



Mailing Date:  
Thursday, March 13, 2025

## COMMUNITY DEVELOPMENT

### NOTICE OF PUBLIC HEARING

#### HEARING FORMAT

The Deschutes County Hearings Officer will conduct the public hearing described below by video and telephone. If participation by video and telephone is not possible, in-person testimony is available. Options for participating in the public hearing are detailed in the Public Hearing Participation section.

#### PROJECT DESCRIPTION

**FILE NUMBERS:** 247-24-000839-PA, 840-ZC

**OWNER/  
APPLICANT:** MCKENZIE MEADOW VILLAGE LLC

**APPLICANT'S  
REPRESENTATIVE:** Christopher P. Koback  
Hathaway Larson LLP  
1125 NW Couch Street, Suite 550  
Portland, OR 97229

937 NW Newport Avenue, Suite 220  
Bend, OR 97703

**PROPOSAL:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject property from Forest to Rural Residential Exception Area and a corresponding Zone Change to rezone the subject property from Forest Use 2 (F2) to Multiple-Use Agricultural (MUA10). The total area subject to the request is 58 acres. The application includes a Goal 4 (Forest Lands) exception request.

The applicant states that the purpose of this request is to ultimately be considered for inclusion in the City of Sisters Urban Growth Boundary (UGB). The applicant intends to develop a needed housing residential development with 30% of dwellings being affordable housing. However, these applications do not include a concurrent request to expand the City of Sisters UGB.

**LOCATION:**

<b>Map and Tax Lot</b>	<b>Situs Address</b>
1510050001200	69095 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001202	69055 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001203	69050 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001205	None

**HEARING DATE:** Monday, April 7, 2025

**HEARING START:** 1:00 pm

**HEARING**

**LOCATION:** Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend and Zoom. See additional information below.

**STAFF PLANNER:** Haleigh King, Senior Planner  
[Haleigh.king@deschutes.org](mailto:Haleigh.king@deschutes.org), 541-383-6710

**RECORD:** Record items can be viewed and downloaded from:  
<https://www.deschutes.org/mckenziemeadowvillage>

**TIME LIMITS**

The Deschutes County Planning Division has set the following time limits for testimony at the hearing:

- Applicant: 30 minutes
- Public Agencies: 10 minutes
- General Public: 3 minutes
- Applicant Rebuttal: 10 minutes

Please note, the above time limits can be modified or eliminated by the Hearings Officer at their discretion.

**STANDARDS AND APPLICABLE CRITERIA:**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:  
Chapter 18.04, Title, Purpose, and Definitions  
Chapter 18.32, Multiple Use Agricultural Zone (MUA10)  
Chapter 18.40, Forest Use Zone (F2)  
Chapter 18.80, Airport Safety Combining Zone (AS)  
Chapter 18.84, Landscape Management Combining Zone (LM)  
Chapter 18.136, Amendments  
Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Statewide Planning Goals

Oregon Administrative Rules (OAR), Chapter 660

Oregon Revised Statutes (ORS)

### **PUBLIC HEARING PARTICIPATION**

- If you wish to provide testimony during the public hearing, please contact the staff planner by 4 pm on Friday, April 4. Testimony can be provided as described below.
- Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link: <https://us02web.zoom.us/j/81075794928>. Using this option may require you to download the Zoom app to your device.
- Members of the public can access the meeting via telephone, dial 1-253-215-8782. When prompted, enter the following Webinar ID: 810 7579 4928.
- Written comments can also be submitted to the record. Please see the Document Submission section below for details regarding written submittals.
- If participation during the hearing by video and telephone is not possible, the public can provide testimony in person at 1 pm in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend.

All documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost at the Deschutes County Community Development Department (CDD) at 117 NW Lafayette Avenue. Seven (7) days prior to the public hearing, a copy of the staff report will be available for inspection at no cost at CDD and on the websites listed above. Copies of all documents, evidence and the staff report can be purchased at CDD for (25) cents a page.

**ALL INTERESTED PERSONS MAY APPEAR, BE HEARD, BE REPRESENTED BY COUNSEL, OR SEND WRITTEN SIGNED TESTIMONY. ANY PARTY TO THE APPLICATION IS ENTITLED TO A CONTINUANCE OF THE INITIAL EVIDENTIARY HEARING OR TO HAVE THE RECORD LEFT OPEN IN ACCORDANCE WITH SECTION 22.24.140 OF THE DESCHUTES COUNTY CODE.**

Failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.



Mailing Date:  
Friday, March 28, 2025

## COMMUNITY DEVELOPMENT

### STAFF REPORT

**FILE NUMBER(S):** 247-24-000839-PA, 840-ZC

**HEARING:** April 7, 2025, 1:00 p.m.  
Videoconference and Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97708

**OWNER/APPLICANT:** MCKENZIE MEADOW VILLAGE LLC

**APPLICANT'S  
REPRESENTATIVE:**

Christopher P. Koback  
Hathaway Larson LLP  
1125 NW Couch Street, Suite 550  
Portland, OR 97229  
  
937 NW Newport Avenue, Suite 220  
Bend, OR 97703

**REQUEST:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject property from Forest to Rural Residential Exception Area and a corresponding Zone Change to rezone the subject property from Forest Use 2 (F2) to Multiple-Use Agricultural (MUA10). The total area subject to the request is 58 acres. The application includes a Goal 4 (Forest Lands) exception request.

The applicant states that the purpose of this request is to ultimately be considered for inclusion in the City of Sisters Urban Growth Boundary (UGB). The applicant intends to develop a needed housing residential development with 30% of dwellings being affordable housing. However, these applications do not include a concurrent request to expand the City of Sisters UGB.

**SUBJECT PROPERTY:**

<b>Map and Tax Lot</b>	<b>Situs Address</b>
1510050001200	69095 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001202	69055 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001203	69050 MCKINNEY RANCH RD, SISTERS, OR 97759
1510050001205	None

**STAFF PLANNER:**

Haleigh King, Senior Planner  
[Haleigh.king@deschutes.org](mailto:Haleigh.king@deschutes.org), 541-383-6710

**RECORD:**

Record items can be viewed and downloaded from:  
<https://www.deschutes.org/mckenziemeadowvillage>

**I. APPLICABLE CRITERIA**

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

- Chapter 18.04, Title, Purpose, and Definitions
- Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
- Chapter 18.40, Forest Use Zone (F2)
- Chapter 18.80, Airport Safety Combining Zone (AS)
- Chapter 18.84, Landscape Management Combining Zone (LM)
- Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Oregon Administrative Rules (OAR), Chapter 660

Oregon Revised Statutes (ORS)

Statewide Planning Goals

**II. BASIC FINDINGS**

**LOT OF RECORD:** Pursuant to DCC 22.04.040, Verifying Lots of Record, lot of record verification is only required for certain permits:

- B. *Permits Requiring Verification.*
  - 1. *Unless an exception applies pursuant to subsection (B)(2) below, verifying a lot or parcel pursuant to subsection (C) shall be required prior to the issuance of the following permits:*

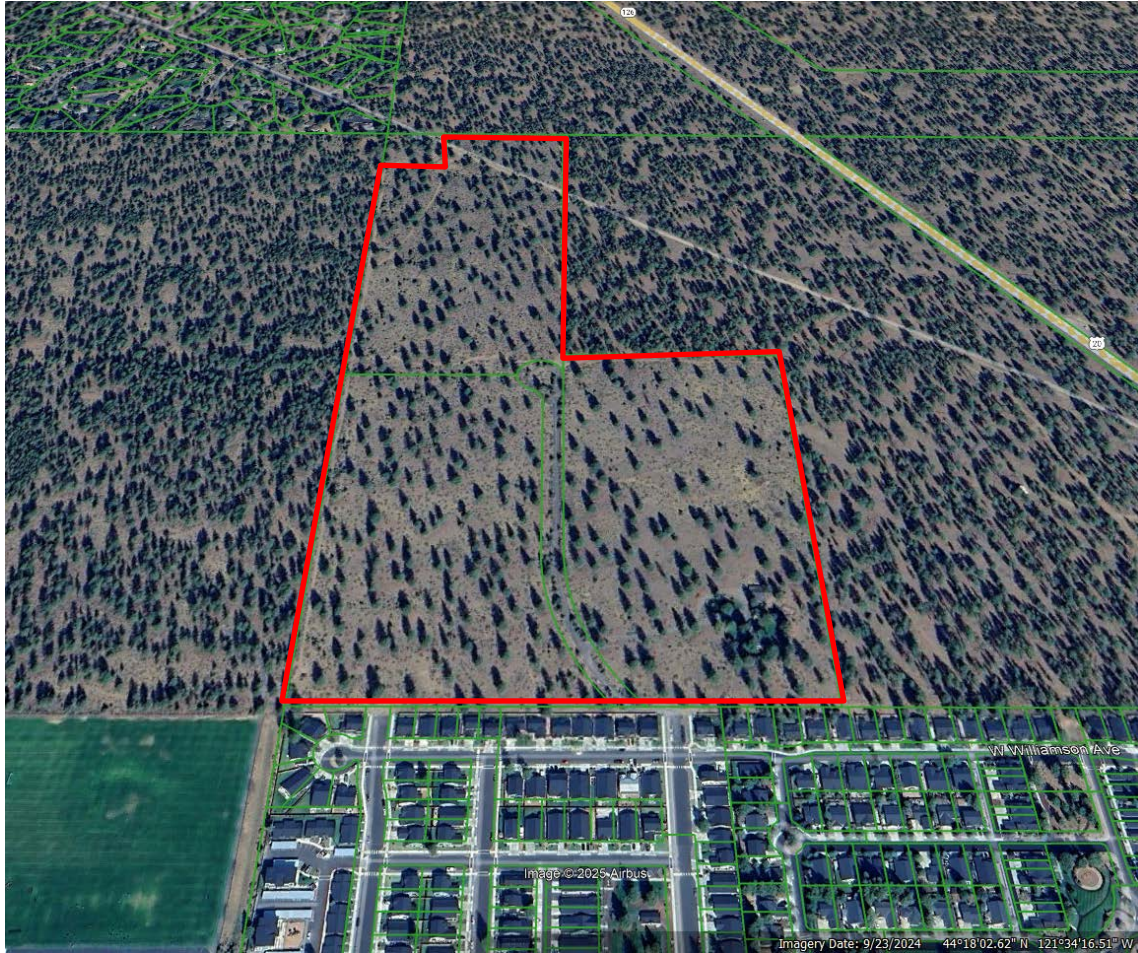
- a. *Any land use permit for a unit of land in the Exclusive Farm Use Zones (DCC Chapter 18.16), Forest Use Zone – F1 (DCC Chapter 18.36), or Forest Use Zone – F2 (DCC Chapter 18.40);*
- b. *Any permit for a lot or parcel that includes wetlands as shown on the Statewide Wetlands Inventory;*
- c. *Any permit for a lot or parcel subject to wildlife habitat special assessment;*
- d. *In all zones, a land use permit relocating property lines that reduces in size a lot or parcel;*
- e. *In all zones, a land use, structural, or non-emergency on-site sewage disposal system permit if the lot or parcel is smaller than the minimum area required in the applicable zone;*

In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, the Hearings Officer held to a prior zone change decision (*Belveron* ZC-08-04; page 3) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the applicant would be required to receive lot of record verification prior to any development on the subject property. Therefore, this criterion does not apply.

**SITE DESCRIPTION:** The subject property is approximately 58 acres in size and is generally step-shaped or L-shaped. The subject property consists of four tax lots and contains an extension of the McKinney Ranch Road private road right-of-way. The southern property boundary abuts the improved McKinney Ranch Road, a local roadway within the City of Sisters. The topography of the site is relatively level. Vegetation on the property consists of thinned ponderosa pine trees and other native shrub vegetation. The perennial stream, Trout Creek, bisects the center of the property from east to west and is mapped as a "potential" wetland. Northeast portions of the subject property contain the Landscape Management Overlay Zone associated with Highway 20. The subject property is also within the Airport Safety Combining Zone associated with the nearby Sisters Eagle Airport.



**Image 1 – Aerial View of Subject Property (Source: Google Earth)**



**PROPOSAL:** The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject property, approximately 58 acres, from Forest to Rural Residential Exception Area (RREA) and a corresponding Zone Change to rezone the subject property from Forest Use - 2 (F2) to Multiple-Use Agricultural (MUA10). The application also includes the request for a Goal 4 Exception.

**BACKGROUND:** Staff includes a portion of the Applicant’s burden of proof statement (dated January 9, 2025) background section in this Staff Report, but incorporates it’s entirety by reference:

Sisters is currently evaluating sites to include in its UGB expansion. The applicable regulations instruct the City to first look at Priority One lands, which are referred to as exception land, or non-resource land. Thus, the purpose of this application is to have the subject property redesignated to RREA and to have it zoned MUA-10, which will make it Priority One land to aid the City in adding property that is particularly suited for addressing the housing demand.

