



STAFF MEMORANDUM

TO: Board of County Commissioners (“BOCC”)
FROM: Caroline House, Senior Planner
DATE: June 12, 2024
RE: Public Hearing for a Comprehensive Plan Amendment and Zone Change Request (ref. File Nos. 247-22-000573-ZC & 247-22-000574-PA)

On June 12, 2024, a public hearing before the Board of County Commissioners is scheduled for a Comprehensive Plan Amendment and Zone Change request. This hearing will be the second of two (2) required hearings for this proposal.

I. PROPOSAL

Last Ranch, LLC (“Applicant”) requests approval of a Comprehensive Plan Amendment to change the designation of the subject properties from Agricultural (AG) to Rural Industrial (RI) and a corresponding Zone Change to rezone the subject properties from Exclusive Farm Use (EFU) to Rural Industrial (RI). No exceptions to the Statewide Planning Goals are requested. The subject properties are located at northeast corner of the Deschutes Junction overpass adjacent to Highway 97 (see attached location map) and was formerly known as the “Funny Farm”.

II. BACKGROUND

The first hearing for this proposal was held on March 21, 2023, before a Deschutes County Hearings Officer and the Hearings Officer found the Applicant demonstrated compliance with all applicable standards *except* the requirements of Statewide Planning Goal 5 related to protected scenic resources. For this reason, the Hearings Officer recommended the BOCC deny the Applicant’s request *unless* the Applicant subsequently demonstrates compliance with Statewide Planning Goal 5.

Statewide Planning Goal 5 is a broad statewide planning goal that covers more than a dozen protected resources. The resources range from wildlife habitat, to scenic views, and surface mines. To protect and plan for them, local governments are asked to create a number of inventories and the Deschutes County Comprehensive Plan identifies certain roadways and rivers/streams as

inventoried Goal 5 scenic view resources. In this case, the subject properties are located within the inventoried Highway 97 Goal 5 scenic view resource.

The BOCC recently reviewed a similar Comprehensive Plan Amendment and Zone Change request submitted by LBNW, LLC, where the same issue of compliance with Statewide Planning Goal 5 was before the Board. In that case, the Land Use Board of Appeals (“LUBA”) remanded the previously approved LBNW, LLC Comprehensive Plan Amendment and Zone Change request back to the County for further review to confirm new uses allowed in the RI Zone, that were previously not allowed in the EFU Zone, would not conflict with the Highway 97 Goal 5 protected scenic resource. In the summer of 2023, LBNW, LLC initiated a Deschutes County remand application and submitted supporting materials, such as an expanded Economic, Social, Environmental, and Energy (“ESEE”) analysis, to demonstrate compliance with Statewide Planning Goal 5. Based on the submitted materials, the BOCC again approved the LBNW, LLC Comprehensive Plan Amendment and Zone Change request. This decision was not appealed and became final in the fall of 2023.

The Applicant waited for the LBNW, LLC remand application to be approved and has since submitted additional materials to demonstrate compliance with Statewide Planning Goal 5. Based on staff’s review of the Applicant’s most recent submittals, the Applicant has taken a similar approach to LBNW, LLC’s remand application to demonstrate compliance with Statewide Planning Goal 5 and the Applicant will be presenting their arguments to the BOCC at public hearing.

Staff notes, during the Hearings Officer’s review, Central Oregon LandWatch and 1,000 Friends of Oregon submitted comments in opposition to the Applicant’s proposal.

III. SCOPE OF REVIEW

As the subject properties include lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the applications to be heard *de novo* before the BOCC, regardless of the Hearings Officer’s recommendation.

At the hearing, the BOCC will be asked to consider the materials in the record, new materials and arguments presented by the Applicant, and testimony from other interested parties.

IV. BOARD OPTIONS

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

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

V. TIMELINE

This proposal is not subject to the statutory 150-day review timeline.

VI. RECORD

The record is presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-22-000573-zc-247-22-000574-pa-last-ranch-llc-comprehensive-plan-amendment-zone-change>

Attachments:

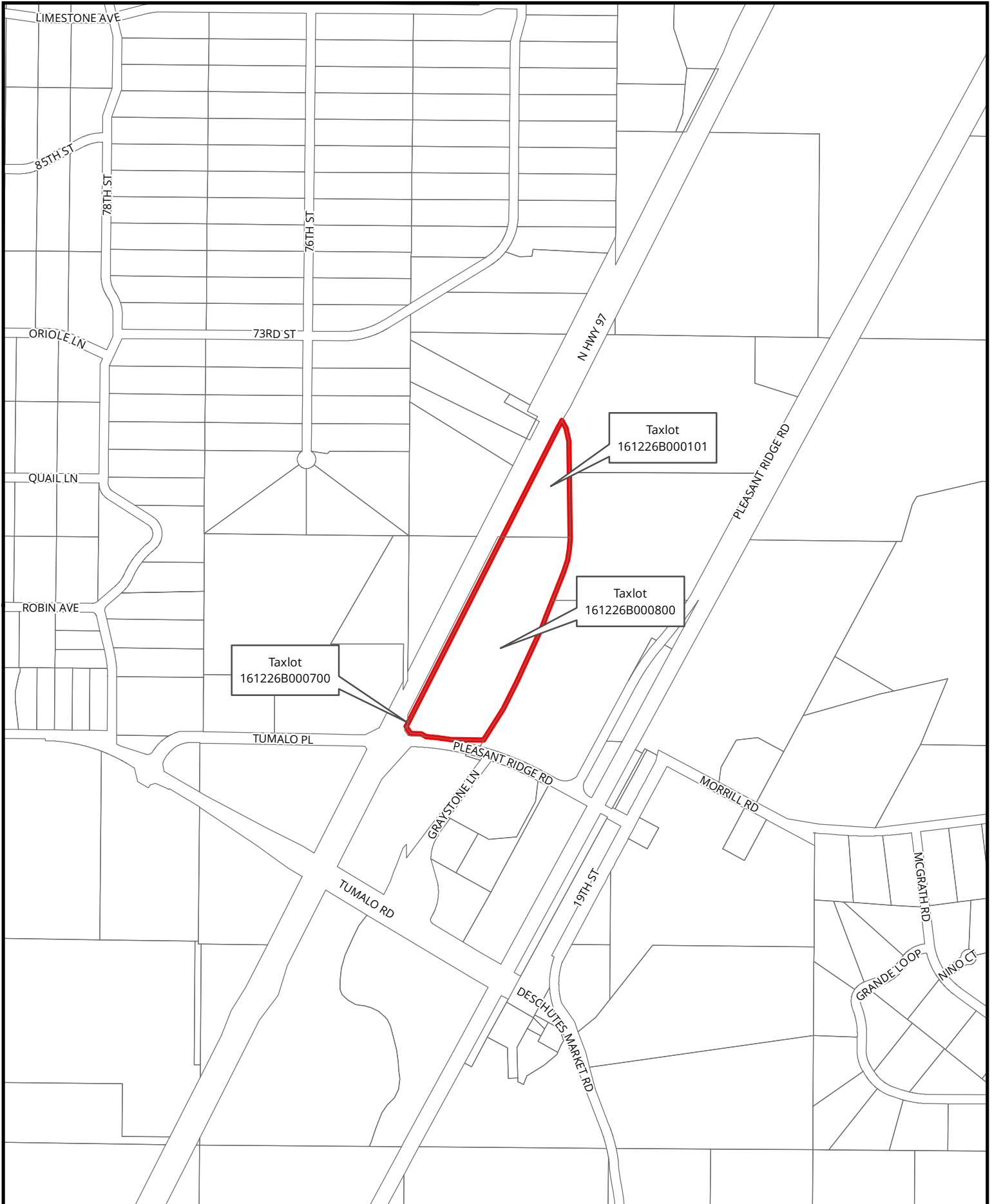
1. Location Map
2. Draft Ordinance No. 2024-006



1" = 80'

247-22-000573-ZC / 247-22-000574-PA

Location Map



REVIEWED _____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County *
Code Title 23, the Deschutes County *
Comprehensive Plan, to Change the *
Comprehensive Plan Map Designation for *
Certain Property From Agriculture to Rural *
Industrial, and Amending Deschutes County *
Code Title 18, the Deschutes County Zoning *
Map, to Change the Zone Designation for *
Certain Property From Exclusive Farm Use to *
Rural Industrial. *

ORDINANCE NO. 2024-006

WHEREAS, Last Ranch, LLC (“Applicant”), applied for changes to both the Deschutes County Comprehensive Plan Map (247-22-000574-PA) and the Deschutes County Zoning Map (247-22-000573-ZC), to change the comprehensive plan designation of the subject property from Agricultural (AG) to Rural Industrial (RI), and a corresponding zone change from Exclusive Farm Use (EFU) to Rural Industrial (RI); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on March 21, 2023, before the Deschutes County Hearings Officer and, on June 12, 2023, the Hearings Officer recommended denial unless the Applicant demonstrates the requested Comprehensive Plan Amendment and Zone Change are consistent with Statewide Planning Goal 5;

WHEREAS, pursuant to DCC 22.28.030(C), the Board of County Commissioners (“Board”) heard *de novo* the applications to change the comprehensive plan designation of the subject property from Agricultural (AG) to Rural Industrial (RI) and a corresponding zone change from Exclusive Farm Use (EFU) to Rural Industrial (RI); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan Map, is amended to change the plan designation for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "B" from AG to RI, with both exhibits attached and incorporated by reference herein.

Section 2. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation from EFU to RI for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "C", with both exhibits attached and incorporated by reference herein.

Section 3. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "D" attached and incorporated by reference herein, with new language underlined.

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

Section 5. FINDINGS. The Board adopts as its findings in support of this Ordinance the Decision of the Board of County Commissioners as set forth in Exhibit "F" and incorporated by reference herein. The Board also incorporates in its findings in support of this decision, the Recommendation of the Hearings Officer, attached as Exhibit "G" and, and site specific Economic, Social, Environmental, and Energy analysis, attached as Exhibit "H", each incorporated by reference herein.

Section 6. EFFECTIVE DATE. This Ordinance takes effect on the 90th day after the date of adoption.

Dated this _____ of _____, 2024

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ANTHONY DEBONE, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

Date of 1st Reading: ____ day of _____, 2024.

Date of 2nd Reading: ____ day of _____, 2024.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Patti Adair	—	—	—	—
Anthony DeBone	—	—	—	—
Phil Chang	—	—	—	—

Effective date: ____ day of _____, 2024.

ATTEST

Recording Secretary

Exhibit "A" To Ordinance 2024-006

Legal Description of Subject Property

LEGAL DESCRIPTION: Real property in the County of Deschutes, State of Oregon, described as follows:

PARCEL I :

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STARTING AT THE NW CORNER OF SAID SE1/4 NW1/4; THENCE SOUTH 89 40' EAST ALONG THE NORTH LINE OF SAID SE1/4 NW1/4, 1,084.21 FEET TO THE CENTERLINE OF THE PILOT BUTTE CANAL AS NOW LOCATED; THENCE SOUTHWESTERLY ALONG THE CENTERLINE OF SAID PILOT BUTTE CANAL AS NOW LOCATED, 1,415 FEET TO THE SOUTH LINE OF SAID SE1/4 NW1/4; THENCE NORTH 89 50'30" WEST ALONG THE SOUTH LINE OF SAID SE1/4 NW1/4, 484.6 FEET TO THE SW CORNER OF SAID SE1/4 NW1/4; THENCE NORTH 0 00', 1,330.89 FEET TO THE NW CORNER OF SAID SE1/4 NW1/4, BEING THE POINT OF BEGINNING. EXCEPTING A STRIP OF LAND HERETOFORE CONVEYED TO THE STATE OF OREGON FOR HIGHWAY PURPOSES. ALSO, EXCEPTING THEREFROM THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SW1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, LYING NORTHWESTERLY OF THE DALLES-CALIFORNIA HIGHWAY NO. 97.

