

Draft Findings for Board of County Commissioners Decision

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

I. BASIC FINDINGS OF FACT

The Board adopts and incorporates by reference the code interpretations, findings of fact, and conclusions of law in the Hearings Officer's Recommendation (the "Recommendation") except to the extent that the Recommendation is inconsistent with or modified by the Board's findings herein. The Recommendation is attached as Exhibit C to Ordinance 2026-007.

The Board's findings are set forth below:

a. **Procedural History**

The applicant, Joel Gisler ("Applicant"), submitted an application on February 18, 2025, seeking a text amendment to DCC 18.67.040 to alter the manner in which Recreational Vehicle Parks ("RV Parks") may be permitted in the Tumalo Commercial District ("TUC") (the "Text Amendment"). On June 9, 2025, a staff report was issued in advance of the public hearing before the Hearings Officer, scheduled for June 16, 2025. Following that public hearing, the Hearings Officer issued his Recommendation on September 2, 2025. The Hearings Officer found that the application met all applicable text amendment criteria but declined to make a formal decision, based on a finding that only the Board has the authority to amend DCC. Noting that the application invoked "legislative/policy" decisions that needed to be considered by the Board, the Hearings Officer recommended approval of the proposed text amendment, "unless the [Board] determines there is a legislative/policy reason not to adopt the amendments" (emphasis in original).

The Board voted to "call up" the Recommendation on September 3, 2025, pursuant to DCC 22.28.050(A) via Order No. 2025-040. The Board conducted a *de novo* public hearing on October 22, 2025, and thereafter held the written record open until November 12, 2025.

The Board's deliberations were originally scheduled for January 7, 2026. However, numerous public comments were submitted after the record closed on November 12, 2025. To provide clarity on the nature of the proceedings and to ensure that all parties were provided ample opportunity to present evidence and testimony, the Board approved Order No. 2026-005 on January 14, 2026. Order No. 2026-005 reopened both the written and oral record and continued the public hearing so that public notice could be provided.

The Board held a continued public hearing on February 11, 2026. County staff clarified that, consistent with the Hearing Officer's Recommendation, the Board was considering the proposed Text Amendment as a legislative matter to address the "legislative/policy" issues the Hearings Officer stated were left to the Board's consideration. Following the public hearing, the Board closed the record, deliberated, and voted 2-1 (Commissioner Adair opposed) to approve the proposed Text Amendment. The Board subsequently approved Ordinance No. 2026-007 on **XXXXXXXX** memorializing the Board's oral decision.

b. Clarifying Findings

The Board addresses several issues raised before the Hearings Officer concerning the staff report submitted on the application and makes the following clarifying findings at the outset:

- **Map:** In order to determine the maximum number of properties that could potentially be eligible for an RV Park under the applicant’s proposal, staff produced a map identifying properties in the TUC that consist of parcels under common ownership which are 2 to 5 acres in size and contiguous to Highway 20. This map did not include information on whether a property was located within a sewer district and did not confirm that an RV Park could be developed on any specific property. This map identified two properties in the TUC that met the size requirement and were contiguous to Highway 20, with one of the identified properties located west of Highway 20 on Wood Avenue. The Wood Avenue property is not located within a sewer district and the applicant later revised the proposed text amendment to increase the minimum RV Park acreage from 2 to 2.3 acres. Therefore, only the Applicant’s property located to the east of Highway 20 is presently eligible to apply for a conditional use permit to develop an RV Park with approval of the text amendment.
- **Onsite Wastewater: Whether** on-site wastewater permits could be approved for the Applicant’s property is not relevant because the Text Amendment requires that any RV Park in the TUC be connected to a central sewer system.
- **State Building Codes:** The Text Amendment does not change DCC 18.128.170(I) which requires any RV Park developed in the County to provide “toilets, lavatories and showers” based on the number of RV spots. Compliance with DCC 18.128.170(I) and OAR 918-650-0050(I) will be addressed in review of a subsequent conditional use permit application for any RV Park proposed to be developed in the TUC.
- **“Adding” RV Parks as a Conditional Use:** The Text Amendment will not “add” RV Parks as a conditional use in the TUC. RV Parks are allowable as a conditional use in the TUC subject to a historical limitation. The Text Amendment replaces that historical limitation with a geographic limitation.¹

