

HEARINGS OFFICER DECISION

FILE NUMBER(S): 247-23-000415-PA, 247-23-000416-ZC

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: STATE OF OREGON
Map and Tax lot: 1812110000100
Account: 151657
Situs Address: 61200 27TH ST, BEND, OR 97702
(the "Subject Property")

APPLICANT: Eric King, City of Bend

REQUEST: Amendment to the Comprehensive Plan designation and a Zone Change of the Subject Property from Rural Residential Exception Area (RREA) and Multiple Use Agricultural ("MUA10") Zone to Bend Urban Growth Boundary (UGB) Area and Urbanizable Area (UA), respectively. The subject proposal is in conjunction with House Bill 3318 ("HB 3318"), to bring the Stevens Road Tract into the City of Bend UGB.

STAFF CONTACT: Audrey Stuart, Associate Planner
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RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/cd/page/247-23-000415-pa-247-23-000416-zc-stevens-road-comprehensive-plan-amendment-and-zone-change>.

HEARINGS OFFICER: Gregory J Frank

I. APPLICABLE CRITERIA

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

Chapter 18.32, Multiple Use Agricultural (MUA10).

Chapter 18.136, Amendments

Title 19A of the Deschutes County Code, Bend Urbanizable Area (UA) District

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Chapter 1, Comprehensive Planning

Chapter 2, Resource Management

Chapter 4, Urban Growth Management

Chapter 5, Supplemental Sections

Appendix C-Transportation System Plan

Oregon Administrative Rules (“OAR”), Chapter 660

Division 12, Transportation Planning

Division 15, Statewide Planning Goals and Guidelines

Division 24, Urban Growth Boundaries

Oregon Revised Statutes (“ORS”)

ORS 197.298, Priority of Land to be Included with Urban Growth Boundary

II. Overview Findings

A public hearing was held on October 11, 2023 (the “Hearing”) providing the Applicant, Deschutes County Planning Staff (“County Staff”) and members of the public an opportunity to provide oral and written comments related to the application in this case. Only the Applicant (City of Bend Planning Staff and City Attorney representatives) and County Staff offered testimony and written comments at the Hearing. No person or entity, at the Hearing, provided the Hearings Officer any testimony or written comments in opposition to the Applicant’s proposal or the evidence and findings set forth in the Staff Report.

The Staff, in the Staff Report and during its presentation at the Hearing, expressed a level of uncertainty related to the relationship of various County planning policies to the House Bill 3318 statutory processes. Staff, in the Staff Report (page 29), stated the following¹:

“The language of HB 3318 appears to refer to the planning amendments the City of Bend must undertake in order to receive approval for bringing the subject property within the Bend UGB.

Section (2)(4) of HB 3318 includes the following definition: “Stevens Road planning amendments’ means amendments to the city’s comprehensive plans, land use regulations or zoning maps that affect the development of the Stevens Road tract’ [emphasis added].

The language of the House Bill does not specify the process, if any, that the County must undertake for the corresponding amendment to the County Comprehensive Plan. Absent that guidance, the subject request has been processed as a request for a Comprehensive Plan Amendment and Zone Change pursuant to Deschutes County Code. It is not apparent to staff whether the House Bill exempts the subject application from demonstrating compliance with Statewide Planning Goals, Deschutes County Comprehensive Plan policies, or other provisions of Deschutes County Code.

Staff requests the Hearings Officer make specific findings regarding whether the provisions of HB 3318 are applicable approval criteria for the subject amendment to Deschutes County’s Comprehensive Plan, as well as the proposed Zone Change of the subject property.”

The Hearings Officer agrees with Staff that HB 3318 is focused on actions that must be taken by the City of Bend. The Hearings Officer finds no clear reference, in HB 3318, to any planning process or procedures that must be undertaken by the County. The Hearings Officer concurs with Staff that

¹ See also County Senior Transportation Planner comments related to relevant/applicability of Statewide Goal 12 (Staff Report, page 5).

HB 3318 references to planning amendments are references to the City of Bend's comprehensive plan, land use regulations and zoning maps.

Staff asked the Hearings Officer to determine if the Statewide Planning Goals are applicable to the application in this case. The Applicant provided the following comments related to this issue:

"The purpose of this finding is to show that the Statewide Planning Goals are not applicable to this proposal because of the above-cited language in Section 3 of HB 3318. Section 9 of HB 3318 provides that standards in the bill apply to the Stevens Road Tract in lieu of statewide planning goals. Section 3(1)(a) of HB 3318 states that actions taken under sections 2 through 9 of this 2021 Act are not land use decisions, as defined in ORS 197.015. Under this statute, ORS 197.015(10) defines a land use decision as one that includes under (10)(a)(A) a final decision or determination made by a local government or special district that concerns the adoption, amendment, or application of the goals. The goals in this context refer to the Statewide Planning Goals."

The Hearings Officer does not disagree with the Applicant's above-quoted comments as they relate to City of Bend applications and processing of the Stevens Road Tract. However, based upon the lack of clear and objective language relating to the **County** processing of the Stevens Road Tract, the Hearings Officer makes the following findings.

The Hearings Officer finds that HB 3318 does not explicitly or inferentially limit or restrict consideration of County planning processing requirements. The Hearings Officer finds that the County application processing requirements for Comprehensive Plan amendments, and other relevant provisions of the Deschutes County Code ("DCC"), do require consideration of statewide planning goals. The Hearings Officer finds the County processing requirements, including consideration of statewide planning goals, do apply in the processing of this land use application. The Hearings Officer acknowledges that Staff, in the Staff Report, provided findings for the County Comprehensive Plan and other relevant provisions of the DCC. The Applicant, during Hearing testimony, expressed agreement with the Staff Report findings related to the statewide planning goals.

Staff, in several instances, requested the Hearings Officer consider supplementing Staff findings. The Hearings Officer addresses those requests in the findings for the relevant criterion.²

Finally, the Hearings Officer reiterates that no person or entity testified at the Hearing or asserted in any written document contained in the public record opposition to the Applicant's proposal. With the exception of findings set forth in this section (Overview of Findings) and in the modified findings related to specific sections (see footnote 2) the Hearings Officer has adopted the Staff Findings from the Staff Report as the findings for this decision.

² See findings for DCC 18.136.020 B (Staff Report page 8), DCC 18.136.020 C.2 (Staff Report page 10); Comprehensive Plan sections 2.5 (Staff Report page 14), 3.6 Goal 1 (Staff Report page 22 & 23) and 3.7 (Staff Report page 23).

III. BASIC FINDINGS

LOT OF RECORD: The Subject Property is a legal lot of record together with Tax Lot 200, which borders the Subject Property to the west, pursuant to Deschutes County files 247-17-000726-PA, 727-ZC.

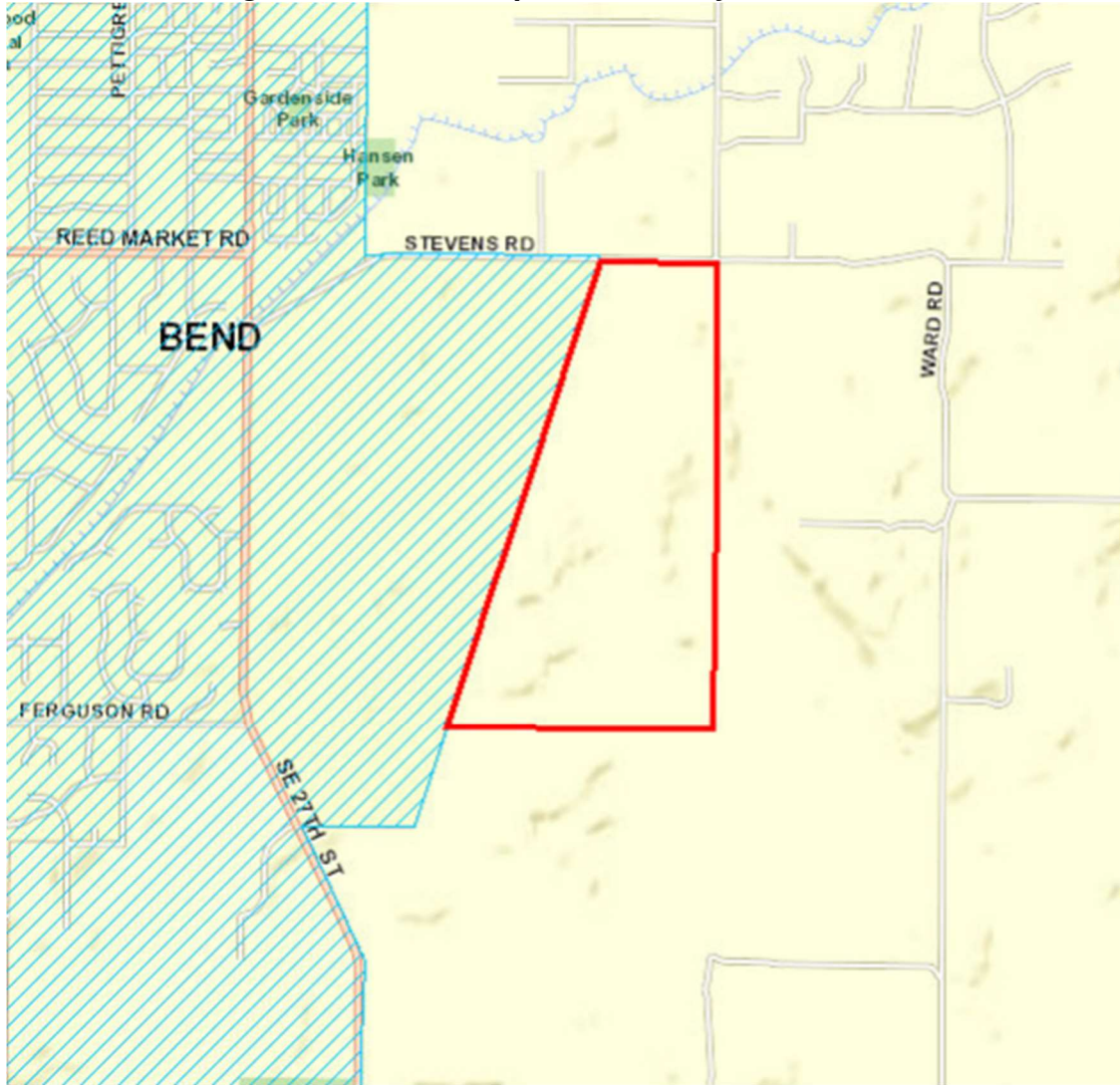
SITE DESCRIPTION: The Subject Property is 261.66 acres in size and is bordered on the north by Stevens Road, which turns into Ward Road. The Subject Property is bordered to the west by a TransCanada natural gas pipeline and 13 acres of the Subject Property are within an easement associated with the pipeline. The application materials provide the following description of the Subject Property:

“The Stevens Road Tract property today is undeveloped rural land with informal trail systems meandering through the site. It is comprised of scattered junipers and occasional ponderosa pine trees, with sagebrush and other low-coverage understory vegetation. There are rock outcrops that form localized high points and subtle ridges throughout the site, rising between approximately 10 and 20 feet above grade.”