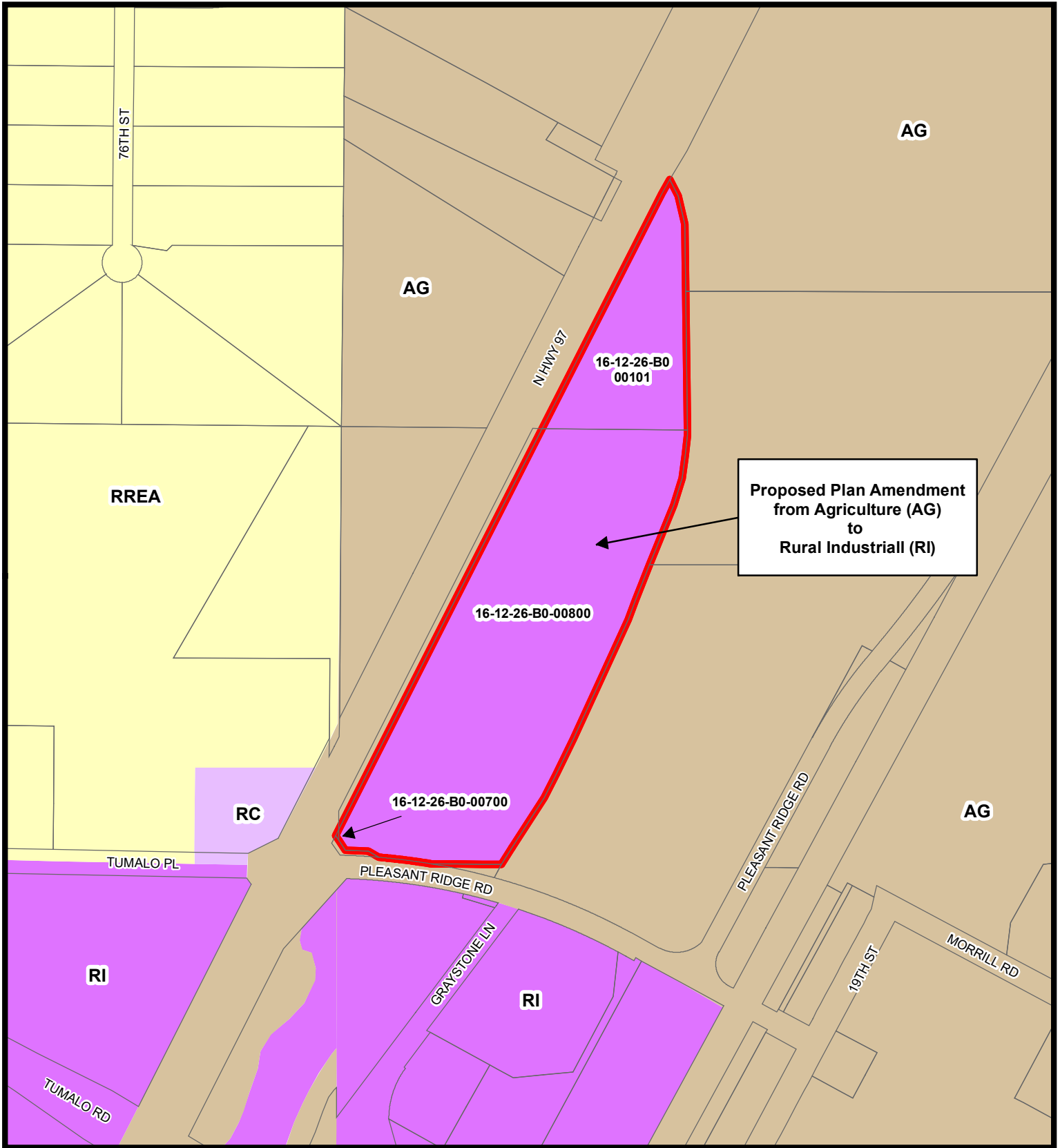
PARCEL II:


THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (SW1/4 NW1/4) OF SECTION 26, TOWNSHIP 16 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, LYING EASTERLY OF THE DALLES-CALIFORNIA HIGHWAY AND NORTHERLY OF THE NICHOLS MARKET ROAD.

PARCEL III:


THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 16, SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, ALSO DESCRIBED AS A PORTION OF PARCEL 1, PARTITION PLAT 1993-32, DESCHUTES COUNTY, OREGON, LYING EASTERLY OF THE DALLES-CALIFORNIA HIGHWAY NO. 97 AND SOUTHERLY AND WESTERLY OF THE PILOT BUTTE CANAL.


NOTE: This legal description was created prior to January 1, 2008.



 Plan Amendment Boundary

Comprehensive Plan

 RREA - Rural Residential Exception Area

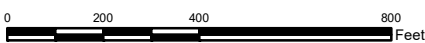
 AG - Agriculture

 RI - Rural Industrial

 RC - Rural Commercial

PROPOSED COMPREHENSIVE PLAN

Exhibit "B"
to Ordinance 2024-006



May 31, 2024

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

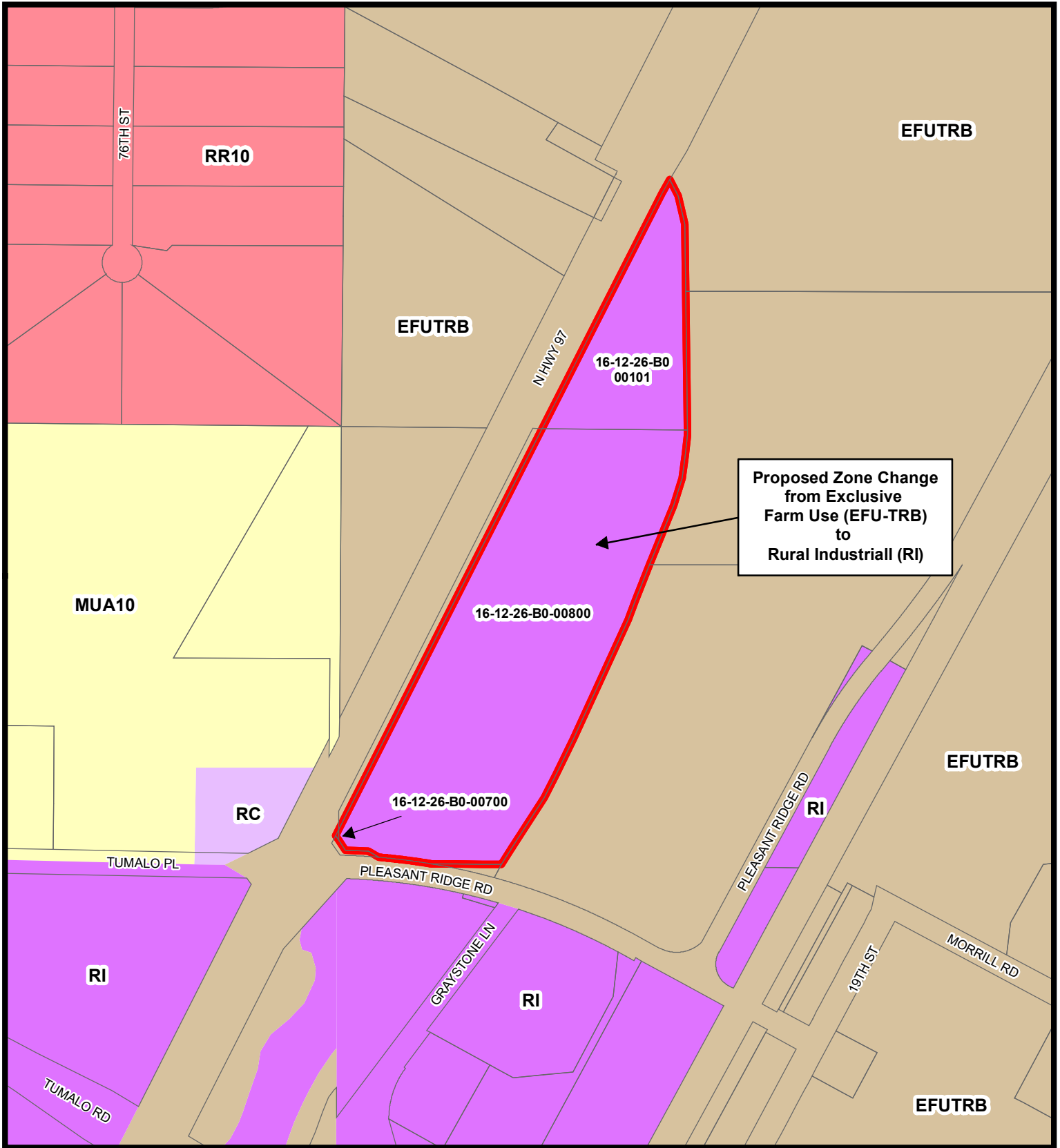
Patti Adair, Chair


Anthony DeBone, Vice Chair

Phil Chang, Commissioner






ATTEST: Recording Secretary

Dated this ____ day of ____, 2024
Effective Date: ____, 2024



 Zone Change Boundary

County Zoning

-  EFUTRB - Tumalo/Redmond/Bend
-  MUA10 - Multiple Use Agricultural
-  RR10 - Rural Residential
-  RC - Rural Commercial
-  RI - Rural Industrial

PROPOSED ZONING

Exhibit "C"
to Ordinance 2024-006



May 31, 2024

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Patti Adair, Chair

Anthony DeBone, Vice Chair

Phil Chang, Commissioner

ATTEST: Recording Secretary

Dated this ____ day of ____, 2024
Effective Date: ____, 2024

TITLE 23 COMPREHENSIVE PLAN

CHAPTER 23.01 COMPREHENSIVE PLAN

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. [Repealed by Ordinance 2013-001, §1]
- D. [Repealed by Ordinance 2023-017]
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.

- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- T. [Repealed by Ordinance 2016-027 §1]
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- AC. [repealed by Ord. 2019-010 §1, 2019]
- AD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- AE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- AF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- AG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- AH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.

- AI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.
- AJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.
- AK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.
- AL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.
- AM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.
- AN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.
- AO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.
- AP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.
- AQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.
- AR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.
- AS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.
- AT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.
- AU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-002, are incorporated by reference herein.
- AV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-005, are incorporated by reference herein.
- AW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-008, are incorporated by reference herein.
- AX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-001, are incorporated by reference herein.
- AY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-003, are incorporated by reference herein.

- AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.
- BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-010, are incorporated by reference herein.
- BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-011, are incorporated by reference herein. (superseded by Ord. 2023-015)
- BC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-013, are incorporated by reference herein.
- BD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-001, are incorporated by reference herein.
- BE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-007, are incorporated by reference herein.
- BF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-010 are incorporated by reference herein.
- BG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-018, are incorporated by reference herein.
- BH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-015, are incorporated by reference herein.
- BI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-025, are incorporated by reference herein.
- BJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-001, are incorporated by reference herein.
- BK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-003, are incorporated by reference herein.
- BL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-017, are incorporated by reference herein.
- BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-016, are incorporated by reference herein.
- BN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-006, are incorporated by reference herein.

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/complan>)

HISTORY

Amended by Ord. [2011-027](#) §10 on 11/9/2011
Adopted by Ord. [2011-003](#) §2 on 11/9/2011
Amended by Ord. [2011-017](#) §5 on 11/30/2011
Amended by Ord. [2012-012](#) §1, 2, 3, 4 on 8/20/2012
Amended by Ord. [2012-005](#) §1 on 11/19/2012
Amended by Ord. [2013-002](#) §1 on 1/7/2013
Repealed by Ord. [2013-001](#) §1 on 1/7/2013
Amended by Ord. [2013-005](#) §1 on 1/23/2013
Amended by Ord. [2012-016](#) §1 on 3/4/2013
Amended by Ord. [2013-009](#) §1 on 5/8/2013
Amended by Ord. [2013-012](#) §1 on 8/8/2013
Amended by Ord. [2013-007](#) §1 on 8/28/2013
Amended by Ord. [2014-005](#) §2 on 2/26/2014
Amended by Ord. [2014-006](#) §2 on 3/15/2014
Amended by Ord. [2014-012](#) §1 on 8/6/2014
Amended by Ord. [2014-021](#) §1 on 11/26/2014
Amended by Ord. [2015-029](#) §1 on 11/30/2015
Amended by Ord. [2015-010](#) §1 on 12/21/2015
Amended by Ord. [2015-021](#) §1 on 2/22/2016
Amended by Ord. [2015-018](#) §1 on 3/28/2016
Amended by Ord. [2016-001](#) §1 on 4/5/2016
Amended by Ord. [2016-022](#) §1 on 9/28/2016
Repealed & Reenacted by Ord. [2016-027](#) §1, 2 on 12/28/2016
Amended by Ord. [2016-005](#) §1 on 2/27/2017
Amended by Ord. [2016-029](#) §1 on 3/28/2017
Amended by Ord. [2017-007](#) §1 on 11/1/2017
Amended by Ord. [2018-002](#) §1 on 1/25/2018
Amended by Ord. [2018-005](#) §2 on 10/10/2018
Amended by Ord. [2018-008](#) §1 on 10/26/2018
Amended by Ord. [2018-008](#) §1 on 10/26/2018
Amended by Ord. [2018-008](#) §1 on 10/26/2018
Amended by Ord. [2018-006](#) §1 on 11/20/2018
Amended by Ord. [2018-011](#) §1 on 12/11/2018
Amended by Ord. [2019-004](#) §1 on 3/14/2019
Amended by Ord. [2019-003](#) §1 on 3/14/2019
Amended by Ord. [2019-002](#) §1 on 4/2/2019
Amended by Ord. [2019-001](#) §1 on 4/16/2019
Amended by Ord. [2019-010](#) §1 on 5/8/2019
Amended by Ord. [2019-011](#) §1 on 5/17/2019
Amended by Ord. [2019-006](#) §1 on 6/11/2019
Amended by Ord. [2019-019](#) §2 on 12/11/2019
Amended by Ord. [2020-001](#) §26 on 4/21/2020
Amended by Ord. [2020-003](#) §1 on 5/26/2020

Amended by Ord. [2020-002](#) §1 on 5/26/2020
Amended by Ord. [2020-008](#) §5 on 9/22/2020
Amended by Ord. [2020-007](#) §1 on 10/27/2020
Amended by Ord. [2020-006](#) §1 on 11/10/2020
Amended by Ord. [2020-009](#) §4 on 11/17/2020
Amended by Ord. [2020-013](#) §1 on 11/24/2020
Amended by Ord. [2021-002](#) §3 on 4/27/2021
Amended by Ord. [2021-005](#) §1 on 6/16/2021
Amended by Ord. [2021-008](#) §1 on 6/30/2021
Amended by Ord. [2022-001](#) §2 on 7/12/2022
Amended by Ord. [2022-003](#) §2 on 7/19/2022
Amended by Ord. [2022-006](#) §2 on 7/22/2022
Amended by Ord. 2022-010 §1 on 10/25/2022
Amended by Ord. 2023-001 §1 on 3/1/2023
Amended by Ord. 2022-013 §2 on 3/14/2023
Amended by Ord. 2023-007 §19 on 4/26/2023
Amended by Ord. 2023-010 §1 on 6/21/2023
Amended by Ord. 2023-018 §1 on 8/30/2023
Amended by Ord. 2023-015 §3 on 9/13/2023
Amended by Ord. 2023-025 §1 on 11/29/2023
Amended by Ord. 2024-001§1 on 01/31/2024
Amended by Ord. 2024-003§3 on 02/21/2024
Amended by Ord. 2023-017§1 on 03/20/2024
Amended by Ord. 2023-016§3 on 05/8/2024
Amended by Ord. 2024-006§3 on TBD

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.

