



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners (Board)

**FROM:** Tarik Rawlings, Associate Planner

**DATE:** August 29, 2022

**SUBJECT:** Public Hearing - LBNW LLC Comprehensive Plan Amendment and Zone Change

---

The Board of County Commissioners (Board) is conducting a public hearing on September 7, 2022 to consider a request for a Plan Amendment and Zone Change (file nos. 247-21-000881-PA, 882-ZC) for approximately 19.12 acres along Highway 97. The subject property consists of three tax lots totaling approximately 19.12 acres. The application includes a request for a Goal 14 Exception as an alternative argument, if determined to be necessary for approval of the Plan Amendment/Zone Change. This will be the second of two required public hearings.

**I. BACKGROUND**

The applicant, LBNW LLC, is requesting a Comprehensive Plan Amendment to re-designate the subject properties from Agriculture to Rural Industrial and a corresponding Zone Change to rezone the properties from Exclusive Farm Use (EFU) to Rural Industrial (RI). The applicant's reasoning for the request is that the properties were mistakenly identified as farmland, do not contain high-value soils or other characteristics of high-value farmland, and therefore should be re-designated and rezoned for rural industrial use. The applicant has provided a supplementary soil study that identifies non-high value (Class VII and VIII) soils on a majority of the subject properties. Additionally, the applicant has provided findings within the burden of proof that provide responses to relevant state and local requirements and policies.

**II. PUBLIC COMMENT**

Staff received approximately 47 public comments from neighbors, stakeholders, local interest groups and public agencies prior to the April 26, 2022 Hearing's Officer hearing. Most of the comments received were in support of the project, but Staff did receive a number of detailed public comments in opposition to the application. Comments received in opposition expressed concern related to the following factors:

1. Potential loss of agricultural land
2. Compatibility with surrounding properties

3. Validity of the Order 1 soil survey used to demonstrate a lack of agricultural land on the properties
4. The application's compliance with Oregon Statewide Planning Goals 3, 5, 12, and 14 and the application's potential need for goal exceptions
5. Traffic and emergency access impacts.

Comments received in support reference the properties' lack of productive soils, the properties' inability to be farmed outside of the poor soil quality, the regional need for industrial-zoned property and uses in rural Deschutes County, the character of the applicants, and improvement of the subject properties since the current owners took over.

### **III. HEARINGS OFFICER RECOMMENDATION**

The Deschutes County Hearings Officer held a public hearing on April 26, 2022. Not including the applicant's team, one (1) individual representing Central Oregon LandWatch provided testimony during the public testimony portion of the hearing in opposition of the proposal.

On July 12, 2022, the Hearings Officer issued a recommendation of approval for the proposed Plan Amendment and Zone Change, denying the oppositional points put forward during the open record period and finding that no goal exceptions to any Oregon Statewide Planning Goals are needed. The Hearings Officer also recommended a condition of approval, related to OAR 660-012-0060 compliance (Division 12, Transportation Planning within state administrative rules) limiting the maximum number of vehicle trips associated with the subject properties:

*The maximum development on the three subject parcels shall be limited to produce no more than 32 trips in the PM peak hour and/or 279 daily trips as determined by the Institute of Engineers Trip Generation Manual, 11<sup>th</sup> Edition. The County may allow development intensity beyond these maximum number of vehicle trips only if the applicant submits to the County a traffic impact analysis that demonstrates that the proposed intensification of use would be consistent with the Transportation Planning Rule and the Deschutes County Code.*

Staff notes this condition of approval was acknowledged and deemed sufficient by County planning staff, Oregon Department of Transportation (ODOT), and the applicant, but was opposed by Central Oregon LandWatch.

### **IV. BOARD CONSIDERATION**

As the property includes lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the application to be heard *de novo* before the Board, regardless of the determination of the Hearings Officer. The record is available for inspection at the Planning Division and at the following link: <https://www.deschutescounty.gov/cd/page/247-21-000881-pa-and-247-21-000882-zc-lbnw-llc-comprehensive-plan-amendment-and-zone-change>.

### **V. NEXT STEPS**

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

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

**ATTACHMENT:**

1. Area Map