If the County approves this application, the subject property is likely one of if not the most appropriate tracts for the City of Sisters to include in its UGB expansion. While there are several actions that will have to occur if the property is added to the UGB before the applicant

can formally bring a master plan to the City for approval, the applicant, having successfully completed McKenzie Meadow Village, has a well-thought-out concept for developing the property that includes an aggressive affordable housing component.

**SOILS:** According to the Natural Resources Conservation Service<sup>1</sup> (NRCS), the subject property contains one soil unit on the property, noted below.

1123, Lundgren ashy sandy loam, 0 to 15 percent slopes. This soil unit is comprised of 80 percent Lundgren and similar soils and 20 percent minor components including Wanoga and Skelwa. The land capability classification is 6e when irrigated and 4c when nonirrigated.

The applicant provided an Order 1 soil study ("Kitzrow Soil Study") with their application submittal. The soil study, prepared by Gary A. Kitzrow, a Certified Soils Scientist, Classifier, and Forester of Growing Soils Environmental Associates concludes the subject property contains the following soils:

Lundgren Shallow Gravelly Substratum Variant 1123\*Mapping Unit Soil Class 7  
(most dominant)

Lundgren Shallow Variant soils have a distinguishing feature regarding the substrata and depth to their occurrence. *Modal* Lundgren soil map units have glacial outwash substratum beginning at 20 to 40" and show coarse fragments of 35 to 60% by volume according to the Official Series Description) (OSD). These are listed as Soil Class 6 soils. The Lundgren Shallow Variant (1123\*) is the single most common soil found on the 59.72-acre study area. Lundgren Shallow Gravelly Substratum Variant soils (1123\*) shows depths to the hostile gravelly outwash substratum of 14 to 20" based upon 12 measurements throughout the parcel.

Lundgren Gravelly Substrata 1123 Mapping Unit Soil Class 6 (prevalent)

*Modal* Lundgren soil map units have *glacial outwash substratum* beginning at 20 to 40" and show coarse fragments of 35 to 60% by volume according to the Official Series Description) (OSD). These are listed as Class 6 soils. The *Control Section* according to the USA NRCS and the USDAs Soil Taxonomy is 10 to 40" for soils deeper than 40". The USDA and research groups including OSU and WSU extension acknowledge most of the biologic activity in any given soil is found in the *rhizosphere* which occurs in this 10 to 40" region.

Lundgren Extremely Shallow Gravelly Substratum Variant 1123\*\* Mapping Unit Class 7/8

The Lundgren extremely shallow Variant soils we confirmed here approach *fragmental* in particle class in some microsites within the delineations but are otherwise skeletal. These soils are generally unsuited Class 7 and sometimes bordering 8 soils incapable of holding water and nutrients. Additionally, this mapping

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<sup>1</sup> Source; [www.websoilsurvey.nrcs.usda.gov](http://www.websoilsurvey.nrcs.usda.gov)



unit lacks the thicker, high organic matter topsoils modal Lundgren (1123) soils exhibit. In these extremely draughty sandy soils, organic matter is used in lieu of silt plus clay to assist in water retention (WHC). WHC is lacking in all Lundgren-like soil units. The Control Section for this very harsh soil unit is dominated mostly by vast amounts of gravel mixed with cobbles all of which are rounded. Since all outwash rock in these soils are rounded, they have rolled on and hasten transmission of water downward as compared with soil profiles having angular or broken rock. Basically, this particular Variant is a sieve with water moving vertically straight though the profile. Rounded rock does not retain rock.

The Kitzrow Soil Study concludes the following:

As indicated on the original USDA soil map, our detailed, site-specific soil survey of the property confirms shallow Lundgren Variant is the most common soil on this subject study area and is a Capability Class 7 soil. Class 6 Lundgren (Non-Variant) is prevalent as well and is Capability Class 6/4. The extremely shallow Lundgren Variant is a Strong Class 7 soil and is only found as a band moving through the central portion of the ownership. A strong preponderance of this property is Soil Capability Class 7 with Forest Productivity Class 6, both of which, are non-commercial [and] represents general unsuited conditions.

**SURROUNDING LAND USES:** The surrounding land uses and zoning are described below.

**West** - To the west is undeveloped land owned by the Sisters School District and zoned Forest Use (F1). These lands are currently within the Trout Creek Conservation Area, a ±160-acre area preserved in perpetuity through an agreement with the Deschutes Land Trust.

**North and East** - To the north and east is undeveloped property zoned Forest Use (F1) and owned by Deschutes National Forest.

**Northwest** - The Tollgate Subdivision touches the northwest corner of the subject property. This subdivision is zoned Rural Residential and includes residentially developed lots approximately ½ acre in area. A ±1.16-acre tract adjacent to the subject property, owned by the Tollgate Homeowners Association, contains a well house associated with the Tollgate Subdivision.

**South** - To the south includes the McKenzie Meadows Village residential subdivision located within the City of Sisters City Limits and the Urban Growth Boundary and is zoned Multi-Family Residential.

**Southwest** - To the southwest is Sisters High School located within City of Sisters City Limits and the Urban Growth Boundary. This property is zoned Public Facilities.

**PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice of application on January 3, 2025, to several public agencies and received the following comments or responses:

Deschutes County Senior Transportation Planner, Tarik Rawlings, January 16, 2025

I have reviewed the transmittal materials for 247-24-000839-PA, 840-ZC for properties totaling approximately 58.56 acres to change the Comprehensive Plan designation from Forest (FOREST) to Urban Reserve Area (URA) and the zoning from Forest Use (F2) to Multiple Use Agricultural (MUA10). The properties are within the Forest Use (F2) Zone, and the Airport Safety (AS) and Landscape Management (LM) Combining Zones associated with the following properties:

Mailing Name: MCKENZIE MEADOW VILLAGE LLC  
Map and Taxlot: 1510050001200  
Account: 167952  
Situs Address: 69095 MCKINNEY RANCH RD, SISTERS, OR 97759

Mailing Name: MCKENZIE MEADOW VILLAGE LLC  
Map and Taxlot: 1510050001203  
Account: 179522  
Situs Address: 69050 MCKINNEY RANCH RD, SISTERS, OR 97759

Mailing Name: MCKENZIE MEADOW VILLAGE LLC  
Map and Taxlot: 1510050001202  
Account: 179521  
Situs Address: 69055 MCKINNEY RANCH RD, SISTERS, OR 97759

Mailing Name: MCKENZIE MEADOW VILLAGE LLC  
Map and Taxlot: 1510050001205  
Account: 179524  
Situs Address: \*\*NO SITUS ADDRESS\*\*

I have reviewed traffic analysis provided by Ferguson & Associates, Inc., dated December 20, 2024, included as Appendix 15 of the submitted application materials. The analysis included within the submitted Ferguson & Associates, Inc. report requires revisions in order to fully comply with the relevant provisions of OAR 660-012-0060, known as the Transportation Planning Rule (TPR). In order to determine whether the proposal will produce a significant effect on transportation facilities, the applicant must revise their traffic analysis to comply with TPR including OAR 660-012-0060(1)(a-c) and the additional criteria listed below.

Upon initial review, the submitted traffic analysis does not appear to address the Goal Exception criteria under OAR 660-012-0070 related to the applicant's request for an exception to Oregon Statewide Planning Goal 4 and responses to that section of OAR Chapter 660 Division 12 and any other exception-related criteria within TPR must be addressed through revised analysis.

The reasonable worst case scenario analysis put forward in the submitted traffic analysis relies on the use category of "farm use" as defined in ORS 215.203, yet goes on to refer to this use category as "small agriculture product processing facility" (pg. 4), "farm manufacturing" (pg. 5), and "processing plant" (pg. 5). In terms of terminology, it would be helpful if the transportation analysis used consistent terms to refer to the reasonable worst case scenario use category anticipated within the existing F2 zoning.

The submitted transportation analysis assigns one reasonable worst case scenario facility use to only one of the 4 subject properties included in the proposal – a 10,000 square-foot building associated with "farm use" as defined in ORS 215.203. It is unclear why the analysis only includes one facility use on a single parcel and why this use is 10,000 square-feet in size. Staff recognizes that Tax Lot 1205 (2.00 acres) provides a private access corridor to the subject properties and, thus, does not need to be analyzed for its potential to support "farm use" as defined in ORS 215.203. Regarding the facility, the analysis will need to be revised to include additional reasoning, using verifiable examples and citations of real local or regional "farm use" facilities, justifying how such a facility could be reasonably sized at 10,000 square-

feet (based on operating characteristics and requirements). Similarly, the analysis should be revised to include additional reasoning, using verifiable examples and citations of real local or regional “farm use” facilities and operations to explain the operating characteristics, size, crop type, function, etc. of the components of the worst-case scenario projected on the remaining parcels (in addition to the parcel anticipated to support the “farm use” facility).

Regarding the reasonable worst-case scenario analysis provided for the requested MUA10 Zoning designation, staff agrees with the applicant’s projection of 5 single-family dwellings accompanied by 5 Accessory Dwelling Units (ADUs) and the inclusion of horse operations across the subject property.

Due to the potential for the revised reasonable worst case scenario analysis to demonstrate a net increase of 50-200 weekday daily trips, the analysis will need to be revised to comply with the requirements for a Site Traffic Report (STR) pursuant to [DCC 18.116.310\(C\)\(3\)\(b\)](#) and the relevant provisions of DCC 18.116.310. If the revised analysis demonstrates that the reasonable worst-case scenario would generate a net increase of more than 200 vehicle trip ends, then the revised analysis will need to comply with the requirements for a Traffic Impact Analysis (TIA) pursuant to [DCC 18.116.310\(C\)\(3\)\(c\)](#) and DCC the relevant provisions of DCC 18.116.310.

The properties have frontage on McKinney Ranch Road, a private road not maintained by Deschutes County and functionally classified as a Rural Local road. Due to the private status of the roadway, the access permit requirements of DCC 17.48.210(A) and DCC 12.28.050 do not apply. Staff notes that Highway 20 (a public road maintained by the Oregon Department of Transportation (ODOT), functionally classified as a Primary Arterial Highway) is potentially within the Traffic Study Area associated with the proposal. For any potential impacts to Highway 20, staff recommends the applicant work closely with representatives from ODOT for any requirements related to this state facility.

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of \$5,691 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

**THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2025 PENDING ANY AMENDMENTS TO THE COUNTY’S CURRENT SDC RESOLUTION 2024-038. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.**

**AGAIN, THIS IS INFORMATIONAL ONLY AS SDCS ARE NOT ASSESSED UNTIL DEVELOPMENT OCCURS.**

Thanks for the opportunity to comment and please let me know if you have any questions.

Deschutes County Senior Transportation Planner, Tarik Rawlings, February 24, 2025

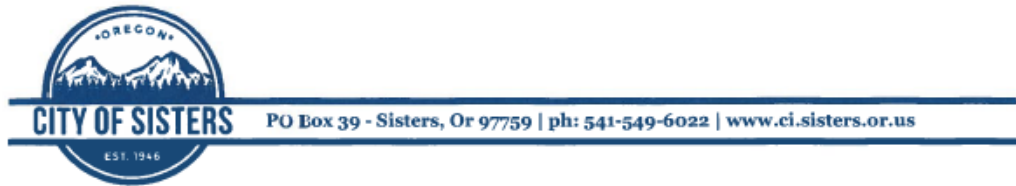
Thank you for the follow-up correspondence related to TPR analysis for file no. 247-24-000839-PA, 840-ZC,

I've reviewed the revised TPR analysis prepared by Ferguson & Associates, Inc dated February 12, 2025 and, while the analysis appears to predominantly comply with the provisions of Goal 12 and DCC 18.116.310(F), the analysis notably does not include references and/or citations indicating how the square-footage (3,000 sq-ft in the revised analysis) for the F2 (Forest Use) worst case scenario analysis was derived, though the analysis likely overall references a "reasonable" worst case scenario under this square-footage. I generally agree with the assumptions, methodologies, and conclusions outlined in the revised analysis.

Thank you for the coordination and please let me know if you have any questions.

Deschutes National Forest, Ian Reid, District Ranger

Hi Haleigh, sorry I have not responded back to you in a timely manner on this topic. The Forest Service is going to hold off on submitting comments on this proposed zone change.



February 27, 2025

Will Groves, Planning Manager  
Deschutes County Community Development Department  
117 NW Lafayette Ave  
Bend, OR 977308

Dear Mr. Groves,

On behalf of the City of Sisters City Council, Planning Commission, and Urban Growth Boundary Steering Committee, we respectfully request that the Deschutes County Community Development Department expeditiously review File Number 247-24-00839-PA, 840-ZC for McKenzie Meadows Village, LLC as is feasibly possible.

