



STAFF REPORT
REDMOND AIRPORT MASTER PLAN (RAMP) UPDATE - TEXT AMENDMENT

FILE NUMBER(S): 247-23-000252-TA

SUBJECT PROPERTY: The subject Airport Safety (AS) Combining Zone and 55 DNL noise contour boundaries are associated with the Redmond Municipal Airport (Airport), which includes the following addresses and tax lots:

• **Tax Lot 1513220000100**

- 1050 SE Sisters Ave
- 1050 SE Sisters Ave (A-B)
- 1120 SE Sisters Ave
- 1120 SE Sisters Ave (A-E)
- 1300 SE USFS Dr
- 1320 SE USFS Dr
- 1350 SE USFS Dr
- 1410 SE USFS Dr (A-B)
- 1552 SE USFS Dr
- 1605 SE Ochoco Way
- 1694 SE USFS Dr
- 1900 SE Airport Way (A-1 to A-3; B; C-1 to C-2; D; E; F-1 to F-14; G1 to G14; H to V)
- 2215 SE USFS Dr
- 2234 SE 6th St
- 2234 SE Salmon Ave
- 2700 SE Airport Way
- 625 SE Salmon Ave
- 644 SE Salmon Ave
- 645 SE Salmon Ave
- 665 SE Salmon Ave
- 675 SE Salmon Ave
- 679 SE Salmon Ave
- 681 SE Salmon Ave
- 683 SE Salmon Ave
- 685 SE Salmon Ave
- 687 SE Salmon Ave
- 689 SE Salmon Ave
- 691 SE Salmon Ave
- 693 SE Salmon Ave
- 701 SE Salmon Ave
- 705 SE Salmon Ave
- 743 SE Salmon Ave
- 765 SE Salmon Ave
- 875 SE Veteran's Way
- 880 SE Veteran's Way
- 888 SE Veteran's Way (A to G; H-1 to H-2; I-1 to I-7; J-1 to J-2; K-1 to K-7)
- 905 SE Salmon Ave
- 907 SE Salmon Ave
- 911 SE Salmon Ave

• **Tax Lot 1513000001500**

- 1730 SE Ochoco Way
- 1740 SE Ochoco Way
- 1764 SE Ochoco Way
- 2000 SE USFS DR (A to D)

• **Tax Lot 1513000001503**

- 3840 SW Airport Way

• **Tax Lot 1513280000101**

- 3000 SW Airport Way

APPLICANT: City of Redmond
411 SW 9th St
Redmond, OR 97756

Redmond Municipal Airport
2522 Jesse Butler Cir
Redmond, OR 97756

REQUEST: The applicant, City of Redmond, has applied for a Text Amendment to the Airport Safety (AS) Combining Zone (DCC 18.80.030) to update the Runway and Approach information and a corresponding update amending the AS map to reflect the new zoning boundaries for imaginary surfaces and the new 55 DNL (Average Day-Night Sound Level) noise contour boundaries.

STAFF CONTACT: Tarik Rawlings, Senior Transportation Planner
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RECORD: Record items can be viewed and downloaded from:
<https://www.deschutescounty.gov/cd/page/247-23-000252-ta-redmond-airport-master-plan-ramp-text-amendment>

I. APPLICABLE CRITERIA

Deschutes County Code

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.04, Title, Purpose and Definitions

Chapter 18.76, Airport Development Zone

Chapter 18.80, Airport Safety Combining Zone (AS)

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Title 23, Deschutes County Comprehensive Plan

Chapter 3, (Rural Growth Management), Section 3.4, Rural Economy

Oregon Revised Statutes

ORS 836.610

ORS 836.616

Oregon Administrative Rules

OAR Chapter 660, Division 15, Statewide Planning Goals 1-14

OAR Chapter 660, Division 12, Transportation

OAR Chapter 660, Division 13, Airport Planning

II. BASIC FINDINGS

LOT OF RECORD: DCC 22.04.040(B) does not require lot of record verification for Text Amendment applications and, as a result, lot of record verification is not required for the subject application.

SITE DESCRIPTION: The AS Combining Zone and 55 DNL (Day-Night Sound Level) noise contour boundary includes the Redmond Municipal Airport (Roberts Field) and surrounding properties affected by the imaginary surfaces of the AS Combining Zone, which collectively total approximately 1,934 acres. The Redmond Municipal Airport is developed with a number of aviation-related uses including taxiways, runways, internal roads and parking areas, and several structures. The Tax Lots associated with the Redmond Municipal Airport (1513220000100, 1513000001500, 1513000001503, 1513280000101) abut or contain several City of Redmond roadways to the west and north (SE Jesse Butler Cr [city local], SE Salmon Ave [city local], SE 6th St [city local], SE Airport Way [city arterial], SE Veteran's Way [city arterial], SE Sisters Ave [city local], SE USFS Dr [city local], SE 10th St [city local]). Highway 126 (a State Primary Highway) adjoins the airport property along its northern boundary. SE Sherman Rd and Redmond-Powell Butte Market Road border the airport property to the east and are functionally classified as County-owned Rural Local roadways. Additional portions of SE Sherman Rd (to the east of the subject property) are owned and maintained by the Bureau of Land Management (BLM) and are functionally classified as Rural Local roadways.

