



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners (Board)  
**FROM:** Haleigh King, Associate Planner  
**DATE:** September 21, 2022  
**SUBJECT:** Deliberations – Eden Properties Plan Amendment and Zone Change

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The Board held a public hearing on August 17, 2022, to consider a request for a Plan Amendment and Zone Change (file nos. 247-21-001043-PA, 1044-ZC) for nine tax lots totaling approximately 710 acres to the west of Terrebonne and north of Highway 126. The Board is scheduled to deliberate on September 28, 2022 in consideration of the request.

**I. BACKGROUND**

The applicant, 710 Properties, LLC/Eden Central Properties, LLC, is requesting a Comprehensive Plan Amendment to re-designate the subject properties from Agriculture to Rural Residential Exception Area and a Zoning Map Amendment to rezone the properties from Exclusive Farm Use (EFU) to Rural Residential – 10 Acre Minimum (RR-10). The applicant argues the properties were mistakenly identified as farmland, do not contain high-value soils or other characteristics of high value farmland, and therefore should be re-designated and rezoned for rural residential use. The applicant provided a supplementary soil study that identifies non-high value (Class VII and VIII) soils on a majority (~71%) of the subject properties. Additionally, the applicant’s burden of proof includes findings that demonstrate compliance with state and local requirements and policies.

A public hearing before a Hearings Officer was conducted on April 19, 2022 with the Hearings Officer’s recommendation of approval issued on June 2, 2022. The Board held a public hearing on August 17, 2022 and initiated a 21-day open record period, which concluded September 7, 2022 at 4:00pm.

**II. OPEN RECORD PERIOD**

During the initial 7-day segment of the 21-day open record period, staff received fifteen (15) public comments, including the applicant’s submittal, as new evidence and testimony. During the second 7-day segment of the open record period, staff received five (5) rebuttal responses to the new evidence and testimony that was received. The Applicant’s final legal argument was received on September 7, 2022, at the conclusion of the open record period.

The new evidence and testimony received during the open record largely reiterated concerns and arguments that were raised during public testimony of the Board's public hearing on August 17, 2022. During this first open record period, Staff received a coordinated agency comment from Department of Land Conservation and Development, Oregon Department of Fish and Wildlife, and Oregon Department of Agriculture restating their concerns with the application and referencing their original April 19, 2022 letter to be reentered into the record. Other concerns include, but are not limited to, impacts to wildlife, impacts to groundwater and aquifer levels, future potential development of the subject property, traffic impacts, the application's consistency with Goal 14, and the validity of the applicant's argument regarding farm use.

The rebuttal testimony received during the open record period largely reiterated concerns and arguments that were raised during public testimony and during the first open record period including, but are not limited to, impacts to nearby wells and natural resources, general land use compatibility, and the definition of agricultural land.

### **III. BOARD DELIBERATIONS**

On September 28, 2022, the Board will deliberate on the proposed Plan Amendment and Zone Change requests. If the Board finds that additional deliberations are necessary, the Board may schedule a future date for continued deliberations. If the Board finds no additional deliberations are necessary, the Board may then vote on whether to approve or deny the Plan Amendment and Zone Change request.

Per DCC Section 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change is not subject to the 150-day review period typically associated with land use decisions. The full record is available for inspection at the Planning Division and at the following link: <https://www.deschutes.org/cd/page/247-21-001043-pa-and-247-21-001044-zc-eden-central-properties-comprehensive-plan-amendment>.

#### **Board Decision Matrix**

A more thorough review and discussion of the subject proposal's compliance with the applicable approval criteria and issues is provided in the associated Board Decision Matrix, prepared in conjunction with this deliberation memorandum.

### **IV. NEXT STEPS**

If the Board determines that additional deliberations are necessary, staff will work with the Board to schedule a future meeting for continued deliberations. If the Board concludes their deliberations during the September 28, 2022 meeting, the Board may then vote on whether to approve or deny the Plan Amendment and Zone Change. If the Board renders a vote during the September 28, 2022 meeting, staff will coordinate with the Board to return for a future meeting to review the draft decision, draft ordinance and relevant exhibits. If appropriate, the first reading of the ordinance can be initiated at that time.

## **V. SUGGESTED MOTION**

To the extent the Board decides to approve Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the Plan Amendment and Zone Change for file nos. 247-21-001043-PA and 247-21-001044-ZC.

To the extent the Board decides to modify or reverse the Hearings Officer's decision, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

### **ATTACHMENTS:**

- 1) Area Map
- 2) Board Decision Matrix
- 3) Hearings Officer Recommendation