

**DECISION, FINDINGS AND RECOMMENDATION OF
THE DESCHUTES COUNTY HEARINGS OFFICER**

FILE NUMBERS: 247-25-000106-TA

HEARING DATE: June 16, 2025, 1:00 p.m.

HEARING LOCATION: Videoconference and
Barnes & Sawyer Rooms
Deschutes Services Center
1300 NW Wall Street
Bend, OR 97708

APPLICANT: Joel Gisler

SUBJECT PROPERTIES: The Tumalo Commercial Zone encompasses multiple properties

REQUEST: Applicant requests text amendments to Deschutes County Code Chapter 18.67, Tumalo Rural Community Zoning Districts. The proposed text amendments would modify the Code to add recreational vehicle parks as a conditional use in the Tumalo Commercial (TUC) zone. The proposed amendments also include specific siting standards and modifications to road access standards.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: The Hearings Officer finds that the Applicant's request satisfies all procedural and substantive criteria necessary to approve the Applicant's request for amendments to the text of the Deschutes County Code as modified during this proceeding and by this Recommendation. The Hearings Officer recommends the Deschutes County Board of County Commissioners adopt by ordinance the language set forth in this Recommendation as Exhibit B.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code and Comprehensive Plan

Title 18, Deschutes County Zoning Ordinance
Chapter 18.67, Tumalo Rural Community Zoning District
Chapter 18.128, Conditional Use
Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance
Title 23, Deschutes County Comprehensive Plan

II. BACKGROUND AND PROCEDURE

A. Background

The Applicant requests amendment of the Deschutes County Code (“DCC” or “Code”) to add a conditionally allowable use of recreational vehicle (“RV”) parks in the Tumalo Commercial (TUC) zone. The TUC zone is one of six zones in the County’s Tumalo Rural Community Zoning Districts governed by CDC Chapter 18.67.¹ Under current Code provisions, RV parks are already allowed as a conditional use in the TUC zone, but only “on a lot or parcel in use as a manufactured dwelling park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured dwelling park or recreational vehicle park, including any expansion of such uses on the same lot or parcel as configured on June 12, 1996.”² The Applicant requests a text amendment for the purpose of eventually seeking an entitlement to develop an RV park on one specific property in the TUC zone.

The Applicant’s proposal initially requested the following text amendments to DCC 18.67.040: (1) a revised purpose statement; (2) revisions to DCC 18.67.040(C)(8) and a proposed additional section – DCC 18.67.040(C)(14) – intended to allow RV parks as conditional uses without the current temporal requirements; and (3) a proposed new section – DCC 18.67.040(J) – establishing various siting standards for RV parks. The Applicant included its requested text amendments in the Application. After the Hearing, and in response to some of the comments made at the Hearing, the Applicant submitted revisions to the specific text amendments it seeks. This Recommendation will refer to the Applicant’s final version of the proposed text amendments, attached as Exhibit A, as the “Text Amendments.”

Prior to the Hearing, Staff from the County’s Community Development Department (“Staff”) issued a Staff Report describing the Application and the applicable criteria (“Staff Report”). The Staff Report does not make a recommendation, but the Staff Report does address the applicable criteria and makes certain findings.

B. Notice and Hearing

On April 3, 2025, the County issued a Notice of Application seeking comments on the Application. On May 15, 2025, the County issued a Notice of Public Hearing (“Hearing Notice”) for this matter. The County mailed the Hearing Notice to all owners of property within 250 feet of the TUC Zone, to the Department of Land Conservation and Development, and to other public agencies. The County also published the Hearing Notice in the Bend Bulletin on May 18, 2025.

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on June 16, 2025, beginning at approximately at 1:14 p.m. The Hearing took place in a hybrid format, with the Applicant, Staff, and other participants present in the Hearing Room, while the Hearings Officer and other participants participated remotely.

¹ DCC 18.67.010.

² DCC 18.67.040(C)(8).

At the beginning of the Hearing, I noted for the record that this phase of review of the requested Text Amendments would be quasi-judicial in nature and, therefore, I directed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. At the conclusion of the evidentiary Hearing, and at the request of the Applicant, I announced that the record would remain open for written materials as follows: (1) any participant could submit additional materials until June 30, 2025; (2) any participant could submit rebuttal materials until July 14, 2025; and (3) the Applicant could submit a final legal argument without new evidence by July 28, 2025. Participants were further instructed that all submittals must be received by the County by 4:00 p.m. on the applicable due date. The Hearing concluded at approximately 3:43 p.m.

At the beginning the Hearing, participant Nunziata Gould stated a preliminary objection to the time the Hearing was held and to any time limits placed on participants. The Hearing was held as set forth in the Hearing Notice, and participant Gould did not assert that the Hearing Notice or the time of the Hearing are in violation of the Code or any other legal requirements. Further, the Hearing followed the procedures set forth in DCC Chapter 22. While I indicated that public comments would be limited to three minutes each during the Hearing, some individuals, including participant Gould, were given additional time. No participant asserted that the actual time allotted to each was insufficient or in any way impaired a substantial right. Based on the foregoing, I find no action was required to further address participant Gould's preliminary objection.

C. Nature of Decision

The Text Amendments propose revisions only to the language of the Code, and not a map amendment. The adoption of Code language is generally legislative in nature. Because the Code allows individuals to request text amendments to the Code and establishes a procedure for processing an application, the adoption of Code language could also be viewed as quasi-judicial in nature when requested by an individual. As explained below, this is a unique situation in which the Text Amendments are both legislative and quasi-judicial in nature. DCC 18.136.010 governs amendments to the Code:

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.

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

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

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

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

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

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

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

I agree with Staff that the three factors listed above, in this case, warrant following a quasi-judicial process for the Application, at least initially. First, even if the Text Amendments are legislative changes, the Code provides an opportunity for an individual to make an application to initiate amendments. Whether the County approves or denies that application, a decision will result, so the inquiry is bound to result in a decision. Second, the Code contains preexisting criteria applicable to the Applicant’s request. Although those Code provisions are largely procedural, the quasi-judicial process can determine if those requirements are met. Third, this matter is directed at a relatively small number of persons because the Text Amendments, as initially proposed, contain siting criteria that effectively limit the impact of the changes to only two properties.

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

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

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

III. FINDINGS AND CONCLUSIONS

A. Adoption and Incorporation of Findings in Staff Report

The Staff Report contains a comprehensive discussion and conclusion of the criteria applicable to the Application. Many of the conclusions in the Staff Report are not challenged in this proceeding. In some areas of the Staff Report, Staff requests that the Hearings Officer either modify Staff’s findings or make the findings directly. I find that the Staff Report correctly lists the applicable criteria, and I hereby adopt the discussion and conclusions in the Staff Report as my findings. The remainder of the findings in this Recommendation are intended to supplement the Staff Report and to address specific issues raised during this proceeding. To the extent any of the findings in this Recommendation conflict with the discussion and conclusions in the Staff Report, the findings set forth in this Recommendation control anything to the contrary in the Staff Report.

///

///

B. Issues Raised in Opposition to the Application and in the Staff Report

Several participants submitted comments to the record in opposition to the Application. The vast majority of those comments did not address specific Code provisions. Instead, those comments introduced general concerns about RV parks. In the findings below, I examine the specific criteria that were addressed by participants, and I attempt to identify and address criteria that may be invoked by the participants who testified in opposition to the Application. These findings also address the issues raised in the Staff Report.

1. Sewage Disposal Services

Multiple participants expressed concern over how a new RV park in the TUC zone would handle wastewater disposal. DCC 18.128.170 regulates wastewater disposal in RV parks and is applicable in all zones. Under that Code provision, each RV space in an RV park is to be provided with piped potable water and sewage disposal service, and the RV park must provide a laundry facility.

The Applicant initially proposed language that would require any parcel proposed as an RV park to be “located in a sewer district,” but also proposed creating an exception to certain provisions of DCC 18.128.170, such that an RV park in the TUC zone would not have to comply with the sewage disposal and laundry requirements “until a sewer district is willing and able to provide service.” As acknowledged by the Applicant, an RV park that developed under that proposal could rely on septic systems until a sewer system became available.

The concerns raised by some participants generally asserted that septic systems in the TUC zone are not sufficient and that reliance on that technology would pose environmental and health risks. While these comments did not identify any particular criterion to which they are relevant, and did not provide supporting evidence addressing the adequacy of septic systems, the Applicant nevertheless modified the proposed Code changes to address these concerns. Specifically, the final version of the Text Amendments remove the originally-proposed exceptions to DCC 18.128.170, while also clarifying that an RV Park must be located in a sewer district or otherwise provide confirmation that “a sewerage system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available.” According to the Applicant, this proposed revision will ensure that each space in an RV park will be connected to a central sewer system, thereby negating the need to address the sufficiency of septic systems.