The Subject Property is zoned Multiple Use Agricultural (MUA10) and is not within any overlay zones. There is no mapped floodplain on the Subject Property, and it does not contain any wetlands mapped on statewide or national inventories.

As described below, the Subject Property was approved for a UGB expansion through HB 3318. There are associated City of Bend planning processes for the Subject Property, and the Subject Property is referred to as Stevens Road Tract in those documents. For the purpose of this review, Hearings Officer uses the terms ‘Subject Property’ and ‘Stevens Road Tract’ or ‘SRT’ interchangeably.

Figure 1: Location Map and Proximity to Bend UGB



PROPOSAL: The Applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the Subject Property from a Rural Residential Exception Area (RREA) designation to Bend Urban Growth Area. The Applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the Subject Property from Multiple Use Agricultural (MUA10) to Urbanizable Area (UA) District. The purpose of the amendments is to provide dense, master-planned development that includes affordable housing and workforce housing, pursuant to the process outlined in HB 3318. The submitted application materials include the following additional details:

"In 2021, the Oregon Legislature passed HB 3318 (See Exhibit G). Through this legislation, HB 3318 provides an alternative process for the City of Bend to include the Stevens Road Tract in the Bend UGB (See Section 6 of HB 3318). The bill is limited in use to including only the 261.66 acre tract and no other properties in the Bend UGB. The legislation further requires a two-step process for planning this property that includes development and approval of a concept plan, and subsequent approval of what HB 3318 refers to as planning amendments (See Section 9 of HB 3318) that outline what amendments to the Bend Comprehensive Plan and Development Code the City must adopt to support subsequent master planning of the Stevens Road Tract. The legislation was crafted with the

participation and consent of DSL, to facilitate the property for sale and future urban development.”

SURROUNDING LAND USES: The area surrounding the Subject Property is defined by the City of Bend’s UGB to the west; land to the north, east, and south of the Subject Property are outside of the UGB and contain a mix of residential use, small-scale agriculture, and public facilities. Neighboring rural lands are zoned Multiple Use Agricultural (MUA10) and Exclusive Farm Use (EFU).

The submitted application materials include the following additional details on adjacent properties:

“North. The area north of Stevens Road includes several rural residential parcels developed with homes and outbuildings. The County Comprehensive Plan designations in this area include Agriculture and Rural Residential Exception Area. Most of the area is zoned MUA10, Multiple Use Agricultural. One property approximately 38 acres in size and located at the northwest corner of Ward Road and Stevens Road is zoned Exclusive Farm Use-Tumalo/Redmond/Bend subzone. The area outside of the UGB includes properties from five to 40 acres in size. A Central Oregon Irrigation District (COID) Canal runs southwest to northeast between properties inside and outside the UGB. The area north and west of the COID canal is inside the UGB and has been developed with detached houses in the RS, Urban Standard Residential Zone.

West. The area west of the SRT consists of the area described above as the Stevens Ranch Major Community Master Plan. The master plan includes land designated for housing, commercial uses, and industrial uses. The plan includes a 50-acre large lot industrial site located to the south and abutting property owned by Deschutes County that is also north of the Knott Landfill.

South. The area due south of the SRT is owned by Deschutes County, is undeveloped, and has similar topography and vegetation. This area is designated as Agriculture on the County’s Comprehensive Plan map and zoned EFUTRB. The County also owns land south of the SRT that has been developed as the Knott Landfill, designated Surface Mining, and zoned for Surface Mining. To the south and west of the SRT are a number of non-residential uses along 27th Street south of Ferguson Rd, including the County’s Road Department, Humane Society of Central Oregon, and Central Oregon Electric Cooperative.

East. The area due east of the SRT includes several rural residential parcels south of Ward Road and west of Ward/Larsen Road. The properties in this area are designated either Rural Residential Exception Area or Agriculture and zoned accordingly. This area is approximately one-half mile in depth between the SRT’s eastern boundary line and Ward/Larsen Road. Non-residential uses include Bend Community Farm and the Bend Kitty Lodge.”

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 8, 2023, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings

“I have reviewed the transmittal materials for file 247-23-000415-PA, 416-ZC for a Plan Amendment and Zone Change for affordable housing on 261.66 acres to the north of the City of

Bend at 61200 27th St, Bend, OR 97702 aka County Assessor's Map 18-12-11, Tax Lot 100. The proposal is related to House Bill 3318 (2021), and the subject property is referred to as the Stevens Road Tract. The subject property currently has a Comprehensive Plan designation of Rural Residential Exception Area (RREA) and is zoned as Multiple Use Agriculture (MUA-10). The proposal would annex the area and change the designation to the City's Urbanizing Area (UA).

HB 3318 Section 3 specifically states that actions taken under Sections 2 to 9, including Plan Amendments and Zone Changes, are not land use decisions as defined in ORS 197.015 and, therefore, are not required to comply with Statewide Planning Goal 12 (Transportation), which is implemented by the Transportation Planning Rule (TPR) - OAR 660-012-0060. However, local codes still require traffic analysis, specifically Deschutes County Code (DCC) 18.116.310(C)(3) and 18.116.310(E)(4), which may apply to the subject proposal.

The subject property will be brought into the City of Bend as a result of the proposal. There currently is no specific proposal to develop the land, but the City's transportation consultant had prepared an assessment dated (May 17, 2022) reviewing the potential trip generation of the property and planned improvements to affected City facilities. There were no adverse effects outlined in the assessment. Under the Joint Area Management Agreement between City of Bend and Deschutes County, jurisdictional transfer of roads are accomplished as part of annexation. The site is currently served by Stevens Road (County designated Rural Collector) to the north. Adequacy of current and future transportation facilities will be reviewed per the Bend development code as the land is proposed to develop. Finally, HB 3318 exempts the subject property from any Statewide Planning Goals, including Goal 12 (Transportation) as the subject property includes affordable housing and that the proposal is not a land use decision. Therefore, the Transportation Planning Rule (TPR) at OAR 660-012, does not apply nor does Deschutes County Code (DCC) 18.116.310. Staff finds this goal is met."

The following agencies did not respond to the notice: Arnold Irrigation District, Bend Fire Department, City of Bend Planning Department, City of Bend Growth Management Department, Oregon Department of Agriculture, Oregon Department of Land Conservation and Development, Department of State Lands, Deschutes County Assessor, Deschutes County Building Division, Deschutes County Road Department, and District 11 Watermaster.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property on June 8, 2023. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on June 12, 2023. Two public comments were received into the record. The first, from John Heylin (6/23/2023 email) expressed support for the application proposal. The second, from David and Theresa Douglas (10/11/2023 email) expressed concerns related to roadway access if and when the Subject Property is developed. The Douglas email did not set forth any objections to the application in this case.

NOTICE REQUIREMENT: On September 1, 2023, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property and public agencies. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, September 3, 2023. Notice of the

first evidentiary hearing was submitted to the Department of Land Conservation and Development on September 3, 2023.

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

IV. GENERAL FINDINGS & CONCLUSIONS

Title 19A of the Deschutes County Code, Bend Urbanizable Area District

Section 19A.01.010 Purpose, Applicability And Definitions

- 1. Purpose. The Urbanizable Area (UA) District is intended to preserve large areas of undeveloped or rural land for future urban development prior to annexation. The UA District promotes the livability, stability, safety and improvement of the City of Bend by allowing orderly development consistent with the Bend Comprehensive Plan.**
- 2. Applicability. The provisions of the UA District apply to all land inside the Urban Growth Boundary but outside the city limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459. The City of Bend is responsible for administering Title 19A using the Bend Development Code (BDC). The UA District will automatically be removed upon annexation to the City, and the zoning that implements the Bend Comprehensive Plan designation for the property will apply.**

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“As described above, the applicant proposes to change the zoning of the subject property to Urbanizable Area, which will function as a holding zone until the property is annexed into the Bend city limits. Staff finds that DCC 19A.01.010 is a purpose statement, which sets forth a general expression of a goal or objective to maintain large areas of undeveloped or rural land for future urban development prior to annexation. See Beck v. City of Tillamook, 20 Or LUBA 178, 185-86 (1990). Staff therefore finds DCC 19A.01.010 is not an approval criterion for the subject application.”

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 Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant, also the property owner, has requested a quasi-judicial plan amendment and filed the applications for a plan amendment and zone change. The Applicant has filed the required Planning Division’s land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.”