2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal II to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone

2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial
2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.

2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
2019-011	05-01-19/05-16/19	23.01.010, 4.2	Comprehensive Plan Map Amendment to adjust the Bend Urban Growth Boundary to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area I boundary. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.

2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-001	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal 11 (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.

2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.
2020-006	08-12-20/11-10-20	23.01.01, 2.11, 5.9	Comprehensive Plan and Text amendments to update the County's Resource List and Historic Preservation Ordinance to comply with the State Historic Preservation Rule.
2020-009	08-19-20/11-17-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add reference to J turns on US 97 raised median between Bend and Redmond; delete language about disconnecting Vandevent Road from US 97.
2020-013	08-26-20/11/24/20	23.01.01, 5.8	Comprehensive Plan Text And Map Designation for Certain Properties from Surface Mine (SM) and Agriculture (AG) To Rural Residential Exception Area (RREA) and Remove Surface Mining Site 461 from the County's Goal 5 Inventory of Significant Mineral and Aggregate Resource Sites.
2021-002	01-27-21/04-27-21	23.01.01	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)

2021-005	06-16-21/06-16-21	23.01.01, 4.2	Comprehensive Plan Map Amendment Designation for Certain Property from Agriculture (AG) To Redmond Urban Growth Area (RUGA) and text amendment
2021-008	06-30-21/09-28-21	23.01.01	Comprehensive Plan Map Amendment Designation for Certain Property Adding Redmond Urban Growth Area (RUGA) and Fixing Scrivener's Error in Ord. 2020-022
2022-001	04-13-22/07-12-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-003	04-20-22/07-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-006	06-22-22/08-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2022-011	07-27-22/10-25-22 (superseded by Ord. 2023-015)	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)
2022-013	12-14-22/03-14-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)

2023-001	03-01-23/05-30-23	23.01.010, 5.9	Housekeeping Amendments correcting the location for the Lynch and Roberts Store Advertisement, a designated Cultural and Historic Resource
2023-007	04-26-23/6-25-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-010	06-21-23/9-17-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-018	08-30-23/11-28-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-015	9-13-23/12-12-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)
2023-025	11-29-23/2-27-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2024-001	01-31-24/4-30-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area

2024-003	2-21-24/5-21-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Surface Mining (SM) to Rural Residential Exception Area (RREA)
2023-017	3-20-24/6-18-24	23.01(D) (repealed), 23.01(BL) (added), 3.7 (amended), Appendix C (replaced)	Updated Transportation System Plan
<u>2024-006</u>	<u>TBD</u>	<u>23.01.010</u>	<u>Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)</u>

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

FILE NUMBERS: 247-22-000573-ZC / 247-22-000574-PA

HEARING DATE: March 21, 2023, 6:00 p.m.

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

APPLICANT/OWNER: Mark Rubbert; Last Ranch, LLC

SUBJECT PROPERTIES: Map and Tax Lots:
161226B000101
161226B000700
161226B000800

Situs Addresses:
No Situs Address
64994 Deschutes Market Road, Bend, OR 97701
64975 Deschutes Pleasant Road, Bend, OR 97701

REQUEST: The Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the Subject Properties from Agricultural (AG) to Rural Industrial (RI) and a corresponding Zone Change to rezone the properties from Exclusive Farm Use (EFU-TRB) to Rural Industrial (RI).

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF RECOMMENDATION: The Hearings Officer finds that the record is not sufficient to support the requested Comprehensive Plan Amendment and Zone Change, specifically with respect to the requirements of Statewide Planning Goal 5. The Hearings Officer therefore recommends the Deschutes County Board of Commissioners DENY the Application unless the Applicant demonstrates the requested Comprehensive Plan Amendment and Zone Change are consistent with Statewide Planning Goal 5.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.16, Exclusive Farm Use Zones (EFU)
Chapter 18.84, Landscape Management Combining Zone (LM)
Chapter 18.100, Rural Industrial Zone
Chapter 18.136, Amendments
Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan
Chapter 2, Resource Management
Chapter 3, Rural Growth Management
Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR) - Chapter 660
Division 12, Transportation Planning
Division 15, Statewide Planning Goals
Division 33, Agricultural Land

Oregon Revised Statutes (ORS)
Chapter 215.010, Definitions
Chapter 215.211, Agricultural Land, Detailed Soils Assessment

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

This matter comes before the Hearings Officer as a request for approval of a Comprehensive Plan Map Amendment (“Plan Amendment”) to change the designation of the Subject Properties from Agricultural (AG) to Rural Industrial (RI). The Applicant also requests approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Properties from Exclusive Farm Use (EFU-TRB) to Rural Industrial (RI). The basis of the request in the Application is the Applicant’s assertion that the Subject Properties do not qualify as “agricultural land” under the applicable provisions of the Oregon Revised Statutes or Oregon Administrative Rules governing agricultural land. Based on that assertion, the Applicants are not seeking an exception to Statewide Planning Goal 3 for the Plan Amendment or Zone Change.

B. Notices, Hearing, Record Materials

The Application was filed on July 13, 2022. Following notice from the Deschutes County Planning Division (“Staff”) that the Application was incomplete, the Applicant provided responses to the incomplete letter on November 14, 2022, and confirmed no further information or materials would be provided. Staff therefore deemed the Application to be complete as of that date.

On January 26, 2023, after the Application was deemed complete, Staff mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Properties (“Hearing Notice”). The Hearing Notice was also published in the Bend Bulletin on Sunday, January 29, 2023. Notice of the Hearing was also submitted to the Department of Land Conservation and Development (“DLCDD”).

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on March 21, 2023, opening the Hearing at 6:00 p.m. The Hearing was held in person and via videoconference, with the Hearings Officer appearing remotely. At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I invited but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

The Hearing concluded at approximately 8:17 p.m. Prior to the conclusion of the Hearing, I announced that the written record would remain open as follows: (1) any participant could submit additional materials until April 4, 2023 (“Open Record Period”); (2) any participant could submit rebuttal materials (evidence or argument) until April 11, 2023 (“Rebuttal Period”); and (3) the Applicant could submit a final legal argument, but no additional evidence, until April 18, 2023. Staff provided further instruction to participants, noting that all post-Hearing submittals needed to be received by the County by 4:00 p.m. on the applicable due date. No participant objected to the post-hearing procedures.

A representative for the Applicant submitted a document on April 18, 2023, the due date for the Applicant’s final legal argument. That document responds to some of the arguments previously raised by other participants. However, it also includes statements and attachments that were not previously in the record. Because the Applicant’s final legal argument should have included only argument and no new evidence, I have not considered any of the evidentiary materials in that submittal that were not already in the record.¹

C. Review Period

Because the Application includes a request for the Plan Amendment, the 150-day review period set forth in ORS 215.427(1) is not applicable.² The Staff Report also concludes that the 150-day review period is not applicable by virtue of Deschutes County Code (“DCC” or “Code”) 22.20.040(D). No participant to the proceeding disputes that conclusion.

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¹ Specifically, this submittal includes: (1) a letter, dated November 29, 2015, relating to County file 247-14-000456; (2) excerpts from a soil study relating to County file PA-11-7; and (3) testimony from the Applicant regarding its attempt to offer the Subject Properties to others for agricultural use.

² ORS 215.427(7).

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Staff Report

On March 7, 2023, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time (“Staff Report”).³

The Staff Report, although it expresses agreement with the Applicant in many places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicant has met the burden of proof necessary to justify the Plan Amendment and the Zone Change. Other participants objected to the Application, but did so primarily based on legal arguments and through the submittal of additional evidence that supported those legal arguments, rather than dispute the evidence provided by the Applicant and summarized in the Staff Report. As a result, much of the evidence provided by the Applicant and summarized in the Staff Report remains unrefuted.

B. Findings

The legal criteria applicable to the requested Plan Amendment and Zone Change were set forth in the Hearing Notice and also appear in the Staff Report. No participant to this proceeding asserted that those criteria do not apply, or that other criteria are applicable. This Recommendation therefore addresses each of those criteria, as set forth below.

1. Exceptions to Statewide Planning Goals

Pursuant to ORS 197.175(2), if the County amends its Comprehensive Plan (“DCCP” or “Plan”), it must do so in compliance with Statewide Planning Goals (each a “Goal” and, together, the “Goals”). Because the Plan has been acknowledged, the Plan Amendment must adhere to the procedures for a post-acknowledged plan amendment (“PAPA”) set forth in state statutes and rules. The fundamental disputes raised in this proceeding relate to whether the Application satisfies the requirement for a PAPA and, more specifically, whether the Applicant is required to take an exception to Goal 3, Goal 5, and Goal 14. The disposition of those issues is relevant to the Applicant’s ability to show compliance with the other criteria applicable to the Plan Amendment and Zone Change. These findings will therefore address those issues first.⁴

³ Other than the evidence provided by the Applicant, much of the evidence in the record was submitted after the date of the Staff Report.

⁴ COLW, during the Hearing, also stated that the Application requires an exception to Goal 6 and Goal 11. I find that neither of those arguments were presented with enough detail that allows me to address them in this Recommendation. With respect to Goal 6, COLW appears to be arguing that the Applicant cannot satisfy Goal 6 without identifying the specific uses that will be developed on the Subject Properties. However, COLW does not address the Application materials, which describe compliance with Goal 6 through the County’s acknowledged regulations in DCC Chapter 18.100. Based on the materials in the record, I find that Goal 6 is satisfied and does not require an exception. With respect to

Goal 3 – Agricultural Lands

Goal 3 and its implementing rules protect agricultural lands for farm use.⁵ The Applicant’s proposed Plan Amendment and Zone Change is premised on its assertion that the Subject Properties do not qualify as “Agricultural Land” under Goal 3 and its implementing rules and, therefore, do not require protection under Goal 3. Other participants in this proceeding – namely 1000 Friends of Oregon (“1000 Friends”) and Central Oregon Land Watch (“COLW”) – assert that the Subject Properties do qualify as “Agricultural Land” and, as a result, that the Plan Amendment requires the Applicant to seek an exception to Goal 3.

All participants addressing this issue rely on the language in OAR 660-033-0020(1) that defines “Agricultural Land” as follows:

(a) "Agricultural Land" as defined in Goal 3 includes:

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;*
- (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and*
- (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.*

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

The NRCS designation for the Subject Properties indicates they are predominantly Class I through Class VI soils. Under OAR 660-033-0020(1)(a)(A), the Subject Properties would therefore qualify as Goal 3 agricultural land. Notwithstanding that designation, the Applicant relies on an Agricultural Soils Capability Assessment (an “Order 1 soil survey”) for the Subject Properties. The expert conclusion in the Applicant’s Order 1 soil survey is that the Subject Properties consist predominantly of Class VII and

Goal 11, COLW provided no additional detail other than the bare statement that an exception is required. Again, COLW does not refute the information in the Application addressing this Goal, and I find that, based on that information, Goal 11 is satisfied and does not require an exception.

⁵ See, e.g., OAR 660-033-0010.

Class VIII soils that are unsuitable for farm use and, therefore, do not qualify as agricultural land under Goal 3.

1000 Friends and COLW do not dispute any of the facts or conclusions regarding the soil conditions set forth in the Order 1 soil survey. Rather, they each argue that the NRCS designation is conclusive under the Goal 3 implementing rules as a matter of law. COLW specifically argues the “Hearings Officer cannot rely on information other than the predominant NRCS land capability classification to determine whether the subject property meets LCDC’s special definition of ‘agricultural land.’”

The legal argument 1000 Friends and COLW present – that only the NRCS designation can be relied on – is contrary to other state statutes and administrative rules addressing this issue. As the Land Use Board of Appeals (“LUBA”) recently explained, “ORS 215.211 allows a site-specific analysis of soils where a person believes that such information would, compared to the information provided by the NRCS, assist a county in determining whether land is agricultural land.”⁶ In that case, which is remarkably similar to the present case, the applicant sought a PAPA to change a property’s Plan designation from AG to RI with a corresponding zone change from EFU-TRB to RI. The applicant in that case also relied on a site-specific Order 1 soil survey prepared by a qualified soil scientist. LUBA upheld the County’s reliance on that soil survey as part of its determination that the property at issue in that case consisted predominantly of Class VII and Class VIII soils unsuitable for farming.

Based on the language in ORS 215.211 and LUBA’s acknowledgment of that statute, I find that the County is not precluded from considering the Order 1 soil survey when applying OAR 660-033-0020(1)(a)(A), as long as doing so is consistent with OAR 660-033-0030(5), which implements ORS 215.211.

I again note that, because the participants raising this issue argued that the Hearings Officer must rely only on the NRCS classification, no participant disputed the information or conclusions in the Order 1 soil survey, nor did they dispute whether the survey complies with OAR 660-033-0030(5). Even so, I find that the record shows the Applicant’s Order 1 soil survey does comply with that administrative rule, as explained in the following findings.