II. FINDINGS

These findings address issues raised in the Board’s proceedings. The Board has no obligation to address arguments not related to applicable criteria or to address insufficiently developed arguments. *See, e.g., Wolverton v. Crook County*, 39 Or LUBA 256 (2000); *Gould v. Deschutes County*, ___ Or LUBA ___, ___ (LUBA No 2018-140, June 21, 2019) (slip op at *15), *aff’d*, 31 Or App 868, 484 P3d 1073 (2021) (citing *Deschutes Development v. Deschutes County*, 5 Or LUBA 218, 220 (1982)). Any issue raised or argument asserted in the Hearing Officer’s proceedings that

¹ By “geographic limitation” the Board is referring to the requirement that the tract proposed for any RV Park development in the TUC must be at least 2.3 acres but no more than 5 acres in size, be located within the boundaries of a sanitary district or sanitary authority or otherwise be served by an adequate sewage collection and disposal system and include at least one parcel that is adjacent to State Highway 20.

is not addressed in the Hearing Officer’s Recommendation or in these Findings has been determined to be insufficiently developed and/or not related to applicable code criteria.

A. Procedural Findings

a. The Hearings Officer Conducted the Initial Public Hearing.

DCC 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.

DCC 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: There is no provision in DCC Chapter 22 setting forth the procedures for processing an application for a quasi-judicial text amendment, even though DCC 18.136.010 allows both “text or legislative map changes” applications to be submitted. The Board agrees with the Hearings Officer’s findings that the proceedings before the Hearings Officer were quasi-judicial. Accordingly, the Board interprets DCC 22.28.030 as applying to the subject Text Amendment and finds that the initial hearing was properly conducted before a County Hearings Officer. No party objected to the initial hearing not having been held by the Planning Commission under DCC 22.28.030(A), nor demonstrated that their substantial rights were impaired by the County Hearings Officer conducting the initial hearing.

b. The Hearings Officer Issued a Recommendation.

FINDING: The Hearings Officer proceedings followed those of a quasi-judicial text amendment. The Hearing Officer determined that amendment of the Deschutes County Code must be by adoption of an ordinance. Therefore, the Hearings Officer issued a Recommendation to the Board, noting several “legislative/policy” issues that the Hearing Officer determined were best considered by the Board.

No party appealed the Hearing Officer’s Recommendation or otherwise objected to the Hearings Officer issuing a Recommendation. Because the Board initiated its own review, no party’s substantial rights were impacted and any potential procedural errors were cured. All parties who participated in the Hearings Officer proceedings were given notice of the public hearings held by the Board and were provided the opportunity to participate in the Board’s proceedings both orally and in writing.

c. The Board of Commissioners Conducted Legislative Review.

FINDING: The Hearings Officer determined that the Text Amendment complied with all applicable DCC provisions. The Hearings Officer recommended that the Board adopt the Text Amendment unless the Board determined that “there is a legislative/policy reason to not adopt the amendments” (emphasis in original). As understood by the Board, the Hearings Officer’s Recommendation determined that the first required step was a quasi-judicial process before the Hearings Officer with the second step then being a legislative process before the Board.

The Board takes no position on the Hearings Officer’s processing of the Text Amendment application. The Board finds that no party appealed or otherwise objected to the Hearings Officer’s Recommendation or otherwise argued that the Board was required to continue following a quasi-judicial process in its review. Any procedural errors that may have resulted from the Hearings Officer’s Recommendation were corrected by Board Order No. 2025-040 initiating review, and Board Order No. 2026-005 re-opening the public hearing to clarify that the Board’s proceedings were legislative. By re-opening the public hearing, the Board notes that all submitted public testimony was added to the record and considered by the Board., All parties were provided three (3) opportunities to present argument and testimony in this matter: once before the Hearings Officer, and twice before the Board.

The Board finds that no individual’s substantial rights were prejudiced by the Board considering the Hearing Officer’s Recommendation and following a legislative process in deciding whether to approve the Text Amendment.

B. Technical Findings

The Hearings Officer’s Recommendation is focused on applicable DCC provisions governing text amendments. Based on his analysis, the Hearings Officer recommended that the Board adopt the proposed Text Amendment unless the Board determined there are legislative/policy reasons not to adopt the amendments. To distinguish the Hearings Officer’s analysis from the Board’s own analysis, the Board describes the Hearings Officer’s Recommendation as primarily including “technical” findings.