Section 18.136.020, Rezoning Standards

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:

A. That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant provided the following response in its submitted burden of proof statement:

The proposed amendment will be consistent with the applicable elements of the Comprehensive Plan Vision Statement. The expansion of the Bend UGB to include the Stevens Road Tract is a necessary step before completing planning amendments required under HB 3318. This legislation requires certain elements to be addressed in planning amendments adopted by the City after an approved UGB expansion, which will also be consistent with these elements of the Vision Statement as follows:

- The beauty, boundary, and richness of a healthy natural environment. The proposal will satisfy this element because future master planning will be based upon an inventory of significant historical artifacts, cultural sites, and natural resources, and land use regulations for their protection and preservation (See Section 9(1)(a) and (b) of HB 3318)*
- A strong and diverse economy. The proposal will satisfy this element because the Concept Plan for the Stevens Road Tract contemplates approximately five (5) acres of land for Commercial plan designations, and another seven (7) for Mixed Employment. In addition, the Concept Plan Alternative 3 shows the potential for over 2,400 new housing units that can support the commercial areas to the west within the Stevens Ranch Master Plan.*
- Access to a wide variety of outdoor recreational opportunities. The proposal meets this element because the Concept Plan proposes: 1) a 29-acre Community Park adjacent to the Stevens Ranch Master plan; 2) a green loop of trails around the perimeter of the tract and within the tract along the planned local and collector streets, and; 3) an additional three (3) acres of undesignated open spaces that would be determined as part of future master planning for the Stevens Road Tract.*

- *The rural character of the region. The proposal is consistent with this element because master planning for the Stevens Road Tract will be based on an inventory of significant natural resources, including significant trees and rock outcrops, and these resources will be protected and preserved through land use regulations incorporated in the Bend Development Code.'*

Staff concurs with the Applicant's response to the Community Vision section of the Comprehensive Plan. The Applicant identified specific Comprehensive Plan Goals and policies that apply to the proposal and has provided a response to each. These findings are listed in the Comprehensive Plan section of this staff report in further detail. Staff agrees with the Applicant's analysis and finds the above provision to be met based on Comprehensive Plan conformance as demonstrated in subsequent findings."

B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The Applicant provided the following response in the submitted burden of proof statement:

The proposal meets this criterion because the proposed change in classification for the SRT is consistent with the purpose and intent of the proposed zone classification. The proposal is to change the zoning of the SRT from MUA10, Multiple Use Agricultural, to UA, Urbanizable Area. The intent of applying the UA is to limit the development of the SRT, and maintain this tract as one block of land, until such time as the DSL surpluses the property to a developer. The City will then collaborate with a developer to ensure a final master plan submitted to the city for approval satisfies the planning amendments adopted to satisfy the requirements of Section 9 of HB 3318. Once the master plan is approved and the SRT annexed, the City's zoning map will be changed to reflect those City Comprehensive Plan designations applied to the SRT through the master plan.'

The purpose of the UA Zone is described in DCC 19A.01.010, which is addressed above. Staff finds the proposed Zone Change will allow orderly development consistent with the Bend Comprehensive Plan by retaining the subject property as undeveloped land until it is annexed, at which time Bend Comprehensive Plan designations will be applied. The provisions of the UA Zone are intended to preserve land for future urbanization by regulating land divisions, allowed uses, and other development standards. Staff finds the UA Zone is an appropriate zoning designation for the subject property, based on the intended use of future annexation.

Staff finds the Applicant has demonstrated the change in classification is consistent with the purpose and intent of the UA Zone, and asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit."

The Hearings Officer finds that the Applicant has submitted substantial evidence that the change in classification is consistent with the purpose and intent of the UA Zone.

- C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:**
- 1. The availability and efficiency of providing necessary public services and facilities.**

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"Although there are no plans to develop the properties in their current state, the above criterion specifically asks if the proposed zone exchange will presently serve public health, safety, and welfare. The Applicant provided the following response in the submitted burden of proof statement:

The proposal satisfies criterion (3)(1) because public services and facilities are available and can be provided efficiently to the SRT. As evidence in support of these Proposal, the applicant has included in the record the June 2023 Stevens Road Tract Concept Plan (See Exhibit H) and the Plan's Technical Appendices (See Exhibit I). The Concept Plan includes evidence that transportation facilities, water, and wastewater collection infrastructure can be provided to the SRT to serve future housing, commercial, mixed use, and open space (parks) development. These provisions of the Concept Plan are required by HB 3318 to be in the City's planning amendments adopted after UGB expansion.'

No issues have been identified in the record regarding service provision to the subject property. The Bend UGB is adjacent to the west side of the subject property, and the neighboring 382-acre parcel to the west is the Stevens Ranch Master Plan property. This neighboring property has not been developed yet but underwent a master planning process that accounted for parks, a new elementary school, and other public facilities necessary to serve the proposed residential commercial, and industrial uses. Staff finds the proximity to the Bend UGB will allow for efficient provision of public services. In addition, the master planning projects on the subject property and surrounding vicinity will ensure adequate land is provided for public facilities.

The subject property is bordered to the north by Stevens Road, which is classified as a County-maintained Rural Collector. This road connection provides direct access to land within the Bend UGB as well as surrounding rural lands. In addition, the Concept Plan submitted with the application materials demonstrates a future road network within the subject property has been planned for. The Stevens Road Tract Concept Plan submitted with the application materials also provides an overview of water, sewer, and stormwater infrastructure that would be required to serve property. These supporting materials indicate the Applicant has collected preliminary comments regarding the system upgrades that would be required, and the approximate locations of road and sewer extensions.

There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. In addition, the application materials indicate coordination has begun with Avion Water and public agencies to ensure necessary public facilities and services can be provided.

Prior to development of the properties, the Applicant would be required to comply with the applicable requirements of the Deschutes County Code or the Bend Development Code, if development occurs

after annexation whether. Through these development review processes, assurance of adequate public services and facilities will be verified. Staff finds this provision is met.”

2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The proposed Zone Change from MUA10 to UA will not generate additional development or impacts to surrounding properties. The UA Zone will function as a holding zone to preserve the subject property in its current configuration until it is brought into the City of Bend, and new urban zoning designations are assigned. If any development occurs while the property remains within Deschutes County zoning, all necessary land use permits will need to be obtained and compatibility with surrounding uses will be evaluated.

The Applicant provided specific findings for each relevant Comprehensive Plan goal and policy, which are addressed below. Staff finds the Applicant has demonstrated the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan, and asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.”

The Hearings Officer finds that Applicant has adequately, with substantial evidence in the record, demonstrated that the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant proposed to rezone the properties from MUA10 to UA and re-designate the properties from Rural Residential Exception Area to Bend Urban Growth Boundary. The Applicant provided the following response in the submitted burden of proof statement:

The proposal meets this criterion, because there has been a change of circumstances since the property (aka SRT) was last zoned. The property owner, the Division of State Lands or DSL, obtained approval of quasi-judicial plan and zone map amendments for the SRT in 2018. Through Ordinance 2018-11, the County approved a quasi-judicial change to the plan designation from Agriculture to Rural Residential Exception Area, and a change to the zoning from Exclusive Farm Use-Tumalo/Redmond/Bend subzone to Multiple Use Agricultural (MUA10). In 2021, the Oregon Legislature passed HB 3318, providing for an alternative process to bring the SRT into the Bend UGB. HB 3318 passed both chambers, was signed by Governor Brown on July 19, 2021, and became effective on September 25, 2021. The Bend City Council subsequently approved a Concept Plan for the Stevens Road Tract in June 2022.’

Staff finds the adoption of House Bill 3318 represents a change in circumstances because it modifies the process for the subject property to be brought into the Bend UGB. This legislation is specific to the subject property, and represents a clear change in the conditions that apply to this property and the subject application. Staff finds this criterion is met.”

Deschutes County Comprehensive Plan

Chapter 1, Comprehensive Planning

Section 1.3, Land Use Planning

Goal 1, Maintain an open and public land use process in which decisions are based on the objective evaluation of facts.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“Planning and development of the subject property will involve public processes led by the State of Oregon, Deschutes County, and City of Bend. First, legislation was passed to allow the subject property to be brought into the Bend UGB for the purpose of developing affordable housing. The language of HB 3318 includes an objective evaluation of facts regarding the subject property, including: the property is not in a resource zone, the property has no associated water rights, the property is held by the Common School Fund, and the property is adjacent to a UGB. The passage of this state legislation was not subject to Deschutes County’s Procedures Ordinance, however, staff finds it involved an open and public process.

The subject application is being evaluated based on an objective review of compliance with Statewide Planning Goals, Deschutes County Comprehensive Plan policies, and Oregon Administrative Rules. A public hearing will be held before a Hearings Officer on October 11, 2023, and members of the public can attend and testify at that hearing. Pursuant to DCC 22.28.030, the Board of County Commissioners will take final action on the application and may choose to either adopt the Hearings Officer findings or conduct their own hearing. This Comprehensive Plan Amendment and Zone Change application will be evaluated through an open process that allows for public input and follows Deschutes County’s Procedures Ordinance.

The City of Bend is undertaking parallel planning efforts to amend their Comprehensive Plan, develop a Concept Plan for the subject property, draft Code amendments specific to the subject property, and eventually annex the subject property and facilitate a master planning process. The application materials document public open houses that have been held for the Stevens Road Tract Concept Plan project, as well as public meetings with the City’s Planning Commission and City Council. These City-led efforts allow for greater public involvement in the planning and development of the subject property, even though they are not directed specifically at the subject Comprehensive Plan Amendment and Zone Change application.

Staff finds that within each of the steps described above, there is an open and public process that is based on an objective evaluation of facts. This criterion will be met.”

Goal 2, Promote regional cooperation and partnerships on planning issues.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The subject application is the result of a collaborative effort between City of Bend, Deschutes County, and the State of Oregon. The application represents a regional effort to address a key planning issue, housing affordability, through the implementation of HB 3318. There are a number of parallel processes that are being undertaken by partner agencies in order to eventually master plan and develop the subject property with a variety of uses, including deed-restricted affordable housing.

The City of Bend has developed a concept plan for the subject property, and is amending their own Comprehensive Plan and development code to reflect this concept plan. Once the County’s Comprehensive Plan amendment and the City’s development code amendments are both completed, Department of State Lands can initiate the process to transfer the property ownership to City of Bend. These multi-step planning processes are interrelated and require regional coordination, and staff finds they demonstrate cooperation and partnership between the County, City, and State agencies.”

