property.

Kecia Weaver testified that high schoolers participate in 4H and FFA, raising animals and that smaller parcels of land are used for agriculture on a small scale. She values slow growth and maintaining the rural concept, to preserve open spaces. Ms. Weaver is concerned about the rapid development of large acreage and the impact on deer, rabbits, hawks, eagles and bats. She stated that Ward Road is .75 miles away from the subject property, which is not accessible other than via a gated canal road. Ms. Weaver requested that the applications be denied to slow the growth. She further stated that the applications could be considered at the time the UGB expansion is underway.

The Hearings Officer makes the following findings. First, whether or not owners of other properties may, or may not, request a change of comprehensive plan designation and zoning is not relevant to the Hearings Officer's consideration of the current applications. Each application must be considered on its own merits.

Second, concerns regarding development encroachment support a finding of change of circumstances. Given the evidence that shows the subject property is not comprised of agricultural soils, and is not land that could be used in conjunction with adjacent property, the requested rezone will provide an appropriate transition between urban City development and rural EFU properties.

Third, the Hearings Officer does not have authority to deny the requested applications on the basis of concerns about growth. While understandable, the applications may be granted where, as here, all applicable criteria are met.

Fourth, the applicant's attorney commented at the public hearing that delaying the applications until the City considers its next urban growth boundary (UGB) expansion will preclude the subject property from consideration.

Fifth, with respect to 4H and FFA activities, the Hearings Officer finds that the requested rezone to MUA-10 will continue to allow for hobby farming.

Sixth, concerning wildlife concerns, the Hearings Officer finds the subject property is not within a Wildlife Area combining zone; there are no specific wildlife preservation regulations applicable to the property. There is no evidence that the requested rezone, and of itself, will impact wildlife.

Finally, with respect to access, the Hearings Officer finds that no development is proposed at this time and, therefore, access need not be finally determined. If the subject property is developed in the future, the record shows that access from stubbed streets to the west may be considered.

For all the foregoing reasons, and based on evidence in the record that shows declining farm operations and limited numbers of financially successful farm operations (Exhibit 8), the

Hearings Officer finds that a change of circumstances since the time the property was last zoned exists. This criterion is met.

**Deschutes County Comprehensive Plan**

**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 in the submitted burden of proof statement:

*The applicant is pursuing a plan amendment and zone change on the basis that the subject property does not constitute "agricultural lands," and therefore, the subject lands are not necessary to preserve or maintain as such. In the Landholdings decision (and Powell/Ramsey decision) the Hearings Officer found that Goal 1 is an aspirational goal and not an approval criterion.*

*As demonstrated in this application, the subject property does not constitute "agricultural land" and therefore, is not necessary to preserve and maintain the County's agricultural industry. The Gallagher soils report shows the subject property to consist predominantly (63.7%) of Class 7 and 8 non-agricultural soils (Gosney-Rock Outcrop complex). According to Mr. Gallagher, these soils have severe limitations for agricultural use as well as low soil fertility, shallow and very shallow soils, abundant rock outcrops and lava tubes, low available water capacity, and major management limitations for livestock grazing. In addition, the minor amount of Deskamp soils (Class 3 irrigated and 6 nonirrigated) are in small isolated pockets and severely restricted by lava tubes, shallow rocky soils, irrigation ditches and property lines that they cannot be used in farming in conjunction with the non-productive Gosney-Rock outcrop. The property also is physically remote from productive farmland as it is adjacent to the City of Bend's urban development to the west and rural residential development to the east and south. Mr. Gallagher concludes that the "landscape is so cut up it is impractical to farm".*

The Hearings Officer finds Mr. Gallagher's report supports a finding that the subject property does not constitute agricultural land. The subject property is not land that could be used in conjunction with the adjacent property. The requested plan amendment and rezone will not contribute to loss of agricultural land in the surrounding vicinity. The agricultural industry will not be negatively impacted by re-designation and rezoning of the subject property. Therefore, the Hearings Officer finds the applications are consistent with Section 2.2, Goal 1, "preserve and maintain agricultural lands and 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 asking to amend the subzone that applies to the subject property; rather, the applicant is seeking a change under Policy 2.2.3 and has provided evidence to support rezoning the subject property to MUA10. The Hearings Officer finds this Policy is inapplicable.

***Policy 2.2.3 Allow comprehensive plan and zoning map amendments for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.***

**FINDING:** The applicant is seeking approval of a plan amendment and zone change to re-designate and rezone the property from Agricultural to Rural Residential Exception Area. The applicant is not seeking an exception to Goal 3 – Agricultural Lands, but rather seeks 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 in the submitted burden of proof statement:

*Deschutes County has allowed this approach in previous Hearings Officer’s decisions including Porter Kelly Burns Landholdings (247-16-000317-ZC/318-PA), Department of State Lands (PA-11-7/ZC-11-2), Pagel (PA-08-1/ZC-08-1), and the Daniels Group (PA-08-1, ZC-08-1). Additionally, the Land Use Board of Appeals (LUBA) allowed this approach in Wetherell v. Douglas County, 52 Or LUBA 677 (2006), where 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 nor 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).”*

*LUBA’s decision in Wetherell has appealed to the Oregon Court of Appeals and the Oregon Supreme Court but neither court disturbed LUBA’s ruling on this point. In fact, the Oregon Supreme Court changed the test for determining whether land is agricultural land to make it less stringent. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007). In that case, the Supreme Court stated that:*

*“Under Goal 3, land must be preserved as agricultural land if it is suitable for ‘farm use’ as defined in ORS 215.203(2)(a), which means, in part, ‘the current employment of land for the primary purpose of obtaining a profit in money’ through specific farming-related endeavors.” Wetherell, 342 Or at 677.*

*The Wetherell court held that when deciding whether land is agricultural land “a local government may not be precluded from considering the costs or expenses of engaging in those activities.” Wetherell, 342 Or at 680. The facts presented in the subject application are sufficiently similar to those in the Wetherell decisions and in the above-mentioned Deschutes County plan amendment and zone change applications. The subject property is primarily composed of Class 7 or 8 nonagricultural soils making farm-related endeavors not profitable. This application complies with Policy 2.2.3.*

The Hearings Officer finds that the facts presented by the applicant in the burden of proof for the subject applications are similar to those in the *Wetherell* decisions and in the aforementioned Deschutes County plan amendment and zone change applications. Therefore, the Hearings Officer finds the applicant established the property is not agricultural land and does not require an exception to Goal 3 under state law. The Hearings Officer finds the applications are consistent with Policy 2.2.3.

***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:** This plan policy provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. The policy is not directed to an individual applicant, as the Hearings Officers found in the *Landholdings* decision and *Powell/Ramsey* decision. The Hearings Officer finds that, based on the County’s previous determinations in plan amendment and zone change applications, the 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:** This plan policy requires the County to identify and retain agricultural lands that are accurately designated. The policy is not directed to an individual applicant, as the Hearings Officers found in the *Landholdings* decision and *Powell/Ramsey* decision. The Hearings Officer finds that the subject property was not accurately designated as demonstrated by the soil study, NRCS soil data, and the applicant’s burden of proof. Further discussion on the soil analysis provided by the analysis is set forth in the findings under the OAR Division 33 criteria below. The Hearings Officer finds the proposal is consistent with this Policy.

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:** The applicant is not proposing a specific development application at this time. Therefore, the Hearings Officer finds the applicant is not required to demonstrate water impacts associated with development. Rather, the applicant will be required to address this criterion during development of the subject property, which would be reviewed under any necessary land use process for the site (e.g. conditional use permit, tentative plat). The Hearings Officer finds this Policy does not apply to the subject applications.

**Chapter 3, Rural Growth**

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.***

- ...
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

**FINDING:** This section of the Comprehensive Plan does not contain Goals or Policies, but does provide the guidance above. In response to this section, the applicant's burden of proof provides the following:

***As shown above, the County's Comprehensive Plan provisions anticipate the need for additional rural residential lots as the region continues to grow. This includes providing a mechanism to rezone farm lands with poor soils to a rural residential zoning designation. While the rezone application does not include the creation of new residential lots, the applicant has demonstrated the subject property is comprised of poor soils that are adjacent to rural residential MUA-10 zone uses to the east and south as well as urban residential zones within the Bend city limits to the west. Rezoning the subject property to MUA-10 is consistent with this criterion, as it will provide for an orderly and efficient transition from the Bend Urban Growth Boundary to rural and agricultural lands.***



The MUA-10 Zone is a rural residential zone and as discussed in the Findings of Fact above, there are many adjacent properties to the south and east that are zoned MUA-10. Additionally, the properties to the west are within urban residential zones within the city limits of Bend. The Hearings Officer notes this policy references the soil quality, which is discussed above.

The Hearings Officer finds that rezoning the subject property to MUA-0 is consistent with Section 3.2, Chapter 3 of the Deschutes County Comprehensive Plan as it will provide for an orderly and efficient transition from the Bend UGB to rural and agricultural lands.

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 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 in the burden of proof:

*Prior Hearings Officer’s decisions have found that Section 3.3 is not a plan policy or directive<sup>9</sup>. Further, no goal exception to Statewide Planning Goal 3 is required for the rezone application because the subject property does not qualify as farm or forest zoning or agricultural lands under the statewide planning goals. The County has interpreted the RREA plan designation as the proper “catchall” designation for non-resource land and therefore, the Rural Residential Exception Area (RREA) plan designation is the appropriate plan designation to apply to the subject property<sup>10</sup>.*

<sup>9</sup> See PA-11-17/ZC-11-2, 247-16-000317-ZC, 318-PA, and 247-18-000485-PA, 486-ZC

<sup>10</sup> The Hearings Officer’s decision for PA-11-17/ZC-11-2 concerning this language of Section 3.3 states:  
*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*

Based on past Deschutes County Hearings Officer interpretations, the Hearings Officer finds that the above language is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Hearings Officer finds the proposed RREA plan designation is the appropriate plan designation to apply to the subject property.

Section 3.7, Transportation

**Appendix C – Transportation System Plan  
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:** This plan 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) aka OAR 660-012, as described below in subsequent findings.

**OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

**Division 6, Goal 4 – Forest Lands**

OAR 660-006-0005, Definitions

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*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 findings below explain that the applicant has been successful in demonstrating that the subject property is composed predominantly of nonagricultural soil types. 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. As such, the 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 reasons, 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, the Hearings Officer concludes that the applicant is not required to obtain an exception to Goal 3.*

- (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 subject property is not zoned for forest lands, nor are any of the properties within a two-mile radius. The property does not contain merchantable tree species 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 is rated for forest uses according to NRCS data. The Hearings Officer finds that the subject property does not constitute forest land.

**Division 33 - Agricultural Lands & Statewide Planning 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 use policy expressed in ORS 215.243 and 215.700.**

**FINDING:** Goal 3 defines "Agricultural Land," which is repeated in OAR 660-033-0020(1). The Hearings Officer's findings below are incorporated herein by reference.

OAR 660-033-0020, Definitions

**For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:**

- (1)(a) "Agricultural Land" as defined in Goal 3 includes:**
  - (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon<sup>11</sup>;**

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<sup>11</sup> 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.

**FINDING:** The applicant's decision not to request an exception to Goal 3 is based on the premise that the subject property is not defined as "Agricultural Land." In support, the applicant offers the following response in the submitted burden of proof statement:

*The subject property is not properly classified as Agricultural Land and does not merit protection under Goal 3. The soils are predominately Class 7 and 8 soils as shown by the more detailed soils report prepared by soils scientist Andy Gallagher, which State law, OAR 660-033-0030, allows the County to rely on for more accurate soils information. Mr. Gallagher found that approximately 64% of the soils on the subject property (about 24 acres) is Land Capability Class 7 and 8 soils that have severe limitations for farm use. He also found the site to have low soil fertility, shallow and very shallow soils, abundant rock outcrops and rock fragments in the surface, lava tubes, and irrigation ditches, low available water capacity, and limiting areas suitable for grazing and restricting livestock accessibility, all of which are considerations for the determination for suitability for farm use. Because the subject property is comprised predominantly of Class 7 and 8 soils, the property does not meet the definition of "Agricultural Lands" under OAR 660-033-0020(1)(a)(A) listed above, that is having predominantly Class I-VI soils.*

The Hearings Officer finds that the soil study provided by Mr. Gallagher of Red Hill Soils is an accurate representation of the data for the subject property. Therefore, the Hearings Officer finds, based on the submitted soil study and the above OAR definition, that the subject property is comprised predominantly of Class 7 and 8 soils and, therefore, does not constitute "Agricultural Lands" as defined in OAR 660-033-0020(1)(a)(A) above.

**(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**

**FINDING:** The applicant's decision not to request an exception to Goal 3 is based on the premise that the subject property is not defined as "Agricultural Land." The applicant provides the following analysis of this determination in the burden of proof.

*This part of the definition of "Agricultural Land" requires the County to consider whether the Class 7 and 8 soils found on the subject property are suitable for farm use despite their Class 7 and 8 classification. The Oregon Supreme Court has determined that the term "farm use" as used in this rule and Goal 3 means the current employment of land for the primary purpose of obtaining a profit in money through specific farming-related endeavors. The costs of engaging in farm use are relevant to determining whether farm activities are profitable and this is a factor in determining whether land is agricultural land. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007).*

*The subject property does not have water rights, has not been farmed, or used in conjunction with any farming operation in the past. The Natural Resources Conservation Service (NRCS) map shown on the County's GIS mapping program identifies two soil complex units on the property: 36A, Deskamp loamy sand and 58C, Gosney-Rock outcrop-Deskamp complex. The predominant soil complex on the subject property is 58C. 58C is not a high value soil as defined by Deschutes County Code. 36A is considered a high value soil when irrigated. However, as discussed in detail below, there is no irrigation on the property and an Agricultural Soils Capability Assessment (Order 1 soil survey) conducted on the property by soil scientist, Andy Gallagher, determined that the property is not agricultural land; that the class 3 irrigated and 6 non irrigated soils exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands. (See Exhibit 5 for Mr. Gallagher's Soil Assessment Report).*

*A review of the seven considerations listed in the administrative rule, below, shows why the poor soils found on the subject property are not suitable for farm use that can be expected to be profitable:*

**Soil Fertility:**

*Mr. Gallagher made the following findings regarding soil fertility on the subject property:*

*"Important soil properties affecting the soil fertility and productivity of the soils are **very limiting to crop production** [emphasis added by applicant] on this parcel. The soils here are low fertility, being ashy sandy loams with a low cation exchange capacity (CEC) of 7.5 meq/100 gm and organic matter is very low for Gosney 0.75% and low for Deskamps 1.5%. These soils do not have a large capacity to store soil nutrients especially cations, and nitrogen fertilizers readily leach in sandy soils. The soil depth is further limiting because it limits the overall volume of soil available for plant roots and limits the size the overall nutrient pool. Additionally, the soil available water holding capacity is very low for Gosney less than 1.8 inches for the whole soil profile, and for the very shallow soils it is half this much. The Deskamps soils have only about 2 to 4 inches AWHC translate into low productivity for crops. NRCS does not provide any productivity data for non-irrigated crops on these soils. The productivity of irrigated alfalfa is 4 tons per acre for Deskamps, and no rating for Gosney is same as a zero. There are perhaps 7 acres that could produce alfalfa with irrigation that could produce 28 tons alfalfa under irrigation and high fertility but after costs this would amount to no profit."*

*The fact that these soils are low fertility unless made fertile through artificial means supports the applicant's position that the Class 7 soils and the entire property is not suitable for farm use. The costs to purchase and apply fertilizer and soil amendments and the costs to sample and test soils are a part of the reason why it is not profitable to farm the subject property.*

**Unsuitability for Grazing:**

Mr. Gallagher also reviewed whether the parcel is suitable for grazing and found:

*"This 37.7-acre parcel is **not suited to grazing on a commercial scale** [emphasis added by applicant]. The soils here have major management limitations including ashy and sandy surface texture. The majority of the area has soils that are very shallow to shallow with many rock outcrops and rock fragments in the surface. Wind erosion is a potential hazard is moderately high when applying range improvement practices. Because the soil is influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated. Pond development is limited by the soil depth. The restricted soil depth limits the choice of species for range seeding to drought-tolerant varieties. Further, range seeding with ground equipment is limited by the rock fragments on the surface. The areas of very shallow soils and rock outcrop limit the areas suitable for grazing and restrict livestock accessibility.*

**Total Range Production from NRCS Websoil survey and estimate based soil percentages in revised soil map units**

Soil Map Unit	Total annual range production pounds per acre		
	Unfavorable year	Normal year	Favorable year
36A	700	900	1100
58C	411	558	705
Dk	700	900	1100
GR <sup>1</sup>	315	441	567

<sup>1</sup> Estimated based on weighted average of soils

*Total range production is the amount of vegetation that can be expected to grow annually in a well-managed area that is supporting the potential natural plant community. It includes all vegetation, whether or not it is palatable to grazing animals. It includes the current year's growth of leaves, twigs, and fruits of woody plants. It does not include the increase in stem diameter of trees and shrubs. It is expressed in pounds per acre of air-dry vegetation. In a normal year, growing conditions are about average. Yields are adjusted to a common percent of air-dry moisture content. The productivity provided for Dk map unit is from Websoil survey for the Deskamp soil and that provided for the GR map unit is based on 40% very shallow soils, 35% Gosney and 25% rock outcrop.*

*Based on previous NRCS map has a weighted average annual productivity of 669 pounds per acre in a normal year. Based on the revised Order-1 map the annual productivity is even lower, 540 pounds per acre. The animal use months (AUMs) for this 37.7 acre parcel is 5.5 based on the revised soil map and a monthly value of 910 pounds forage per 1 AUM equivalent to pounds per cow calf pair. This model assumes the cow's take to be 25% of annual productivity in order to maintain site productivity and soil health (NRCS 2009). This*

limits the grazing to one cow calf pair roughly 5 to 6 months annually. **This is not an economical model for livestock production** [emphasis added by applicant].

*Inappropriate grazing causes a reduction in desirable grasses and where present cheatgrass will increase and granite prickly gilia increases and grasses decline. Cheatgrass becomes dominate along with grey rabbitbrush. Ground fire potential increases with increasing cheatgrass. Cutting of juniper leads to an increase in grey rabbitbrush and an increase in cheatgrass with or without grazing. Idaho fescue is eliminated from areas where trees are removed due to harsh microclimate and cheatgrass replaces it. The addition of inappropriate grazing would lead to a decline in the other deep-rooted perennial bunchgrasses and an increase in annuals and granite prickly gilia."*

### **Climatic Conditions**

According to Mr. Gallagher, climatic conditions of this area make is [sic] difficult for production of most crops, as stated below:

*"The low annual precipitation, high summer temperature and evapotranspiration rates, and shortened frost-free growing season make this **a difficult climate for production of most crops** [emphasis added by applicant]. Irrigation is needed on area farms to meet crop needs given only 8 to 10 inches precipitation that falls mainly between November and June, with a long summer drought. The soil temperature regime is mesic. The average annual air temperature is 46 degrees F with extreme temperatures ranging from -26 to 104 degrees F. The frost-free period is 50 to 90 days. The optimum period for plant growth is from late March through June. Freeze-free period (average) 140 days. (NRCS 2020) These harsh climatic conditions coupled with very low soil available water holding capacity limits the potential of irrigated crop production to the Deskamps soils."*

### **Existing and Future Availability of Water for Farm Irrigation Purposes:**

*No new irrigation water rights are expected to be available to the Central Oregon Irrigation District (COID) in the foreseeable future. In order to obtain water rights, the applicant would need to convince another COID customer to remove water rights from their property and sell them to the applicant and obtain State and COID approval to apply the water rights to the subject property. In such a transaction, water rights would be taken off productive farm ground and applied to the nonagricultural soils found on the subject property. Such a transaction runs counter to the purpose of Goal 3 to maintain productive Agricultural Land in farm use.*

*Given the poor quality of these soils, it is highly unlikely that Central Oregon Irrigation District would approve a transfer of water rights to this property. In addition, no person intending to make a profit in farming would go to the expense of purchasing water rights, mapping the water rights and establishing an irrigation system to irrigate the lands on the subject property.*

*Given the dry climate, it is necessary to irrigate the subject property to grow an alfalfa crop and to maintain a pasture. A farmer would need to spend significant sums of money to purchase water rights, irrigation systems, maintain the systems, pay laborers to move and monitor equipment, obtain electricity, pay irrigation district assessments and pay increased liability insurance premiums for the risks involved with farming operations.*

*Irrigating the soils found on the subject property as described by Mr. Gallagher, that have low fertility, low capacity to store nutrients, and very low available water holding capacity translates into low productivity for crops that would amount to no profit.*

**Existing Land Use Patterns**

*Existing land use patterns in the area are primarily non-agricultural related land uses including urban development to the west within the Bend City limits, County exception lands zoned MUA-10 developed with homes and small acres of irrigation for pasture and other hobby farm uses to the east and south, and irrigated farmland zoned EFU-TRB to the north and northeast.*

*The EFU-zoned properties to the north and northeast include:*

*North and northeast of the subject property is a pocket of EFU-zoned property. The adjacent property to the north, tax lot 18-12-02-1001, is a 12.45-acre EFU-zoned property that is partially irrigated and developed with a nonfarm dwelling (file no. CU-01-75). Northeast is tax lot 18-12-02-201, a 53.30-acre farm parcel that is irrigated and engaged in hay production, receiving farm tax deferral, and developed with a dwelling and outbuildings.*

*The close proximity to the City of Bend and residential areas limit the types of agricultural activities that could reasonably be conducted for profit on the subject property. The subject property would not be suitable for raising animals that are disturbed by noise. Additionally, the property owner would bear the burden of paying for harm that might be caused by livestock escape, in particular livestock and vehicle collisions. Any agricultural use that requires the application of pesticides and herbicides would be very difficult to conduct on the property given the numerous homes located in close proximity to the property. In addition, the creation of dust which accompanies the harvesting of crops is a major concern on this property due to the close proximity residential use.*

**Technological and Energy Inputs Required:**

*According to Mr. Gallagher:*

*“The very shallow and shallow soils and abundant rock outcrops limit practical agricultural crop production on all but about 7 acres out of the 10 acres of Deskamps soils. The Deskamps soils are into four separate delineations that are separated by rocky and shallow soils and rock outcrops and lava tubes as well as irrigation ditches. **The landscape***



*is so cut up it is impractical to farm* [emphasis added by applicant]. *The best case scenario for crop production is for an area approximately seven acres along the north edge of the parcel that is spotted with rock outcrops and is of a very irregular shape. This area could at most produce about 28 tons of alfalfa under high fertilizer inputs and high irrigation water inputs. Current hay prices are from \$200.00 to \$250.00 per ton which would give an annual gross of about \$5,600.00 to \$7,000.00, before expenses. After expenses are deducted for land costs, site preparation, planting, costs of production like irrigation, fertilizer, weed control, costs of harvest including swath, rake, and bale, stack, and costs of handling, storage and marketing there would be **no profit associated with producing hay crops on such a small area*** [emphasis added by applicant]."

**Accepted Farming Practices:**

*Farming lands comprised of soils that are predominately Class 7 and 8 is not an accepted farm practice in Central Oregon. Dryland grazing, the farm use that can be conducted on the poorest soils in the County, typically occurs on Class 6 non-irrigated soils that have a higher soils class if irrigated. The applicant would have to go above and beyond accepted farming practices to even attempt to farm the property for dryland grazing. Crops are typically grown on soils in soil class 3 and 4 that have irrigation, which this property has neither.*

The Hearings Officer finds that many of the factors surrounding the subject property, such as the proximity to the Bend city limits, current residential and non-agricultural related land uses in the area, soil fertility, spotty/small areas of Class 3 (irrigated) and Class 6 (non-irrigated) soils, and lack of availability of water rights, result in an extremely low possibility of successful farming on the subject property.

The Hearings Officer finds that the subject property, primarily comprised of Class 7 and 8 soils, is not suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration the soil fertility, suitability for grazing, climactic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy outputs required and accepted farming practices. Substantial evidence in the record supports a determination that the subject property cannot be employed for the primary purpose of obtaining a profit in money through farming-related endeavors, considering the costs of engaging in farm use. *Wetherell v. Douglas County*, 342 Or 666, 160 P3d 614 (2007).

Soils on the subject property can only be made fertile through artificial means, which is cost prohibitive from a profitability standpoint. The subject property is not suitable to grazing on a commercial scale given management limitations and expected low production of suitable vegetation. Climactic conditions result in difficulty for production of most crops. Given the fact that no new irrigation water rights are expected to be available to the COID in the foreseeable future and the poor quality of soils on the subject property, it is unlikely COID would approve a transfer of water rights to the property. Existing land use patterns also limit the suitability of grazing animals on the subject property which is in close proximity to the

City of Bend. A limited, approximately 7-acre portion of the subject property that could, at most, produce 28 tons of alfalfa with high fertilizer and water inputs, would not generate any profit after expenses are deducted for land costs, site preparation, planting and costs of production (irrigation, fertilizer, weed control, cost of harvest and cost of handling storage and marketing). Accepted farm practices in Central Oregon do not include farming lands comprised of soils that are predominantly Class 7 and 8. In order to conduct dryland grazing on the subject property, the applicant would have to take measures beyond accepted farming practices, including attempting to obtain a water rights transfer.

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

**FINDING:** The applicant offers the following response in the submitted burden of proof statement:

*The subject property is not land necessary to permit farm practices to be undertaken on adjacent or nearby lands. The nearest agriculturally zoned land engaged in farm use to the subject property is located northeast on tax lot 18-12-02-201. This property is a 53.30-acre farm parcel that is irrigated and engaged in hay production, receiving farm tax deferral, and developed with a dwelling and outbuildings. The farm operations on tax Lot 201 operate independently and are not dependent upon the subject property to conduct its farm practices. This is evidenced by the subject property being owned by the applicant since 1930 and has never been farmed, much less combined with tax lot 201 in any way for agricultural purposes. Farming operations on tax lot 201 will be able to continue to occur if the subject property is rezoned to MUA-10. Further, the poor quality soils and lack of irrigation are not suited to agricultural production and make the subject property unsuitable for farm practices on the nearby agricultural land.*

The Hearings Officer finds the subject property is not necessary for the purposes of permitting farm practices on the nearby Tax Lot 201 (Assessor’s Map 18-12-02) based on the factors discussed in the previous finding.

**(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 applicant provided the following response in the submitted burden of proof statement:

*The subject property is not and has not been a part of a farm unit that includes other lands not currently owned by the applicant. The property has no history of farm use and contains soils that make it unsuitable for farm use and therefore, no basis to inventory the subject property as agricultural land.*

*Goal 3 applies a predominant soil type test to determine if a property is "agricultural land". If a majority of the soils is Class 1-6 in in Central or Eastern Oregon, it must be classified "agricultural land." 1000 Friends position is that this is a 100% Class 7 -8 soils test rather than a 51% Class 7 and 8 soils test because the presence of any Class 1-6 soil requires the County to identify the entire property "agricultural land." Case law indicates that the Class 1 -6 soil test applies to a subject property proposed for a non-agricultural plan designation while the farm unit rule looks out beyond the boundaries of the subject property to consider how the subject property relates to lands in active farming in the area that were once a part of the area proposed for rezoning. It is not a test that requires that 100% of soils on a subject property be Class 1-6.*

*The farm unit rule is written to preserve large farming operations in a block. It does this by preventing property owners from dividing farmland into smaller properties that, alone, do not meet the definition of "agricultural land." The subject property is not formerly part of a larger area of land that is or was used for farming operations and was then divided to isolate poor soils so that land could be removed from EFU zoning. As demonstrated by the historic use patterns and soils reports, it does not have poor soils adjacent to or intermingled with good soils within a farm unit. The subject property is not in farm use and has not been in farm use of any kind. It has no history of commercial farm use and contains soils that make the property generally unsuitable for farm use as the term is defined by State law. It is not a part of a farm unit with other land.*

*The subject property is predominately Class 7 and 8 soils and would not be considered a farm unit itself nor part of a larger farm unit based on the poor soils and the fact that none of the adjacent property is farmed.*

*As shown by the soils capability study by Mr. Gallagher, the predominant soil type found on the subject property is Class 7 and 8, nonagricultural land (63.7%). The predominance test says that the subject property is not agricultural soil and the farm unit rule does not require that the Class 7-8 soils that comprise the majority of the subject property be classified as agricultural land due to the presence of a small amount of Class 1-6 soils on the subject property that are not employed in farm use and are not part of a farm unit. As a result, this rule does not require the Class 7 and 8 soils on the subject property to be classified agricultural land because a minority of the property contains soils rated Class 6.*

The Hearings Officer finds that there are no bases on which to find that the subject property shall be inventoried as agricultural lands under this criterion. The property does not relate to land in active farming, and there are no parcels in the area that were once part of the subject property. A majority of the soils (63.7%) are not Class 1-6. Therefore, under the predominance test, the subject property is not agricultural. The farm unit rule does not mandate a different result. The subject property is not employed in farm use and is not now, nor in the past, part of 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. The Hearings Officer finds this criterion is inapplicable.

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).**

**FINDING:** The applicant addressed the factors in OAR 660-033-0020(1) above. As the Hearings Officer has found herein, the property is not "agricultural land," as referenced in OAR 660-033-0030(1), and contains barriers for farm use including poor quality soils and lack of irrigation.

The Hearings Officer finds that substantial evidence in the record shows the subject property is not "agricultural land" because the property is predominantly Class 7 and 8 soils. As the Hearings Officer found above, the subject property is not necessary to permit farm practices to be undertaken on adjacent or nearby lands.

- (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 finds that evidence in the record, including examination of lands outside the boundaries of the subject property, shows the subject property is not “agricultural land.” Substantial evidence shows that the subject property is not suitable for farm use and is not necessary to permit farm practices to be undertaken on adjacent or nearby lands.

- (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 soil study prepared by Mr. Gallagher (Exhibit 5) provides more detailed soils information than contained in the NRCS Web Soil Survey. Exhibit 5 includes the Soil Assessment Completeness Review conducted by DLCD pursuant to OAR 660-033-0045(6)(a), dated February 12, 2021, confirming the report prepared by Mr. Gallagher meets the requirements for agricultural soils capability reporting.

Mr. Gallagher’s soils assessment report provides a high intensity Order-1 soil survey and soil assessment – a detailed and accurate soils assessment on the subject property based on numerous soil samples – to determine if the subject property is “agricultural land” within the meaning of OAR 660-033-0020. As explained in Mr. Gallagher’s report, the NRCS soil map of the subject property shows two general soil mapping units, 58C and 36A. The more detailed Order-1 survey conducted by Mr. Gallagher included 41 soil test pits, in addition to observations of surface rock on the parcel. The results of the previous and revised soils mapping units with land capability class are provided in **Table 1** below.

The soils report is related to the NCRS Land Capability Classification (LCC) system that classifies soils class 1 through 8. An LCC rating is assigned to each soil type based on rules provided by the NRCS. The soils report provides more detailed soils information than contained on the Web Soil Survey operated by the NRCS, which provides general soils data at a scale generally too small for detailed land use planning and decision making.

The NRCS mapping for the subject property is shown below in **Figure 1**. According to the NRCS Web Soil Survey tool, the property contains approximately 33.7% 36A soil and contains 66.3% 58C soil. The soils study conducted by Mr. Gallagher finds the soil types on the subject

property vary from the NRCS identified soil types. The soil types described by Mr. Gallagher (as quoted from Exhibit 5) and the characteristics and LCC rating are shown in **Table 1** below.