The purpose of our request is related to the current Sisters Urban Growth Boundary Amendment process. The subject parcels score well in our latest objective analysis against the required review factors for a UGB expansion, however, they are currently considered lower priority lands per State rules. If the rezone were to be successful, the lands would become higher priority and therefore be subject to consideration for inclusion in the expanded UGB. The City does not have a position on the merits of the rezone request but does support resolution of the request (whether it be approval or denial) in a timely manner as possible, knowing that there is a strong possibility for an appeal of the decision that could prolong the process.

At the same time, we greatly respect the County's review processes, including the need for adequate time for staff to analyze the request and to write a staff report with findings on top of the required timelines for public comment.

Sincerely,

		
Jennifer Letz Mayor	Sarah McDougall Council President	Michael Preedin City Councilor
		
Gary Ross City Councilor	Cheryl Pellerin City Councilor	

Cc: Nick Lelack, County Administrator  
Peter Gutowsky, Community Development Director

The following agencies did not respond to the notice: Confederated Tribes of Warm Springs, Department of Land, Conservation, and Development, Oregon Department of Forestry, Deschutes County Assessor, Deschutes County Onsite Wastewater Division, Sisters-Camp Sherman Rural Fire Protection District, Oregon Department of Transportation, Oregon Department of Water Resources, Oregon Department of Aviation, Sisters School District, and Deschutes County Forester and Fire Adapted Communities Coordinator.

**PUBLIC COMMENTS:** The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property on January 3, 2025. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on January 14, 2025.

Staff received a number of public comments, in support and in opposition, which are attached to the application record and incorporated herein by reference.

Comments received in support reference the City of Sister’s ongoing UGB expansion process and the subject property’s logical inclusion due to proximity to urban services, “moderate” wildfire hazard risk, and ability to provide affordable housing opportunities. Comments received in opposition note concerns with potential traffic impacts, availability of groundwater, wildfire risk, compatibility with and preservation of open space and forested land, and impacts to local wildlife and plant species.

**NOTICE REQUIREMENT:** The applicant complied with the posted notice requirements of Section 22.23.030(B) of Deschutes County Code (DCC) Title 22. The applicant submitted a Land Use Action Sign Affidavit, dated January 14, 2025, indicating the applicant posted notice of the land use action on the property on that same date. On March 13, 2025, the Planning Division mailed a Notice of Public Hearing to agencies, interested persons, and all property owners within 750 feet of the subject property for a public hearing to be held on April 7, 2025. A Notice of Public Hearing was published in the Bend Bulletin on Sunday, March 16, 2025. Notice of the first County evidentiary hearing was submitted to the Department of Land Conservation and Development on March 3, 2025.

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

### **III. FINDINGS & CONCLUSIONS**

In order to approve the comprehensive plan amendment and zone change request, the proposal must comply with the criteria found in statutes, statewide planning goals and guidelines and their implementing administrative rules, County comprehensive plan, and land use procedures ordinance. Each of these approval criteria is addressed in the findings below.

#### **Title 18 of the Deschutes County Code, County Zoning**

#### **Chapter 18.32, Multiple Use Agricultural Zone**

##### Section 18.32.010, Purpose



***The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.***

**FINDING:** The Applicant proposes to change the zoning designation of the subject property from F2 to MUA10. The applicant notes in the burden of proof that the property is not suited for commercial foresting or commercial farming and that the MUA10 zone will allow low intensity residential uses.

As described in additional detail under the findings for DCC 18.136, staff finds the proposed zoning designation is consistent with DCC 18.32.010.

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

##### Section 18.136.020, Rezoning Standards

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

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

**FINDING:** Staff notes the Applicant's responses to this section and the subsequent Comprehensive Plan policies are from the Applicant's supplemental burden of proof dated February 11, 2025. The Applicant provided the following response in its submitted burden of proof statement:

The introductory comments inform that the Comprehensive Plan provides a blueprint for

land use conservation and development. It provides a legal framework for establishing more specific land use actions and regulations such as zoning. Because the Comprehensive Plan looks out many years into the future, to remain useful overtime, the introduction confirms that it must provide direction and yet, remain flexible.

A zone change from F-2 to MUA-10, which is a transitional zone the purpose for which includes providing for an orderly and efficient transition from rural to urban uses, embodies the plan and regulations adopted under it in that it promotes that orderly and efficient transition.

In previous Hearings Officer's decisions, comprehensive plan goals and policies do not constitute mandatory approval criteria for quasi-judicial zone changes. Instead, the goals and policies are implemented through the zoning ordinance, and thus if the proposed zone change is consistent with the applicable provisions of the zoning ordinance it also will be consistent with the plan. Nevertheless, the provisions of Deschutes County's comprehensive plan below are the relevant provisions of the plan that should be considered in reviewing the application to change the zoning of F2 to MUA10. Relevant sections of the Deschutes County Comprehensive Plan are reviewed below within this Staff Report. In previous comprehensive plan and zone change recommendations<sup>2</sup> to the Board of County Commissioners and Hearings Officers have found that the introductory statement of the Comprehensive Plan is aspirational in nature and not necessarily approval criteria.

## **Deschutes County Comprehensive Plan**

### Chapter 1, Comprehensive Planning

The Applicant submits that the following specific goals and policies are addressed within its proposed findings under this Chapter:

#### **Section 1.1 Introduction**

**Goal 1:** *Maintain an active and open community involvement program that is accessible to all members of the community and engages the community during development and implementation of land use policies and code.*

**Policy 1.2.3:** *Encouraging participation in planning through a variety of tools and techniques, including:*

*Post all planning applications, decisions, projects and plans on the County website.*

*Provide staff reports for comprehensive plan and zoning text amendments to the public in a timely manner.*

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<sup>2</sup> Powell/Ramsey decision (PA-14-2, ZC-14-2) and Landholdings Decision (247-16-000317-ZC, 318-PA).

***Hold area-specific comprehensive plan and zoning text amendments public hearings and at times convenient to area residents.***

***Require pre-application meetings for comprehensive plan text amendments, and for major or potentially contentious projects encourage applicants to hold informal community meeting before submitting an application.***

***Policy 1.2.5: Ensure effective, efficient planning procedures.***

### **Section 1.3 Land Use Planning Policies**

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

***Policy 1.3.1: Protect the limited amount of privately owned land in Deschutes County through consideration of private property rights and economic impacts to private owners and the community when creating and revising land use policies and regulations.***

***Policy 1.3.3: Involve public when amending County code.***

***Goal 2: Promote regional cooperation and partnership on planning issues.***

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

Chapter 1 of the Comprehensive Plan addresses citizen involvement and land use planning. The County has adopted application procedures and legal requirements for a property owner to seek an amendment to the Comprehensive Plan and zoning map. Those procedures are in the County code which is part of the acknowledged plans and thus consistent with state law. The application was submitted under the County's adopted procedures. The procedures for amending the comprehensive plan and zoning map, like other quasi-judicial applications have notice requirements and public hearings that are designed to promote citizen involvement in the land use decision making process.

The subject application is being evaluated based on an objective review of compliance with Statewide Planning Goals, Deschutes County Comprehensive Plan policies, and Oregon Administrative Rules. Notice was mailed to property owners and agencies in compliance with the County Procedures Ordinance and noticing requirements. A public hearing will be held before a Hearings Officer on April 7, 2025, and members of the public can attend and testify at that hearing. Pursuant to DCC 22.28.030, the Board of County Commissioners will take final local action on the application after a recommendation from the Hearings Officer. This Comprehensive Plan Amendment and Zone Change application will be evaluated through an open process that allows

for public input and follows Deschutes County's Procedures Ordinance. Staff agrees with and supplements the Applicant's response.

## Chapter 2 Resource Management

**FINDING:** The Applicant provided the following response in the submitted burden of proof statement regarding Chapter 2, generally:

Not all of the policies under Chapter 2 are relevant to this application. That applicant submits that the following sections in Chapter 2 must be discussed: 2.3-Forestland; 2.5-Water Resources; 2.6-Wildlife; 2.7 Open Spaces; and 2.9 Environmental Quality.

The proposed amendments will not negatively impact any forestland policies or goals. However, if the subject property is included in the Sisters' UGB, it will be developed with needed and affordable housing which will remove the property for any consideration for commercial forestry operations and will result in the loss of trees. That result will not be inconsistent with or defeat the basic policies and goals related to forest land. The professional report for Growing Soils Associates informs that the subject property is not suitable for commercial forestry due to very poor soil and limited tree growth. Further, the property is not open for public recreation because it is privately owned.

The application will not produce any negative consequences related to water quality. There are no rivers, streams, or wetlands on the property. There are not such resources close enough to be affected by any activity on the property in the event that it is added to the City and developed.

The proposed amendments will not have any effect on wildlife. However, as noted, if the property is added to the Sisters' UGB, it will be developed, and the property will be less available for wildlife habitat. The social benefits of needed and affordable housing clearly offset the minimal loss of habitat considering that the property adjacent to the subject property to the north and northeast is part of the National Forest and professionally managed by the US Forest Service.

Similarly, if the amendments are approved and the property is added to the Sisters' UGB, the subject property will be less open. However, the conceptual development plan preserves as much open space as it is practical while producing needed and affordable housing. In addition, as noted, the national forest adjacent to the subject property will continue to offer massive open spaces and recreational opportunities.

If the proposed amendments are approved and the subject property is added to the Sisters' UGB, there will be a loss of trees and increased impervious surfaces associated with the needed and affordable housing that will be developed. However, the loss of some trees is offset by the societal benefits of adding needed and affordable housing to the County and City. Further, with the creation of open space in future development and the requirements that applicants plant street trees, the negative impacts from the loss of trees can be

mitigated. Similarly, the City standards for detaining and treating stormwater runoff will mitigate the increase in impervious surface associated with future development.

## Section 2.3 Forestlands

**Goal 1** *Protect and maintain forest lands for multiple uses, including forest products, watershed protection, conservation, recreation and wildlife habitat protection.*

**Policy 2.3.1** *Retain forest lands through Forest 1 and Forest 2 zoning.*

**Policy 2.3.3** *To conserve and maintain impacted forest lands, retain Forest 2 zoning for those lands with the following characteristics:*

- a. Consist predominantly of ownerships developed for residential or non-forest uses;*
- b. Consist predominantly of ownerships less than 160 acres;*
- c. Consist of ownerships generally contiguous to tracts containing less than 160 acres and residences, or adjacent to acknowledged exception areas; and*
- d. Provide a level of public facilities and services, including roads, intended primarily for direct services to rural residences.*

**FINDING:** The Applicant provided the following response, in part, in the submitted burden of proof statement:

As to Goal 1, the subject site is not productive forest land that can be put to many forest-related uses such as commercial timber operations. Thus, rezoning to MUA-10 is not inconsistent with the goal to maintain forest lands for such uses. Rezoning the property to MUA-10 is not inconsistent with protecting and maintaining forestland for watershed protection, conservation recreation or wildlife habitat protection. The MUA-10 zoning allows lower intensity uses that will not consume a large amount of property. For example, the maximum number of dwellings that could be constructed is five. That means there will be significant areas left undeveloped. Further, with applicable development standard for developing in the MUA-10 zone, measures can be implemented to avoid impacts to any watersheds (there is a single ephemeral stream near the property) open spaces and wildlife habitat.

The Kitzrow Soil Study states that the subject property is a non-commercial forest site with generally unsuited Capability Class 7 soils and no trees measured are members of Forest Productivity Class 1 to 4 which are trees considered to be commercial or merchantable in their growth habit. There is nothing in the record indicating the property has a known history of forestry use or commercial timber operations. However, based on the Applicant's response, staff requests the Hearings Officer make specific findings on this topic.

## Section 2.5 Water Resources

**Goal 1**            ***Develop regional, comprehensive water management policies that balance the diverse needs of water users and recognize Oregon water law.***

**Policy 2.5.3**            ***Goal 5 inventories, ESEEs and programs are retained and not repealed.***

**Goal 2**            ***Increase water conservation efforts.***

**Policy 2.5.5**            ***Promote a coordinated regional water conservation effort that includes increasing public awareness of water conservation tools and practices.***

**FINDING:** The Applicant provided the following response, in part, in the submitted burden of proof statement:

Rezoning the property to MUA-10 will have no effect on any Goal 5 inventories or other related programs or initiatives. Water conservation practices can and should be implemented through adopted building codes and other regulations that can be applied during development. Development allowed under the MUA-10 property is generally not heavily water dependent. On the subject property agricultural uses requiring irrigation are simply not feasible with the very poor soil quality. Further, water conservation efforts and public awareness of them should not be dependent on zoning. Owners of properties in all zones should be made aware of conservation techniques and encouraged to implement them.