The Board adopts and incorporates by reference the Hearing Officer’s code interpretations, technical findings of fact, and conclusions of law in the Recommendation, except to the extent the Hearings Officer’s technical findings are inconsistent with or modified by the Board’s findings herein. The Board adds to the Hearings Officer’s technical findings as follows:

a. The Text Amendment is Consistent with Applicable Traffic Impact Standards.

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. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be 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: The Hearings Officer found that the Applicant met the applicable traffic criteria for text amendment applications by demonstrating compliance with the Transportation Planning Rule (“TPR”). The Hearings Officer rejected opposition comments claiming that an RV Park will cause adverse traffic impacts in terms of volume and safety.

During its deliberations, the Board voted 2-1 (with Commissioner Adair opposed) in favor of adopting the Hearings Officer’s finding that the Applicant demonstrated compliance with the TPR through the three reports submitted by its licensed traffic engineer on February 18, 2025, October 21, 2025, and October 29, 2025. The Text Amendment does not have the potential to create a significant impact on the transportation system, which satisfies the TPR . As the Applicant’s traffic engineer determined in its October 21, 2025 report, a 30-unit residential development—a use that is already permitted within the TUC on the Applicant’s property—would generate an estimated 166 more daily trips compared to a 30-space RV Park. RVs can safely navigate Tumalo streets as needed to connect an RV Park on the Applicant’s property to Highway 20, as determined in the Applicant’s traffic engineer’s October 29, 2025 submittal.

Commenters opposed to the Text Amendment argued that the Board should disregard the Applicant's traffic engineer's submittals and instead give more credit to lay testimony arguing generally that Tumalo's local roads cannot accommodate traffic associated with an RV Park developed in the TUC. However, no oppositional comments questioned the data or assumptions used by the Applicant's traffic engineer to show compliance with the TPR; no one presented any alternative analysis demonstrating that an RV Park will have greater traffic impacts compared to other uses allowed in the TUC.

As understood by the Board, the opponents' traffic objections present a substantial evidence issue. Accordingly, the Board is obliged to weigh the evidence in the record while giving particular attention to testimony from qualified experts that pertain to technical issues. The Oregon Land Use Board of Appeals ("LUBA") determined that expert testimony must be relied upon when the approval standard is "a more technical transportation standard such as OAR 660-012-0060 [the TPR]." *See Falcon Ridge, LLC v. City of Klamath Falls*, 57 Or LUBA 651, 659 (2008). In this case, the majority of the Board (Commissioner Adair opposed) is not persuaded by the lay testimony from opponents. The Board finds that the Applicant's traffic engineer's submittals constitute substantial evidence in the record supporting a finding that the Text Amendment complies with the TPR. The Board further finds that any potential impacts to local traffic and any mitigation of these impacts, if needed, will be addressed during review of a conditional use permit application for an RV Park in the TUC. Any traffic related issue beyond compliance with the TPR is not currently before the Board because no RV Park is currently proposed.

The Board notes that the Text Amendment amends DCC 18.128.170(O) which requires for any RV Park proposed to be developed anywhere in the County that "[a]ccess * * * shall be from an arterial or collector street." The Text Amendment alters that requirement for RV Parks proposed in the TUC, instead requiring a demonstration that an RV Park will not unreasonably impact the streets providing direct access by addressing "traffic capacity and flow, geometric design, pavement design, livability impacts on local residents, and accessibility and convenience to amenities and state highways."

The Applicant argued that the existing requirements in DCC 18.128.170(O) would prevent an RV Park from being developed with access from a local access road, regardless of whether such road could be shown to provide safe and viable access. Arguments to the contrary were made by several opponents who generically asserted that road standards should not be lowered in Tumalo.

The Board is unpersuaded by opponents' comments. For the foregoing reasons, the Board finds that the Applicant's proposal to amend DCC 18.128.170(O) to require a site-specific traffic analysis for RV Parks in the TUC does not functionally lower the road standards required. The Text Amendment's reliance on a site-specific traffic analysis will help foster RV Parks in the TUC while likewise ensuring safe and adequate access to such developments.

b. The Text Amendment is Consistent with the Tumalo Community Plan

Deschutes County Comprehensive Plan- Appendix B-Tumalo Community Plan

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

[...]

3. Allow residential uses and mixed residential/commercial uses, without inhibiting future commercial development opportunities in the Commercial Zoning Districts.

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

FINDING: Several opponents argued that the Text Amendment is inconsistent with the Tumalo Community Plan. Most oppositional comments did not address any specific goal or policy in the Tumalo Community Plan, and instead generally asserted that an RV Park does not preserve the rural or “small town” character of the community.

