



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Nicole Mardell, AICP, Senior Planner
Will Groves, Planning Manager
Peter Gutowsky, AICP, Director

DATE: August 20, 2025

SUBJECT: Consideration of Second Reading: Ordinance 2025-007 Deschutes County 2040 Comprehensive Plan Reconsideration

I. SUMMARY

On August 27, 2025, staff will present Ordinance No. 2025-007 to the Board of County Commissioners (Board) for consideration of second reading. This action reconsiders Ordinance 2024-007 and readopts the Deschutes County 2040 Comprehensive Plan (2040 Plan).¹ The associated file number is 247-25-000145-PA.

II. BACKGROUND

On October 2, 2024, the Board voted 2-1 to adopt Ordinance 2024-007, repealing and replacing the 2011 Deschutes County Comprehensive Plan (2011 Plan) with the 2040 Plan (file no. 247-23-000644-PA). The decision was subsequently appealed by Central Oregon Landwatch (COLW) to the Land Use Board of Appeals (LUBA). The 2040 Plan is not in effect until the appeal process is resolved.

On February 20, 2025, the County received the Petitioner's Brief from COLW. Staff determined that new issues were raised in the Petitioner's Brief that were not previously discussed at the local level. Oregon Revised Statute and Oregon Administrative Rule (OAR) allow local governments to reconsider a legislative decision in response to new issues raised by LUBA appellants by conducting a new hearing. The Board on March 5, adopted Order No. 2025-004 initiating reconsideration of the 2040 Plan. LUBA confirmed this approach through LUBA Order No. 2024-080, on March 12 enabling the Board to initiate a limited de novo hearing process to gather additional testimony relating to COLW's Petitioner's Brief. The County is required to complete the hearing process and file a reconsideration decision by September 8, 2025.

¹ The associated file number is 247-25-000145-PA. The entire record is available on the project website: <https://bit.ly/Deschutes2040Reconsideration>.

The Board held public hearings on April 23 and May 21, 2025. After the hearing on May 21, the Board closed the oral portion of the record and kept the written record open until Wednesday, May 28. On June 25, the Board conducted a first reading of Ordinance 2025-007, voting 2-1 to approve amendments to the 2040 Plan with the following revisions:

- Delete Policies 9.2 and 9.3
- Revert policies in 9.2.1 – 9.3.15 to the original language from the 2011 Comprehensive Plan.
- Update narrative in Chapter 3 to include the number of acres of Exclusive Farm Use zoned land in Deschutes County.
- Update narrative in Chapter 3 to include the number of acres rezoned from Exclusive Farm Use to other zones in the last twelve years.

On June 26, 2025, LUBA issued Decision No. 2025-015, *Central Oregon Landwatch vs. Deschutes County and Destiny Court Properties LLC (Destiny Court)*.² The *Destiny Court* decision contains interpretations pertaining to cluster development and planned unit development (PUD) that warranted review during the Deschutes County 2040 Plan reconsideration process. On July 21, 2025, the Board adopted Order 2025-030 per Deschutes County Code 22.24.160(A), which grants the Board discretion and authority to reopen the record upon request or its own initiative.

IV. REOPENED WRITTEN RECORD AND DELIBERATIONS

The Board considered substantive revisions to Ordinance 2025-007 between its first and second reading by adopting Order 2025-030 and reopening the written record on July 21. The Board directed staff to reopen the written record to accept new testimony and evidence specific to *Destiny Court*, minimum lot size for rural residential areas, and cluster and PUDs. Pursuant to Order No. 2025-030, written testimony was accepted until August 1, 2025, at 4:00 p.m.

On August 11, 2025, the Board deliberated and voted 2-1 to approve revisions to the draft document to add the draft policies below.

- Policy 10.1.1. *Except for parcels in the Westside Transect Zone, the minimum lot or parcel size for new residential parcels shall be 10 acres.*
- Policy 10.1.2. *Notwithstanding Policy 10.1.1, for cluster or planned unit development on property in a rural residential area as of October 4, 2000, the minimum lot or parcel size for new residential parcels shall be no less than 2 acres, with the option of having average densities of less than 10 acres when factoring the open space tract, subject to OAR 660-004-0040(4)(b), (6)(a), and (8).*
- Policy 10.1.3. *Notwithstanding Policy 10.1.1, for cluster or planned unit development on property not in a rural residential area in effect as of October 4, 2000, and limited to properties that have received a Goal 3 exception, Goal 4 exception, or a nonresource land designation per OAR 660-004-005(3), the minimum lot or parcel size for new residential parcels shall be no less than 2 acres with average densities of no less than 10 acres when factoring the open space tract, subject to OAR 660-004-0040(8) and OAR 660-004-0040(3)(c)(F).*

² <https://www.oregon.gov/luba/Docs/Opinions/2025/06-25/25015.pdf>

The Board also approved renumbering of policies 10.1.4-10.1.11 and revisions to the draft findings document to support these policies. The attached draft Ordinance No. 2025-007 reflects these changes.

VI. CONSIDERATION OF SECOND READING

Second reading of Ordinance 2025-007 is scheduled for August 27, 2025.

Attachments:

1. Ordinance 2025-007
 - A. 23.01 Legislative History
 - B. Amended Deschutes 2040 Comprehensive Plan – August 4, 2025 Version
 - C. 5.12 Legislative History
 - D. Findings – August 6, 2025 Version