

Eden Properties Plan Amendment/Zone Change Decision Matrix
Land Use File Nos. 247-21-001043-PA, 1044-ZC

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Definition of Agricultural Land – Part 1</u></p> <p><u>Soil Study and the Natural Resources Conservation Service (NRCS) Classification</u></p> <p>OAR 660-033-0020(1)(a)(A) states that agricultural land includes "lands classified by the NRCS as predominantly Class I-VI soils in Eastern Oregon." ORS 215.211(1) and OAR 660-033-0030(5)(a) also provide relevant criteria as it relates to this issue area.</p>	<p>The Applicant asserts that ORS 215.211(1), OAR 660-033-0030(5)(a), and Statewide Goal 3 allow the county to utilize information provided by a more-detailed soil study to determine whether land is "Agricultural Land" than provided by the NRCS soils survey.</p> <p>The Applicant provided a study which concluded subject property contains 71% Class VII and VIII soils.</p>	<p>Oppositional comments state that the applicant's soil study conflicts with the soil classification determination made by the NRCS. Oppositional comments state that lands classified as Class I-VI by the NRCS in Eastern Oregon are agricultural lands <i>per se</i> and cannot be reclassified or rezoned without a Goal 3 Exception.</p> <p>The opposition states that OAR 660-033-0030 requires that any land meeting a NRCS Class I-VI classification "shall be inventoried as agricultural land."</p>	<p>The Hearings Officer found that the County can rely on the applicants Order 1 soil survey which demonstrates that the property is comprised of 71% Class VII and VIII soils. The Hearings Officer found that NRCS soil survey maps are not definitive or "binding" with respect to a determination of whether the subject property is, or is not, agricultural land. The Hearings Officer cited LUBA findings in the <i>Aceti I</i> (LUBA No. 2016-012) case, ORS 215.211(1), OAR 660-033-0030(5)(a) and (5)(b), which allow the County to rely on more detailed data on soil capability than provided by NRCS soil maps to define agricultural land, provided the soils survey has been certified by DLCD, which has occurred here; see Hearings Officer (HOff) Recommendation p. 35. The Hearings Officer found no evidence in the record to rebut the Applicant's soils study.</p> <p>Therefore, the Hearings Officer found that the subject property does not constitute "agricultural land" under OAR 660-033-0020(1)(a)(A).</p>	<p>Staff agrees with the Hearings Officer on this issue.</p> <p>Furthermore, staff points to specific findings from the <i>Aceti I</i> case highlighting the allowance of a DLCD certified soils study when making determinations of a property's proper agricultural designation.</p>	<p>Does the subject property constitute agricultural land under OAR 660-033-0020(1)(a)(A)?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move to approve the Plan Amendment and Zone Change (PA/ZC). 2. If yes, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Definition of Agricultural Land – Part 2</u></p> <p>OAR 660-033-0020(1)(a)(B) defines agricultural land as "Land in other soil classes that is <u>suitable for farm use</u> as defined in ORS 215.203(2)(a), taking into consideration:</p> <ul style="list-style-type: none"> • soil fertility, • suitability for grazing, • climatic conditions, • existing and future availability of water for farm irrigation purposes. • existing land use patterns, • technological and energy inputs required, and • accepted farming practices" 	<p>The Applicant asserts that the considerations found in sub (B) rely on whether the property is suitable for "farm use" or not.</p> <p>ORS 215.203(2)(a), containing the statutory definition of farm use, requires land be used for "the primary purpose of obtaining a profit in money."</p> <p>The Applicant provided substantial evidence in the record regarding the productivity, or lack thereof, of the property based on poor soils, limited forage, lack of precipitation, cost and availability of irrigation water and concluded that the cost of production and management for a grazing operation or other farm use would exceed the potential revenue and/or be otherwise impracticable.</p>	<p>Oppositional comments assert that the subject property could support a number of "farm uses" including but not limited to;</p> <ul style="list-style-type: none"> • hemp production, • animal husbandry, • farm equipment storage, • boarding and training of horses, • raising honeybees, • raising poultry, game birds • lavender, • grapes, or • grazing operation (either individually or in conjunction with other lands) <p>Furthermore, oppositional comments state that the Applicant misinterprets the phrase "primary purpose of obtaining a profit in money" and that ORS 215.203 is not concerned with whether a profit is earned but with whether a farmer has engaged in a farm activity with the primary intent of obtaining a profit.