PROPOSAL: The submitted Burden of Proof includes the following background on why this Text Amendment is necessary for the Airport:

The applicant, City of Redmond, owner of the Redmond Municipal Airport, proposes the enclosed amendments to the text of Chapter 18.80 of the Deschutes County Zoning Ordinance and the County's Official Zoning Map to reflect the proposed improvements identified in the 2018 Airport Master Plan.

The Airport Master Plan evaluated the Airport's needs over a 20-year planning period for airfield, airspace, terminal area, and landside facilities. The goal of the plan was to document the orderly development of Airport facilities essential to meeting City needs, in accordance with FAA standards, and in a manner complementary with community interests. The Plan resulted in a 20-year development strategy envisioned by the City of Redmond, reflective of the updated Airport Capital Improvement Program (CIP), and graphically depicted by the Airport Layout Plan (ALP) drawings. The approved Plan allows the City to satisfy FAA assurances and seek project funding eligible under the respective federal and state airport aid program. City of Redmond Ordinance No. 2018-18 updated the Redmond Transportation System Plan, inclusive of the 2018 Airport Master Plan, making it the transportation element of the Redmond Comprehensive Plan.

The proposed language of the Text Amendment is included as Attachment 1 and summarized as follows:

- The Applicant proposes to change the introductory language of DCC 18.80.030 including changes to airport elevation, and descriptions of the existing runways.

- The Applicant proposes to change the Primary Surface, Approach Surface, and Horizontal Surface dimensional description(s) at DCC 18.80.030(A, C, and D).
- The applicant proposes to remove the existing language of DCC 18.80.030(B) and replace it with a description of the airport's Transitional Surface.
- The Applicant proposes to add descriptions of the airport's Conical Surface and Runway Protection Zone at DCC 18.80.030(E) and (F), respectively.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on September 19, 2023, to several public agencies and received the following comments:

Deschutes County Building Safety Division, Randy Scheid, September 20, 2023:

The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

The following agencies/entities did not respond to the notice: Arnold Irrigation District, Bend Metro Parks & Rec., BLM Prineville District, Department of Environmental Quality, Department of Forestry, Department of Geology and Mineral Industries, Department of State Lands, Deputy State Fire Marshal, Deschutes County Assessor, Deschutes County Environmental Soils Division, Deschutes County Fire Adapted Communities Coordinator, Deschutes County Forester, Deschutes County Road Department, Deschutes County Sheriff, Deschutes National Forest, ODOT Region 4 Planning, Oregon Department of Agriculture, Oregon Department of Water Resources, Redmond Area Parks & Rec. District, Redmond City Planning, Redmond Fire & Rescue, Swalley Irrigation District, Terrebonne Domestic Water District, Three Sisters Irrigation District, Watermaster – District 11, BNSF Railway, Cascade Natural Gas Co., Central Electric Co-op, Oregon Department of Aviation, Redmond Airport, Redmond Public Works, and Redmond School District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners whose property would be affected by the new AS Combining Zone and 55 DNL noise contour boundaries on September 20, 2023. One public comment was received from Central Oregon Irrigation District (COID):

Central Oregon Irrigation District (COID), Spencer Stauffer, September 22, 2023:

Re: 247-23-000252-TA

Deschutes County Assessor's Map 15-13-00, Tax Lots 1500 and 1503

Deschutes County Assessor's Map 15-13-22, Tax Lot 100

Deschutes County Assessor's Map 15-13-28, Tax Lot 101

Please be advised that Central Oregon Irrigation District (COID) has reviewed the Text Amendment to the Airport Safety (AS) Combining Zone (DCC 18.80.030) to update the Runway and Approach

information and corresponding update amending the AS Zoning Map to reflect the new zoning boundaries for imaginary surfaces and the new 55 DNL (Average Day-Night Sound Level) noise contour boundaries. (dated August 29, 2023). COID has no facilities or water rights on the subject property (TAXLOT: 15-13-00, Tax Lots 1500 and 1503, 15-13-22, Tax Lot 100, 15-13-28, Tax Lot 101).

No other public comments were received on behalf of the subject application.

NOTICE REQUIREMENT: As mentioned previously, on September 20, 2023, the Planning Division mailed notice to all property owners whose property would be affected by the new AS Combining Zone and 55 DNL noise contour boundaries. This type of notice is commonly referred to as a Measure 56 Notice. A separate Notice of Application was mailed to relevant agencies on September 19, 2023. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, October 8, 2023. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on September 18, 2023. The Applicant complied with the posted notice requirements outlined in DCC 22.24.030(B) and submitted a Land Use Sign Affidavit confirming that the required notice was posted on October 25, 2023, for at least 10 days prior to the scheduled public hearing date of November 7, 2023.

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

III. **FINDINGS & CONCLUSIONS**

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.136, Amendments

Section 18.136.010, Amendments

DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.