Chapter 2, Resource Management

Section 2.2, Agricultural Lands Policies

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Subject property has a Comprehensive Plan designation of Rural Residential Exception Area and is therefore not categorized as agricultural lands. In addition, staff finds there is nothing in the record that indicates the property is in farm use. Agricultural lands policies do not apply.”

Section 2.3, Forests

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The subject property has a Comprehensive Plan designation of Rural Residential Exception Area and is therefore not categorized as forest land. Staff therefore finds forest land policies do not apply.”

Section 2.4, Goal 5 Overview Policies

Goal 1, Protect Goal 5 Policies

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant provided the following response to this criterion in their submitted Burden of Proof:

The proposal will be consistent with this goal because the applicant has reviewed the County’s Inventory of Goal 5 resources and confirmed that none were identified and mapped on the SRT. The Concept Plan also includes planned actions to protect significant trees and rock outcrops, inventory and protect cultural resources, and identify locations for open spaces (e.g., community parks, loop trail) on the SRT. These provisions of the Concept Plan are required by HB 3318 to be in the City’s planning amendments adopted after UGB expansion.

Staff concurs with this analysis, and notes the Applicant does not propose to repeal or modify any Goal 5 policies as part of this application.

The County’s Goal 5 policies are partially implemented through the Landscape Management Combining Zone, which regulates development within designated scenic corridors. The subject property is not within the Landscape Management Combining Zone. In addition, the subject property does not contain any jurisdictional wetlands mapped on a statewide or national wetland inventory. The Applicant does not propose to remove any Goal 5-related overlay zones from the subject property or change mapped resources. Eventual development of the subject property will be regulated by the Bend Development Code and any applicable State regulations. The application materials indicate a thorough review of resources within the site has been conducted, and no Goal 5 resources have been identified.

For these reasons, staff finds the proposed Comprehensive Plan Amendment and Zone Change will not have an adverse impact on Goal 5 policies.”

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant has not proposed a specific development application at this time. Below, the Applicant argues they are therefore not required to address water impacts associated with development. Instead, water impacts would be reviewed during development of the subject property, under any necessary land use applications.

The applicant finds that the goals and policies of Section 2.5 are not applicable to review of the proposed amendments because the proposed amendments will not have the effect of impacting

or potentially impacting water resources. The subject property does not have any water rights associated with it and is not adjacent to or bisected by either a river or stream. The proposed amendments themselves would have the effect of amending the Bend urban growth boundary to include the subject property and changing its plan designation and zoning. No development is proposed at this time that would affect either surface or subsurface water resources. The application materials include the Stevens Road Tract Concept Plan (See Exhibit H) and the Technical Appendices (See Exhibit I). These documents, including Appendix L document how domestic water will be provided to the Stevens Road Tract by the Avion Water Company.'

The Stevens Road Concept Plan also includes the following analysis of water provision to the subject property, which staff finds relevant in addressing this policy.

The City contacted Avion regarding water infrastructure needed to serve the proposed future development that may result from this Concept Plan and Avion identified the key infrastructure improvements needed to provide water to the Tract. These improvements include: a 1.5-million-gallon day tank and a booster plant for the tank. Detailed locations of water lines by size will be determined in the future along with local road locations and final land use designations.'

If this criterion does require an analysis of the water impacts that will be generated by future urban development of the subject property, staff finds the application materials demonstrate these water impacts have been reviewed. However, staff requests the Hearings Officer amend or add to these findings as the Hearings Officer sees fit."

The Hearings Officer incorporates the Overview Findings as additional findings for this section. The Hearings Officer finds that the Applicant has submitted substantial evidence to demonstrate that relevant water impacts have been reviewed and addressed.

Section 2.6, Wildlife

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"There are no Goal 5-listed wildlife species present on the subject property, based on the Goal 5 inventory nor threatened or endangered species. There is no identified wildlife habitat on the subject property."

Section 2.7, Open Spaces, Scenic Views and Sites

Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.1 Goal 5 open spaces, scenic views and sites inventories, ESEEs and programs are retained and not repealed.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The applicant provided the following response to this policy:

The applicant finds that the proposal is consistent with this plan policy because it does not propose to either remove or repeal any scenic views, site inventories, ESEE analyses, or programs for protection of open spaces and scenic view under Statewide Planning Goal 5. The proposed amendments include two amendments to the Deschutes County Comprehensive Plan map to include the subject property within the Bend Urban Growth Boundary and change its plan designation from Rural Residential Exception Area to Urban Growth Boundary. The proposed amendments also include amendments to the County’s Zoning Map to change to the zoning for the subject property from MUA10 to UA, Urbanizable Area. No amendments to the text of the County’s Goal 5 inventories are proposed.

The applicant has evaluated whether any Goal 5 resources would be affected by the development of the Stevens Road Tract through the work on Stevens Road Tract Concept Plan (See Exhibit H). The application materials provided with the application also include the technical appendices to the Concept Plan (See Exhibit I), which includes Appendix E – Historic, Cultural, and Natural Resources Technical Memorandum. This memorandum provides the results of the project staff’s research, using the County’s adopted Goal 5 inventories, to determine what resources would potentially be impacted by development of the Stevens Road Tract. The memorandum documents the review of the existing inventories and found that there are no Goal 5 open space, scenic view, or site inventories that would be impacted by development of the Tract.’

Staff concurs with the Applicant’s response and finds this criterion has been met.”

Policy 2.7.2 Cooperate with stakeholders to establish a comprehensive system of connected open spaces.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The applicant provided the following response to this policy:

The proposed amendment will be consistent with this policy because the amendment to the UGB has been preceded by the adoption of a Concept Plan for the Stevens Road Tract (See Exhibit H) that includes a proposed green-loop trail system, and this system’s development can be coordinated with the development of other trails in the area. The application materials include the approved Concept Plan for the Stevens Road Tract. This document shows that incorporation of a trail system (aka green-loop) was incorporated in the transportation planning for the Tract. In addition, the materials submitted with the proposed amendments include the Technical Appendices (See Exhibit I), which includes a Planning Context technical memorandum (Appendix C) that draws on and incorporates the most recent work on trail development by the Bend Park and Recreation District from their 2018 Comprehensive Plan.’

Staff finds the applicant's response, above, demonstrates coordination has already begun to ensure trails and parks within the subject property are part of a connected network."

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The application materials include diagrams and photographs of the subject property that inventory existing natural features and conditions on the site. This inventory maps features such as existing trails, mature trees, rock outcrops, and views of Three Sisters, Broken Top, and Mt. Bachelor. The application materials demonstrate an effort to identify significant open space and visually important areas by conducting a thorough analysis of the site's existing natural conditions.

The policy language above specifically references open space of Bend, which staff finds applicable to the subject proposal. The high-level Concept Plan for the subject property indicates 29 acres of land will be protected for a community park, in addition to other land preserved for trails. The public ownership of the subject property, and the Master Plan process that will be required, presents a unique opportunity to designate land early in the planning process as future park land. Approval of the proposed Comprehensive Plan Amendment is one step towards formally preserving this open space through park creation, and therefore supports this policy."

Policy 2.7.4 Encourage a variety of approaches that protect significant open spaces and scenic views and sites.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The Stevens Road Tract Concept Plan includes the following statement regarding the importance of preserving open space during the planning process:

'The natural beauty of the site – key trees, outcrops, views – should be retained so they can be enjoyed by all in the future. Parks and open space provide a great opportunity to retain these special features for all members of the community. Locating multifamily and affordable housing in prime locations with close proximity and access to parks and open space, ensures equitable access and opportunity for all to enjoy the natural features that make this area unique.'

The application materials indicate a variety of approaches will be utilized to preserve open spaces and scenic views on the site. These approaches include strategically locating new zoning designations,

coordinating with BPRD on the location and design of a community park, and building a connected trails system within the property.”

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“No development or new uses are proposed on the subject property at this time, but a concept plan has been approved by the Bend City Council. While the approved concept plan is not an applicable approval criterion under Deschutes County Code, it provides context on the type of development planned for the subject property. As noted above, the eventual development of the subject property will occur after it has been annexed into the City of Bend, and future development will therefore be subject to the Bend Development Code.”

Section 2.8, Energy Policies

Goal 1, Promote energy conservation.

Goal 2, Promote affordable, efficient, reliable and environmentally sound energy systems for individual home and business consumers.

Goal 3, Promote affordable, efficient, reliable and environmentally sound commercial energy facilities.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant proposes to rezone the subject property to UA and bring it within the Bend UGB. No specific development is proposed at this time, therefore review of specific energy systems is not applicable. However, the Applicant provided the following description of how the future development of the subject property will align with these goals:

‘The proposed amendments are a necessary step to implementing the Stevens Road Tract Concept Plan (See Exhibit H). The Concept Plan included an Alternative 3 that was supported by the City Council because it included a multi-modal transportation system that proposes future infrastructure for making trips by walking, bicycling, and taking transit. This alternative’s design also proposes location of land uses so that housing is within walkable distances of main streets (e.g., Wilderness Way), the commercial areas along Wilderness Way, and to the proposed Community Park. In addition, proposed medium and high-density housing has been located along Wilderness Way so that children have the option to walk to the school site within the Stevens Ranch Master Plan.’

Staff concurs with this analysis and finds energy conservation has been considered throughout the application materials. Figures included on pages 71-72 of the Stevens Road Tract Concept Plan

indicate that of the three alternatives that were proposed, the one selected would lead to the greatest energy conservation. The selected land use concept had the lowest estimated energy consumption per household and the lowest estimated carbon emissions per household. To the extent these goals apply to the subject application, staff finds they have been met.”

Section 2.9, Environmental Quality

Goal 1. Maintain and improve the quality of the air, water and land.

Goal 2. Promote sustainable building practices that minimize the impacts on the natural environment.