**GR Gosney-Rock Outcrop Complex**

**Capability Class:** 7 and 8 mapped as complex

*These soils are mapped together in a complex because both components are Capability Class 7 or greater, and it was not practical to map them separately. These soils are estimated to be about 25 percent Rock Outcrop and 75 percent Gosney. They have lower productivity than NRCS map unit 38B because they do not contain a mappable area of Deskamp soils that were mapped separately. The productivity reported in Table 2 for Gosney-Rock Outcrop are 20 percent less than the 58C map unit to account for more shallow and very shallow soils in the GR map unit in the revised map unit. Based on the observations here, the map unit is about 40 percent very shallow soils, 35 percent Gosney soils, and 25 percent rock outcrops.*

**Gosney loamy sand and stony loamy sand (0 to 15 percent slopes)**

**Description:** *Gosney series consists of shallow (10 to 20 inches) to hard basalt bedrock, somewhat excessively drained soils on lava plains. These soils have rapid permeability. They formed in volcanic ash over hard basalt bedrock. Slopes are 0 to 15 percent. The mean annual precipitation is less than 12 inches, and the mean annual temperature is about 45 degrees F.*

**Capability Class:** 7

**Soil Variability:** *Depth to bedrock is from surface exposures of bedrock to 20 inches depth. There may be small inclusions of soils like Deskamp that are moderately deep (>20 inches to 40 inches). Many of the pedons are very stony. This unit includes very shallow soils <10 inches.*

**Very shallow phase 0-15 percent slopes**

**Description:** *This component of the complex is less than 10 inches to basalt.*

**Capability Class:** 7

**Soil Variability:** *Depth to bedrock is from 1 to 10 inches. These soils are very shallow and of similar parent material to Gosney. These soils have lower available water holding capacity and an estimated 40 percent lower productivity.*

**Rock Outcrop (0 to 15 percent slopes)**

**Description:** *This part of the map unit is areas where bedrock is at the surface.*

**Capability Class: 8**

**Soil Variability:** *In places, rocks are right at the surface and often times bedrock is standing several feet above the surface of the adjacent soils. In some areas (borings 39-41) there is rimrock, large boulders and other surface stone where suspected lava tubes collapsed.*

**Dk Deskamp loamy sand**

**Description:** *This map unit is mainly moderately deep, somewhat excessively drained soils with rapid permeability on lava plains. These soils formed in ash and have hard basalt at 20 to 40 inches. Slopes are 1 to 15 percent. The A and AB horizon are loamy sand. The 2B is loamy sand and gravelly loamy sand. The NRCS soils survey mapped Deskamp and Gosney in a complex described as 50% Deskamp and 35% Gosney. In this Dk unit I delineated the Deskamp component of the former complex and mapped it as a consociation based on more detailed soil sampling than the NRCS soil survey. This soil covers approximately 11 acres of the parcel and is broken up into several small delineations two of which are less than an acre. These small and isolated areas are impractical to farm. The largest delineation is 8.5 acres and has at least three areas of rock outcrop that were delineated within.*

**Capability Class:** *3-irrigated and 6 non-irrigated*

**Soil Variability:** *There are small inclusions of rock outcrop and of deep soils with sandy skeletal family. Any rock outcrop I observed in the field was delineated from the Deskamp unit, but because not all rock outcrops could be resolved at the one boring per acre average sampling intensity, given the brushy conditions.*

**CN Irrigation Canals**

**Description:** *These canals are non-soil areas that consist of water and steep banks. When canals are dry they are hard rock bottom.*

**Capability Class:** *Not Rated*

Based on Mr. Gallagher’s qualifications as a certified Soil Scientist and Soil Classifier, the Hearings Officer finds the submitted soil study to be definitive and accurate in terms of site-specific soil information for the subject property. The state’s agricultural land rules, OAR 660-033-0030, allow the County to rely on the soil capability analysis prepared by Mr. Gallagher, which is more detailed than the NRCS soil maps and soil surveys and the Web Soil Survey operated by the NRCS as of January 2, 2012. The Hearings Officer finds that the Order-1 soil survey is related to the NRCS land capability classification system.

The Hearings Officer finds that the more detailed soils information in the report prepared by Mr. Gallagher assists the County to make a better determination of whether the subject property qualifies as agricultural land. As set forth above, DLCD completed a Soil Assessment Completeness Review pursuant to OAR 660-033-0045(6)(a), confirming the report prepared by Mr. Gallagher meets the requirements for agricultural soils capability reporting.

For all the foregoing reasons, the Hearings Officer finds the subject property is not "agricultural land,"

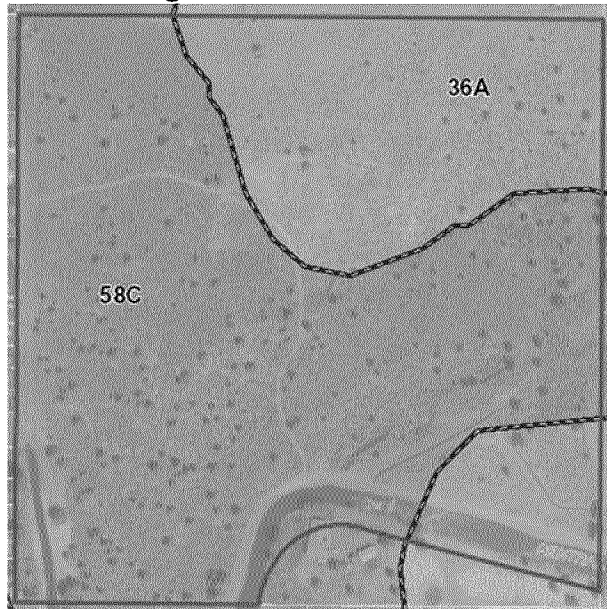
**Table 1 - Summary of Order I Soil Survey**

Previous Map Symbol	Revised Map Symbol	Soil Series Name	Capability Class	Previous Map*		Revised Map	
				Ac	-%-	Ac	-%-
36A	Dk	Deskamp loamy sand0 to 3 percent slopes	3 irrigated 6 non-irrigated	12.2	32.3	10.9	28.90
58C	--	Gosney-Rock outcrop-Deskamp complex, 0 to 15 percent slopes	6, 7 and 8	25.5	67.7	0	0
--	GR	Gosney-Rock Outcrop Complex	7 and 8	0	0	24	63.7
	CN	Irrigation Canal	not rated	0	0	2.8	7.4
Total				37.7	100	37.7	100

\*Soils that were previously mapped as components of a complex that are mapped as consociations in revised map.



**Figure 1 - NRCS Soil Data**



- (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 applicant is seeking approval of a non-resource plan designation on the basis that the subject property is not defined as 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 soils study by Mr. Gallagher of Red Hill Soils dated December 2, 2020. The soils study was submitted following the ORS 215.211 effective date. Staff received acknowledgement via email on February 16, 2021, from Hilary Foote, Farm/Forest Specialist with the DLCDC that the soils study is complete and consistent with DLCDC’s reporting requirements.

The Hearings Officer finds this criterion to be met based on the submitted soils study and confirmation of completeness and consistency from DLCDC.

- (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 soils study as well as NRCS soils data. The Hearings Officer finds that the applicant has complied with the soils analysis requirements of OAR 660-033-0045 in order to obtain DLCD certification. DLCD’s certification establishes compliance with OAR 660-033-0045.

The Hearings Officer finds this criterion is met.

**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:** As referenced in the agency comments section in the Findings of Fact above, the Senior Transportation Planner for Deschutes County initially requested a revised traffic study for the applications. The applicant submitted an updated report from Transight Consulting LLC dated June 8, 2021, to address identified concerns and no further comments were received from the County’s Senior Transportation Planner. The update includes adjustments to the review of potential high impact land use scenarios to include comparisons between a winery and a cluster development, deemed the “worst case scenario” outright uses allowed in EFU and MUA10 Zones, respectively.

In response to these criteria, the applicant’s burden of proof provides the following statement:

*Attached as Exhibit 9 is a transportation impact analysis memorandum prepared by traffic engineer, Joe Bessman, PE. Mr. Bessman made the following key findings with regard to the proposed zone change and concluded that a significant affect does not occur with the proposed rezone:*

- Rezoning of the 36.65-acre COID property from EFU-TRB to MUA could generate up to 49 additional weekday daily trips, including only five additional trips during the weekday p.m. peak hour.*
- The change in trips does not meet Deschutes County, ODOT, or City of Bend thresholds of significance at any nearby locations.*
- The site will be served with stubbed local street connections west through the Marketplace Subdivision that connect to the SE 27<sup>th</sup> Street corridor. This access configuration does not impact Deschutes County streets.*
- The nearest classified intersection of SE 27<sup>th</sup> Street/SE Reed Market Road has a very low crash rate. There are no documented safety needs within the project vicinity.*

*Based on this review a significant affect does not occur with the proposed rezone given the minor potential impacts in transitioning from EFU to MUA zoning.*

*Based on the traffic analysis and findings by Mr. Bessman, the application complies with the TPR.*

Updated findings below, submitted by Transight Consulting on June 8, 2021, are set forth in the revised traffic study:

- *Rezoning of the 36.65-acre COID property from EFU-TRB to MUA provides similar potential impacts to the existing zoning, with the potential for a trip reduction within a “worse case” trip generation scenario.*
- *The reduction in trips does not meet Deschutes County, ODOT, or City of Bend thresholds of significance at any nearby locations.*
- *The site will be served with stubbed local street connections west through the adjacent Marketplace Subdivision that connect to the SE 27<sup>th</sup> Street corridor. This access configuration does not impact Deschutes County streets.*
- *The nearest classified intersection of SE 27<sup>th</sup> Street/SE Reed Market Road has a very low crash rate. There are no documented safety needs within the project vicinity.*

*Based on this review a significant affect does not occur with rezoning from EFU to MUA zoning. With the range of outright allowable uses identified within ORS 215.213(1) and 215.283(1) as a “property right” additional trip generation scenarios could be shown resulting in a trip reduction. Regardless of the scenario, the overall impact of the rezone is negligible on the transportation system and the rezone reflects the more appropriate use of the property given its unsuitability for farming.*

Public comments received by the County indicate concerns with potential traffic impacts as a result of the proposed plan amendment and zone change. These comments are non-specific in nature, do not include any findings contrary to the findings set forth in the Transight Consulting, LLC analyses, and do not include any information that is inconsistent with the Transight Consulting, LLC’s reports. Public comments express a generalized concern about traffic impacts associated with additional growth if the subject property is developed. The Hearings Officer notes that additional transportation/traffic review will be required at the time of any future development application(s).

The Hearings Officer finds that the proposed rezone will not significantly affect an existing or planned transportation facility for the following reasons: (1) it will not change the functional classification of an existing or planned transportation facility; (2) it will not change standards implementing a functional classification system; and (3) it will not result in any of the following effects – types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility, degradation of the performance of an existing or planned transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan, or degradation of the performance of an existing or planned transportation facility that is otherwise projected not to meet performance standards identified in the TSP or comprehensive plan.

The Hearings Officer finds that, based on OAR 660-012-060(1), the County is not required to put in place measures as provided in Section (2) of this rule. The applicant has demonstrated compliance with the TPR. These criteria are met.

**DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES**

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

**FINDING:** The Statewide Planning Goals are addressed below, as set forth in the applicant's burden of proof:

**Goal 1, Citizen Involvement.** *Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the applicant to post a "proposed land use action sign" on the subject property. Notice of the public hearings held regarding this application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.*

**Goal 2, Land Use Planning.** *Goals, policies, and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.*

**Goal 3, Agricultural Lands.** *The applicant has shown that the subject property is not agricultural land because it is comprised predominantly of Class 7 and 8 soils that are not suitable for farm use. Therefore, the proposal is consistent with Goal 3.*

**Goal 4, Forest Lands.** *Goal 4 is not applicable because the subject property does not include any lands that are zoned for, or that support, forest uses.*

**Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** *Deschutes County DIAL property information and Interactive Map show the subject property has "wetlands" that correspond with COID's irrigation distribution system within the property including the developed canals and ditches. According to the Comprehensive Plan (Chapters 2, Resource Management and 5, Supplemental Sections), in 1992 Deschutes County Ordinance 92-045 adopted all wetlands identified on the U.S. Fish and Wildlife Service National Wetland Inventory (NWI) Maps as the Deschutes County wetland inventory. In addition, as described in the Comprehensive Plan, the NWI Map "shows an inventory of wetlands based on high-altitude aerial photos and limited field work. While the NWI can be useful for many resource management and planning purposes, its small scale, accuracy limitations, errors of omission that range up to 55 percent (existing wetlands not shown on NWI), age (1980s), and absence of property boundaries make it unsuitable for parcel-based decision making."*

*The Comprehensive Plan has no specific protections for wetlands; protections are provided by ordinances that implement Goal 5 protections (for example, fill and removal zoning code regulations). In the case of Irrigation Districts performing work within wetlands, DCC*

18.120.050(C) regarding Fill and Removal Exceptions allows fill and removal activities as a use permitted outright as stated below:

- C. Fill and removal activities conducted by an Irrigation District involving piping work in existing canals and ditches within wetlands are permitted outright.

*Because the proposed plan amendment and zone change are not development, there is no impact to any Goal 5 resource. Any potential future development of a wetland – no matter what zone the wetland is in – will be subject to review by the County’s fill and removal regulations.*

**Goal 6, Air, Water and Land Resources Quality.** *The approval of this application will not impact the quality of the air, water, and land resources of the County. Any future development of the property would be subject to local, state and federal regulations that protect these resources.*

**Goal 7, Areas Subject to Natural Disasters and Hazards.** *According to the Deschutes County DIAL property information and Interactive Map the entire Deschutes County, including the subject property, is located in a Wildfire Hazard Area. The subject property is also located in Rural Fire Protection District #2. Rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation. Any future development of the property would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.*

**Goal 8, Recreational Needs.** *This goal is not applicable because no development is proposed and the property is not planned to meet the recreational needs of Deschutes County. The Bend Parks and Recreation District has an undeveloped park site, Hansen Park, located to the south of the property with plans to develop the park trailhead that would serve the Central Oregon Historic Canal Trail System. The proposed rezone does not impact the recreational needs of Deschutes County as no development is proposed.*

**Goal 9, Economy of the State.** *This goal does not apply to this application because the subject property is not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely affect economic activities of the state or area.*

**Goal 10, Housing.** *The County’s Comprehensive Plan Goal 10 analysis anticipates that farm properties with poor soils, like the subject property, will be converted from EFU to MUA-10 or RR-10 zoning and that these lands will help meet the need for rural housing. Approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County Comprehensive Plan.*

**Goal 11, Public Facilities and Services.** *The approval of this application will have no adverse impact on the provision of public facilities and services to the subject site. Pacific Power has confirmed that it has the capacity to serve the subject property and the proposal will not result in the extension of urban services to rural areas.*

**Goal 12, Transportation.** *The application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.*

**Goal 13, Energy Conservation.** *The approval of this application does not impede energy conservation. The subject property is located adjacent to the city limits for the City of Bend. If the property is developed with residential dwellings in the future, providing homes in this location as opposed to more remote rural locations will conserve energy needed for residents to travel to work, shopping and other essential services provided in the City of Bend.*

**Goal 14, Urbanization.** *This goal is not applicable because the applicant’s proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The MUA-10 Zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The compliance of this zone with Goal 14 was recently acknowledged when the County amended its comprehensive plan. The plan recognizes the fact that the MUA-10 and RR zones are the zones that will be applied to lands designated Rural Residential Exception Areas.*

**Goals 15 through 19.** *These goals do not apply to land in Central Oregon.*

The Hearings Officer finds consistency with Goal 1 (Citizen Involvement) has been established with the public notice requirements required by the County for these applications (mailed notice, posted notice and two public hearings). Similarly, the Hearings Officer finds consistency with Goal 2 (Land Use Planning) based on the applications’ consistency with goals, policies and processes related to zone change applications as set forth in the Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code.

Based on the findings above, the Hearings Officer finds consistency with Goal 3 (Agricultural Lands) has been demonstrated because the subject property is not Agricultural Land. The property is not comprised of Forest Lands; Goal 4 is inapplicable.

With respect to Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces), the Hearings Officer finds that the property does not include any scenic and historic areas. Moreover, while the property is currently open and undeveloped, the County Goal 5 inventory does not include the subject property as an “open space” area protected by Goal 5. Members of the public expressed concern regarding potential impact on wildlife. However, the Hearings Officer notes that the property does not include a wildlife overlay (WA)

designation and, more importantly, no development is proposed at this time. Rezoning the subject property will not, in and of itself, impact wildlife on the subject property.

The property does include areas mapped as wetlands by the NWI, which constitute Goal 5 natural resources. Fill and removal activities conducted by an irrigation district are allowed outright under DCC 18.120.050(C). The Hearings Officer again notes that no specific development activities, including fill and removal, is proposed at this time. Because the proposed plan amendment and zone change do not constitute development, there is no impact to any Goal 5 resource. The Hearings Officer finds that future development activities will be subject to local, state and federal regulations that protect delineated wetlands. For these reasons, the Hearings Officer finds consistency with Goal 5.

The Hearings Officer finds consistency with Goal 6 (Air, Water and Land Resources Quality) because there is no demonstrable impact of approval of the application to rezone the subject property from EFU to MUA-10. Future development activities will be subject to local, state and federal regulations that protect these resources.

With respect to Goal 7 (Areas Subject to Natural Disasters and Hazards), the Hearings Officer finds consistency with this Goal based on the fact that rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation that is applicable to the entirety of Deschutes County. The subject property is within the Rural Fire Protection District #2. Any application(s) for future development activities will be required to demonstrate compliance with fire protection regulations.

The Hearings Officer finds consistency with Goal 8 (Recreational Needs) given the fact that no development is currently proposed and that rezoning, in and of itself, will not impact recreational needs of Deschutes County. Members of the public testified regarding concerns of loss of the currently vacant property as open space and for recreational uses. The Hearings Officer notes that the record includes evidence regarding an undeveloped Bend Park and Recreation District park site, Hansen Park, located to the south of the property. There are plans to develop a park trailhead that would serve the Central Oregon Historic Canal Trail System. The Hearings Officer finds that the proposed rezone does not impact these recreational amenity plans.

The Hearings Officer finds Goal 9 (Economy of the State) is inapplicable because the subject property is not designated as Goal 9 economic development land.

The Hearings Officer finds the applications are consistent with Goal 10 (Housing) because the Comprehensive Plan Goal 10 chapter anticipates that farm properties with poor soils will be converted from EFU to MUA-10 or RR-10 zoning, making such properties available to meet the need for rural housing. Although no development of the subject property is proposed at this time, rezoning the subject property from EFU to MUA-10 will enable consideration of the property for potential rural housing development in the future.



The Hearings Officer finds the applications are consistent with Goal 11 (Public Facilities and Services). The record establishes that Pacific Power has capacity to serve the subject property and the proposal will not result in the extension of urban services to rural areas.

Based on the findings above regarding the Transportation System Planning Rule, OAR 660-012-0060, the Hearings Officer finds the applications are consistent with Goal 12 (Transportation).

The Hearings Officer finds the applications are consistent with Goal 13 (Energy Conservation) because there is no evidence approval of the applications will impede energy conservation. Rather, if the property is developed with residential dwellings in the future, energy conservation will be increased – not impeded – as residents will not be required to travel as far to work, shopping and other essential services provided in the City of Bend.

The Hearings Officer finds the applications are consistent with Goal 14 (Urbanization). The subject property is not within an urban growth boundary and does not involve urbanization of rural land because the MUA-10 zone does not include urban uses as permitted outright or conditionally. The MUA-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The state acknowledged compliance of the MUA-10 zone with Goal 14 when the County amended its comprehensive plan.

The Hearings Officer finds that Goals 15-19 do not apply to land in Central Oregon.

For all the foregoing reasons, the Hearings Officer finds compliance with the applicable Statewide Planning Goals has been demonstrated.

**IV. DECISION & RECOMMENDATION**

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer finds the applicant has met the burden of proof necessary to justify the request for a Comprehensive Plan Map Amendment to re-designate the subject property from Agriculture to Rural Residential Exception Area and a corresponding request for a Zone Map Amendment (Zone Change) to reassign the zoning of the subject property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

The Deschutes County Board of Commissioners is the final local review body for the applications before the County. DCC 18.126.030. The Hearings Officer recommends approval of the applications based on this Decision of the Deschutes County Hearings Officer.



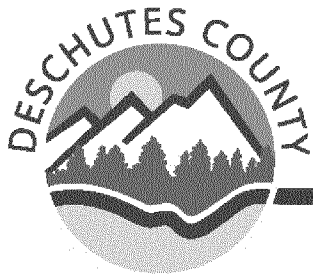
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Stephanie Marshall, Deschutes County Hearings Officer

Dated this \_\_12th\_\_ day of October, 2021

Mailed this 13<sup>th</sup> day of October, 2021

owner	agent	inCareOf	address	cityStZip	type	cdd id
Central Oregon Irrigation District			1055 SW Lake Ct	Redmond, OR 97756	HO Decision	21-400-PA, 401-ZC
Tia M. Lewis	Schwabe, Williamson & Wyatt, P.C.		360 SW Bond Street, Suite 500	Bend, OR 97702	HO Decision	21-400-PA, 401-ZC
Joe Bessman	Transight Consulting		Via Email		HO Decision	21-400-PA, 401-ZC



COMMUNITY DEVELOPMENT

**NOTICE OF HEARINGS OFFICER'S DECISION**

The Deschutes County Hearings Officer has approved the land use application(s) described below:

- FILE NUMBERS:** 247-21-000400-PA, 401-ZC
- LOCATION:** The subject property has an assigned address of 61781 Ward Rd, Bend, OR 97702; and is identified on the County Assessor's Map No. 18-12-02, as Tax Lot 1000.
- OWNER/  
APPLICANT:** Central Oregon Irrigation District (COID)
- ATTORNEY  
FOR APPLICANT:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702
- SUBJECT:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the property from Agricultural (AG) to Rural Residential Exception Area (RREA). The applicant also requests approval of a corresponding Zone Change to rezone the property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).
- STAFF CONTACT:** Tarik Rawlings, (541) 317-3148, [tarik.rawlings@deschutes.org](mailto:tarik.rawlings@deschutes.org)
- RECORD:** Record items can be viewed and downloaded from:  
[www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)
- APPLICABLE CRITERIA:** The Hearings Officer reviewed this application for compliance against criteria contained in Chapters 18.04, 18.16, 18.32 and 18.136 in Title 18 of the Deschutes County Code (DCC), the Deschutes County Zoning Ordinance, the procedural requirements of Title 22 of the DCC, Chapters 2, 3 and Appendix C of the Deschutes County Comprehensive Plan, Divisions 6, 12, 15, and 33 of the Oregon Administrative Rules (OAR) Chapter 660, and Chapter 215.211 of the Oregon Revised Statutes.

**DECISION:** The Hearings Officer finds that the application meets applicable criteria, and recommends approval of the applications.

*As a procedural note, the hearing on August 31, 2021, was the first of two required de novo hearings per DCC 22.28.030(c). The second de novo hearing will be heard in front of the Board of County Commissioners at a date to be determined.*

**This decision becomes final twelve (12) days after the date mailed**, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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

owner	agent	inCareOf	address	cityStZip	type	cdd id
Central Oregon Irrigation District			1055 SW Lake Ct	Redmond, OR 97756	HO NOD	21-400-PA, 401-2C
Tia M. Lewis	Schwabe, Williamson & Wyatt, P.C.		360 SW Bond Street, Suite 500	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Joe Bessman	Transight Consulting		Via Email		HO NOD	21-400-PA, 401-2C
Kecia Weaver			21435 Modoc Lane	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Patrick McCoy			21435 Modoc Lane	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Matt Carey			61765 Gibson Drive	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Jeff Sundberg			61710 Gibson Drive	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Kyle Weaver			61375 Kobe St	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Treva Weaver			1020 SE Teakwood Dr	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
John Schaeffer			61677 Thunder Road	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Cathy DeCoursey			61718 Rigel Way	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Jennifer Neil			61723 Rigel Way	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Brent N. Wilkins			61764 SE Camellia Street	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
Crystal Garner			21262 Capella Pl	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
William Kepper			12167 Daylily Ave	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
BEND FIRE DEPT.	LARRY MEDINA		1212 SW SIMPSON, SUITE B	Bend, OR 97702	HO NOD	21-400-PA, 401-2C
BEND GROWTH MANAGEMENT DEPT.			709 NW WALL ST., STE. 102	Bend, OR 97701	HO NOD	21-400-PA, 401-2C
BEND PLANNING DEPT.			P.O. BOX 431	Bend, OR 97709	HO NOD	21-400-PA, 401-2C
BEND PUBLIC WORKS DEPT.			575 NE 15TH ST.	Bend, OR 97701	HO NOD	21-400-PA, 401-2C
DESCHUTES CO. ASSESSOR	PETER RUSSELL		ELECTRONIC		HO NOD	21-400-PA, 401-2C
DESCHUTES CO. SR. TRANS. PLANNER			ELECTRONIC		HO NOD	21-400-PA, 401-2C
ODOT REGION 4 PLANNING			63055 N. HWY. 97, BUILDING M	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
HAROLD K MARKEN REV TRUST ETAL	MARKEN, HAROLD K CO-TTEE ETAL		21485 BEAR CREEK RD	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
WEST, KEVIN & JENNIFER			PO BOX 1923	BEND, OR 97709	HO NOD	21-400-PA, 401-2C
QUICK, MICHAEL HAROLD & DELORES MARIE OCCUPANT			21374 STEVENS RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MORRISON, DAVID I & NANCY L			61710 GIBSON DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
FERN, TIMOTHY J & RONDA L HALVORSEN-CAREY, MATTHEW A & SHARI A			21415 MODOC LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MCCOY, PATRICK E			61730 GIBSON DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WARRENBURG FAMILY LIVING TRUST	WARRENBURG, ROBERT JR & LAURA TTEES		61765 GIBSON DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
NELSON, HARRY R			21435 MODOC LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HARRELL, JILL KINGHAM			61740 GIBSON DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LAKE, JAMES E & JANET M			21485-A MODOC LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BAILEY-SCHAEFFER TRUST	BAILEY, PATTI L & SCHAEFFER, JOHN M TTEES		61676 THUNDER RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
NASLUND, JULIE & NEVILL, MICHAEL			61661 THUNDER RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PETERS, ROBERT W & USA M			61677 THUNDER RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LUCAS FAMILY REV LIVING TRUST	LUCAS, GERALD & MARGARET TTEES		61645 THUNDER RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PASLAY, BRIAN & NANCY			21360 STEVENS RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BEND METRO PARKS & RECREATION DIST			21390 STEVENS RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LARSEN, MICHAEL ETAL			21370 STEVENS RD	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SOCKEYE E LLC ETAL			799 SW COLUMBIA ST	BEND, OR 97702-3218	HO NOD	21-400-PA, 401-2C
RASMUSSEN, MONIQUE & RICHARD WOLF, DAVID G			10927 SW MATZEN DR	WILSONVILLE, OR 97070	HO NOD	21-400-PA, 401-2C
CARR, BRUCE			61165 RIVER BLUFF TRAIL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LOUIS G ROGERSON & JANICE M ROGE... ETAL	ROGERSON, JANICE M TRUSTEE ETAL		61195 BONNY BRIDGE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GROVE, HILARY VERONICA			PO BOX 5807	BEND, OR 97708	HO NOD	21-400-PA, 401-2C
KEPPER, WILLIAM EDSON & KAREN GRACE			21265 SE DOVE LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TILTON, PATRICIA J & CHRISTOPHER L			21280 DOVE LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
NORMAN, JENNIFER & PAUL			21273 DAYLILY AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TUTTLE/GALOTTI REVOCABLE LIVING TRUST	TUTTLE, CRAIG H TTEE ETAL		21267 DAYLILY AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SWAFFORD FAMILY TRUST	SWAFFORD, MATTHEW J & JEANETTE E TTEES		21261 DAYLILY AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
FEUERMAN, JACOB & MATHENY, ELISSA			21255 DAYLILY AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ARBAUGH, KYLE			61757 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MCCOUSTON, ROBIN SUE & KEVIN JAMES			61753 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LEONG, KIRBY C W & LYNN Y			21257 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
VON ZANGE, SCOTT A			21261 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BODI, AMY & DAVID			19882 PORCUPINE DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LOPEZ, RONALD L & LAURA MARIE		C/O LAURA LOPEZ	1044 KAMEHAME DR	HONOULULU, HI 96825	HO NOD	21-400-PA, 401-2C
BETTENCOURT LIVING TRUST	BETTENCOURT, JOHN & SANDRA J TTEES		21297 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
OLSON, TIMOTHY J			21250 WOODRUFF PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PEPPER, CLIVE & SUSAN			PO BOX 1492	GRANTS PASS, OR 97528	HO NOD	21-400-PA, 401-2C
JOHNSON, ALLEN H			587 STONE CORRAL CT	ANGELS CAMP, CA 95222	HO NOD	21-400-PA, 401-2C
KATHERINE JAMPOL CROWE REV LIV TRUST	CROWE, KATHERINE JAMPOL TTEE		21262 WOODRUFF PL	BEND, OR 97702-3601	HO NOD	21-400-PA, 401-2C
EAST BEND PLAZA LLC			21266 WOODRUFF PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SUE, MARK & KARI			21270 WOODRUFF PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
VREM FAMILY TRUST	VREM, RICHARD C & SANDRA J TTEES		21274 WOODRUFF PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PATTERSON, NICOLAS F & MEHTA, SMITA R			3188 N HIGHWAY 97 #101	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
KENNELLEY, KEVIN S & TRACY L			21298 SE WOODRUFF PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PREWITT, KURTUS S			1310 DIAMOND DR	ARCATA, CA 95521	HO NOD	21-400-PA, 401-2C
GARDENSIDE HOME OWNERS ASSOC			61710 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BURKE, BRENDA N ETAL			61706 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
DISPENZA JUDITH ANN			61702 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
STAVRO, CRISTINA NICOLE			PO BOX 23099	TIGARD, OR 97281-3099	HO NOD	21-400-PA, 401-2C
BLAIR, COURTNEY L			4931 DELOS WAY	OCEANSIDE, CA 92056	HO NOD	21-400-PA, 401-2C
PHYLLIS H MEDNICK TRUST	MEDNICK, PHYLLIS H TTEE		322 BUCHANON	HOLLYWOOD, FL 33019	HO NOD	21-400-PA, 401-2C
JDD PROPERTIES LLC			61708 SE MARGOLD LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CHARLES P LARSON SOLE PROP 401K PLAN	LARSON, CHARLES P & LAURIE P TTEES		61712 MARGOLD LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
NEIL, JENNIFER			61705 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BOATWRIGHT, STEVEN F & PAMELA F			2463 NW MORNINGWOOD WAY	BEND, OR 97703-7022	HO NOD	21-400-PA, 401-2C
CHERKOSS, ARNE I & LAUREL A			270 VISTA RIM DR	REDMOND, OR 97756	HO NOD	21-400-PA, 401-2C
CATHY DE COURCEY TRUST	DE COURCEY, CATHERINE L TRUSTEE		61723 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
JOHNSON- GOODMAN REVOCABLE FAM TR	JOHNSON, GEORGE H TRUSTEE ETAL		61712 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LEAGELD, DAVID S & RUTH M			61718 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ROGERS, LANI			61724 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GAYLA S CHAMBURG TRUST	SCHAMBURG, GAYLA L TTEE		61730 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GIBSON, SALLY J			61742 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
DICKINSON, SANDRA			61748 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MOTT, BRIAN H ETAL			61754 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BEND PARKS & RECREATION DIST			61760 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
OCCUPANT			3311 NW MORNINGWOOD CT	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
BERMUDEZ, GUILLERMO J & ALICIA F		C/ DESCHUTES COUNTY SHERIFF'S OFFICE	799 SW COLUMBIA ST	BEND, OR 97702-3218	HO NOD	21-400-PA, 401-2C
MCCLUNG, DONNA S			63333 HWY 20 W	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
CARROLL, DAVID L & SPONGBERG, CAROL A			9855 NW SKYLINE HEIGHTS DR	PORTLAND, OR 97229	HO NOD	21-400-PA, 401-2C
SLATER, BARBARA F & SLATER, DEBRA M			21254 LILY WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GARDENSIDE HOME OWNERS ASSOC			61707 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
JUDITH K WHITEHEAD REVOCABLE TRUST	WHITEHEAD, JUDITH K TTEE		61703 CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HEBREW 135 LLC			PO BOX 23099	TIGARD, OR 97281-3099	HO NOD	21-400-PA, 401-2C
GRAEBER, ALYSSA			61703 TULIP WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HANSEN, KAREN			21810 PALOMA DR	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
BOBBY & USA BYRD REVOCABLE TRUST	BYRD, BOBBY R & LISA N TTEES		14936 SE GLADSTONE ST	PORTLAND, OR 97236-2441	HO NOD	21-400-PA, 401-2C
ORANGE CAT PROPERTIES LLC			61715 TULIP WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SCHRON, JACQUELINE S & CAMERON			21253 VIOLET LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SHOOP, DANIEL H & KIMBERLY L		C/O JAMES P OLIMSTED, MEMBER (A)	61535 S HIGHWAY 97 #STE 5-604	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BROUGH, THOMAS J			21245 VIOLET LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WELLS, TODD W & EMILY W			21241 VIOLET LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
			21237 VIOLET LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
			61754 DARLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C