The Applicant cited the Tumalo Community Plan’s Economic Development Goal and corresponding Policies 3 and 4 in support of the Text Amendment. Policy 3 is to “[a]llow residential uses and mixed residential/commercial uses, without inhibiting future commercial development opportunities in the Commercial Zoning Districts.” Policy 4 is to “[s]upport economic development initiatives and tourism in the Tumalo area.” The Applicant further argued that RV Parks are not inherently an urban use that would impact Tumalo’s “rural” character. The Applicant noted there are many RV Parks throughout the state that are not within urban growth boundaries. In Deschutes County, RV parks are permitted as a conditional use in other rural zones. Additionally, RV Parks significantly contribute to rural recreational opportunities. Last, the Applicant noted and the Hearings Officer found that “lands in the TUC District [...] 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.”

The majority of the Board (Commissioner Adair opposed) agrees with the Applicant and finds that the Text Amendment is consistent with the Tumalo Community Plan including Economic Development Policies 3 and 4. The Board further notes the letters of support in the record from the owners of two local businesses in Tumalo which stated that local businesses in the TUC cannot thrive without customer bases that reach beyond the limits of Tumalo, and finds that increasing opportunities for RV Parks to be developed in the TUC is the very definition of “supporting * * * tourism in the Tumalo area” as mandated by Policy 4 of the Economic Development Goal in the Tumalo Community Plan.

With respect to comments asserting that RV Parks will change Tumalo’s intended rural character, the Board agrees with the Applicant’s arguments and evidence. The Board refers to the recent adoption of the 2040 Tumalo Community Plan, Deschutes County Ordinance No. 2023-016, Exhibit C, Tumalo Community Plan, Residential Area Policy 4. In developing the Plan, the community did not call for prohibition of short-term rental use of 4-unit developments, thereby evidencing the community’s determination that short-term rentals do not change Tumalo’s rural character. The Board further finds that the TUC currently allows for a range of commercial uses, any of which could have significantly greater traffic impacts than an RV park.

Within the TUC, multi-unit residential developments are not allowed. The maximum density for residential development is one duplex per lot. As demonstrated by the Applicant's traffic engineer's October 21, 2025, submittal, the Applicant could build up to 15 duplexes (30 units) on his property. His property also could qualify for an RV Park under the Text Amendment. If duplexes were built, they could be used as short term rental properties. Just as with multi-unit development in the Tumalo Residential zone (TUR), development of duplexes in the TUC that are used as short term rental properties do not change Tumalo's rural character. The Board therefore finds that if the use of multi-unit housing or duplexes in Tumalo as short term rentals does not change Tumalo's rural character, then neither will an RV Park.

C. Policy/Legislative Findings

The Hearings Officer found that legislative applications "generally involve broad public policy decisions" and "[i]n 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." The Board makes the following policy findings in support of its approval of the Text Amendment.

a. The "Purpose Statement" of the TUC Should be Amended.

FINDING: The proposed Text Amendment includes a request to update the TUC's purpose statement. Currently, uses allowed in the TUC are intended to "serve the community and surrounding area." The Text Amendment clarifies that such uses may also serve "*the travel needs of people passing through the area.*"

For background, the Board notes its previous 2019 decision denying a proposed commercial use in the TUC because the use was determined to be inconsistent with the TUC's purpose statement. *See* County File No 247-18-000545-CU/546SP/811-MA/247-19-000141-A. Therein, the County determined that the purpose statement in DCC 18.67.040 is enforceable as a regulatory requirement. That decision was upheld by LUBA. *See H2D2 v. Deschutes County*, 80 Or LUBA 528 (2019).

The Board finds that the TUC's purpose statement in DCC 18.67.040 is stricter than a similar provision in OAR 660-022-0030(4)(c). Under OAR 660-022-0030(4)(c), commercial and industrial uses in the TUC that "serve the community and surrounding rural area *or the travel needs of people passing through the area,*" would not be precluded.

The Board finds that amending the TUC's purpose statement in accordance with OAR 660-022-0030(4)(c) will align with existing uses in the TUC that currently serve "*the travel needs of people passing through the [Tumalo] area,*" as well as local residents. These existing uses include two cideries, multiple restaurants, a coffeeshop, the Tumalo Farmstand, "The Bite" food cart pod, an antiques store, a bicycle store, a gas station, etc. All these uses serve both residents and travelers alike. As a policy matter, the purpose statement of the TUC should be amended in recognition of existing uses serving the traveling public and to ensure that similar future uses are not determined to be inconsistent with the purpose of the TUC.

