

## BOCC DECISION MATRIX

DESTINY COURT PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000436-ZC, 443-PA					
	Issue Area	Applicable Approval Criteria	Objections and Arguments	Arguments and Findings in Support	Board Decision
1	Is the subject property agricultural land with respect to soils?	Goal 3 and Oregon Administrative Rule (OAR) 660-033-0020(1)(a)(A).  In Eastern Oregon, agricultural lands are those lands classified by the U.S. Natural Resources Conservation Service as predominantly Class I-VI soils.	No specific objections related to the soil study or the classification of soils on the property were submitted to the record.	The Hearings Officer found the property is predominantly Class VII and VIII soils based on the soils study.	Is the subject property agricultural land with respect to soils?  1. If no, the Board can continue deliberations and move to approve the PA/ZC.  2. If yes, the Board can move to deny the PA/ZC.

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2	Is the property agricultural land with respect to applicable OAR factors?	Goal 3 and Oregon Administrative Rule (OAR) 660-033-0020(1)(a)(B).  This OAR requires the decision-maker to determine whether the property is agricultural land by considering the following factors: <ul style="list-style-type: none"> <li>• Soil fertility.</li> <li>• Suitability for grazing.</li> <li>• Climatic conditions.</li> <li>• Existing and future availability of water for farm irrigation purposes.</li> <li>• Existing land use patterns, technological and energy inputs required, and accepted farming practices.</li> <li>• Accepted farm practices.</li> </ul>	The record includes the following arguments and evidence: <ul style="list-style-type: none"> <li>• Livestock were previously grazed on the property and therefore the property is agricultural land.</li> <li>• Photographs of the subject property depict two large irrigation pivots, irrigated pastures, grazing cattle, livestock fencing, and an irrigation pond.</li> <li>• The photographs demonstrate the subject property is capable of being put to farm use.</li> <li>• The subject property can be used as part of farm operations on other properties because the soils, terrain and hydrology of the subject property are similar to other central and eastern Oregon farms.</li> <li>• The property was previously irrigated, continues to have water rights, and therefore is agricultural land.</li> <li>• Profit is not a consideration in the definition of agricultural land.</li> <li>• The applicant should be required to address whether other types of farm uses, beyond livestock grazing, could be established on the property.</li> </ul>	The Hearings Officer made the following findings: <ul style="list-style-type: none"> <li>• Per the soil study, the property does not have sufficient soil fertility to qualify as agricultural land.</li> <li>• Efforts to graze livestock were unsuccessful even with the application of irrigation.</li> <li>• Viewed on its own, the climatic conditions of the property are not determinative that the property is agricultural land</li> <li>• Availability of water, on its own, is not sufficient to determine that the property is agricultural land.</li> <li>• Applicant’s analysis of existing land use patterns demonstrates that the property is not agricultural land.</li> <li>• There is nothing in the record to suggest that additional, alternative or supplementary technology or energy inputs would improve the property’s ability to be agricultural land.</li> <li>• Per the soil study, utilizing accepted farm practices would not offset the poor soil quality.</li> <li>• LUBA has consistently found that profitability is a factor to be considered. The record indicates prior farming attempts on the property were not profitable.</li> <li>• The mere speculation of possible alternative farm uses is not sufficient, on its own, to determine that the property is agricultural land.</li> </ul> The applicant submitted the following: <ul style="list-style-type: none"> <li>• Affidavit from a previous property owner that attempts to farm the subject property were unsuccessful, despite clearing a portion of the property and installing a 2-pivot irrigation system.</li> <li>• Exhibit 42 is correspondence from Swalley Irrigation District indicating there are no water rights appurtenant to the subject property.</li> <li>• While the OAR requires a consideration of irrigation when determining whether a property is agricultural land, it is only 1 factor of many that are required to be considered – irrigation alone does not make the subject property agricultural land.</li> </ul>	Is the property agricultural land with respect to applicable OAR factors? <ol style="list-style-type: none"> <li>1. If no, the Board can continue deliberations and move to approve the PA/ZC.</li> <li>2. If yes, the Board can move to deny the PA/ZC.</li> </ol>