I agree with the Applicant that the removal of the originally-proposed exception to DCC 18.128.170 will address any sewage disposal concerns. Before a conditional use permit for an RV park may be approved, an applicant must demonstrate that a central sewer system is legally and physically available. Under DCC 18.128.170, the owner of the RV park would then have to ensure that each space in an RV park is actually connected to an available sewer system. That being said, I recommend that the County Board slightly modify the proposed language if it approves the Text Amendments. As proposed, the language refers to a “sewer district.” The actual district that exists in the area is the Tumalo Sanitary District, and “sanitary district” is the term used in ORS Chapter 450 that allows such districts. I also note that ORS Chapter 450 allows the creation of a “sanitary authority.” I recommend that the Board adhere to that more precise description by modifying the Applicant’s language to read as follows for DCC 18.67.040(J)(1)(b):

b. The parcel(s) shall all be located in the boundaries of a sewer sanitary district or sanitary authority, or confirmation shall be provided that a sewerage sewage collection and disposal system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and

2. Comprehensive Plan Policies

The Applicant identified several provisions in the County's Comprehensive Plan ("Plan") as potentially relevant to the Application. Staff recites those Plan provisions on pages 13 through 16 of the Staff Report and asks the Hearings Officer to determine if the Applicant has demonstrated compliance with those provisions.

Participant Kris Cranston submitted comments asserting that the Text Amendments are not compatible with the County's Plan, which comments were repeated verbatim by other participants. Those comments, however, simply state that the Plan emphasizes the protection of the rural residential character and the promotion of orderly, compatible development. Participant Cranston (and others) does not identify any specific Plan policies on which those comments are based, and, to the contrary, simply state that the proposed Text Amendments would "violate" Deschutes County Code Title 18 – County Zoning. Other comments in the record similarly invoke the Plan in broad terms, without reference to specific Plan provisions. I find that participant Cranston's arguments (and similar or identical arguments of other participants) are not developed enough for me to address in this Recommendation with respect to consistency with the Plan. I therefore find that the Applicant's assertions with respect to the Plan provisions identified on pages 13 through 16 of the Staff report are sufficient to demonstrate compliance with the Plan.

The Applicant and multiple participants also address the Tumalo Community Plan ("Community Plan"), which is a component of the Plan. The Applicant points to the economic development goal of the Community Plan, which is to "[r]etain the economic vibrancy of Tumalo's historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community." Policy 4 under that Goal is to support economic development initiatives and tourism in the Tumalo area. The Staff Report finds that the proposed Text Amendments are consistent with that policy. Participants in opposition to the Application do not address the economic development portion of these goals and policies and, instead, assert that an RV park does not preserve the rural or "small town" character of the community.

Having reviewed and considered all comments submitted by participants, I find that the Text Amendments are not inconsistent with the Community Plan. Evidence in the record supports a finding that RV parks exist in rural areas. Indeed, RV parks are already allowed (albeit in limited circumstances) in the TUC zone. Further, the Community Plan expressly contemplates that commercial activities should be encouraged. The Community Plan, as with most Plan provisions, requires a balance between competing considerations. Based on the record before me, I find that the development of RV parks in the TUC zone can achieve that balance, and there is nothing inherent about such a development that would require the prohibition of RV parks in the TUC zone. I also note that the County will still have to review specific

development proposals through a conditional use process, during which impacts to surrounding areas will be considered and a decision will be made based on a fact-specific proposal. At this stage, where the County is simply determining if some new RV parks may be conditionally allowable in the TUC zone, I find that the Applicant has demonstrated that they can be, and there is a sufficient basis for the Board to approve the Text Amendments for that purpose.³

3. Statewide Planning Goals and Administrative Rules

Multiple participants mentioned Statewide Planning Goals (“Goals”), but did not specifically address those goals. For example, participant Brady submitted comments stating that “the project may be inconsistent with Statewide Planning Goals 2 (Land Use Planning) and 14 (Urbanization), which prioritize the containment of high-intensity uses within Urban Growth Boundaries.” That assertion was repeated verbatim by other participants. Because these comments are couched in terms of generalized allegations that the proposal “may be” inconsistent with the Goals, but do not offer evidence or any specific argument to support such allegations, I find that these arguments are not sufficiently developed for a response in this Recommendation.

One Goal that some participants seemed to invoke is Statewide Planning Goal 12 (“Goal 12”), which relates to transportation. In the context of a text amendment to a land use regulation, the applicable part of Goal 12 is set forth in OAR 660-012-0060, the Transportation Planning Rule (“TPR”). Under the TPR, the County must consider whether a proposed text amendment will significantly affect a transportation facility. The Applicant submitted an engineering analysis that concludes the proposal will not significantly affect a transportation facility. The County’s Senior Transportation Planner reviewed and agreed with the assumptions, methodologies, and conclusions in the Applicant’s report.

The majority of comments in the record relating to transportation assert that an RV park will cause unwanted traffic impacts, both in terms of volume and safety. None of those comments credibly assert that traffic resulting from the Text Amendments will significantly affect a transportation facility as that term is defined in OAR 660-012-0060, nor do they provide any analysis that disputes the findings in the Applicant’s report. At best, those comments questioned some of the assumptions in the report. Having reviewed the entire record, I find that the Applicant’s has met its burden of proving that the Text Amendments satisfy the TPR and are consistent with Goal 12.

The Staff Report notes that OAR 660-022-0030 imposes certain requirements the County must follow when planning unincorporated communities. Among those requirements, OAR 660-022-0030(8) requires that zoning of rural communities must ensure that cumulative development will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations and will not exceed the carrying capacity of the soil or of existing water supply resources and

³ The Applicant and the Staff Report also highlight Policy 5 of the Community Plan’s economic development goal, which guards against adverse effects on water resources and wastewater disposal. As discussed above, I find that the Applicant has adequately addressed waste water disposal. I also find that the evidence in the record supports a finding that amending the TUC zone to conditionally allow RV parks will not adversely affect water resources. The Applicant has documented the availability of municipal water to the properties where RV parks could be developed.

sewer services. The Staff Report asks the Hearings Officer to determine if the Text Amendments satisfy the rule language. While other participants addressed broad concerns relating to public health, environment, water resources, and wastewater disposal, no participant asserted that the Text Amendments will violate OAR 660-022-0030 generally, or subsection (8) of that rule specifically.

Based on the information provided by the Applicant, I find that OAR 660-022-0030(8) is satisfied. As concluded above, the Applicant has adequately addressed water resources and wastewater disposal. Further, no participant asserts that the Text Amendments will cause development that, cumulatively, will violate state or federal water quality regulations, or that will exceed the carrying capacity of the soil.

4. Policy-Related and Development-Specific Issues

The majority of comments submitted in opposition to the Text Amendments expressed a desire that the County not allow new RV parks in the Tumalo area. Those comments center around statements regarding what the County “should” or “should not” do as a matter of policy. Similar comments addressed site-specific concerns based on assumptions of how a specific RV park would be developed, even though no development proposal has been submitted

I find that these comments are not relevant at this time. In the context of a proposed text amendment, the County Board must eventually make a policy decision as to what uses may be allowed outright and conditionally in the TUC zone. If the Board does approve the Text Amendments, review of a future conditional use permit application will be the appropriate venue for addressing site-specific or development-specific concerns.

V. CONCLUSION AND RECOMMENDATION

Based on the Findings above, which augment the findings and conclusions in the Staff Report, I find that the Applicant’s proposed amendments to DCC Chapter 18.67 comply with the County’s provisions for amending the Code. However, I find that one portion of the Text Amendments could be revised by the Board of Commissioners in its adoption of an Ordinance approving the application and amending the Code to better reflect statutory language related to sanitary districts. I therefore recommend that the Deschutes County Board of Commissioners adopt the proposed text amendments presented in Exhibit A, as modified in Exhibit B by ordinance, unless the Board of Commissioners determines there is a legislative/policy reason not to adopt the amendments.

Dated this 2nd day of September 2025



Tommy A. Brooks
Deschutes County Hearings Officer

Attachment:

Exhibit A – Text Amendments (Applicant’s Version)

Exhibit B – Modified Text Amendments (Hearings Officer’s Version)

Exhibit C – Staff Report

EXHIBIT A

APPLICANT'S TEXT AMENDMENTS

DCC 18.67.040 Commercial (TuC) District

* * *

J. Additional Standards for Recreational Vehicle Parks

1. Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:

- a. The area of the parcel(s) proposed for development shall exceed 2.3 acres but no more than 5 acres;
- b. The parcel(s) shall all be located in a sewer district or confirmation shall be provided that a sewerage system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and
- c. The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.