While the above goals may not be applicable to this application, Staff generally agrees with the Applicant's response.

**Goal 6**            ***Coordinate land use and water policies.***

**Policy 2.5.22**            ***Coordinate with other affected agencies when a land use or development application may impact river or riparian ecosystems or wetlands.***

**Policy 2.5.23**            ***Encourage land use patterns and practices that preserve the integrity of the natural hydrologic system and recognize the relationship between ground and surface water.***

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

**FINDING:** In *Aceti IV* (247-20-000438-PA, 439-ZC), the Hearings Officer found and the Board of County Commissioners ("BOCC") adopted the following finding:

The Hearings Officer found in *Aceti 1* that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2 and ZC-14-2 that stated, "Nevertheless, in my decision in NNP I held it is not clear from this plan language what "water impacts" require review -- impacts to water supplies from use or



consumption on the subject property, or Impacts to off-site water resources from development on the subject property." The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County's land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review "water impacts" because the Applicant has not proposed any particular land use or development. Thus, there are no "significant land uses or developments" that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County's land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant's requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant's Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development.

Staff notes the subject property contains a perennial stream, Trout Creek, as identified in Section 2.5 of the County Comprehensive Plan. According to Deschutes County DIAL, the property also contains "potential" wetlands adjacent to the assumed Trout Creek stream corridor.

While the Applicant alludes to future development opportunities and goals on the subject property, the Applicant is not proposing a specific development application at this time. Following the analysis in *Aceti IV* (247-20-000438-PA, 439-ZC), the Applicant is not required to demonstrate the water impacts associated with development. Rather, the Applicant will be required to address this criterion during development of the subject property, which would be reviewed under any necessary land use review process for the site (e.g. conditional use and/or tentative plan approval).

Coordination with the Department of State Lands to evaluate any potential wetland impacts would occur at the time of development application as well. The Hearings Officer made, and the BOCC adopted, similar findings in the *LBNW, LLC* decisions (ref. files nos. 247-23-000398-A, 247-21-000881-PA, 882-ZC).

Staff asks the Hearings Officer to determine if similar findings are warranted for the subject request.

## **Section 2.6 Wildlife**

**Goal 1**            ***Maintain and enhance a diversity of wildlife and habitats.***

**Policy 2.6.1**            ***Goal 5 wildlife inventories, ESEEs and programs are retained and not repealed.***

**Policy 2.6.7**            ***Use a combination of incentives, regulations and education to promote stewardship of wildlife habitat and address the impacts of development.***

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

Efforts to maintain and enhance diversity of wildlife habitat is also not dependent on the particular zoning. If the privately owned property remains F-2, maintaining and enhancing habitat still relies on the initiative of the owner. Rezoning to MUA-10 does not change that. The required effort remains dependent on the motivation of the owner. Allowing low intensity development permitted in the MUA-10 zone will not remove the motivation or ability of private owners to maintain and enhance wildlife habitat. In addition, in the MUA-10 zone the parcels can only be reduced to 10 acres. Most uses allowed in the MUA-10 zone do not consume large spaces and leave plenty of undeveloped property for maintaining wildlife habitat.

These policies are fulfilled by the County's Goal 5 program. Staff notes that no Goal 5 Wildlife Inventory applies to the subject property at this time. Staff notes public comments raised concerns regarding potential impacts to wildlife in the area.

Staff asks the Hearings Officer to make specific findings on this issue.

## **Section 2.7, Open Spaces, Scenic Views and Sites**

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

**Policy 2.7.3**            ***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.***

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

The subject site does not have any significant open spaces or scenic sites. Rezoning to MUA-10 to allow uses permitted in that zone will not have any negative impact on such resources and thus the rezoning is consistent with the goals and policies stated above.

These policies are fulfilled by the County's Goal 5 program. The County protects scenic views and sites along major rivers and roadways by imposing the Landscape Management (LM) Combining Zones to properties within a certain distance from these features. The northeast corners of the subject property are located within the LM Combining Zone associated with Highway 20 scenic corridor. The standards associated with the LM Combining Zone are reviewed for compliance when a new structure or substantial alteration of an existing structure is proposed.

Staff asks the Hearings Officer to make specific findings on this issue.

## **Section 2.9 Environmental Quality**

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

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

***Policy 2.9.5 Review County Code and revise as needed to promote the use of resource-efficient building and landscaping techniques, materials and technologies for new construction and renovation projects.***

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

If the proposed amendments are approved and the subject property is added to the Sisters' UGB, there will be a loss of trees and increased impervious surfaces associated with the needed and affordable housing that will be developed. However, the loss of some trees is offset by the societal benefits of adding needed and affordable housing to the County and City. Further, with the creation of open space in future development and the requirements that applicants plant street trees, the negative impacts from the loss of trees can be mitigated. Similarly, the City standards for detaining and treating stormwater runoff will mitigate the increase in impervious surface associated with future development.

Rezoning the subject property to MUA-10 is not inconsistent with the above goals and policy related to environmental quality. Policy 2.9.5 in particular reinforces the concept that through responsible and sustainable building practices, development of uses allowed in the MUA-10 zone can occur in manner that maintain, protects and enhances environmental quality.

The subject application does not include the construction of structures or development of the subject property.

### Chapter 3, Rural Growth

#### **Section 3.3, Rural Housing**

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

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

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

Most of this chapter is not relevant to the proposed amendments. The first goal under this chapter is to maintain the rural character of rural zone lands. The purpose of the current application is to rezone the subject property so it can be added to the Sisters' UGB and urbanized. If the proposed amendment to the Comprehensive Plan Map is approved and the property is designated RREA, it is appropriate then to apply the MUA zone as the MUA zone is consistent with the RREA designation. If the amendment to the zoning map is approved, the property will no longer be rural land. While the proposed amendments, if approved, will ultimately change the character of the land, because the applicant is following the County process for changing the land use designation and zoning, the proposal is not inconsistent with this chapter. Further, the proposed amendments, if approved, will not change the character of any surrounding or nearby lands that will remain rural zone.

One goal under Chapter 3 is to coordinate and support agencies and non-profits that provide affordable housing. While not an agency or non-profit, the applicant has committed to developing a significant number (30%) of affordable housing units if the proposed amendments are approved and the City of Sisters adds the subject property to its UGB. In that regard, the proposed amendments are consistent with Chapter 3 and the larger objective of promoting affordable housing.

**SUPPLEMENTAL PROPOSED FINDINGS:** The proposed rezoning to MUA-10 will not change the rural character of the property or surrounding area. The uses permitted in the MUA-1[0]- zone remain low intensity uses compatible with the rural area. Residential development in the MUA-10 zone is limited to large acres parcels which are reflective of a rural community. The rezoning will also allow for a diversity in housing. Within the MUA-10 zone, not only are

single family dwellings permitted but ADUs are also permitted, but on large acre parcels that are in keeping with the rural character. As noted, as long as the property remains zoned MUA-10, the permitted development will not change the rural character of the property or area.

To the extent the Hearings Officer finds this section applicable, Staff asks the Hearings Officer to make specific findings to this issue.

### **Section 3.4, Rural Economy**

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

**Policy 3.4.1** *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.*

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

Rezoning the subject property to MUA-10 is consistent with the above goal and polices in that some of the uses and development allowed in the MUA-10 zone are uses that expand the local economy. Although rural residential uses are common, other uses such as home occupations, and stables are permitted outright. Other uses such as kennels and guest houses are permitted conditionally. With review through the land use process such uses that promote the local economy can be developed while keeping the rural character of the area.

The MUA10 Zone allows home-based businesses or home occupations, subject to specific operational requirements. However, it is not clear this is applicable to the requested plan amendment and zone change application. If applicable, Staff asks the Hearings Officer to make specific findings to this issue as they see fit.

### **Section 3.5, Natural Hazards**

**Goal 1** *Protect people, property, infrastructure, the economy and the environment from natural hazards.*

**Policy 3.5.5** *Development should be designed to minimize alteration of the natural land form in areas subject to slope instability, drainage issues or erosion.*

**Policy 3.5.7** *Address wildfire danger particularly in the wildland urban interface.*

**a.** *Survey and map wildfire hazard at risk areas using the Wildfire Hazard Identification and Mitigation System.*

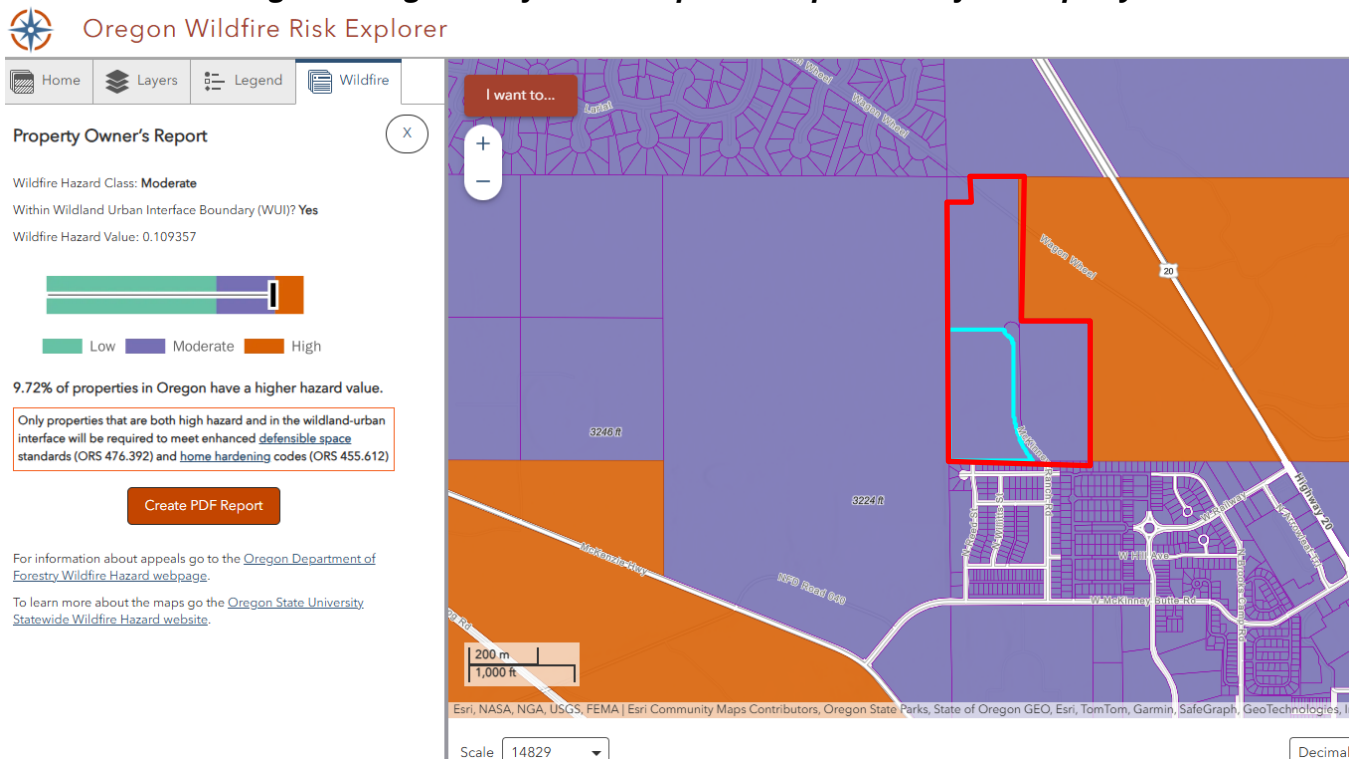
**b. Survey and map all areas not protected by structural fire protection agencies.**

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

The subject property does not have any natural hazards other than being subject to the same wildfire risk as most of the properties in and around Sisters. Through regulations that require defensible spaces around structures and other city and county initiatives to educate owners on how to manage the wildfire risks, responsible development that is allowed under the MUA-10 zoning is not inconsistent with the above goal and policies.

Pursuant to the recently released Oregon Statewide Wildfire Hazard Map, the subject property (outlined in red in Image 2 below) is mapped as Moderate Hazard and is within the Wildland Urban Interface Boundary (WUI). Additionally, the subject property is also located in Sisters-Camp Sherman Rural Fire Protection District jurisdiction. Staff notes that rezoning the properties to MUA10 does not change the Wildfire Hazard Area designation. Any future development of the properties would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County and applicable requirements of the Oregon Revised Statutes (ORS).