Goal 3. Encourage and increase recycling

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Stevens Road Tract Concept Plan includes the following statement on sustainable building practices.

‘Energy efficiency in home and building design are very important. All of the housing and non-residential buildings in the development will be new and, therefore, more efficient than older homes.’

The application materials demonstrate impacts on water, energy usage, and carbon emissions have been evaluated. The building materials and specific design will occur at a later date and will be reviewed by the City of Bend. The proposed zoning designation, UA, is intended to serve as a holding zone while the property remains undeveloped. The Applicant is not required to provide detailed information on future building practices and building materials as part of a Comprehensive Plan Amendment application. However, staff finds the applicant has demonstrated the future Bend Development Code amendments will promote sustainability and consider impacts to resources within the subject property.

Finally, staff notes the subject property is located approximately 0.3 miles north of a Deschutes County-owned property with a garbage and recycling transfer station. The application materials do not list specific measures that will be taken to encourage and increase recycling within the Stevens Road Tract. However, the proximity to established recycling facilities will afford benefits to future developments within the subject property.”

Section 2.10, Surface Mining

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The subject property is not designated as a surface mine on the Deschutes County Comprehensive Plan. The Applicant does not seek to modify or amend the County’s Goal 5 Aggregate and Mineral inventory list or the Goal 5 program. Staff finds this criterion does not apply.”

Section 2.11, Cultural and Historic Resources

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The application materials include a memorandum from Damian Syrnyk, City of Bend Senior Planner, regarding previous inventories of cultural resources that have been conducted on the subject property. The March 28, 2022, memorandum, titled Stevens Road Tract Concept Plan- Historic, Cultural, and Natural Resources, included the following statement:

The County’s Goal 5 inventory of Cultural and Historic Resources (See Section 5.9) has not identified any cultural or historic buildings/resources on the Tract. The closest historic buildings/cultural resources are the Agnes Mae Allen Sottong and Henry J. Sottong House and Barn (See No. 35) located roughly two miles to the south on Tekampe Road. The DSL has completed prior archeological surveys for the Tract and the DSL property included in the Bend urban growth boundary (UGB) in 2016. Attached to this memorandum is a January 11, 2022 “Cultural Review of DSL’s Stevens Road Tract” prepared by Gary Curtis of DSL. DSL has conducted six (6) cultural resource surveys of the original Section 11, with the most recent survey of the Tract completed in 1996. The report does not indicate that either historic or cultural resources were identified by this or previous surveys. The CTWS recommended completing a new archeological survey given the age of the last survey (1996) and because the last survey did not cover the entire Tract.’

The memorandum also indicates two meetings were held with the Confederated Tribes of Warm Springs and one meeting was held with the State Historic Preservation Office to review these findings. The methodology and outcomes of this previous work indicate cultural and historic resources have been factored in throughout the concept planning of the subject property. The application materials also note that:

‘HB 3318 requires future planning amendments to include: ‘(a)n inventory of significant historical artifacts, cultural sites and natural resources’ (see Section 9(1)(a) of HB 3318).’

Based on the extensive work that has been done to survey cultural and historic resources on the subject property, and the requirements of HB 3318, staff finds the proposal will comply with this Comprehensive Plan section.”

Chapter 3, Rural Growth

Section 3.3, Rural Housing Policies

Goal 1, Maintain the rural character and safety of housing in unincorporated Deschutes County

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant provided the following response to this section in their burden of proof:

The applicant finds that this goal is not applicable to the proposed amendments. The proposed amendments would have the effect of including the Stevens Road Tract within the Bend urban growth boundary, changing its plan designation to Bend Urban Growth Boundary, and changing the zoning to UA, Urbanizable Area. Should the County conclude the goal is applicable, the applicant provides the following finding to show the proposal complies with this goal.

The proposed amendments would have the effect of including the subject property, the Stevens Road Tract, within the Bend Urban Growth Boundary. This is a necessary step to development of the property for housing, as envisioned through 2021 HB 3318. The application materials include a copy of the Concept Plan for the Stevens Road Tract (See Exhibit H), which considered several land use and open space alternatives. Each alternative considered more land for RS, Urban Standard Residential, development toward the eastern boundary of the tract, which is adjacent to rural residential development that has occurred between the Tract and Larsen Road. The alternatives provide the opportunity for larger residential lots along this property boundary that can provide more of a transition between the urban development to the west within the Tract and the rural residential areas to the east. Based on this finding, the applicant finds that the proposal is also consistent with Goal 1.’

Staff concurs with this analysis and finds no new rural housing is proposed.”

Policy 3.3.1, Except for parcels in the Westside Transect Zone, the minimum parcel size for new rural residential shall be 10 acres.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“No land division is proposed as part of the subject application. Staff therefore finds this criterion does not apply.”

Policy 3.3.2, Incorporate farm and forest housing reports into a wider system for tracking the cumulative effects of rural housing development.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The subject Comprehensive Plan Amendment and Zone Change does not review or approve any new uses or construction on the subject property. In addition, the proposed UA zoning is not a farm or forest zone, therefore new residential construction would not be subject to this reporting requirement. Staff therefore finds this criterion does not apply.”

Policy 3.3.4, Encourage new subdivisions to incorporate alternative development patterns, such as cluster developments, that mitigate community and environmental impacts.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“No land divisions, including subdivisions, are proposed with the subject application. Future division of the subject property will occur after annexation and will be reviewed by the City of Bend. Staff finds future land divisions will meet the intent of this policy, because they will be guided by the Stevens Road Concept Plan and the site-specific amendments to the Bend Development Code, which are designed to mitigate community and environmental impacts.”

Policy 3.3.5, Maintain the rural character of the County while ensuring a diversity of housing opportunities, including initiating discussions to amend State Statute and/or Oregon Administrative Rule to permit accessory dwelling units in the Exclusive Farm Use, Forest and Rural Residential zones.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The applicant provided the following response to this criterion:

The applicant finds that this policy is not applicable because the proposed amendments do not propose any changes to either the County’s Comprehensive Plan or Zoning Ordinance that would have the effect of allowing accessory dwelling units in the Exclusive Farm Use, Forest or Rural Residential Zones. The proposed amendments would have the effect of amending the County’s Comprehensive Plan map to include the Stevens Road Tract, change its plan designation to Bend Urban Growth Boundary, and change its zoning to Urbanizable Area on the County’s Zoning Map. The proposed amendments do not include any concurrent amendments to the County’s Zoning Ordinance that would permit accessory dwelling units in above-cited zones.’

Staff concurs that the portion of this policy regarding accessory dwelling units does not apply. Future development of the subject property will provide a diversity of opportunities including both market-rate housing and deed-restricted affordable housing, which may be developed as a combination of single-family and multi-family housing. Staff notes the development of housing on the subject property will be subject to a City of Bend review process and will not occur under the proposed UA zoning. No development is proposed during the time the subject property remains in the UA Zone, and no impacts to the rural character of the property are anticipated. Prior to development, the subject property will be annexed into the Bend city limits and the Comprehensive Plan protections on rural land will no longer apply to the property. Staff therefore finds the proposal complies with the applicable sections of this policy, namely those regarding rural character and provision of housing opportunities.”

Goal 2, Support agencies and non-profits that provide affordable housing

Policy 3.3.6 Support Central Oregon Regional Housing Authority and other stakeholders to meet the housing needs of all Deschutes County residents.

- a. Assist as needed in coordinating and implementing housing assistance programs.**
- b. Support efforts to provide affordable and workforce housing in urban growth boundaries and unincorporated communities.**

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant provided the following response in their Burden of Proof:

The proposed amendments are consistent with this goal because the planning for the Stevens Road Tract includes identifying specific lands for deed-restricted affordable housing. Section 9(2) requires at least 20 net acres of land to be identified for deed-restricted affordable housing. This has been reflected in the Concept Plan for the Stevens Road Tract and is reflected in a recorded agreement between the City and DSL for the City to purchase these acres and develop them for affordable housing, as required by HB 3318. These provisions of the Concept Plan are required by HB 3318 to be in the City's planning amendments adopted after UGB expansion.’

Staff finds the Applicant has demonstrated compliance with this policy. The proposed UGB expansion will be reviewed by the Department of Land Conservation and Development for conformance with the provisions of HB 3318, including the requirements to designate land within the subject property for affordable housing. The development and management of these affordable housing units will require multiagency coordination, and the application materials indicate this stakeholder coordination is underway.

Staff finds the proposed Comprehensive Plan Amendment will support the eventual development of workforce housing within an urban growth boundary. This criterion will be met.”

Policy 3.3.7, Utilize block grants and other funding to assist in providing and maintaining low and moderate income housing.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The application materials include an Affordable Housing Memorandum, dated January 25, 2022, and prepared by ECONorthwest consulting group. This memorandum provides an analysis of various funding sources that can be utilized in developing affordable housing, such as the Low Income Housing Tax Credit (LIHTC). The memorandum also provides a detailed analysis of the different housing types and ownership models that are likely to be developed within the subject property based on the preliminary zoning concept.

The memorandum also provided the following information on existing programs that can provide gap funding or otherwise assist in providing affordable housing.

The City of Bend has some financial tools that can assist in incentivizing affordable housing and influencing financial feasibility.

- *Affordable Housing Fund. The City of Bend levies a Construction Excise Tax on the value of building permits that goes towards supporting the development of affordable housing. Currently, the fund is used to acquire land for deed-restricted affordable housing, develop the land, construct homes, or rehabilitate homes.*
- *Community Development Block Grants (CDBGs). Each year the City of Bend allocates some of its CDBG funds to affordable housing projects being developed by nonprofit affordable housing providers.*
- *City Surplus Property. Bend routinely sells or conveys some of its excess land holdings to affordable housing providers.*
- *Low-Income Rental Property Tax Exemptions. The City awards a 20-year renewable property tax exemption to qualifying affordable rental housing projects.*
- *System Development Charge Exemptions. All City system development charges (SDCs) are exempted for deed-restricted units at or below 80% of AMI. (Parks SDCs charged by Bend Parks and Recreation District are not exempted.)'*

The language of HB 3318 describes the acres of land that must be dedicated to housing for different income levels. The application materials indicate the Applicant has evaluated how to leverage a variety of funding sources to provide affordable housing in a way that complies with the House Bill."