FINDING: The Applicant, as the property owner, has requested a quasi-judicial Text Amendment with corresponding quasi-judicial Map Amendment. The Applicant has filed the required land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

DCC 22.04.020 includes the following definition:

"Quasi-judicial" zone change or plan amendment generally refers to a plan amendment or zone change affecting a single or limited group of property owners and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.)

The subject application is not a request to change the zoning or Comprehensive Plan designation of the subject property. However, as described below, the quasi-judicial process of a Comprehensive Plan Amendment is the most applicable guidance regarding Text Amendments that are not squarely legislative. Therefore, staff includes the definition of a quasi-judicial process above for reference and also addresses the provisions of DCC 22.28.030, below, regarding final action on Comprehensive Plan amendments. Potentially relevant to this case, the Bend Municipal Airport most recently went through a Text Amendment in Deschutes County file 247-20-000482-TA. The Hearings Officer decision for file 247-20-000482-TA made the following findings regarding whether the application should be processed as a quasi-judicial Text Amendment:

Based on the foregoing, the Hearings Officer finds that, in this case, the ultimate adoption of the Text Amendments is a two-step process. The role of the Hearings Officer is to apply the law, not to change it. In the first step of the process, the Applicant has a right under the DCC to submit and to have considered an application to amend the Code's text. This phase of the process is quasi-judicial in nature and it is appropriate to have a hearing and to build a record following the principles of a quasi-judicial process. As part of that process, the Hearings Officer is addressing the application of the County's existing laws. The second step of the process is for the Deschutes County Board of Commissioners ("Board") to adopt an ordinance to incorporate any text amendments to the Code. Amendments to the text of a zoning ordinance are a change in the County's law, and only the Board can make such a change. In other words, the Hearings Officer is without authority to amend the County's Code. The Hearings Officer, however, can make a recommendation to the Board based on what develops in the quasi-judicial phase of the process.

The Oregon Supreme Court case *Strawberry Hill 4 Wheelers* provides guidance on how to distinguish between a legislative and quasi-judicial process, and outlines a three-part test that continues to be applied throughout case law. The Court of Appeals applied and expanded on the *Strawberry Hill 4 Wheelers* decision in *Hood River Valley v. Board of Cty. Commissioners*, 193 Or App 485, 495, 91 P3d 748 (2004):

Given those concerns, "[t]he fact that a policymaking process is circumscribed by * * * procedural requirements [such as public hearings] does not alone turn it into an adjudication." *Id.* at 604. Rather, at least three other considerations generally bear on the determination of whether governmental action represented an "exercise of * * * quasi-judicial functions." ORS 34.040(1). First, does "the process, once begun, [call] for reaching a decision," with that decision being confined by preexisting criteria rather than a wide discretionary choice of action or inaction? *Strawberry Hill 4 Wheelers*, 287 Or at 604. Second, to what extent is the decision-maker "bound to apply preexisting criteria to concrete facts"? *Id.* at 602-03. Third, to what extent is the decision "directed at a closely circumscribed factual

situation or a relatively small number of persons"? *Id.* at 603.

Those three general criteria do not, however, describe a bright-line test. As we noted in *Estate of Gold v. City of Portland*, 87 Or App 45, 51, 740 P2d 812, *rev den*, 304 Or 405 (1987), *Strawberry Hill 4 Wheelers* "contemplates a balancing of the various factors which militate for or against a quasi-judicial characterization and does not create [an] 'all or nothing' test[.]" (Citation omitted.) In particular, we noted that the criteria are applied in light of the reasons for their existence-*viz.*, "the assurance of correct factual decisions" and "the assurance of 'fair attention to individuals particularly affected.'" *Estate of Gold*, 87 Or App at 51 (quoting *Strawberry Hill 4 Wheelers*, 287 Or at 604).

As noted above, the *Strawberry Hill 4 Wheelers* test requires a case-specific analysis of all three factors in combination. Individuals most affected by the proposed Text Amendment include the Redmond Municipal Airport and neighboring property owners, all of whom were mailed notice pursuant to DCC 22.24.030.

Staff addresses each component of the *Strawberry Hill 4 Wheelers* test below:

Results in a decision

The applicant has submitted an application for a Text Amendment, in order to amend text related to the Redmond Airport's AS Combining Zone in DCC 18.80.030 and to update applicable AS overlay zoning boundaries and 55 DNL noise contour boundaries identified in associated zoning maps and County records. The request will result in either an approval or a denial, and a decision will be issued by the Board of County Commissioners (Board) pursuant to DCC Title 22. As opposed to a policy change initiated by staff or decision-makers, which has a wide discretionary choice between action and inaction, the subject request was submitted as a land use application by the property owner and the County must take final action on it. Staff finds the subject amendment clearly meets this component of the *Strawberry Hill 4 Wheelers* test and may be considered a quasi-judicial process.

