



MEMORANDUM

TO: Board of County Commissioners

FROM: Audrey Stuart, Associate Planner

DATE: January 9, 2023

SUBJECT: January 18th Public Hearing for Marken Plan Amendment and Zone Change

The Board of County Commissioners (“Board”) is conducting a public hearing on January 18, 2023, to consider a request for a Comprehensive Plan Amendment and Zone Change (file nos. 247-22-000353-PA, 354-ZC) for two tax lots totaling approximately 59 acres, to the east of Bend and south of Highway 20. This will be the second of two required public hearings, the first required hearing was held before a Hearings Officer on September 6, 2022.

I. BACKGROUND

The applicant and property owner, Harold Marken, is requesting a Comprehensive Plan Amendment to re-designate the subject property from Agriculture to Rural Residential Exception Area, and a Zoning Map Amendment to rezone the property from Exclusive Farm Use – Tumalo-Redmond-Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10). The applicant argues that the subject property does not meet the definition of “agricultural land” due to its poor soil quality, and previous attempts to engage in farm use on the property were unsuccessful. For these reasons, the applicant states a mistake was made when the property was originally zoned and MUA-10 zoning is more appropriate.

The applicant has provided a supplementary soil study that identifies non-high value (Class VII and VIII) soils on a majority (61.2%) of the subject properties. Additionally, the applicant has provided a traffic study, and findings within the burden of proof that demonstrate compliance with state and local requirements and policies.

II. PUBLIC COMMENTS

Seven written comments were submitted in advance of the September 6, 2022, hearing before the Hearings Officer; of these, five were in opposition to the applications, one was neutral, and one was in support. Two members of the public testified in opposition to the applications at the public hearing. During the subsequent open record period, one written comment was submitted by a

surrounding property owner and additional materials were submitted by Central Oregon LandWatch.

Comments in opposition to the applications expressed concerns regarding impacts to wildlife, increased housing density, preservation of agricultural properties, loss of neighborhood character, inconsistencies with local Code and state law, and efforts to put the subject property to farm use. The one neutral written comment inquired about adding additional land to the subject applications. The comment received in support of the applications addressed the minimal impacts to nearby agriculture, and poor soil quality of both the subject property and surrounding area.

III. HEARINGS OFFICER RECOMMENDATION

The Deschutes County Hearings Officer held a public hearing on September 6, 2022. Two people, not including the applicant's team, provided testimony during the public testimony portion of the hearing.

On November 7, 2022, the Hearings Officer issued a recommendation of approval for the proposed Plan Amendment and Zone Change evaluating compliance with all applicable review criteria.

IV. BOARD CONSIDERATION

As the property includes lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the application to be heard *de novo* before the Board, regardless of the determination of the Hearings Officer. Per DCC Section 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change is not subject to the 150-day review period typically associated with land use decisions. The record is available for inspection at the following link: <https://www.deschutes.org/cd/page/247-22-000353-pa-and-247-22-000354-zc-marken-comprehensive-plan-amendment-and-zone-change>

V. NEXT STEPS

At the conclusion of the public hearing, the Board can choose one of the following options:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

*Enclosures: Area Map
Hearings Officer Recommendation*