



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** February 14, 2024

**SUBJECT:** Consideration whether to hear an appeal of a Hearings Officer's decision associated with the Oregon Department of Transportation's Lava Butte Trail Multi-Use Path Project

**RECOMMENDED MOTIONS:**

Move approval of Order 2024-008, an Order accepting review of Hearings Officer's Decision in File No. 247-23-000302-DR and establishing the review will be heard *de novo*.

OR

Move approval of Order 2024-008, an Order denying review of Hearings Officer's Decision in File No. 247-23-000302-DR.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Oregon Department of Transportation (ODOT), as the applicant, filed a Declaratory Ruling application requesting interpretations on multiple issues in which ODOT asserts there is doubt or dispute over the meaning or application of the County's Comprehensive Plan or Deschutes County Code.

The requested interpretations are associated with the Planning Division's review of requirements for a future ODOT path starting at the Baker-Knott Road/Highway 97 intersection and terminating at the Lava Butte Visitor Center. The proposed path parallels Highway 97 and accesses the High Desert Museum before continuing south onto federal lands. The proposed path will be designed to serve bicycle and pedestrian users and will be called the Lava Butte Trail.

The Hearings Officer concluded the following:

1. The subject Highway 97 right-of-way is zoned Rural Residential ("RR10");
2. The proposal as described by the applicant is a "road and street project" and, more specifically, a Class III project; and
3. As a Class III project, the proposal described by the applicant is a use permitted outright in the RR10 Zone and OS&C Zone.

The Windlinx Ranch Trust filed a timely appeal of the Hearings Officer's Decision on February 2, 2024 (ref. Appeal No. 247-24-00072-A). On February 14, 2024, the Board of County Commissioners will decide whether to hear this appeal.

The full record for this review is available at the following link:

<https://www.deschutes.org/cd/page/247-23-000302-dr-odot-lava-butte-trail>

**BUDGET IMPACTS:**

None.

**ATTENDANCE:**

Caroline House, Senior Planner

Anthony Raguine, Principal Planner

Legal Counsel