Apply existing criteria

The subject request is being reviewed based on criteria in DCC Chapter 18.136, Amendments, and applicable state statutes. Oregon Revised Statutes (ORS) 836.616, Rules for airport uses and activities, provides a list of the uses that may be permitted within an airport under a local jurisdiction's land use code. Staff is unclear about the specific applicability of ORS 836.616 to the subject application as there are no changes to permitted uses within the Airport, but includes that provision, below if the Hearings Officer finds it applies to the subject application. The application is being reviewed to confirm compliance with the DCC along with applicable OARs and ORSs, and staff therefore finds existing criteria are being applied to the subject application. Consequently, the application meets this component of the *Strawberry Hill 4 Wheelers* test for a quasi-judicial process.

Small number of persons

The AS Combining Zone encompasses the Airport, with the Zone's imaginary surfaces located above

a limited number of surrounding properties. The subject property from with the AS Combining Zone is based is owned and operated by the City of Redmond, who manages leases and oversees uses within the Redmond Municipal Airport. While staff notes the Redmond Municipal Airport is utilized by members of the public and various businesses, changes to the airports imaginary surfaces and 55 DNL noise contour boundaries can only be established on the property if the City of Redmond initiates or authorizes an application. The subject request will impact the development potential of the Airport property and a limited number of surrounding properties. Therefore, staff finds the subject request complies with this component of the *Strawberry Hill 4 Wheelers* test and may be categorized as quasi-judicial.

When the factors above are considered in combination, staff finds they indicate the subject Text Amendment is a quasi-judicial process. As noted in *Hood River Valley v. Board of Cty. Commissioners*, the differentiation between a legislative and quasi-judicial process is important to ensure all affected parties are given a fair process. In this case the proposal was noticed to all property owners who would potentially be affected by the proposal and processing the request through a quasi-judicial process will provide for a public hearing before a Hearings Officer and final action by the Board. For these reasons, staff finds the request meets the three-part test outlined in *Strawberry Hill 4 Wheelers* as well as the intent of a quasi-judicial process.

Title 22 of the Deschutes County Code, Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Section 22.12.010, Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: As described above, staff finds the subject request is a quasi-judicial Text Amendment. However, the procedural steps will be similar to those outlined in the Hearing's Officer decision for file 247-20-000482-TA, which finds amendments to allowed airport uses carry the qualities of a legislative act. The subject amendments will be adopted through an ordinance, consistent with the process for a legislative amendment. The Planning Director has exercised their discretion not to set a hearing before the Planning Commission.

Section 22.12.020, Notice

A. *Published Notice.*

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under***

consideration.

- B. Posted Notice.** *Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.*
- C. Individual Notice.** *Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.*
- D. Media Notice.** *Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.*

FINDING: Notice of the proposed Text Amendment was published in the Bend Bulletin. As noted above, the applicant complied with the posted notice requirement and staff mailed notice to all property owners who would be affected by the newly-proposed AS zoning and 55 DNL noise contour boundaries. Notice was provided to the County public information official for wider media distribution.

Section 22.12.030, Initiation Of Legislative Changes

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of Commissioners or the Planning Commission.

FINDING: The applicant has submitted the required fees and requested a Text Amendment. Staff finds the applicant is granted permission under this criterion to initiate a legislative change and has submitted the necessary fee and materials.

Section 22.12.040, Hearings Body

- A. *The following shall serve as hearings or review body for legislative changes in this order:***
 - 1. *The Planning Commission.***
 - 2. *The Board of County Commissioners.***

FINDING: As described above, the subject application meets the definition of a quasi-judicial application. For this reason, this application was referred to a Hearings Officer rather than the Planning Commission for a recommendation. The adoption of the proposed text amendments will follow a legislative process because it must be approved by the Board. For the purpose of this criterion, staff notes the application has properties of both a quasi-judicial and legislative amendment.

- B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

FINDING: The subject application was not initiated by the Board. Staff finds this criterion does not apply.

Section 22.12.050, Final Decision

All legislative changes shall be adopted by ordinance.

FINDING: Staff finds this criterion requires action by the Board to effect any legislative changes to Deschutes County Code. If the proposed Text Amendment is approved, it will become effective through the Board adoption of an ordinance.

Chapter 22.28, Land Use Action Decisions

Section 22.28.030, Decision On Plan Amendments And Zone Changes

- A. ***Except as set forth herein, the Hearings Officer or the Planning Commission when acting as the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the Board of County Commissioners.***
- B. ***In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has authority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer's decision. No argument or further testimony will be taken by the Board.***

FINDING: As detailed above, staff finds the proposal should be viewed as a quasi-judicial plan amendment. For this reason, staff finds these criteria apply. This application is being referred to a Hearings Officer for a recommendation. If an appeal is not filed and the Board does not initiate review, the Board shall adopt the Hearings Officer's recommendation as the decision of the county.

- C. ***Plan amendments and zone changes requiring an exception to the goals or concerning lands designated for forest or agricultural use shall be heard de novo before the Board of County Commissioners without the necessity of filing an appeal, regardless of the determination of the Hearings Officer or Planning Commission. Such hearing before the Board shall otherwise be subject to the same procedures as an appeal to the Board under DCC Title 22.***

FINDING: The subject Text Amendment does not require a goal exception and does not concern lands designated for forest or agricultural use as the base zoning of the airport subject property is within the City of Redmond's jurisdiction. For this reason, a de novo hearing before the Board is not required.