The Board finds that the purpose statement in DCC 18.67.040 should be updated such that the language is consistent with OAR 660-022-0030(4)(c).

b. The Text Amendment Supports Increased Camping Opportunities in Deschutes County

FINDING: The record includes a study commissioned by Deschutes County and completed in November 2023 (the “County’s Study”). This Study focused on the need for more campgrounds and RV Parks throughout the County. *See* Applicant’s Exhibit 1. The County’s Study cites statistics that Deschutes County attracts over four million visitors annually, largely for outdoor recreation, and that this tourism contributes over \$1.41 billion to the local economy each year. The County’s Study found that the County currently has a scarcity of short-term lodging capacity that caters to outdoor recreationists including campgrounds and RV Parks. This shortage thereby prevents visitors from extending their stays, limiting the area’s economic growth potential. The County’s Study concludes the County’s lack of camping opportunities, “including for recreational vehicles,” has increased dispersed camping in the Deschutes National Forest and along roads in the County resulting in added forest maintenance and damage to natural habitats, such as sanitation issues, problems with trash management, and increased fire risks. The County’s Study found that Tumalo State Park, which is located near the TUC, “has consistently outperformed the state-wide occupancy rate, often exceeding other state parks [...] by as much as 30 percent during peak seasons.” Exhibit 10 of the County’s Study provides data detailing that Tumalo State Park often reaches full occupancy during the busiest tourist seasons.

Considering the County’s Study, the Board finds the Text Amendment will enable greater opportunity for the development of RV Parks in the TUC and therefore will help alleviate the above-discussed issues. The Board finds that allowing new opportunities for an RV Park to be developed in the TUC will allow more travelers to visit the County and therefore contribute to the County and Tumalo’s economic growth.

c. RV Parks Are Already Conditionally Permissible in the TUC

FINDING: Several comments assert that RV Parks are not a compatible use in the TUC. The Board finds those arguments unpersuasive because DCC 18.67.040(C)(8) lists the expansion or continued use of RV Parks as a conditional use in the TUC, provided the RV Park was established prior to the adoption of PL-15 in 1979 and operated as of June 12, 1996. The Board interprets the current DCC provisions that conditionally allow RV Parks in the TUC—even subject to historical limitations—as confirmation that RV Parks may be compatible with other uses in that zoning district. If past County Commissioners determined that RV Parks were *per se* incompatible in the TUC, then the County would not have listed RV Parks as a conditionally permissible use.

Based on the foregoing, the Board finds that RV Parks may be a compatible use within the TUC, subject to conditional use permit review. Replacing the historic limitation with a geographic limitation as proposed by the Applicant does not run counter to the TUC.

d. The TUC District is Proximate to Tumalo’s Commercial Center and the Deschutes River

FINDING: Any RV Park proposed to be developed in the TUC will be located close to other commercial development in the TUC and will be adjacent to Highway 20. Many visitors to Deschutes County either stop in or pass through Tumalo and have an opportunity to visit

commercial development (including restaurants and shopping) that serve locals and tourists alike. Tumalo State Park is in relatively close proximity to the TUC and currently provides campground and RV park facilities. This indicates there is a demand for these facilities in the general Tumalo area and that such facilities are consistent with the character of the general surrounding area.

The TUC is also proximate to the Deschutes River. Guests of a future proposed RV Park located in the TUC near Tumalo State Park may have outdoor recreation activity opportunities as contemplated in the County's Study.

e. Long Term Occupancies of an RV Park are Precluded by DCC 18.128.170(G)

Opponents expressed concern that a future RV Park will allow long term tenants that may bring unwanted effects to the surrounding area. The Board is not persuaded by those arguments, and notes that all RV Parks developed in Deschutes County must satisfy DCC 18.128.170(G), which states that “[n]o recreational vehicle shall remain in the park for more than 30 days in any 60 day period.” Although duplicative of this code requirement, the Text Amendment includes this same limitation on any RV Park developed in the TUC. The Board finds that concerns that the potential development of an RV Park in the TUC could create long term tenancies are unfounded.

III. DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of County Commissioners hereby **APPROVES** the Applicant's application for a Text Amendment to DCC 18.67.040.