2. Compliance with DCC 18.128.170.

- a. To ensure compliance with DCC 18.128.170(G) which prohibits any recreational vehicle remaining in a park for more than 30 days in a 60 day period, Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent “residential dwellings” as that term is used in ORS 197.493.
- b. Compliance with DCC 18.128.170(O) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.
- c. Recreational Vehicle Parks in the Tumalo Commercial District shall impose quiet hours from 10:00 pm to 7:00 am daily.

EXHIBIT B MODIFIED TEXT AMENDMENTS

DCC 18.67.040 Commercial (TuC) District

* * *

J. Additional Standards for Recreational Vehicle Parks

1. Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:

- a. The area of the parcel(s) proposed for development shall exceed 2.3 acres but no more than 5 acres;
- b. The parcel(s) shall all be located in the boundaries of a sewer sanitary district or sanitary authority, or confirmation shall be provided that a sewerage sewage collection and disposal system that can serve the proposed sewage flow from the Recreational Vehicle Park is both legally and physically available; and
- c. The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.

2. Compliance with DCC 18.128.170.

- a. To ensure compliance with DCC 18.128.170(G) which prohibits any recreational vehicle remaining in a park for more than 30 days in a 60 day period, Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent “residential dwellings” as that term is used in ORS 197.493.
- b. Compliance with DCC 18.128.170(O) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.
- c. Recreational Vehicle Parks in the Tumalo Commercial District shall impose quiet hours from 10:00 pm to 7:00 am daily.

EXHIBIT C
STAFF REPORT



**STAFF REPORT
TUMALO RV PARK TEXT AMENDMENT**

FILE NUMBER(S): 247-25-000106-TA

SUBJECT PROPERTY: The Tumalo Commercial Zone encompasses multiple properties.

APPLICANT: Joel Gisler

APPLICANT'S ATTORNEY: Adam Smith, of Schwabe, Williamson and Wyatt

REQUEST: Amendments to Deschutes County Code (DCC) Chapter 18.67, Tumalo Rural Community Zoning Districts. The proposed amendments will modify the Deschutes County Code (DCC) to add recreational vehicle (RV) parks as a conditional use in the Tumalo Commercial (TUC) Zone. The proposed amendments include siting standards for new RV parks in the TUC Zone, including that the development area must be two-to-five acres in size, contiguous to Highway 20, and located within a sewer district. In addition, the proposed amendments will modify the standards for road access and wastewater facilities for RV parks in the TUC Zone.

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-25-000106-ta-tumalo-rv-park-text-amendment>

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.67, Tumalo Rural Community Zoning Districts

Chapter 18.128, Conditional Use

Chapter 18.136, Amendments

II. **BASIC FINDINGS**

LOT OF RECORD: DCC 22.04.040(B) does not require lot of record verification for Text Amendment applications. The proposed amendments will apply to all properties within the TUC Zone. Any future development of an RV park would require property-specific land use review, and lot of record findings would be made at that time.

SITE DESCRIPTION: The TUC Zone is located within the unincorporated community of Tumalo, which is located along Highway 20 to the northwest of the City of Bend. The TUC Zone is predominantly located to the north of Highway 20, but also includes approximately 8.7 acres located to the south of Highway 20. The development pattern within the TUC Zone includes a variety of small-to-medium size commercial uses such as food cart pods, a gas station, eating and drinking establishments, and two small strip malls. The TUC Zone also includes a number of undeveloped lots as well as existing residential development.

PROPOSAL: The applicant proposes to amend section 18.67.040, regarding the Tumalo Commercial (TUC) Zone. The proposed language of the Text Amendment is included as Exhibit 1 and summarized as follows:

- The Applicant proposes to modify the Purpose statement of the TUC Zone to include the travel needs of people passing through the area.
- The Applicant proposes to add an RV park as a new conditional use within the zoning district.
- The Applicant proposes siting standards for new RV parks in the TUC Zone and also proposes certain exceptions to the standards of DCC 18.128.170 for RV parks in the TUC Zone. Specifically, new RV parks in the TUC Zone would not require road access from a collector or arterial, and would not be required to provide laundry facilities and sewage disposal until sewer service is available to the property.

The submitted Burden of Proof provides the following background on the proposed Text Amendment:

This application is submitted in anticipation of two upcoming companion conditional use applications. The subject text amendment to DCC Title 18, Chapter 18.67.040, TuC District is intended to only allow RV Parks on a limited number of parcels in the TuC District owned by the Applicant, with the two upcoming conditional use applications then seeking approval for related uses on the Applicant's parcels.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on April 3, 2025, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings

I have reviewed the transmittal materials for 247-25-000106-TA for a text amendment request to DCC Chapter 18.67 (Tumalo Rural Community Zoning Districts) to add recreational vehicle (RV) parks as a conditional use in the Tumalo Commercial District (TUC).

I have reviewed the application materials for potential Transportation Planning Rule (TPR) OAR 660-012 effects, including the applicant's transportation memorandum produced by Transight Consulting, LLC, (dated January 8, 2025) and I agree with its assumptions, methodology, and conclusions. The memorandum adequately addresses reasonable worst case scenario analysis through a comparison of the existing outright allowed uses (utilizing ITE category 822 for Strip Retail Plaza as an aggregate category encompassing eating/drinking establishments, small retail, and offices each totaling less than 10,000 square-feet) to the proposed Campground/RV Park (ITE 416) use and ultimately concludes that no significant impacts will be anticipated with the proposed text amendment. Staff notes that, should the proposed text amendment receive approval, further traffic analysis may be required at the time of future development depending on the future development's vehicle trip generation potential. While the current text amendment does not absorb County road capacity, any future proposal for the development of a Campground/RV Park under the proposed use category must demonstrate compliance with the transportation analysis requirements of DCC 18.116.310, including p.m. peak hour vehicle trips related to System Development Charges (SDCs), mitigations, and adequacy of access.

Thanks for the opportunity to provide comment and please let me know if you have any questions.

Deschutes County Onsite Wastewater Manager, Todd Cleveland

This proposal would allow an RV park without full connections for sewer, water and not require a central comfort station. This would not require connection to a community wastewater system. However, once a wastewater treatment system becomes available in the Tumalo , it would be beneficial to provide full connections and services at RV locations. The lack of sewer connections would limit the length of stay because RV users would need to take their RV to an approved dump station.

Onsite prefers to have facilities that will promote proper wastewater treatment and disposal conveniently available. Hopefully, this facility will be able to be connected as soon as possible when a community wastewater treatment facility becomes available.

Onsite wastewater permits would be unlikely to be approved for the proposed site.

Being in the Tumalo Sanitary District, when sewer becomes both legally and physically available to this location the only option would be to connect to the sanitary system. An onsite system could not be permitted once sewer is available (OAR 340-071-0160(4)).

Deschutes County Building Division, Krista Appleby, June 4, 2025 Comments

OAR 650 is applicable to Recreation Parks & Organizational Camps. Per OAR 918-650-0005(12) definition of 'recreational vehicle park' falls under the Recreation Park requirements. Referenced Table attached as PDF.

Among other [requirements in] OAR 650, toilets are required – see clip below. Referenced Table 3-RV is attached as PDF.

Building Codes Division - Chapter 918

Division 650

RECREATION PARKS AND ORGANIZATIONAL CAMPS

918-650-0050

Toilets

(1) Toilet facilities must be provided in every recreation park or organizational camp. They must be convenient and accessible and must be located within 500 feet of any recreational vehicle space or camping site not provided with an individual toilet facility or sewer connection.

EXCEPTION: The requirement for toilets in picnic parks, campgrounds and organizational camps may be waived by the regulating authority for areas not accessible by road.

(2)(a) Sanitary facilities must be as required in Table 3-RV;

(b) Toilet Bowls. Toilet bowls for public use must be elongated bowls with open-front seats. Any room with flush toilets must be provided with a floor drain as required in the Oregon Plumbing Specialty Code;

(c) Signs. Toilets must either be marked for the designated sex or be provided with a privacy lock. If not apparent, the location of toilets must be indicated by appropriate direction signs;

(d) Flush Toilets and Showers. Flush toilets and showers and the buildings containing them must be constructed in accordance with the State Building Code;

(e) Unisex Toilets. Toilet facilities designed to serve an occupant load of 15 persons or less may serve both sexes. Such toilet facilities must be equipped with a urinal.

(3) Nonwater-Carried Toilets. Nonwater-carried toilets, including, but not limited to, chemical or vault toilets or pit privies, must be constructed and located in accordance with the requirements of the Department of Environmental Quality.