</p>	<p>The Hearings Officer rejected the argument that the subject property is "capable of any number of activities included in the definition of farm use," because "farm use", as defined by the Oregon Legislature, "means the current employment of land for the primary purpose of obtaining a profit in money."</p> <p>The Hearings Officer also found that the definition of farm use does not require the subject property to combine with other agricultural operations as the definition refers to "land" not "lands".</p> <p>The Hearings Officer concluded that substantial evidence in the record supports a determination that each of the listed factors in OAR 660-033-020(1)(a)(B) preclude "farm use" on the subject property because no reasonable farmer would expect to make a profit in money by engaging in agricultural activities on the land. (HOff Recommendation, p. 40).</p>	<p>Staff agrees with the Hearings Officer on this issue.</p> <p>Staff notes that the LUBA <i>Aceti I</i> case determined that it is not an accepted farming practice in Central Oregon to irrigate and cultivate Class VII and Class VIII soils.</p> <p>Staff notes that some oppositional comments reference potential income from lava field stone present on the subject property. It is staff's understanding that a surface mine is not considered a farm use or accepted farming practice.</p>	<p>Does the property constitute agricultural land under OAR 660-033-0020(1)(a)(B)?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continuing reviewing the applications and move to approve the PA/ZC. 2. If yes, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Definition of Agricultural Land – Part 3</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>The Applicant asserts that no party has argued that the property is necessary to permit farm practices on nearby lands and no evidence has been submitted that any "farm use" on surrounding properties has depended upon use of the subject property to undertake farm practices. Further, the existing topography physically separates the subject property from area farm uses.</p>	<p>Oppositional comments assert that the Hearings Officer misapplied the relevant criteria and that the farming practices in the area often involve multiple and disconnected properties and that the subject property is surrounded by farm land and other farming operations. Furthermore, oppositional comments assert that property of this type is typically part of a grazing operation.</p>	<p>The Hearings Officer found that there is no evidence in the record showing that the subject property is <u>necessary</u> for farming practices on any surrounding lands and no evidence that the subject property contributes to any such practices.</p> <p>The Hearings Officer found that the Applicant provided a detailed analysis of land uses and agricultural operations surrounding the subject property. The Hearings Officer found that barriers for the subject property to engage in farm use with these properties include: poor quality soils, lack of irrigation, proximity and significant topography changes.</p>	<p>Staff agrees with the Hearings Officer on this issue.</p>	<p>Does the subject property include land that is <u>necessary</u> to permit farm practices to be undertaken on adjacent or nearby agricultural lands and therefore constitute agricultural land as defined under OAR 660-033-0020(1)(a)(C)?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If yes, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Traffic Impacts: Staff notes that OAR 660-012-0060(1)(a-c) are criteria that relate to this specific issue.</u></p> <p>OAR 660-012-0060(1)(a-c), also known as the "Transportation Planning Rule", asks whether a plan amendment or zone change would have a significant effect on an existing or planned transportation facility.</p>	<p>The Applicant's Traffic Impact Analysis (TIA) indicates the project will not generate traffic that would alter the function, capacity or performance standards of affected roadways. Furthermore, the increase in daily trips would not cause a decrease in the level of service for affected study intersections including NW Coyner Ave/ NW 103rd Street, NW Coyner Ave. / NW 91st Street, NW Spruce Street / NW 91st Street, and OR 126 / NW 101st Street. The Applicant also acknowledges that the subject property currently has one access point to NW Coyner Avenue and that additional analysis would accompany future land division applications. Furthermore, the subject property is presently served with an adequate road network as demonstrated in the Applicant's Transportation Study.</p>	<p>Oppositional comments focus on general traffic growth concerns, emergency access, and note the wear and tear additional vehicles would put on area roadways along with potential for increased vehicle and wildlife collisions.