- D. ***Notwithstanding DCC 22.28.030(C), when a plan amendment subject to a DCC 22.28.030(C) hearing before the Board of County Commissioners has been consolidated for hearing before the hearings Officer with a zone change or other permit application not requiring a hearing before the board under DCC 22.28.030(C),***

any party wishing to obtain review of the Hearings Officer's decision on any of those other applications shall file an appeal. The plan amendment shall be heard by the Board consolidated with the appeal of those other applications.

FINDING: No other application is being consolidated with the subject Text Amendment. Staff finds this criterion does not apply.

Deschutes County Comprehensive Plan

Transportation System Plan

Section 3.4, Rural Economy

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

...

Policy 3.4.6 Support and participate in master planning for airports in Deschutes County

FINDING: The County's Comprehensive Plan includes a number of guiding policies such as the rural economy goal cited above. In addition, Appendix C - Transportation System Plan includes goals specific to airport planning. Staff finds the relevant Comprehensive Plan policies are implemented through Deschutes County Code, and the Comprehensive Plan goals themselves are not specific approval criteria. However, to the extent the Hearings Officer finds this policy is an applicable approval criterion, staff notes that the proposed text amendments will support master planning for the Redmond Municipal Airport. The subject amendments are proposed to implement the changes within the 2018 Redmond Airport Master Plan, the purpose of which is to document the orderly development of Airport facilities essential to meeting the City of Redmond's needs, in accordance with FAA standards, and in a manner complementary to community interests.

OREGON REVISED STATUTES

Chapter 836 – Airports and Landing Fields

836.610, Local government land use plans and regulations to accommodate airport zones and uses; funding; rules.

- 1) ***Local governments shall amend their comprehensive plan and land use regulations consistent with the rules for airports adopted by the Land Conservation and Development Commission under ORS 836.616 and 836.619. Airports subject to the rules shall include:***
 - (a) ***Publicly owned airports registered, licensed or otherwise recognized by the Department of Transportation on or before December 31, 1994, that in 1994***

- were the base for three or more aircraft; and*
- (b) Privately owned public-use airports specifically identified in administrative rules of the Oregon Department of Aviation that:**
- (A) Provide important links in air traffic in this state;**
- (B) Provide essential safety or emergency services; or**
- (C) Are of economic importance to the county where the airport is located.**
- (2)(a) Local governments shall amend their comprehensive plan and land use regulations as required under subsection (1) of this section not later than the first periodic review, as described in ORS 197.628 to 197.651, conducted after the date of the adoption of a list of airports by the Oregon Department of Aviation under subsection (3) of this section.**
- (b) A state agency or other person may provide funding to a local government to accomplish the planning requirements of this section earlier than otherwise required under this subsection.**
- (3) The Oregon Department of Aviation by rule shall adopt a list of airports described in subsection (1) of this section. The rules shall be reviewed and updated periodically to add or remove airports from the list. An airport may be removed from the list only upon request of the airport owner or upon closure of the airport for a period of more than three years. [1995 c.285 §4; 1997 c.859 52]**

FINDING: The AS Combining Zone stems from the Redmond Municipal Airport, which is a publicly-owned airport. The proposed changes relate to dimensions and boundaries of the imaginary surfaces of the AS Combining Zone and the 55 DNL noise contour boundary. No changes to the Airport's operational uses or activities are proposed and, as a result, the provisions of ORS 836.616 do not apply to the subject application. Additionally, staff recognizes that the underlying zoning for the Airport is based on City of Redmond zoning districts over which the County has no jurisdiction for the Airport's allowed uses or activities.

836.619, State compatibility and safety standards for land uses near airports; rules.

Following consultation with the Oregon Department of Aviation, the Land Conservation and Development Commission shall adopt rules establishing compatibility and safety standards for uses of land near airports identified in ORS 836.610 (Local government land use plans and regulations to accommodate airport zones and uses) (1). [1997 c.859 §8 (enacted in lieu of 836.620)]

FINDING: Applicable Oregon Administrative Rules are addressed below.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 13 – Airport Planning

OAR 660-013-0010, Purpose and Policy

- (1) ***This division implements ORS 836.600 through 836.630 and Statewide Planning Goal 12 (Transportation). The policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. These rules are intended to promote a convenient and economic system of airports in the state and for land use planning to reduce risks to aircraft operations and nearby land uses.***
- (2) ***Ensuring the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airports are located. This division recognizes the interdependence between transportation systems and the communities on which they depend.***

FINDING: The above provision is a purpose and policy statement related to OAR 660 Division 13. The applicant's burden of proof statement includes the following response to this provision:

By adopting these amendments, the County continues to encourage and support the continued development, operation and vitality of the Redmond Municipal Airport. The amendments are consistent with ORS 836.600 through 836.630 and Statewide Planning Goal 12 (Transportation).