ANTONSEN, CHET & SKAAR, THOMAS C		612 NE SAVANNAH DR #3	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
TODD, VICKI & KEVIN		61694 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TODD, VICTORIA & KEVIN		61694 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SEBRING, MILDRED I		20709 TANGO CREEK AVE	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
PARKS, JOHN B & MARLENE A		21285 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BEVERLY E GORDON REV TRUST	GORDON, BEVERLY E TTEE	21281 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PROSSER FAMILY REVOCABLE LIVING TRUST	PROSSER, STEVE JAMES TTEE ETAL	21277 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
COWAN, PAUL VERNON		21273 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WEBB, DARRELL D & LINDA J		471 SW SCHAEFFER RD	WEST LINN, OR 97068	HO NOD	21-400-PA, 401-2C
ROBERT & JOAN FAIRBANKS TRUST	FAIRBANKS, JOAN L TTEE	21268 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GRACIA, CHRISTOPHER E & JILL M		21272 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MOORE, BRIAN A		21276 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MARGARET ANN MOORE IRREVOCABLE TRUST	MOORE, BRIAN TTEE	21276 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
VANBUREN, C LANCE & LORENA KAY		21284 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ENGLUND ESTATES LLC		8300 SW PETERS RD	PORTLAND, OR 97224	HO NOD	21-400-PA, 401-2C
MARSH TRUST	MARSH, WALLACE A JR & ELSIE A TTEES	21261 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WEYBRIGHT FAMILY TRUST	WEYBRIGHT, DANIEL R & BARBARA TTEES	21257 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PENDERGAST, TYLER M & AMY M		21253 STARLIGHT DR	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BOURDAGE, JOSHUA K & MARISA K		21252 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TELLER, STEVEN D & CYNTHIA C		21256 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HAWKINS, LYBE L		21260 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
FERNANDEZ, XIMENA C		1059 NE PARKVIEW CT	BEND, OR 97701-6940	HO NOD	21-400-PA, 401-2C
BOATMAN, SARAH & SCOTT		5170 APELLA ST	KAPAA, HI 96746	HO NOD	21-400-PA, 401-2C
STOCKLAND, ADAM T & SARAH J		21279 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SCHAAF, PHOEBE A		21275 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
THOMAS, DAVID J & COLLEEN A		21271 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HERZOG, MICHAEL E		21267 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
DRYHOLLER LLC		2021 NE 8TH ST	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
GUTIERREZ, TREDE & DYLAN		21259 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BILYEU, JEFFERY DEAN & KAREN		21255 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SMITH, KYLE S ET AL		21251 HURITA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CATAPANO, ERIC A		21250 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TRAN, QUANG P		21254 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HANSEN, DALE A & PAMELA R		21258 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GARNER, JASON & CRYSTAL		21262 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HALE, KRISTAN N & ALEXIS GRACE		21266 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SIEVERSON, PENNY JO		21270 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WHITE, SARA M		11225 SW CYNTHIA CT	BEAVERTON, OR 97008	HO NOD	21-400-PA, 401-2C
ZINNER, JOSHUA P & HILLARY L		21278 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BAERT, CHRISTOPHER & JESSICA L		21282 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BIEL, JESSICA & HOOVER, JEVIN TYLER		61664 RIGEL WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CARMACK, CYNTHIA A		61660 KACI LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
RIDER, GREGORY E & SUZANNE M		21281 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WELLEN, ROBERT & KATHERINE		202 STERLINGTOWN LN	UNION, ME 04862	HO NOD	21-400-PA, 401-2C
CANO, FRANCISCO & MELISSA		21273 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BJORK, CHARLES & PAMELA		21269 CAPELLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CERRUTI, BLAKE C & HEATHER E		61655 GEMINI WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
S&H ANDERSON 1-03 LLC		3214 NE 42ND ST #STE C	VANCOUVER, WA 98663	HO NOD	21-400-PA, 401-2C
TEH, RONNIE W & CAPECE, SONIA		61656 KACI LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LEAHY, BRIAN & KIM K		2949 NW BORDEAUX LN	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
DOUGHMAN, ROBERT J & KATHRYN M		61648 KACI LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
DOWNNEY, SCOTT & DIXIE		PO BOX 782	WILSONVILLE, OR 97070	HO NOD	21-400-PA, 401-2C
PUPO, LUCAS K ET AL		61637 KACI LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
JKC HOMES LLC		PO BOX 25822	EUGENE, OR 97402	HO NOD	21-400-PA, 401-2C
VANBLARIKOM, JEROME BRADLEY ET AL		21285 DAILYLIL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
COLE, PATRICIA RENEE QUINLAN		21279 DAILYLIL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CAFFE, ALEXANDER H ET AL		1358 47TH AVE	SAN FRANCISCO, CA 94122	HO NOD	21-400-PA, 401-2C
ROSENGARTH FAMILY REVOCABLE TRUST	ROSENGARTH, SHARRON G TTEE	21279 DOVE LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CROSSE, STEVEN E & DIMITRIA		21283 DOVE LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ROSENGARTH FAMILY TRUST	ROSENGARTH, TONY J & NANCY A TTEES	21259 CHILLIWACK WAY	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
ANTONSEN, CHET & SKAAR, THOMAS C		62765 POWELL BUTTE HWY	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
SLOCUM, WILLIAM T JR & MECHELLE M		21281 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SPATES, DEMETRIUS C		21273 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WIGGINS, BRITTNEY D		21285 BELLFLOWER PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LEAH SULLIVAN LIVING TRUST ET AL	SULLIVAN, LEAH TTEE	8412 SWEETWATER CIR	HUNTINGTON BEACH, CA 92646	HO NOD	21-400-PA, 401-2C
WEAVER, SANDRA		21278 WOODRUFF PL	BANDON, OR 97411	HO NOD	21-400-PA, 401-2C
RADKEY, ROBERT & HEDDY	BIEBER, BETTY LOU TTEE	PO BOX 1869	BANDON, OR 97411	HO NOD	21-400-PA, 401-2C
BETTY LOU BIEBER TRUST	BIEBER, BETTY LOU TTEE	61727 SE YARROW LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CHARLES & JEANNE CLAWSON FAMILY TRUST	CLAWSON, CHARLES R & JEANNE A TTEES	61719 YARROW LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BRANDENHORST, JOHN D III		61724 MARIGOLD LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ST CLAIR, JULIE		61716 MARIGOLD LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BAR Dong, IRIS M		61703 YARROW LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PATTON, SYDNEY JOAN		61715 YARROW LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
COCCO FAMILY REVOCABLE TRUST	COCCO, CHESTER R & VIRGINIA S TTEES	60350 WINDSONG LN	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WILLIAMS, TROY & VANHORN, CAITLYN		61776 DARLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GAROUTTE, MICHAEL S & FRAZIER, LINDA		61772 DARLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WAYBRIGHT, TREVOR A & JOY A		61768 DARLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
KOCH, DANIEL & LETA		61764 DARLA PL	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ROSENGARTH DEVELOPMENT LLC		21259 CHILLIWACK WAY	BEND, OR 97702-7717	HO NOD	21-400-PA, 401-2C
FLINT, MARIE KAY		61760 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ALEXA DELLINGER TRUST	DELLINGER, ALEXA B TTEE	21286 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ZHU, XIAOGANG & LI, MINGWEI		62977 MARSH ORCHID DR	BEND, OR 97701	HO NOD	21-400-PA, 401-2C
FREDRICKSON, KATIE		21278 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
GREENWALD, JAY A & MARY F		21272 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
SIGNATURE HOMEBUILDERS LLC		PO BOX 1886	BEND, OR 97709	HO NOD	21-400-PA, 401-2C
GERALD S ALVES & EILEEN B ALVES REV TR	ALVES, GERALD S & EILEEN B TTEES	21262 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ZORNADO, BRANDON & SHELLEY		21258 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
BENNETT, BRIAN ET AL		1381 NW TRENTON AVE	BEND, OR 97703	HO NOD	21-400-PA, 401-2C
ROBERT E SAUTER REVOCABLE LIVING TRUST	SAUTER, ROBERT E TTEE	PO BOX 8644	BEND, OR 97708	HO NOD	21-400-PA, 401-2C
GEORGETON, LEE C & KRISTIN J		61793 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MILLS, ROBERT B & GRIFFIN, EMDEN R		61789 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
ROSS FAMILY TRUST	ROSS, PAUL E & EMILY KATHLEEN TTEES	61781 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
RILEY, ANTON & GINA		108 MOFFETT BLVD #C113	MOUNTAIN VIEW, CA 94043	HO NOD	21-400-PA, 401-2C
SHAHVAR, RACHEL NATALIE		61773 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CHOPRA, PANKAJ & ANITA		61769 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
HAUCK, RANDY J & MICHELLE L		5101 BOULDER WAY	YAKIMA, WA 98901	HO NOD	21-400-PA, 401-2C
LEASE, ARIANNA & BRIAN ET AL		61761 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
WILKINS, BRENT N		61764 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LEE, ROBERT ALLAN		61768 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
TED & SUE MIGDAL 2003 REVOCABLE TRUST	MIGDAL, THEODORE N & SUSAN A TTEES	1053 LA GRANDE AVE	NAPA, CA 94558	HO NOD	21-400-PA, 401-2C
KRUKEMEYER, MARY		61776 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
MCCULLOUGH, KATHRINE ANNE		61780 SE CAMELLIA ST	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
LL GARDNER LLC		61333 KING JEHU WAY	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
PHARAOH, NATHANAEL SR & LEAH		21261 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C
CRIMMINS, JOANNA MARIE		1005 LEE AVE	SAN LEANDRO, CA 94577	HO NOD	21-400-PA, 401-2C
HAWK, DEBRA JO		8402 SLEEPY HOLLOW RD NE	WOODBURN, OR 97071-9571	HO NOD	21-400-PA, 401-2C
CROGHAN, RYLEY G & HALLEY T		21273 DARNEL AVE	BEND, OR 97702	HO NOD	21-400-PA, 401-2C

WINDELL, CALEB & JOHNS, MICHELLE  
FRUMENTO, AMANDA C  
VINOVICH, SEURINA A & MICHAEL  
HESTERBERG, MARISSA D & MARK A  
BLYTHE, JESSE J & CASSIE J  
JOHANSEN, DAVID L & PATRICIA J  
CYP CAR NIPPERT LIVING TRUST  
FLANNERY, JULIE LINCOLN  
BRADSHAW TRUST  
SWEET, JUSTIN LEE & KELSEE ANN  
UPTAIN, KYLE STEVEN & KIMBERLY ANN  
BROOKFIELD, MARGARET  
WOOD, JUSTIN & AMBER  
SPRINGER FAMILY TRUST  
SPRINGER FAMILY TRUST

NIPPERT, JAMES E TTEE ET AL  
BRADSHAW, SCOTT HASTINGS TTEE ET AL

SPRINGER, RICHARD L & GEORGIA A TTEES  
SPRINGER, RICHARD L & GEORGIA A TTEES

C/O GEORGIA A SPRINGER TTE

21277 DARNEL AVE  
21281 DARNEL AVE  
21285 DARNEL AVE  
21289 DARNEL AVE  
21314 SE DAYLILY AVE  
4069 CRESSIDA PL  
21302 SE DAYLILY AVE  
21296 SE DAYLILY AVE  
2500 SUNNY GROVE AVE  
21284 SE DAYLILY AVE  
21278 SE DAYLILY AVE  
1414 NW BALTIMORE AVE  
21266 SE DAYLILY AVE  
3450 SHALLOW SPRINGS TERR  
3450 SHALLOW SPRINGS TERR

BEND, OR 97702  
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WOODBRIDGE, VA 22192  
BEND, OR 97702  
BEND, OR 97702  
MCKINLEYVILLE, CA 95519  
BEND, OR 97702  
BEND, OR 97702  
BEND, OR 97703  
BEND, OR 97702  
CHICO, CA 95928  
CHICO, CA 95928

HO NOD 21-400-PA, 401-ZC  
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HO NOD 21-400-PA, 401-ZC



REVIEWED  

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LEGAL COUNSEL

04/13/2022 Item #6.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code \*  
Title 18, the Deschutes County Zoning Map, to \* ORDINANCE NO. 2022-002  
Change the Zone Designation for Certain Property \*  
From Exclusive Farm Use to Multiple Use  
Agricultural and Prescribing an Effective Date on the  
90<sup>th</sup> Day After the Date of Adoption.

WHEREAS, Central Oregon Irrigation District (COID) applied for a Deschutes County Comprehensive Plan Map (247-21-000400-PA) and Deschutes County Zoning Map (247-21-000401-ZC) change, to rezone certain property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on August 31, 2021 before the Deschutes County Hearings Officer and, on October 12, 2021 the Hearings Officer recommended approval of the comprehensive plan map and zone change; and

WHEREAS, on this same date, the Board of County Commissioners (“Board”) adopted Ordinance 2022-001 amending DCC Title 23, changing the plan designation of the property from Agriculture (AG) to Rural Residential Exception Area (RREA); and

WHEREAS, a change to the Deschutes County Zoning Map is necessary to implement the plan amendment adopted in Ordinance 2022-001; and

WHEREAS, pursuant to DCC 22.28.030(C), the Board heard *de novo* the application for zone change from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10) to conform to the newly adopted plan amendment; now, therefore,

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

Section 1. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation from Exclusive Farm Use (EFU) to Rural Residential Exception Area (RREA) for certain property described in Exhibit “A” and depicted on the map set forth as Exhibit “B”, with both exhibits attached and incorporated by reference herein.

Section 2. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit “C”, and incorporated by reference herein.

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Section 5. EFFECTIVE DATE. This Ordinance takes effect on the 90<sup>th</sup> day after the date of adoption.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
PATTI ADAIR, Chair

\_\_\_\_\_  
ANTHONY DeBONE, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2022.

	Record of Adoption Vote			
Commissioner	Yes	No	Abstained	Excused
Patti Adair	_____			
Anthony DeBone	_____			
Phil Chang	_____			

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST

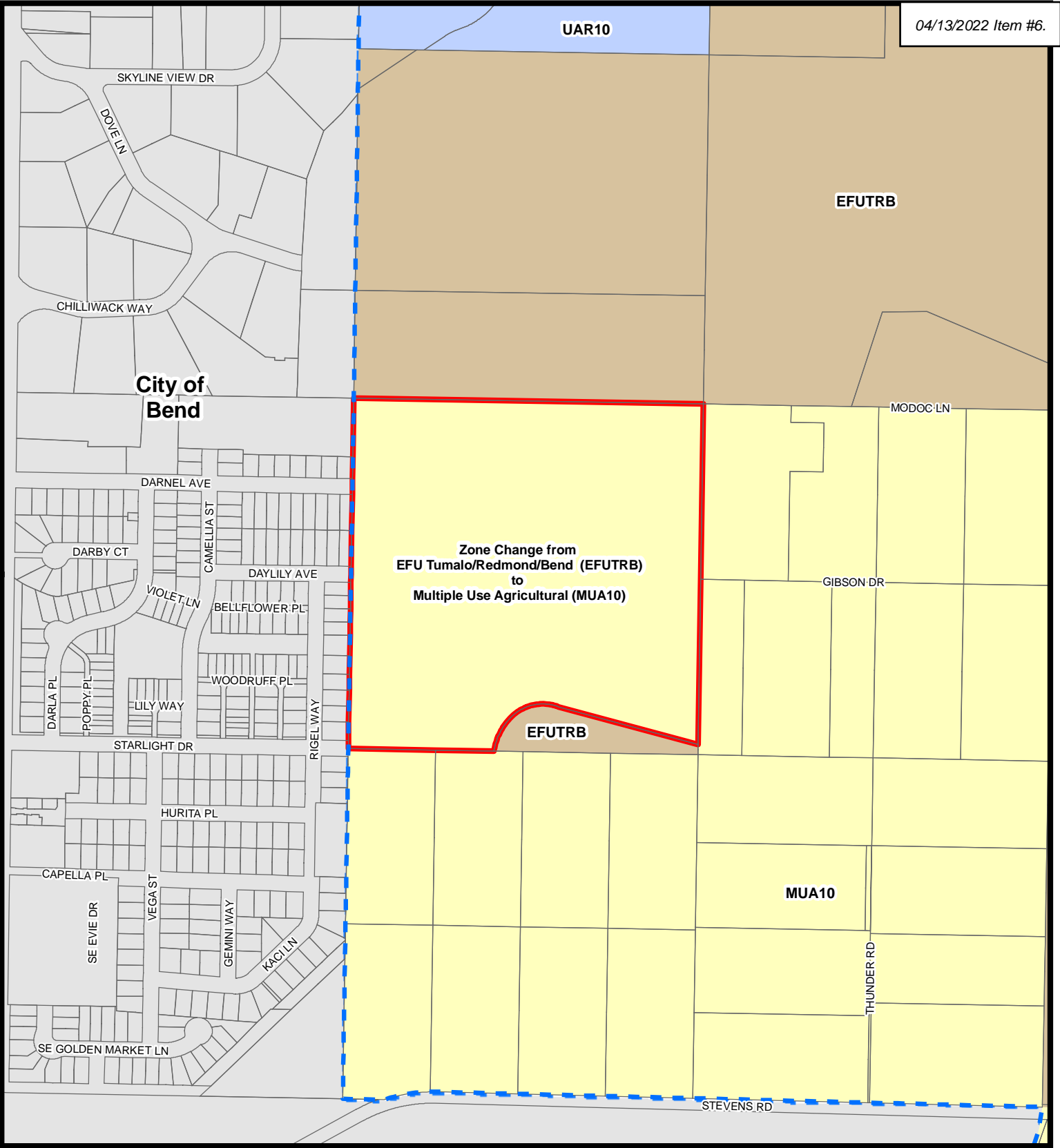
\_\_\_\_\_  
Recording Secretary

**Exhibit "A"**

Legal Description

A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section Two (2), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County Oregon, more particularly described as follows:

All of that portion of the Northeast Quarter of the Southwest Quarter of Section 2 lying north of the centerline of the Central Oregon Canal.



**Zone Change from  
EFU Tumalo/Redmond/Bend (EFUTRB)  
to  
Multiple Use Agricultural (MUA10)**

**Legend**

Proposed Zone Change Boundary

**Zoning**

EFUTRB - Tumalo/Redmond/Bend Subzone

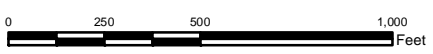
MUA10 - Multiple Use Agricultural

UAR10 - Urban Area Reserve

Bend Urban Growth Boundary

**PROPOSED  
ZONING MAP**

Exhibit "B"  
to Ordinance 2022-002



December 17, 2021

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

Patti Adair, Chair

Tony DeBone, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary

Dated this \_\_\_\_ day of \_\_\_\_, 202  
Effective Date: \_\_\_\_, 202

**DECISION OF THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** 247-21-0000400-PA, 401-ZC

**HEARING:** August 31, 2021, 6:00 p.m.  
Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97708

**APPLICANT/  
OWNER:** CENTRAL OREGON IRRIGATION DISTRICT

**LOCATION:** Map and Taxlot: 1812020001000  
61781 WARD RD, BEND, OR 97702

**ATTORNEY  
FOR APPLICANT:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702

**TRANSPORTATION  
ENGINEER:** Joe Bessman  
Transight Consulting, LLC

**REQUEST:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the property from Agricultural (AG) to Rural Residential Exception Area (RREA). The applicant also requests approval of a corresponding Zone Change to rezone the property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

**HEARINGS OFFICER:** Stephanie Marshall

**STAFF CONTACT:** Tarik Rawlings, Associate Planner<sup>1</sup>  
Phone: 541-317-3148  
Email: [Tarik.Rawlings@deschutes.org](mailto:Tarik.Rawlings@deschutes.org)

**RECORD CLOSED:** September 23, 2021

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<sup>1</sup> This matter was originally assigned to Brandon Herman, Assistant Planner. It was re-assigned to Mr. Rawlings prior to the public hearing.

**I. STANDARDS AND APPLICABLE CRITERIA**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

- Chapter 18.04, Title, Purpose, and Definitions
- Chapter 18.16, Exclusive Farm Use Zones (EFU)
- Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
- Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

- Deschutes County Comprehensive Plan
  - 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 and Guidelines
  - Division 33, Agricultural Land

- Oregon Revised Statutes (ORS)
  - Chapter 215.211, Agricultural Land, Detailed Soils Assessment

**II. FINDINGS OF FACT**

**A. LOCATION:** The subject property has a situs address of 61781 Ward Road, Bend, and is further identified as Tax Lot 1000 on Assessor’s Map 18-12-02.<sup>2</sup>

**B. LOT OF RECORD:** Tax Lot 1000 is 36.65 acres in size and has not previously been verified as a legal lot of record. Per DCC 22.04.040 Verifying Lots of Record, lot of record verification is required for certain permits:

- B. Permits requiring verification**
  - 1. Unless an exception applies pursuant to subsection (B)(2) below,**

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<sup>2</sup> Several commentators expressed concern regarding the address of the subject property, particularly related to future access if and when the property is developed in the future. Staff stated at the public hearing that an address coordinator will be assigned with respect to future development permit application(s) and the address(es) will be vetted through emergency services.

**verifying a lot parcel pursuant to subsection (C) shall be required to the issuance of the following permits:**

- a. Any land use permit for a unit of land in the Exclusive Farm Use Zones (DCC Chapter 18.16), Forest Use Zone – F1 (DCC Chapter 18.36), or Forest Use Zone – F2 (DCC Chapter 18.40);**
- b. Any permit for a lot or parcel that includes wetlands as show on the Statewide Wetlands Inventory;**
- c. Any permit for a lot or parcel subject to wildlife habitat special assessment;**
- d. In all zones, a land use permit relocating property lines that reduces in size a lot or parcel'**
- e. In all zones, a land use, structural, or non-emergency on-site sewage disposal system permit if the lot or parcel is smaller than the minimum area required in the applicable zone;**

In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, the Hearings Officer held to a prior Zone Change Decision (*Belveron* ZC-08-04) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the applicant will be required to receive lot of record verification prior to any development on the subject property. Therefore, the Hearings Officer finds this criterion does not apply.

**C. ZONING AND PLAN DESIGNATION:** The subject property is zoned Exclusive Farm Use (EFU) and is designated Agricultural (AG) in the Deschutes County Comprehensive Plan. The property does not have any Goal 5 resource designations.

**D. PROPOSAL:** The applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the subject property from an Agricultural (AG) designation to a Rural Residential Exception Area (RREA) designation. The applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the subject property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10). The applicant asks that Deschutes County change the zoning and the plan designation because the subject property does not qualify as "agricultural land" under Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) definitions. The applicant states that no exception to Statewide Planning Goal 3, Agricultural Land, is required because the subject property is not agricultural land. The application does not include a development proposal. The applicant notes that it could subdivide the property under Title 17 or through the County's cluster subdivision rules in Title 18, or could hold the property for future urbanization consistent with the development pattern of the surrounding lands.

The applicant's attorney stated at the public hearing that the proposed re-designation and rezoning would allow the property to be considered in the next UGB expansion by the City of Bend. She stated there were no immediate plans to develop the property in the near future.

Submitted with the application is an Order 1 Soil Survey of the subject property, titled "Soil Assessment for 37.7-Acre Parcel Lot 1000, Bend, Oregon" (hereafter referred to as the "soil study") prepared by soil scientist Andy Gallagher, CPSSc/SC 03114 of Red Hill Soils. The applicant also submitted a traffic analysis prepared by Transight Consulting, LLC titled "61781 Ward Road Rezone" hereby referred to as "traffic study." Additionally, the applicant submitted an application form, a burden of proof statement, and other supplemental materials, all of which are included in the record for the subject applications.

**E. SITE DESCRIPTION:** The subject property is approximately 36.65 acres in size and is adjacent to both Bend's city limits and Urban Growth Boundary (UGB) to the west. The property is relatively level with mild undulating topography and collapsed lava tube features. Vegetation consists of juniper, sage brush, and grasses. A portion of the site was historically mined for dirt and fill for maintenance purposes of Central Oregon Irrigation District's (COID) delivery systems. The site is undeveloped except for COID's main canal located along the southern border and offshoot irrigation ditches in the southwestern and southeastern portions of the subject property. Access to the site is provided by stubbed local street connections including Darnel Avenue and Daylily Avenue, located in residential subdivisions in the City of Bend to the west.

The subject property does not have water rights, and has not been farmed or used in conjunction with any farming operation in the past. The Natural Resources Conservation Service (NRCS) map shown on the County's GIS mapping program identifies two soil complex units on the property: 36A, Deskamp loamy sand and 58C, Gosney-Rock outcrop-Deskamp complex. The predominant soil complex on the subject property is 58C, which is not a high-value soil as defined by DCC 18.04; 36A is not considered a high-value soil when irrigated.

The subject property has no irrigation, no historical use of being farmed, and is overgrown with western Juniper, sagebrush, rabbit brush and bunch grasses. COID has intermittently used the property over the years to mine for dirt that was used for maintenance and repairs of the District's delivery systems.

As discussed in detail below in the Soils section, an Agricultural Soils Capability Assessment (Order 1 soil survey) was conducted on the property by Certified Professional Soil Scientist Andy Gallagher which determined that the property is not agricultural land; Class 3 irrigated and Class 6 non-irrigated soils exist in small pockets interspersed with lava tubes and rocky, shallow soils, creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands.

There is a private easement along the COID canal. In addition, as noted in the Bend Park and Recreation District's public comment, BMPRD has a planned trail, the Central Oregon Historic Canal Trail, identified in its comprehensive plan that runs through the subject property.

**F. SOILS:** According to Natural Resources Conservation Service (NRCS) maps of the area,



the subject property contains two different soil types as described below. The subject property contains 58C – Gosney-Rock Outcrop-Deskamp complex and 36A – Deskamp loamy sand.

The applicant submitted a soil study report (applicant’s Exhibit 5, Soil Assessment for 37.7-Acre Parcel Lot 1000, Bend, Oregon, dated December 2, 2020), which was prepared by a qualified soils professional approved by the Department of Land Conservation and Development (DLCD), which can be used by property owners to determine the extent of agricultural land as defined in Oregon Administrative Rule (OAR) 660-033 Agricultural Land,

The certified soils scientist and soil classifier conducted field work which included 41 test pits and observations of surface rock outcrops and determined the subject property is comprised of soils that do not qualify as Agricultural Land<sup>4</sup>. The purpose of this soil study was to inventory and assess the soils on the subject property<sup>5</sup> and to provide more detailed data on soil classifications and ratings than is contained in the NRCS soils maps. The NRCS soil map units identified on the property are described below.

36A, Deskamp loamy sand, 0 to 3 percent slopes: This soil complex is composed of 85 percent Deskamp soil and similar inclusions, and 15 percent contrasting inclusions. The Deskamp soils are somewhat excessively drained with a rapid over moderate permeability, and about 5 inches of available water capacity. Major uses of this soil type are irrigated cropland and livestock grazing. The agricultural capability rating for 36A soils are 3S when irrigated, and 6S when not irrigated. This soil is high-value when irrigated. Approximately 33.7 percent of the subject parcel is made up of this soil type.

58C, Gosney-Rock Outcrop-Deskamp complex, 0 to 15 percent slopes: This soil type is comprised of 50 percent Gosney soil and similar inclusions, 25 percent rock outcrop, 20 percent Deskamp soil and similar inclusions, and 5 percent contrasting inclusions. Gosney soils are somewhat excessively drained with rapid permeability. The available water capacity is about 1 inch. Deskamp soils are somewhat excessively drained with rapid permeability. Available water capacity is about 3 inches. The major use for this soil type is livestock grazing. The Gosney soils have ratings of 7e when unirrigated, and 7e when irrigated. The rock outcrop has a rating of 8, with or without irrigation. The Deskamp soils have ratings of 6e when unirrigated, and 4e when irrigated. Approximately 66.3 percent of the subject parcel is made up of this soil type..

58C is not a high value soil as defined by DCC 18.04 (“High Value Farmland”). 36A is considered a high value soil when irrigated. There is no irrigation on the property.

<sup>3</sup> As defined in OAR 660-033-0020, 660-033-0030

<sup>4</sup> As defined in OAR 660-033-0020, 660-033-0030.

<sup>5</sup> The canals were not rated for capability class, but for purposes of the assessment were included with the acreage that is not suited to agricultural production.

Through numerous soil test pits and observations on the property Soil Scientist Andy Gallagher remapped the soils using a high intensity Order 1 soil survey and concluded that the subject property is comprised predominantly of Class 7 and 8 soils (nearly 64%) and is not agricultural land. The Class 3 irrigated and 6 non irrigated soils exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands. An excerpt of Mr. Gallagher’s summary and conclusions of his findings follows:

*In the revised Order-1 soil mapping, the Deskamp (Class 3 irrigated and 6 nonirrigated) are mapped as a consociation and only make up 29 percent of the parcel. The Gosney soils along with very shallow soils and rock outcrops are mapped as the Gosney-Rock Outcrop Complex because all three components of the complex are capability Class 7 or 8. This complex makes up 63.7 percent of the parcel. The irrigation canals make up 7.4 percent of the area. Based upon the findings of this Order-1 soil survey, the subject parcel is predominantly Class 7 and 8 soils and therefore is not “agricultural land” within the meaning of OAR 660-033-0020(1)(a)(A).*

*The soil mapping and on-site studies also show the subject property is not agricultural land within the meaning of OAR 660-033-0020(1)(b) as it is not adjacent to or intermingled with land in capability classes 1-6 within a farm unit. The class 3 irrigated and 6 non irrigated soils on the subject property have not been farmed or utilized in conjunction with any farming operation in the past. These soil units exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use either alone or in conjunction with other lands.*

No rebuttal evidence was presented to refute the applicant’s evidence regarding soils. The applicant’s soils study has been verified by DLCD.

**G. SURROUNDING LAND USES:** The subject property is surrounded by urban development to the west within the Bend city limits; to the east and south are County exception lands zoned MUA10 developed with homes and small-acreage irrigation for pasture and hobby farm uses; and irrigated farmland zoned EFUTRB to the north and northeast. The adjacent properties are outlined below in further detail:

*North:* North and northeast of the subject property is an area of EFU-zoned property. The adjacent property to the north, Tax Lot 1001 (Assessor’s Map 18-12-02) is a 12.45-acre EFU-zoned property that is partially irrigated and developed with a nonfarm dwelling (approved under County file CU-01-75). Northeast is Tax Lot 201 (Assessor’s Map 18-12-02), a 53.30-acre farm parcel that is irrigated, receiving farm tax deferral, and developed with a single-family dwelling and accessory structures.

*East:* East of the subject property are two parcels zoned MUA10. Tax Lot 1102 (Assessor’s Map 18-12-02) is a 5.55-acre parcel developed with a single-family dwelling, accessory

structures, and is partially irrigated. Tax Lot 1001 (Assessor’s Map 18-12-02) is a 2.5-acre parcel developed with a single-family dwelling, accessory structures, and is partially irrigated.

*West:* West of the subject property are residential subdivisions located in the City of Bend and developed to urban standards. These include Rosengarth Estates and Gardenside PUD in the RS Zone. Northwest is a 2-acre parcel zoned RL and developed with a residence.

*South:* The abutting parcel southeast of COID’s main canal is a 3.34-acre lot zoned EFUTRB and developed with a single-family dwelling and is partially irrigated. Southwest is Hansen Park (Tax Lot 1404 of Assessor’s Map 18-12-02), a 5-acre undeveloped park zoned MUA10 and owned by Bend Metro Parks and Recreation District. East of Hansen Park is a 5-acre parcel zoned MUA10 and developed with a residence (Tax Lot 1407 of Assessor’s Map 18-12-02).

**H. PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice of the applications on June 11, 2021 to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Peter Russell

*I have reviewed the Transight April 13, 2021, traffic study to change the comp plan designation from Agriculture to Rural Residential Exception Area (RREA) and the zoning from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10) for 36.65 acres at 61781 Ward Rd, aka 18-12-02, TL 1000. Staff finds the study needs to be modified to comply with the Transportation Planning Rule and Deschutes County’s accepted practices to analyze plan amendments and zone changes.*

*For “reasonable worst-case scenario” the County compares and contrasts the highest trip generator permitted outright in both the current zone and the requested zone. DCC 18.16.020 lists those uses permitted outright in EFU. DCC 18.16.025 lists other outright permitted uses that meet applicable criteria in either DCC 18.16.038, 18.16.042, and review under DCC 18.124. The TIA cites to marijuana production facility, which the County has analyzed under the Warehouse category of the Institute of Traffic Engineers (ITE) Trip Generation Manual. However, the County has opted out of the state’s marijuana processing program and thus this use and its analog of Warehouse should not be used. Instead, staff would utilize Winery (DCC 18.16.025(F)) as a reasonable worst case scenario.*

*DCC 18.32.020 lists outright permitted uses for MUA-10. The highest trip generator is a cluster development of single-family homes within one-mile of a UGB, per DCC 18.32.040(A), as the traffic study correctly notes.*

*The study needs to be redone to show the difference between winery and a cluster development to determine if there is a significant effect and any difference in the number of p.m. peak hour trips. This would also require the volumes for the trip distribution figures to be redone as well.*

Upon receipt of the County Senior Transportation Planner’s initial comment, above, the applicant submitted a revised traffic study, dated June 8, 2021. No further comments were offered by the County’s Senior Transportation Planner.