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3	<p>Is the property agricultural land considering adjacent or nearby agricultural lands?</p>	<p>Goal 3 and Oregon Administrative Rule (OAR) 660-033-0020(1)(a)(C). This OAR requires the decision-maker to consider whether the property is necessary to permit farm practices on adjacent or nearby agricultural lands.</p>	<p>The record does not include any specific identification of adjacent or nearby farms that would benefit from the agricultural use of the property.</p>	<p>The Hearings Officer made the following findings on this issue:</p> <ul style="list-style-type: none"> <li>• There are no adjacent farm uses or adjacent agricultural lands.</li> <li>• There is no evidence to suggest that a nearby farm would benefit from: <ul style="list-style-type: none"> <li>➢ The agricultural use of the property.</li> <li>➢ Using the subject property as a storage or maintenance facility.</li> </ul> </li> </ul>	<p>Is the property agricultural land considering adjacent or nearby agricultural lands?</p> <ol style="list-style-type: none"> <li>1. If no, the Board can continue deliberations and move to approve the PA/ZC.</li> <li>2. If yes, the Board can move to deny the PA/ZC.</li> </ol>
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DESTINY COURT PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000436-ZC, 443-PA					
	Issue Area	Applicable Approval Criteria	Objections and Arguments	Arguments and Findings in Support	Board Decisions
4	Will the PA/ZC result in urbanization such that an exception to Goal 14 is required?	Goal 14.	Objections in the record include: <ul style="list-style-type: none"> <li>Rural land cannot be converted to urban uses.</li> <li>The approximately 1.7-acre lot sizes associated with the future subdivision is an urban density.</li> <li>The PA violates Goal 14 because it undermines the effectiveness of an established UGB. (undermine UGB argument)</li> <li>A cluster subdivision is an urban use.</li> <li>The future subdivision may require future municipal water and sewer.</li> <li>The MUA Zone has a 10-acre minimum lot size and because the future subdivision lots would be less than 10 acres, the subject property cannot be rezoned to MUA.</li> <li>If a Goal 14 exception is requested by the applicant, it must demonstrate that it is impracticable to allow any rural uses in the exception area. (impracticable argument)</li> <li>A Goal 14 exception is required.</li> </ul>	The Hearings Officer made the following findings on this issue: <ul style="list-style-type: none"> <li>In <i>1000 Friends of Oregon v Josephine County</i>, LUBA stated, "...a petitioner who alleges that a decision violates Goal 14 by allowing a conversion of rural land to urban uses must explain what urban uses the decision allows."</li> <li>The MUA Zone allows rural uses not urban uses.</li> <li>Because the applicant has separated the subdivision application from the PA/ZC, the Hearings Officer found that he could not consider any arguments regarding the future subdivision, including lot size, under the Goal 14 analysis.</li> <li>The 'undermine UGB argument' is not sufficiently described to allow the Hearings Officer to authoritatively respond.</li> <li>The proximity of the subject property to the Bend Urban Growth Boundary does not imply that development on the subject property is an urban use.</li> <li>The <i>Curry/Shaffer</i> factors to determine whether a use is urban are satisfied and the proposal will not allow urban uses.</li> <li>The 'impracticable argument' is not sufficiently described to allow the Hearings Officer to authoritatively respond.</li> <li>A Goal 14 exception is not required.</li> </ul>	Will the PA/ZC result in urbanization such that an exception to Goal 14 is required? <ol style="list-style-type: none"> <li>1. If no, the Board can continue deliberations and move to approve the PA/ZC.</li> <li>2. If yes, the Board can move to deny the PA/ZC.</li> </ol>

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DESTINY COURT PLAN AMENDMENT (PA) / ZONE CHANGE (ZC) Land Use File Nos. 247-22-000436-ZC, 443-PA					
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5	Accessory Dwelling Units (ADUs).	Transportation Planning Rule (TPR), OAR 660-012-0060, and Deschutes County Code 18.116.310(E)(4).	No specific objections related to ADUs.	<p><u>Applicant</u>                      The applicant submitted a traffic analysis prepared by Transight Consulting which concluded:</p> <ul style="list-style-type: none"> <li>• There are no standardized trip generation rates for ADUs.</li> <li>• It's reasonable to assign a trip generation rate to ADUs that is 25-50% of a single-family dwelling home.</li> <li>• The development of 14 ADUs in the future subdivision would equate to the trip generation of three to seven additional single-family dwellings.</li> <li>• The primary access roads (OB Riley Road and Destiny Court) to the subject property would continue to operate at an acceptable level of service based on the expected trip generation for ADUs.</li> <li>• The additional ADU-related trips would not:                             <ul style="list-style-type: none"> <li>➢ Change the functional classification of existing roads.</li> <li>➢ Change standards implementing a functional classification system.</li> <li>➢ Result in types of travel that is inconsistent with the functional classification of existing roads.</li> </ul> </li> <li>• For the purposes of the TPR, a significant impact does not occur with or without the inclusion of ADUs.</li> </ul>	<p>Does the PA/ZC, which would allow ADUs on the subject property, comply with the TPR?</p> <ol style="list-style-type: none"> <li>1. If yes, the Board can continue deliberations and move to approve the PA/ZC.</li> <li>2. If no, the Board can move to deny the PA/ZC.</li> </ol>

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6	Adequacy of the Hearings Officer's findings on remaining approval criteria.	All applicable criteria as detailed in the Hearings Officer's decision.	None.	The applicant agrees with the Hearings Officer's findings and recommendation of approval.	Does the Board adopt the Hearings Officer's findings as their own, except as modified by the deliberations?  1. If yes, the Board can move to approve the PA/ZC.  2. If no, the Board can identify specific approval criteria for continued deliberations.