</p>	<p>Based on the County Senior Transportation Planner's comments and the TIA from Clemow Associates, LLC, the Hearings Officer found compliance with the Transportation Planning Rule has been effectively demonstrated. Based on the TIA, the Hearings Officer found 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 (Hoff Recommendation, p. 70). Furthermore, the Hearings Officer found that there is no specific development under consideration at this time, however, future development applications will be subject to additional analysis and review of relevant transportation standards. The Hearings Officer found that there were no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare as a result of the zone change.</p>	<p>Staff agrees with the Applicant, the Applicant's transportation engineer, and Hearings Officer on this issue area. The County's Senior Transportation Planner agrees with the conclusions in the TIA. Staff also notes that the application does not propose a specific development at this time, therefore, staff cannot speculate on potential road connections or street layouts. Any future land division application would need to meet applicable transportation analysis and access requirements.</p>	<p>Will the PA/ZC have a significant effect on an existing or planned transportation facility?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If yes, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Definition of Forest Lands</u></p> <p>OAR 660-006-005(7) defines "forest lands" as ...those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:</p> <ul style="list-style-type: none"> • (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. <p>OAR 660-06-0010(2) discusses the methods to be used to identify land suitable for commercial forest uses and requires analysis addressing the wood production capabilities of the property.</p>	<p>The Applicant submits that none of the mapped soils on the subject property, identified by the NRCS or the soil study conducted by Mr. Rabe, are identified by NRCS as forest soils which merit protection by Statewide Goal 4. Further, the applicant provided additional analysis completed by John Jackson, Singletree Enterprises, LLC, asserting that western juniper is not a listed tree species marketable for wood products.</p>	<p>Oppositional comments assert that the applicant did not adequately address whether the subject property is forest land subject to Goal 4.</p>	<p>The Hearings Officer found the following regarding the proposed project:</p> <ul style="list-style-type: none"> • The subject property is not zoned for forest lands, nor are any of the properties within a seven mile radius. • The properties do not contain merchantable tree species and there is no evidence in the record that the properties have been employed for forestry uses historically. • The NRCS has determined that the soil mapping units on the subject property are not suitable for wood crops and, therefore, has excluded them from Table 8 of the NRCS Soil Survey of the Upper Deschutes River Area. <p>The Hearings Officer finds this satisfies OAR 660-06-0005(7)(a) and OAR 660-06-0010(2), and that there are no wood production capabilities on the subject property (Hoff Recommendation p. 56).</p>	<p>Staff agrees with the Hearings Officer on this issue.</p>	<p>Does the subject property constitute "forest lands" under OAR 660-006-005(7) and therefore require an exception to Goal 4?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If yes, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Goal 14 Exception</u></p> <p>OAR 660 - Division 15, Statewide Planning Goals and Guidelines and DCC 18.136.020(A)</p>	<p>The Applicant asserts that an exception to Goal 14 is only required if the proposed plan amendment and zone change allow urban development on the subject property. Further, the Deschutes County Comprehensive Plan acknowledges that RR-10 Zoning is the appropriate zone designation for Rural Residential Exception Areas. The determination that the RREA plan designations and RR-10 and MUA-10 zoning districts should apply to non-agricultural lands was made when the County amended the Comprehensive Plan in 2016 with the ordinance being acknowledged by DLCD as complying with the Statewide Goals.</p>	<p>Oppositional comments assert that the application requires an exception to Goal 14 based on the requested RREA and RR-10 designations and the density which this designation and zone would allow. Oppositional comments also note the RR-10 Zone would result in 71 homes in which residents would have similar needs to those residing inside Urban Growth Boundaries and the intensity of development would rise to the level of an urban scale.</p>	<p>The Hearings Officer found the applications are consistent with Goal 14 (Urbanization). The subject property is not within an urban growth boundary and does not involve urbanization of rural land because the RR-10 Zone does not include urban uses as permitted outright or conditionally. The RR-10 Zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The state acknowledged compliance of the RR-10 Zone with Goal 14 when the County amended its comprehensive plan</p>	<p>Staff agrees with the Hearings Officer on this issue area.