Section 3.4, Rural Economy Policies

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

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The Applicant provided the following response to this criterion:

The applicant finds that the proposed amendments will result in the subject property being included in the Bend urban growth boundary for development of urban housing, affordable housing, and some commercial and mixed employment uses. Once amended, the County's Comprehensive Plan will show the property within the Bend urban growth boundary and designated Bend Urban Growth Boundary, and the Zoning map will show the property zoned UA, Urbanizable Area. While the property will not be available for rural economic uses under the MUA10 Zone, the Concept Plan for the Stevens Road Tract does include land for commercial uses (five acres), and mixed employment uses (seven acres). The applicant finds the proposed amendments will be consistent with this policy because land will be provide for economic development, jobs, and services and available to urban and rural residents.'

Staff concurs with this statement and notes the subject application will not limit commercial uses on surrounding rural lands. Surrounding rural lands are zoned MUA10 and EFU, which allow for limited commercial uses subject to land use review. Amending the Comprehensive Plan to include the subject property in the Bend UGB will not impact the zoning designation or allowed uses on neighboring properties outside of the Bend UGB.”

Section 3.6, Public Facilities and Services

Goal 1, Support the orderly, efficient and cost-effective siting of rural public facilities and services.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“In a letter dated July 14, 2023, the Applicant provided the following response to this criterion:

‘The purpose of this UGB amendment is to facilitate the development of the Stevens Road Tract under HB 3318, which would result in urban levels of housing, including affordable housing. The property is served by the Avion Water Company, and the applicant has completed some public facility planning to serve the tract. This level of public facility planning plans for urban streets, water, and sewer infrastructure.’

Staff generally agrees with the above analysis and notes the subject application is not for the purpose of developing rural public facilities or services. As the Applicant notes, urban public facilities will be provided for the future development within the subject property. The application materials demonstrate this public facility planning is underway, with early coordination allowing for more orderly and efficient service provision. The water, sewer, and road improvements described in the application materials will not be constructed until the property is brought within the Bend city limits and subject to the Bend Development Code. These described infrastructure upgrades will serve future residents of the subject property, not the surrounding rural area.

Staff therefore presents alternate findings that this criterion does not apply because the Applicant does not propose any changes to rural public facilities or services. No development is proposed on the subject property while it remains in the UA Zone, so no additional public services will be required to serve the property while it remains in rural zoning. Staff requests the Hearings Officer amend these findings as they see fit.”

The Hearings Officer concurs with the final paragraph comments quoted immediately above. The Hearings finds no development is proposed in this application therefore no additional public services will be required to serve the Subject Property.

Section 3.7, Transportation

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“Deschutes County’s Senior Transportation Planner Tarik Rawlings submitted the following comments, dated June 21, 2023:

The subject property will be brought into the City of Bend as a result of the proposal. There currently is no specific proposal to develop the land, but the City’s transportation consultant had prepared an assessment dated (May 17, 2022) reviewing the potential trip generation of the property and planned improvements to affected City facilities. There were no adverse effects outlined in the assessment. Under the Joint Area Management Agreement between City of Bend and Deschutes County, jurisdictional transfer of roads are accomplished as part of annexation. The site is currently served by Stevens Road (County designated Rural Collector) to the north. Adequacy of current and future transportation facilities will be reviewed per the Bend development code as the land is proposed to develop. Finally, HB 3318 exempts the subject property from any Statewide Planning Goals, including Goal 12 (Transportation) as the subject property includes affordable housing and that the proposal is not a land use decision. Therefore, the Transportation Planning Rule (TPR) at OAR 660-012, does not apply nor does Deschutes County Code (DCC) 18.116.310. Staff finds this goal is met.’

Staff finds these comments demonstrate compliance in regard to any transportation-related goals or policies that may apply. Staff presents additional findings regarding the Comprehensive Plan policies and Statewide Planning Goals that apply to the subject proposal, under the House Bill 3318 section later in this staff report. The Hearings Officer may choose to edit these findings as they see fit, and provide additional guidance on what criteria, if any, the subject application is exempted from by HB 3318. In the event the Hearings Officer finds the Transportation section of the Comprehensive Plan does apply to the subject application, staff presents the Transportation Planner comments above as evidence this criterion is met.”

The Hearings Officer finds that Applicant’s transportation submissions/comments and Staff’s additional comments contained in the transportation section of the Comprehensive Plan provides substantial and adequate evidence this goal has been met.

Section 3.8, Rural Recreation

Goal 1, Promote a variety of passive and active park and recreation opportunities through a regional system that includes federal and state parks and local park districts.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Stevens Road Tract Concept Plan submitted with the application materials provides the following analysis of proposed park facilities:

“Recreational opportunities and open space were identified as key components in the conceptual planning for the Stevens Road Tract. Working in close coordination with Bend Park and Recreation District (BPRD), the three Concept Plan Alternatives were created to ensure adequate parks, open

space, trails, and recreational opportunities for the existing community and future residents of this area.

The adopted 2018 BPRD Comprehensive Plan calls for a target of 7.85 acres of neighborhood and community parks per 1,000 residents and a neighborhood or community park within a ½ mile walking distance from most homes. Additionally, trails – as both recreational amenities and longer-distance transportation routes – are identified as important recreational and functional parts of the parks system. The three Concept Plan Alternatives for the Stevens Road Tract provide different options aimed at meeting these targets.

...

The park(s) would be developed to provide opportunities for a mix of active (e.g., ball fields and playgrounds) and passive recreational activities (e.g., trails and open space).’

The application materials indicate Bend Park and Recreation District, a local park district, has been involved in the concept planning of the subject property. The Stevens Road Tract Concept Plan presented three alternatives, and the alternative that was ultimately selected was the one with the most amount of land dedicated to parks. This design includes a 29-acre community park, as well as trail connections that take advantage of the existing natural gas pipeline easement. The applicant proposes a looped trail system that goes around the perimeter of the subject property, which will provide benefits to neighboring properties both inside and outside of the Bend UGB.

The applicant does not propose new federal or state parks within the subject property. However, staff finds the proposed park development within the subject property will bolster the regional parks network and provide additional recreation opportunities for residents both inside and outside of the Bend UGB.”

Policy 3.8.1, Cooperate with public agencies and local park districts to provide park and recreation lands, facilities, and opportunities.

- a. The Statewide Comprehensive Outdoor Recreation Plan and State Park Master Plans shall serve as a basis for coordination on County-wide park and recreation issues.**
- b. Support exceptions to Statewide Planning Goals for urban fringe areas owned or acquired by and operated by park and recreation districts.**

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“As described above, the application materials indicate ongoing cooperation between City of Bend and Bend Park and Recreation District. The subject application for a Zone Change and Comprehensive Plan Amendment will not immediately lead to the development of new park facilities. However, it is a necessary step towards an eventual Master Plan and development of the subject property, which will provide new recreation opportunities.

The Applicant does not request an exception to a Statewide Planning Goal. Staff therefore finds subsection (b), above, does not apply.”

Chapter 4, Urban Growth Management

Section 4.2, Urbanization Policies

Goal 1, Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The Applicant provided the following response in their submitted Burden of Proof:

The proposal is consistent with this goal because the City has coordinated with Deschutes County, the Bend Park and Recreation District, and other stakeholders to support the concept planning for the Stevens Road Tract and the amendment of the Bend UGB to include it. The Concept Plan (See Exhibit H) documents the City’s coordination with the Park District, Cascades East Transit, and Avion Water Company to plan for an orderly and efficient transition between urban and rural lands for the Stevens Road Tract. These provisions of the Concept Plan are required by HB 3318 to be in the City’s planning amendments adopted after UGB expansion.’

Staff concurs with the Applicant’s analysis and finds they have demonstrated coordination between Deschutes County, the City of Bend, and special districts. The outreach process for the Stevens Road Concept Plan included three community meetings with stakeholders, which were held in 2021 and 2022. The application materials also list the following special districts and public agencies that were consulted during this process:

‘Collaboration with Bend Park and Recreation District, Bend-La Pine School District, Cascades East Transit, Deschutes County, DSL, Oregon Department of Land Conservation and Development, and Oregon Department of Transportation.’

The larger planning process to develop the subject property pursuant to HB 3318 has involved coordination with a range of agencies and stakeholders. While the development of the Stevens Road Tract Concept Plan was led by the City of Bend, staff finds the coordination during that process is relevant in addressing this criterion.”

Policy 4.2.1, Participate in the processes initiated by cities in Deschutes County to create and/or amend their urban growth boundaries.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

“The subject application was initiated by a city in Deschutes County as part of a larger process to amend its urban growth boundary. The subject Comprehensive Plan Amendment will bring the

property within the Bend UGB, which will allow the City of Bend to initiate amendments to its Development Code and eventually rezone the property for urban uses. As noted above, the subject property is owned by the State of Oregon, and the jurisdictional and ownership transfer of the property therefore requires the coordination of multiple land use processes. The applicant has coordinated with various agencies, including Deschutes County, to align these interrelated planning efforts.

Staff finds this UGB amendment and subsequent development of the subject property through a master planning process are only possible with County participation and coordination, including review of the subject application. Therefore, the County's role in this application will function to increase participation in city-led UGB amendments."

Policy 4.2.2, Promote and coordinate the use of urban reserve areas.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The subject property is not designated as Urban Reserves. Staff therefore finds this policy does not apply."

Goal 2, Coordinate with cities, special districts and stakeholders on urban growth area zoning for lands inside urban growth boundaries but outside city boundaries.

