



MEMORANDUM

DATE: June 8, 2022

TO: Deschutes County Board of Commissioners

FROM: Nicole Mardell, Senior Planner – Long Range

RE: Continued Public Hearing: Remand of Deschutes Junction Plan Amendment and Zone Change application 247-20-000438-PA/439-ZC (247-22-000287-A)

I. BACKGROUND

On June 8, 2022, the Board of Commissioners (“Board”) will hold a continuation of a limited *de novo* public hearing to consider a remanded decision of the Oregon Land Use Board of Appeals (“LUBA”). The remanded decision is requesting approval of a plan amendment and zone change proposed by Anthony Aceti (“Applicant”) to rezone and redesignate the property from Exclusive Farm Use (EFU) / Agriculture (AG) to Rural Industrial (RI). The remand proceedings are a continuation of an existing application (247-20-000438-PA/439-ZC). The full record is located on the project webpage¹. Both oral and written testimony will be accepted at the hearing.

The Board held the initial public hearing on May 18, 2022² on the subject application. In response to concern regarding a potential procedural error, the hearing was continued to allow for a new notice of public hearing to be mailed, 20 days prior to the continued hearing. The notice was mailed on May 18, 2022.

II. HEARING PROCEDURE AND DECISION TIME LIMITATIONS

Staff notes that this hearing is being held limited *de novo* meaning that only testimony directed at the issue on remand, the number of workers resulting from the proposed Rural Industrial zoning and plan designation, will be considered. Testimony on other matters will not be accepted during the public hearing. To comply with procedural requirements for remand proceedings, the Board must issue a decision by August 5, 2022.

¹<https://www.deschutes.org/cd/page/remand-deschutes-junction-plan-amendment-zone-change>

²<https://www.deschutes.org/bcc/page/board-county-commissioners-1>

III. SUMMARY OF TESTIMONY RECEIVED

Oral testimony was provided by the following individuals during the May 18, 2022 public hearing:

- Tony Aceti (Applicant)
- Bill Kloos (Applicant's Attorney)
- Joe Bessman, PE (Applicant's Transportation Engineer)
- Carol MacBeth – Central Oregon Landwatch (Appellant of Original Application)

Since the last staff memo was posted on May 11, 2022, the following written materials have been submitted into the record and have been uploaded to the project website.

Prior to May 18, 2022 Public Hearing, but after Packet Posting

- Applicant – Transight Consulting 5.17.22 Letter
 - Provided excerpts from Institute of Traffic Engineer's Manual noting anticipated number of employees and trips by use
- Appellant – Central Oregon Landwatch 5.17.22 Letter
 - Need for Goal 14 Exception (outside hearing scope)
 - Ability to newly designate property as Rural Industrial (outside of hearing scope)
 - Comparison of proposed number of employees to employment statistics within City of Bend Urban Growth Boundary
 - Concern regarding lack of information for all uses listed under Rural Industrial (RI) zone and calculation of anticipated number of employees
 - Concern regarding notice of public hearing – mailed 14 days prior to public hearing instead of 20 days

Following May 18, 2022 Public Hearing

- Applicant - Bill Kloos 5.31.22 Letter
 - Additional discussion on *Shaffer* test and determination of rural use
 - Surrounding RI zoning – comparison of employment of uses that required Goal 14 exception or were permitted per RI Zone under current development code
 - Additional discussion of calculation of number of employees
 - Buildable area of the site and its impact on the potential number of employees
 - Concern regarding appellant arguments outside of the scope of the remand proceeding
 - Discussion of site soils, limitations on septic capacity, and impact on potential number of employees
 - Draft findings for consideration by the Board
- Applicant – Pat Kliewer 5.31.22 Letter
 - Comparison of surrounding properties in Deschutes Junction area, building square footage, number of employees, bathrooms, and method of sewage treatment.

- RI zone restrictions on developable area (setbacks, height, lot coverage, parking, etc.) and impact on potential number of employees

IV. NEXT STEPS

The Board will conduct a continued hearing on this item on June 8, 2022. Following the hearing the Board may choose to:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain; or
- Close both the oral and written portions of the hearing.