</p>	<p>Does the proposal comply with Goal 14?</p> <ol style="list-style-type: none"> 1. If yes, then an exception is not required, and the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then an exception to Goal 14 is required.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Change in Circumstances or Mistake in Zoning</u></p> <p>The applicable approval criteria for a zone change include DCC 18.136.020(D), which requires a change in circumstances since the property was last zoned or a mistake was made in the zoning of the property in question.</p>	<p>The Applicant asserts that when the property was first zoned in 1979/1980, undeveloped rural lands that contained poor soils were zoned EFU without regard to the specific soil characteristics of the property. The Applicant asserts that the soil study demonstrates the subject property does not constitute agricultural land. Therefore, the property was zoned in error.</p> <p>Further the applicant asserts the following constitute a change in circumstances:</p> <ul style="list-style-type: none"> • County's current Comprehensive Plan reinstates the right of individual property owners to seek this type of PA/ZC • Population increase of 236% from 1980 to 2021 has increased housing demand • Economics of farming have worsened over the decades 	<p>Oppositional comments state that there is no evidence the subject property was mischaracterized by Deschutes County as agricultural land reserved for exclusive farm use at the time of acknowledgement. Comments also state that the property was rural land surrounded by farmland when originally zoned and that condition remains today. Therefore, the application does not meet the DCC 18.136.020(D).</p>	<p>The Hearing's Officer found that a mistake was made by Deschutes County in zoning the subject property for Exclusive Farm Use given the predominately poor (Class VII and VIII) soils on the property and the evidence that the property owner cannot engage in "farm use" with the primary purpose of making a profit in money on the subject property. The Hearings Officer further found that a change in population levels and decreasing supply of rural residential lots constitutes a change in circumstances from the time the property was originally zoned EFU (HOff Recommendation, P. 48).</p>	<p>Staff agrees with the Hearings Officer on this issue.</p> <p>Staff notes the criterion in DCC 18.136.020(D) includes "or" between each statement. Thus, the applicant must prove one or the other, but is not required to prove both.</p>	<p>Has there been a change in circumstances since the property was last zoned or was a mistake made in zoning the subject property Exclusive Farm Use?</p> <ol style="list-style-type: none"> 1. If yes, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Impacts on Surrounding Land Use</u></p> <p>The applicable approval criteria for a zone change include DCC 18.136.020(C)(2) which states <i>"the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan."</i></p>	<p>The Applicant stated the following in response to this criterion:</p> <ul style="list-style-type: none"> • Volwood Farms is only adjoining farm located to the west and topographical separation will make it unlikely that rezone will impose new or different impacts. • The existing EFU zoning on the subject property could allow up to 24 non-farm dwellings and while the RR10 zoning would allow more dwellings, the impacts imposed will be the same as the minimal impacts imposed by a nonfarm dwelling. • Farm uses in the greater area have been developed with residences and are separated from the subject property by a sufficient distance. • The Applicant also provided responses to each applicable Comprehensive Plan Policy in their burden of proof. 	<p>Oppositional comments assert that the subject property is surrounded by ranching and farming activities and the introduction of residential development would adversely impact the character of the surrounding area.</p>	<p>The Hearings Officer found that the Applicant provided specific findings for each relevant Comprehensive Plan goal and policy. The Hearings Officer found that the impacts of reclassification of the subject property to RR10 on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan. The Hearings Officer included findings for each relevant Comprehensive Plan Goal or Policy beginning on Page 49 of the Hearings Officer Recommendation.</p>	<p>Staff agrees with the Hearings Officer on this issue.</p> <p>Further, staff notes Policy 2.2.3 of the Comprehensive Plan allows for plan amendments and zone changes for EFU land that qualify as non-resource land.</p>	<p>Will the impacts of the zone change on surrounding land use be consistent with the specific goals and policies contained within the Comprehensive Plan?