Deschutes County Building Division, Randy Scheid, April 3, 2025 Comments

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

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

918-650-0010

Scope and Purpose

(1) OAR chapter 918, division 650 establishes minimum safety standards for the design and construction of recreation parks and organizational camps as authorized in ORS 455.680.

(2) These rules establish design and construction requirements for recreation parks and organizational camps for the purpose of protecting the life, health, safety and welfare of persons using these facilities.

EXCEPTIONS:

1- These rules do not apply to parking areas offering access to beaches, marinas, boat ramps, piers, ski areas, rivers, trails and similar facilities, where no recreational vehicle utility connections are provided.

2- The area development permit does not include permits or related fees for buildings, mobile home setups, mechanical, plumbing or electrical systems, boiler, or elevators, or permits required by other agencies.

Statutory/Other Authority: ORS 455.020, 455.110 & 455.680

Statutes/Other Implemented: ORS 455.680

History:

BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0050

918-650-0020

Permit Required

No person may establish or enlarge the facilities of any recreation park or organizational camp or do any construction within the recreation park or organizational camp or cause the same to be done without first obtaining all required permits from the building official and paying the prescribed permit fees. Multiple permits may be required when the proposed work involves two or more code areas (i.e., structural, electrical, plumbing, or mechanical).

EXCEPTION: Applications for permits, submission of plans and payment of fees are not required for additions, alterations, relocation and maintenance of picnic tables, play equipment, fire pits and similar facilities in existing parks.

Statutory/Other Authority: ORS 455.020, 455.110 & 455.680

Statutes/Other Implemented: ORS 455.680

History:

BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0065

The following agencies did not respond to the notice: Bend Fire Department, Deschutes County Assessor, Deschutes County Road Department, Laidlaw Water District, Oregon Department of Transportation, and Tumalo Irrigation District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within the TUC Zone and within a 250-foot buffer around the TUC Zone on April 3, 2025. As of the date of this staff report, 62 comments have been submitted by members of the public in opposition to the proposal. Concerns raised in the public comments included:

- Impacts to neighborhood livability and the transient nature of RV park residents.
- The density of an RV park being incompatible with the rural nature of Tumalo.

- Increased traffic and whether the local roads are sufficient to accommodate RV's.
- Lack of existing sewage facilities to treat the wastewater from an RV park.
- Whether the Text Amendment conflicts with the Tumalo Community Plan, which was updated in 2024.
- Impacts to natural resources such as the nearby section of the Deschutes River.
- Whether the proposal is necessary given the nearby facilities at Tumalo State Park.

NOTICE REQUIREMENT: On May 15, 2025, the Planning Division mailed a Notice of Public Hearing to all property owners within the TUC Zone and within 250 feet of the TUC Zone, as well as to public agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, May 18, 2025. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on May 12, 2025.

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

III. FINDINGS & CONCLUSIONS

Amendments

The Applicant proposes to amend section 18.67.040 of Deschutes County Code to allow RV parks as a new conditional use within the TUC Zone. The amendments also set forth standards for new RV parks within the zone, including specific wastewater standards. Currently, wastewater disposal within RV parks is regulated by DCC 18.128.170, which are conditional use standards that apply to all zones governed by Title 18. DCC 18.128.170(D) requires each RV space to be provided with piped potable water and sewage disposal service. The relevant text of the proposed amendments is copied below, and it would allow the developer of an RV park to only provide sewage disposal service once a sewer district is able and willing to serve the property. The full text of the proposed amendments is included as Exhibit 1.

J. *Additional Standards for Recreational Vehicle Parks*

...

2. *Compliance with DCC 18.128.170.*

- A. *For sewage disposal service and laundry facilities only, Recreational Vehicle Parks in the Tumalo Commercial District shall not be required to comply with DCC 18.128.170(D) and (J) until a sewer district is willing and able to provide service to the proposed project. The County may include conditions of approval requiring Recreational Vehicle Parks to provide sewer connection to each recreational vehicle space and to provide laundry facilities as outlined in DCC 18.128.170(J) once sewer service is available from a sewer district.***

Staff notes that agency comments from the Deschutes County Onsite Wastewater Division and

Deschutes County Building Division raise questions about the facilities that would be required under the proposed amendments. Though it is not an applicable land use approval criterion, comments from Building Division staff cite concerns regarding compliance with State Building Code if toilet facilities are not provided within an RV park. Staff notes these concerns would be addressed at the time a specific development proposal is submitted. However, staff asks the Hearings Officer to address these comments as they see fit and as they pertain to applicable approval criteria.

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, as the property owner, has requested a quasi-judicial Text Amendment and filed the corresponding application. The Applicant has filed the required land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

DCC 22.04.020 includes the following definition:

"Quasi-judicial" zone change or plan amendment generally refers to a plan amendment or zone change affecting a single or limited group of property owners and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.)

The subject application is not a request to change the zoning or Comprehensive Plan designation of the subject property. However, as described below, the quasi-judicial process of a Comprehensive Plan Amendment is the most applicable guidance regarding Text Amendments that are not squarely legislative. Therefore, staff includes the definition of a quasi-judicial process above for reference and also addresses the provisions of DCC 22.28.030, regarding final action on Comprehensive Plan amendments. The application materials include the following analysis of the process for the subject Text Amendment:

The subject text amendment application is not an application for a quasi-judicial map amendment, as this text amendment will not alter the County's zoning map if it is approved. Existing case law and the DCC allow for flexibility where text amendments may be processed

as quasi-judicial or legislative. See *Strawberry Hill 4 Wheelers v. Benton County*, 287 Or 591 (1979).

Strawberry Hill 4 Wheelers sets forth certain factors determining when applications are quasi-judicial or legislative: (1) the process is bound to result in a decision; (2) the decision is bound to apply preexisting criteria to concrete facts; and (3) the action is directed at a closely circumscribed factual situation or a relatively small number of persons. *Id.* The more definitely the questions are answered in the negative, the more likely the decision under consideration is a legislative land use decision. *Id.* Each of the factors must be weighed, and no single factor is determinative. *Id.*

Here, the subject text amendment application satisfies the first prong as the process is bound to result in a decision. Either the Text Amendment will be approved or denied. The second factor is also answered in the positive because the proposed text amendment applies preexisting criteria from the applicable provisions of the DCC and the Statewide Land Use Planning Goals to concrete facts i.e., whether the proposed amendments meet those criteria. Last, and most strongly, the third factor is answered in the positive. The proposed text amendment applies to a closely circumscribed factual situation and a small number of persons. The TuC District itself only applies to a small geographic area of the unincorporated community of Tumalo. Narrowing the scope even more, the text amendment will then only apply to parcels in the TuC District that are adjacent to Hwy 20, under common ownership, and collectively between 2 and 5 acres in size. The land use consequences are disproportionately concentrated on a relatively small pool of persons (if not only the Applicant), as opposed to a larger region or the general population, therefore a quasi-judicial procedure is the correct option according to the existing case law. *Id.*; *Van Dyke v. Yamhill County*, __ Or LUBA __ (LUBA No 2018-61, Dec 20, 2018) (slip op at 4).

Indeed, this is also consistent with the DCC itself. "Legislative changes" are defined as those that "generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of property owners." See DCC 22.04.020. The DCC also defines "legislative" as "a planning or zoning action resulting in a general rule or policy which is applicable to an open class of individuals or situations." See DCC 18.04.030. By design, the subject text amendment application only applies to a narrow scope of properties in a zoning district that is unique to Tumalo and not applicable elsewhere in the entire county. Based on the *Strawberry Hill 4 Wheelers* factors, this is a quasi-judicial application and not a legislative application.