OAR 660-033-0030(5)(a) requires that the alternative to the NRCS include more detailed data on soil capability and be “related to the NRCS land capability classification system.” Information provided by the Applicant’s soil scientist states that the NRCS classification for the Subject Property was completed at a very broad scale and based on high altitude photography, whereas the Order 1 soil survey has more detailed data based on onsite field research. Further, the soil scientist states that the Order 1 soil survey uses the same NRCS classification system, but applies more precise mapping of soil map units with better distribution and quantification of each unit.

OAR 660-033-0030(5)(b) requires the person seeking to use the alternative soil survey to request DLCD “to arrange for an assessment of the capability of the land by a professional soil classifier who is chosen

⁶ *Central Oregon Land Watch v. Deschutes County*, ___ Or LUBA ___ (LUBA No. 2023-008, April 24, 2023) (“LUBA No. 2023-008”).

by the person, using the process described in OAR 660-033-0045.” The Applicant asserts this requirement is met through its coordination with DLCD, and the record includes a letter from DLCD indicating the Order 1 soil survey is consistent with the agency’s reporting requirements.

The remaining portions of this rule are procedural in nature and there is no dispute among the participants whether these procedures apply to the Application or whether the Applicant followed those procedures.

Based on the foregoing, and considering the more detailed evidence provided by the Applicant’s soil scientist against the NRCS designation of the Subject Properties, I find that that the Subject Properties do not qualify as agricultural land under Goal 3 as defined in OAR 660-033-0020(1)(a)(A). That does not end the inquiry, however, as 1000 Friends and COLW each argue that the Subject Properties qualify as agricultural land under the other sections of OAR 660-033-0020(1)(a).

Turning to OAR 660-033-0020(1)(a)(B), the Subject Properties may qualify for Goal 3 protections if they are “suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices.”

1000 Friends argues that the Subject Properties are currently in farm tax deferral status, have water rights, and contain certain farm structures such as a goat barn and farm implement garage. COLW provides an exhaustive list of various farm commodities that occur throughout the County and, like 1000 Friends, asserts that the Applicant has not demonstrated that the Subject Properties cannot be used for some of those purposes.

The Applicant provides an exhaustive history of the site and its relationship to various farm activities. According to that history, the chain of owners for the Subject Property since 1941 has mostly consisted of retirees who were not engaged in farming. Prior to that time, there were apparently limited farming activities on the site at a time when the Subject Properties were part of larger holdings that also had farm uses. While the Subject Property does have some historical water rights, the Applicant notes that not all of those rights have been developed. Other structures were apparently used for small-scale hobby farming activities rather than for profitable farm uses. More recent uses of the site, however, included use as a roadside attraction called the “Funny Farm” which, according to the Applicant, at one point had a “hot dog eating goat.”

Testimony opposing the Application describing how the property could be used, and the Applicant’s testimony describing how the property has been used, do not resolve this issue. Instead, OAR 660-033-0020(1)(a)(B) requires an assessment of whether the Subject Properties are “suitable for farm use as defined in ORS 215.203(2)(a)” based on the various factors set forth in this rule. To that end, only the Applicant has fully addressed those factors.

With respect to soil fertility and cattle grazing, the Applicant relies on the Order 1 soil survey to demonstrate that the soils are not fertile and that the property is unsuitable for grazing. The Applicant notes that this also makes it difficult to provide food for other non-grazing animals. With respect to

climatic conditions, the Applicant notes the limited growing season, cold temperatures, and current drought conditions also hamper farm activities. While some water for farm irrigation purposes is available, the Applicant notes that irrigating the soils on the Subject Property is not warranted in light of their low classification. The Applicant also asserts that existing land use patterns in the area are not conducive to agriculture, for example because the Subject Properties are surrounded by non-farm uses and disrupted by the transportation system.

Overall, the Applicant asserts that the technological and energy inputs required to conduct farm uses are too great, which the Applicant believes is a major reason the Subject Properties have not historically been farmed.

ORS 215.203(2)(a) defines “farm use” in part as “the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.”

Considering the factors set forth in OAR 660-033-0020(1)(a)(B), I find that it is more likely than not that the Subject Properties are not suitable for farm use as defined in ORS 215.203(2)(a). While it may be possible to conduct some farm activities on the site, that is not the same as employing the land for the primary purpose of obtaining a profit in money from those activities. The low productive soils serve as an initial limit on any profitable farm activities. As the Applicant’s soil scientist notes, even irrigating the soils found on site does not improve their quality for farm uses. The Subject Properties are relatively small, irregularly-shaped, and bisected by a rocky outcropping, compounding the difficulties associated with the soil conditions. The portion of the site with the best soils is even smaller and not large enough to support meaningful farming activities. Further, while historical use of the site is not determinative of its current suitability, it is notable that the majority of the farming activities taking place on the site occurred at a time when the Subject Properties were part of a larger tract, or were part of a residential use.

Finally, under OAR 660-033-0020(1)(a)(C), the Subject Properties may still be considered agricultural land if they include land “that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.”

1000 Friends asserts that the presence of a Central Oregon Irrigation District (“COID”) canal on the Subject Properties, which is used to convey irrigation water to other farms, demonstrates the Subject Properties qualify as agricultural land under this rule. That argument, however, is difficult to follow because it is based on the assertion that the Applicant “must address the proposed rezone’s potential impact on agricultural uses in the surrounding area based on the presence of the COID irrigation canals on and abutting the property.” This rule does not appear to impose any sort of “impacts test,” and the question is whether the Subject Properties, not a canal on the property owned by a third party, are necessary to permit farm practices on adjacent and nearby lands. In contrast, the Applicant notes that very few farm practices occur on adjacent and nearby lands, even on nearby lands that currently have a farm use designation. The Applicant was unable to identify any land that relies on the Surrounding

Properties for their farm practices. In the absence of any evidence to the contrary, I find that the Applicant has met its burden of addressing that rule provision.

Based on the foregoing, I find that the Applicant has met its burden of demonstrating the Subject Properties do not qualify as agricultural lands under Goal 3 and, as a result, an exception to Goal 3 is not required.

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

Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a PAPA “unless the PAPA affects a Goal 5 resource.” One scenario in which a PAPA may affect a Goal 5 resource is when the “PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list.”⁷

COLW argues that the Plan Amendment and Zone Change is in direct conflict with a Goal 5 resource and, therefore, requires compliance with Goal 5. The Goal 5 resource COLW refers to is the County’s designation of a scenic corridor along Highway 97 between Bend and Redmond as a scenic resource.

The County regulates conflicting uses with the Highway 97 scenic resource through the application of the Landscape Management Combining Zone (“LM Zone”), which the County applies to the area that is within one-quarter mile of the highway. The Subject Properties fall within the area subject to that zone.

The Applicant does not fully respond to COLW’s Goal 5 argument. Instead, the Applicant asserts that there is no need to apply Goal 5 in light of the County’s acknowledged Plan, which contains the LM Zone. According to the Applicant, to the extent there are any conflicts with the scenic resource, those will be resolved at the time when specific development occurs and the County requires site plan approval for any structures within the LM Zone. The Applicant specifically states that “[t]he zone change and plan amendment do not trigger this provision.”

The Applicant’s argument appears consistent with prior County decisions. However, LUBA No. 2023-008 is again instructive, and it rejects the Applicant’s approach to Goal 5. In that case, LUBA explained that its prior decisions require a local jurisdiction “to apply Goal 5 if the PAPA allows a new use that could conflict with Goal 5 resources.” LUBA then directly addressed the situation presented in this case and analyzed “whether the new RI zoning allows uses on the subject property that were not allowed under the previous EFU zoning and whether those uses could conflict with protected Goal 5 resources.”

LUBA’s decision acknowledged that the County previously conducted the appropriate Goal 5 analysis for other RI-zoned properties and applied the LM Zone to protect the Highway 97 scenic resource from conflicting uses on those properties. However, LUBA determined that, in the absence of evidence showing the prior Goal 5 analysis considered impacts from RI-type development on all properties, that analysis did not consider whether RI uses on farm-zoned property affected a Goal 5 resource. Indeed, LUBA concluded

⁷ OAR 660-023-0250(3)(b).

that “the county could not have, in its [prior Goal 5 analysis], evaluated whether development of those new uses on the subject property would excessively interfere with the protected scenic resource because those uses were not allowed on the property” at that time. Because the County’s decision in that case allowed “new uses that could conflict with inventoried Goal 5 resources,” LUBA concluded the County was required to address Goal 5 and, specifically, to comply with OAR 660-023-0250(3).

Based on that LUBA decision, I find that the Applicant’s argument that Goal 5 is not applicable is incorrect. The Plan Amendment and Zone Change would allow new uses on the Subject Property that could conflict with a protected Goal 5 resource. It may be possible for the Applicant to show that the County’s prior Goal 5 analysis considered such development on the Subject Properties, or, if not, the Applicant may be able to demonstrate that the new uses allowed on the Subject Properties do not significantly affect a Goal 5 resource. However, I find that the current record does not allow me to address either option. I therefore find that I cannot recommend approval of the Application on this basis and the Applicant must address this issue further before the Application is approved.

Goal 14 – Urbanization

Goal 14 and its implementing rules “provide for an orderly and efficient transition from rural to urban land use.” *See* OAR 660-015-0000(14).

COLW asserts that the Application violates Goal 14. COLW’s specific argument is that the designation of the Subject Properties to the RI zone would constitute urbanization of the Subject Properties. COLW asserts that the County must further analyze the Application and either make a determination that the Plan Amendment “does not offend the goal because it does not in fact convert rural land to urban uses, or it may comply with the goal by obtaining acknowledgment of an urban growth boundary based upon considering [sic] of factors specified in the goal, or it may justify an exception to the goal.”

The heart of this issue is whether the RI zone actually authorizes urban uses. COLW argues that this can be determined only by the application of a “*Shaffer* analysis.” The *Shaffer* analysis is a reference to *Shaffer v. Jackson County*, 17 Or LUBA 922 (1989), in which LUBA concluded that the determination of whether a use is urban or rural must be made on a case-by-case basis, considering factors discussed in that case (e.g. workforce size, dependency on resources, public facility requirements).

The flaw in COLW’s argument is that the County has already determined that all uses in the RI Zone are rural in nature. That decision was upheld on review by LUBA and the Court of Appeals. *See Central Oregon Landwatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2022-075, Dec. 6, 2002); *aff’d* 324 Or App 655 (2023). In that case, LUBA concluded in part:

the county correctly determined that the policies and provisions of the DCCP and DCC that apply to the RI zone are independently sufficient to demonstrate that PAPAs that apply the RI plan designation and zone to rural land are consistent with Goal 14 and that uses and development permitted pursuant to those acknowledged provisions constitute rural uses, do not constitute urban uses, and maintain the land as rural land.

LUBA addressed the same issue in LUBA No. 2023-008. In that case, LUBA reiterated its holding and rationale in an earlier case, again concluding “that the county was entitled to rely on its acknowledged RI zone to ensure compliance with Goal 14.

The two prior LUBA cases, one of which has already been affirmed by the Court of Appeals, are clear. The County’s RI zone complies with Goal 14. For that reason, I find that the Applicant has demonstrated the Application does not propose urban uses and Goal 14 is satisfied without the need to take an exception to that Goal.

2. Title 18 of the Deschutes County Code, County Zoning

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.

The owner of the Subject Properties has requested a quasi-judicial Plan Amendment and filed an application for that purpose, together with an application for the requested Zone Change. No participant to this proceeding objects to this process. I find it appropriate to review the Application using 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.*

According to the Applicant, this Code provision requires a consideration of the public interest based on whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan’s introduction statement and goals. No participant to this proceeding disputes that interpretation. I also find that this is the appropriate method for applying this Code provision.

With respect to the first factor, the Applicant asserts the Application conforms to the Comprehensive Plan because it conforms to the procedural components of the Comprehensive Plan, re-designates the Subject Properties to a designation allowed by the Comprehensive Plan, does not result in the loss of resource land, and is compatible with the surrounding land uses and character of the land in the vicinity of the Subject Properties. With the exception of the assertion that no loss of resource land will result – addressed in more detail above relating to Goal 3 – no participant in this proceeding objects to the Applicant’s assertions in this regard.

With respect to the second factor, the Applicant notes that introductory statements and goals in the Comprehensive Plan are not approval criteria, and no participant to this proceeding asserts otherwise. Additionally, the Applicant identifies several Comprehensive Plan policies and goals, and then analyzes whether the Application is consistent with those policies and goals. The Applicant specifically points to some of the policies and goals in Chapter 3, Rural Growth Management, of the Comprehensive Plan. The Applicant states that the Application is consistent with those policies and goals, largely based on their reference to “Deschutes Junction”, which is the area encompassing the Subject Properties, and the historic non-resource use of that area. While some participants to this proceeding dispute the extent to which the Plan Amendment and Zone Change would “urbanize” the Subject Properties, there does not appear to be any dispute about the historical non-resource use of the Deschutes Junction area or whether the Plan Amendment and Zone Change are consistent with the goals and policies the Applicant identifies.

As explained in more detail in earlier findings, the contested issues in this proceeding address whether the Application satisfies the standards for a Plan Amendment as required by state law (e.g. whether the request requires an exception to Statewide Planning Goals 3, 5, and 14). The arguments raised in support of those contested issues do mention some policies in the County’s current Plan. However, those policies are relied on as the basis for arguing that certain exceptions are required to the Goals, and they are not presented in support of any specific argument that the Application violates Plan policies. Even so, for the same reason that the Application is consistent with the Goals (other than Goal 5), I find that the Application conforms to the Plan. Additional findings addressing Plan goals and policies are set forth later in this Recommendation.