</p> <ol style="list-style-type: none"> 1. If yes, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Wildlife Impacts</u></p> <p>The opposition does not point to a specific approval criterion, although staff notes that Statewide Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) may relate to this particular issue.</p>	<p>The Applicant asserts that the subject property does not contain any inventoried Goal 5 resources.</p> <p>Further, the subject property does not presently contain a Wildlife Area (WA) Zoning Overlay and is therefore not subject to the standards contained in Deschutes County Code Chapter 18.88. The County's ongoing Wildlife Inventory process has been paused and it is not the fault of the Applicant that the Inventory Update has not yet been finalized.</p>	<p>Oppositional comments focus on the subject property's inclusion within the Oregon Department of Fish and Wildlife's designated biological mule deer and elk winter range and is recommended for inclusion as part of the County's ongoing Goal 5 Wildlife Inventory Update process. Additionally, oppositional comments focus on preserving the subject property for perceived general wildlife habitat value.</p> <p>Lastly, the Oregon Department of Fish and Wildlife assert that groundwater pumping in this region will lead to an eventual reduction in surface water and an increase in surface water temperature, thereby potentially impacting fish and wildlife resources in the Deschutes River system.</p>	<p>The Hearings Officer found that the subject property does not include any inventoried Goal 5 resources nor contain the Wildlife Overlay (WA) designation. The Hearings Officer noted that the subject application does not propose development at this time and that rezoning the property will not directly impact wildlife on the subject property. Furthermore, the Hearings Officer notes that protections for wildlife must be sanctioned by the County's Goal 5 ESEE and WA or similar wildlife overlay zoning (Hoff Recommendation, p 72).</p>	<p>Staff agrees with the Hearings Officer on this issue.</p> <p>Staff notes that while the County's Wildlife Inventory update has not yet been completed, including the subject property within the WA Overlay would not specifically preclude the property from being rezoned to RR-10. Instead, if the subject property were to be subdivided, the WA Zone would require specific fencing standards, density, minimum lot sizes, and open space requirements for any future division of land or residential development. Specific standards would depend on the final outcome of the County's inventory update.</p>	<p>Is the application consistent with Goal 5 in regards to natural resources, scenic and historic areas and open spaces?</p> <ol style="list-style-type: none"> 1. If yes, then an exception is not required, and the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then an exception to Goal 5 is required and the Board must deny the current application.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Fire Hazard</u></p> <p>The opposition does not point to a specific approval criterion, although staff notes that Statewide Planning Goal 7 (Natural Disasters and Hazards) may relate to this particular issue.</p>	<p>The Applicant states that Goal 7 is not applicable because the subject property is not located in an area that is recognized by the comprehensive plan as a known natural disaster or hazard area.</p> <p>The Applicant testified that they have engaged with a wildfire consultant and would implement mitigation measures to limb and remove specific juniper trees and maintain brush.</p>	<p>Oppositional comments cite the potential increase in residential structures as also increasing costs to wildfire suppression and wildfire fighting costs. Opponents note that additional landscape fragmentation has the potential to exacerbate the costs and risks associated with wildfire.</p>	<p>The Hearings Officer found that the application does not change the Wildfire Hazard Area designation that is applicable to the property and the entirety of Deschutes County. The Hearings Officer also notes that the subject property is within the Redmond Fire and Rescue tax district and any applications for future development activities will be required to demonstrate compliance with fire protection regulations, where applicable.</p>	<p>Staff agrees with the Hearings Officer on this issue area. Furthermore, staff notes that any future land division or residential development would be subject to applicable emergency access regulations. Additionally, Redmond Fire and Rescue would be notified of future land division applications for their review and comment.</p>	<p>Is the application consistent with Goal 7 in regards to wildfire hazards?</p> <ol style="list-style-type: none"> 1. If yes, then an exception is not required, and the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then an exception to Goal 7 is required and the Board must deny the current application.