Staff notes the applicable provisions of ORS 836.600 through ORS 836.630 are reviewed in previous findings. Oregon Statewide Planning Goals, including Goal 12, are reviewed in subsequent findings.

OAR 660-013-0030, Preparation and Coordination of Aviation Plans

- (2) ***A city or county with planning authority for one or more airports, or areas within safety zones or compatibility zones described in this division, shall adopt comprehensive plan and land use regulations for airports consistent with the requirements of this division and ORS 836.600 through 836.630. Local comprehensive plan and land use regulation requirements shall be coordinated with acknowledged transportation system plans for the city, county, and Metropolitan Planning Organization (MPO) required by OAR 660, division 12. Local comprehensive plan and land use regulation requirements shall be consistent with adopted elements of the state ASP and shall be coordinated with affected state and federal agencies, local governments, airport sponsors, and special districts. If a state ASP has not yet been adopted, the city or county shall coordinate the preparation of the local comprehensive plan and land use regulation requirements with ODA. Local comprehensive plan and land use regulation requirements shall encourage and support the continued operation and vitality of airports consistent with the requirements of ORS 836.600 through 836.630.***

FINDING: The submitted Burden of Proof provides the following statement:

The proposed Deschutes County code text and map amendments do not affect the adopted transportation planning documents. This proposed set of amendments are consistent with local comprehensive plans and the State Aviation System Plan. By adopting these amendments, the

County continues to encourage and support the continued development, operation and vitality of the Redmond Municipal Airport.

Staff concurs with this description and finds the proposed amendment to the DCC will encourage and support the continued operation and vitality of the Airport.

OAR 660-013-0050, Implementation of Local Airport Planning

A local government with planning responsibility for one or more airports or areas within safety zones or compatibility zones described in this division or subject to requirements identified in ORS 836.608 shall adopt land use regulations to carry out the requirements of this division, or applicable requirements of ORS 836.608, consistent with the applicable elements of the adopted state ASP and applicable statewide planning requirements.

FINDING: The submitted Burden of Proof provides the following statement:

Revisions to DCC Chapter 18.80, specifically DCC 18.80.030, are proposed as part of this application and the revisions update the text of the uses allowed in the safety zone, consistent with OAR 660-013-0050.

This administrative rule imposes a mandatory requirement on the County to adopt land use regulations consistent with the applicable elements of the adopted state Aviation System Plan (“ASP”) and applicable statewide planning requirements. The applicant proposes to amend the Airport Safety (AS) Combining Zone, which implements this administrative rule. Other applicable statewide planning requirements are addressed below, and staff finds this criterion will be met.

OAR 660-013-0070, Local Government Safety Zones for Imaginary Surfaces

- (1) *A local government shall adopt an Airport Safety Overlay Zone to promote aviation safety by prohibiting structures, trees, and other objects of natural growth from penetrating airport imaginary surfaces.***
 - (a) *The overlay zone for public use airports shall be based on Exhibit 1 incorporated herein by reference.***
 - (b) *The overlay zone for airports described in ORS 836.608(2) shall be based on Exhibit 2 incorporated herein by reference.***
 - (c) *The overlay zone for heliports shall be based on Exhibit 3 incorporated herein by reference.***

- (2) *For areas in the safety overlay zone, but outside the approach and transition surface, where the terrain is at higher elevations than the airport runway surface such that existing structures and planned development exceed the height requirements of this rule, a local government may authorize structures up to 35 feet in height. A local government may adopt other height exceptions or approve a height variance when supported by the airport sponsor, the Oregon Department of Aviation, and the FAA.***

FINDING: The submitted Burden of Proof provides the following statement:

The acknowledged DCC Chapter 18.80 implements the requirements of this regulation, and this application proposed to amend the existing provisions only to update the location and dimensions of the existing safety zones.

The County has adopted an Airport Safety (AS) Combining Zone, and staff therefore finds subsection (1), is met. Subsection (2), above, allows a jurisdiction to adopt height exceptions to the imaginary surfaces of the Airport Safety Overlay Zone when supported by the airport sponsor, the Oregon Department of Aviation, and the FAA. No height exceptions are included in the subject proposal. Notice of Application for the subject proposal was sent to the Oregon Department of Aviation on September 19, 2023 and no comments were received.