Bend Park and Recreation District, Henry Stroud, AICP, Planner

*The Bend Park and Recreation District has a planned trail, the Central Oregon Historic Canal Trail, identified in our comprehensive plan that runs through the subject property. While we understand that this application is just for a zoning change, the District would like to work with the applicant to acquire a trail easement for the COHCT prior to any future development of the property.*

The following agencies did not respond to the notice: Deschutes County Assessor, Bend Fire Department, City of Bend Planning Department, City of Bend Public Works Department, ODOT Region 4, and City of Bend Growth Management Department.

**I. PUBLIC COMMENTS:** The Planning Division mailed notice of the conditional use application to all property owners within 750 feet of the subject property on June 11, 2021. 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 25, 2021. Public comments were received from neighboring property owners. Public comments are summarized as follows:

The first comment was received from Jeff Sundberg, a resident and owner of property located at 61710 Gibson Drive, Bend, OR 97702 on June 15, 2021:

*Hi Brandon,*

*I received a letter from Deschutes County regarding COID applying for new permits. I live at 61710 Gibson Drive, Bend, Or, 97702. I live next to the property in question, 61781 Ward Road. It looks like COID is requesting to go from agricultural and farm use zoning to rural residential exception area and multiple use agricultural zoning.*

*Does this mean they want to put in a housing development?*

*I was wondering if this response by email will suffice if I want to be notified of public hearings related to this application or if I still have to write a letter requesting to be notified of any decision or public hearing.*

*Does any of this change my easement with COID or should I contact them directly?  
Thanks and let me know anything you can about this land change please.*

Staff responded to Mr. Sundberg’s email on June 16, 2021 as follows:

Hi Jeff,

Thanks for reaching out.

As you noted, this is an application for a Comprehensive Plan/Zoning change so I am unaware of what COID intends to do with the property in the future. If they were to take the residential route, a minimum subdivision lot size of 10 acres still applies to the property. Because you received the Notice of Application, you are also on the list to receive the Notice of Public Hearing, which is tentatively set for July 27<sup>th</sup>.

With regards to your easement agreement, I am not inclined to think this will change anything but contacting COID directly is a good idea.

Let me know if you have any other questions.

Take care,

Brandon

The second comment was received from Kecia Weaver, a resident of 21435 Modoc Lane, Bend, OR 97702 on June 18, 2021:

*"My name is Kecia Weaver I live at 21435 Modoc Lane Bend, OR 97702 with my spouse who is listed property owner, Patrick McCoy. On 6/17/21 I read the notice of application for the above listed property. I would like to formally dispute the requested zoning changes. I have several concerns, to include the following:*

- 1) *Irrigation/Water Rights – As a small farm operator with seasonal livestock I am concerned that the proposed changes may further draw from my water access which has been limited and may be further limited due to drought conditions. More users in the proposed Multiple Use Agriculture may further draw down water allocations.*
- 2) *Wildlife Habitat – Having lived here for over 6 years. I know the proposed area to be home to deer, rabbits, birds and other wildlife which will be disturbed.*
- 3) *Extensive residential development in the immediate area- Over the past few months, extensive development has been proposed both to the north and south of our neighborhood specifically several hundred acres south of Stevens Road and north of Bear Creek Road adjacent to Ward Road.*
- 4) *Traffic concerns – increased traffic will occur in the area with other proposed developments. I am concerned the points of entrance and egress to this proposed area will add to the impact to our neighborhood as well.*
- 5) *Overall rapid growth concerns for Deschutes County- As observed by pitfalls of the*

*rapid growth in the City of Bend over the past decade, I would encourage Deschutes County to adhere to a slower growth model.*

- 6) *Decrease in property value- This proposed change will drastically impact the view to the west of my property when it is developed.*

*With respect to the natural beauty and appeal of this County we have chosen to call home and as a taxpayer and voter, I implore the Deschutes County planning department to deny this application at this time. I wish to be notified of all public hearings related to this application and any decision. My address is 21435 Modoc Lane Bend, OR 97702."*

The third comment was received from Patrick McCoy, a neighboring property owner and resident of 21435 Modoc Lane, Bend, OR 97702 on June 18, 2021:

*"My name is Patrick McCoy a home and landowner at 21435 Modoc Lane Bend, OR 97702. On 6/17/21 I received the notice of application for the above listed property. With little time to research to this proposal, based on the information I have obtained, I would like to formally dispute the requested zoning changes. My concerns are numerous and I will highlight the following:*

- 1) *Irrigation/Water Rights – As a small farm operator with seasonal livestock I am concerned that the proposed changes may further draw from my water access which has been limited and may be further limited due to drought conditions. More users in the proposed Multiple Use Agriculture may further draw down water allocations.*
- 2) *Wildlife Habitat – Having lived here for over 6 years. I know the proposed area to be home to deer, rabbits, birds and other wildlife which will be disturbed.*
- 3) *Extensive residential development in the immediate area- Over the past few months, extensive development has been proposed both to the north and south of our neighborhood specifically several hundred acres south of Stevens Road and north of Bear Creek Road adjacent to Ward Road.*
- 4) *Traffic concerns – increased traffic will occur in the area with other proposed developments. I am concerned the points of entrance and egress to this proposed area will add to the impact to our neighborhood as well.*
- 5) *Overall rapid growth concerns for Deschutes County- As observed by pitfalls of the rapid growth in the City of Bend over the past decade, I would encourage Deschutes County to adhere to a slower growth model.*
- 6) *Decrease in property value- This proposed change will drastically impact the view to the west of my property when it is developed.*

*With respect to the natural beauty and appeal of this County we have chosen to call home and as a taxpayer and voter, I implore the Deschutes County planning department to deny this application at this time. I wish to be notified of all public hearings related to this application and any decision. My address is 21435 Modoc Lane Bend, OR 97702."*

The fourth public comment was received from Kyle Weaver on June 18, 2021:

*"I am writing to express by objection to the proposed changes east of 27<sup>th</sup> in the pursuit of yet another neighborhood development. The East side of Bend is the current hotspot for housing expansion but some caution must be taken and not simply rubber stamping these applications through and knocking down yet more trees and eliminating farm lands and mountain views. Neighborhoods are popping up in all directions all over town and the construction industry frenzy is full throttle with little interest in these types of nature/aesthetic concerns. I don't begrudge people making some money and Bend is certainly a desirable place to live, but things need to be planned out in a more thoughtful and deliberate fashion. There is nothing wrong with taking a slower and more measured approach as we all consider Bend's growth in the coming years. I have lived in Bend for just over 20 years and have family and friends in the proposed development area and it would drastically reduce their enjoyment of their property. I urge you to decline this request on behalf of many other community members who feel the same way."*

The fifth public comment was received from Treva Weaver on June 18, 2021:

*"Re: 1812020001000 Central Or. Irrigation District*

*I am opposed to the proposed land use change by the above referenced owner.....*

*The loss of open space in Central Oregon continues as the growth proponents seem mainly interested in jumping on the bandwagon and making as much profit as possible. The East side of Bend, where I have lived the past 21 years, has hundreds, if not thousands of housing sites already started or proposed. Until all this land is developed and houses sold, there is no need to venture east of 27<sup>th</sup> where this property is located.....My great grandfather came to Oregon at age 9 in 1846 and our family has very deep roots in this state. I spend a large amount of time at my daughter's home which is directly east of the proposed development. We enjoy riding our horses in her arena and also enjoy family gatherings in her backyard. The view would be drastically changed if this land is developed. What is wrong with leaving some land in its natural state? It will be many many years before additional housing is needed in this area. Please decline this request change and leave some land in its more natural state."*

The sixth public comment was received from John Schaeffer, a neighboring property owner at 61677 Thunder Road, Bend, OR 97702 on June 19, 2021:

*"I am writing on behalf of myself and several neighbors in the Stevens Road – Thunder Road neighborhood. We are opposed to COID's proposed changes to the Comprehensive Plan and Zoning for taxlot 1812020001000. We realize this is not a request for development but know that it will lead to development in the next few years, that it is the first step in making the property more marketable, should it be brought into the UGB during the next update.*

*Development has been increasing in this area, especially with the inclusion of the Stevens Road tract in the current UGB, and its subsequent sale by the state. We feel it is important to leave some natural open areas for people and animals near the city limits. This is especially critical now that the Stevens Road tract is being developed, along with all the other development in this area. A few years ago, it was possible to take our dogs walking in the Stevens Road tract and meet few people. The use in this area has increased remarkably over the last several years, consistent with Bend's growth.*

*The COID parcel is isolated and not readily accessible by cars, with varied topography, including a small canyon. It has significant native vegetation and, when I was there a couple of days ago, there were many birds, much more than in the nearby areas where there are houses and the vegetation has been cleared.*

*Right now, the average size of the parcels between the city limits to the west and Ward Road to the east, and between Stevens Road to the south and to approximately where Skyline View Drive would be if extended into the area on the north, is 8 acres. If you consider only the MUA zoned parcels, the average size is 4.8 acres. If the COID property was developed to that level, this would mean 7-8 houses in the area. I do not know what would be allowed under the Rural Residential Exception area but suspect it would probably be even denser housing.*

*As Bend continues to grow at what may be an unsustainable pace the value of open space increases. We urge you to consider open space as a relevant and beneficial resource when you weigh the issues inherent in this kind of a zoning change.*

*Sincerely,  
John Schaeffer and Patti Bailey  
James and Janet Lake  
Julie Naslund, Michael, and Miles Nevill  
Mike Quick  
Jill Harrell and Mike King"*

The seventh public comment was received from Cathy DeCoursey, a property owner and resident of 61718 Rigel Way, Bend, OR 97702 on June 21, 2021:

*"I am responding to a letter I received regarding COID's application to rezone the property behind me. File # 247-21-0000400-PA, 401-ZC. 36.65 Acres. My understanding is they want to change the zoning from Agriculture and Exclusive Farm Use Zone to Rural Residential Exception Area and Multiple Use Agricultural. I've read the Application prepared by Tia M. Lewis. I have 3 concerns:*

- 1. The water supply says wells are to be drilled for household use. There are 2 very old (55yrs) Well Reports included in her submission. I find this very odd that 7 new homes will be drilling and using well water for approximately 5 acre mini ranches. Surely the water table has lowered over time? The depth of one shows 619 feet. One report seems to be missing*



*the gallons per minute amount. Would you explain where the household and irrigation water will be coming from for these 7 lots?*

- 2. *At what point can the MUA-10 Zoning be changed to create a subdivision of smaller sized lots?*
- 3. *Will there be more than 7 lots created? The stubbed access roads listed are already narrow and congested with parked cars and traffic coming and going to 27th which has no turn lanes onto or off of Darnel.*

*Thank you for your time and response."*

The eighth public comment was received from Jennifer Neil, a property owner and resident of 61723 Rigel Way, Bend, OR 97702 on June 21, 2021:

*"My name is Jennifer Neil, and I am Bend homeowner concerned about the above-mentioned proposed land use. The proposed land use will change what is a small, open space next to the Central Oregon canal from farm use to more residential use. I'm saddened to not only lose the space I walk on twice a day, but to see it turned into more overpriced homes that the city and the community is not able to support. The area of SE Bend where this property is located has already out-grown all of the infrastructure to support more housing. It has become extremely difficult to access my home because of the traffic and congestion along 27th street. This congestion will only increase with the addition of the new High School. Finally, I'm also very concerned that 4 of my neighbors, who are also homeowners and have properties directly next to this proposed land use change, did not receive any notice of this land use. I notified them! I hope that the city planners will consider the impact more houses will have in this area, and improve the infrastructure first that is already necessary before destroying more open space."*

The ninth public comment was received from Brent N. Wilkins, an owner and resident of property at 61764 SE Camellia Street, Bend, OR 97702, on June 21, 2021:

*"I am a resident of the Rosengarh Subdivision. I am submitting these written comments relating to the proposed zoning changes by the Central Oregon Irrigation District ("COID") for the real property located at 61781 Ward Road, Bend, OR 97702 ("Property").*

*For the reasons noted below, including due to the level of development in East Bend in close proximity to the Property, the Property's rural nature that serves as a place of recreation, and the high level of traffic and lack of a left-hand turn lane from the major arterial (27<sup>th</sup> Street) that will likely service the Property if/once developed, I ask that the Deschutes County Planning Division ("Planning Division") not approve COID's application. I request to be notified of any decision or public hearing related to this application, and this notice may be sent to:*

*Brent N. Wilkins  
61764 SE Camellia Street  
Bend, OR 97702*

*As noted on page 3 of COID's Burden of Proof Statement, COID will have the ability to attempt to develop and subdivide the Property into a subdivision if the permit is granted. This would potentially occur through Title 17 or Title 18 of Deschutes County's rules. This permit should not be granted as further development in the proximity of the Property will not serve the County or community.*

#### *A. Development & Traffic Impacts*

*The Property at issue is surrounded by areas that have been recently developed. This includes the DR Horton subdivision off of Pettigrew Drive, the Hayden Homes Subdivision off of Pettigrew Drive, as well as the Rosengarth Subdivision. 27<sup>th</sup> Street has not been able to keep up resulting increased traffic flow as a result of the development to date. Excluding this Property, there is now significant further development occurring in this immediate area that 27<sup>th</sup> Street will service. The development at this time includes a new commercial lot being developed at 27<sup>th</sup> Street and Reed Market that will consist of multiple businesses, a new subdivision between Reed Market and Starlight Drive on the east side of 27<sup>th</sup> Street, and significant development off of 27<sup>th</sup> Street on Stevens Road. The Property will also heavily utilize 27<sup>th</sup> Street through the likely extension of Darnel Avenue and/or Daylily Avenue.*

*The collective effect of all of this development is that the rural nature of East Bend is being lost and 27<sup>th</sup> Street is becoming unsafe. 27<sup>th</sup> Street at this time does not adequately handle the levels of traffic that occur each morning around 8:00 am, each afternoon around 5:00 pm as well as when school lets out, and during the weekends. I have routinely sat in my car for more than two minutes trying to turn left onto 27<sup>th</sup> Street. I have also waited more than a minute to even to try to turn right onto 27<sup>th</sup> Street. A photograph showing the line of traffic on 27<sup>th</sup> Street is enclosed. (See Ex. 1). Also, there is no left turn lane when turning left from 27<sup>th</sup> Street onto Darnel Avenue from 27<sup>th</sup>. This has resulted in unsafe conditions, including vehicles passing the turning vehicle on the right where there is no developed shoulder or lane. There are tracks on the ground where this happens, and it is not safe for those vehicles, the turning vehicle, or oncoming traffic. Eastside Gardens is also located at 27<sup>th</sup> Street and Darnel Avenue. Vehicles pull in and out of that parking lot at that intersection and from the parking lot itself. This cause an irregular, unsafe traffic flow that will only be exacerbated by further use.*

*Moreover, due to Darnel Avenue serving as a primary access point for homes throughout the existing neighborhoods and Gardenside Park, there is already a high level of traffic and vehicles often driving fast. There is also significant on street parking that restricts views for drivers and pedestrians. This includes large 'sprinter' vans, large trucks, and sometimes trailers. (See Ex. 2). There are numerous young families in the neighborhoods, including along Camellia Street, Darnel Avenue and Gardenside Park. These families have children that run, play, skateboard, ride scooters, and bike throughout the neighborhood, including on the streets. The existing neighborhood traffic levels poses a danger to children. The proposed permit will likely result in increased traffic within the neighborhood and pose additional risk to these young families and*

*children. Any consideration of the Permit, and any possible approval, must address this dynamic.*

*Finally, with the recent approval of the Southeast Area Plan for the 'Elbow', the level of traffic in East Bend and 27 Street will only increase. This will also result in the displacement of birds and other wildlife, which is further covered below, and will need a place to go.*

**B. Preservation**

*The Property at issue is an area that is highly utilized for recreation and embodies Central Oregon high desert landscape. In the winters, the area can serve as a place for cross-country skiing. (See Ex. 3). People regularly ride bikes, run, and go for walks. The aerial photo that was enclosed with the Notice of Application also shows the walking path through the middle of the Property. The wildlife that calls this place home includes ducks, jackrabbits, geese, and numerous other birds. There is also a rimrock canyon on the Property that is quite unique and should be preserved (See Ex. 4). The Property also has views of the Cascades, Powell Butte, and Newberry Caldera (See Ex. 5). It is also quite peaceful and has a gentle, rolling landscape full of trees, grasses, and sagebrush. (See Ex. 6). During the mornings and evenings one can go for walks and hear the songs of birds and enjoy an escape from the busy work day and pace of life. In other words, changing the Property's zoning classification and leading to the possibility (if not the eventual or imminent likelihood) of development that will further change the rural nature of Bend is not in the public's interest for rezoning standards or otherwise.*

**C. Conclusion**

*The existing development and use of 27 Street, the development already approved and under construction, and the future development of Stevens Road and the 'Elbow' makes changing the Property's zoning classification to not be in the public interest. There simply is not adequate infrastructure to support all of these additions in a safe manner. Until the access to the neighborhoods from 27<sup>th</sup> Street is improved, no further development or changes of zoning classifications should occur. Approving the permit will also likely result in the irreparable loss of rural landscape and habitat once the Property is developed, including possibly without any restrictions or preservation criteria.*

*In sum, the proposed permit application should be denied, or at least not approved in its current form. At a minimum, a hearing should be set for in person comments and for further deliberation to occur."*

The public comment from Mr. Wilkins includes 10 photographs depicting the various conditions outlined in his written comment. These photographs and the full written comment are included in public record for the subject application.

The tenth public comment was received from Crystal Garner on June 22, 2021:

*"I would like to request a hearing for the proposed land development for 61781 Ward Rd, Bend, OR 97702. We live about 4 houses down from this property, it is a great and safe place for our family and so many others in the neighborhood to take walks, ride bikes, and walk dogs. The thought of this land being developed on and losing those opportunities, as well as possibly compromising the safety of our children in our neighborhood bring a heavy heart to so many of us. Please consider a hearing to recant this decision."*

The eleventh public comment was received from William Kepper on June 29, 2021:

*"Sorry for the late response to the changes associated with Map and Taxlot: 1812020001000. The notification was not received timely. The notification is vague to exactly what changes will occur. If the changes have anything to do with the cultivation of marijuana or hemp we and our neighbors are against it. It would destroy ours and our neighbors quality of life. There are numerous small children and teenagers in the neighborhoods who should not be subjected to these types of grow farms. Also there is a child day care facility close by off 27<sup>th</sup> Street. I hope I'm wrong about the 'Rural Residential Exception Area and Multiple Use Agricultural, respectively' statement. Thanks for listening to my concerns. I'd appreciate additional information on exactly what Multiple Use Agricultural Zone (MUA10) means."*

The twelfth public comment was received from David Morrison on August 30, 2021:

*Tarik,*

*I may wish to participate in this hearing if I have questions or concerns not addressed by others. I plan to participate via Zoom. My wife is dealing with serious health issues and may require attention at any time which might cause me to miss all or some.*

*So, I would like to go on record as 100% against re-zoning said COID property at this time. I feel that with the already in the works developments south of Stevens Rd and north of Bear Creek Rd, that the road system is already severely inadequate. Also, with the drought conditions and worsening water supplies in not just Bend but all of Deschutes and surrounding counties, I would like to see this request 'tabled', to be revisited in no fewer than 5 years. The county needs to greatly improve roads and water supply issues before allowing more and more building and deteriorating areas that will make this area more desirable to live in. I enjoy watching all of the natural wildlife that lives in this space, they will disappear with development, as will our natural view that was the biggest reason for us purchasing our property which is immediately adjacent to said property.*

*I am also concerned about the stated address of said property, Ward Rd is no where near the property. If it should be re-zoned, where exactly will it be accessed?*

*I fear the continued rapid growth will quickly and severely deteriorate the quality of life for all of Bend.*

*Thank you for considering my our [sic] concerns, David & Nancy Morrison*

**J. LAND USE HISTORY:** There is no history of prior land use permits having been granted for the subject property.

**K. UTILITY SERVICES:** The subject property is served by Pacific Power and water will be provided by a well (see Exhibit 7 for will serve letter and well logs).

**L. PUBLIC SERVICES:** The subject property is in the Deschutes County Rural Fire Protection District #2 (Exhibit 6). The Bend Rural Fire Protection Station 304 is located a few miles northeast of the subject property near the corner of Hamby and Neff Roads. The Pilot Butte Station on NE 15<sup>th</sup> Street and Highway 20 is also within a few miles of the subject property. The Deschutes County Sheriff provides police and public safety services. Access to the subject property is provided from the stubbed local street connections of Darnel Avenue and Daylily Avenue to the west. The Bend Municipal Airport is located several miles northeast of the property. The property is within the Bend-La Pine School District and is in the Buckingham Elementary School boundary, the Pilot Butte Middle School boundary and the Bend High School boundary. The property is outside of the Bend Parks and Recreation District boundary; however, Bend Parks and Recreation District has plans to develop Hansen Park Trailhead located south of the subject property that will serve the Central Oregon Historic Canal Trail system.

**M. NOTICE REQUIREMENT:** On August 6, 2021, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the subject property and agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, August 8, 2021. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on July 26, 2021.

The applicant complied with the posted notice requirements of DCC 22.24.030(B). The applicant submitted a Land Use Action Sign Affidavit, dated June 25, 2021, indicating the applicant posted notice of the land use action on June 25, 2021.

Deschutes County sent notice of the proposed change to its comprehensive plan and land use regulation to the Oregon Department of Land Conservation and Development, received by DLCD on July 26, 2021.

**N. REVIEW PERIOD:** The subject applications were submitted on April 20, 2021, and deemed complete by the Planning Division on May 20, 2021. 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. **CONCLUSIONS OF LAW**

**Title 18 of the Deschutes County Code, County Zoning**

**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, also the property owner, has 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 is reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code. The Hearings Officer finds these criteria are met.

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 applicant provided the following response in its submitted burden of proof statement:

*Per prior Hearings Officers decisions [Powell/Ramsey (file no. PA-14-2 / ZC-14-2) and Landholdings (file no. 247-16-000317-ZC, 318-PA)] for plan amendments and zone changes on EFU-zoned property, this paragraph establishes two requirements: (1) that the zone change conforms to the Comprehensive Plan and (2) that the change is consistent with the plan's introductory statements and goals. Both requirements are addressed below:*

- 1. Conformance with the Comprehensive Plan: The applicant proposes a plan amendment to change the Comprehensive Plan designation for the subject property from Agriculture to Rural Residential Exception Area. The proposed rezoning from EFU-TRB to MUA-10 will need to be consistent with its proposed new plan designation.***

- 2. *Consistency with the Plan's Introductory Statement and Goals. In previous decisions, the Hearings Officer found the introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. However, the Hearings Officer in the Landholdings decision found that depending on the language, some plan provisions may apply and found the following amended comprehensive plan goals and policies require consideration and that other provisions of the plan do not apply as stated below in the Landholdings decision:*

*"Comprehensive plan statements, goals and policies typically are not intended to, and do not, constitute mandatory approval criteria for quasi-judicial/and use permit applications. Save Our Skyline v. City of Bend, 48 Or LUBA 192 (2004). There, LUBA held:*

*'As intervenor correctly points out, local and statutory requirements that land use decisions be consistent with the comprehensive plan do not mean that all parts of the comprehensive plan necessarily are approval standards. [Citations omitted.] Local governments and this Board have frequently considered the text and context of cited parts of the comprehensive plan and concluded that the alleged comprehensive plan standard was not an applicable approval standard. [Citations omitted.] Even if the comprehensive plan includes provisions that can operate as approval standards, those standards are not necessarily relevant to all quasi-judicial land use permit applications. [Citation omitted.] Moreover, even if a plan provision is a relevant standard that must be considered, the plan provision might not constitute a separate mandatory approval criterion, in the sense that it must be separately satisfied, along with any other mandatory approval criteria, before the application can be approved. Instead, that plan provision, even if it constitutes a relevant standard, may represent a required consideration that must be balanced with other relevant considerations. [Citations omitted.]'*

*LUBA went on to hold in Save Our Skyline that it is appropriate to 'consider first whether the comprehensive plan itself expressly assigns particular role to some or all of the plan's goals and policies.' Section 23. 08. 020 of the county's comprehensive plan provides as follows:*

*The purpose of the Comprehensive Plan for Deschutes County is not to provide a site-specific identification of the appropriate land uses which may take place on a particular piece of land but rather it is to consider the significant factors which affect or are affected by development in the County and provide a general guide to the various decision which must be made to promote the greatest efficiency and equity possible, while managing the continuing growth and change of the area. Part of that process is identification of an appropriate land use plan, which is then*

*interpreted to make decision about specific sites (most often in zoning and subdivision administration) but the plan must also consider the sociological, economic and environmental consequences of various actions and provide guidelines and policies for activities which may have effects beyond physical changes of the land (Emphases added by applicant.)*

*The Hearings Officer previously found that the above-underscored language strongly suggests the county's plan statements, goals and policies are not intended to establish approval standards for quasi-judicial land use permit applications.*

*In Bothman v. City of Eugene, 51 Or LUBA 426 (2006), LUBA found it appropriate also to review the language of specific plan policies to determine whether and to what extent they may in fact establish decisional standards. The policies at issue in that case included those ranging from aspirational statements to planning directives to the city to policies with language providing 'guidance for decision-making' with respect to specific rezoning proposals. In Bothman LUBA concluded the planning commission erred in not considering in a zone change proceeding a plan policy requiring the city to '[r]ecognize the existing general office and commercial uses located \* \* \* [in the geographic area including the subject property] and discourage future rezonings of these properties.' LUBA held that:*

*\*\*\* even where a plan provision might not constitute an independently applicable mandatory approval criterion, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant considerations, pursuant to ordinance provisions that require \*\*\* consistency with applicable plan provision.' (Emphasis added.) The county's comprehensive plan includes a large number of goals and policies. The applicant's burden of proof addresses goals for rural development, economy, transportation, public facilities, recreation, energy, natural hazards, destination resorts, open spaces, fish and wildlife, and forest lands. The Hearings Officer finds these goals are aspirational in nature and therefore are not intended to create decision standards for the proposed zone change."*

*Hearings Officer Karen Green adhered to these findings in the Powell/Ramsey decision (file nos. PA-14-2/ZC-14-2), and found the above referenced introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. This Hearings Officer also adheres to the above findings herein. Nevertheless, depending upon their language, some plan provisions may require "consideration" even if they are not applicable approval criteria. Save Our Skyline v. City of Bend, 48 Or LUBA 192, 209 (2004). I find that the following amended comprehensive plan goals and policies require such consideration, and that other provisions of the plan do not apply:"*



*The comprehensive plan goals and polices that the Landholdings Hearings Officer found to apply include the following...*

The applicant utilizes the analysis provided in prior Hearings Officers' decisions to determine and respond to only the Comprehensive Plan Goals and policies that apply, which are listed below in the Comprehensive Plan section of this Decision. The Hearings Officer finds the above provision is met, based on Comprehensive Plan conformance as set forth in subsequent findings.

***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 in the submitted burden of proof statement:

*The applicant is proposing to change the zone classification from EFU to MUA-10. Approval of the application is consistent with the purpose of the MUA-10 zoning district, which stated in DCC 18.32.010 as follows:*

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

*The subject property is not suited to full-time commercial farming as discussed in the findings above. The MUA-10 zone will allow property owners to engage in hobby farming. The low-density of development allowed by the MUA-10 zone will conserve open spaces and protect natural and scenic resources. In the Landholding's case, the Hearings Officer found:*

*I find that the proposed change in zoning classification from EFU is consistent with the purpose and intent of the MUA-10 zone. Specifically, the MUA-10 zone is intended 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. Approval of the proposed rezone to MUA-10 would permit applications for low-density development, which will comprise a transition zone between EFU rural zoning, primarily to the east and City zoning to the west.*

*The maximum density of the approximately 36.65-acre property if developed with a cluster development under Title 18 is 7 lots. This low density will preserve open space, allow owners to engage in hobby farming, if desired, and preserve natural and scenic resources and maintain or improve the quality of air, water, and land resources. The MUA-10 zoning provides a proper transition zone from City, to rural zoning to EFU zoning.*

The applicant’s burden of proof statement also includes analysis in the Introduction section at pages 1-2. There, the applicant stated, in relevant part:

*For the past several years, Deschutes County has recognized the value in rezoning non-productive agricultural lands and has issued decisions in support of plan amendments and zone changes where the applicant demonstrates the property is not agricultural land and, therefore, Statewide Goal 3, Agricultural Lands, does not apply. These cases are the foundation for the subject request. Cases pertinent to the proposed request include:*

**Kelly Porter Burns Landholdings LLC (“Landholdings”)/File nos. 247-16-000317-ZC/318-PA**

*On November 1, 2017, the Board approved Kelly Porter Burns Landholdings LLC’s request to change the plan designation on certain property from Agricultural to Rural Residential Exception Area and to change the zone designation from EFU-TRB to MUA-10 zone. The property consists of about 35 acres and abuts the applicant’s property to the west (Exhibit 1).*

*Based on the Order 1 soil survey for the property and the submitted evidence, the Hearings Officer found that the Landholdings property does not constitute agricultural land and does not merit protection under Goal 3, and therefore, approved the change in Plan designation and Zoning of the property from Agriculture/EFU-TRB to RREA/MUA-10.<sup>6</sup>*

**Division of State Lands Decision/File Nos. PA-11-7 and ZC-11-2**

*The Division of State Lands case was a 2013 approval by the Board for a plan amendment from Agriculture to Rural Residential Exception Area and a zone change from EFU-TRB to Multiple Use Agricultural (MUA-10). Based on the Order 1 soil survey for the property and the submitted evidence, the Board found that the property was not agricultural land and therefore, Goal 3 did not apply (Exhibit 2).*

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<sup>6</sup> The Board adopted as its findings the Hearings Officer’s decision with one exception: that if the property is divided, it must be developed as a cluster development and the two irrigation ponds must be included in the common area. In addition, the Board required the applicant to sign a Conditions of Approval agreement to “assure that future residential development of the property will be harmonious with existing development in the area and so that a part of the property may be developed at urban densities if and when the property is annexed to the City of Bend.”

**Paget Decision/File Nos. PA-07-1, ZC-07-1**

*The Paget decision was a 2007 approval of a plan amendment from Agriculture to Rural Residential Exception Area and a zone change from EFU to MUA-10. The Board adopted the Hearings Officer’s decision, which found that the property did not constitute “agricultural land” and therefore, the plan amendment and zone change to MUA-10 was consistent with Goal 3 (Exhibit 3).*

**The Daniels Group/File Nos. PA-08-1, ZC-08-1**

*The Daniels Group decision was a 2011 Board decision approving a change to the Comprehensive Plan map from Surface Mine and Agriculture to Rural Residential Exception Area and a zone change from EFU-LB and Surface Mining to Rural Residential (RR-10). The Board found that the property did not constitute “agricultural land” as defined in Goal 3, was not subject to protection under Goal 3, and therefore, the plan amendment and zone change did not require an exception to Goal 3. (Exhibit 4).*

The Hearings Officer finds the applicant has demonstrated the change in classification is consistent with the purpose and intent of the MUA-10 Zone. A change in classification will preserve the rural character of the subject property, due to the low density of development allowed in the MUA-10 zone, while permitting development consistent with that character. As set forth in the findings below, the subject property is not suited to full-time commercial farming but could be used for hobby farming. Low density development will also conserve open spaces and protect natural and scenic resources. The Hearings Officer finds that approval of the proposed rezone to MUA-10 would permit applications for low-density development, and will comprise a transition zone between the City and EFU zoning to the east.

The Hearings Officer’s findings regarding agricultural land and Goal 3 exception are set forth in the findings below.