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>Groundwater Impacts</u></p> <p>The opposition does not point to specific approval criteria associated with this issue area. However, staff notes that DCC 18.136.020(C)(1) may relate to this particular issue, specifically regarding the current availability of necessary public services and facilities.</p>	<p>The Applicant provided technical and expert analysis (See GSI Water Solutions Groundwater Use Evaluation, uploaded to the record on April 18, 2022) which asserts the proposed use of 71 residential homes, which is not before the County at this time, would result in little to no measureable interference with existing uses due to the high permeability of the aquifer material and low pumping rates from domestic wells. Further, the applicant provided well logs showing groundwater is available in the general area.</p>	<p>Oppositional comments assert that rural development of this size would threaten the groundwater table in the surrounding area with potential for up to 71 largely unregulated wells and would impact surrounding well depths. Many commenters pointed to a variety of data regarding groundwater levels in the region and anecdotal comments regarding individual well depths.</p>	<p>The Hearings Officer found that water availability concerns of state agencies and other commentators will be reviewed at the time of development application. Without adequate water availability, future residential development may be limited or denied.</p> <p>Regarding 18.136.020(C)(1), the Hearings Officer found that the applicant included well logs from nearby properties demonstrating water availability in the general area.</p>	<p>Staff agrees with the Hearings Officer on this issue area. Staff also notes that this criterion asks about the availability of water to the subject property, and not to surrounding land owners.</p> <p>Further, staff notes Kyle Gorman (a representative from Oregon Water Resources Department) testified that the Deschutes Basin aquifer has shown a modest decline (9 feet) over 25 years.</p>	<p>Will changing the zoning presently serve the public health, safety and welfare considering the availability and efficiency of providing necessary public services and facilities to the uses allowed by the zone change?</p> <ol style="list-style-type: none"> 1. If yes, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If no, then the Board must deny the PA/ZC.

Issue Area/Approval Criterion	Applicant Response	Opponent Testimony	Hearings Officer	Staff Comment	Board Decision Points
<p><u>House Bill 2229</u></p> <p>In 2009, the State Legislature adopted House Bill ("HB") 2229, also known as the "Big Look" Bill, describing the circumstances under which counties can redesignate agricultural or forest lands by initiating a nonresource plan amendment.</p> <p>Counties could elect to proceed to a county-wide review of resource land designations and then enact new designations in a re-acknowledgment process, reviewed and approved by DLCD, to address potential mapping errors made in designation of farmlands and forestlands.</p>	<p>The Applicant asserts that House Bill 2229 is not applicable in the quasi-judicial proceedings as it only relates to County-led legislative processes and has no bearing on a quasi-judicial rezones initiated by an individual property owner. Further Deschutes County Comprehensive Plan Policies 2.2.2 and 2.2.3 both allow the rezoning of an "individual parcel" of land and Section 3.3 of the Comprehensive Plan does not incorporate HB 2229.</p>	<p>Central Oregon Landwatch asserts that the applicant is not compliant with HB 2229. Further, the County cannot approve the Applicant's request without first obtaining a "work plan" that has been supported by DLCD and that HB 2229 requires an exception to Goal 3 and Goal 14.</p>	<p>The Hearing's Officer did not address this issue as this issue was raised after the Hearing's Officer Recommendation was issued.</p>	<p>Staff agrees with the Applicant on this issue area. Further, Staff notes Deschutes County was not required to go through any process under HB 2229 unless it determined that a county-wide regional "big look" of resource lands was warranted.</p> <p>Lastly, in the seven years since HB 2229 was passed, the County has considered and approved many property-specific applications to re-designate/rezone resource parcels under applicable state and local laws and regulations. There is nothing in HB 2229 that precludes the County from considering property-specific plan amendments and zone changes for farm and forest lands.</p>	<p>Does House Bill 2229 apply to this application for a plan amendment and zone change?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move to approve the PA/ZC. 2. If yes, then the Board must deny the PA/ZC.