However, because the Plan also contains goals and policies implementing Goal 5, which I have concluded has not been satisfied, I cannot conclude that the Zone Change conforms to all Plan policies, particularly those that implement Goal 5, discussed below. I therefore find that this Code provision is not satisfied unless and until the Applicant demonstrates compliance with that Goal.

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

Only the Applicant and Staff offer any evidence or argument with respect to whether the Zone Change is consistent with the purpose and intent of the RI zoning district. Unlike almost every other zoning district, DCC 18.100, which governs uses in the RI zoning district, does not contain a purpose statement. The RI zoning district, appears to implement the Rural Industrial plan designation in the Comprehensive Plan, and Section 3.4 of the Comprehensive Plan provides the following:

The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less

intensive than those allowed in unincorporated communities as defined in OAR 660-022.

As the Staff Report notes, the Subject Properties are not within existing Rural Industrial exception areas, but they are located outside unincorporated communities and urban growth boundaries. This Code section is therefore satisfied only if the Application “satisfies the requirements for a Comprehensive Plan designation change set forth by State Statute, Oregon Administrative Rules, the DCCP and the Deschutes County Development Code.”

This recommendation determines that the Application satisfies the requirements for a Plan designation change, except as it relates to Goal 5. I therefore find that this Code provision is not satisfied unless and until the Applicant demonstrates compliance with that Goal.

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.

Only the Applicant addresses this Code provision, and the Applicant provided the following as support for why this criterion is met:

- The Applicant has received “will serve” letters from applicable service providers.
- Public facilities and services are available to serve future industrial development.
- On-site wastewater and sewage and disposal systems can be developed to meet specific user needs.
- The proposal satisfies the Transportation Planning Rule.

The Staff Report asks the Hearings Officer to determine the scope of public services and facilities that must be reviewed as part of this Code provision. However, such a determination is likely to change on a case-by-case basis, informed in part by the zoning designation being requested. As it applies to this case, the Applicant has identified fire, police, electric power, domestic water, wastewater, and transportation as being relevant. No participant has disputed the necessity of those services or identified other services that are necessary. Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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

The Applicant states that the Applicant’s proposal is consistent with all applicable Plan goals and policies. In support of that statement, the Applicant refers to its discussion of those goals and policies as they relate to DCC 18.136.020(A). The only discussion of those goals and policies by other participants relates to their arguments that certain statewide Goals have not been satisfied. Those arguments are addressed above. Although I conclude the Application is consistent with most Plan goals and policies, for the same reasons I concluded DCC 18.136.020(A) is not satisfied, I conclude that this Code provision is not satisfied; the current record does not demonstrate that impacts on surrounding land uses will be consistent with some of the Plan’s goals and policies implementing Goal 5.

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.

Only the Applicant offers any evidence or argument with respect to this Code provision. According to the Applicant, the original zoning of the Subject Properties did not take into account several factors, including the low agricultural capability of the site. Further, conditions have changed over time, especially with respect to the transportation system in the area and the development of other non-resource uses. No other participant addresses this Code provision or otherwise disputes the Applicant's characterization of the change in circumstances.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

3. Deschutes County Comprehensive Plan Goals and Policies

The Applicant and the Staff Report identified several Plan goals and policies that may be relevant to the Application.⁸

Chapter 2, Resource Management

Chapter 2 of the Plan relates to Resource Management. Section 2.2 of that Chapter relates specifically to Agricultural Lands.

Goal 1, Preserve and maintain agricultural lands and the agricultural industry.

According to the Applicant, it is pursuing the Plan Amendment and Zone Change because the Subject Properties do not constitute "agricultural lands", and therefore, it is not necessary to preserve or maintain the Subject Properties as such. In support of that conclusion, the Applicant relies primarily on a soils report showing the Subject Properties consist predominantly of Class VII and Class VIII non-agricultural soils. Such soils have severe limitations for agricultural use as well as low soil fertility, shallow and very shallow soils, abundant rock outcrops, low available water capacity, and major management limitations for livestock grazing.

Other comments in the record assert that the Subject Properties qualify as agricultural land because of their NRCS classification, or because they satisfy other definitions of "agricultural land" in OAR 660-030-0020(1). Those arguments are addressed in earlier findings, which conclude the Subject Properties are not agricultural land.

⁸ The Applicant and Staff Report note that earlier County decisions have concluded that many Plan goals and policies are directed at the County rather than at an Applicant in a quasi-judicial proceeding. I generally agree with respect to Plan goals, which provide the context for Plan policies. Plan goals are therefore listed in this section to better explain the Plan policies that are being applied and considered. However, some of the findings below do address the goal language specifically. Where the goal language is not discussed, I have deemed that goal to not apply directly to a quasi-judicial application.

With respect to the agricultural industry, the Applicant provides an analysis of surrounding land uses and notes that the surrounding area contains mostly non-agricultural uses. Some opposing comments in the record can be construed as asserting that the conversion of this land to an industrial use has a larger impact on the agricultural industry. However, those comments presume that the Subject Properties are agricultural land. Not only are the Subject Properties not agricultural land, the Applicant has demonstrated that no other farm parcels rely on this parcel.

Based on the foregoing, I find that the Application is consistent with this Plan goal.

Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

The Applicant has not asked to amend the EFU subzone that applies to the Subject Properties. Instead, the Applicant requests a change under Plan Policy 2.2.3 and has provided evidence to support rezoning the Subject Properties to the RI zone.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

The Applicant requests approval of the Plan Amendment and Zone Change to re-designate the Subject Properties from Agricultural to Rural Industrial and to rezone the Subject Properties from EFU to RI. The Applicant does not seek an exception to Goal 3 for that purpose, but rather seeks to demonstrate that the Subject Properties do not meet the state definition of “Agricultural Land” as defined in Goal 3 and its implementing rules.

The Staff Report notes that the County has previously relied on LUBA’s decision in *Wetherell v. Douglas County*, 52 Or LUBA 677 (2006), where LUBA states as follows:

As we explained in *DLCD v. Klamath County*, 16 Or LUBA 817, 820 (1988), there are two ways a county can justify a decision to allow nonresource use of land previously designated and zoned for farm use or forest uses. One is to take an exception to Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). The other is to adopt findings which demonstrate the land does not qualify either as forest lands or agricultural lands under the statewide planning goals. When a county pursues the latter option, it must demonstrate that despite the prior resource plan and zoning designation, neither Goal 3 or Goal 4 applies to the property.

The facts presented in the Application are similar to those in the *Wetherall* decision and in other Deschutes County plan amendment and zone change applications. Under this reasoning, the Applicant

has the potential to prove the Subject Properties are not agricultural land, in which case an exception to Goal 3 under state law is not required.

Notwithstanding the foregoing, Policy 2.2.3 is satisfied only if the Plan Amendment is consistent with state law. As discussed in previous findings, I have concluded that the Applicant has not demonstrated compliance with Goal 5, which is a necessary requirement of the Plan Amendment. The Application is therefore not consistent with this portion of the Plan unless and until the Applicant demonstrates compliance with Goal 5.

Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

The Applicant assert this plan policy is not an approval criterion and, instead, provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations and that the Application is consistent with this policy. The Applicant also notes that prior County decisions interpreting this policy have concluded that any failure on the County's part to adopt Plan policies and Code provisions describing the circumstances under which EFU-zoned land may be converted to a non-resource designation does not preclude the County from considering requests for quasi-judicial plan amendments and zone changes.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan as described by the Applicant.

Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.

Policy 2.2.13 Identify and retain accurately designated agricultural lands.

This Plan policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicant proposes that the Subject Properties were not accurately designated, as discussed in more detail in the findings above. While some participants have argued that the Subject Properties should retain an agricultural designation, no participant has expressly asserted that the Application is inconsistent with this Plan policy.

Based on the earlier findings that the Subject Properties are not agricultural land, I find that the Application is consistent with Policy 2.2.13.

* * *

Section 2.5 of Plan Chapter 2 relates specifically to Water Resource Policies. The Applicant has identified the following goal and policy in that section as relevant to the Application.

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 Applicant asserts that the Applicant is not required to address water impacts associated with development because no specific development application is proposed at this time. Instead, the Applicant will be required to address this criterion during development of the Subject Properties, which would be reviewed under any necessary land use process for the site.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with Policy 2.5.24.

* * *

Section 2.7 of Plan Chapter 2 relates specifically to Open Spaces, Scenic Views and Sites and is the County's implementation of Goal 5. Among the specific policies in this Section are:

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

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.

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

The initial Application did not address these policies, but the Applicant did provide supplemental information and argument in response to a comment from Staff.

The Applicant assert that these policies are met because the Subject Properties are not visually prominent and are relatively hidden by and lower than Highway 97 and other transportation facilities. The Applicant notes that a 100-foot setback and 30-foot height limit will ensure that any new structures will be sensitive to the LM zone.

COLW, although it did not address these policies directly, argues that the Plan Amendment is not consistent with Goal 5 because it allows new uses that may conflict with a Goal 5 resource – the scenic corridor along Highway 97. I find that these issues are related and, therefore, consider COLW's argument applicable to these policies.

The Applicant responds to that argument by relying on the County's application of the LM zone as the protection for that resource. The findings above, however, conclude that the current record is not sufficient to demonstrate compliance with Goal 5.

Only the Applicant addresses whether the Application will allow development that is "sensitive to" scenic resources. Based on the Applicant's unrefuted evidence and argument, I find that the Application is consistent with Policy 2.7.5.

However, I do not arrive at the same conclusion for Policy 2.7.3. For the same reasons set forth in the earlier findings relating to Goal 5, I find that the Application is not consistent with policy 2.7.3. The policy

requires the County to support efforts to identify and protect scenic resources. The County has identified the scenic corridor along Highway 97 as a scenic resource. That resource is protected through the County's application of the LM zone. That protection, however, was put into place in the context of the Subject Properties being zoned for farm use rather than industrial uses. The Applicant must demonstrate that the County can continue to protect that inventoried resource with the Plan Amendment. It is not clear from the record if the LM Zone protects the resource with the Plan Amendment.

* * *

Chapter 3 of the Plan relates to Rural Growth. Within that chapter, Section 3.4 relates specifically to Rural Industrial uses. The Applicant and Staff have identified the following language in that section as relevant to the Application.

In Deschutes County some properties are zoned Rural Commercial and Rural Industrial. The initial applications for the zoning designations recognize uses that predated State land use laws. However, it may be in the best interest of the County to provide opportunities for the establishment of new Rural Industrial and Rural Commercial properties when they are appropriate and regulations are met. Requests to re-designate property as Rural Commercial or Rural Industrial will be reviewed on a property-specific basis in accordance with state and local regulations.

...

Rural Industrial

The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.

The language in this portion of the Plan is addressed in findings above relating to DCC Section 18.136.020(B). Those findings are incorporated here by this reference.⁹

* * *

Section 3.4 of Plan Chapter 3 relates to the County's goals for its rural economy.

⁹ The Staff Report also identifies Policy 3.4.36 as applicable. That policy simply states that properties for which it can be demonstrated Goal 3 does not apply may be considered for the RI designation under the Plan. Because I have concluded that the Subject Properties are not agricultural land and do not qualify for Goal 3 protections, the Application is consistent with that policy and the County can consider applying the RI designation.

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

Policy 3.4.1 Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and natural environment.

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

...

Policy 3.4.3 Support a regional approach to economic development in concert with Economic Development for Central Oregon or similar organizations.

Addressing these policies, the Applicant asserts that the rural industrial designation will maintain a stable and sustainable rural economy that is compatible with a rural lifestyle. In support of that argument, the Applicant notes the potential number of jobs that can occur on the Subject Properties, some of which can be held by rural residents. No participant refutes the Applicant's evidence or argument in this regard.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with these policies.

Lands Designated and Zoned Rural Industrial

...

Policy 3.4.23 To assure that urban uses are not permitted on rural industrial lands, land use regulations in the Rural Industrial zones shall ensure that the uses allowed are less intensive than those allowed for unincorporated communities in OAR 660-22 or any successor.

Whether the Plan Amendment and Zone Change would allow urban uses is the same issue raised in COLW's arguments that an exception to Goal 14 is required. Those arguments are addressed in more detail in the findings above relating to Goal 14. Those findings are incorporated here and, based on those findings, I find the Application is consistent with this Plan policy.

Policy 3.4.27 Land use regulations shall ensure that new uses authorized within the Rural Industrial sites do not adversely affect agricultural and forest uses in the surrounding area.

The Applicant asserts that there are no forest uses in the surrounding area, and that assertion is unchallenged by any participant.

The Applicant addresses the agricultural component of this Plan policy by asserting that the Plan Amendment and Zone Change do not have an adverse effect on agricultural uses in the surrounding area. The Applicant notes there is one hobby farm nearby, and a nearby parcel with apple trees. The Applicant consulted with the owners of both properties, each of which indicated the Applicant's proposal will not

adversely affect them. The Applicant states it has also done an exhaustive inventory of uses within half mile of the site and found no conflict with any agricultural uses. No participant to this proceeding asserts this policy is not met or otherwise refutes the evidence the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this Plan policy.

Policy 3.4.28 New industrial uses shall be limited in size to a maximum floor area of 7,500 square feet per use within a building, except for the primary processing of raw materials produced in rural areas, for which there is no floor area per use limitation.