- 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:** There is no proposal to develop the property at this time. The above criterion asks if the proposed zone change will *presently* serve public health, safety, and welfare. The applicant provides the following response in the submitted burden of proof statement:

*Necessary public facilities and services are available to serve the subject property, including electrical power from Pacific Power and well logs showing water services are available to serve the property. Exhibit 7.*

*Transportation access to the property is available from the stubbed local street connections of Darnel Avenue and Daylily Avenue to the west in the City of Bend Urban Growth Boundary. MUA-10 zoning and a standard subdivision would allow the creation of up to 3 residential lots and a cluster development would allow up to 7 residential lots. If developed with a cluster development, the property could generate up to 49 additional daily trips, which according to the traffic report by Transight Consulting is a slight increase in trips, but the impact of these trips is negligible on the transportation system and the functional classification of all the adjacent roadways will not be affected with the proposed rezone. The existing road network is available to serve the use of the property if developed.*

*The property receives police services from the Deschutes County Sheriff and is in Rural Fire Protection District #2 with the nearest fire station nearby. Neighboring properties contain residential uses, which have water service from a municipal source or wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.*

Neighboring properties contain residential and commercial uses, which have water service from a quasi-municipal source or wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.

Public commentators expressed concern about access to the subject property. One commentator stated that Ward Road is ¾ mile away and that the property is not accessible other than via a canal road, which is gated. Other commentators stated that access from City of Bend roads (Daylily Avenue and Darnel Avenue) that are currently stubbed at the edge of the eastern boundary of the Bend UGB, through existing subdivisions will be dangerous. The applicant’s attorney stated that there are no current plans to develop the property. The applicant may offer the property for sale or develop as MUA-10 zone. Alternatively, the applicant could hold onto the property until the next Bend UGB expansion process.

The Hearings Officer finds that no access to the subject property is required to be established for purposes of consideration of the re-designation and rezoning applications. Any future development will have to establish access in compliance with applicable zoning regulations and the comprehensive plan.

Prior to development of the property, the applicant will be required to comply with the applicable requirements of the Deschutes County Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

The Hearings Officer finds this criterion 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’s submitted burden of proof statement addresses potential impacts on surrounding land uses as related to each individual policy and goal item within the County’s Comprehensive Plan in subsequent findings. Analysis of consistency with each applicable goal and policy is set forth in the findings below.

The Hearings Officer finds that the MUA-10 zoning is the same zoning of many other properties in the areas east and south of the subject property. As the Hearings Officer found above, MUA-10 zoning provides a proper transition zone from the City to EFU zoning. The requested zone change will not impose new impacts on EFU-zoned land to the north of the subject property because that property is a small parcel, approximately 12 acres in size, that is not engaged in commercial farm use and is developed with a nonfarm dwelling. Further, MUA-10 zoning will have minimal impacts on EFU-zoned land adjacent to the northeast corner of the subject property.

As determined by the applicant’s soil scientist, Andy Gallagher, it is not practical to farm the subject property because it is comprised primarily of Class 7 and 8 soils and is characterized by a cut-up landscape. The Hearings Officer finds the subject property is not land that could be used in conjunction with the adjacent property. Any future development of the subject property will be subject to building setbacks.

The Hearings Officer finds this criterion is met.

**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 is proposing to rezone the property from EFU to MUA10 and re-designate the property from Agriculture to Rural Residential Exception Area. The applicant has provided the following response in the submitted burden of proof statement:

**1. Mistake:** *The EFU zoning designation was likely based on the best available soils data that the County had at the time in the County in the late 1970's when the comprehensive plan and map were adopted and where agricultural zoning was applied to land with no history of farming<sup>78</sup>.*

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<sup>7</sup> Gallagher’s soils analysis report for the subject property determined that the subject property was previously mapped by the USDA-SCS Soil Survey of the Deschutes County Area and compiled by NRCS into the Web Soil Survey. The property was previously mapped at 1:20,000 scale, which is generally too small a scale for detailed land use planning and decision making, according to Gallagher.

<sup>8</sup> Source: Agricultural Lands Program, Community Involvement Results, Community Development, Deschutes County. June 18, 2014.

**2. Change in Circumstances:** *There clearly has been a change in circumstances since the property was last zoned in the 1970s:*

Soils: *New soils data provided in the Gallagher soils report shows the property does not have agricultural soils.*

Farming economics and viability of farm uses in Central Oregon *have significantly changed. Making a profit in farming, particularly on smaller parcels such as the subject property, is difficult as stated below in the stakeholder interview of the Deschutes County Farm Bureau in the County's 2014 Agricultural Lands Program, Community Involvement Results:*

*Today's economics make it extremely difficult for commercial farmers in Deschutes County to be profitable. Farmers have a difficult time being competitive because other regions (Columbia Basin, Willamette Valley) produce crops at higher yields, have greater access to transportation and consumer markets, and experience more favorable growing climates and soils. Ultimately, the global economy undermines agricultural opportunities in the county because commodities derived from outside the region can be produced at a lower cost. Water limitations also play a role. Junior water right holders are constrained as the summer progresses and they lose their rights to those with higher priority dates.*

Decline in farm operations *have steadily declined in Deschutes County between 2012 and 2017, with only a small fraction of farm operators achieving a net profit from farming in 2017. (Exhibit 8).*

Encroaching development *east of Bend's Urban Growth Boundary has brought both traffic and higher density residential uses and congestion to the area.*

The applicant's attorney argued at the public hearing that it is not economical or fiscally responsible to retain the subject property as agricultural/farm land given the fact that it is non-productive land.

Patrick McCoy testified at the public hearing that there are several other parcels/tracts that are "getting ready to do the same thing" as the applicant. He also stated that a 59-acre parcel was allowed to "go dead" to meet requirements for a rezone. He is concerned about slowing down growth in this area and further expressed concerns that the subject property is landlocked. Mr. McCoy stated that there is a lot of development occurring within a 2-mile radius of his property.

Matt Carey testified at the public hearing that development is increasingly encroaching on green space and animals are getting pushed out. He also expressed concerns about access to the subject property.

Kecia Weaver testified that high schoolers participate in 4H and FFA, raising animals and that smaller parcels of land are used for agriculture on a small scale. She values slow growth and maintaining the rural concept, to preserve open spaces. Ms. Weaver is concerned about the rapid development of large acreage and the impact on deer, rabbits, hawks, eagles and bats. She stated that Ward Road is .75 miles away from the subject property, which is not accessible other than via a gated canal road. Ms. Weaver requested that the applications be denied to slow the growth. She further stated that the applications could be considered at the time the UGB expansion is underway.

The Hearings Officer makes the following findings. First, whether or not owners of other properties may, or may not, request a change of comprehensive plan designation and zoning is not relevant to the Hearings Officer's consideration of the current applications. Each application must be considered on its own merits.

Second, concerns regarding development encroachment support a finding of change of circumstances. Given the evidence that shows the subject property is not comprised of agricultural soils, and is not land that could be used in conjunction with adjacent property, the requested rezone will provide an appropriate transition between urban City development and rural EFU properties.

Third, the Hearings Officer does not have authority to deny the requested applications on the basis of concerns about growth. While understandable, the applications may be granted where, as here, all applicable criteria are met.

Fourth, the applicant's attorney commented at the public hearing that delaying the applications until the City considers its next urban growth boundary (UGB) expansion will preclude the subject property from consideration.

Fifth, with respect to 4H and FFA activities, the Hearings Officer finds that the requested rezone to MUA-10 will continue to allow for hobby farming.

Sixth, concerning wildlife concerns, the Hearings Officer finds the subject property is not within a Wildlife Area combining zone; there are no specific wildlife preservation regulations applicable to the property. There is no evidence that the requested rezone, and of itself, will impact wildlife.

Finally, with respect to access, the Hearings Officer finds that no development is proposed at this time and, therefore, access need not be finally determined. If the subject property is developed in the future, the record shows that access from stubbed streets to the west may be considered.

For all the foregoing reasons, and based on evidence in the record that shows declining farm operations and limited numbers of financially successful farm operations (Exhibit 8), the

Hearings Officer finds that a change of circumstances since the time the property was last zoned exists. This criterion is met.

**Deschutes County Comprehensive Plan**

**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 in the submitted burden of proof statement:

*The applicant is pursuing a plan amendment and zone change on the basis that the subject property does not constitute "agricultural lands," and therefore, the subject lands are not necessary to preserve or maintain as such. In the Landholdings decision (and Powell/Ramsey decision) the Hearings Officer found that Goal 1 is an aspirational goal and not an approval criterion.*

*As demonstrated in this application, the subject property does not constitute "agricultural land" and therefore, is not necessary to preserve and maintain the County's agricultural industry. The Gallagher soils report shows the subject property to consist predominantly (63.7%) of Class 7 and 8 non-agricultural soils (Gosney-Rock Outcrop complex). According to Mr. Gallagher, these soils have severe limitations for agricultural use as well as low soil fertility, shallow and very shallow soils, abundant rock outcrops and lava tubes, low available water capacity, and major management limitations for livestock grazing. In addition, the minor amount of Deskamp soils (Class 3 irrigated and 6 nonirrigated) are in small isolated pockets and severely restricted by lava tubes, shallow rocky soils, irrigation ditches and property lines that they cannot be used in farming in conjunction with the non-productive Gosney-Rock outcrop. The property also is physically remote from productive farmland as it is adjacent to the City of Bend's urban development to the west and rural residential development to the east and south. Mr. Gallagher concludes that the "landscape is so cut up it is impractical to farm".*

The Hearings Officer finds Mr. Gallagher's report supports a finding that the subject property does not constitute agricultural land. The subject property is not land that could be used in conjunction with the adjacent property. The requested plan amendment and rezone will not contribute to loss of agricultural land in the surrounding vicinity. The agricultural industry will not be negatively impacted by re-designation and rezoning of the subject property. Therefore, the Hearings Officer finds the applications are consistent with Section 2.2, Goal 1, "preserve and maintain agricultural lands and 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 asking to amend the subzone that applies to the subject property; rather, the applicant is seeking a change under Policy 2.2.3 and has provided evidence to support rezoning the subject property to MUA10. The Hearings Officer finds this Policy is inapplicable.

***Policy 2.2.3 Allow comprehensive plan and zoning map amendments for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.***

**FINDING:** The applicant is seeking approval of a plan amendment and zone change to re-designate and rezone the property from Agricultural to Rural Residential Exception Area. The applicant is not seeking an exception to Goal 3 – Agricultural Lands, but rather seeks 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 in the submitted burden of proof statement:

*Deschutes County has allowed this approach in previous Hearings Officer’s decisions including Porter Kelly Burns Landholdings (247-16-000317-ZC/318-PA), Department of State Lands (PA-11-7/ZC-11-2), Pagel (PA-08-1/ZC-08-1), and the Daniels Group (PA-08-1, ZC-08-1). Additionally, the Land Use Board of Appeals (LUBA) allowed this approach in Wetherell v. Douglas County, 52 Or LUBA 677 (2006), where 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 nor 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).”*

*LUBA’s decision in Wetherell has appealed to the Oregon Court of Appeals and the Oregon Supreme Court but neither court disturbed LUBA’s ruling on this point. In fact, the Oregon Supreme Court changed the test for determining whether land is agricultural land to make it less stringent. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007). In that case, the Supreme Court stated that:*

*“Under Goal 3, land must be preserved as agricultural land if it is suitable for ‘farm use’ as defined in ORS 215.203(2)(a), which means, in part, ‘the current employment of land for the primary purpose of obtaining a profit in money’ through specific farming-related endeavors.” Wetherell, 342 Or at 677.*

*The Wetherell court held that when deciding whether land is agricultural land “a local government may not be precluded from considering the costs or expenses of engaging in those activities.” Wetherell, 342 Or at 680. The facts presented in the subject application are sufficiently similar to those in the Wetherell decisions and in the above-mentioned Deschutes County plan amendment and zone change applications. The subject property is primarily composed of Class 7 or 8 nonagricultural soils making farm-related endeavors not profitable. This application complies with Policy 2.2.3.*

The Hearings Officer finds that the facts presented by the applicant in the burden of proof for the subject applications are similar to those in the *Wetherell* decisions and in the aforementioned Deschutes County plan amendment and zone change applications. Therefore, the Hearings Officer finds the applicant established the property is not agricultural land and does not require an exception to Goal 3 under state law. The Hearings Officer finds the applications are consistent with Policy 2.2.3.

***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:** This plan policy provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations. The policy is not directed to an individual applicant, as the Hearings Officers found in the *Landholdings* decision and *Powell/Ramsey* decision. The Hearings Officer finds that, based on the County’s previous determinations in plan amendment and zone change applications, the 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:** This plan policy requires the County to identify and retain agricultural lands that are accurately designated. The policy is not directed to an individual applicant, as the Hearings Officers found in the *Landholdings* decision and *Powell/Ramsey* decision. The Hearings Officer finds that the subject property was not accurately designated as demonstrated by the soil study, NRCS soil data, and the applicant’s burden of proof. Further discussion on the soil analysis provided by the analysis is set forth in the findings under the OAR Division 33 criteria below. The Hearings Officer finds the proposal is consistent with this Policy.

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:** The applicant is not proposing a specific development application at this time. Therefore, the Hearings Officer finds the applicant is not required to demonstrate water impacts associated with development. Rather, the applicant will be required to address this criterion during development of the subject property, which would be reviewed under any necessary land use process for the site (e.g. conditional use permit, tentative plat). The Hearings Officer finds this Policy does not apply to the subject applications.

**Chapter 3, Rural Growth**

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.***

- ...
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

**FINDING:** This section of the Comprehensive Plan does not contain Goals or Policies, but does provide the guidance above. In response to this section, the applicant's burden of proof provides the following:

***As shown above, the County's Comprehensive Plan provisions anticipate the need for additional rural residential lots as the region continues to grow. This includes providing a mechanism to rezone farm lands with poor soils to a rural residential zoning designation. While the rezone application does not include the creation of new residential lots, the applicant has demonstrated the subject property is comprised of poor soils that are adjacent to rural residential MUA-10 zone uses to the east and south as well as urban residential zones within the Bend city limits to the west. Rezoning the subject property to MUA-10 is consistent with this criterion, as it will provide for an orderly and efficient transition from the Bend Urban Growth Boundary to rural and agricultural lands.***

The MUA-10 Zone is a rural residential zone and as discussed in the Findings of Fact above, there are many adjacent properties to the south and east that are zoned MUA-10. Additionally, the properties to the west are within urban residential zones within the city limits of Bend. The Hearings Officer notes this policy references the soil quality, which is discussed above.

The Hearings Officer finds that rezoning the subject property to MUA-0 is consistent with Section 3.2, Chapter 3 of the Deschutes County Comprehensive Plan as it will provide for an orderly and efficient transition from the Bend UGB to rural and agricultural lands.

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 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 in the burden of proof:

*Prior Hearings Officer’s decisions have found that Section 3.3 is not a plan policy or directive<sup>9</sup>. Further, no goal exception to Statewide Planning Goal 3 is required for the rezone application because the subject property does not qualify as farm or forest zoning or agricultural lands under the statewide planning goals. The County has interpreted the RREA plan designation as the proper “catchall” designation for non-resource land and therefore, the Rural Residential Exception Area (RREA) plan designation is the appropriate plan designation to apply to the subject property<sup>10</sup>.*

<sup>9</sup> See PA-11-17/ZC-11-2, 247-16-000317-ZC, 318-PA, and 247-18-000485-PA, 486-ZC

<sup>10</sup> The Hearings Officer’s decision for PA-11-17/ZC-11-2 concerning this language of Section 3.3 states:  
*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*

Based on past Deschutes County Hearings Officer interpretations, the Hearings Officer finds that the above language is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Hearings Officer finds the proposed RREA plan designation is the appropriate plan designation to apply to the subject property.

Section 3.7, Transportation

**Appendix C – Transportation System Plan  
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:** This plan 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) aka OAR 660-012, as described below in subsequent findings.

**OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

**Division 6, Goal 4 – Forest Lands**

OAR 660-006-0005, Definitions

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*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 findings below explain that the applicant has been successful in demonstrating that the subject property is composed predominantly of nonagricultural soil types. 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. As such, the 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 reasons, 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, the Hearings Officer concludes that the applicant is not required to obtain an exception to Goal 3.*

- (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 subject property is not zoned for forest lands, nor are any of the properties within a two-mile radius. The property does not contain merchantable tree species 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 is rated for forest uses according to NRCS data. The Hearings Officer finds that the subject property does not constitute forest land.

**Division 33 - Agricultural Lands & Statewide Planning 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 use policy expressed in ORS 215.243 and 215.700.**

**FINDING:** Goal 3 defines "Agricultural Land," which is repeated in OAR 660-033-0020(1). The Hearings Officer's findings below are incorporated herein by reference.

OAR 660-033-0020, Definitions

**For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:**

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

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon<sup>11</sup>;**

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<sup>11</sup> 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.

**FINDING:** The applicant's decision not to request an exception to Goal 3 is based on the premise that the subject property is not defined as "Agricultural Land." In support, the applicant offers the following response in the submitted burden of proof statement:

*The subject property is not properly classified as Agricultural Land and does not merit protection under Goal 3. The soils are predominately Class 7 and 8 soils as shown by the more detailed soils report prepared by soils scientist Andy Gallagher, which State law, OAR 660-033-0030, allows the County to rely on for more accurate soils information. Mr. Gallagher found that approximately 64% of the soils on the subject property (about 24 acres) is Land Capability Class 7 and 8 soils that have severe limitations for farm use. He also found the site to have low soil fertility, shallow and very shallow soils, abundant rock outcrops and rock fragments in the surface, lava tubes, and irrigation ditches, low available water capacity, and limiting areas suitable for grazing and restricting livestock accessibility, all of which are considerations for the determination for suitability for farm use. Because the subject property is comprised predominantly of Class 7 and 8 soils, the property does not meet the definition of "Agricultural Lands" under OAR 660-033-0020(1)(a)(A) listed above, that is having predominantly Class I-VI soils.*

The Hearings Officer finds that the soil study provided by Mr. Gallagher of Red Hill Soils is an accurate representation of the data for the subject property. Therefore, the Hearings Officer finds, based on the submitted soil study and the above OAR definition, that the subject property is comprised predominantly of Class 7 and 8 soils and, therefore, does not constitute "Agricultural Lands" as defined in OAR 660-033-0020(1)(a)(A) above.

**(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**

**FINDING:** The applicant's decision not to request an exception to Goal 3 is based on the premise that the subject property is not defined as "Agricultural Land." The applicant provides the following analysis of this determination in the burden of proof.

*This part of the definition of "Agricultural Land" requires the County to consider whether the Class 7 and 8 soils found on the subject property are suitable for farm use despite their Class 7 and 8 classification. The Oregon Supreme Court has determined that the term "farm use" as used in this rule and Goal 3 means the current employment of land for the primary purpose of obtaining a profit in money through specific farming-related endeavors. The costs of engaging in farm use are relevant to determining whether farm activities are profitable and this is a factor in determining whether land is agricultural land. Wetherell v. Douglas County, 342 Or 666, 160 P3d 614 (2007).*

*The subject property does not have water rights, has not been farmed, or used in conjunction with any farming operation in the past. The Natural Resources Conservation Service (NRCS) map shown on the County's GIS mapping program identifies two soil complex units on the property: 36A, Deskamp loamy sand and 58C, Gosney-Rock outcrop-Deskamp complex. The predominant soil complex on the subject property is 58C. 58C is not a high value soil as defined by Deschutes County Code. 36A is considered a high value soil when irrigated. However, as discussed in detail below, there is no irrigation on the property and an Agricultural Soils Capability Assessment (Order 1 soil survey) conducted on the property by soil scientist, Andy Gallagher, determined that the property is not agricultural land; that the class 3 irrigated and 6 non irrigated soils exist in small pockets interspersed with lava tubes, rocky, shallow soils creating severe limitations for any agricultural use on the property or in conjunction with other neighboring lands. (See Exhibit 5 for Mr. Gallagher's Soil Assessment Report).*

*A review of the seven considerations listed in the administrative rule, below, shows why the poor soils found on the subject property are not suitable for farm use that can be expected to be profitable:*

**Soil Fertility:**

*Mr. Gallagher made the following findings regarding soil fertility on the subject property:*

*"Important soil properties affecting the soil fertility and productivity of the soils are **very limiting to crop production** [emphasis added by applicant] on this parcel. The soils here are low fertility, being ashy sandy loams with a low cation exchange capacity (CEC) of 7.5 meq/100 gm and organic matter is very low for Gosney 0.75% and low for Deskamps 1.5%. These soils do not have a large capacity to store soil nutrients especially cations, and nitrogen fertilizers readily leach in sandy soils. The soil depth is further limiting because it limits the overall volume of soil available for plant roots and limits the size the overall nutrient pool. Additionally, the soil available water holding capacity is very low for Gosney less than 1.8 inches for the whole soil profile, and for the very shallow soils it is half this much. The Deskamps soils have only about 2 to 4 inches AWHC translate into low productivity for crops. NRCS does not provide any productivity data for non-irrigated crops on these soils. The productivity of irrigated alfalfa is 4 tons per acre for Deskamps, and no rating for Gosney is same as a zero. There are perhaps 7 acres that could produce alfalfa with irrigation that could produce 28 tons alfalfa under irrigation and high fertility but after costs this would amount to no profit."*

*The fact that these soils are low fertility unless made fertile through artificial means supports the applicant's position that the Class 7 soils and the entire property is not suitable for farm use. The costs to purchase and apply fertilizer and soil amendments and the costs to sample and test soils are a part of the reason why it is not profitable to farm the subject property.*



**Unsuitability for Grazing:**

Mr. Gallagher also reviewed whether the parcel is suitable for grazing and found:

*"This 37.7-acre parcel is **not suited to grazing on a commercial scale** [emphasis added by applicant]. The soils here have major management limitations including ashy and sandy surface texture. The majority of the area has soils that are very shallow to shallow with many rock outcrops and rock fragments in the surface. Wind erosion is a potential hazard is moderately high when applying range improvement practices. Because the soil is influenced by pumice ash, reestablishment of the native vegetation is very slow if the vegetation is removed or deteriorated. Pond development is limited by the soil depth. The restricted soil depth limits the choice of species for range seeding to drought-tolerant varieties. Further, range seeding with ground equipment is limited by the rock fragments on the surface. The areas of very shallow soils and rock outcrop limit the areas suitable for grazing and restrict livestock accessibility.*

**Total Range Production from NRCS Websoil survey and estimate based soil percentages in revised soil map units**

Soil Map Unit	Total annual range production pounds per acre		
	Unfavorable year	Normal year	Favorable year
36A	700	900	1100
58C	411	558	705
Dk	700	900	1100
GR <sup>1</sup>	315	441	567

<sup>1</sup> Estimated based on weighted average of soils

*Total range production is the amount of vegetation that can be expected to grow annually in a well-managed area that is supporting the potential natural plant community. It includes all vegetation, whether or not it is palatable to grazing animals. It includes the current year's growth of leaves, twigs, and fruits of woody plants. It does not include the increase in stem diameter of trees and shrubs. It is expressed in pounds per acre of air-dry vegetation. In a normal year, growing conditions are about average. Yields are adjusted to a common percent of air-dry moisture content. The productivity provided for Dk map unit is from Websoil survey for the Deskamp soil and that provided for the GR map unit is based on 40% very shallow soils, 35% Gosney and 25% rock outcrop.*

*Based on previous NRCS map has a weighted average annual productivity of 669 pounds per acre in a normal year. Based on the revised Order-1 map the annual productivity is even lower, 540 pounds per acre. The animal use months (AUMs) for this 37.7 acre parcel is 5.5 based on the revised soil map and a monthly value of 910 pounds forage per 1 AUM equivalent to pounds per cow calf pair. This model assumes the cow's take to be 25% of annual productivity in order to maintain site productivity and soil health (NRCS 2009). This*

limits the grazing to one cow calf pair roughly 5 to 6 months annually. **This is not an economical model for livestock production** [emphasis added by applicant].

*Inappropriate grazing causes a reduction in desirable grasses and where present cheatgrass will increase and granite prickly gilia increases and grasses decline. Cheatgrass becomes dominate along with grey rabbitbrush. Ground fire potential increases with increasing cheatgrass. Cutting of juniper leads to an increase in grey rabbitbrush and an increase in cheatgrass with or without grazing. Idaho fescue is eliminated from areas where trees are removed due to harsh microclimate and cheatgrass replaces it. The addition of inappropriate grazing would lead to a decline in the other deep-rooted perennial bunchgrasses and an increase in annuals and granite prickly gilia."*

### **Climatic Conditions**

According to Mr. Gallagher, climatic conditions of this area make is [sic] difficult for production of most crops, as stated below:

*"The low annual precipitation, high summer temperature and evapotranspiration rates, and shortened frost-free growing season make this **a difficult climate for production of most crops** [emphasis added by applicant]. Irrigation is needed on area farms to meet crop needs given only 8 to 10 inches precipitation that falls mainly between November and June, with a long summer drought. The soil temperature regime is mesic. The average annual air temperature is 46 degrees F with extreme temperatures ranging from -26 to 104 degrees F. The frost-free period is 50 to 90 days. The optimum period for plant growth is from late March through June. Freeze-free period (average) 140 days. (NRCS 2020) These harsh climatic conditions coupled with very low soil available water holding capacity limits the potential of irrigated crop production to the Deskamps soils."*

### **Existing and Future Availability of Water for Farm Irrigation Purposes:**

*No new irrigation water rights are expected to be available to the Central Oregon Irrigation District (COID) in the foreseeable future. In order to obtain water rights, the applicant would need to convince another COID customer to remove water rights from their property and sell them to the applicant and obtain State and COID approval to apply the water rights to the subject property. In such a transaction, water rights would be taken off productive farm ground and applied to the nonagricultural soils found on the subject property. Such a transaction runs counter to the purpose of Goal 3 to maintain productive Agricultural Land in farm use.*

*Given the poor quality of these soils, it is highly unlikely that Central Oregon Irrigation District would approve a transfer of water rights to this property. In addition, no person intending to make a profit in farming would go to the expense of purchasing water rights, mapping the water rights and establishing an irrigation system to irrigate the lands on the subject property.*

*Given the dry climate, it is necessary to irrigate the subject property to grow an alfalfa crop and to maintain a pasture. A farmer would need to spend significant sums of money to purchase water rights, irrigation systems, maintain the systems, pay laborers to move and monitor equipment, obtain electricity, pay irrigation district assessments and pay increased liability insurance premiums for the risks involved with farming operations.*

*Irrigating the soils found on the subject property as described by Mr. Gallagher, that have low fertility, low capacity to store nutrients, and very low available water holding capacity translates into low productivity for crops that would amount to no profit.*

**Existing Land Use Patterns**

*Existing land use patterns in the area are primarily non-agricultural related land uses including urban development to the west within the Bend City limits, County exception lands zoned MUA-10 developed with homes and small acres of irrigation for pasture and other hobby farm uses to the east and south, and irrigated farmland zoned EFU-TRB to the north and northeast.*

*The EFU-zoned properties to the north and northeast include:*

*North and northeast of the subject property is a pocket of EFU-zoned property. The adjacent property to the north, tax lot 18-12-02-1001, is a 12.45-acre EFU-zoned property that is partially irrigated and developed with a nonfarm dwelling (file no. CU-01-75). Northeast is tax lot 18-12-02-201, a 53.30-acre farm parcel that is irrigated and engaged in hay production, receiving farm tax deferral, and developed with a dwelling and outbuildings.*

*The close proximity to the City of Bend and residential areas limit the types of agricultural activities that could reasonably be conducted for profit on the subject property. The subject property would not be suitable for raising animals that are disturbed by noise. Additionally, the property owner would bear the burden of paying for harm that might be caused by livestock escape, in particular livestock and vehicle collisions. Any agricultural use that requires the application of pesticides and herbicides would be very difficult to conduct on the property given the numerous homes located in close proximity to the property. In addition, the creation of dust which accompanies the harvesting of crops is a major concern on this property due to the close proximity residential use.*

**Technological and Energy Inputs Required:**

*According to Mr. Gallagher:*

*“The very shallow and shallow soils and abundant rock outcrops limit practical agricultural crop production on all but about 7 acres out of the 10 acres of Deskamps soils. The Deskamps soils are into four separate delineations that are separated by rocky and shallow soils and rock outcrops and lava tubes as well as irrigation ditches. **The landscape***

*is so cut up it is impractical to farm* [emphasis added by applicant]. *The best case scenario for crop production is for an area approximately seven acres along the north edge of the parcel that is spotted with rock outcrops and is of a very irregular shape. This area could at most produce about 28 tons of alfalfa under high fertilizer inputs and high irrigation water inputs. Current hay prices are from \$200.00 to \$250.00 per ton which would give an annual gross of about \$5,600.00 to \$7,000.00, before expenses. After expenses are deducted for land costs, site preparation, planting, costs of production like irrigation, fertilizer, weed control, costs of harvest including swath, rake, and bale, stack, and costs of handling, storage and marketing there would be **no profit associated with producing hay crops on such a small area*** [emphasis added by applicant]."

**Accepted Farming Practices:**

*Farming lands comprised of soils that are predominately Class 7 and 8 is not an accepted farm practice in Central Oregon. Dryland grazing, the farm use that can be conducted on the poorest soils in the County, typically occurs on Class 6 non-irrigated soils that have a higher soils class if irrigated. The applicant would have to go above and beyond accepted farming practices to even attempt to farm the property for dryland grazing. Crops are typically grown on soils in soil class 3 and 4 that have irrigation, which this property has neither.*

The Hearings Officer finds that many of the factors surrounding the subject property, such as the proximity to the Bend city limits, current residential and non-agricultural related land uses in the area, soil fertility, spotty/small areas of Class 3 (irrigated) and Class 6 (non-irrigated) soils, and lack of availability of water rights, result in an extremely low possibility of successful farming on the subject property.

The Hearings Officer finds that the subject property, primarily comprised of Class 7 and 8 soils, is not suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration the soil fertility, suitability for grazing, climactic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy outputs required and accepted farming practices. Substantial evidence in the record supports a determination that the subject property cannot be employed for the primary purpose of obtaining a profit in money through farming-related endeavors, considering the costs of engaging in farm use. *Wetherell v. Douglas County*, 342 Or 666, 160 P3d 614 (2007).

Soils on the subject property can only be made fertile through artificial means, which is cost prohibitive from a profitability standpoint. The subject property is not suitable to grazing on a commercial scale given management limitations and expected low production of suitable vegetation. Climactic conditions result in difficulty for production of most crops. Given the fact that no new irrigation water rights are expected to be available to the COID in the foreseeable future and the poor quality of soils on the subject property, it is unlikely COID would approve a transfer of water rights to the property. Existing land use patterns also limit the suitability of grazing animals on the subject property which is in close proximity to the

City of Bend. A limited, approximately 7-acre portion of the subject property that could, at most, produce 28 tons of alfalfa with high fertilizer and water inputs, would not generate any profit after expenses are deducted for land costs, site preparation, planting and costs of production (irrigation, fertilizer, weed control, cost of harvest and cost of handling storage and marketing). Accepted farm practices in Central Oregon do not include farming lands comprised of soils that are predominantly Class 7 and 8. In order to conduct dryland grazing on the subject property, the applicant would have to take measures beyond accepted farming practices, including attempting to obtain a water rights transfer.

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

**FINDING:** The applicant offers the following response in the submitted burden of proof statement:

*The subject property is not land necessary to permit farm practices to be undertaken on adjacent or nearby lands. The nearest agriculturally zoned land engaged in farm use to the subject property is located northeast on tax lot 18-12-02-201. This property is a 53.30-acre farm parcel that is irrigated and engaged in hay production, receiving farm tax deferral, and developed with a dwelling and outbuildings. The farm operations on tax Lot 201 operate independently and are not dependent upon the subject property to conduct its farm practices. This is evidenced by the subject property being owned by the applicant since 1930 and has never been farmed, much less combined with tax lot 201 in any way for agricultural purposes. Farming operations on tax lot 201 will be able to continue to occur if the subject property is rezoned to MUA-10. Further, the poor quality soils and lack of irrigation are not suited to agricultural production and make the subject property unsuitable for farm practices on the nearby agricultural land.*

The Hearings Officer finds the subject property is not necessary for the purposes of permitting farm practices on the nearby Tax Lot 201 (Assessor’s Map 18-12-02) based on the factors discussed in the previous finding.