Recently, the Planning Commission used this exact reasoning as part of its basis to recommend that the Board of County Commissioners deny a proposed text amendment to allow mini-storage use in the MUA-10 zone along Highway 20. The Planning Commission recommended denial after specifically determining that the proposed text amendment only affected a small number of parcels and therefore, in the Planning Commission's opinion, should have been proposed as a quasi-judicial text amendment. Subsequently, the Board of

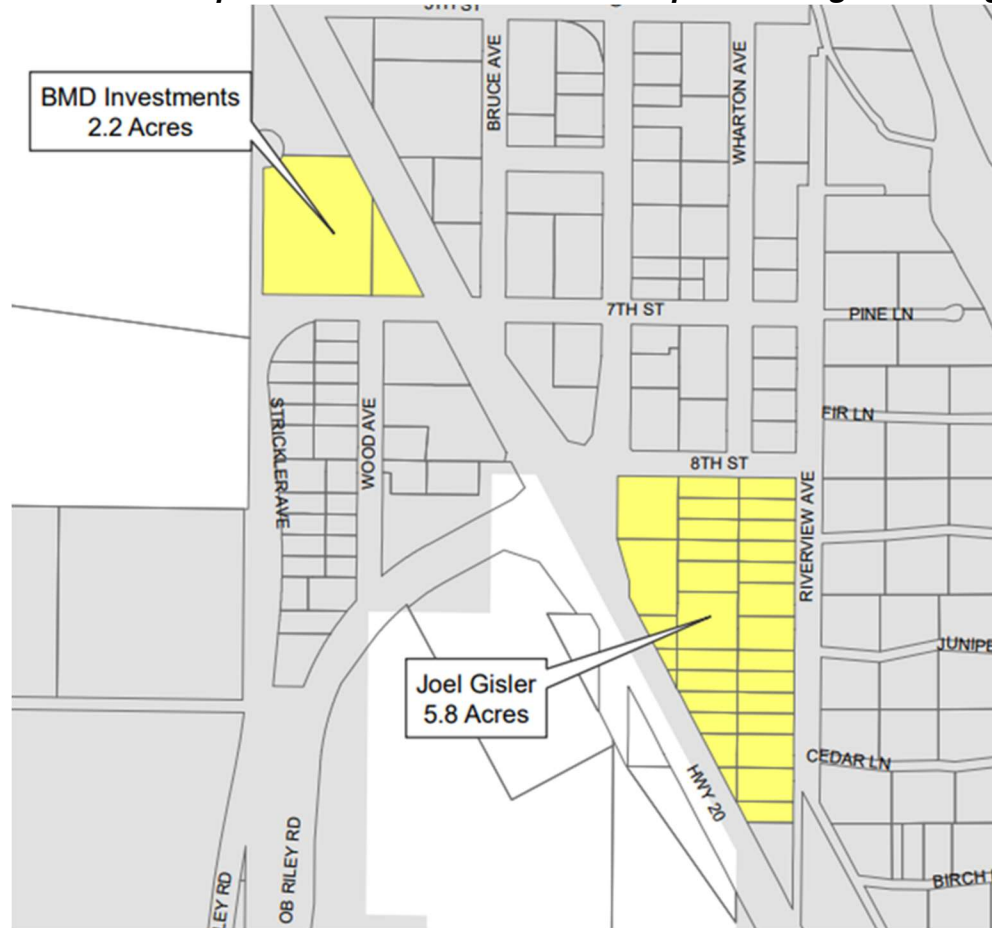
County Commissioners apparently agreed with the Planning Commission and denied this application. See County Planning File No. 247-24-000044-TA.

Although clearly a quasi-judicial application, DCC Chapter 22.24 does not include specific provisions governing the proposed quasi-judicial text amendment. The closest comparison is a quasi-judicial zone change or plan amendment, and the Applicant accordingly recommends that the County utilizes the procedures governing such applications in this matter. Notably, those procedures require a public hearing in front of the Hearings Officer with a decision issued thereafter. See DCC. 22.24.020. DCC 22.24.030 sets forth the basic notice requirements for the hearing. Notably, DCC 22.28.030(A) and (B) clarify that the Board of County Commissioners then adopts the Hearings Officer's decision without further argument or testimony unless a separate appeal of that decision is filed.

Staff agrees with the applicant's analysis of *Strawberry Hill 4 Wheelers* and notes the subject application will result in a decision, utilizes preexisting criteria, and will impact a limited number of properties.

Deschutes County staff conducted a preliminary analysis to identify the properties in the TUC Zone that may be potentially eligible for an RV park under the proposed amendments. This analysis identified properties in the TUC Zone that consist of parcels under common ownership which are two-to-five acres in size and contiguous to Highway 20. The results of this analysis are shown in the figure below and identify two properties that may potentially be eligible for an RV park under the proposed Code language. Staff notes this analysis is only intended to identify the number of properties impacted by the proposed amendments, and does not guarantee the eligibility or development potential of the identified properties.

Figure 1: TUC-Zoned Properties under Common Ownership and Contiguous to Highway 20



Based on the findings above, the subject request will impact the development potential of approximately two properties. Therefore, staff finds the subject request complies with the third component of the Strawberry Hill 4 Wheelers test and may be categorized as quasi-judicial based on the small number of persons who will be affected.

When the factors above are considered in combination, staff finds they indicate the subject Text Amendment is appropriately subjected to a quasi-judicial process. For these reasons, staff finds the request meets the three-part test outlined in *Strawberry Hill 4 Wheelers* as well as the intent of a quasi-judicial process.

Title 22 of the Deschutes County Code, Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Section 22.12.010, Hearing Required

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

otherwise required by state law.

FINDING: As described above, staff finds the subject request is a quasi-judicial Text Amendment. However, the procedural steps will be similar to those of previous quasi-judicial Text Amendments, where Hearings Officers have determined that they also carry the qualities of a legislative act. The subject amendments will be adopted through an ordinance, consistent with the process for a legislative amendment. The Planning Director has exercised their discretion not to set a hearing before the Planning Commission.

Section 22.12.020, Notice

A. *Published Notice.*

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

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

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

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

FINDING: Notice of the proposed Text Amendment was published in the Bend Bulletin. Staff mailed a Notice of Application and a subsequent Notice of Public Hearing to property owners within the TUC Zone and within 250 feet of the TUC Zone. At the discretion of the Planning Director, posted notice was not required since the subject request is not property-specific. Staff notes a future application to develop an RV park on a specific property would require posted notice pursuant to DCC 22.24.030(B).

Section 22.12.030, Initiation Of Legislative Changes

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

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

Section 22.12.040, Hearings Body

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

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

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

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

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

Section 22.12.050, Final Decision

All legislative changes shall be adopted by ordinance.

FINDING: Staff finds this criterion requires action by the Board to effect any legislative changes to Deschutes County Code. If the proposed Text Amendment is approved, it will become effective through the Board adoption of an ordinance.

Chapter 22.28, Land Use Action Decisions

Section 22.28.030, Decision On Plan Amendments And Zone Changes

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

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

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

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

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

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

Deschutes County Comprehensive Plan

FINDING: The Applicant identified the following Comprehensive Plan policies as relevant to the subject proposal. The identified sections of the Comprehensive Plan and the Applicant's responses are included below:

Chapter 3: Rural Growth

Section 3.4: Rural Economy Policies

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

Policy 3.4.1: Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment. a. Review land use regulations to identify legal and appropriate rural economic development opportunities.

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

RESPONSE: The proposed amendment is consistent with the County's mandate to review land use regulations to identify legal and appropriate economic development opportunities. This amendment provides a new rural economic development opportunity within specific areas of the TuC District while maintaining the integrity of the rural character and natural environment by requiring conditional use approval and expressly limiting where in the TuC District RV Parks can be located.

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

RESPONSE: Allowing RV Park development in certain areas of the TuC District will support new and existing recreational and tourist initiatives in the area. Such RV Park development is consistent with maintaining the integrity of the natural environment as it provides for less permanent building and changes to the existing landscape than several other uses permitted within the TuC District.

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

RESPONSE: Approval of the subject application will allow for a new local-servicing commercial use in higher-density rural communities located in close proximity to adjacent state highways. Visitors of the any potential RV Parks in the TuC District bring additional customers and revenue to other businesses in the TuC District.

Section 3.5: Natural Hazard Policies

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

RESPONSE: This goal is met. Any RV Parks created via a conditional use permit within the TuC District will provide for a development that protects people, property, infrastructure, the economy from natural hazards.

The County itself recently commissioned a feasibility study that specifically found "A scarcity of camping opportunities in Central Oregon, including for recreational vehicles (RV), not only reduces total visitation but also contributes to increased dispersed camping in undeveloped forestland and along roads. While visitation and population have both rapidly grown over recent decades, there has been no corresponding increase in camping capacity. This, in turn, results in added forest maintenance and damage to natural habitats, such as sanitation issues, problems with trash management, and increased fire risk." Exhibit 1 at page 1. That statement from the County's own study speaks directly to this Goal.

Stated simply, there is a serious demand for additional RV Parks within Deschutes County and the current lack thereof presents significant issues that can most directly be addressed by providing more RV Parks and campgrounds. In fact, per local news coverage of recent

County Commissioner meetings where the above-mentioned feasibility study was the focus of deliberations, the Commissioners noted there is an “incredible demand” for more RV Parks, and that very few, if any, have been built in the past 40 years in Deschutes County. See Exhibit 2 (news article).