Policy 3.4.31 Residential and industrial uses shall be served by DEQ approved on-site sewage disposal systems.

Policy 3.4.32 Residential and industrial uses shall be served by on-site wells or public water systems.

The Applicant asserts that these policies are codified in Chapter 18.100 governing the RI Zone and are implemented through those provisions. The Applicant also notes that the current residential and future industrial uses are already being served by and will be served by a public water system. No participant to this proceeding asserts this policy is not met or otherwise refutes the evidence the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with these policies.

* * *

Section 3.5 of Plan Chapter 3 relates to natural hazards. Goal 1 of that section is to “protect people, property, infrastructure, the economy and the environment from natural hazards.” Addressing this Plan goal, the Applicant notes that there are no mapped flood or volcano hazards on the Subject Properties and that there is no evidence of increased risk from hazards from wildfire, earthquake, or winter storm risks. No participant to this proceeding asserts this goal is not met or otherwise refutes the evidence or argument the Applicant relies on.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

* * *

Section 3.7 of Comprehensive Plan Chapter 3 relates specifically to Transportation. The Applicants and Staff have identified the following goal and policy in that section as relevant to the Application.

*Appendix C – Transportation System Plan
ARTERIAL AND COLLECTOR ROAD PLAN*

...

Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

Policy 4.1 Deschutes County shall:

- a. Consider the road network to be the most important and valuable component of the transportation system; and*
- b. Consider the preservation and maintenance and repair of the County road network to be vital to the continued and future utility of the County's transportation system.*

...

Policy 4.3 Deschutes County shall make transportation decisions with consideration of land use impacts, including but not limited to, adjacent land use patterns, both existing and planned, and their designated uses and densities.

Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

The Applicant asserts that the Application is consistent with these policies. In support of that assertion, the Applicant relies on a Transportation Impact Analysis (“TIA”) prepared by a transportation engineer. The County’s Senior Transportation Planner reviewed the TIA, which the Applicant notes constitutes the County’s consideration of land use impacts and roadway function, classification, and capacity. No participant to this proceeding asserts these goals and policies are not met or otherwise refutes the evidence or argument the Applicant relies on.¹⁰

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

* * *

Section 3.10 of Plan Chapter 3 contains provisions for “Area Specific Policies.”

¹⁰ The Staff Report notes that the County previously denied an application on the Subject Properties based in part on certain traffic impacts. Staff requests the Hearings Officer address whether that prior decision has any bearing on the present Application. I find that it does not. As noted by the County’s Senior Transportation Planner, that decision predates various transportation improvements the County made on Highway 97. The Applicant can rely on the more recent TIA that is based on the transportation system as it currently exists.

Goal 1, Create area specific land use policies and/or regulations when requested by a community and only after an extensive public process.

...

Deschutes Junction

Policy 3.10.5 Maximize protection of the rural character of neighborhoods in the Deschutes Junction area while recognizing the intended development of properties designated for commercial, industrial and agricultural uses.

The Applicant addresses this Plan policy with a detailed description of the history, previous owners, surrounding uses and the transportation system of the Deschutes Junction area. The Applicant asserts that the Plan Amendment and Zone Change is consistent with how the Deschutes Junction area has developed and the rural character of that particular area. No participant to this proceeding asserts these goals and policies are not met or otherwise refutes the evidence or argument the Applicant relies on.¹¹

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Plan.

4. Oregon Administrative Rules

In addition to the administrative rules discussed in the findings above relating to Goal 3, Goal 5, and Goal 14, the Applicant and the Staff Report identify and address several administrative rules as potentially applicable to the Application. No other participant in this proceeding identified other applicable rules.¹²

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¹¹ The Staff Report also identifies Policies 3.10.6 through 3.10.8 as potentially relevant and asks the Hearings Officer to determine either if the policies apply or if they are satisfied. Policy 3.10.6 and 3.10.7 require the County to review impacts to the transportation system. The County has done that through the review of the Applicant's TIA. Policy 3.10.8 requires the County to review other policies and initiate a Deschutes Junction Master Plan. I find that policy to be directed solely to the County and not applicable to a quasi-judicial land use application.

¹² Some administrative rules the Applicants address, or which appear in the Staff Report, have been omitted from this Recommendation where the rule does not expressly impose an approval criterion.

OAR 660-006-0005

- (7) *“Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:*
- (a) *Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and*
 - (b) *Other forested lands that maintain soil, air, water and fish and wildlife resources.*

The Applicant asserts that the Subject Properties do not qualify as forest land and, therefore, the administrative rules relating to forest land are not applicable.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this administrative rule.

OAR 660-033-0030

- (1) *All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.*
- (2) *When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural “lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands”. A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).*
- (3) *Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.*

This Recommendation finds that the Subject Properties do not qualify as agricultural land as defined by administrative rule, and they are not suitable for farming. Based on the foregoing, I find that the administrative rules do not require the Subject Properties to be inventoried as agricultural land. This conclusion, however, does not alter other findings in this Recommendation relating to the process for

redesignating the Subject Properties and the requirement to demonstrate the Plan Amendment is consistent with Goal 5.

OAR 660-012-0060

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

This administrative rule is applicable to the Plan Amendment because it involves an amendment to an acknowledged comprehensive plan. The Applicant asserts that the Plan Amendment will not result in a significant effect to the transportation system. In support of that assertion, the Applicant submitted its TIA (and supplemental information), discussed above. No participant to this proceeding disputed the information in the TIA or otherwise objected to the use of that information. The County Transportation Planner agreed with the TIA's conclusions as supplemented.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application satisfies this administrative rule.

- (2) *If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.*
 - (a) *Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
 - (b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
 - (c) *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
 - (d) *Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*
 - (e) *Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:*
 - (A) *The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;*

(B) *The providers of facilities being improved at other locations provide written statements of approval; and*

(C) *The local jurisdictions where facilities are being improved provide written statements of approval.*

While the Applicant's TIA concludes that the Plan Amendment and Zone Change would not have a significant effect on the transportation system, that analysis appears to be premised on various recommendations. As stated in the TIA:

1. It is recommended that right of way dedications along Pleasant Ridge Road be provided to the County standard as part of any future development application. County standards identify a 60-foot standard for Collectors.
2. The existing driveway onto Pleasant Ridge Road may require relocation to support realignment of Graystone Lane's connection to Pleasant Ridge Road. The need for access relocation should be addressed as part of any future land use application and coordinated with the County's transportation planning and engineering departments. An approved approach permit is required by the County for property access.
3. At the time of future property development transportation system development charges will be applied, based on the specific use, to help fund regional transportation system improvements.

Although these findings conclude that the record as a whole does not support approval of the Application, the County Board may arrive at a different conclusion. If it does, I recommend the Board incorporate the recommendations from the TIA in any final decision.

Statewide Planning Goals and Guidelines

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicant asserts the Application is consistent with all applicable Goals and Guidelines. Except for Goal 3, Goal 5, Goal 6, Goal 11, and Goal 14, which are addressed in more detail in earlier findings, and in the absence of any counter evidence or argument, I adopt the Applicants' position on the remaining Goals and find that the Plan Amendment and Zone Change are consistent with the applicable Goals and Guidelines as follows:

Goal 1, Citizen Involvement. Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the Applicants to post a "proposed land use action sign" on the Subject Properties. Notice of the Hearings held regarding this application was placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the Application.

Goal 2, Land Use Planning. Goals, policies and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the Application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.

Goal 4, Forest Lands. Goal 4 is not applicable because the Subject Properties do not include any lands that are zoned for, or that support, forest uses.

Goal 7, Areas Subject to Natural Disasters and Hazards. here are no mapped flood or volcano hazards on the subject property. Wildfire, earthquake, and winter storm risks are identified in the County’s DCCP. The subject property is not subject to unusual natural hazards nor is there any evidence in the record that the proposal would exacerbate the risk to people, property, infrastructure, the economy, and/or the environment from these hazards on-site or on surrounding lands.

Goal 8, Recreational Needs. The property is not a recreational site. The proposed plan amendment and zone change do not affect recreational needs, and nonspecific development of the property is proposed. Therefore, the proposal does not implicate Goal 8.

Goal 9, Economy of the State. This goal is to provide adequate opportunities throughout the state for a variety of economic activities. The Applicant asserts that the proposed plan amendment and zone change are consistent with this goal because it will provide opportunities for economic development in the county in general, and in the Deschutes Junction area in particular, by allowing the property to be put to a more productive use.

Goal 10, Housing. There are already two houses on site, which can be used, adaptively reused or demolished. The proposed plan amendment and zone change will not affect existing or needed housing and Goal 10 is not applicable.

Goal 12, Transportation. This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.

Goal 13, Energy Conservation. The Applicant's proposal, in and of itself, will have no effect on energy use or conservation since no specific development has been proposed in conjunction with the subject applications. The record shows that providing additional economic opportunities on the subject property may decrease vehicle trips for persons working in the Deschutes Junction area, therefore conserving energy.

Goals 15 through 19. These goals do not apply to land in Central Oregon.

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IV. CONCLUSION

Based on the foregoing findings, I find the Applicant has NOT met the burden of proof with respect to the standards for approving the requested Plan Amendment and Zone Change. I therefore recommend to the County Board of Commissioners that the Application be DENIED unless the Applicant can meet that burden.

Dated this 12th day of June 2023

A handwritten signature in blue ink, appearing to read 'T. Brooks', with a stylized flourish at the end.

Tommy A. Brooks
Deschutes County Hearings Officer

Exhibit "H" - Site Specific Economic, Social, Environmental, and Energy analysis

APPENDIX 2.

Introduction

This expanded Economic Social Environmental Energy (ESEE) analysis was prepared by the applicant for the Board of County Commissioners' consideration to supplement the Board's findings supporting Ordinance No 2022-011 (File Nos. 247-21-000881-PA / 000882-ZC) or a subsequent Ordinance that the Board may adopt as part of these remand proceedings. The applicant had submitted a more condensed version to the record on June 23, 2023. This ESEE addresses all permissible and conditional uses listed in DCC 18.100.

As mentioned in that submittal, although the subject property is located within the Landscape Management Road combining zone, the resource that the LM combining zone looks to protect - scenic views - is diminished at this point along Highway 97. The scenic impacts from a conflicting use whether it be a feed lot, a substation, a cell tower, or a building to house a welding business are all generally the same. None of the allowed or conditional uses would enhance or detract from the view at this point along Highway 97 due to the fact that there is a hill that obscures views to the west and there is a rural residential subdivision developed on the hill. The view from Highway 97 consists of roof tops, siding of the houses, the hill, and the existing structures on the subject property. Additional structures for various types of uses on the subject property will only minimally affect the view. If there were unobstructed views of, for example, the Three Sisters or other Cascade peaks, or perhaps a view of the Deschutes River, those impacts could be significant. This is not the case for the subject property and the viewshed provided by the adjoining property to the west.

As the Board considers whether or how to allow new conflicting uses, the context of the site and the value it contains as a Goal 5 resource is important. Here, the relevant context includes: diminished viewshed quality, existing development on adjoining property, and development on the subject property.

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Common to all Conflicting Uses	<p>Continuing to allow each of the conflicting uses would provide direct economic benefits to the owners of the subject properties as well as the various industries that would market and develop the new uses.</p> <p>For commercial uses, ongoing employment</p>	<p>The County's original ESEE analysis contained in Ordinance 92-052 notes that "[t]he economic impact of maintaining the visual quality of the area would be positive. Deschutes County would remain a desirable place to live, thereby maintaining neighborhood property values. Maintaining</p>

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
	<p>opportunities and income streams are anticipated.</p> <p>The subject property would offer needed services to the rural land owners between Bend and Redmond.</p> <p>Conversations with commercial brokers reveal high demand and low vacancies for Industrial land in Central Oregon. The Quarterly Compass Commercial industry report identifies that there is 0.80% vacancy rate in the Bend industrial market and a 2.45% vacancy rate in the Redmond industrial market. Additional supply of such industrial land will provide business opportunities.</p>	<p>or enhancing visual quality makes the county a more attractive place visit, thereby attracting more visitors and inducing people to stay longer.”</p> <p>Although those observations are still generally true 30 years later, it is undeniable that at this location along Highway 97 the scenic viewshed is of marginal value. Accordingly, there would be minimal detracting to the viewshed from RI development on site. The identified conflicting uses permissible in the RI zone on this particular site will have a minimal negative economic consequence on the property or the county overall.</p>
Farming or forest use.	<p>Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>	<p>Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
Primary processing, packaging, treatment, bulk storage and distribution of the following products:	<p>Additional job opportunities associated with processing, packaging and distribution of various agricultural, timber-related and aggregate-related products on site would be a positive economic consequence for</p>	<p>Processing, packaging and distribution of various agricultural, timber-related and aggregate-related products on site would have no negative economic consequences which differ from the “Common”</p>

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
<p>1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.</p> <p>2. Ornamental horticultural products and nurseries.</p> <p>3. Softwood and hardwood products excluding pulp and paper manufacturing.</p> <p>4. Sand, gravel, clay and other mineral products.</p>	<p>the community. Such uses could provide needed construction materials (hardwood products & sand/gravel) in closer proximity to projects located in the vicinity versus driving to Redmond or Bend for such products.</p>	<p>economic consequences noted above.</p> <p>Additionally, processing facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
<p>Residence for caretaker or night watchman on property.</p> <p><i>1</i></p>	<p>A residence for a caretaker would provide economic benefit to the caretaker and construction of such a residence would be positive economic activity for the housing construction industry in central Oregon. It could also have a positive economic consequence by deterring theft of materials on site impacting the specific business.</p>	<p>There are no negative economic consequences from a residence for a caretaker on the property which differ from the "Common" economic consequences noted above.</p>
<p>Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.</p> <p><i>2</i></p>	<p>Additional job opportunities arising from a Freight Depot on site would be a positive economic consequence for the community.</p>	<p>Construction of likely necessary access improvements to Highway 97 for a use with such substantial traffic impacts could interrupt traffic and cause delays which can disrupt economic activity.</p>
<p>Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is</p>	<p>Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.</p>	<p>There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.</p>

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
permitted unless enclosed by sight-obscuring fencing.		
Ice or cold storage plant.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. For example, The benefits offered to the local brewery and cidery industries could be substantial.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Wholesale distribution outlet including warehousing but excluding open outside storage. 3	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	Construction of likely necessary access improvements to Highway 97 for a use with such substantial traffic impacts could interrupt traffic and cause delays which can disrupt economic activity.
Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. For example, such a service at this location could be a benefit to local homeowners and businesses who need such service without the need to drive to Redmond or Bend for such services.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above..