**(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 applicant provided the following response in the submitted burden of proof statement:

*The subject property is not and has not been a part of a farm unit that includes other lands not currently owned by the applicant. The property has no history of farm use and contains soils that make it unsuitable for farm use and therefore, no basis to inventory the subject property as agricultural land.*

*Goal 3 applies a predominant soil type test to determine if a property is "agricultural land". If a majority of the soils is Class 1-6 in in Central or Eastern Oregon, it must be classified "agricultural land." 1000 Friends position is that this is a 100% Class 7 -8 soils test rather than a 51% Class 7 and 8 soils test because the presence of any Class 1-6 soil requires the County to identify the entire property "agricultural land." Case law indicates that the Class 1 -6 soil test applies to a subject property proposed for a non-agricultural plan designation while the farm unit rule looks out beyond the boundaries of the subject property to consider how the subject property relates to lands in active farming in the area that were once a part of the area proposed for rezoning. It is not a test that requires that 100% of soils on a subject property be Class 1-6.*

*The farm unit rule is written to preserve large farming operations in a block. It does this by preventing property owners from dividing farmland into smaller properties that, alone, do not meet the definition of "agricultural land." The subject property is not formerly part of a larger area of land that is or was used for farming operations and was then divided to isolate poor soils so that land could be removed from EFU zoning. As demonstrated by the historic use patterns and soils reports, it does not have poor soils adjacent to or intermingled with good soils within a farm unit. The subject property is not in farm use and has not been in farm use of any kind. It has no history of commercial farm use and contains soils that make the property generally unsuitable for farm use as the term is defined by State law. It is not a part of a farm unit with other land.*

*The subject property is predominately Class 7 and 8 soils and would not be considered a farm unit itself nor part of a larger farm unit based on the poor soils and the fact that none of the adjacent property is farmed.*

*As shown by the soils capability study by Mr. Gallagher, the predominant soil type found on the subject property is Class 7 and 8, nonagricultural land (63.7%). The predominance test says that the subject property is not agricultural soil and the farm unit rule does not require that the Class 7-8 soils that comprise the majority of the subject property be classified as agricultural land due to the presence of a small amount of Class 1-6 soils on the subject property that are not employed in farm use and are not part of a farm unit. As a result, this rule does not require the Class 7 and 8 soils on the subject property to be classified agricultural land because a minority of the property contains soils rated Class 6.*

The Hearings Officer finds that there are no bases on which to find that the subject property shall be inventoried as agricultural lands under this criterion. The property does not relate to land in active farming, and there are no parcels in the area that were once part of the subject property. A majority of the soils (63.7%) are not Class 1-6. Therefore, under the predominance test, the subject property is not agricultural. The farm unit rule does not mandate a different result. The subject property is not employed in farm use and is not now, nor in the past, part of 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. The Hearings Officer finds this criterion is inapplicable.

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).**

**FINDING:** The applicant addressed the factors in OAR 660-033-0020(1) above. As the Hearings Officer has found herein, the property is not "agricultural land," as referenced in OAR 660-033-0030(1), and contains barriers for farm use including poor quality soils and lack of irrigation.

The Hearings Officer finds that substantial evidence in the record shows the subject property is not "agricultural land" because the property is predominantly Class 7 and 8 soils. As the Hearings Officer found above, the subject property is not necessary to permit farm practices to be undertaken on adjacent or nearby lands.

- (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 finds that evidence in the record, including examination of lands outside the boundaries of the subject property, shows the subject property is not “agricultural land.” Substantial evidence shows that the subject property is not suitable for farm use and is not necessary to permit farm practices to be undertaken on adjacent or nearby lands.

- (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 soil study prepared by Mr. Gallagher (Exhibit 5) provides more detailed soils information than contained in the NRCS Web Soil Survey. Exhibit 5 includes the Soil Assessment Completeness Review conducted by DLCD pursuant to OAR 660-033-0045(6)(a), dated February 12, 2021, confirming the report prepared by Mr. Gallagher meets the requirements for agricultural soils capability reporting.

Mr. Gallagher’s soils assessment report provides a high intensity Order-1 soil survey and soil assessment – a detailed and accurate soils assessment on the subject property based on numerous soil samples – to determine if the subject property is “agricultural land” within the meaning of OAR 660-033-0020. As explained in Mr. Gallagher’s report, the NRCS soil map of the subject property shows two general soil mapping units, 58C and 36A. The more detailed Order-1 survey conducted by Mr. Gallagher included 41 soil test pits, in addition to observations of surface rock on the parcel. The results of the previous and revised soils mapping units with land capability class are provided in **Table 1** below.

The soils report is related to the NCRS Land Capability Classification (LCC) system that classifies soils class 1 through 8. An LCC rating is assigned to each soil type based on rules provided by the NRCS. The soils report provides more detailed soils information than contained on the Web Soil Survey operated by the NRCS, which provides general soils data at a scale generally too small for detailed land use planning and decision making.

The NRCS mapping for the subject property is shown below in **Figure 1**. According to the NRCS Web Soil Survey tool, the property contains approximately 33.7% 36A soil and contains 66.3% 58C soil. The soils study conducted by Mr. Gallagher finds the soil types on the subject



property vary from the NRCS identified soil types. The soil types described by Mr. Gallagher (as quoted from Exhibit 5) and the characteristics and LCC rating are shown in **Table 1** below.

**GR Gosney-Rock Outcrop Complex**

**Capability Class:** 7 and 8 mapped as complex

*These soils are mapped together in a complex because both components are Capability Class 7 or greater, and it was not practical to map them separately. These soils are estimated to be about 25 percent Rock Outcrop and 75 percent Gosney. They have lower productivity than NRCS map unit 38B because they do not contain a mappable area of Deskamp soils that were mapped separately. The productivity reported in Table 2 for Gosney-Rock Outcrop are 20 percent less than the 58C map unit to account for more shallow and very shallow soils in the GR map unit in the revised map unit. Based on the observations here, the map unit is about 40 percent very shallow soils, 35 percent Gosney soils, and 25 percent rock outcrops.*

**Gosney loamy sand and stony loamy sand (0 to 15 percent slopes)**

**Description:** *Gosney series consists of shallow (10 to 20 inches) to hard basalt bedrock, somewhat excessively drained soils on lava plains. These soils have rapid permeability. They formed in volcanic ash over hard basalt bedrock. Slopes are 0 to 15 percent. The mean annual precipitation is less than 12 inches, and the mean annual temperature is about 45 degrees F.*

**Capability Class:** 7

**Soil Variability:** *Depth to bedrock is from surface exposures of bedrock to 20 inches depth. There may be small inclusions of soils like Deskamp that are moderately deep (>20 inches to 40 inches). Many of the pedons are very stony. This unit includes very shallow soils <10 inches.*

**Very shallow phase 0-15 percent slopes**

**Description:** *This component of the complex is less than 10 inches to basalt.*

**Capability Class:** 7

**Soil Variability:** *Depth to bedrock is from 1 to 10 inches. These soils are very shallow and of similar parent material to Gosney. These soils have lower available water holding capacity and an estimated 40 percent lower productivity.*

**Rock Outcrop (0 to 15 percent slopes)**

**Description:** *This part of the map unit is areas where bedrock is at the surface.*

**Capability Class: 8**

**Soil Variability:** *In places, rocks are right at the surface and often times bedrock is standing several feet above the surface of the adjacent soils. In some areas (borings 39-41) there is rimrock, large boulders and other surface stone where suspected lava tubes collapsed.*

**Dk Deskamp loamy sand**

**Description:** *This map unit is mainly moderately deep, somewhat excessively drained soils with rapid permeability on lava plains. These soils formed in ash and have hard basalt at 20 to 40 inches. Slopes are 1 to 15 percent. The A and AB horizon are loamy sand. The 2B is loamy sand and gravelly loamy sand. The NRCS soils survey mapped Deskamp and Gosney in a complex described as 50% Deskamp and 35% Gosney. In this Dk unit I delineated the Deskamp component of the former complex and mapped it as a consociation based on more detailed soil sampling than the NRCS soil survey. This soil covers approximately 11 acres of the parcel and is broken up into several small delineations two of which are less than an acre. These small and isolated areas are impractical to farm. The largest delineation is 8.5 acres and has at least three areas of rock outcrop that were delineated within.*

**Capability Class:** *3-irrigated and 6 non-irrigated*

**Soil Variability:** *There are small inclusions of rock outcrop and of deep soils with sandy skeletal family. Any rock outcrop I observed in the field was delineated from the Deskamp unit, but because not all rock outcrops could be resolved at the one boring per acre average sampling intensity, given the brushy conditions.*

**CN Irrigation Canals**

**Description:** *These canals are non-soil areas that consist of water and steep banks. When canals are dry they are hard rock bottom.*

**Capability Class:** *Not Rated*

Based on Mr. Gallagher’s qualifications as a certified Soil Scientist and Soil Classifier, the Hearings Officer finds the submitted soil study to be definitive and accurate in terms of site-specific soil information for the subject property. The state’s agricultural land rules, OAR 660-033-0030, allow the County to rely on the soil capability analysis prepared by Mr. Gallagher, which is more detailed than the NRCS soil maps and soil surveys and the Web Soil Survey operated by the NRCS as of January 2, 2012. The Hearings Officer finds that the Order-1 soil survey is related to the NRCS land capability classification system.

The Hearings Officer finds that the more detailed soils information in the report prepared by Mr. Gallagher assists the County to make a better determination of whether the subject property qualifies as agricultural land. As set forth above, DLCD completed a Soil Assessment Completeness Review pursuant to OAR 660-033-0045(6)(a), confirming the report prepared by Mr. Gallagher meets the requirements for agricultural soils capability reporting.

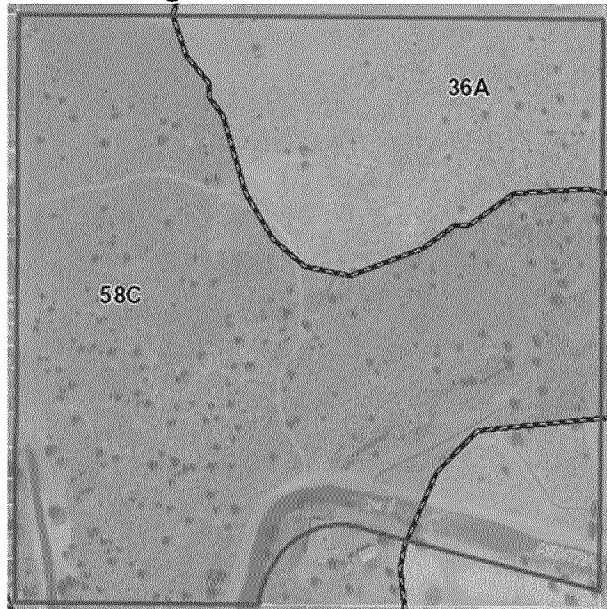
For all the foregoing reasons, the Hearings Officer finds the subject property is not "agricultural land,"

**Table 1 - Summary of Order I Soil Survey**

Previous Map Symbol	Revised Map Symbol	Soil Series Name	Capability Class	Previous Map*		Revised Map	
				Ac	-%-	Ac	-%-
36A	Dk	Deskamp loamy sand0 to 3 percent slopes	3 irrigated 6 non-irrigated	12.2	32.3	10.9	28.90
58C	--	Gosney-Rock outcrop-Deskamp complex, 0 to 15 percent slopes	6, 7 and 8	25.5	67.7	0	0
--	GR	Gosney-Rock Outcrop Complex	7 and 8	0	0	24	63.7
	CN	Irrigation Canal	not rated	0	0	2.8	7.4
Total				37.7	100	37.7	100

\*Soils that were previously mapped as components of a complex that are mapped as consociations in revised map.

**Figure 1 - NRCS Soil Data**



- (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 applicant is seeking approval of a non-resource plan designation on the basis that the subject property is not defined as 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 soils study by Mr. Gallagher of Red Hill Soils dated December 2, 2020. The soils study was submitted following the ORS 215.211 effective date. Staff received acknowledgement via email on February 16, 2021, from Hilary Foote, Farm/Forest Specialist with the DLCDC that the soils study is complete and consistent with DLCDC’s reporting requirements.

The Hearings Officer finds this criterion to be met based on the submitted soils study and confirmation of completeness and consistency from DLCDC.

- (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 soils study as well as NRCS soils data. The Hearings Officer finds that the applicant has complied with the soils analysis requirements of OAR 660-033-0045 in order to obtain DLCD certification. DLCD’s certification establishes compliance with OAR 660-033-0045.

The Hearings Officer finds this criterion is met.

**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:** As referenced in the agency comments section in the Findings of Fact above, the Senior Transportation Planner for Deschutes County initially requested a revised traffic study for the applications. The applicant submitted an updated report from Transight Consulting LLC dated June 8, 2021, to address identified concerns and no further comments were received from the County’s Senior Transportation Planner. The update includes adjustments to the review of potential high impact land use scenarios to include comparisons between a winery and a cluster development, deemed the “worst case scenario” outright uses allowed in EFU and MUA10 Zones, respectively.

In response to these criteria, the applicant’s burden of proof provides the following statement:

*Attached as Exhibit 9 is a transportation impact analysis memorandum prepared by traffic engineer, Joe Bessman, PE. Mr. Bessman made the following key findings with regard to the proposed zone change and concluded that a significant affect does not occur with the proposed rezone:*

- Rezoning of the 36.65-acre COID property from EFU-TRB to MUA could generate up to 49 additional weekday daily trips, including only five additional trips during the weekday p.m. peak hour.*
- The change in trips does not meet Deschutes County, ODOT, or City of Bend thresholds of significance at any nearby locations.*
- The site will be served with stubbed local street connections west through the Marketplace Subdivision that connect to the SE 27<sup>th</sup> Street corridor. This access configuration does not impact Deschutes County streets.*
- The nearest classified intersection of SE 27<sup>th</sup> Street/SE Reed Market Road has a very low crash rate. There are no documented safety needs within the project vicinity.*

*Based on this review a significant affect does not occur with the proposed rezone given the minor potential impacts in transitioning from EFU to MUA zoning.*

*Based on the traffic analysis and findings by Mr. Bessman, the application complies with the TPR.*

Updated findings below, submitted by Transight Consulting on June 8, 2021, are set forth in the revised traffic study:

- *Rezoning of the 36.65-acre COID property from EFU-TRB to MUA provides similar potential impacts to the existing zoning, with the potential for a trip reduction within a “worse case” trip generation scenario.*
- *The reduction in trips does not meet Deschutes County, ODOT, or City of Bend thresholds of significance at any nearby locations.*
- *The site will be served with stubbed local street connections west through the adjacent Marketplace Subdivision that connect to the SE 27<sup>th</sup> Street corridor. This access configuration does not impact Deschutes County streets.*
- *The nearest classified intersection of SE 27<sup>th</sup> Street/SE Reed Market Road has a very low crash rate. There are no documented safety needs within the project vicinity.*

*Based on this review a significant affect does not occur with rezoning from EFU to MUA zoning. With the range of outright allowable uses identified within ORS 215.213(1) and 215.283(1) as a “property right” additional trip generation scenarios could be shown resulting in a trip reduction. Regardless of the scenario, the overall impact of the rezone is negligible on the transportation system and the rezone reflects the more appropriate use of the property given its unsuitability for farming.*

Public comments received by the County indicate concerns with potential traffic impacts as a result of the proposed plan amendment and zone change. These comments are non-specific in nature, do not include any findings contrary to the findings set forth in the Transight Consulting, LLC analyses, and do not include any information that is inconsistent with the Transight Consulting, LLC’s reports. Public comments express a generalized concern about traffic impacts associated with additional growth if the subject property is developed. The Hearings Officer notes that additional transportation/traffic review will be required at the time of any future development application(s).

The Hearings Officer finds that the proposed rezone will not significantly affect an existing or planned transportation facility for the following reasons: (1) it will not change the functional classification of an existing or planned transportation facility; (2) it will not change standards implementing a functional classification system; and (3) it will not result in any of the following effects – types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility, degradation of the performance of an existing or planned transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan, or degradation of the performance of an existing or planned transportation facility that is otherwise projected not to meet performance standards identified in the TSP or comprehensive plan.

The Hearings Officer finds that, based on OAR 660-012-060(1), the County is not required to put in place measures as provided in Section (2) of this rule. The applicant has demonstrated compliance with the TPR. These criteria are met.

**DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES**

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

**FINDING:** The Statewide Planning Goals are addressed below, as set forth in the applicant's burden of proof:

**Goal 1, Citizen Involvement.** *Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the applicant to post a "proposed land use action sign" on the subject property. Notice of the public hearings held regarding this application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.*

**Goal 2, Land Use Planning.** *Goals, policies, and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.*

**Goal 3, Agricultural Lands.** *The applicant has shown that the subject property is not agricultural land because it is comprised predominantly of Class 7 and 8 soils that are not suitable for farm use. Therefore, the proposal is consistent with Goal 3.*

**Goal 4, Forest Lands.** *Goal 4 is not applicable because the subject property does not include any lands that are zoned for, or that support, forest uses.*

**Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** *Deschutes County DIAL property information and Interactive Map show the subject property has "wetlands" that correspond with COID's irrigation distribution system within the property including the developed canals and ditches. According to the Comprehensive Plan (Chapters 2, Resource Management and 5, Supplemental Sections), in 1992 Deschutes County Ordinance 92-045 adopted all wetlands identified on the U.S. Fish and Wildlife Service National Wetland Inventory (NWI) Maps as the Deschutes County wetland inventory. In addition, as described in the Comprehensive Plan, the NWI Map "shows an inventory of wetlands based on high-altitude aerial photos and limited field work. While the NWI can be useful for many resource management and planning purposes, its small scale, accuracy limitations, errors of omission that range up to 55 percent (existing wetlands not shown on NWI), age (1980s), and absence of property boundaries make it unsuitable for parcel-based decision making."*

*The Comprehensive Plan has no specific protections for wetlands; protections are provided by ordinances that implement Goal 5 protections (for example, fill and removal zoning code regulations). In the case of Irrigation Districts performing work within wetlands, DCC*



18.120.050(C) regarding Fill and Removal Exceptions allows fill and removal activities as a use permitted outright as stated below:

- C. Fill and removal activities conducted by an Irrigation District involving piping work in existing canals and ditches within wetlands are permitted outright.

*Because the proposed plan amendment and zone change are not development, there is no impact to any Goal 5 resource. Any potential future development of a wetland – no matter what zone the wetland is in – will be subject to review by the County’s fill and removal regulations.*

**Goal 6, Air, Water and Land Resources Quality.** *The approval of this application will not impact the quality of the air, water, and land resources of the County. Any future development of the property would be subject to local, state and federal regulations that protect these resources.*

**Goal 7, Areas Subject to Natural Disasters and Hazards.** *According to the Deschutes County DIAL property information and Interactive Map the entire Deschutes County, including the subject property, is located in a Wildfire Hazard Area. The subject property is also located in Rural Fire Protection District #2. Rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation. Any future development of the property would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.*

**Goal 8, Recreational Needs.** *This goal is not applicable because no development is proposed and the property is not planned to meet the recreational needs of Deschutes County. The Bend Parks and Recreation District has an undeveloped park site, Hansen Park, located to the south of the property with plans to develop the park trailhead that would serve the Central Oregon Historic Canal Trail System. The proposed rezone does not impact the recreational needs of Deschutes County as no development is proposed.*

**Goal 9, Economy of the State.** *This goal does not apply to this application because the subject property is not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely affect economic activities of the state or area.*

**Goal 10, Housing.** *The County’s Comprehensive Plan Goal 10 analysis anticipates that farm properties with poor soils, like the subject property, will be converted from EFU to MUA-10 or RR-10 zoning and that these lands will help meet the need for rural housing. Approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County Comprehensive Plan.*

**Goal 11, Public Facilities and Services.** *The approval of this application will have no adverse impact on the provision of public facilities and services to the subject site. Pacific Power has confirmed that it has the capacity to serve the subject property and the proposal will not result in the extension of urban services to rural areas.*

**Goal 12, Transportation.** *The application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.*

**Goal 13, Energy Conservation.** *The approval of this application does not impede energy conservation. The subject property is located adjacent to the city limits for the City of Bend. If the property is developed with residential dwellings in the future, providing homes in this location as opposed to more remote rural locations will conserve energy needed for residents to travel to work, shopping and other essential services provided in the City of Bend.*

**Goal 14, Urbanization.** *This goal is not applicable because the applicant’s proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The MUA-10 Zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The compliance of this zone with Goal 14 was recently acknowledged when the County amended its comprehensive plan. The plan recognizes the fact that the MUA-10 and RR zones are the zones that will be applied to lands designated Rural Residential Exception Areas.*

**Goals 15 through 19.** *These goals do not apply to land in Central Oregon.*

The Hearings Officer finds consistency with Goal 1 (Citizen Involvement) has been established with the public notice requirements required by the County for these applications (mailed notice, posted notice and two public hearings). Similarly, the Hearings Officer finds consistency with Goal 2 (Land Use Planning) based on the applications’ consistency with goals, policies and processes related to zone change applications as set forth in the Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code.

Based on the findings above, the Hearings Officer finds consistency with Goal 3 (Agricultural Lands) has been demonstrated because the subject property is not Agricultural Land. The property is not comprised of Forest Lands; Goal 4 is inapplicable.

With respect to Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces), the Hearings Officer finds that the property does not include any scenic and historic areas. Moreover, while the property is currently open and undeveloped, the County Goal 5 inventory does not include the subject property as an “open space” area protected by Goal 5. Members of the public expressed concern regarding potential impact on wildlife. However, the Hearings Officer notes that the property does not include a wildlife overlay (WA)

designation and, more importantly, no development is proposed at this time. Rezoning the subject property will not, in and of itself, impact wildlife on the subject property.

The property does include areas mapped as wetlands by the NWI, which constitute Goal 5 natural resources. Fill and removal activities conducted by an irrigation district are allowed outright under DCC 18.120.050(C). The Hearings Officer again notes that no specific development activities, including fill and removal, is proposed at this time. Because the proposed plan amendment and zone change do not constitute development, there is no impact to any Goal 5 resource. The Hearings Officer finds that future development activities will be subject to local, state and federal regulations that protect delineated wetlands. For these reasons, the Hearings Officer finds consistency with Goal 5.

The Hearings Officer finds consistency with Goal 6 (Air, Water and Land Resources Quality) because there is no demonstrable impact of approval of the application to rezone the subject property from EFU to MUA-10. Future development activities will be subject to local, state and federal regulations that protect these resources.

With respect to Goal 7 (Areas Subject to Natural Disasters and Hazards), the Hearings Officer finds consistency with this Goal based on the fact that rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation that is applicable to the entirety of Deschutes County. The subject property is within the Rural Fire Protection District #2. Any application(s) for future development activities will be required to demonstrate compliance with fire protection regulations.

The Hearings Officer finds consistency with Goal 8 (Recreational Needs) given the fact that no development is currently proposed and that rezoning, in and of itself, will not impact recreational needs of Deschutes County. Members of the public testified regarding concerns of loss of the currently vacant property as open space and for recreational uses. The Hearings Officer notes that the record includes evidence regarding an undeveloped Bend Park and Recreation District park site, Hansen Park, located to the south of the property. There are plans to develop a park trailhead that would serve the Central Oregon Historic Canal Trail System. The Hearings Officer finds that the proposed rezone does not impact these recreational amenity plans.

The Hearings Officer finds Goal 9 (Economy of the State) is inapplicable because the subject property is not designated as Goal 9 economic development land.

The Hearings Officer finds the applications are consistent with Goal 10 (Housing) because the Comprehensive Plan Goal 10 chapter anticipates that farm properties with poor soils will be converted from EFU to MUA-10 or RR-10 zoning, making such properties available to meet the need for rural housing. Although no development of the subject property is proposed at this time, rezoning the subject property from EFU to MUA-10 will enable consideration of the property for potential rural housing development in the future.

The Hearings Officer finds the applications are consistent with Goal 11 (Public Facilities and Services). The record establishes that Pacific Power has capacity to serve the subject property and the proposal will not result in the extension of urban services to rural areas.

Based on the findings above regarding the Transportation System Planning Rule, OAR 660-012-0060, the Hearings Officer finds the applications are consistent with Goal 12 (Transportation).

The Hearings Officer finds the applications are consistent with Goal 13 (Energy Conservation) because there is no evidence approval of the applications will impede energy conservation. Rather, if the property is developed with residential dwellings in the future, energy conservation will be increased – not impeded – as residents will not be required to travel as far to work, shopping and other essential services provided in the City of Bend.

The Hearings Officer finds the applications are consistent with Goal 14 (Urbanization). The subject property is not within an urban growth boundary and does not involve urbanization of rural land because the MUA-10 zone does not include urban uses as permitted outright or conditionally. The MUA-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The state acknowledged compliance of the MUA-10 zone with Goal 14 when the County amended its comprehensive plan.

The Hearings Officer finds that Goals 15-19 do not apply to land in Central Oregon.

For all the foregoing reasons, the Hearings Officer finds compliance with the applicable Statewide Planning Goals has been demonstrated.

**IV. DECISION & RECOMMENDATION**

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer finds the applicant has met the burden of proof necessary to justify the request for a Comprehensive Plan Map Amendment to re-designate the subject property from Agriculture to Rural Residential Exception Area and a corresponding request for a Zone Map Amendment (Zone Change) to reassign the zoning of the subject property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

The Deschutes County Board of Commissioners is the final local review body for the applications before the County. DCC 18.126.030. The Hearings Officer recommends approval of the applications based on this Decision of the Deschutes County Hearings Officer.



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Stephanie Marshall, Deschutes County Hearings Officer

Dated this \_\_12th\_\_ day of October, 2021

Mailed this 13<sup>th</sup> day of October, 2021

owner	agent	inCareOf	address	cityStZip	type	cdd id
Central Oregon Irrigation District			1055 SW Lake Ct	Redmond, OR 97756	HO Decision	21-400-PA, 401-ZC
Tia M. Lewis	Schwabe, Williamson & Wyatt, P.C.		360 SW Bond Street, Suite 500	Bend, OR 97702	HO Decision	21-400-PA, 401-ZC
Joe Bessman	Transight Consulting		Via Email		HO Decision	21-400-PA, 401-ZC



COMMUNITY DEVELOPMENT

**NOTICE OF HEARINGS OFFICER'S DECISION**

The Deschutes County Hearings Officer has approved the land use application(s) described below:

- FILE NUMBERS:** 247-21-000400-PA, 401-ZC
- LOCATION:** The subject property has an assigned address of 61781 Ward Rd, Bend, OR 97702; and is identified on the County Assessor's Map No. 18-12-02, as Tax Lot 1000.
- OWNER/  
APPLICANT:** Central Oregon Irrigation District (COID)
- ATTORNEY  
FOR APPLICANT:** Tia M. Lewis  
Schwabe, Williamson & Wyatt, P.C.  
360 SW Bond Street, Suite 500  
Bend, OR 97702
- SUBJECT:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the property from Agricultural (AG) to Rural Residential Exception Area (RREA). The applicant also requests approval of a corresponding Zone Change to rezone the property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).
- STAFF CONTACT:** Tarik Rawlings, (541) 317-3148, [tarik.rawlings@deschutes.org](mailto:tarik.rawlings@deschutes.org)
- RECORD:** Record items can be viewed and downloaded from:  
[www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)
- APPLICABLE CRITERIA:** The Hearings Officer reviewed this application for compliance against criteria contained in Chapters 18.04, 18.16, 18.32 and 18.136 in Title 18 of the Deschutes County Code (DCC), the Deschutes County Zoning Ordinance, the procedural requirements of Title 22 of the DCC, Chapters 2, 3 and Appendix C of the Deschutes County Comprehensive Plan, Divisions 6, 12, 15, and 33 of the Oregon Administrative Rules (OAR) Chapter 660, and Chapter 215.211 of the Oregon Revised Statutes.

**DECISION:** The Hearings Officer finds that the application meets applicable criteria, and recommends approval of the applications.

*As a procedural note, the hearing on August 31, 2021, was the first of two required de novo hearings per DCC 22.28.030(c). The second de novo hearing will be heard in front of the Board of County Commissioners at a date to be determined.*

**This decision becomes final twelve (12) days after the date mailed**, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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







WINDELL, CALEB & JOHNS, MICHELLE  
FRUMENTO, AMANDA C  
VINOVICH, SEURINA A & MICHAEL  
HESTERBERG, MARISSA D & MARK A  
BLYTHE, JESSE J & CASSIE J  
JOHANSEN, DAVID L & PATRICIA J  
CYP CAR NIPPERT LIVING TRUST  
FLANNERY, JULIE LINCOLN  
BRADSHAW TRUST  
SWEET, JUSTIN LEE & KELSEE ANN  
UPTAIN, KYLE STEVEN & KIMBERLY ANN  
BROOKFIELD, MARGARET  
WOOD, JUSTIN & AMBER  
SPRINGER FAMILY TRUST  
SPRINGER FAMILY TRUST

NIPPERT, JAMES E TTEE ET AL  
BRADSHAW, SCOTT HASTINGS TTEE ET AL

SPRINGER, RICHARD L & GEORGIA A TTEES  
SPRINGER, RICHARD L & GEORGIA A TTEES

C/O GEORGIA A SPRINGER TTE

21277 DARNEL AVE  
21281 DARNEL AVE  
21285 DARNEL AVE  
21289 DARNEL AVE  
21314 SE DAYLILY AVE  
4069 CRESSIDA PL  
21302 SE DAYLILY AVE  
21296 SE DAYLILY AVE  
2500 SUNNY GROVE AVE  
21284 SE DAYLILY AVE  
21278 SE DAYLILY AVE  
1414 NW BALTIMORE AVE  
21266 SE DAYLILY AVE  
3450 SHALLOW SPRINGS TERR  
3450 SHALLOW SPRINGS TERR

BEND, OR 97702  
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BEND, OR 97702  
BEND, OR 97702  
WOODBRIDGE, VA 22192  
BEND, OR 97702  
BEND, OR 97702  
MCKINLEYVILLE, CA 95519  
BEND, OR 97702  
BEND, OR 97702  
BEND, OR 97703  
BEND, OR 97702  
CHICO, CA 95928  
CHICO, CA 95928

HO NOD 21-400-PA, 401-ZC  
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BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** Wednesday, April 13 2022

**SUBJECT:** FY 2023 Video Lottery Fund Allocations

**BACKGROUND AND POLICY IMPLICATIONS:**

Each year, commissioners review anticipated revenue from the County's portion of video lottery proceeds for the upcoming fiscal year and develop an expenditure plan that has historically included funding for economic development activities, various projects, support for other organizations, and grant programs. Staff will provide background information and will guide the Board through a work sheet to develop an expenditure plan for the County's video Lottery Fund (165) for FY 2023. Attached are supporting documents intended to assist with this process.

**BUDGET IMPACTS:**

Planned expenditures will be included in the FY23 budget.

**ATTENDANCE:**

Laura Skundrick, Administrative Services

**Deschutes County  
Video Lottery Fund (165)  
Allocation Descriptions**

**RESOURCES**

**Beginning Balance:** Anticipated amount left unspent at the end of FY 2022 and carried over into FY 2023. Includes higher than expected video lottery proceeds received and interest earned as well as an estimate of unspent funds from FY 2022.

**State Video Lottery Revenue:** Estimated revenue from video lottery proceeds

**Interest Revenue:** Earnings received on pooled investments

**REQUIREMENTS**

**Administration:**

Internal Service Charges – Charges in support of the Board of County Commissioners, Administration, Finance, and the Finance/Human Resources software replacement project as established by the budget office.

**Economic Development:** Funding determined by the Board of Commissioners to support economic development activities.

**Economic Development for Central Oregon** – Includes unrestricted operational support as well as resources for staffing in Bend, La Pine, Redmond, and Sisters and the Venture Catalyst Program.

**Economic Development Loans** – Amount established by the Board of Commissioners to recapitalize the Economic Development Loan Fund (050) if needed.

**Sunriver Chamber of Commerce** – Funding to support the Sunriver Chamber of Commerce

**Project Support:** Includes support determined by the Board of Commissioners for projects not otherwise categorized and also provides an opportunity to address economic development and other community issues which may be of a topical nature.

**Shop-with-a-Cop Program** – Contribution to the annual program operated by the Sheriff's Office.

**Fuels Reduction Grant** – The County Forester operates a fuels reduction grant program. Communities apply for funding and applications are scored using criteria that considers a community’s Firewise status, match amount, scope, size and focus of the fuel reduction work, estimated costs, how the community would involve residents in the project and risk of wildfire to the community.

**Special Project Support Grants** – Grant program intended to provide one year funding to special projects as determined by the Board of Commissioners.

**Service Partners:** Service Partners are organizations that:

- 1) Provide a mandated or sole source service to residents of Deschutes County;
- 2) Were initiated, led, or created by the County; and/or
- 3) Perform services that the County would otherwise be obligated to provide.

Additional information has been provided by each Service Partner in advance of the FY 2023 video lottery discussion showing the impact of these investments.

**Discretionary Grant Program:** Funds made available to local non-profit organizations in the form of small grants for projects and initiatives. Each Board member has traditionally been assigned a set dollar amount to be awarded throughout the year. An additional amount has also been set aside for grants that leverage County support for fundraising activities.

**Arts & Culture Grant Program** – Funding for a County competitive grant program to support programs that bring arts and culture events and education to residents of Deschutes County.