**Image 2 – Oregon Wildfire Risk Explorer Map with Subject Property**



Staff notes public comments raised concerns regarding wildfire risk and evacuation routes in the event of an emergency. As discussed throughout this report, the subject application does not review development on the subject property. If and when that occurs, physical development of the land will be subject to applicable fire protection regulations and emergency vehicle access requirements.



Staff finds these goals and policies are implemented by the County's Zoning Code which are applicable to development applications and therefore are not applicable to this application; however, Staff asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.

Section 3.7, Transportation

**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 4.4 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.**

**FINDING:** This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The County will comply with this direction by determining compliance with the Transportation Planning Rule (TPR), also known as OAR 660-012, as described below in subsequent findings.

Section 3.8, Rural Recreation

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

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

The subject property is private and there are no public parks or trails on it. However, it is located close to such public facilities that are available for public recreation. With future development applications, it is possible for the County to work with owners to provide connections from the subject property to those existing public recreation facilities.

Staff finds that the subject application does not review physical development of the property at this time. The policy above pertains to a regional park system and does not apply to this plan amendment and zone change application. However, Staff asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.

**B.           That the change in classification for the subject property is consistent with the**

***purpose and intent of the proposed zone classification.***

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

The stated purpose of the MUA-10 zone is:

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.

Beginning with the purpose of providing for an orderly transition from urban to rural uses. The Applicant has been completely transparent that a primary objective in seeking this zone change is to support the City of Sisters in adding land to its UGB that can actually produce needed housing at the level required within a reasonable period of time. A rezoning to a transitional zone is completely consistent with the goals and policies promoting efficient transition to urban uses. The requested rezone will allow for an orderly process involving the City to use the subject property in the future to meet a critical community need.

In the meantime, before that conversion to urban land is completed, applying the MUA-10 zoning is consistent with the above stated purposes. The rezoning will allow low intensity residential uses, while also allowing those uses recognized in DCC 18.32.020 and 030 as being appropriate in the MUA-10 zone. Because the uses allowed in the interim are lower intensity, the development of such can be done while preserving open space and natural resources. The MUA-10 zoning is not inconsistent with the purpose of conserving land for commercial foresting or farming because the professional report submitted with the application demonstrates that the land is not suitable for either use.

Staff finds the Applicant has demonstrated the proposed change in classification is consistent with the purpose and intent of the MUA10 Zone. However, Staff asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.

***C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:***

***1. The availability and efficiency of providing necessary public services and facilities.***

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

Currently, there is a road tract within the subject property approximately where McKinney Ranch Road abuts the property. The road tract clearly evidences the ability and intent to extend that road into the property. Thus, there is an efficient means to provide transportation facilities necessary to support uses allowed in the MUA-10 zone. In addition, with the development of McKenzie Meadow Village to the south, other local streets were stubbed to the subject property. Within those stubs are public sewers and waterlines that can easily and efficiently be extended to provide needed public facilities to the subject property. The Sisters' school campus is nearby to serve the educational needs of any residential development consistent with the MUA-10 density. There is no obvious reason that the County Sheriff, the Fire District and other emergency services cannot be provided to the property that is adjacent to the Sisters' city limit.

The closest residential uses to the subject property abut the southern property boundary and include property developed under City of Sisters zoning and land use regulations and include the McKenzie Meadows Village subdivision. These properties are served by City of Sisters water and sewer services. This close proximity to urban development will likely result in efficiency in providing necessary public services.

Staff notes that OAR 660-011-0060, Sewer Service to Rural Lands, precludes a sewer system from within an urban growth boundary to serve uses on land outside those boundaries. There are exceptions to this rule under state law, but it is not clear at this point if the subject property would qualify for such an exception. Regardless, if the subject property is divided or developed under County jurisdiction, onsite wastewater systems would be required. The existing dwelling on Tax Lot 1203 (a portion of the subject property included in this application request) is served by an onsite wastewater system.

The Applicant did not provide well logs or will serve letters from City of Sisters related to water service.

The subject property is within the Sisters-Camp Sherman Fire District. Sisters-Camp Sherman Fire District did not respond to the Notice of Application. The subject property is also within the service boundaries of the Deschutes County Sheriff's Office.

There are no deficiencies identified in the record related to public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the properties, the Applicant would be required to comply with the applicable requirements of the Deschutes County Code, including land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

Staff notes public comments raised concerns regarding the general availability of groundwater in the area.

Staff asks the Hearings Officer to make specific findings on this criterion.

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

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

Rezoning unproductive F-2 land to MUA-10 will not produce significant impacts on any surrounding lands. Specifically, the land to the south, southeast, and southwest is developed with urban uses, including a school and residential subdivisions at Sisters' density standards. The uses allowed under MUA-10 zoning will not generate any appreciable vehicle or other impacts on that land. Moreover, the MUA-10 zone is a transitional zone between rural and urban uses which embodies the notion that having MUA-10 zoning adjacent to urban uses is appropriate.

The land to the west of the subject site is a conservation tract owned by the Sisters' School District. With appropriate setbacks, uses allowed in the MUA-10 zone will not generate appreciable impacts on that land. The properties north and northeast of the subject site are federally owned forest lands. It is not uncommon in Deschutes County for there to be MUA-10 land adjacent to forest land. Again, the uses allowed in the MUA-10 zone are lower intensity uses that do not generate significant impacts on adjacent forestland. They include large acre residential uses, agricultural uses and forestry uses.

There are many goals and policies listed in the various chapters of the Comprehensive Plan, many of which do not apply to this application. Further, some of the goals and policies are not directed at impacts created by applications. For example, many policies in Section 1 relate to community involvement and general land use planning and do not speak about the impacts of a specific request. The above criterion does not identify which specific goals and policies that an applicant must address in discussing impacts on surrounding lands. However, the specific goals and policies under Chapter 1 that are listed in the preceding section explain that there are regulations and processes that apply to all rezoning requests and provide a platform for citizens to raise concerns over perceived impacts from any proposed action. To the extent any of those policies apply, they establish land use procedures that allow citizens to be involved in the land use planning and decision-making process where they have the ability to voice concerns over potential impacts.

Chapter 2 of the Comprehensive Plan is entitled Resource Management and has several subsections. The goals and policies related to several of the subsections in Chapter 2 that apply to this application are listed in the preceding section. As discussed above, any impacts associated with zoning the subject property MUA-10 are consistent with goals and policies directed at preserving natural resources on adjacent land. Allowing uses permitted in the

MUA-10 zone will not create impacts that are inconsistent with the policy of preserving and managing natural resources on adjacent land, including adjacent forest land, water resources, open space or scenic sites. The low intensity uses permitted in the MUA-10 zone can be developed to be compatible with the listed goals and policies.

The policies in Section 2.2 on agricultural lands also do not apply as the subject property and surrounding lands are not zoned agricultural.

Some policies in subsection 2.3 Forest Lands apply, and those are listed above. As it relates to adjacent F-1 lands, policies 2.3.1 and 2.3.2 are directed at preserving larger parcels of forestland. Rezoning the subject F-2 property to MUA-10 will not generate impacts that are inconsistent with those policies as it will have no impact on the ability to preserve the adjacent larger tracts of forest land.

Subsection 2.5 addresses water resources. Specific goals and policies that may be relevant are listed below. There is one ephemeral creek that in some years flows on adjacent forestland. With the required review for all development that may occur on rezoned MUA-10 property on the subject site, the County can assure that there are no impacts to the creek on the subject site and on adjacent land. Thus, any impacts can be addressed such that they are not inconsistent with the policies related to water resources.

As discussed above under Section 2.6, rezoning the property to MUA-10 will allow development that is not urban in nature, and which typically leaves significant portions of sites undeveloped. That allows for the retention and preservation of significant area wildlife habitat.

Addressing Section 2.9-Environmental Quality, allowing development on the subject property under the MUA-10 standards will not impact the ability of neighboring property owners to act consistently with any of the goals and policies under this section. It is common in Deschutes County to have MUA-10 property adjacent to resource land as well as urban lands. It is a transitional zone. Thus, one must conclude that development permitted under the MUA-10 zone is not incompatible with properties zoned for resource use and urban uses. Through application of the relevant development regulations, environmental quality on adjacent parcels can remain unaffected.

In addition to these comments, the Applicant provided specific findings for each relevant Comprehensive Plan goal and policy, which are addressed above. Staff asks the Hearings Officer to determine if the Applicant has demonstrated the impacts on surrounding land use will be consistent with the all the relevant goals and policies contained within the DCCP.

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

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

The Applicant believes that the F-2 zoning was originally placed on the property mostly due to its location and proximity to other forest lands. While the Applicant is not necessarily asserting that there was a mistake, it is obvious from the Growing Soils Environmental Report that the subject property is not capable of any commercial forest use. It has very poor soil and limited tree growth capacity. In addition, the subject site consists of five separate parcels: four larger parcels and a 2-acre road tract. The applicant understands that years ago when permitted by the applicable regulations, the property was divided to facilitate residential development at a density similar to that allowed in the MUA-10 zone. Electricity was stubbed to four parcels. The property has been used consistently with residential and other purposes. Trees have been thinned and fences installed. There is a dwelling on one parcel along with outbuildings. It has not been used as forestland. With the limiting factors discussed above, reforestation is not a viable plan.

A larger change though is the needs of the community. Establishing properties with a transitional zoning that can accommodate the inevitable growth in population has become a point of major concern. Other transitionally zoned land is subject to significant legal, locational and environmental restrictions that will not allow for the needed expansion of urban zoned property. The subject property has perhaps the best location for transitional zoning. It is best suited to provide the needed public services. It has few, if any, significant restrictions on transitional uses and long-range urban uses.

Staff asks the Hearings Officer to determine if the Applicant has demonstrated there has been a change in circumstances since the property was zoned or a mistake in the zoning of the property in question to warrant rezoning the subject property from F2 to MUA10.

### **Chapter 18.80, Airport Safety Combining Zone (AS)**

#### Section 18.80.020. Application of Provisions.

***The provisions of DCC 18.80.020 shall only apply to unincorporated areas located under airport imaginary surfaces and zones, including approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and runway protection zones. While DCC 18.80 identifies dimensions for the entire imaginary surface and zone, parts of the surfaces and/or zones do not apply within the Redmond, Bend or Sisters Urban Growth Boundaries. The Redmond Airport is owned and operated by the City of Redmond, and located wholly within the Redmond City Limits...***

**FINDING:** The subject property is entirely within the County Airport Safety Combining Zone (AS) associated with the Sisters Eagle Airport. The proposal is not subject to the County AS Zone review as no development is proposed at this time.

#### Section 18.80.026. Notice of Land Use and Permit Applications.

***Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications. [ORS 836.623(1); OAR 738-100-010; ORS 215.416(6); ORS 227.175(6)]***

***For the Redmond, Bend, Sunriver, and Sisters airports:***

- A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 10,000 feet of the sides or ends of a runway:***
- B. Notice of land use and limited land use applications shall be provided within the following timelines.***
  - 1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.***
  - 2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.***
  - 3. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.***
  - 4. Notices required under DCC 18.80.026(B)(1-3) need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:***
    - a. Would only allow structures of less than 35 feet in height;***
    - b. Involves property located entirely outside the approach surface;***
    - c. Does not involve industrial, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and***
    - d. Does not involve wetland mitigation, enhancement, restoration or creation.***

**FINDING:** The Planning Division mailed notice of the proposed land use application and scheduled public hearing at the same time that written notice of such applications was provided to property owners entitled to such notice. Notice was mailed to Oregon Department of Aviation. No comments were received from the Oregon Department of Aviation.

#### **STATEWIDE PLANNING GOAL EXCEPTION**

**STAFF COMMENT:** The Applicant provided the following background information as it relates to their Goal 4 exception request:

The current application invokes an evaluation of two related Statewide Planning Goals: Goal 4-Forest Lands and Goal 14-Urbanization. As stated earlier, the City of Sisters is engaged in a process to amend its UGB to add land for housing. The applicant participates in that process and respects the work that the City is conducting. Thus, the applicant does not

include a specific request in this application to amend the City's UGB. The applicant has been transparent throughout the process. Its objectives are to amend the comprehensive plan designation and rezone the subject property to exception land (Priority One) to facilitate including the property in the Sisters' UGB.

The proposed amendments will convert resource land to non-resource land to remove a potential regulatory impediment to including it in the Sisters' UGB. Thus, under OAR 660-004-0010, the applicant must take an exception to Goal 4-Forestland. OAR 660-004-0010(1)(D) sets forth the requirements if an applicant seeks an exception to Goal 14 to allow urban development on rural lands. In the context of this application, the applicant does not need to seek an exception to Goal 14 because the proposal is not to allow urban use on rural lands. The proposal is to amend the land use designation and zoning to facilitate an evaluation of the property as Priority One land for including in a UGB. The ultimate use of the property for housing is not being proposed in this application. Further, the applicant is not proposing to develop the property consistent with its conceptual plan unless it is annexed into the City.