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Kennel or a Veterinary clinic.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. Such a service at this location could be a benefit to local homeowners and businesses who need such service without the need to drive to Redmond or Bend for such services.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above. Additionally, commercial dog boarding kennels on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Lumber manufacturing and wood processing except pulp and paper manufacturing.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.	Additional job opportunities from a class I or II road project on site would be a positive economic consequence for the community.	Loss of potential economic use of the land resulting from the Class I or II road project could be a negative economic consequence for the community and land owner.
Class III road or street project.	Additional job opportunities from allowing a class III road project on site would be a positive economic consequence for the community.	Loss of potential economic use of the land resulting from the Class I or II road project could be a negative economic consequence for the community and land owner.

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
<p>Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.</p> <p style="text-align: center; font-size: 2em;">4.</p>	<p>There is an existing Central Oregon Irrigation District canal that splits the property. Continued operation, maintenance and potential piping are positive economic consequences as irrigation water drives agricultural economic activity. Further piping such canal facilities would likely improve the view shed, further enhancing the economic value of Deschutes County's view shed as seen from the subject property.</p>	<p>There are no negative economic consequences from this type of use locating on the subject property because of the existing Central Oregon Irrigation District facilities adjacent to and on the property.</p>
<p>Concrete or ready-mix plant.</p>	<p>Such a use on the subject property could benefit nearby residents and agricultural uses by providing needed services in close proximity. It also provides potential employment opportunities. Ready mix plants in Bend and Redmond are all at least 10 miles from this location. Projects in the rural residential areas in this vicinity would benefit from the shorter trip.</p>	<p>There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.</p>
<p>Petroleum products storage and distribution.</p>	<p>Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.</p>	<p>There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.</p>

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. Further, availability of such materials to local land and business owners could be of benefit removing time and cost to travel to Bend or Redmond for such resource.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. Further, such a use at this location close to agricultural uses in central Oregon may provide additional options for livestock and similar operations.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Railroad trackage and related facilities. 5.	The Burlington Northern Santa Fe railroad is roughly 1700 500 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the economic consequences of allowing such uses are minimal in this case.	The Burlington Northern Santa Fe railroad is roughly 1700 500 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the economic consequences of allowing such uses are minimal in this case.

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Pulp and paper manufacturing.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
<p>Any use permitted by DCC 18.100.010, which is expected to exceed the following standards:</p> <ol style="list-style-type: none"> 1. Lot coverage in excess of 70 percent. 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use. 	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	Although outside of the identified impact area, uses that generate odor, fumes, glare, flashing lights or noise perceptible beyond 500 feet could impact property values of the rural residential homes on the subdivision directly west. This would have negative economic consequences for those landowners.
<p>Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.</p>	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. Further, the materials used for such manufacturing could drive additional local business opportunities for those looking to source such materials.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
<p>Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.</p>	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. The benefits offered to the local brewery and cidery industries could be substantial.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Public Land Disposal Site Transfer Station, including recycling and other related activities.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	Although outside of the identified impact area, a transfer station at this location could have a negative impact on the value of the homes in the rural residential subdivision directly west of the subject property.
Mini-storage facility.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. Providing for the storage needs of business and property owners in proximity would be an economic benefit as well to reduce cost of driving to Bend or Redmond.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Automotive wrecking yard totally enclosed by a sight-obscuring fence.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).	Due to the limited staffing required on site to operate such facilities, economic benefits likely focus on job opportunities associated with construction of such facilities and increased bandwidth in the vicinity.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Utility facility.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
		<p>Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
<p>Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.</p>	<p>Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community. The central location of this facility would be an economic benefit to farms and similar uses in the area saving travel time.</p>	<p>There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.</p>
<p>Electrical substations.</p>	<p>Due to the limited staffing required on site to operate such facilities, economic benefits likely focus on job opportunities associated with construction of such facilities</p>	<p>There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.</p> <p>Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>

Conflicting Use	Positive Economic Consequences of Allowing	Negative Economic Consequences of Allowing
Marijuana retailing, subject to the provisions of DCC 18.116.330.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.
Psilocybin testing laboratories.	Additional job opportunities from allowing such economic activity on site would be a positive economic consequence for the community.	There are no negative economic consequences from this type of use locating on the subject property which differ from the "Common" economic consequences noted above.

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
<p>Common to all Conflicting Uses</p>	<p>The variety of uses permissible in the RI zone would offer positive social consequences to nearby residents in the rural areas between Redmond and Bend by offering needed services and employment opportunities. A welding sheet metal or machine shop, for example, located on site could offer any agricultural operations in the area access to those needed services without having to drive to Redmond or Bend.</p>	<p>The social value of the LM zone to preserve the natural appearance of landscape could be marginally impacted. As noted in Ordinance 92-052, "[h]aving good visual quality areas more accessible to the public enhances the livability of Deschutes County. As Deschutes County continues to urbanize, the need for the public to have ready access to areas of good visual quality will become more important." The same observations are equally true today, although mitigated in this case by the diminished viewshed from Highway 97 adjacent to the subject properties.</p>
<p>Farming or forest use.</p>	<p>Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>	<p>Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
<p>Primary processing, packaging, treatment, bulk storage and distribution of the following products:</p> <ol style="list-style-type: none"> 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds. 2. Ornamental horticultural products and nurseries. 3. Softwood and hardwood products 	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.</p> <p>Additionally, processing facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was</p>

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
<p>excluding pulp and paper manufacturing.</p> <p>4. Sand, gravel, clay and other mineral products.</p>		<p>contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
<p>Residence for caretaker or night watchman on property.</p> <p>6.</p>	<p>A residence for a caretaker could create a positive social consequence by deterring theft of materials on site and surrounding properties.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.</p>
<p>Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.</p> <p>7.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site. Additionally, construction of necessary access improvements to Highway 97 for a use with substantial traffic impacts could interrupt traffic and minimally affect scenic views on Highway 97, potentially being a negative social consequence of allowing such uses on site.</p>
<p>Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.</p>

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
outside storage is permitted unless enclosed by sight-obscuring fencing.		
Ice or cold storage plant.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.
Wholesale distribution outlet including warehousing but excluding open outside storage. 8.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site. (Additionally, construction of necessary access improvements to Highway 97 for a use with substantial traffic impacts could interrupt traffic and minimally affect scenic views on Highway 97, potentially being a negative social consequence of allowing such uses on site.)
Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
<p>Kennel or a Veterinary clinic.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities. Such a service at this location could be benefit to local homeowners and businesses who need such service for livestock, pets, etc. without the need to drive to Redmond or Bend for such services.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.</p> <p>Additionally, commercial dog boarding kennels on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
<p>Lumber manufacturing and wood processing except pulp and paper manufacturing.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities. There may be additional positive social consequences of a new business tied to Central Oregon's timber industry roots.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site.</p>
<p>Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities. There may also be new "short cuts" that benefit residents of the area – a positive social consequence for those residents.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site. Further, any minimal negative social consequence is likely to diminish further when the construction of such road or street project is completed.</p>

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
Class III road or street project.	The positive social value of allowing such uses on site is access to additional potential employment opportunities. Further, if such a project improved traffic flow on Highway 97, there could be positive social consequences from allowing such a use.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. There are therefore minimal negative social consequences of allowing such uses on site. Further, any minimal negative social consequence is likely to diminish further when the construction of such road or street project is completed.
Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050. <i>9.</i>	There is an existing Central Oregon Irrigation District canal that splits on the property. Continued operation, maintenance and potential piping are positive social consequences as irrigation water drives agricultural economic activity and a rural country lifestyle.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, there is an existing canal on the subject property. There are therefore minimal negative social consequences of allowing such uses on site.
Concrete or ready-mix plant.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, while a concrete plant is potentially among uses that present the most significant impacts to scenic views, the proposed RI zone limits the scale of any operation on the subject property. For example, the height of any building within the RI zone is limited to 45 feet pursuant to DCC 18.100.040. Therefore the impact will not be as significant compared to a similar use developed within a UGB.

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
<p>Petroleum products storage and distribution.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, while petroleum storage and distribution is potentially among uses that present the most significant impacts to scenic views, the proposed RI zone limits the scale of any operation on the subject property. For example, the height of any building within the RI zone is limited to 45 feet pursuant to DCC 18.100.040. Therefore the impact will not be as significant compared to a similar use developed within a UGB.</p>
<p>Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, while mineral operations are potentially among uses that present the most significant impacts to scenic views, the proposed RI zone limits the scale of any operation on the subject property. For example, the height of any building within the RI zone is limited to 45 feet pursuant to DCC 18.100.040. Therefore the impact will not be as significant compared to a similar use developed within a UGB.</p>
<p>Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities. Additional facilities for livestock operations would be of value to the local ranching community.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.</p>

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
		<p>Additionally, while slaughterhouses and rendering plants are potentially among uses that present the most significant impacts to scenic views, the proposed RI zone limits the scale of any operation on the subject property. For example, the maximum size of any building within the RI zone is limited to 7,500 square feet of floor space pursuant to DCC 18.100.040. Therefore the impact will not be as significant compared to a similar use developed within a UGB height of any structure to 45 feet under DCC 18.100.040. Therefore, the impact will not be significant.</p>
<p>10. Railroad trackage and related facilities.</p>	<p>The Burlington Northern Santa Fe railroad is roughly 1,700 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the social consequences of allowing such uses are minimal in this case.</p>	<p>The Burlington Northern Santa Fe railroad is roughly 1,700 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the social consequences of allowing such uses are minimal in this case.</p>
<p>Pulp and paper manufacturing.</p>	<p>The positive social value of allowing such uses on site is access to additional potential employment opportunities.</p>	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, while pulp and paper manufacturing plants are potentially among uses that present the most significant impacts to scenic views, the proposed RI zone limits the scale of any operation on the subject property. For example, the height of any building within the RI zone is limited to 45 feet pursuant to DCC 18.100.040. Therefore</p>

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
		the impact will not be as significant compared to a similar use developed within a UGB.
<p>Any use permitted by DCC 18.100.010, which is expected to exceed the following standards:</p> <ol style="list-style-type: none"> 1. Lot coverage in excess of 70 percent. 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use. 	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	Although outside of the identified impact area, uses that generate odor, fumes, glare, flashing lights or noise perceptible beyond 500 feet could impact property values and lifestyles of the neighbors in the rural residential subdivision directly west of the subject property. Limited enjoyment of outdoor areas on their private property could result. This would have negative social consequences for those landowners.
<p>Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of</p>	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
odor, noise, dust, smoke, gas, traffic or other factors.		
Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.
Public Land Disposal Site Transfer Station, including recycling and other related activities.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	Although outside of the identified impact area, a transfer station at this location could have a negative impact on the value of the homes in the rural residential subdivision directly west of the subject property and associated dust, odors and other externalities could impact outdoor lifestyles of those property owners. Both are negative social consequences of allowing this particular use.
Mini-storage facility.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.
Automotive wrecking yard totally enclosed by a sight-obscuring fence.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.
Wireless telecommunications facilities, except those facilities meeting the	Such a facility could improve wireless access for our increasingly wireless-device dependent society.	Tier 3 wireless telecommunications facilities as they are defined in DCC 18.116.250(C) could be taller than 75 feet with required aviation lighting. The site and light impacts of such a facility

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
requirements of DCC 18.116.250(A) or (B).		of this magnitude would be difficult if not impossible to mitigate. Light pollution could be a concern and impact the many rural residential properties in direct and close proximity. Additionally, the proposed RI zone limits the height of any structure to 45 feet under DCC 18.100.040. Therefore, the impact will not be significant.
Utility facility.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site. Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.	The positive social value of allowing such uses on site is access to additional potential employment opportunities. Businesses that have a connection to some of central Oregon's traditional industries such as logging and farming could have overall positive social consequences.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.