OAR 660-013-0080, Local Government Land Use Compatibility Requirements for Public Use Airports

- (1) A local government shall adopt airport compatibility requirements for each public use airport identified in ORS 836.610(1). The requirements shall:**
 - (a) Prohibit new residential development and public assembly uses within the Runway Protection Zone (RPZ) identified in Exhibit 4;**
 - (b) Limit the establishment of uses identified in Exhibit 5 within a noise impact boundary that has been identified pursuant to OAR 340, division 35 consistent with the levels identified in Exhibit 5;**
 - (c) Prohibit the siting of new industrial uses and the expansion of existing industrial uses where either, as a part of regular operations, would cause emissions of smoke, dust, or steam that would obscure visibility within airport approach corridors;**
 - (d) Limit outdoor lighting for new industrial, commercial, or recreational uses or the expansion of such uses to prevent light from projecting directly onto an existing runway or taxiway or into existing airport approach corridors except where necessary for safe and convenient air travel;**
 - (e) Coordinate the review of all radio, radiotelephone, and television transmission facilities and electrical transmission lines with the Oregon Department of Aviation;**
 - (f) Regulate water impoundments consistent with the requirements of ORS 836.623(2) through (6); and**
 - (g) Prohibit the establishment of new landfills near airports, consistent with Department of Environmental Quality (DEQ) rules.**
- (2) A local government may adopt more stringent regulations than the minimum requirements in section (1)(a) through (e) and (g) based on the requirements of ORS 836.623(1).**

FINDING: The submitted Burden of Proof provides the following statement:

The acknowledged DCC Chapter 18.80 implements the requirements of this regulation, and this application does not propose to amend the acknowledged regulations, other than to change the dimensions and locations of the protected areas consistent with the currently adopted Airport Layout Plan.

Staff agrees with the applicant's response and finds that no substantive changes to allowable uses, activities, or regulations associated with the Redmond Municipal Airport are included in the subject proposal.

OAD 660-013-0160, Applicability

This division applies as follows:

- (1) Local government plans and land use regulations shall be updated to conform to this division at periodic review, except for provisions of chapter 859, OR Laws 1997 that became effective on passage. Prior to the adoption of the list of airports required by ORS 836.610(3), a local government shall be required to include a periodic review work task to comply with this division. However, the periodic review work task shall not begin prior to the Oregon Department of Aviation's adoption of the list of airports required by ORS 836.610(3). For airports affecting more than one local government, applicable requirements of this division shall be included in a coordinated work program developed for all affected local governments concurrent with the timing of periodic review for the jurisdiction with the most land area devoted to airport uses.***
- (2) Amendments to plan and land use regulations may be accomplished through plan amendment requirements of ORS 197.610 to 197.625 in advance of periodic review where such amendments include coordination with and adoption by all local governments with responsibility for areas of the airport subject to the requirements of this division.***
- (3) Compliance with the requirements of this division shall be deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR 660, division 12 related Airport Planning.***
- (4) Uses authorized by this division shall comply with all applicable requirements of other laws.***
- (5) Notwithstanding the provisions of OAR 660-013-0140 amendments to acknowledged comprehensive plans and land use regulations, including map amendments and zone changes, require full compliance with the provisions of this division, except where the requirements of the new regulation or designation are the same as the requirements they replace.***

FINDING: The submitted Burden of Proof provides the following statement:

These amendments are being accomplished by code amendments authorized by OAR 660-013-0160(2). The amendments comply with all of OAR 660-013 and other legal requirements.

Staff agrees with the above statement and notes that it appears the proposal complies with the applicable provisions of OAR 660 Division 13 and other relevant legal requirements outlined in this staff report.

DIVISION 12, TRANSPORTATION PLANNING

OAR 660-012-0060 Plan and Land use Regulation Amendments

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

FINDING: The Applicant does not propose any changes to the uses and activities outlined within the City Zoning Districts associated with the Redmond Municipal Airport. The Airport's underlying zoning districts, as administered by the City of Redmond, dictate the allowable uses and activities associated with the Airport. Because no changes are proposed to the uses and activities at the Airport, staff finds there are no foreseeable traffic impacts from the proposed amendments. The amendments themselves propose changes to the written descriptions, including dimensional aspects, of the Airport's imaginary surfaces and 55 DNL noise contour boundary. Because there are no proposed changes to the base zoning, there are no foreseeable traffic impacts associated with

the proposal and, as a result, the Transportation Planning Rule under OAR 660 Division 12 is not triggered.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

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

FINDING: The Statewide Planning Goals and the Applicant's responses are quoted below:

Goal 1: Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

APPLICANT RESPONSE: *Over the course of the master plan there were five Planning Advisory Committee (PAC) meetings and two public open house events held in 2016/2017 as part of the prescribed public involvement process.*

These amendments are being adopted by a process that provides the opportunity for citizen involvement by including public hearings before adoption. The County will hold public hearings before its Planning Commission and Board of Commissioners before any text and map amendments are adopted.

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

APPLICANT RESPONSE: *These amendments are being adopted through the land use planning process as set forth in DCC 22.12. The decision made in this matter is based on the applicable goals, statutes, regulations as well as the Comprehensive Plan and Transportation System Plan. The amendments will provide guidelines for future decisions.*

Goal 3: Agricultural Lands.