Goal 3, Coordinate with cities, special districts and stakeholders on policies and zoning for lands outside urban growth boundaries but inside urban reserve areas

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The proposed zoning designation, UA, will serve as a holding zone while the subject property is inside the Bend UGB but outside city boundaries. The application materials document ongoing coordination between the City of Bend, Deschutes County, State of Oregon and service providers regarding how the property will be managed during the time period it remains outside city boundaries but within the Bend UGB."

Goal 4, To build a strong and thriving regional economy by coordinating public investments, policies and regulations to support regional and state economic development objectives in Central Oregon.

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements:

"The subject property presents a unique opportunity to leverage public investments because the property is owned by the State of Oregon and its sale will generate revenue for the Common School

Fund. Increasing workforce housing is a regional and state economic development objective, and development of the subject property will be leveraged to provide housing for school district employees.

In addition to providing workforce housing, the subject property will be zoned to include five acres of commercial land and seven acres of mixed employment land. The public ownership of the subject property, and the provisions of HB 3318, provide a unique opportunity to maximize public benefit by master planning the subject property. The master planning process for the subject property will result in a walkable community with services and employment located near a range of housing types. High-level zoning diagrams indicate commercial areas will be concentrated near the proposed community park in a "main street"-style design where the commercial area functions as a community center. The Concept Plan also indicates seven acres of mixed employment land will be provided in the southwest corner of the subject property, and this area is adjacent to other industrial uses and will allow for a mix of commercial and light industrial uses. Providing employment land within the subject property will support regional economic development by bolstering the local economy.

Commercial uses will not be established on the subject property until it is annexed into the City of Bend and rezoned. The eventual commercial development will be subject to the Bend Development Code and will be within the city limits of Bend, and will be close to unincorporated lands and provide economic benefit to the surrounding rural area."

HOUSE BILL 3318

FINDING: The Hearings Officer incorporates as additional findings for this section the Overview Findings. The Hearings Officer finds that the Staff comments below are supported by substantial evidence and, as supplemented by the Overview Findings, are legally correct. Staff findings are set forth below in italics.

"The proposed expansion of the Bend UGB to include the subject property is in response to the passage of HB 3318. This House Bill is specific to the Stevens Road Tract and outlines a unique process the City of Bend may utilize when adding this property to its UGB. The Applicant has proposed findings, below, to demonstrate compliance with applicable sections of HB 3318.

SECTION 3. Stevens Road planning generally.

(1) Actions taken under sections 2 to 9 of this 2021 Act:

(a) Are not land use decisions, as defined in ORS 197.015.

FINDING: *The purpose of this finding is to show that the Statewide Planning Goals are not applicable to this proposal because of the above-cited language in Section 3 of HB 3318. Section 9 of HB 3318 provides that standards in the bill apply to the Stevens Road Tract in lieu of statewide planning goals. Section 3(1)(a) of HB 3318 states that actions taken under sections 2 through 9 of this 2021 Act are not land use decisions, as defined in ORS 197.015. Under this statute, ORS 197.015(10) defines a land use decision as one that includes under (10)(a)(A) a final decision or determination made by a local government or special district that concerns the adoption, amendment, or application of the goals. The goals in this context refer to the Statewide Planning Goals.*

SECTION 6. Stevens Road urban growth boundary expansion.

(1) Notwithstanding ORS 197.286 to 197.314, 197.626 or 197A.320 or any statewide land use planning goal related to housing or urbanization, the Department of Land Conservation and Development shall approve an expansion of the urban growth boundary submitted by the city and approved by the city by ordinance, if the department determines that:

FINDING: The following findings address compliance with Section 6 of HB 3318 (See Exhibit F). To address Section 6 of HB 3318, these findings refer to sections of HB 3318 where the bill itself refers to a section of this 2021 Act. Regarding Section 6(1), the applicant finds that this section directs actions of the Oregon Department of Land Conservation and Development regarding the Stevens Road Tract. This section directs the Department to approve an expansion of the UGB that has been approved by and subsequently submitted by the City of Bend based on the criteria below under Section 6(1)(a) through (1)(c).

(a) The department has received the letters required by section 4 of this 2021 Act;

FINDING: The proposal satisfies criterion (1)(a) because the City has submitted, and the Department of Land Conservation and Development has received the letters required by Section 4 of HB 3318. Section 4 of HB 3318 required the following letters to be submitted to the Department with the Stevens Road Tract Concept Plan:

Section 4(1) requires a letter from the City of Bend expressing the city's nonbinding intent to consider a concept plan under Section 5 of HB 3318, and;

Section 4(2) requires a letter from the Department of State Lands (DSL or Department) that gives its consent to the City to pursue an urban growth boundary expansion and planning amendments under Sections 6 through 9 of HB 3318. This same letter from DSL must also establish an agreement with the City that is binding on the successors of the owners, is contingent up on the final approval of the planning amendments, and establishes the essential terms, including price per acre, but not requiring specific lands to be designated, for the Department's conveyances to the city of real property consistent with Section 9 (2) and (3) of HB 3318.

The City provided both letters to the Department of Land Conservation and Development (DLCD) by electronic mail on June 23, 2022. This email and the attached letters are enclosed as Exhibit J. DLCD acknowledged receipt of the letter and materials through an electronic mail message dated August 29, 2022. Through this same message, DLCD submitted a copy of their letter approving the concept plan dated August 29, 2022 (See Exhibit K).

(b) The department has approved the city's conceptual plan under section 5 of this 2021 Act; and

FINDING: The proposed UGB expansion satisfies criterion (1)(b) because the department (DLCD) has approved the city's conceptual plan under Section 5 of HB 3318. As stated above under the

forgoing finding address criterion (1)(a), the Department (DLCD) submitted an August 29, 2022, letter to the City through an email of the same approving the Concept Plan. This electronic mail message and August 29, 2022, letter are enclosed as Exhibit K.

(c) The proposed urban growth boundary expansion adds all of the Stevens Road tract and no other lands to the area within the city's urban growth boundary.

FINDING: *The proposed UGB expansion satisfies criterion (1)(c) above because the City has proposed to expand the UGB to include only the Stevens Road Tract, and all the land within the tract. The proposal described above in this proposed set of findings states that the only land included in this proposed expansion of the Bend UGB is the Stevens Road Tract and all the land within the tract would be included in the UGB. This property is described as Tax Lot 100 on Deschutes County Tax Assessor's Map 18-12-11 and is also described as Property 1 in a decision dated September 19, 2019, approving a property line adjustment under file no. PZ-10-0550, being 261 acres (See Exhibit B).*

(2) The city shall include the lands brought within the city's urban growth boundary under this section in the city's inventory of buildable lands under ORS 197.296 (3)(a).

FINDING: *The proposal will satisfy criterion (2) because the City has proposed to include the lands brought within the UGB in the City's inventory of buildable lands under ORS 197.296(3)(a). The proposal includes a copy of a proposed amendment to Appendix J, the 2016 Buildable Lands Inventory, of the Bend Comprehensive Plan (See Exhibit M). This proposed amendment is attached as Exhibit I and proposes to add the 198 acres of buildable land within the Stevens Road Tract to the BLI. These acres would not be designated for either housing or employment until such as the City adopts planning amendments for guiding master planning of the Stevens Road Tract that include the required elements from Section 9 of HB 3318 and mirror the proposed plan designations as shown in Alternative 3 of the Concept Plan.*

The language of HB 3318 appears to refer to the planning amendments the City of Bend must undertake in order to receive approval for bringing the subject property within the Bend UGB.

Section (2)(4) of HB 3318 includes the following definition: "Stevens Road planning amendments" means amendments to the city's comprehensive plans, land use regulations or zoning maps that affect the development of the Stevens Road tract' [emphasis added].

The language of the House Bill does not specify the process, if any, that the County must undertake for the corresponding amendment to the County Comprehensive Plan. Absent that guidance, the subject request has been processed as a request for a Comprehensive Plan Amendment and Zone Change pursuant to Deschutes County Code. It is not apparent to staff whether the House Bill exempts the subject application from demonstrating compliance with Statewide Planning Goals, Deschutes County Comprehensive Plan policies, or other provisions of Deschutes County Code.

Staff requests the Hearings Officer make specific findings regarding whether the provisions of HB 3318 are applicable approval criteria for the subject amendment to Deschutes County's Comprehensive Plan, as well as the proposed Zone Change of the subject property."

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

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

FINDING: The Hearings Officer adopts as findings for this decision the following Staff Report statements (in italics):

"The applicant asserts the Statewide Planning Goals are not applicable to the subject application because it is being processed pursuant to HB 3318. The Burden of Proof includes the following analysis in support of this claim.

The purpose of this finding is to show that the Statewide Planning Goals are not applicable to this proposal because of the above-cited language in Section 3 of HB 3318. Section 9 of HB 3318 provides that standards in the bill apply to the Stevens Road Tract in lieu of statewide planning goals. Section 3(1)(a) of HB 3318 states that actions taken under sections 2 through 9 of this 2021 Act are not land use decisions, as defined in ORS 197.015.'

Staff also cites Section (6)(1) of HB 3318, below, which references Statewide Planning Goals in regard to the Stevens Road tract UGB expansion.

SECTION 6. Stevens Road urban growth boundary expansion. (1) Notwithstanding ORS 197.286 to 197.314, 197.626 or 197A.320 or any statewide land use planning goal related to housing or urbanization [emphasis added], the Department of Land Conservation and Development shall approve an expansion of the urban growth boundary submitted by the city and approved by the city by ordinance, if the department determines that:

- (a) The department has received the letters required by section 4 of this 2021 Act;*
- (b) The department has approved the city's conceptual plan under section 5 of this 2021 Act; and*
- (c) The proposed urban growth boundary expansion adds all of the Stevens Road tract and no other lands to the area within the city's urban growth boundary.*

The proposed Comprehensive Plan Amendment and Zone Change are for the purpose of bringing the property into the Bend UGB and are subject to applicable provisions of Deschutes County Code as well as state law. The language of HB 3318 does not provide clear direction on whether an amendment to the County's Comprehensive Plan is subject to Statewide Planning Goals, and if so, which goals are applicable. Staff requests the Hearings Officer make specific findings on this topic. In the event the Hearings Officer finds the Statewide Planning Goals apply, staff has provided alternate findings below demonstrating compliance."