**Community Grant Program:** United Way of Deschutes County coordinates County funding with an annual federal grant program to support local non-profits which furnish emergency food, clothing, and shelter to Deschutes County residents in need.

**Contingency:** Amount determined by the Board of Commissioners to be held in reserve to mitigate unforeseen reductions in video lottery revenue throughout the year. Currently, contingency was estimated at 10% of anticipated revenue.

Deschutes County					
FY 2023 Video Lottery Fund Allocation Exercise					
CATEGORY	PROGRAM	2022 ALLOCATIONS	2023 REQUESTS	2023 ALLOCATIONS	NOTES
<b>RESOURCES</b>					
	Estimated Beginning Net Working Capital		\$ 748,000.00	\$ 748,000.00	
	State Video Lottery Revenue		\$ 1,080,000.00	\$ 1,080,000.00	Projected by Oregon State Lottery
	Interest		\$ 5,138.00	\$ 5,138.00	
<b>TOTAL RESOURCES</b>			<b>\$ 1,833,138.00</b>	<b>\$ 1,833,138.00</b>	
<b>REQUIREMENTS</b>					
Administration	Internal Services		\$ 79,295.00	\$ 79,295.00	
<b>Sub-Total</b>			<b>\$ 79,295.00</b>	<b>\$ 79,295.00</b>	
Economic Development	EDCO Regional Capacity / Operational Support	\$ 130,000	\$ 134,550.00		
	Local Capacity: Bend	\$ 15,000	\$ 15,525.00		
	Local Capacity: Sunriver/La Pine	\$ 35,000	\$ 36,225.00		
	Local Capacity: Redmond	\$ 15,000	\$ 15,525.00		
	Local Capacity: Sisters	\$ 35,000	\$ 36,225.00		
	Venture Catalyst Program	\$ 40,000	\$ 41,400.00		
	Economic Development Loans (Transfer to Fund 050)	\$ 110,000	\$ -		Staff does not anticipate that a transfer to 050 in FY23 will be necessary, based on current fund balance and expected loan requests.
<b>Sub-Total</b>		<b>\$ 380,000</b>	<b>\$ 279,450.00</b>	<b>\$ -</b>	3.5% increase requested to help cover increased material costs, and increase in Consumer Price Index due to escalating labor expense, inflation and housing costs.
Other Economic Development	Sunriver Chamber of Commerce	\$ 52,000	\$ 65,000.00		\$45,000 baseline; \$20,000 Shop Sunriver Campaign
<b>Sub-Total</b>		<b>\$ 52,000</b>	<b>\$ 65,000.00</b>	<b>\$ -</b>	
Project Support	Shop-with-a-Cop Program	\$ 5,000	\$ 5,000.00		
	Fuels Reduction Grant Program	\$ 100,000	\$ 100,000.00		
	Special Project Support Grant: Deschutes Cultural Coalition	\$ 25,000	\$ 25,000.00		
	Special Project Grant Support: Deschutes Basin Water Collaborative	\$ 20,000			Staff seeks Board direction on FY23 Special Project Grant program and potential recipients
	Special Project Grant Support: Deschutes Collaborative Forest Project	\$ 20,000			
	Special Project Grant Support: Friends of the Children	\$ 25,000			
<b>Sub-Total</b>		<b>\$ 195,000</b>	<b>\$ 130,000.00</b>	<b>\$ -</b>	
Service Partners	<b>Central Oregon Council on Aging (COCOA) - Meals on Wheels and Congregate Dining</b>	\$ 40,000	\$ 50,000.00		\$10,000 increase requested to support additional kitchen staff due to increased demand
	<b>MountainStar Family Relief Nursery - Therapeutic Early Childhood Classroom and Safety Net Projects</b>	\$ 20,000	\$ 21,600.00		\$1,600 increase requested due to increased need for services
	<b>J-Bar-J / Cascade Youth and Family Services</b>	\$ 20,000	\$ 20,000.00		No increase requested.
	<b>Redmond Senior Center - Meals on Wheels &amp; Congregate Meals Project</b>	\$ 9,000	\$ 12,000.00		\$3,000 increase requested to support increase in demand and increasing food costs.
	<b>KIDS Center - Child Abuse Medical Evaluation Project</b>	\$ 30,000	\$ 30,000.00		No increase requested.
	<b>Latino Community Association - Healthy Families &amp; Family Empowerment Programs</b>	\$ 30,000	\$ 35,000.00		\$5,000 increase requested to sustain the move to Family Empowerment Center and meet growing demand.
	<b>Bethlehem Inn</b>	\$ 40,000	\$ 42,000.00		\$2,000 increase requested to help retain and recruit staff in competitive job market.
	<b>Family Access Network (FAN) - Juniper Elementary FAN Advocate Project</b>	\$ 17,500	\$ 17,500.00		No increase requested.
	<b>Saving Grace - Mary's Place Supervised Visitation &amp; Safe Exchange Center</b>	\$ 20,000	\$ 30,000.00		\$10,000 increase requested due to high demand for services.
	<b>Central Oregon Veterans' Outreach (COVO) - Homeless Outreach Coordinator</b>	\$ 30,000	\$ 30,000.00		No increase requested.
	<b>Court Appointed Special Advocates (CASA)</b>	\$ 30,000	\$ 35,000.00		\$5,000 increase requested to support paying higher wage for qualified staff in competitive job market.
	<b>Healthy Beginnings - Preschool Developmental Screening</b>	\$ 20,000	\$ 25,000.00		\$5,000 increase requested to support increased staffing for increase in screenings and treatment referrals.
	<b>Upper Deschutes Watershed Council</b>	\$ 20,000	\$ 20,000.00		No increase requested.
<b>Sub-Total</b>		<b>\$ 326,500</b>	<b>\$ 368,100.00</b>	<b>\$ -</b>	
Grant Programs	Discretionary Grants	\$ 60,000			
	Fundraising Grants	\$ 15,000			
	Arts and Culture Grants	\$ 38,500			Original FY22 allocation was \$25,000. Board increased allocation based on grant requests.
<b>Sub-Total</b>		<b>\$ 113,500</b>	<b>\$ -</b>	<b>\$ -</b>	
<b>Community Grant Program</b>	<b>United Way of Central Oregon: Emergency Food, Clothing and Shelter Grants</b>	\$ 80,000	\$ 80,000.00		
<b>Sub-Total</b>		<b>\$ 80,000</b>	<b>\$ 80,000.00</b>	<b>\$ -</b>	
<b>TOTAL REQUIREMENTS</b>			<b>\$ 1,001,845.00</b>	<b>\$ 79,295.00</b>	
	Contingency		\$ 80,147.60	\$ 6,343.60	Optional to allow for unexpected revenue variations. Contingency was estimated at 8% of requirements.
<b>REMAINING BALANCE</b>			<b>\$ 751,145.40</b>	<b>\$ 1,747,499.40</b>	



## VIDEO LOTTERY ALLOCATION EXERCISE

Economic Development Requests for Funding:

- **EDCO (attached)**
- **Sunriver Chamber of Commerce (attached)**



March 30, 2022

Deschutes County Board of Commissioners  
 1300 NW Wall Street, 2<sup>nd</sup> Floor  
 Bend, OR 97703

**RE: Economic Development for Central Oregon Budget Request**

Dear County Commissioners and Budget Committee,

On behalf of Economic Development for Central Oregon (EDCO), I am writing today to request funds in the amount of \$279,450 (a 3.5% increase over last fiscal year) for ongoing support of EDCO’s strategic plan and mission to create a diversified local economy and a strong base of middle-class jobs in Central Oregon.

The 2022-23 fiscal year budget request to Deschutes County includes a 3.5% increase (\$9,450) to help cover the following:

- Increased materials costs (equipment, office supplies, software support, etc.)
- Escalating labor expense, inflation and housing costs which have contributed to the increased Consumer Price Index for all U.S. urban consumers (up by 7.9% over the last 12 months)

Program or Community	Deschutes County FY2021-22 Investment (current)	Deschutes County FY 2022-23 (proposed)
Sunriver-La Pine	\$35,000	\$36,225*
Sisters Country	\$35,000	\$36,225**
Redmond (REDI)	\$15,000	\$15,525
Bend	\$15,000	\$15,525
Venture Catalyst Program	\$40,000	\$41,400
EDCO Regional Office	\$130,000	\$134,550
<b>TOTAL:</b>	<b>\$270,000</b>	<b>\$279,450</b>

\*Sunriver-La Pine program funds are passed through EDCO to the City of La Pine apart from nominal administrative funds to provide software and staff support for the position.

\*\*Sisters Country funds are presently being used to fund a part-time position until the City of Sisters determines how a full-time program fits into the new budget cycle.

EDCO’s primary efforts to achieve our strategic initiatives, focus on helping companies do the following:

**MOVE.** We guide employers outside the region through the relocation process as a resource for regional data, incentives, talent, site selection, and more.

**START.** We mentor and advise scalable young companies from concept to exit on issues such as access to capital, critical expertise, and strategy.

**GROW.** We partner with local traded-sector companies to help them grow and expand.

**Leveraged Funding**

For decades, Deschutes County has been a key partner in the work of economic development both through its own operations and through contracting with EDCO for business development services and efforts to enhance and support the local business climate. We believe there are three primary reasons driving this ongoing investment by and partnership with Deschutes County from lottery funding allocated for economic development:

- As a private non-profit, our personnel and benefit overhead costs are lower than the County;
- EDCO leverages private sector funding to stretch limited public dollars further; and
- EDCO has a proven track record of success, efficiency, and effectiveness in fostering job growth, industry diversification and the key elements that pave the way for both.

Funding from Deschutes County leverages more than \$6 of outside funding for every \$1 spent by the County in the form of private memberships, local and federal government contributions and earned revenue (primarily events) to do economic development within its borders. In this way, public dollars are combined to achieve better results and measurably improve the local, county and regional economy. We believe this partnership has been key to the consistently high rankings in the U.S. for economic performance and job creation from The Milken Institute, including #1 rankings for small metros four out of the past five years, and consistently high ranking with Forbes, Entrepreneur, and Heartland Forward as standout places where jobs are being created and sustained.



**Forbes**

**Entrepreneur**

### Scope of Work

EDCO will maintain a strong regional organization with adequate capacity to deliver comprehensive local economic development programs in coordination with Deschutes County and local communities. Services within the base of operation of EDCO will include, but not be limited to, marketing, recruitment, retention/expansion, and further formation of public/private partnerships. EDCO will also monitor initiatives that directly impact local companies' ability to be successful and will conduct additional activities to encourage and support local entrepreneurship by providing a mentoring network and facilitating access to equity/growth capital. In addition, EDCO will administer enhanced economic development activities by hiring and retaining the staff necessary to support individual communities. A portion of the funds received from Deschutes County will be used to augment existing marketing and abridged recruitment efforts to generate new job creation.

It is no secret that labor shortages exacerbated by both housing and childcare affordability and availability are negatively impacting our economic growth. With that in mind, we are focusing more attention on workforce development and growing our labor force through strategic investments of time and resources, rather than new business recruitment activities.

### Return on Investment (ROI)

EDCO fosters business development activities by building relationships with traded sector clients – companies who generate most of their income from outside the region – one CEO at a time. We leverage many different tools and resources to accomplish our work to promote investment and job creation on the high desert. One of those tools under EDCO's supervision is the Enterprise Zone program. On behalf of the Deschutes County Board of Commissioners, a sponsor of the three Enterprise Zones within the County, EDCO markets, provides technical assistance, and administratively manages these zones to help companies during times of expansion and relocation. EDCO also provides these services to Jefferson and Crook Counties.

Business Oregon, the State's economic development agency, recently conducted a *Property Tax Incentives Impact Study* across the State, which included an analysis of the Enterprise Zone program for the years 2019 and 2020. The results were astonishing, reporting that the standard program, which is a 3–5-year property tax exemption, resulted in an economic impact 29 times the investment made by participating companies. This means that for every dollar of property tax abated, companies using the standard program generated \$29.16 dollars in increased economic output. This output reflects the relative magnitude of up-front capital investments by participating companies, combined with the ensuing period of abatement over which foregone property taxes accumulate. Total output (or the numerator in the ROI calculation) is a



function of various increases in jobs (direct, indirect, and induced) and payroll and the multiplier effect on other local businesses. Presently EDCO is managing 95 active companies authorized to use the Enterprise Zone, which accounts for 20-30% of our Area Director's efforts and time. Of those 95 companies, 81% (77), are in Deschutes County. At the time of authorization, those companies plan to invest over \$296 million dollars and create over 1,550 jobs. The impending ROI for these investments, based on the information from the impact study, is over \$8.6 billion dollars. This is just one example of the return-on-investment Deschutes County can expect when investing in EDCO. Supporting information regarding this report can be [found here](#).

### Strategic Plan

Historically, the basis of Deschutes County's investment in outsourced economic development services with EDCO has been the organization's successive three-year strategic plans. The 2022-2025 plan is under construction, with direction from EDCO's Board of Directors, and will include outreach to many stakeholders, including Deschutes County staff and Commissioners. The new plan will also address the aforementioned focus on additional workforce development initiatives.

The current 2019-21 plan, which was extended to June 30, 2022, outlines three primary goals, 11 objectives and 39 detailed actions to achieve those goals. Further details regarding our strategic plan can be found by visiting our [website here](#).

EDCO's board and staff applaud the Commission and the Deschutes County management team for your vision to sustain support for economic development services, particularly in the uncertain times which we have encountered over the past several years. We believe this proposal, which is consistent with prior year commitments, represents a cost-effective strategy that is broadly supported by the communities within Deschutes County and leverages both private and public local level investment in economic development.

I welcome the opportunity to address any questions you may have and appreciate your consideration of EDCO's request.

Sincerely,



Jon Stark  
Interim Chief Executive Officer  
Economic Development for Central Oregon (EDCO)





**MEMORANDUM**

Date: Feb. 21, 2022

TO: Deschutes County Board of Commissioners

FROM: Sunriver Area Chamber of Commerce Finance Committee

RE: Fiscal Year 2022-23 Budget Request

The Sunriver Area Chamber of Commerce kindly requests the continued financial support of the Deschutes County Board of Commissioners. The Chamber values its partnership with Deschutes County to provide assistance to Sunriver area businesses, while working to create and maintain jobs for local citizens. As the county and state of Oregon emerge from the two-year shadow caused by the pandemic, the Chamber will provide a vital role in coordinating communications between the local businesses and nonprofit organizations; serving as a liaison to address the need for public transportation, childcare and workforce development; and providing additional support to businesses.

The Chamber plans to continue its highly successful “Shop Sunriver” campaign. The Chamber is working with its partners including The Village at Sunriver, COVA, Sunriver Resort, the SHARC, Alpine Entertainment and other organizations to coordinate events and shop local campaigns in Sunriver.

The Chamber’s plans for 2022 include starting again the community potlucks and several networking events. The Chamber is also working with the La Pine Chamber of Commerce to host an all-day Workforce Development Conference in June. The Chamber can only achieve its goals to continue to provide service to all Sunriver area businesses and nonprofits with the continued financial support from Deschutes County.

The Chamber’s Finance Committee has carefully reviewed its financial needs and developed a budget request of \$65,000 for the fiscal year 2022-2023, an increase of \$13,000 from the previous fiscal year. This would allow us to maintain our basic operations while increasing the scope of the “Shop Sunriver” campaign, initiated in 2021.

For our baseline operations, we are requesting \$45,000, which is a \$5,000 increase from the 2021-22 fiscal year. This will allow us to continue to offer the services mentioned earlier, including business development, education and training, and advocacy. We also could continue to offer traditional services that our local businesses, visitors, and our community have come to expect from our Chamber, such as

business referrals, and providing promotional information about Sunriver’s special amenities, recreational opportunities, and events and activities.

We are requesting an \$8,000 increase in our “Shop Sunriver” Campaign, bringing the total support from the County to \$20,000. You’ll recall that that we initiated this Campaign in November of 2020 with support from a grant from the Coronavirus Relief Fund. Through the use of both social and traditional media, and other strategies, we have been able to create effective marketing programs directed at both residents and visitors that provide direct support to our local businesses. This funding would be reinvested in our local businesses.

For example, the Chamber recently partnered with Alpine Entertainment to host a Sunriver Shop Hop where participants were entered in drawing for 10 gifts cards, valued at \$25 each. The Chamber and Alpine Entertainment each purchased 5 gift cards. This way we were able to effectively generate economic activity directly to our local businesses. If awarded the grant, the Chamber would also use funds to engage our local restaurants in our Community Potlucks. This would be beneficial to our restaurants, especially during the shoulder season. The Chamber plans to continue partnering with local organizations in many other ways to continue this type of marketing and support for local businesses.

In summary, the Sunriver Area Chamber of Commerce total budget request is as follows:

Continued Baseline Support:	\$45,000
“Shop Sunriver” campaign:	\$20,000
TOTAL REQUEST:	<u>\$65,000</u>

Concerning the source of funding for the Chamber request for Fiscal Year 2022-23, we will leave that up to the discretion of the county, recognizing that this year’s allocation came from the Lottery Fund, but there may be other appropriate sources, such as the Transient Room Tax Fund, for the upcoming fiscal year.

We are available anytime to discuss this proposal in additional detail and to answer any questions you might have. Our Chamber office number is 541-593-8149 or you can email Executive Director Kristine Thomas at [exec@sunriverchamber.com](mailto:exec@sunriverchamber.com). Thank you for considering this request.

**Sunriver Area Chamber of Commerce Board of Directors Finance Committee:**

- Dan Youmans, Government Relations Consultant, Chamber Board President
- Aaron Schofield, Branch Manager, First Interstate Bank, Chamber Board Treasurer
- Kelly Newcombe, General Manager, Central Oregon, Meredith Lodging, Chamber Board Secretary
- Keith Kessar, Assistant General Manager, Sunriver Owners Association
- Thomas Samwel, Area Director of Finance, Sunriver Resort Limited Partnership, Chamber Board Member



## VIDEO LOTTERY ALLOCATION EXERCISE

Project Support Requests for Funding:

- **Shop-with-a-Cop Program**
- **Fuels Reduction Grant Program**
- **Special Project Support Grants as determined by the Board of Commissioners**
- **Deschutes Cultural Coalition (attached)**

Deschutes Cultural Coalition  
P.O. Box 2094  
Bend, OR 97709  
Fiscally Sponsored by the Deschutes Public Library Foundation

Commissioner Patti Adair  
Commissioner Phil Chang  
Commissioner Tony DeBone  
Deschutes County  
1300 NW Wall Street  
Bend, OR 97701

March 2, 2022

Dear Deschutes County Commissioners:

On behalf of the Deschutes Cultural Coalition, a local funding and cultural support program of the state’s Oregon Cultural Trust, we thank you for approving our FY 2022 request for \$25,000 from Deschutes County at your February 9, 2022 meeting.

The support is dedicated to rebuilding the capacity of arts and culture organizations adversely impacted by the pandemic. The County allocates approximately \$25,000 annually to support the arts through its Arts and Culture Grant program. By allocating an additional \$25,000 to the DCC the County is further supporting arts organizations that, in many cases, did not fit the very narrowly defined Covid relief funding.

Please consider this FY 2023 request for \$25,000 to DCC to continue supporting arts organizations in Deschutes County.

The DCC agrees to work with the county administration to ensure the county receives proper messaging credit and to submit any necessary reports. While the DCC is in the process of receiving its 501(c)(3) status we are fiscally sponsored by the Deschutes Public Library Foundation (EIN 94-3178822) and checks or money transfers to DCC are routed through the DPLF bank account.

We thank you again for your appreciation of and support for the arts!

Sincerely,

*Cate O’Hagan*  
Cate O’Hagan  
President, DCC  
[CateMarieOhagan@gmail.com](mailto:CateMarieOhagan@gmail.com)  
541.588.0166 Cell

*Eric Sande*  
Eric Sande  
Treasurer, Deschutes Cultural Coalition  
[Eric@VisitRedmondOregon.org](mailto:Eric@VisitRedmondOregon.org)  
Executive Director, Redmond Chamber of Commerce  
541.749.0738 Cell



## VIDEO LOTTERY ALLOCATION EXERCISE

Service Partner Requests for Funding (attached):

- **Central Oregon Council on Aging**
- **Mountain Star Family Relief Nursery**
- **J-Bar-J / Cascade Youth and Family Services**
- **Redmond Senior Center**
- **KIDS Center**
- **Latino Community Association**
- **Bethlehem Inn**
- **Family Access Network (FAN)**
- **Saving Grace**
- **Central Oregon Veterans' Outreach (COVO)**
- **Court Appointed Special Advocates (CASA)**
- **Healthy Beginnings**
- **Upper Deschutes Watershed Council**

Additional Attachments:

- **Service Highlights Infographic**
- **Results on Investment Overview**
- **Other Deschutes County Funding Summary**
- **Service Partner Funding History**





## COUNCIL ON AGING OF CENTRAL OREGON Volunteer Coordination of Meals on Wheels & Congregate Dining

<b>2021-22 Award</b>	\$40,000 (3% of project funding)
<b>Amount Requested 2022-23</b>	\$50,000

*Cathy Hensel, a Meals on Wheels recipient in Sisters remarks, "I can't thank you, the Council on Aging, the chef, the many Meals on Wheels drivers and volunteers enough. You've brought peace of mind, energy, and nutritional health into my life. The meals truly changed both my physical and mental health. You truly are lifesavers to those of us in need." January 1, 2022*

### Community Need and Request for Increased Funding

- Even with COVID retreating, many older adults in Central Oregon are still isolated at home.
- We are still adding Meals on Wheels clients who request support, despite earlier wait lists. Every client gets shelf-stable foods as emergency backup, as well.
- Community dining (previously sit-down lunches) is still mostly drive-through hot lunch service in Bend, Sisters and La Pine three times per week. Redmond delivers as well.
- Our food provision has increased and so have uncertainties related to our food supply. In response, we have added a part-time cook to make hot food for Bend, La Pine and Sisters. We have been able to serve better, more nutritious hot food as a result, but we would like to be able to cook even more hot food and return to congregate in-person meals soon.
- We respectfully request \$50,000 to continue to employ a second cook and add a PT bakery cook so that we can further expand our food provision with more days and more meals. Previously our single cook was supported by volunteers and struggled to meet the nutrition needs of Deschutes County seniors. We have expanded to offer more days of community dining each week, better meal variety, and eliminated any waiting lists.

**Impact of Current Investment** Provide .6 FTE (of 3.2 FTE) to support nutrition programs (Meals on Wheels and congregate dining) and recruit, train, and coordinate volunteers.

- In the period of July 1, 2021 to Jan 1, 2022 (February and March 2022 numbers are not available until 3/5/22), COA coordinated more than **10,762 volunteer hours** and served/delivered more than **47,895 meals** to more than **991 unduplicated clients** in Deschutes County.

**Comments** On 3/12/22 the Omnibus Bill passed without the 10% increase in the Older American Act funding that was expected. The FY 23 fund increase was less than 2%. Without the CARES and ARPA fund windfalls of last year, and no increase in OAA funds, we may see a cap on services if we can't secure additional revenues in the next two years, hence our request for additional support in FY23. Your investment in helping expand our in-house cooking has allowed us to feed more hot, nutritious, and delicious meals to deserving seniors who look to us for nutrition and connection.



## MOUNTAINSTAR FAMILY RELIEF NURSERY Therapeutic Early Childhood Classroom and Safety Net Projects

<b>2021-22 Award</b>	\$20,000 (4% of project funding)
<b>Amount Requested 2022-23</b>	\$21,600

*“Investments in high quality early childhood and family services are consistently shown to have the highest returns of any economic development project. We are so excited to be bringing these services into more communities in our county.” - Kara Tachikawa, Executive Director*

### Community Need and Request for Increased Funding

Deschutes County Data:

- There has been a dramatic increase in the number of children in DHS/Child Welfare.
- In 2019, there were 15.9 (per 1,000) children who were victims of abuse and neglect compared to 11 (per 1,000) in 2015 (*Our Children Oregon, most recent data*).

MountainStar Data:

- Average of 16 family “risk factors” (such as mental health or substance abuse issues, housing or food insecurity) for child abuse and neglect
- Parents have an average Adverse Childhood Experience (ACE) score of 6 (ACE score scale is 0-10). An ACE score of 4 or more predicts adverse long-term health outcomes including a two- to five-fold increase in chronic disease state, six- to 12-fold increase in mental illness and addiction disorders, in addition to an increase in learning disabilities and behavioral disorders. In Central Oregon, there are over 5,000 children ages 0-3 considered at-risk. MountainStar currently serves just 6% of this population.

98% of our client families live in poverty and 100% meet the OR state definition of at-risk. Funding will support 0.3 FTE (of 3.0 FTE) Program Managers in our Relief Nursery Therapeutic Early Childhood programs in Bend, Redmond, and La Pine. The increase in funding will support programs and needs in Southern, Central, and Northern Deschutes County.

**Impact of Current Investment** Grant supports 0.4 FTE (of 3.6 FTE) to support Relief Nursery Therapeutic Early Childhood in Bend.

- In the period of July 1, 2021 to February 1, 2022 provided therapeutic early childhood classes, home visiting, parent support, and transportation for **47 children ages 0-3**, already exceeding annual goals. Safety Net/Outreach services (crisis intervention, home visits and basic needs support) for **47 children and their families**. 100% of children enrolled in these services remained safe from confirmed cases of abuse and neglect during this time frame.

**Comments** MountainStar raises \$1.2 in private investment for every \$1 of government funding. PSU documented a 4:1 return on investment (ROI) for the Salem Relief Nursery. Nationally, investments in early childhood are documented at a 12:1 ROI, which exceeds most other economic development projects. MountainStar Bend’s early childhood classes are rated 5-stars by the State. In FY 2020-21, 99% of the children served remained free from confirmed cases of abuse and neglect. MountainStar offers services in Bend, Redmond, and La Pine.



## J BAR J CASCADE YOUTH & FAMILY CENTER Runaway & Homeless Youth Emergency Shelter Project

<b>2021-22 Award</b>	\$20,000 (6% of project funding)
<b>Amount Requested 2022-23</b>	\$20,000

*“Cascade Youth & Family Center (CYFC) continues to be the sole provider of a comprehensive spectrum of prevention and intervention services targeting runaway, homeless and street youth, including victims of human trafficking, in Deschutes County and the greater region.” – Stephanie Alvstad, Executive Director*

**Community Need** The total number of homeless in Central Oregon has increased by 85% since 2015 (Point in Time Count data: 594 – 2015; 1,099 – 2021). The number of homeless children and youth has also increased. The following are data for children and youth (up to the age of 24):

- Total homeless children & youth has increased by 43% (184 – 2015; 264 – 2021)
- **Unaccompanied children & youth has increased by 213% (55 – 2015; 172 – 2021)**

It is estimated that 30-40% of homeless youth are not identified. 2021 service totals include:

- Shelter – 5,967 nights for 96 youth (all programs emergency and transitional youth)
- 24-Hour Crisis Response – 1,314 hotline calls; 297 total youth served
- Street Outreach Youth Contacts (basic needs) – 1,508 youth; 1,115 hours (duplicated)

Shelter space continued to be limited during 2021 due to COVID-19 and social distancing requirements. CYFC has had to maintain mandated staffing ratios, despite many COVID+ staff.

**Impact of Current Investment** Provide support for .2 (of 3.8 FTE) Case Manager to support the Runaway and Homeless Youth Emergency Shelter.

- **86% of youth** who have accessed shelter and received crisis intervention and/or mediation, **were reconnected with family or transitioned to other safe and stable living environments** when leaving the program.
- In the period of July 1, 2021 to January 31, 2022 more than **654 nights of emergency shelter**, crisis intervention and family mediation were provided to more than **26 youth** ages 12-20.

**Comments:** CYFC’s goal is to shelter the most vulnerable youth to reduce risk and end chronic homelessness. Youth access shelter directly off the street. In 2021, 76 human trafficking victims (72 sex/10 labor/6 both) were identified and served. Homeless youth are at higher risk for physical and sexual exploitation, mental health and substance abuse - even death. It is estimated that 5,000 homeless youth die each year as a result of assault, illness, or suicide. RHY services are largely funded through federal and state grants and donations. However, grant funds require that 10-25% of the project cost be provided through matching funds.

**Deschutes County grant funds continue to be crucial match funds for this project.**



## REDMOND SENIOR CENTER Food for Meals on Wheels & Congregate Meals Project

<b>2021-22 Award</b>	\$9,000 (2% of project funding)
<b>Amount Requested 2022-23</b>	\$12,000

*"I cannot shop for myself and look forward to getting my daily meal and visiting with my Meals on Wheels driver every day. God Bless you all." - Grateful Meals-on-Wheels Client*

**Community Need and Request for Increased Funding** Over 25% of the population are 50 or older, and by 2025, this number is projected to be 35%. We are on our way to having an older adult population that is disproportional to the general population.

Following CDC and Governor directives including Center closure, the Center continued to provide Meals on Wheels, an essential service, to over 31,000 older adults using safe social interactions. Due to safety restrictions, we did not serve meals on site (congregate meals) during most of 2021.

Currently we face several critical issues: 1. We know a minimum of 35% more meals are needed in the greater Redmond area; 2. Since March 2021, food costs have increased an average of 20%; 3. Our number of volunteers must grow by a minimum of 50% to meet current and emerging needs; and 4. Our 30-year-old commercial kitchen is not functioning at full capacity and facing safety issues (the City of Redmond has committed \$250K toward a complete remodel and we are securing additional funding needed.) Without a tax-base, we are actively seeking additional partners to grow our funding, volunteer base, and social services to fulfill existing needs while planning for the future. We are requesting an increase in funding to:

- Continue to provide the current 120 meals per day and increase to a minimum of 162 per day by September 2022 with the intent to provide a minimum of 150 per day by March 2023 including costs associated with food purchases and staff support needed to prepare food and secure and train volunteers who deliver food.

**Impact of Current Investment** Support a minimum of 1.8% of the total annual cost for Meals on Wheels and home food delivery service for seniors.

**Comments** We feel we have "weathered the COVID storm" reasonably well by maintaining our commitment to provide Meals on Wheels, an essential service for those most vulnerable in our greater Redmond area. We are the only organization providing this service and rely on community support to ensure these meals are available. Federal funding for Meals on Wheels provides an average of 40% of the real cost. Our partners are our backbone to ensure vulnerable older adults have the basic need of food. BOCC has been a critical partner. Beyond COVID, we now face challenges of unprecedented older adult population growth, significant food costs, increased wages, and need for more volunteers. With BOCC and other partners, we are up for the challenge.



## KIDS CENTER Child Abuse Medical Evaluation Project

<b>2021-22 Award</b>	\$30,000 (14% of project funding)
<b>Amount Requested 2022-23</b>	\$30,000

*“During the past year KIDS Center experienced a dramatic increase in service referrals, and requests for our services are now close to pre-pandemic levels. In response to partner-identified need to expand rapid access to services, we hired two additional forensic interviewers and one medical examiner. KIDS Center continues to provide essential diagnostic medical and forensic interview services, family advocacy, therapy, and emergency aid to hundreds of local families.” - Gil Levy, Executive Director*

**Community Need** KIDS Center serves children (birth to 18) who are suspected victims of physical or sexual abuse, neglect, drug endangerment, and witnessing domestic violence. KIDS Center is the Designated Medical Provider (DMP) for medical evaluations, as well providing forensic interviews, family advocacy, and therapy for children referred by law enforcement, DHS Child Welfare, therapists, and medical professionals.

- In 2021, KIDS Center served 1,573 unduplicated children and families, and conducted 342 evaluations, a 19% increase from 2020 and a rate close to pre-pandemic levels. All services are provided at no cost to the family.
- Medical examiners (MEs) field consult calls from medical providers in Deschutes County which result in work-up recommendations, referrals to investigative agencies, and direct referrals for an evaluation at KIDS Center. Last year, MEs trained 132 medical professionals on topics relating to child abuse and neglect.

**Impact of Current Investment** Grant supports .16 FTE (of 1 FTE) medical examiner to conduct consultations and medical evaluations of suspected victims of child abuse. In the period of July 1, 2021, to March 1, 2022:

- **Performed medical assessments for 100% of children referred (198).**
- **100% of child abuse assessments cross reported to DHS and Law Enforcement (184 law enforcement investigations).**
- **100% of cases accepted by the DA's office for prosecution are supported with expert witness testimony (20 cases accepted).**
- **Every child (and their family) served with a medical evaluation received additional services including family advocacy and a therapy referral (as appropriate).**

**Comments:** The staff positions we added have strengthened our center’s ability to accommodate a rise in child abuse evaluation referrals, respond to our community partners’ need for access to quality services, and to prevent burnout within our staff team. The steps we have taken combined with support from the BOCC will be tremendously helpful in ensuring our ability to respond quickly to incoming referrals and to evaluate each child in need of our services.