APPLICANT RESPONSE: *The proposed amendments pertain to aircraft operations within imaginary surfaces and what land uses are allowed outright, conditionally, or not allowed within those surfaces. There are agricultural lands to the east, south, and north of the airport. These lands are zoned Exclusive Farm Use (EFU). However, the combination of the uses permitted in the EFU zone, the size of the affected parcels, the height limit of the zone, the distance from the airport's runways, and the vertical gradient of the AS zones all combine to preclude any adverse effects from the imaginary surfaces onto the EFU lands. Additionally, much of the EFU lands are in federal ownership and thus are exempt from local land use controls. Thus, the proposed changes to the mapped AS features are consistent with Goal 3.*

STAFF COMMENT: Staff notes that the land uses allowed outright, conditionally, or prohibited in association with the Redmond Municipal Airport are dictated by the Airport's base zones, which are within the jurisdiction of the City of Redmond.

Goal 4: Forest Lands.

APPLICANT RESPONSE: *The proposed amendments do not affect any designated Forest Lands so Goal 4 does not apply.*

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces.

APPLICANT RESPONSE: *The proposed amendments do not affect any inventoried Goal 5 natural resources, scenic or historic area or open space. The proposed amendments do not affect any natural, scenic, historic, open space, or surface mining resources adjacent to the Redmond Municipal Airport that may have been protected through the application of a combining zone.*

STAFF COMMENT: The County's Goal 5 protections are partially implemented through DCC Chapter 18.84, the Landscape Management Combining Zone. This overlay zone protects scenic resources through design limitations and additional protections for designated roadways, rivers, and streams. The subject property is not located within the Landscape Management Combining Zone and is not subject to these provisions.

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

APPLICANT RESPONSE: *Goal 6 is primarily concerned with the preservation of air, land and water resources from pollution. The amendments are consistent with Goal 6 because they do not allow any additional impact on air, water or land quality compared to what is allowed under current zoning.*

Goal 7: Areas Subject to Natural Hazards

APPLICANT RESPONSE: *The proposed amendments do not affect any areas subject to natural hazards, so Goal 7 does not apply.*

Goal 8: Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

APPLICANT RESPONSE: *General Aviation operations (aviation activities conducted by recreational and business aircraft users) makes up a significant portion of the aircraft operations at the Redmond Municipal Airport. Commercial flights into Redmond provide many visitors the first step on their way to enjoy Oregon's recreational activities. The proposed amendments do not negatively affect any areas relative to the recreational needs of the community, thus the proposed amendments are consistent with Goal 8.*

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

APPLICANT RESPONSE: *The proposed amendments do not affect any economic activities as they currently exist, so Goal 9 does not apply.*

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

APPLICANT RESPONSE: *The Redmond Municipal Airport is subject to federal grant restrictions which do not permit residential use at the airport. Goal 10 is therefore, not applicable to this application.*

Goal 11: Public Facilities and Services. To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

APPLICANT RESPONSE: *The proposed amendments do not include any amendments that would affect the Airport's water and sewer service. The proposed changes are therefore consistent with Goal 11.*

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

APPLICANT RESPONSE: *The Redmond Municipal Airport is part of the County's multi-modal transportation system. The proposed amendments include minor text modifications and map amendments to airport safety zones to reflect future facility improvements identified in the 2018 Airport Master Plan. The proposed changes are therefore consistent with Goal 12 to provide and encourage a safe transportation system.*

Goal 13: Energy Conservation.

APPLICANT RESPONSE: *The Redmond Municipal Airport has been established in its location for decades and it would not be feasible to relocate the airport. Given that it cannot be relocated, provisions that allow it to continue to function do not affect the energy needed to go to and from the airport. The proposed amendments are consistent with Goal 13.*

Goal 14: Urbanization.

APPLICANT RESPONSE: *Goal 14 is not applicable because proposed changes to the airport safety overlay zones is outside of any urban growth boundary. The proposed amendments are consistent with Goal 14.*

Goals 15-19.

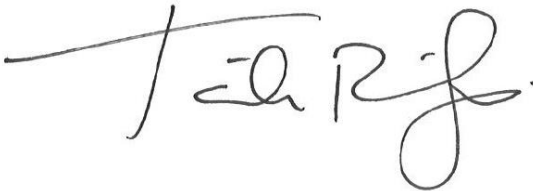
APPLICANT RESPONSE: *The Redmond Municipal Airport is not in and does not affect any area subject to Goals 15-19. The Airport is not within the Willamette River Greenway, is not adjacent to a river, and is not located no the Oregon Coast. These goals are therefore not applicable to this application.*

Staff generally accepts the Applicant's responses and finds compliance with the applicable Statewide Planning Goals has been effectively demonstrated.

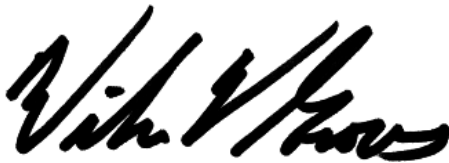
IV. CONCLUSION & RECOMMENDATION

Staff requests the Hearings Officer determine if the Applicant has met the burden of proof necessary to justify the proposed Text Amendment through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (the Deschutes County Zoning Ordinance), the Deschutes County Comprehensive Plan, and applicable sections of OAR and ORS.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Tarik Rawlings, Senior Transportation Planner



Reviewed by: Will Groves, Planning Manager

Attachments: 1) Proposed Text Amendments