Further, County Planning staff previously included in its 2022-2023 annual work plan an update regarding RV park opportunities, but appeared to stop short of exploring whether existing County zoning may be the main obstacle to developing more RV Parks. See Exhibit 3 at page 34. Examining existing zoning closely, this appears to be true. In Tumalo, potential for development of any RV Parks has effectively been prohibited due to the historical limitation that no RV Parks are allowed if they were not in existence before 1979. The Applicant’s own research suggests that this limitation was originally put in place because of the lack of central sewer services in the area, a concern that is likely to be address in Tumalo in the near future. However, even if that now-dated historical limitation were removed, other applicable conditional use standards in DCC chapter 18.128 make it very difficult for any new RV Parks to be feasible in Tumalo or elsewhere in the County. This proposed Text Amendment seeks to resolve these issues, at least for several properties within the TuC District. (The Applicant has no objection to the County addressing these concerns with a broader text amendment, but specifically limits the subject applicant to only the TuC District as the subject application is applicant-initiated and intended to be quasi-judicial.)

On a more local level in Tumalo itself, the County’s feasibility study cites data from the Oregon Parks and Recreation Department showing the nearby Tumalo State Park frequently reaches close to its 100% capacity which further exacerbate the issues outlined above. Exhibit 1 at page 10. The area proposed to be affected by the Text Amendment will specifically provide opportunities to help mitigate these issues and ease some of the high volume of visitors at Tumalo State Park that may cause capacity issues.

Chapter 4: Urban Growth Management

Section 4.9: Rural Service Center Policies.

Policy 4.9.11: Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted.

RESPONSE: While Tumalo itself is no longer characterized as a “Rural Service Center” by the County, its TuC District shares many similarities. The Comprehensive Plan defines Rural Service Centers as “an unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or persons traveling through the area, but which also includes some permanent residential dwellings.” While Tumalo is more broadly defined as a “Rural Community,” its TuC District is in essence a concentrated Rural Service Center with its purpose (as proposed to be amended) being to provide commercial uses providing goods and services to the surrounding rural area or persons traveling through the area. The Comprehensive Plan explicitly mandates that RV Parks catering to travelers shall be permitted in Rural Service Centers and naturally they shall

also be in the TuC District due to the aligned purposes of the two rural districts.

This is why the proposed Text Amendment seeks to amend the TuC District's purpose statement. The County Commissioners past actions and comments align with allowing uses in the TuC District that further this policy goal as set forth in state rules. OAR 660.022.0010(7) (defining Rural Community as "an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.")

In reality, there are hundreds of thousands of people that travel through Tumalo each year and the numbers will likely keep increasing. Hwy 20 is the major highway travelers use when travelling to Tumalo State Park, between Sisters and Bend, and to other attractions in this portion of Deschutes County. Being adjacent to Hwy 20, the TuC is the zoning district within Tumalo that most practically should include the purpose of serving the travel needs of people passing through the area.

Arguably more than any other use, an RV Park clearly "serves the travel needs of people passing through the area" by providing lodging and access to other recreational and commercial opportunities in the Tumalo area. The proposed Text Amendment finally brings the TuC District into consistency with this policy.

FINDING: Staff requests the Hearings Officer amend these findings as they see fit, and determine whether the Applicant has demonstrated compliance with applicable Comprehensive Plan provisions.

Appendix B- Tumalo Community Plan

RV Parks in the Tumalo Community Plan

FINDING: As detailed in the record, there are several public comments which point out that the Tumalo Community Plan does not appear to contemplate an RV park. Consequently, members of the public argue the proposed text amendment does not conform to the Tumalo Community Plan. Staff asks the Hearings Officer to determine whether these objections are relevant.

Economic Development Goal

Retain the economic vibrancy of Tumalo's historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community.

Economic Development Policies

Policy 4: Support economic development initiatives and tourism in the Tumalo area.

FINDING: Staff finds the proposed use is consistent with this policy of the Tumalo Community Plan. As detailed in the application materials, allowing an RV park as a conditional use in the TUC Zone would provide economic opportunities within the unincorporated community and would support tourism by expanding lodging options.

Policy 5: Allow for existing and future uses without producing adverse effects upon water resources or wastewater disposal. Coordinate with relevant agencies to ensure industrial uses meet requirements for water availability and wastewater disposal.

FINDING: As described herein, the proposed amendments would create new wastewater standards that only apply to RV parks within the TUC Zone. Specifically, the amendments would not require a property owner to provide laundry facilities or a sewer connection to each RV space until a sewer district is willing and able to provide service. In the interim, it appears to staff that the proposed amendments would allow an RV park to commence operations before sewer connections are established. Staff asks the Hearings Officer to make findings regarding the proposed amendments regarding wastewater disposal within RV parks in the TUC Zone, and whether this future use would have an adverse impact upon water resources or wastewater disposal.

Staff notes that an RV park is not an industrial use, and the proposed amendments are therefore not subject to the second part of this policy.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 22, Unincorporated Communities

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

- (4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:**
 - (c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.**

FINDING: The proposed amendments would create a new use within the unincorporated community of Tumalo, and is therefore subject to these provisions. The application materials state that an RV park would serve the travel needs of people passing through the area. Staff finds the proposed commercial use may be authorized within an unincorporated community.

- (8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:**
 - (A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and**

- (B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.**

FINDING: Any future development of an RV park within the TUC Zone would be subject to review by the Deschutes County Onsite Wastewater Division and/or the Department of Environmental Quality to ensure that wastewater disposal complies with applicable state standards. As described above, comments from the Deschutes County Onsite Wastewater Division indicate concerns regarding the ability of the Applicant's property to obtain an onsite wastewater (septic) permit. The proposed amendments would allow a property owner to establish an RV park and wait to install sewage disposal until a sewer district is able to serve the property. Staff notes the capacity of the sewer district would be addressed at the time a development proposal is submitted for a specific property. However, staff finds it may also be relevant in addressing these criteria and determining whether the proposed use would have a cumulative impact that exceeds the capacity of the sewer system or the carrying capacity of the soil. Staff asks the Hearings Officer to make specific findings for this section.

Division 12, Transportation Planning

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

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

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

FINDING: This above language is applicable to the proposal because it involves an amendment to a land use regulation, specifically the permitted uses within the TUC Zone. The proposed amendment would allow an RV park as a conditional use on properties that are two-to-fives acres in size and contiguous to Highway 20. While the Applicant is not proposing any land use development of a specific property at this time, the application materials indicate the intent is follow the Text Amendment with a subsequent Conditional Use Permit application to establish an RV park.

The submitted application materials include a traffic memorandum dated January 8, 2025, prepared by Joe Bessman of Transight Consulting LLC. The traffic memo analyzes a vacant parcel owned by the Applicant, which consists of 19 adjacent tax lots in the TUC Zone, and would potentially be eligible for development of an RV park under the amendments. The memo compares the uses that are currently permitted in the TUC Zone to an RV park to determine whether there would be a significant increase in trip generation with the new use category. As the memo notes, the TUC Zone currently allows for a range of commercial uses such as eating and drinking establishments, retail, and small office buildings.

Based on comparison of current allowable uses within the TuC zoning, the addition of RV park reflects a lower-intensity use. Accordingly, the proposed text amendment does not have the potential to create a significant impact on the transportation system...

Key findings of this Transportation Planning Rule analysis that would allow RV parks as a conditional use within the Tumalo Commercial (TuC) zoning includes the following:

- The proposed text amendment would conditionally allow an RV Park on 19 contiguous lots currently zoned TuC within the unincorporated Tumalo community.
- With a reduction in trips compared to allowable uses, a comparative analysis would show that all surrounding intersections and corridors will operate better with the text amendment, and a significant impact does not occur.
- While the siting of the RV Park complies with the comparative analysis required to satisfy the Transportation Planning Rule, future entitlements will need to assess the net system impacts as required by DCC 18.116.310. This analysis will need to demonstrate that adequate system capacity is available to serve these uses.

The traffic memo was reviewed by the County Senior Transportation Planner, who agreed with the report's conclusions. Staff finds that the proposed Text Amendment will be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. The proposed amendments will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. The County Transportation Planner provided the following comments in an email dated April 14, 2025:

I have reviewed the application materials for potential Transportation Planning Rule (TPR) OAR 660-012 effects, including the applicant's transportation memorandum produced by Transight Consulting, LLC, (dated January 8, 2025) and I agree with its assumptions, methodology, and conclusions. The memorandum adequately addresses reasonable worst case scenario analysis through a comparison of the existing outright allowed uses (utilizing ITE category 822 for Strip Retail Plaza as an aggregate category encompassing eating/drinking establishments, small retail, and offices each totaling less than 10,000 square-feet) to the proposed Campground/RV Park (ITE 416) use and ultimately concludes that no significant impacts will be anticipated with the proposed text amendment. Staff notes that, should the proposed text amendment receive approval, further traffic analysis may be required at the time of future development depending on the future development's vehicle trip generation potential. While the current text amendment does not absorb County road capacity, any future proposal for the development of a Campground/RV Park under the proposed use category must demonstrate compliance with the transportation analysis requirements of DCC 18.116.310, including p.m. peak hour vehicle trips related to System Development Charges (SDCs), mitigations, and adequacy of access.