Consequently, it is appropriate to apply Goal 14 to this application in the manner it would apply if the application sought to expand the UGB. As noted, the applicant is not proposing this in the application due to respect for the process in which the City is engaged. The proposed analysis is similar to that presented by the Sisters' School District in File No. PA-01-4/ZC01-4 and the City of Sisters' application to amend the Comprehensive Plan and zoning map in File No. PA-08-2/ZC-08-2/MA-08-8, applying OAR 660-004-0010(1)(d)(B).

#### **Consistency with Goal 14.**

Goal 14 requires a governing body proposing to change an urban growth boundary to follow the procedures and requirements set forth in Goal 2 and its implementing rule. Essentially, the governing body is required to address seven factors from Goal 14 and the four factors set forth in OAR 660-004-0010. *1000 Friends of Oregon v. LCDC*, 244 Or App 239 (2011) (discussing the application of Goal 14 post 2005). The seven Goal 14 factors are commonly divided into the (1) Needs Factors and (2) the Locational Factors.

### **OREGON ADMINISTRATIVE RULES CHAPTER 660 LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

#### **DIVISION 4, INTERPRETATION OF GOAL 2 EXCEPTION PROCESS**

##### OAR 660-004-0010, Application of the Goal 2 Exception Process to Certain Goals

- (1) The exceptions process is not applicable to Statewide Planning Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals that prescribe or restrict certain uses of resource land, restrict urban uses on rural land, or limit the provision of certain public facilities and services. These statewide goals include, but are not***



**limited to:**

**(b) Goal 4, "Forest Lands"; however, an exception to Goal 4 "Forest Lands" is not required for any of the forest or nonforest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands"; ....**

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

The proposed amendment to redesignate and rezone the property is not a use allowed on forest land. Thus, the applicant must demonstrate that it qualifies for an exception to Goal 4. As the applicant will detail below, there is ample justification for a goal exception.

In summary, the state policy embodied in Goal 4 is to conserve forest lands for forest use as well as to protect soil, air and water quality, and wildlife resources and recreational opportunities. The applicant has included as part of its application a professionally prepared report from Growing Soils Environmental Associates that was prepared after a detailed site analysis. The report concludes that the subject property comprises predominantly of Capability Class 7 soil which is generally unsuitable for both farm and forestry operations. The remaining soils on the site (the minority) are comprised of Class 5 and Class 6 soils which are borderline non-commercial forestry units.

Thus, rezoning the subject property will not take land that is suitable for forestry out of production. Further because the soil is predominantly Class 7 rezoning is not inconsistent with the Goal 4 policy of preserving soils. The subject site is not currently available for public recreation because it is privately owned. Consequently, rezoning it to MUA will not be inconsistent with Goal 4's policy of preserving recreational opportunities.

Rezoning the property will not have a negative impact on adjacent resource lands. Although rezoning will facility [sic] urbanization of the subject property, there is other US Forest Service land that abut the city and other urban uses. Thus, urban uses that abut forest land can be, and are compatible with ongoing use of forest lands. The rezoning will not negatively impact the adjacent United States Forest Service lands which will continue to be actively managed for timber production, wildlife habitat and public recreation.

The Applicant includes a request for a Goal 4 Exception as part of their Plan Amendment and Zone Change application. The section above stipulates that the exceptions process is applicable to Goal 4. The Applicant does not request an exception to Goal 1 or Goal 2.

**(d) Goal 14, "Urbanization," as provided for in the applicable paragraph (l)(c)(A), (B), (C), or (D) of this rule:**

**(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions.**

***An established urban growth boundary is one that has been acknowledged under ORS 197.251, 197.625 or 197.626. Findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:***

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

As set forth below, applying the seven Goal 14 factors and the factors in OAR 660-004-0010(1)(d)(B), the proposed amendment to the County Comprehensive Plan to redesignate the property RREA and to amend the zoning map to zone the property F-2 to facilitate the expansion of the Sisters' UGB is consistent with Goal 14.

The Applicant states this application does not request an expansion of the Sisters UGB nor request an exception to Goal 14; however, their application materials address criteria directed towards a UGB expansion. Staff notes the Applicant's responses below to the Goal 14 needs factors are referenced in other sections of their narrative, responsive to applicable criteria. For these reasons, Staff includes the Applicant's needs analysis below.

If the Hearings Officer determines this section applies, Staff requests specific findings on the above section.

**Needs factors.**

**OAR 660-015-0000(14)**

***To provide for an orderly and efficient transition from rural to urban land use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon consideration of the following factors:***

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC Goals;***
- (2) Need for housing, employment opportunities, and livability;***

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

It is well-documented that Oregon in general has a housing crisis. Particularly, there is a dramatic shortage of housing that working residents in many, if not most, cities can afford. The Governor's office has announced aggressive goals for the number of new housing units that will be made available on an annual basis. Sisters is not immune to the crisis and has identified a need to add property to its UGB primarily for housing production. The City of Sisters has confirmed within its ongoing UGB expansion process that it has a demonstrated need to add land for housing to meet its long-range urban population. The City has documented a need to add at least 250 acres of land to its UGB. On top of that, the City and County leaders have confirmed a particular need for affordable housing. The cost of housing

in central Oregon is increasing at a rate of 400% more than the increase in wages. What that means is that wage earners in Sisters and the surrounding areas are being priced out of the traditional housing market. Regardless of how hard they work, their wages/salaries will not allow them to purchase market rate housing.

The proposed rezoning will facilitate bringing the subject property into the Sisters' UGB.

The City has also confirmed in its process that the land currently within the UGB is not adequate to address the housing needs, particularly the need for affordable housing. Consequently, more land for urban residential development must be added to the UGB.

As discussed in the Proposal Background, there are unique challenges to creating an adequate supply of affordable housing. To keep housing affordable, development and construction costs must be confined. Thus, developing affordable housing at a small scale simply does not happen. An owner of a small parcel will not be able to economically justify developing multiple affordable units on one parcel because they will lose money. It is a reality that most property owners, even those committed to affordable housing, will not lose money to develop affordable housing. Thus, developing affordable housing at an appropriate scale requires a large parcel where an owner/developer can justify including a higher percentage of affordable units. That is so because with a large parcel, and a larger development, there will be market rate housing units that provide a reasonable profit incentive for the creation of the affordable units.

Amending the UGB to include the subject property addresses the City needs and the economic realities. The subject property is adjacent to the city limits. It abuts McKenzie Meadows Village, an existing residential development. Public services have been extended to the subject property. It is 58 acres, vacant and flat promoting efficient development. It is located close to the property added to the UGB in 2001 for the City's school campus. Part of the justification for including that property in the City for the campus was its location related to the City urban areas and existing facilities. Implicit in the City's decision to place its campus in that location is a recognition that the area around the campus is where the population growth will occur. In fact, recognizing that future residential growth will occur there was one justification for consolidating the campus on one large parcel because it would reduce the amount of vehicle travel required as opposed to other school campus locations.

In addition, the subject property is void of any legal restrictions on the needed development. On the contrary it is owned by an entity committed to creating affordable housing for Sisters. The applicant has already committed to developing affordable housing at a 30% level, which is significantly higher than most owners would ever consider. In contrast, other Priority One lands east of the City are encumbered with significant restrictions on future development. Many are far removed from existing public facilities. Most are highly parceled eliminating the ability to use economies of scale and development efficiency.

In sum, there is a demonstrated and dire need for affordable housing in Sisters and the subject property is best suited to meet that need. Thus, should the City bring the subject

property into its UGB, that act will be consistent with the needs factor in Goal 14.

**Locational factors.**

*Goal 14 factors 3 through 7 are more commonly evaluated as locational factors.*

***(3) Orderly and economic provisions for public facilities and services.***

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

With the development of McKenzie Meadows Village immediately south of the subject property, the public street and sewer system is already available to the property. In connection with that project, the applicant also extended sewer to the new high school property. Rezoning the subject property to MUA will allow facilitate annexation into the City and the orderly extension of the public services.

In addition, the decision to amend the comprehensive plan and zoning map to accommodate locating the Sisters' school campus on nearby land, compels the conclusion that the City has determined that the area is where the City expects significant population growth and an influx of families. As mentioned, one concept advanced in that application was that the current school campus location was better situated than others because the others were not close to where the school population would derive. Expanding the City to include what will essentially be an extension of McKenzie Meadows Village is consistent with the prior decision on the school campus.

***(4) Maximum efficiency of land uses within and on the fringe of the existing urban area available to the property. In connection with that project, the applicant also extended***

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

The subject property is not within the existing urban area but is clearly on the fringe. It abuts the current city limit. Further, rezoning the property to facilitate including it in the UBG and annexing it will promote efficient development of needed housing. The applicant will expand on this information later in this burden of proof. Urbanizing the subject property is the most efficient use of property not currently within but close to the City urban area. Unlike other such properties, the subject property has no legal restrictions that impede development of needed housing. In fact, the applicant is a committed advocate of needed and affordable housing. It is closer to existing public facilities. It is large enough to allow for the maximum number of affordable housing units by virtue of an efficiently scaled development.

***(5) Environmental, energy, economic, and social consequences.***

***(a) Environmental Consequences***

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

Urbanizing the subject property will not produce environmental consequences that cannot be mitigated. Without question, approving the proposed amendments will lead to urban development to meet the housing crisis and that will impact existing trees and vegetation. Urbanizing the subject property will result in the loss of some open space, albeit private and not available to the public. However, through responsible development those losses will be mitigated to an acceptable level. The applicant is committed to including significant recreational opportunities within the planned development. The City code requiring street trees and other plants mitigate the loss of trees and vegetation. Runoff from new impervious surfaces that are unavoidable in urbanization will be effectively detained and treated under the City standards.

Moreover, the applicant’s professional report demonstrates that the subject property is not valuable forest land. It has very poor soil and limited tree growth. It has no significant natural resources or environmentally sensitive areas.

***(b) Energy Consequences***

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

All urbanization requires the use of energy to support urban uses. However, with the use of current energy saving measures, many of which are now required as part of the implementation of building codes, urban uses can be developed in a manner that conserves energy to the greatest extent possible. Any energy use resulting from developing the subject property with the needed housing units will be the same as developing any other property with the same level of needed housing. The proximity to the school campus also promotes energy savings. It only makes sense for the City to expand its residential lands in the subject area close to the school. It is a short walking distance to the school campus. It is not a difficult walk to the downtown area. Thus, the use of buses and cars will be reduced, saving energy.

***(c) Economic Consequences***

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

Any economic consequences from urbanizing the subject property will be positive. First, as with any development, the City will receive system development money from the eventual development of the property. The County and City will observe increased property taxes. From a broader perspective, urbanizing the subject property consistent with the applicant’s conceptual plan will bring affordable housing to residents of Sisters. Allowing people who work in and provide service to Sisters to live in Sisters will enhance the economy. There will be more people living, working and shopping in Sisters.

There are minimal negative economic consequences to the proposal. The subject property will never produce timber at a commercial operation level. It offers no other economic benefits. It is private forest land that will sit idle for years to come.

***(d) Social Consequences***

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

The positive social consequences of urbanizing the subject property consistent with the applicant's conceptual plan will be enormous. Without question, production of needed and affordable housing is lagging behind the demand. Small infill development is not well suited to address that. To produce affordable housing at a meaningful level, developers of such housing must rely on economies of scale. It is difficult to justify an affordable price when one is developing one or two dwelling units. The subject property is a large build-ready site that can maximize efficiency and produce a larger number of affordable housing units. Indeed, the applicant has committed to developing 30% of the total units as affordable units. That results in approximately 130 affordable units when the property is fully developed. Further, the location near the City schools means that residents in the development will be part of a walkable neighborhood fostering a sense of community and connectedness.

Retaining forest zoning on unproductive private land provides little or no social benefits. People may be able to observe the land from off-site. However, they have acres upon acres of public forest in the immediate area.

***(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority.***

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

This application does not involve agricultural land, and thus, this criterion is not applicable.

***(7) Compatibility of the proposed urban uses with nearby agricultural activities.***

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

There are no agriculturally designated lands in the area. This criterion is not applicable.

Considering the Applicant's responses above, Staff requests the Hearings Officer make specific findings on whether the locational factors, to the extent they are applicable to this application, are met.

660-004-0010, Factors:

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

To obtain an exception to Goal 4, the applicant must in addition to addressing the seven goal 14 factors, also address the four factors expressly set forth in OAR 660-004-0010.

**ORS 197.732**

**(2) A local government may adopt an exception to a goal if:**

...  
**(c) The following standards are met:**

**(A) Reasons justify why the state policy embodied in the applicable goals should not apply;**

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

The applicant has demonstrated that this factor is satisfied through its discussion of the seven Goal 14 factors above.