Conflicting Use	Positive Social Consequences of Allowing	Negative Social Consequences of Allowing
Electrical substations.	Due to the limited staffing required on site to operate such facilities, social benefits likely focus on access to job opportunities associated with construction of such facilities	<p>While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.</p> <p>Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
Marijuana retailing, subject to the provisions of DCC 18.116.330.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.
Psilocybin testing laboratories.	The positive social value of allowing such uses on site is access to additional potential employment opportunities.	While any development on the subject property could impact the scenic quality from Highway 97, the limited scenic quality from Highway 97 relating to the subject property will not be significantly improved through prohibiting such uses on site.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
Farming or forest use.	Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.	Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
<p>Primary processing, packaging, treatment, bulk storage and distribution of the following products:</p> <ol style="list-style-type: none"> 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds. 2. Ornamental horticultural products and nurseries. 3. Softwood and hardwood products excluding pulp and paper manufacturing. 4. Sand, gravel, clay and other mineral products. 	The positive environmental consequences of such a use would be the reduced travel distance and associated reduced carbon emissions for suppliers of agricultural products, ornamental horticultural products, softwood and hardwood products or aggregate products in the vicinity without having to travel to Bend or Redmond or elsewhere for processing, packaging, treatment, storage or distribution of their product.	<p>Development of the site with facilities for such uses could remove existing trees and brushes that provide habitat for small vertebrates. Increased dust from aggregate activities could impact air quality for those in close proximity.</p> <p>Additionally, processing facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
Residence for caretaker or night watchman on property.	The positive environmental consequence of a caretaker residence on site is the reduced travel distance and associated reduced carbon emissions that result from the commute to and from the site from a community in central Oregon. Additionally, a caretaker or night watchman	Development of the site with facilities for such uses could remove existing trees and brushes that provide habitat for small vertebrates.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
	may be able to alert potential wildfires on the subject property.	
Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.	Due to the nature of the materials managed at freight depots, such a use could offer agricultural uses in the area a closer distribution point for commodities such as hay, reducing carbon emissions for transport of such products.	Development of the site with facilities for such uses could remove existing trees and brushes that provide habitat for small vertebrates.
Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.	The positive environmental consequences of such a use would be the reduced travel distance and associated reduced carbon emissions for such businesses serving the local homes and businesses.	Development of the site with facilities for such uses could remove existing trees and brushes that provide habitat for small vertebrates.
Ice or cold storage plant.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for those businesses that requires this type of storage in southern Deschutes County versus having to access cold storage in Redmond.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Wholesale distribution outlet including warehousing but excluding open outside storage.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who could access such service without	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
	having to travel to Redmond or Bend.	
Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who could access such service without having to travel to Redmond or Bend.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Kennel or a Veterinary clinic.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who could access such services without having to travel to Redmond or Bend.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates. Additionally, commercial dog boarding kennels on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Lumber manufacturing and wood processing except pulp and paper manufacturing.	Such a use could offer a shorter trip for hauling lumber from areas in central Oregon versus to mills in Redmond or La Pine thereby potentially reducing carbon emissions.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.	There are minimal positive environmental consequences from such a project on the subject property other than a potential minimal reduction in travel time for area residents and businesses that may benefit from such a project.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Class III road or street project.	There are minimal positive environmental consequences from such a project on the subject property versus a minimal reduction in travel time for area residents and businesses that may benefit from such a project.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050. <i>n.</i>	There is an existing Central Oregon Irrigation District canal that splits the property. Continued operation, maintenance and potential piping of the canal provide minimal environmental benefit save for continued delivery of water to agricultural uses and habitat offered by such uses.	There are no negative environmental consequences of allowing such uses on site.
Concrete or ready-mix plant.	Such a use on the subject property could benefit nearby residents and agricultural uses by providing needed services in close proximity. Ready mix plants in Bend and Redmond are all at least 10 miles from this location. Projects in the rural residential areas in this vicinity would benefit from the shorter trip. This would reduce the carbon footprint of such projects if travel distance is cut substantially.	The dust from such uses can introduce particles into the air, reducing air quality for the many nearby rural residential properties (especially for those with compromised respiratory systems). Particulate matter (PM) emissions from batch plants if inhaled, can affect the heart and lungs and cause serious health effects, including increased risk of heart attacks, aggravation of asthma, and decreases in lung function. See EPA Particulate Matter Pollution link on list of attachments.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
Petroleum products storage and distribution.	Such uses typically do not contain a retail component so would not offer a closer fueling option for local businesses and property owners. There are limited positive environmental consequences of such a use at the site.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who could access such goods without having to travel to Redmond or Bend.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates. Dust from such uses could adversely impact nearby residents and business owners with respiratory issues.
Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local livestock operations that could benefit from such a facility at this location.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates. Dust from such uses could adversely impact nearby residents and business owners with respiratory issues.
12. Railroad trackage and related facilities.	The Burlington Northern Santa Fe railroad is roughly ⁵⁰⁰ 4700 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the environmental consequences of allowing such uses are minimal in this case.	The Burlington Northern Santa Fe railroad is roughly 1700 ^{500'} feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the environmental consequences of allowing such uses are minimal in this case.

Skidmore Consulting, LLC
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Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
Pulp and paper manufacturing.	Such uses typically do not contain a retail component local businesses and property owners could access. There are limited positive environmental consequences of such a use at the site.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates. Dust from such uses could adversely impact nearby residents and business owners with respiratory issues.
<p>Any use permitted by DCC 18.100.010, which is expected to exceed the following standards:</p> <ol style="list-style-type: none"> 1. Lot coverage in excess of 70 percent. 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use. 	Expansion of the lot coverage for permitted uses generally wouldn't provide positive environmental consequences of such uses on the subject property. Additional emissions would not be a positive environmental consequence.	Although outside of the identified impact area, uses that generate odor, fumes, glare, flashing lights or noise perceptible beyond 500 feet could have negative environmental consequences impacting air quality for nearby businesses and property owners. Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates with the increased lot coverage allowance.
Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust,	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services or provide raw materials for manufacturing purposes.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
smoke, gas, traffic or other factors.		
Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Public Land Disposal Site Transfer Station, including recycling and other related activities.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Mini-storage facility.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Automotive wrecking yard totally enclosed by a sight-obscuring fence.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).	There are no known environmental benefits from such a use at the site.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
Utility facility.	Positive environmental consequences of such a use on site are limited.	<p>Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.</p> <p>Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.	The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services.	Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.
Electrical substations.	The positive environmental consequences of such a use on site are limited.	<p>Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.</p> <p>Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>

Conflicting Use	Positive Environmental Consequences of Allowing	Negative Environmental Consequences of Allowing
<p>Marijuana retailing, subject to the provisions of DCC 18.116.330.</p>	<p>The positive environmental consequences of such a use would be the reduced travel distance and reduced carbon emissions for local businesses and property owners who would use such services versus having to travel to Bend.</p>	<p>Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.</p>
<p>Psilocybin testing laboratories.</p>	<p>There are limited positive environmental consequences of allowing such a use on site.</p>	<p>Development of the site for such a use could remove existing trees and brushes that provide habitat for small vertebrates.</p>

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
Farming or forest use.	Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.	Farm or forest uses on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
<p>Primary processing, packaging, treatment, bulk storage and distribution of the following products:</p> <ol style="list-style-type: none"> 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds. 2. Ornamental horticultural products and nurseries. 3. Softwood and hardwood products excluding pulp and paper manufacturing. 4. Sand, gravel, clay and other mineral products. 	The positive energy consequences of such a use would be the reduced travel distance and conserved energy for suppliers of agricultural products, ornamental horticultural products, softwood and hardwood products or aggregate products in the vicinity without having to travel to Bend or Redmond or elsewhere for processing, packaging, treatment, storage or distribution of their product.	<p>The energy usage for these uses would vary. There could be substantial energy needs for processing raw materials into consumer goods.</p> <p>Additionally, processing facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.</p>
Residence for caretaker or night watchman on property.	Such a use would reduce energy usage associated with travel to and from the site for security needs.	There are limited negative energy consequences associated with such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.	Due to the nature of the materials managed at freight depots, such a use could offer agricultural uses in the area a closer distribution point for commodities such as hay, reducing the amount of energy needed to transport items to market.	There are limited negative energy consequences associated with such a use on site.
Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.	The positive energy consequences of such a use would be the reduced consumption of energy for such businesses serving the local homes and businesses versus contractors having to drive from Redmond or Bend.	There are limited negative energy consequences associated with such a use on site.
Ice or cold storage plant.	The positive energy consequences of such a use would be the reduced energy consumption for those businesses that requires this type of storage in southern Deschutes County versus having to access cold storage in Redmond.	The energy usage associated with a cold storage plant is anticipated to be substantial.
Wholesale distribution outlet including warehousing but excluding open outside storage.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who could access such service without having to travel to Redmond or Bend.	There are limited negative energy consequences associated with such a use on site.
Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners	There are limited negative energy consequences associated with such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
enclosed by sight-obscuring fencing.	who could access such service without having to travel to Redmond or Bend.	
Kennel or a Veterinary clinic.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who could access such services without having to travel to Redmond or Bend.	There are limited negative energy consequences associated with such a use on site. Additionally, commercial dog boarding kennels on the subject property are already permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Lumber manufacturing and wood processing except pulp and paper manufacturing.	Such a use could offer a shorter trip for hauling lumber from areas in central Oregon versus to mills in Redmond or La Pine thereby potentially reducing energy consumption.	There are limited negative energy consequences associated with such a use on site.
Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.	There are limited positive energy consequences from such a use on site.	There are limited negative energy consequences associated with such a use on site.
Class III road or street project.	There are limited positive energy consequences from such a use on site other than a potential minimal reduction in travel time for area residents and businesses that may benefit from such a project.	There are limited negative energy consequences associated with such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
<p>Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.</p>	<p>There is an existing Central Oregon Irrigation District canal that splits the property. Continued operation, maintenance and potential piping of the canal provide positive energy consequences by assuring continued delivery of water to agricultural uses primarily through gravity delivery.</p>	<p>There are no negative energy consequences of allowing such uses on site.</p>
<p>Concrete or ready-mix plant.</p>	<p>Such a use on the subject property could benefit nearby residents and agricultural uses by providing needed services in close proximity. Ready mix plants in Bend and Redmond are all at least 10 miles from this location. Projects in the rural residential areas in this vicinity would benefit from the shorter trip and reduced energy consumption.</p>	<p>There are no negative energy consequences of allowing such uses on site.</p>
<p>Petroleum products storage and distribution.</p>	<p>Such uses typically do not contain a retail component so would not offer a closer fueling option for local businesses and property owners. There are limited positive energy consequences of such a use at the site.</p>	<p>There are no negative energy consequences of allowing such uses on site.</p>
<p>Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.</p>	<p>The positive energy consequences of such a use would be the reduced travel distance and reduced energy consumption for local businesses and property owners who could access such goods without having to travel to Redmond or Bend.</p>	<p>There are no known negative energy consequences of allowing such uses on site.</p>

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.	The positive energy consequences of such a use would be the reduced energy consumption for local livestock operations that could benefit from such a facility at this location.	There are no known negative energy consequences of allowing such uses on site.
13. Railroad trackage and related facilities.	The Burlington Northern Santa Fe railroad is roughly 4700 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the energy consequences of allowing such uses are minimal in this case.	The Burlington Northern Santa Fe railroad is roughly 4700 feet east of the property with Highway 97 and the COID canal between. Although such facilities are allowed technically in the RI Zone, it is highly unlikely the subject property would ever actually be utilized for railroad trackage and related facilities. Accordingly, the energy consequences of allowing such uses are minimal in this case.
Pulp and paper manufacturing.	Such uses typically do not contain a retail component local businesses and property owners could access. There are limited positive energy consequences of such a use at the site.	Pulp and paper manufacturing could require substantial energy consumption.
Any use permitted by DCC 18.100.010, which is expected to exceed the following standards: 1. Lot coverage in excess of 70 percent. 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the	There are no identified positive energy consequences from such a use on site.	There are no known negative energy consequences from such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
property line of the subject use.		
Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services or provide raw materials for manufacturing purposes.	There are no known negative energy consequences from such a use on site.
Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services.	There are no known negative energy consequences from such a use on site.
Public Land Disposal Site Transfer Station, including recycling and other related activities.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services.	There are no known negative energy consequences from such a use on site.
Mini-storage facility.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services.	There are no known negative energy consequences from such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
Automotive wrecking yard totally enclosed by a sight-obscuring fence.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services.	There are no known negative energy consequences from such a use on site.
Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).	There are no known energy benefits from such a use at the site.	There are no known negative energy consequences from such a use on site.
Utility facility.	There could be positive energy consequences of such a use on site if developed for photovoltaic energy production or an energy substation.	There are no known negative energy consequences from such a use on site. Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services.	There are no known negative energy consequences from such a use on site.

Conflicting Use	Positive Energy Consequences of Allowing	Negative Energy Consequences of Allowing
Electrical substations.	There would be positive energy consequences of such a use at this site as it would provide additional energy capacity for the community.	There are no known negative energy consequences from such a use on site. Additionally, commercial utility facilities on the subject property are already conditionally permissible via the existing EFU zoning and the property has been zoned EFU since the 1992 adoption of the LM regulations. Allowance of such uses was contemplated in the original ESEE and does not warrant a new ESEE here as it is a not a new conflicting use.
Marijuana retailing, subject to the provisions of DCC 18.116.330.	The positive energy consequences of such a use would be the reduced energy consumption for local businesses and property owners who would use such services versus having to travel to Bend.	There are no known negative energy consequences from such a use on site.
Psilocybin testing laboratories.	There are no known positive energy consequences from such a use on site.	There are no known negative energy consequences from such a use on site.

Allowing Conflicting Uses, Prohibiting Conflicting Uses, or Limiting Conflicting Uses:

The ESEE consequences of the permitted and conditional uses in DCC 18.100 have been analyzed and are provided for consideration by the Board of County Commissioners in deciding this land use application. This exhaustive list provides sufficient detail to consider the economic, social, environmental and energy factors to balance in making this decision regarding the proposal and the Landscape Management Roads Goal 5 resource.