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.

FINDING: A land use action sign was posted on the subject property on June 12, 2023, and a Notice of Application was mailed to nearby property owners on June 8, 2023. A public hearing will be held before a Hearings Officer and a second public hearing will be held before the Board of County Commissioners. Notice of all public hearings will be mailed to impacted individuals and a notice will also be printed in the Bend Bulletin newspaper. The published and mailed notices will all comply with the requirements of DCC 22.12.020.

Goal 2, Land Use Planning. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

FINDING: This proposal satisfies this goal because the applications were handled pursuant to the procedures applicable to plan amendments in the County's Comprehensive Plan and zoning ordinance.

Goal 3, Agricultural Lands. To preserve and maintain agricultural lands.

FINDING: The subject property is not designated as agricultural lands on the Deschutes County Comprehensive Plan. Staff notes the subject property previously received approval for a Comprehensive Plan Amendment from Agriculture to Rural Residential Exception Area, on the basis the subject property does not meet the definition of agricultural land.

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.

FINDING: The subject property does not contain any forest lands and therefore this goal is not applicable.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. To protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: The subject property does not contain any inventoried Goal 5 resources. An assessment of natural resources, scenic and historic areas, and open space was conducted as part of the conceptual planning process done by the City of Bend. Appendix E to the Stevens Road Tract Concept Plan is a memo dated March 28, 2022, titled Historic, Cultural, and Natural Resources. This memo includes a review of different types of Goal 5 resources and notes the subject property does not contain any area within the Surface Mining Impact Area, Wildlife Area Combining Zone, or Landscape Management Combining Zone.

Goal 6, Air, Water, and Land Resources Quality. To maintain and improve the quality of the air, water, and land resources of the state.

FINDING: *The proposal is consistent with Goal 6 based on the analysis provided in the Stevens Road Tract Concept Plan and other supplemental application materials. These materials demonstrate future development of the subject property will be designed to minimize carbon emissions and will reduce single-occupancy vehicles trips by planning for transit and bicycle connections. No development is proposed at this time and future uses will be established under urban zoning designations. In a letter dated July 14, 2023, the Applicant provides the following statement on impacts to water resources.*

'No development is proposed at this time that would affect either surface or subsurface water resources.'

Staff concurs and notes the subject application only reviews the impacts of rezoning the subject property to UA and changing the Comprehensive Plan designation to Bend UGB. Future annexation will be subject to a separate land use application and impacts to natural resources will be evaluated again at that time. Staff finds the Stevens Road Tract Concept Plan is not the subject of this review but provides relevant context on how the planned uses of the subject property will comply with Goal 6.

Goal 7, Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

FINDING: *The applicant provided the following statement regarding wildfire and flood risk on the subject property:*

The proposed amendments are consistent with this goal because the Concept Plan guiding future development of the Stevens Road Tract has accounted for the natural hazard of wildfire. The proposed amendments would change the County's Comprehensive Plan map to include the subject property within the Bend urban growth boundary, change the Plan designation to Bend Urban Growth Boundary, and change the zoning on the County's Zoning map to UA, Urbanizable Area. The purpose behind these amendments is to facilitate the development of the subject property according to the Stevens Road Tract Concept Plan (See Exhibit H). The materials submitted with the plan amendment and zone change applications include the Technical Appendices to the Concept Plan (See Exhibit I), which also include a technical memorandum addressing wildfire risk and identifying several strategies for mitigation (See Appendix F). The subject property does not abut or is impacted by a flood plain.'

Staff finds wildfire risk is the primary natural disaster concern on the subject property.

The adopted concept plan indicates transportation access to other areas of the City of Bend will improve as a road network is developed within the subject property. Staff notes the new roads and improved access will provide benefits if a natural disaster were to occur and the subject property

either needed to be evacuated or needed to be accessed by emergency service providers. Future annexation of the subject property will also allow it to be served by urban service providers.

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.

FINDING: The Stevens Road Tract Concept Plan presented three high-level alternatives for future development of the subject property. The concept plan that was ultimately approved by Bend City Council includes a 29-acre centrally located community park, seven acres of trail corridors, and three acres of open space. This concept plan factors in trail and bicycle connections to existing and proposed trail networks.

The Stevens Road Tract Concept Plan also provides an evaluation of existing natural features, such as rock outcroppings and trails along the utility easements, and how these features can be preserved and incorporated into developed parks and recreation opportunities.

Goal 9, Economy of the State. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The intended use of the subject property is future annexation by the City of Bend and a master planning process for development. The adopted Stevens Road Tract Concept Plan proposes a mix of commercial and residential uses, and HB 3318 requires land to be zoned for commercial uses in accordance with the City's most recent economic opportunity analysis.

As described below, the Stevens Road Tract master plan will provide housing affordable for those earning 80 percent or less of the area median income, with priority given to employees of an education provider. Staff finds the provision for workforce housing will benefit the local economy.

Goal 10, Housing. To provide for the housing needs of citizens of the state.

FINDING: Section (9)(2) of HB 3318 stipulates that at least 20 net acres of land within the Stevens Road Tract must be conveyed to the City of Bend and remain as income-restricted housing for a period of no less than 50 years. Of this land area that is set aside for income-restricted housing, at least 12 net acres must be available to households earning 60 percent or less of the area median income. In addition, six net acres must be made available to households earning 80 percent or less of the area median income, with priority given to employees of education providers. Finally, at least two net acres must be restricted so that at least 80 percent of the units in each contiguous development tract are affordable to households earning 80 percent or less of the area median income, which includes at least one acre where preference is given to employees of an education provider.

HB 3318 provides additional guidance on the development of market-rate housing, to ensure adequate opportunities for the development of all needed housing types. Housing in the Stevens Road Tract must exceed a minimum density of nine units per gross residential acre, and the ratio of single-

family to multifamily housing must exceed what is required in the city's most recently adopted housing needs analysis. Staff notes no housing development is proposed under the UA zoning designation, and future development will be reviewed according to the City of Bend's Development Code and Comprehensive Plan. However, staff finds the subject Comprehensive Plan Amendment and Zone Change will promote the creation of new housing units by completing a necessary step towards eventual development of the subject property.

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.

FINDING: The application materials indicate the subject property is currently served by Avion Water Company, and planning has begun regarding domestic water service for the future build-out of the property. The appendixes to the Steven Road Tract Concept Plan also include technical memorandums regarding water infrastructure, sewer infrastructure, and transportation improvements. Staff finds interagency planning is underway to ensure a smooth transition of services when the subject property is brought into the Bend city limits and developed. Beginning this coordination at the concept planning phase allows for timely input from service providers, which increases the likelihood of orderly and efficient public facilities.

Goal 12, Transportation. To provide and encourage a safe, convenient and economic transportation program.

FINDING: The Stevens Road Tract Concept Plan indicates 20 percent of the unconstrained land area is planned for future public right of way, which amounts to approximately 50 acres of land. The application materials also provide an analysis of the intersection and roadway improvements that would be required to build out the subject property, and information on how those improvements relate to the goals of the City of Bend's Transportation System Plan.

Staff finds the applicant has demonstrated that different modes of transportation will be planned for, and that direct road and transit connections will be provided between the subject property and other neighborhoods within Bend. Although these transportation improvements will not be built out until the property is annexed into the City of Bend, there is significant evidence that transportation planning is underway and is being accounted for. For these reasons, staff finds the proposed Zone Change and Comprehensive Plan Amendments are a step towards developing a safe, convenient, and economic transportation network within the subject property.

Goal 13, Energy Conservation. To conserve energy.

FINDING: The application materials indicate the subject property will be developed with high-density housing, walkable commercial centers, and will be served by transit. Three alternatives were presented in the Stevens Road Concept Plan, and the option that was selected had the "least impact per household for water usage, energy usage, and carbon emissions" (Stevens Road Tract Concept Plan page 70).

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.

FINDING: *The subject property will be annexed into the City of Bend and developed through a master planning process that accounts for parks, walkable neighborhoods, transit access, commercial uses, and a variety of housing types. Staff finds this master planning process will encourage the development of the subject property as a livable community that accommodates urban housing and urban employment. As described above, the planning process for the subject property has been a coordinated effort with involvement from the City of Bend, Deschutes County, and the State of Oregon. The unique factors of the subject property, particularly that it is under public ownership and was approved for a UGB expansion through HB 3318, will allow an orderly and efficient transition from the current rural use of the land to its future urban uses.*

Goal 15, Willamette Greenway.

FINDING: *This criterion does not apply because the subject property is not located in the Willamette Greenway.*

Goals 16 through 19.

FINDING: *These goals do not apply to land in Central Oregon.*

Staff finds that if the Statewide Planning Goals do apply, compliance with them has been effectively demonstrated. Staff requests the Hearings Officer make specific findings regarding whether the Statewide Planning Goals apply to the subject application."

V. CONCLUSION

The Hearings Officer finds that the Applicant has met the burden of proof necessary to justify changing the Comprehensive Plan Designation of the Subject Property from Rural Residential Exception Area to Bend Urban Growth Area, to change the zoning of the Subject Property from Multiple Use Agricultural (MUA10) to Urbanizable Area (UA), and to expand the Urban Growth Boundary through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (Deschutes County Zoning Ordinance), DCC Title 19A (Bend Urbanizable Area District), the Deschutes County Comprehensive Plan, and applicable sections of OAR and ORS.

VI. DECISION AND RECOMMENDATION

Approval of:

Change of the Subject Property Plan Designation from Rural Residential Exception Area to Bend Urban Growth Area; and to

Change of the Subject Property Zoning from Multiple Use Agriculture (MUA 10) to Urbanizable Area

(UA).

Deschutes County Hearings Officer

Gregory J Frank

Gregory J. Frank

Date: October 23, 2023