Staff includes the Applicant's responses to the seven Goal 14 factors, above. Considering the Applicant's responses above, Staff requests the Hearings Officer make specific findings on whether this standard for a Goal 4 Exception is met.

**(B) Areas that do not require a new exception cannot reasonably accommodate the use;**

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

Most of the data and other information relevant to this factor have been developed in the ongoing Sisters UGB expansion process and is public information. Through a consultant, the City has already determined that it does not have land within its UGB to accommodate the housing demand. It has begun to evaluate all of the land outside the City UGB that does not require a goal exception. That information, detailed more below, demonstrates that the non-exception lands have environmental constraints, serious legal constraints (restrictive CC&Rs), is highly parceled, contains valuable improvements that impede development of housing, and are mostly located far away from some existing public facilities.

Land within the existing UGB.

The City has confirmed that currently, within its UGB, it does not have adequate residential land to meet its expected overall housing needs. It is currently in the process of amending its UGB to add approximately 250 acres of land. In a meeting related to that expansion, it has been recognized that currently, the City lacks the number of housing units that its residents can actually afford. There is simply not enough vacant land inside the City that can be developed with enough housing to meet the current needs within the City.

Land outside the current UGB.

The City has recognized that the land outside the City UGB for which an exception to either Goal 3 or 4 is not required consists almost exclusively of properties under Deschutes County's jurisdiction and zoned RR-10. With very limited exceptions those properties are located within previously approved and developed residential developments. None of those developed properties can reasonably accommodate the housing needed by the City. The applicant included in the appendix maps that were available at a recent City of Sisters open house related to the City's expansion process that illustrates the location of the RR-10 properties, many of the development constraints and the parcels included in CC&Rs that present legal constraints. **Appendix 4-6.** In addition, although not presented at the open house, the City has a map that illustrates that many of the Priority One properties in the ongoing study are located far away from existing public sewer which will make developing those properties for housing significantly more expensive. Following is a more detailed discussion of the various subdivisions located in the identified Priority One areas.

Tollgate: This land is all in a residential subdivision that has smaller parcels that are fully developed and restricted from further development by private CC&Rs. It is more than ½ mile from the current UGB. The City consultants excluded it from their study for these reasons.

Indian Ford Meadows: This is a large, County-approved residential subdivision. A large portion of it is more than ½ mile from the current UGB. It consists of individual residential parcels that average about 2 acres, that are almost all developed with one single-family dwelling. Indeed, the recorded CC&Rs restrict all lots to one detached single-family dwelling eliminating the potential for additional housing. **Appendix 7.** The recorded CC&Rs are being submitted with this application. It is not reasonable to assume that the restrictions will be removed. To amend the CC&Rs in Indian Ford Meadows, 75% of the owners of lots would have to vote in favor of doing that. Most of the lots are improved with valuable homes and accessory structures. It is doubtful that 75% of the owners of those improved lots will vote to remove the restrictions, remove structures, and develop the land for needed and affordable housing. In addition, the properties in Indian Ford Meadow are far away from any existing sanitary sewer and currently served by septic systems. Another map from the public records illustrates the distance of all of the RR-10 properties from public sewer. To accommodate the density needed to impact the housing needs, any property brought into the City will have to be redeveloped at much greater density on smaller lots that require public sewer. It would be cost prohibitive for private infill development to extend sewer.



Wild Horse Ridge: This County residential subdivision is also far removed from the current UGB requiring costly extension of sewer. It has some severely sloped land making development more expensive and likely beyond the reaches of affordable housing developers. Wild Horse Ridge contains lots that range from 2-5 acres; all are developed with homes. Wild Horse Ridge also has recorded CC&Rs that restrict the properties to one single-family dwelling and require a vote of 50% of the lot owners to amend that restriction. **Appendix 8.** Those CC&Rs are being submitted with the application. It is unreasonable to anticipate that 50% of the lot owners with nice homes will vote to remove the single-family dwelling restriction for affordable housing.

Starr Ranch: Starr Ranch presents almost identical impediments that Indian Ford Meadows presents. It is restricted to one dwelling on each lot and requires a 75% vote to amend the CC&Rs. **Appendix 9.** The lots in Starr Ranch are fully developed and more than 5,000 feet from the nearest public sewer. There is no basis to reasonably conclude that the property in that development will ever be redeveloped with needed housing.

The Barclay Place: This County development has also improved with existing dwellings on large parcels. While the dwellings do not consume a significant portion of each parcel, the undeveloped areas on most parcels are within areas shown on City maps as being physically constrained. A copy of the map showing constrained property is part of the City records and is included with the application. In addition to that, the private CC&Rs limit each parcel to one single-family dwelling and require a 75% vote to amend that provision. **Appendix 10.** It is not reasonable to assume that the parcels in The Barclay Place will redevelop with newly needed housing.

Eagle Air Estates, Crosswind Landings, Hawksflight Air Park, and Barclay Meadows:

Each of these County developments border the Sisters Airport. With the possible exception of Eagle Air Estates, the private CC&Rs (**Appendix 11-14**) limit development to one single-family dwelling on any lot. The CC&Rs for Eagle Air Estates prohibits duplexes and other multi-family structures which is a significant impediment to efficiently adding adequate numbers of affordable and workforce housing. Eagle Air Estates, Crosswind Landings, and Hawksflight Air Park each present another significant impediment. While there is open property depicted on the plat, it is reserved for all owners. Thus, it could not be used to needed housing without amending the CC&Rs. Nor could the assessment be changed without such a vote. The assessments in these developments are unique and higher than many because they go in part to maintaining private taxiways to the airport. The CC&Rs in each development require either a 66.6% or 75% vote to amend the restrictions. These developments are specially developed for owners who use the airport. Redevelopment is not just unlikely; it appears impossible to imagine.

Remaining RR-10 Property: Outside of the properties included in the subdivisions discussed above, there is little exception land identified in the City study. There are a few parcels located east of Eagle Air Estates. However, much of that land is physically constrained. The remainder is far from any existing sewer and other public facilities. There are properties north of Indian Ford Meadows and south of Barclay Meadows that does not appear to be

subject to legal restrictions. The property north of Indian Ford Meadows is the farthest from the current City boundary and public facilities. A large portion of it is already divided into small parcels that are fully developed. The parcels south of Barclay Meadows have existing development on much of it and are physically constrained in other parts. Access from public roads appears limited requiring significant additional development costs.

That leaves one area immediately east of the City and south of Barclay Meadows that is not legally restricted and that does not present the primary obstacles to development discussed above. However, that property is simply not sufficient to provide the scope of housing that the City requires.

Considering the Applicant's responses above, Staff requests the Hearings Officer make specific findings on whether this requirement for a Goal 4 Exception is met.

**(C) *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception under other than the proposed site.***

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

The applicant has addressed this factor above in addressing the seven Goal 14 factors. If one examines other properties that could be added to the UGB to accommodate the scale of affordable housing needed, they will have to look at other large parcels that are adjacent to the City and unencumbered by restrictions. Those properties will be other resources land. Developing an urban residential development at the scale required to address the affordable housing needs will have at least the same, if not greater, negative impacts on those properties. The long-term environmental, economic, social and energy consequences resulting from the use proposed at the subject site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

Considering the Applicant's responses above, Staff requests the Hearings Officer make specific findings on whether this requirement for a Goal 4 Exception is met.

**(D) *The proposed uses are compatible with the other adjacent uses or will be rendered so through measures designed to reduce adverse impacts.***

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

The applicant sufficiently addressed this factor above under the seven Goal 14 factors.

Considering the Applicant's responses above, Staff requests the Hearings Officer make specific findings on whether this requirement for a Goal 4 Exception is met.

OAR 660-004-0015, Inclusion as Part of the Plan

- (1) ***A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.***
- (2) ***A local government denying a proposed exception shall adopt findings of fact and a statement of reasons that demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.***

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

The County can satisfy this requirement by adopting the proposed findings of fact set forth below.

Staff finds the above section requires adoption of findings of fact and reasons supporting those findings which are responsive to the applicable exception criteria in any local decision on this matter. This requirement will be met.

OAR 660-004-0018, Planning and Zoning for Exception Areas

- (1) ***Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception.***

...

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

The applicant understands this requirement. The application seeks an exception to only Goal 4 and has demonstrated that that exception and the requested zone change are consistent with Goal 14. For purposes of changing the comprehensive plan designation and rezoning the property, the County is not required to justify an exception to any other goal.

Staff finds this Purpose statement does not include criteria applicable to the request. Staff notes that the exception request to Goal 4 does not relieve the Applicant from meeting all other goal

requirements.

- (2) ***For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):***

**FINDING:** The Applicant did not address the above section; however, based on the application materials the Applicant does not request an exception based on "physically developed" or "irrevocably committed" exception reasons. Therefore, this section does not apply.

...

**(4) "Reasons" Exceptions:**

- (a) ***When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, OAR 660-014-0040, or OAR 660-014-0090, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.***
- (b) ***When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.***
- (c) ***When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.***

**FINDING:** The Applicant did not address the above section; however, based on the burden of proof statement the Applicant requests an exception based on the "reasons" exception criteria. The Applicant requests the redesignation to RREA and rezone to MUA10. The uses, density, public facilities and services would be limited to those allowed in the MUA10 Zone. The subject property is not located within an unincorporated community.

It appears these standards are met; however, Staff asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.

660-004-0020 Goal 2, Part II(c), Exception Requirements

Staff notes the Applicant included findings responsive to both ORS 197.732, Goal Exceptions, and OAR 660-004, Interpretation of Goal 2 Exception Process. OAR 660-004-0020 implements ORS

197.732 and Goal 2. Staff incorporates their findings to both sections by reference and includes the responses in this staff report.

**(2) *The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:***

**(a) *"Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;***

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

The state policy embodied in Goal 4 is to conserve forest lands for forest use as well as to protect soil, air and water quality, and wildlife resources and recreational opportunities. The applicant has included as part of its application a professionally prepared report from Growing Soils Environmental Associates that was prepared after a detailed site analysis. The report concludes that the subject property is comprised predominantly of Capability Class 7 soil which is generally unsuitable for both farm and forestry operations. The remaining soils on the site (the minority) are comprised of Class 5 and Class 6 soils which are borderline non-commercial forestry units. Thus, rezoning the subject property will not take land that is suitable for forestry out of production. Further because the soil is predominantly Class 7 rezoning is not inconsistent with the Goal 4 policy of preserving soils. The subject site is not currently available for public recreation because it is privately owned. Consequently, rezoning it to MUA will not be inconsistent with Goal 4's policy of preserving recreational opportunities.

The Kitzrow Soil Study states that the subject property is a non-commercial forest site with generally unsuited Capability Class 7 soils and no trees measured are members of Forest Productivity Class 1 to 4 which are trees considered to be commercial or merchantable in their growth habit. The Applicant asserts that the rezone request will therefore not take land suitable for commercial forestry out of production or otherwise remove lands from public recreation opportunities and that the land is more suitable for residential purposes. Based on the Applicant's response to this section and other applicable criteria, Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**(b) *"Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:***

**(A) *The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;***

- (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:**
- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?**
  - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?**
  - (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?**
  - (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?**
- (C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.**

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

The analysis under this provision is essentially the same as that required applying Goal 14 factors to a proposed UGB amendment. The applicant has provided the required supporting analysis above. The applicant has included maps that support its analysis and proposed finding that there are no other areas that can support the need for housing that do not require an exception. Thus, a finding that there are no areas that do not require an exception that can reasonably accommodate the proposed use is appropriate.

Based on the Applicant’s response to this section and other applicable criteria, Staff requests the Hearings Officer make specific findings on whether this criterion is met.

- (c) ***“The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;***

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

The applicant incorporates its proposed finding under Goal 14 in this section. Developing the scale of needed and affordable housing that is demanded is going to involve the same environmental, economic, social, and energy considerations on any property. If there was enough vacant land inside the UGB that could be developed at the scale needed, there could be less environmental consequences since because less trees and vegetation would have to be removed. However, Sisters has determined that there is not enough available land inside the UGB to meet the housing needs.

As for the land outside the UGB for which an exception is not required, the applicant presented a detailed analysis of each area explaining why those areas cannot accommodate the proposed use. In addition to that analysis, even if such lands were not legally restricted, to develop needed and affordable housing at the scale needed, new development would have to consolidate lots, remove existing improvements and extend public sewer many feet to serve the property. The energy needs for that work will be greater than the need with developing the vacant unrestricted subject property. Any negative consequences with redeveloping the exception lands will be similar to, but likely greater than developing the subject property. As the applicant’s material informs, the exception lands are primarily large estate parcels with existing improvements, trees and vegetation that would have to be removed for housing at the scale needed. The social consequences of trying to develop the needed/affordable housing on the exception land will be much greater than developing the

subject property. Principally, with all of the parcels, existing improvements, and legal restrictions it is likely that including the exception lands will never produce the housing that is needed. At best, one may expect limited infill housing that is not going to address the shortage of housing.

Addressing the second element of this requirement, the consequences of a goal exception for the subject property on resource land is not significant. The subject property has poor soil limiting production of timber. It is privately owned and thus does not provide public recreation opportunities. As explained, the loss of trees and vegetation to supply needed housing can be mitigated to the extent possible through open space, street trees, and other planting as part of applying the City's development code. In addition, there are ample opportunities for recreational opportunities in nearby City parks and on the US Forest Service land adjacent to the site.

As discussed throughout this Staff Report, the subject application does not include a request to expand the City of Sisters UGB. Based on the Applicant's response to this section and other applicable criteria, Staff requests the Hearings Officer make specific findings on whether this criterion is met.

**(d) *"The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.***

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

The areas south, southwest, and southeast of the subject property are devoted to urban development similar to what uses can be developed eventually if the applicant's proposed amendments are approved. Thus, the proposed use is clearly compatible with those existing uses on adjacent property. The property to the northwest is the Tollgate subdivision, a County residential development. The proposed use is compatible with that use. The property to the north and northeast of the subject property is federally owned forest land. It is common in Sisters to have residential uses abutting forest land. In fact, McKenzie Meadow Village was developed adjacent to Forest land and has existed compatibly for years. The proximity to forest land offers recreational opportunities to the residents in the residential development. Any potential impact on forest land can be mitigated with fire setback standards and compliance with other development and building codes. Although not adjacent, the uses on the nearby School District property are compatible with the uses that will be on the subject property if the proposed amendments are approved. The School District chose that site in part because it is where the anticipated population growth in Sisters will occur. Amending the Comprehensive Plan and zoning map to facilitate inclusion of the



subject property into the City is compatible with the school use.

Based on the Applicant's response to this section and other applicable criteria, Staff requests the Hearings Officer make specific findings on whether this criterion is met.

## **DIVISION 6, GOAL 4 FOREST LANDS**

OAR 660-006-0005, Definitions

- (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.***

**FINDING:** Staff notes the definition of "forest lands" as defined in Goal 4 includes a two-part definition in the case of a plan amendment. The subject property is currently designated Forest and zoned Forest Use 2. The Applicant proposes a plan amendment and zone change, including a Goal 4 exception, to redesignate and rezone the property to RREA and MUA10, respectively.

The Kitzrow Soil Study states that the subject property is a non-commercial forest site with generally unsuited Capability Class 7 soils and no trees measured are members of Forest Productivity Class 1 to 4 which are trees considered to be commercial or merchantable in their growth habit. The Applicant asserts that the rezone request will therefore not take land suitable for commercial forestry out of production.

Staff makes note of many public comments citing a concern with impacts to open space and recreational access, and impacts to wildlife and native plant habitat and the adjacent Trout Creek Conservation Area.

Based on Applicant's burden of proof, Staff requests the Hearings Officer make specific findings on whether these criteria are met.

## **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:** This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed plan amendment would change the designation of the subject property from Forest to RREA and change the zone from F2 to MUA10. The Applicant is not proposing any land use development of the properties at this time.

As referenced in the agency comments section in the Findings of Fact, above, the Senior Transportation Planner for Deschutes County requested additional information to clarify the conclusions provided in the traffic study. The applicant submitted an updated report from Scott Ferguson of Ferguson & Associates, Inc dated February 12, 2025, to address trip generation analysis and Transportation Planning Rule (TPR) criteria. The updates were reviewed by the Senior Transportation Planner who indicated his comments were generally satisfied with the amended report. Mr. Rawlings noted that references or citations to how the worst case scenario analysis was derived were not included but the analysis likely overall references a “reasonable” worse case scenario.

Mr. Ferguson includes the following conclusions in the traffic impact analysis dated February 12, 2025:

The proposed zone change from F-2 to MUA-10 complies with the Transportation Planning Rule and Deschutes County Code. The minor increase in trip generation is insufficient to significantly affect the transportation system, and no further traffic analysis is required. The

zoning change aligns with local planning standards and supports manageable land use development without adverse impacts on the transportation infrastructure.

Based on the County Senior Transportation Planner's comments and the traffic study from Ferguson & Associates, Inc, Staff finds compliance with the Transportation Planning Rule has been effectively demonstrated. Based on the TIA, Staff believes that the proposed plan amendment and zone change will be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. Staff further notes that, despite the transportation information provided by the Applicant and via agency comment, public comments received by the County indicate concerns with potential traffic impacts. It appears many of the traffic concerns are responsive to possible future, high-density housing development on the subject property. However, this application does not review a specific development on the subject property. If developed under the requested MUA10 zoning designation, additional traffic analysis may be required pursuant to DCC 18.116.310.

Staff asks the Hearings Officer to amend or add to these findings as the Hearings Officer sees fit.

## **DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES**

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

**FINDING:** The Statewide Planning Goals are outlined below in the Applicant's burden of proof:

**Goal 1, Citizen Involvement.** This application will be processed as a development action pursuant to the County's development code procedures in Chapter 22. The required notices will be sent, and the required hearings will be conducted ensuring public participation. Consistency with this Goal will be met.

**Goal 2, Land Use Planning.** This application will be processed as a development action pursuant to the County's development code procedures in Chapter 22. It will be reviewed against the City's comprehensive plan elements, policies and goals, as well as against the applicable provisions of the development code and state statutes. Consistency with this Goal is met.

**Goal 3, Agricultural Lands.** This application does not involve agricultural land.

**Goal 4, Forest Lands.** The applicant is requesting an exception to this Goal through the recognized process. Therefore, the proposal is consistent with this Goal. In addition, as discussed earlier, the subject property is not well-suited for forest use. It has very poor soil and limited tree growth capacity. It is not necessary for public recreation as it is privately owned. Consistency with this Goal is met.

**Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** The subject property does not contain any Goal 5 resources. This Goal is not applicable. To the extent

that it still applies, the proposal will not affect any Goal 5 resources and thus, is consistent with Goal 5.

**Goal 6, Air, Water and Land Resources Quality.** Goal 6 protects environmental quality of the state's air, water, and land. It requires local governments to ensure that waste and process discharge from future development will comply with state and federal environmental quality regulations. A redesignation and rezoning will not affect the air, water, or land resources quality.

Therefore, the application is consistent with this Goal. Further, if the application is approved, and the property is included in the City allowing a future needed housing development, the City's development standards and procedures ensure that future development will comply with all relevant environmental regulations related to discharge. Air quality is not generally impacted from purely residential housing. There is no conceptual plan that includes any proposed use that will discharge air pollutants.

**Goal 7, Areas Subject to Natural Disasters and Hazards.** As noted above, there are no natural hazards on the subject property. The only potential natural disaster affecting the property is the risk of wildfires. Redesignating and rezoning the property will not exacerbate that risk. Thus, the application is consistent with this Goal.

**Goal 8, Recreational Needs.** The subject property is privately owned land and is not currently available to meet the general recreational needs of the community. The application to redesignate and rezone the property will not change that fact. Moreover, any future residential development following an approval of the requested amendments will include open space for recreational use. In addition, there are ample recreational opportunities associated with the school campus, the School District conservation land, and the adjacent National Forest. Thus, the application is consistent with this Goal.

**Goal 9, Economy of the State.** As discussed above, the current application to redesignate and rezone the subject property will not have any effect on the economy. However, it will facilitate bringing the property into the City of Sisters for needed housing opportunities. The development system development charge, and increase to the tax base, if the property develops, will promote economic opportunities. In addition, future residential development flowing from an approval of this application, will promote residents of Sisters to remain living in the City where they will shop, dine, and participate in other economically beneficial activities. The proposal is thus consistent with this Goal.

**Goal 10, Housing.** The application will have a long-term benefit to the City's housing needs. Goal 10 requires the County and City to provide adequate housing to meet identified needs. The City and County have demonstrated a need for housing in general and particularly affordable and workforce housing. The application will facilitate bringing the subject property into the City so it can be zoned for urban residential development. The subject property is build-ready and the best land available to provide the housing that the County and City need. Thus, the application is consistent with this Goal.

**Goal 11, Public Facilities and Services.** This Goal requires the City and County to plan and develop an orderly arrangement of public facilities and services for urban and rural development.

Unlike the RR-10 exception lands discussed above, the subject property is situated to facilitate an orderly extension of public services. The subject property abuts the current city limit immediately north of McKenzie Meadows Village. With the prior development of McKenzie Meadow Village, roads and sewer were extended to the subject property.

**Goal 12, Transportation.** This Goal is implemented through the transportation planning rule. The applicant's findings under that rule demonstrate that the application is consistent with this Goal.

**Goal 13, Energy Conservation.** Redesignating the subject property to RREA and rezoning it to MUA-10, will have no impact on energy conservation. However, if the application is approved, the property added to the City and developed as proposed, the resultant development will be consistent with this Goal. The City is going to grow and add residential development somewhere. The subject property is located close to the City center and the City school campus. It has recreational opportunities within walking and biking distance. The end product will promote energy conservation.

**Goal 14, Urbanization.** The objective of Goal 14 is to ensure an orderly transition from rural uses to urban uses. The application is particularly consistent with Goal 14. The application seeks to use the recognized process to amend the comprehensive plan designation for the subject property to RREA and to change the zoning from F-2 to MUA-10. MUA-10 is a transition zone to promote an orderly transition of land from resource land to urban land. The requested changes will facilitate the City of Sisters' UGB expansion process to include property that is uniquely suited to provide a needed urban use-needed and affordable housing. The subject is adjacent to the city limit and similar development. It has public facilities stubbed to it. It is close to the new Sisters school campus making it a uniquely good location for population growth.

**Goals 15, Willamette Greenway.** This goal does not apply to the application.

**Goals 16 through 19.** These goals do not apply to the application.

Staff generally accepts the Applicant's responses. As noted earlier in this staff report, the County is only reviewing the Applicant's proposed Plan Amendment and Zone Change request at this time. The Applicant's responses, in part, reference future UGB expansion, however, as discussed, this application does not review a request to expand the City of Sisters UGB.

The Applicant requests an exception to Goal 4, Forest Lands, which is discussed above in this staff report.

Staff notes one exception to the response provided for Goal 7, Areas Subject to Natural Hazards and Disasters: Pursuant to the recently released Oregon Statewide Wildfire Hazard Map the subject property is mapped as Moderate Hazard and is within the Wildland Urban Interface Boundary (WUI). Additionally, the subject property is also located in Sisters-Camp Sherman Rural Fire Protection District jurisdiction. Staff notes that rezoning the properties to MUA10 does not change the Wildfire Hazard Area designation. Any future development of the properties would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County and applicable requirements of the Oregon Revised Statutes (ORS).

Additionally, Staff points out two exceptions to the response provided for Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces. First, the property contains a perennial stream, Trout Creek, which is inventoried as a Goal 5 stream in the Deschutes County Comprehensive Plan. The rezone of the property to MUA10 does not remove this resource from the Goal 5 inventory. Any development on the property would need to comply with applicable zoning regulations related to stream setback requirements or wetland designation, which would be reviewed through the required land use process. Trout Creek is not listed as a Landscape Management River or Stream.

Second, the northeast corners of the subject property are located within the LM Combining Zone associated with Highway 20 scenic corridor. The standards associated with the LM Combining Zone are reviewed for compliance when a new structure or substantial alteration of an existing structure is proposed. The rezone of the property to MUA10 does not remove this combining zone. Future development in this area would be required to comply with applicable regulations of the LM Combining Zone.

Staff makes note of public comments concerning loss of forested open space, impacts to wildlife and plant species, wildfire risk, urbanization, availability of ground water, and increased traffic.

Considering the Applicant's responses, public comments, and Staff's comments regarding compliance with Goal 5 in the DCCP section above, Staff requests the Hearings Officer make specific findings compliance with the Division 15, Statewide Planning Goals and Guidelines.

#### **IV. CONCLUSION:**

Staff requests the Hearings Officer determine if the Applicant has met the burden of proof necessary to justify changing the Comprehensive Plan designation from Forest to Rural Residential Exception Area (RREA) and Zoning of the subject property from Forest Use 2 (F2) to Multiple Use Agriculture (MUA10), including the requested exception to Goal 4, through effectively demonstrating compliance with the applicable criteria of DCC Title 18 and Title 22, the DCCP and the applicable sections of OAR and ORS.

**DESCHUTES COUNTY PLANNING DIVISION**

*Haleigh King*

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*Jacob Ripper*

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