Based on the County Senior Transportation Planner's comments and the traffic memo prepared by Transight Consulting LLC, staff finds compliance with the Transportation Planning Rule has been effectively demonstrated.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

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

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

Goal 1: Citizen Involvement

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

RESPONSE: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments will be provided in accordance with the requirements of the DCC. The public hearing on this application will provide the opportunity for any resident to participate in the land use process. Goal 1 is met.

Goal 2: Land Use Planning

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

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

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

RESPONSE: No lands will be rezoned as part of this application, furthering the purpose of Goal 3. The purpose of TuC District, as proposed to be amended, is to “allow a range of limited commercial and industrial uses to serve the community and surrounding area or the travel needs of people passing through the area.” Tumalo does not contain any lands with the Comprehensive Plan designation of Agriculture nor the zoning designation of Exclusive Farm Use (EFU). Goal 3 is met.

Goal 4: Forest Lands

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

RESPONSE: The amendments do not propose to rezone or alter forest lands. Further, there are no lands designated Forest, either by Comprehensive Plan or DCC 18.67, within or abutting Tumalo. Goal 4 is met.

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

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

RESPONSE: The properties potentially affected by the proposed Text Amendment are not located in the Landscape Management Overlay Zone for the Hwy 20 corridor as that zone specifically does not overlay the TuC District. Several properties in the TuC District, however, are within 660 feet of the ordinary high-water mark of the Deschutes River such that those properties are then within that Landscape Management Overlay Zone. Nevertheless, the subject Text Amendment does not introduce a new conflicting use to the Landscape Management Overlay Zone thereby requiring an economic, social, environmental, and energy (“ESEE”) analysis. As noted above, historic RV Parks have always been allowed within the TuC District. Importantly, the proposed Text Amendment does not alter or change that any proposed RV Park on properties within the Landscape Management Overlay Zone will still be required to fully comply with DCC Chapter 18.84. Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

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

RESPONSE: The proposed text amendment will not impact the quality of the air, water, or land resources. Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

RESPONSE: To the extent that lands in the TuC District are in areas subject to natural disasters and hazards, the subject application will serve to mitigate the risk of harm from such disasters on the property of Deschutes County citizens via the conditional use permit process and applicable codes and standards. Goal 7 is met.

Goal 8: Recreational Needs

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

RESPONSE: While Goal 8 itself is most often discussed in relation to destination resorts, it more broadly directs local jurisdictions to inventory their existing recreation areas, facilities, and opportunities to determine the existing and future recreational needs of citizens and visitors, and to plan for recreational opportunities in proportion to the demand for them. Development of RV Parks helps satisfy this goal.

As aforementioned herein and as evidenced by the County's own feasibility study, there is a lack of existing RV Parks in Tumalo and its surrounding areas where the existing zoning limits the opportunities for their development despite the well documented and growing demand for such uses. The County itself documented that its existing zoning directly limits where RV Parks may be developed, and the County's existing conditional use requirements in Chapter 18.128 further make such developments not economically feasible. Requiring applicants to provide full amenities such as showers, sewer, and laundry makes RV Parks practically and economically infeasible in most locations throughout the County, and then requires all RV Parks to cater to limited clientele actually seeking such high-end services. Several publicly owned RV Parks, including Tumalo State Park, La Pine State Park, and the County-owned Jefferson County RV Park do not include the full list of amenities that are required for new privately-owned RV Parks in Deschutes County. It is telling that so few RV Parks have recently been developed in Deschutes County, resulting in the County commissioning its own feasibility study as discussed above. The proposed Text Amendment will loosen these requirements to provide new opportunities for RV Parks on at least certain properties in the TuC District. This better satisfies the recreational needs of Deschutes County citizens and visitors by providing for siting of RV vehicles and promoting access to nearby recreational

sites including Tumalo State Park, which is estimated to be more than 200,000 visitors a year according to the Tumalo Community Plan and is increasing annually. Goal 8 is met.

Goal 9: Economic Development

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

RESPONSE: Although the applicability of Goal 9 is debatable in this context, the County's current code provisions governing the TuC District nevertheless clearly do not provide the same economic opportunity as would otherwise be allowed by state rules. Specifically, state rules allow uses in the TuC District that are intended to serve the travel public. DCC 18.67.040's purpose statement notably omits similar language, instead only allowing uses that serve the community and surrounding area. Considering the TuC District's location adjacent to Hwy 20 within the Tumalo community and between Bend and Sisters, omitting uses that also serve the traveling public undeniably then restricts economic development within the district. One clear example of a uses that would otherwise be allowed by state rules and that would otherwise further economic development within the TuC District is an RV park.

Accordingly, the proposed text amendment complies with Goal 9 because it will permit a new and varied economic activity i.e., RV Parks, within the TuC District that will allow property owners within the TuC District an additional opportunity for prosperity. Economic Development Policy 4 of the Tumalo Community Plan is specifically to "Support economic development initiatives and tourism in the Tumalo area" which is exactly what this Text Amendment will do. Goal 9 is met.

Goal 10: Housing

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

RESPONSE: The subject application does not propose to change to housing. Goal 10 is met, to the extent it is applicable. Further, because Tumalo is classified as a Rural Unincorporated Community under OAR-660-022-0010(7) it is not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services

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

RESPONSE: The proposed text amendment will have no adverse effect on the provision of public facilities and services. In fact, to the extent the Tumalo Basin Sewer District creation moves forward, it can proceed in lockstep with the new opportunities presented by this Text Amendment application. Unless and until a sewer district is installed and functioning,

applicants for RV Parks still should be allowed the opportunity as a business decision to develop and maintain on-site septic systems that are capable of handling the demands of an RV Park with on-site bathrooms and showers. Increased flexibility for RV Park proposals is essential if more are ever to be developed in Deschutes County. Goal 11 is met.

Goal 12: Transportation

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

RESPONSE: The proposed amendment will not impact transportation facilities within the County. The Applicant engaged a traffic engineer, Joe Bessman of Transight Consulting, LLC, who prepared a TPR Analysis (attached as Exhibit 4) and will provide a further Traffic Impact Analysis when future Conditional Use Permit applications for an RV Park are submitted by the Applicant. Among the findings of the TPR is that an "RV park is a much less intense use than what is currently permitted within [the TuC District] and therefore does not create a significant transportation impact. The listing of this use as Conditional will require additional analysis to ensure that the use is consistent with County and State requirements."

Further, allowing properties in the TuC District to be utilized for RV Parks even if accessed off something other than an arterial or collector street clearly provides more development opportunities for RV Parks. Applicants who are capable of meeting all applicable road standards except for being off an arterial or collector road ought to be provided the same development opportunity and RV Parks should not be arbitrarily prohibited in such circumstances. Stated simply, in its current form DCC 18.128.170(O) is blatantly over regulatory because it prohibits RV Parks on properties that could otherwise meet all applicable road standards. Rather than instead requiring compliance with those applicable road standards, DCC 18.128.170(O) elevates access off of an arterial or collector street as a proxy for those road standards. A property not having access off an arterial or collector is an arbitrary requirement that has directly contributed to the lack RV Parks being developed throughout the County.

The County's current policy stance was clarified in a written response received by the Applicant from County staff after requesting a meeting to discuss DCC 18.128.170(O). The email communication is included as Exhibit 6. Rather than meeting to discuss the issue, County staff more directly defended in that written response that DCC 18.128.170(O) in its current form "aligns with transportation planning principles by balancing accessibility, safety, and minimal disruption to surrounding communities." However, County staff also noted that "RV park access and traffic circulation on local roads is not desirable in many situations" (emphasis added). But something not being desirable in many situations is not the same thing as not being desirable in all situations, confirming then that DCC 18.128.170(O) in its current form is over regulatory. Further, County staff assumed that the only other option would be RV Park access off of local access roads, and failed to address that DCC 18.128.170(O) mandates access off of only arterial or collector streets therefore also prohibiting access off a state highway, for example. More importantly, County staff's written response suggested that although they would be "opposed to eliminating [DCC

18.128.170(O)] outright,” County staff suggested that they would not then be opposed to modifying that provision so long as the following listed factors were instead addressed: (1) traffic capacity and flow; (2) geometric design; (3) pavement design; (4) livability impacts on local residents; and (5) accessibility and convenience to amenities and state highways. Although the Applicant questions if the last two aforementioned factors are best addressed as part of traffic and road issues, to honor County staff’s recommendation the Applicant, as part of the subject Text Amendment, proposes replacing the currently over regulatory DCC 18.128.170(O)—at least within the TuC District—with the same listed factors recommend by County staff. The intended outcome would be that RV Parks within the TuC District could be approved off of something other than arterial and collector streets after consideration of these factors. The proposed text amendment does not eliminate the purposes of DCC 18.128.170(O) outright as County staff cautioned, rather it provides more flexibility and opportunity for development of RV Parks when the County itself has determined that such uses are severely lacking throughout our community. Stated simply, when the County Commissioners themselves have expressed they want to foster RV Park development throughout the County, any blatantly over regulatory code provision that unnecessarily prohibits RV Parks on otherwise qualifying properties should be re-examined.