## LATINO COMMUNITY ASSOCIATION Healthy Families & Family Empowerment Programs

<b>2021-22 Award</b>	\$30,000 (8% of project budget)
<b>Amount Requested 2022-23</b>	\$35,000

*“Deschutes County funding support is absolutely critical to sustain our services to our underserved immigrant families and to demonstrate the County’s commitment to equity, which lends credibility to our mission and leverages over \$500,000 and 200 volunteers.” — Brad Porterfield, Executive Director*

**Community Need and Request for Increased Funding** We are requesting a slight increase in funding in order to sustain our recent move to our Family Empowerment Center, so we can continue to meet the growing demand for our culturally-specific services and advocacy role. Immigrant Latino families in our communities are one of our most vulnerable and underserved populations. Key data indicators for Deschutes County Latinos include:

- Fastest growing (increased by 47% since 2010 in Deschutes County) with the . . .
- Lowest median age at 26 (compared to 47) and 36% being under 18 years old; the . . .
- Highest rate of labor force participation (78%), yet also with the . . .
- Lowest average per capita income (\$17,267) and the . . .
- Highest rate of uninsured (20.3%) referring to health insurance coverage.

Immigrant Latino families face unique barriers such as English proficiency and they continue to be under heightened stress due to the federal administration’s perceived need to be tough on the immigration issue. In September 2021, we moved to a 5,700 square foot office and community center in Bend to expand our services to families and continue to realize our vision to build a welcoming community across cultures. This move increased our annual facility costs by \$67,000. We now have space for our English and Citizenship classes. We hosted vaccination and testing clinics and have rented our community room to families for baby showers and birthdays. And we now have offices for our growing staff team, including our Workforce Navigator, Volunteer Coordinator, Youth Rising Manager and just-hired Advocacy & Leadership Coordinator.

**Impact of Current Investment** Support 8% of Healthy Families & Family Empowerment program costs.

- Health insurance and COVID wraparound assistance for a **minimum of 300 clients**
- Low-cost dental services for **50 clients**
- Coordinate **information & referrals for a minimum of 350 clients**
- Provide minimum **100 free legal consultations**
- Provide citizenship assistance for a **minimum of 25 clients**

**Comments** We are concerned that a post-pandemic period of fiscal austerity will occur precisely when the challenges and opportunities immigrant families face are growing including employment, housing, childcare, health and more. Deschutes County’s support will help ensure we are resourced adequately to meet the needs AND build community.



## BETHLEHEM INN Volunteer Coordination of Emergency Meals

<b>2021-22 Award</b>	\$40,000
<b>Amount Requested 2022-23</b>	\$42,000

*“Our ongoing partnership with Deschutes County improves the overall health of our community. This continuing collaboration is all the more imperative in the upcoming year as the Inn serves additional people in its Redmond location, which will help address the rapidly growing, urgent needs of adults experiencing homelessness.” - Kim Fischbach, Dir. of Philanthropy*

**Community Need and Request for Increased Funding** We respectfully request BOCC grant funding to help support the continuing service delivery of nutritious meals as part of our Meal Program. This is *especially critical now that the Inn has opened its second shelter location in Redmond.* As the region's leading emergency shelter provider, the Inn serves as a critical safety net in our region. Without access to services uniquely provided by the Inn, economically disadvantaged adults and families are at greater risk of chronic poverty with limited alternatives as the region slowly recovers from the devastating impact of the pandemic.

The region continues to experience an increase in the number of adults/families, who have lost their income, may no longer have a safe place to live and will be seeking support from the Inn. It is essential for the Inn to address extreme hunger and nutrition-related health conditions to mitigate reduction in cognitive abilities, which make it even more difficult for homeless individuals to find and hold jobs.

Since March 2020, the Inn has been required to reduce its resident capacity by over 60% to comply with CDC guidelines. That guideline continues today; however, a projected return to 100% capacity is expected by the early 2023. While the demand for nutritious meals was great before COVID-19, it is projected to be even more significant as we transition into the post-virus months.

*Bethlehem Inn respectfully requests \$42,000 for FY 22/23 to support our Meal Program in Bend and Redmond, which will serve a projected 80,000 nutritious meals to an estimated 800 children and adults next year.* Funding will help support fixed staffing costs regardless of resident count: 1 FTE Kitchen Mgr, 2-FTE Kitchen Staff. Matching funds will help support 2 FTE Kitchen Staff, 2-.50 FTE Kitchen Staff and 1- .25 FTE facility assistant to support food inventory and facility needs.

**Impact of Current Investment** Provide support for .73 (of 1 FTE) kitchen manager and .16 (of 1 FTE) kitchen steward to prepare and serve meals as part of the Meal Program.

- 100% of residents provided three nutritious meals daily
- In the period of July 1, 2021 to February 28, 2022, **298 residents and 37,644 meals served.**

**Comments** BOCC funding will help support the increasing fixed kitchen staffing costs due to competitive job market and need to increase salaries to retain/recruit staff regardless of # of residents served.



## FAMILY ACCESS NETWORK Juniper Elementary FAN Advocate Project

**2021-22 Award**

\$17,500 (49% of one school project funding)

**Amount Requested 2022-23**

\$17,500

*“On a professional note, our advocate always does everything by the book. She is very diligent in making sure I understand the resources being offered and helps me through the process step by step. On a personal note, our advocate has been extremely courteous. It's not easy being in a humbled situation, and you always feel like people may be pre-judging you; but with our advocate, I have never felt this way.” - A FAN parent*

**Community Need** The Family Access Network offers assistance, possibility, and hope to Central Oregon families in need by connecting them with crucial resources that help children flourish in school and in life. Our advocates *serve nearly 8,000 children and family members each year*, connecting them to a diverse array of assistance. Our work over the past 24 months has been challenging, yet our advocates have risen to the occasion with creativity and grace. FAN is working hard to support children and families during this uncertain time and make sure they have access to basic-need resources including nourishing food, safe shelter, health care, childcare, and much more.

We have been fortunate to have FAN advocates physically back in the schools this year, supporting our students and families. After addressing an initial, specific need for a family, like basic school supplies, advocates often learn of related needs, like food, clothing, or rent assistance, which they are able to take care of quickly thanks to FAN’s 100+ community partners. Our advocates’ years of face-to-face relationship-building with their communities has helped us to successfully pivot and stay flexible within the current environment of rapidly changing circumstances. As we continue to adapt to this dynamic situation, our vision of a community where children flourish and families thrive remains consistent.

Many FAN families live above the Federal Poverty Level, but do not earn enough to afford basic necessities in their communities, making them especially vulnerable to falling into poverty through sudden job loss. In addition, Central Oregon as a region includes many rural areas, where barriers to assistance—like lack of transportation, health care, and technology limitations—are increased. These funds will help us meet the intensified needs of those disproportionately affected by our rapidly changing circumstances, supporting our most vulnerable children, breaking down barriers and helping them thrive in school and in life.

**Impact of Current Investment** Grant supports .37 FTE (of .47 FTE) FAN advocate at Juniper Elementary School to connect children and family members to basic-need resources.

- In the period of July 1, 2021 to March 1, 2022 connected **241 children and family members** to basic-need resources, already exceeding annual goals.
- During the fall client survey, **96% of families reported that FAN improved their situation**





## SAVING GRACE Mary's Place Supervised Visitation & Safe Exchange Center

<b>2021-22 Award</b>	\$20,000 (3% of project funding)
<b>Amount Requested 2022-23</b>	\$30,000

*"I am so thankful for the support, safety planning and care for my children from Mary's Place. The entire team has met us where we were at and have instilled confidence back in my children while keeping them safe." – Mary's Place client. "Mary's Place provides important supervised visit and exchange services that allow families to safely engage in parenting time." - Deschutes County Circuit Court.*

**Community Need and Request for Increased Funding** During FY20-21, victims of domestic violence, sexual assault and/or stalking in the County received 10,759 vital safety services from Saving Grace (SG) including shelter, 24-hr hotline, group and individual counseling, and legal assistance. Of victims receiving these SG services, 52 were referred by law enforcement after screening in as high lethality cases. In Deschutes County Circuit Court, in calendar year 2021, 463 restraining orders were filed by victims seeking safety. The majority of the 64 families served by Mary's Place (MP) between 7/1/21 and 3/1/2022 were referred for services in connection with restraining orders granted to protect the adult victim and children from further harm from an abusive parent/partner.

- Demand for MP has continued throughout the pandemic. The program provided 910 visits and exchanges from 7/1/2-3/1/22 and supported families with challenges of COVID-19 including gas, groceries, and housing assistance.
- MP remains the sole provider of free domestic violence-specific supervised visits and safe exchanges including case management east of the Cascades.
- Requested funds would support .47 of 4.42 FTE for staff who provide supervised visits, safe exchanges, and advocacy services for MP families & for staff supervision.

**Impact of Current Investment** Provide .25 FTE (of 1.39 FTE) to supervise staff who facilitate supervised visits and safe exchanges for families that have experienced domestic violence, sexual assault, stalking and/or child sexual abuse.

- In the period of July 1, 2021 to March 1, 2022 MP served **64 families, exceeding families served in the same timeframe during FY 20-21 by 28%. Facilitated 600 supervised visits** (on average 2.5 hours per visit/family/week) and over **300 safe exchanges** (multiple times week to several times/month) for families that have experienced domestic violence, sexual assault, stalking, or child sexual abuse.

**Comments** Starting in July 2021, MP returned to in-person visits while keeping protective measures in place re: COVID 19. The pandemic and its related impacts have continued to be a source of stress for MP staff and client families. Overall, the severity of violence and high-risk factors including strangulation have increased in the cases served by MP over the prior FY, a trend which law enforcement and prosecution have also observed across the County. Due to high demand, families must wait on average one month to begin MP services.



## CENTRAL OREGON VETERANS AND COMMUNITY OUTREACH Homeless Outreach Coordinator

**2021-22 Award** \$30,000 (23% of project funding)  
**Amount Requested 2022-23** \$30,000

*“For 17 years our Outreach Program has been a lifeline for the hardest to reach and hardest to serve. The number of those without housing continues to grow, but the needs of those who are “homeless” never changes. We help people survive and strategize, keeping hope in front of them.” - JW Terry, Executive Director*

**Community Need** Despite COVID-19 impacts on service provision - cases increasing in homeless camps, staff safety, significantly fewer volunteers - Central Oregon Veterans Outreach (COVO) saw an increase in the number of people served in 2021 as compared to 2020. Households (singles or multiple persons) served increased from 1,264 to 1,519; 826 of those were new to our services. Total client contacts rose from 6,248 to 6,580; Outreach Center contacts went from 3,840 to 4,167; homeless camp contacts from 1,936 to 2,247; and served 244 veterans experiencing or at-risk for homelessness (74 of these new or returning after several years). Despite a concerted, ever increasing effort by COVO and other service providers, the numbers of persons living unsheltered continues to rise in Deschutes County.

COVO respectfully requests \$30,000 to continue funding a portion of the outreach coordinator to oversee camp and street outreach efforts, and to train and support outreach volunteers. The manager works with community partners to enhance collaborative efforts for best addressing service to the homeless in Deschutes County.

COVO is a key partner in the Homeless Leadership Coalition/ Central Oregon Continuum of Care (CoC), Coordinated Entry System (CES), the CoC’s Built for Zero project, and the Emergency Homeless Task Force convened by Deschutes County and the City of Bend. In 2021, COVO added two more units to our housing inventory for Veterans, and in partnership with Deschutes County and others, opened the Veterans Village. The team of the Outreach Coordinator and Outreach Specialists is key to these county-wide projects. In 2021-22, three priorities are to increase outreach to areas of Deschutes County less served because of accessibility (in 2021, we added another donated off-road vehicle for this purpose), and to increase outreach to women Veterans and aging/disabled persons experiencing or at risk for homelessness.

**Impact of Current Investment** Provide .6 FTE (of 1.5 FTE) Outreach Coordinator

- In the period of July 1, 2021 to March 1, 2022, made **2,243 contacts** with homeless and low income people visiting the center, **1,403 contacts** with homeless people in camps, and served **47 veterans** not currently served by COVO, soundly meeting annual goals.
- Coordinated **more than 1,200 volunteer hours assisting services and outreach** to homeless and/or low income people.

**Comments** COVO continually seeks practical solutions to address homelessness in Deschutes County, for both Veterans and non-Veterans. We do this in partnership with our network of extraordinary community partners, believing in strength in collaboration. COVO fills a unique niche in services for those experiencing homelessness, providing affordable housing, and now shelter, and for Veterans of all eras.



# COURT APPOINTED SPECIAL ADVOCATES OF CENTRAL OREGON CASA

<b>2021-22 Award</b>	\$30,000 (4% of project funding)
<b>Amount Requested 2022-23</b>	\$35,000

*“The number of foster children in Deschutes County has increased significantly, likely because of the additional stressors placed on families during the pandemic. Now more than ever foster children in Central Oregon need a CASA volunteer who cares. I have personally seen the incredible success stories of children whose lives were directly improved by the advocacy of a CASA.” - Michelle K Brenholdt, Director of Emergency Services St Charles Health System and CASA Board Chair*

**Community Need and Request for Increased Funding** The COVID-19 pandemic brought immense stress on children and families in Central Oregon. It has been widely reported that that there has been an increase in substance abuse, drug overdoses, and domestic violence in the last few years. This has resulted in an increase in the number of children in Deschutes County who spent time in foster care since the beginning of the pandemic. On January 1, 2020, there were 172 children in foster care in Deschutes County. On January 1, 2022, there were 224 children in foster care, a 27% increase over the time of the pandemic.

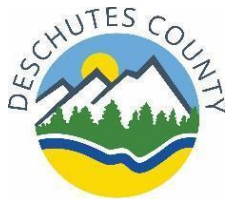
CASA respectfully requests \$35,000 for FY 21-22 to fund .6 FTE of a Program Coordinator position. This calculation reflects wages and benefits for a Program Coordinator to support approximately 40 volunteers. This is an increase to last year’s request, which reflects the additional costs of staffing this position. In 18-19, a \$30,000 grant from the BOCC funded .7 of a Program Coordinator position earning \$17.00/hr. In order to provide a competitive salary for a college educated professional in Central Oregon, this position will earn \$22.50/hr in the next year.

**Impact of Current Investment** Provide .5 (of 7.1 FTE) program staff to train/support CASA volunteers for children birth through age 18.

- In the period July 1, 2021 to March 1, 2022 there are 280 **unduplicated Deschutes County children in foster care**. During the same period an average of **239 of children referred by the court have an assigned CASA**. We estimate that there will be approximately **295 children in foster care from July 1, 2021-June 30, 2022**.

**Comments** CASAs have reported that the pandemic put even more pressure on children in foster care and their foster families, so volunteer advocates were essential to make sure that children were connected to additional resources for online education, telehealth therapy, and respite care.

National studies have shown the CASAs are effective. Children with CASAs tend to do better during their time in foster care: 1) they transition into a safe, permanent home more quickly than children without a CASA’s advocacy; 2) they do better in school; 3) have fewer disciplinary problems, and; 4) receive more services to heal from trauma and thrive. County support has never been more vital to give children in foster care a volunteer advocate. This grant ensures that our organization will have professional staff to support every volunteer as they advocate for children in a rapidly changing environment.



## HEALTHY BEGINNINGS 4 b4 5 Preschool Developmental Screening Project

**2021-22 Award** \$20,000 (30% of project funding)  
**Amount Requested 2022-23** \$25,000

**Community Need** Oregon estimates that 40% (4 out of 10) of children enter kindergarten with barriers to their success. Healthy Beginnings’ goal is to reach more of the 13,133 children in the county ages 0-6 that miss receiving a developmental screening. With increased demands on working families in Central Oregon, preschool screenings are an innovative solution to provide developmental screenings for children in a preschool setting.

In FY20-21, Healthy Beginnings screened 287 children in Deschutes County through the preschool screening program. The program identified concerns in 43 children, providing referrals and personal follow up to connect them with services in development, hearing, and vision. With the reopening of schools and businesses in 2021, HB was able to reactivate the preschool screening program and is once again operating at pre-COVID levels.

In response to growing concerns regarding the developmental impact of COVID-related issues on children under five years, Healthy Beginnings is planning for the following increase in service:

- The addition of a ‘COVID impact assessment’ to our screening protocols, for the purpose of 1) identifying new issues that appear to be related to COVID, and 2) evaluating pre-existing issues that appear to have been exacerbated by the pandemic.
- Offering repeat screenings for children who were screened prior to the pandemic, but who are now exhibiting concerning behaviors and learning issues. Provide comparative ‘before’ vs ‘after’ assessments.
- During the past 12 months, the referral rate for screened children has significantly increased. The average referral rate during FY19 was 21%, but for FY22 (year to date) that rate has increased to 36%. This increase in screenings and treatment referrals is resulting in an increase in staffing as we provide effective parent consultation and referral follow-up.

### Impact of Current Investment

- In the period of July 1, 2021 to March 1, 2022, provided **256 evidence-based screenings** in development, behavior, hearing, and vision at preschool sites; on pace to exceed projected annual goal of 400 screenings.
- Screening results sent to the medical provider, family, and shared with the preschool teacher to ensure closed loop communication between family, medical home & school. Since July 1st, **91 referrals** have been made.

**Comments** Healthy Beginnings is a sole source provider of evidence-based preschool screenings in the region. We have strong partnerships with other local service providers, Deschutes County WIC, Healthy Families of the High Desert, High Desert ESD, Early Learning Hub of C.O., Mosaic Medical, Head Start and Early Head Start programs.



**UPPER DESCHUTES**  
WATERSHED COUNCIL

February 25, 2022

RE: Request to Deschutes County Commissioners for Service Partner Grant Funding for Upper Deschutes Watershed Council for FY23

Dear Deschutes County Commissioners:

Thank you for your ongoing support for our programs at the Upper Deschutes Watershed Council (UDWC). UDWC is celebrating our 25<sup>th</sup> Anniversary in 2022 after being formed in partnership with Deschutes County back in 1997! I look forward to sharing my annual presentation with you later this spring. During this current fiscal year, the Upper Deschutes Watershed Council (UDWC) is receiving \$20,000 as part of Deschutes County's Service Partner Grant Program. UDWC is requesting this same level of funding again for FY23 (July 1, 2022 – June 30, 2023). Annual funding from Deschutes County in FY22 and in previous years has been extremely important to UDWC and has enabled UDWC to leverage state, federal and private funding. Together, this allows UDWC to fund restoration projects, our monitoring program, support our general operations and to accomplish valuable education and outreach for K-12 students, community members, and landowners about the importance of watershed health and restoration. Recent highlights from FY22 include:

- UDWC informs the community about stream restoration, watershed monitoring, and community stewardship opportunities with the outcome of keeping the community informed and engaged in the protection of natural resources. A couple examples in FY22 include: 1) UDWC is offering its first ever Watershed Speaker Series this winter. The speaker series is being offered at Sisters Library for Central Oregon residents with an in-person and remote attendance option with a focus on learning about the Whychus Creek watershed. We have been excited about the response with more than 45 community members signing up and attending. This series has been funded in 2022 by the Roundhouse Foundation in Sisters but also supported by funding from Deschutes County. We are planning to receive funding from the Oregon Watershed Enhancement Board to continue this series in 2023 and 2024 but funding from Deschutes County will also be important to continue this endeavor. 2) UDWC also held its annual Deschutes River Clean-up on July 31, 2021. It looked different again this year because of COVID as we limited participants to 20 people per site but we spread the effort across 6 different clean-up sites, engaging dozens of volunteers. An article about the event can be found here: [https://www.bendbulletin.com/localstate/87-bags-of-litter-and-weeds-collected-along-deschutes-river-during-cleanup-event/article\\_3dcf9566-f253-11eb-87af-6f592a1fe78c.html](https://www.bendbulletin.com/localstate/87-bags-of-litter-and-weeds-collected-along-deschutes-river-during-cleanup-event/article_3dcf9566-f253-11eb-87af-6f592a1fe78c.html)

- UDWC has completed over 50 on-the-ground restoration projects over the past 25 years. For our 25<sup>th</sup> anniversary, we are planning to create a map showing the location of all these projects and also create a video sharing some personal stories about the value of watershed councils. In FY22, UDWC completed two restoration projects. UDWC led a ½ mile restoration project on Whychus Creek at Rimrock Ranch, now owned by the Deschutes Land Trust. UDWC also led the removal of the last fish passage barrier in Whychus Creek and screened the last unscreened irrigation diversion in Whychus Creek. Videos about both project can be viewed at the links below. UDWC has 3 restoration projects planned for FY22. Two are urban projects, one with the Bend Park and Recreation District in Bend at Riverbend Park and a second project at Creekside Park with the City of Sisters. A third project is planned along Whychus Creek at the Willow Springs preserve owned by the Deschutes Land Trust.  
Rimrock Ranch video: <https://www.youtube.com/embed/iffvleLOdxms>  
Plainview Dam video: <https://www.youtube.com/embed/QyuAU1TeGPY>
- In a typical year, UDWC’s youth education program creates place-based education activities for approximately 3,000 kids per year throughout Central Oregon. The pandemic has reduced our ability to have field trips with students since many school districts are limiting field trips or outside visitors to school. That said, we have continued in FY22 to work with some public school groups, private schools, and home school groups. We also offered three summer camps for students in 2021. Below is a link to a Bend Bulletin article about Sisters High School students getting out to learn about Whychus Creek and participate in a restoration project in October 2021.  
[https://www.bendbulletin.com/localstate/education/sisters-students-get-hands-on-lesson-in-environmental-stewardship/article\\_0b1b1066-36b7-11ec-8ef5-e70f94a57514.html](https://www.bendbulletin.com/localstate/education/sisters-students-get-hands-on-lesson-in-environmental-stewardship/article_0b1b1066-36b7-11ec-8ef5-e70f94a57514.html)
- UDWC coordinates a watershed monitoring program to monitor stream temperatures and restoration effectiveness at various locations in in Central Oregon, and this has continued in FY22.

In addition to planned restoration work in 2022, we plan to continue similar work related to watershed education (for youths and adults) and monitoring in FY22. We are again planning three summer camps for youth for 2022 and we are hopeful that students from Central Oregon will be able to increase participation in field trips and outdoor lessons at our restoration projects in Spring and Fall of 2022. Funding from the Service Partner Grant from Deschutes County helps leverage funding for all of UDWC’s work, and provides important funding to help pay staff at UDWC. In FY23, we again plan to offer the Whychus Speaker Series as an adult education program. We are considering also offering a watershed education program via COCC’s Continuing Education Program. We greatly appreciate and depend on the financial support from the Deschutes County Service Partner Program and we hope for continued support in FY23 and in future years.

Sincerely,



Kris Knight  
Executive Director  
Upper Deschutes Watershed Council

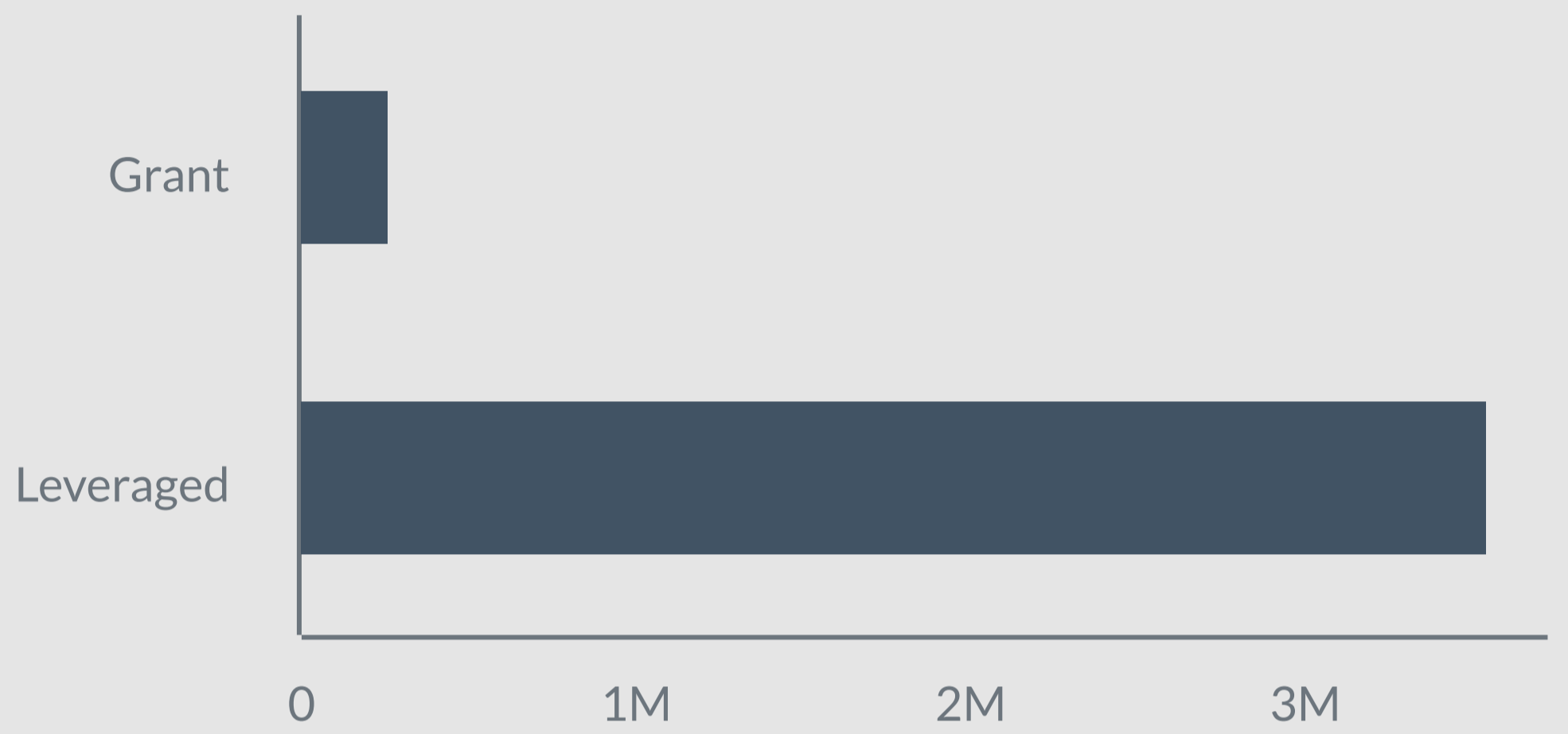
# Service Partner Grant Program



Service Partners are organizations that:  
1) Provide a mandated or sole source service to residents of Deschutes County;  
2) Were initiated, led, or created by the County; and/or  
3) Perform services that the County would otherwise be obligated to provide

- Bethlehem Inn
- Central Oregon Veterans Outreach
- Council on Aging
- CASA
- Cascade Youth & Family Center (J Bar J)
- Family Access Network
- Healthy Beginnings
- KIDS Center
- Latino Community Association
- MountainStar
- Redmond Senior Center
- Saving Grace (Mary's Place)

## Leveraged Resources



Granted \$306,500 to 12 Service Providers. For every \$1 granted, Service Providers leveraged nearly \$16.02 for a total of over \$4,900,000

## Service Highlights



173,000 Meals



16,000 Volunteer Hours



5,250 Contacts w/Homeless



900 Safe Visits / Exchanges



800 Shelter Nights



560 Youth w/ACES



6,200 Referrals



4,500 Residents Directly Served



### FY 21/22 Service Partner Results of Investment Overview

<b>Service Partner</b>	<b>FY 2021/22 Award</b>	<b>Amount Requested FY 2022/23</b>	<b>Other County Funding Received / Requested, FY 2021/22?*</b>
Bethlehem Inn	\$40,000	\$42,000	Yes
CASA	\$30,000	\$35,000	Yes
Council on Aging	\$40,000	\$50,000	Yes
COVO	\$30,000	\$30,000	Yes
FAN	\$17,500	\$17,500	Yes
Healthy Beginnings	\$20,000	\$25,000	Yes
J Bar J	\$20,000	\$20,000	No
KIDS Center	\$30,000	\$30,000	Yes
LCA	\$30,000	\$35,000	Yes
Mary's Place	\$20,000	\$30,000	Yes
MountainStar	\$20,000	\$21,600	Yes
Redmond Senior Center	\$9,000	\$12,000	No

*\*Refer to Funding Summary for information on grants, amounts, and intended use of funds.*





### Other Deschutes County Funding Summary

Below is an overview of funding Service Partners received, are scheduled to receive, or have applied for from July 1, 2021 through June 30, 2022 from the County in addition to BOCC Service Partner Grant Program funds.

Grant Type	Amount	Intended Use of Funds
<b>Bethlehem Inn</b>		
ARPA Funding	\$900,000	Facility Improvements for Bethlehem Inn Redmond building
<i>CASA – no additional funding requested/received</i>		
<b>Council on Aging</b>		
ARPA Funding	\$327,840	Building rehabilitation – HVAC upgrades
BOCC Discretionary Q1	\$1,700	Outreach canopy replacement
BOCC Discretionary Q2	\$1,800	Building rehabilitation/bathroom upgrades
BOCC Discretionary Q3	\$1,700	Printing Adult Activity Packets
BOCC Spay & Neuter Grant	\$1,735	Spay and neuter vet services
<b>TOTAL:</b>	<b>\$334,775</b>	
<b>COVO</b>		
Veterans Village	\$75,000	Village operation costs
<b>FAN</b>		
BOCC Discretionary Q1	\$2,500	In support of the annual FAN luncheon event
<b>Healthy Beginnings</b>		
BOCC Discretionary Q3	\$1,300	Provide two community-based Title 1A PreK program screenings in Redmond, in partnership with the Redmond School District.
<i>J Bar J – no additional funding requested/received</i>		
<i>KIDS Center – no additional funding requested/received</i>		
<b>LCA</b>		
BOCC Discretionary Q3	\$2,500	Gala de Oro support
<b>Mary's Place</b>		
ARPA Funding (Requested)	\$177,143	(Requested) To support the weekend advocates of Saving Grace who work out of our emergency shelter
<b>MountainStar</b>		
ARPA Funding	\$600,000	Program expansion in La Pine and remodel in Redmond
BOCC Discretionary Q1	\$2,000	Event Sponsorship (Birdies 4 Babies)
<b>TOTAL</b>	<b>\$602,000</b>	
<b>Redmond Senior Center</b>		
ARPA Funding (Requested)	\$250,000	(Requested) Increased food assistance

### Deschutes County Service Partner Funding History

<b>Service Partner</b>	<b>Criteria</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Central Oregon Council on Aging (COCOA)	Mandated/Sole Source	\$30,000	\$50,000	\$40,000	\$40,000	\$40,000
MountainStar Family Relief Nursery	County Initiative	\$18,000	\$18,000	\$18,000	\$18,000	\$20,000
J-Bar-J/Cascade Youth and Family Services	Mandated/Sole Source & County Impact	\$15,000	\$15,000	\$15,000	\$15,000	\$20,000
Redmond Senior Center	Mandated/Sole Source	\$3,000	\$3,000	\$4,000	\$5,000	\$9,000
KIDS Center	County Initiative	\$25,000	\$30,000	\$30,000	\$30,000	\$30,000
Latino Community Association	Mandated/Sole Source	\$17,000	\$20,000	\$20,000	\$20,000	\$30,000
Bethlehem Inn	County Impact	\$25,000	\$30,000	\$32,000	\$30,000	\$40,000
Family Access Network (FAN)	Mandated/Sole Source	\$15,000	\$15,000	\$15,000	\$10,000	\$17,500
Saving Grace/Mary's Place	County Initiative	\$15,000	\$15,000	\$17,000	\$20,000	\$20,000
Central Oregon Veterans' Outreach (COVO)	County Impact	\$20,000	\$20,000	\$20,000	\$30,000	\$30,000
Court-Appointed Special Advocates (CASA)	Mandated/Sole Source	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Healthy Beginnings	Mandated/Sole Source	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Central Oregon 2-1-1	County Initiative	\$10,000	\$10,000	\$10,000	-	-
Upper Deschutes Watershed Council	County Initiative	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
<b>Total</b>		<b>\$263,000</b>	<b>\$296,000</b>	<b>\$291,000</b>	<b>\$288,000</b>	<b>\$326,500</b>



## VIDEO LOTTERY ALLOCATION EXERCISE

### Grant Programs:

- **Discretionary Grants**
- **Fundraising Grants**
- **Arts and Culture Grants**
- **Community Grant Program**