As a final comment, the impact of DCC 18.128.170(O) on RV Park development should not be lost on the County. The County’s very own feasibility study discussed above identified three properties where the County itself may consider developing an RV Park. Two out of three sites identified by that feasibility study would not meet DCC 18.128.170(O), yet those two sites were not then immediately excluded from further consideration. Specifically, the Crooked River Ranch Site’s only means of access is via NW 8th Court, a “Rural Local” road. The Fort Thompson Site’s only means of access is off Oregon State Highway 97 which also is not an “arterial or collector street.” If pursued further, both aforementioned sites would likely require zone changes and/or text amendments before RV Parks would be viable options. Assuming the County would then pursue legislative amendments allowing RV Parks as conditional uses on those two aforementioned properties, then the County would be in the very same position as the Applicant when it comes to the addressing DCC 18.128.170(O). If the County’s intention is to staunchly defend that RV Parks should only be developed on properties with direct access from arterial or collector streets, then presumably the County’s own feasibility study would not have wasted resources analyzing two properties that do not meet that overly stringent standard.

Goal 12 is met.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: The proposed amendment will have a de minimis effect on the provision of public facilities and services. To the extent Goal 13 is applicable, new RV Parks developed in the TuC District will be designed and constructed with best practices for the modern-day construction industry, including energy efficient design standards, as well as the ability to

accommodate vehicles that are of the “van-life” variety and less consumptive than larger traditional RVs of both the motorized and trailer variety.

Goal 14: Urbanization

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

RESPONSE: Goal 14 concerns the provision of urban and rural land uses to ensure efficient use of land and livable communities. The proposed amendment does not amend an urban growth boundary, and RV Parks are permitted as a conditional use in several other rural zones throughout the County. Like the TuC District, these other zones serve rural communities. RV Parks are not exclusively an “urban use” and RV Parks significantly contribute to rural recreational opportunities. The subject application proposes to limit RV Parks to lands in the TuC District that are located in close proximity to the adjacent State Hwy 20, thereby promoting an orderly and efficient transition from rural to urban land use to the extent applicable. Goal 14 is met.

Goals 15-19

RESPONSE: Goals 15 through 19 do not apply (Goal 15 Willamette River Greenway; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources).

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

IV. CONCLUSION & RECOMMENDATION

Staff requests the Hearings Officer determine if the Applicant has met the burden of proof necessary to justify the proposed Text Amendment through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (the Deschutes County Zoning Ordinance), the Deschutes County Comprehensive Plan, and applicable sections of OAR and ORS.

DESCHUTES COUNTY PLANNING DIVISION

A handwritten signature in black ink that reads "Audrey Stuart". The signature is written in a cursive, flowing style.

Written by: Audrey Stuart, Associate Planner

Anthony Raguine

Reviewed by: Anthony Raguine, Principal Planner

Attachments: 1) Proposed Text Amendments

Attachment A: Proposed Text Amendments

18.67.040 Commercial (TuC) District

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area [or the travel needs of people passing through the area.](#)

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review under DCC 18.124.
 - 1. A single-unit dwelling or duplex.
 - 2. A manufactured dwelling subject to DCC 18.116.070.
 - 3. Type 1 Home Occupation, subject to DCC 18.116.280.
 - 4. Class I and II road or street project subject to approval as part of a land partition, subdivision, or subject to the standards of DCC 18.67.060 and 18.116.230.
 - 5. Class III road or street project.
 - 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
 - 7. Residential home.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116, and 18.124:
 - 1. A building or buildings, none of which exceeds 4,000 square feet of floor area to be used by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating and/or drinking establishment.
 - c. Offices.
 - d. A dwelling unit permitted outright or conditionally, in the same building as a use permitted in DCC 18.67.040.
 - e. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
 - 2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).
 - 3. Child care facility and/or preschool.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
 - 1. Religious institutions or assemblies.
 - 2. Bed and breakfast inn.
 - 3. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 - 4. Park.
 - 5. Public or semi-public building.
 - 6. Utility facility.
 - 7. Water supply or treatment facility.
 - 8. Manufactured dwelling/~~RV park~~ on a lot or parcel in use as a manufactured dwelling park ~~or recreational vehicle~~ park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured dwelling park ~~or recreational vehicle park~~, including any expansion of such uses on the same lot or parcel as configured on June 12, 1996.
 - 9. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor area.
 - a. Farm equipment, sales, service, or repair.
 - b. Trailer sales, service, or repair.

- c. Vehicle service or repair.
 - d. Veterinary clinic.
- 10. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor area:
 - a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- 11. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- 12. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- 13. Psilocybin service centers, subject to the provisions of DCC 18.116.380.
- 14. Recreational Vehicle Parks.**
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(10).
 - 1. Compatibility.
 - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel abutting or across a local or collector street from a lot or parcel in a residential district.
 - 2. Traffic and Parking.
 - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity, and level of service of the affected transportation facility.
 - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.
- E. Requirements for Large Scale Uses.
 - 1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
 - a. The use is intended to serve the community and surrounding rural area, or the traveling needs of people passing through the area;
 - b. The use will primarily employ a work force from the community and surrounding rural area; and
 - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
 - 2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).
 - 3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.

- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.
1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
 2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Area Requirements. The minimum lot area is 10,000 square feet. In addition, lot area requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas, and off-street parking.
- H. Lot Coverage Standards.
1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal, and landscaping are satisfied.
 2. No use listed in DCC 18.67.040(C)(10) that is abutting or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage, including outside storage, and off-street parking and loading areas.
- I. Setback Standards.
1. Front Setback. The front setback shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3). The front setback for structures may be reduced, but not increased, to the average setback distance of existing structures on abutting lots or parcels.
 2. Side Setback. No requirement, subject to DCC 18.67.040(I)(4).
 3. Rear Setback. No specific requirement, subject to DCC 18.67.040 (I)(4).
 4. Exceptions to Setback Standards.
 - a. Lot line(s) abutting a residential zone. For all new structures or substantial alterations of a structure requiring a building permit, on a lot or parcel abutting a residential district, the setback shall be a minimum of 15 feet. The required setback will be increased by one foot for each foot by which the structure height exceeds 20 feet.
 - b. Lot line(s) abutting an EFU zone. Any structure requiring a building permit, on a lot or parcel abutting EFU-zoned land receiving special assessment for farm use, shall have a minimum setback of 100 feet from any shared lot line.
- J. **Additional Standards for Recreational Vehicle Parks**
1. **Recreational Vehicle Parks shall only be allowed on a single parcel or contiguous parcels under common ownership that meet the following requirements:**
 - a. **The area of the parcel(s) proposed for development shall exceed 2 acres but no more than 5 acres;**
 - b. **The parcel(s) shall all be located in a sewer district; and**
 - c. **The single parcel or at least one of the contiguous parcels under common ownership shall be adjacent to State Highway 20.**
 2. **Compliance with DCC 18.128.170.**
 - a. **For sewage disposal service and laundry facilities only, Recreational Vehicle Parks in the Tumalo Commercial District shall not be required to comply with DCC 18.128.170(0) and (J) until a sewer district is willing and able to provide service to the proposed project. The County may include conditions of approval requiring Recreational Vehicle Parks to provide sewer connection to each**

recreational vehicle space and to provide laundry facilities as outlined in DCC 18.128.170(J) once sewer service is available from a sewer district

- b. To ensure compliance with DCC 18.128.170(G), Recreational Vehicle Parks in the Tumalo Commercial District shall only provide temporary lodging with no recreational vehicles utilized as permanent "residential dwellings" as that term is used in ORS 197.493.
- c. Compliance with DCC 18.128.170(0) requiring that access to a Recreational Vehicle Park shall be from an arterial or collector street shall not be applicable in the Tumalo Commercial District so long as an applicant instead demonstrates that the street providing direct access to the proposed Recreational Vehicle Park shall not be unreasonably impacted. To demonstrate compliance with this standard, an applicant shall address traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways.