



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 24, 2024

Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall Street – Bend  
(541) 388-6570 | [www.deschutes.org](http://www.deschutes.org)

### AGENDA

**MEETING FORMAT:** In accordance with Oregon state law, this meeting is open to the public and can be accessed and attended in person or remotely, with the exception of any executive session.

Members of the public may view the meeting in real time via YouTube using this link: <http://bit.ly/3mmlnzy>. **To attend the meeting virtually via Zoom, see below.**

**Citizen Input:** The public may comment on any topic that is not on the current agenda. Alternatively, comments may be submitted on any topic at any time by emailing [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or leaving a voice message at 541-385-1734.

When in-person comment from the public is allowed at the meeting, public comment will also be allowed via computer, phone or other virtual means.

**Zoom Meeting Information:** This meeting may be accessed via Zoom using a phone or computer.

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqdD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press \*9 to indicate you would like to speak and \*6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, call (541) 388-6572 or email [brenda.fritsvold@deschutes.org](mailto:brenda.fritsvold@deschutes.org).

**Time estimates:** The times listed on agenda items are estimates only. Generally, items will be heard in sequential order and items, including public hearings, may be heard before or after their listed times.

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

**CITIZEN INPUT:** Citizen Input may be provided as comment on any topic that is not on the agenda.

**Note:** In addition to the option of providing in-person comments at the meeting, citizen input comments may be emailed to [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or you may leave a brief voicemail at 541.385.1734.

## CONSENT AGENDA

1. Approval of a change order to the Knott Landfill Cell 9 construction project
2. Approval of revision to F-10 Investment Policy
3. Consideration of Board Signature on letter appointing Patrick Neely for service as an alternate member on the Deschutes County Solid Waste Advisory Committee

## ACTION ITEMS

4. **9:00 AM** 2024 Public Safety Campus Plan
5. **9:45 AM** Multiple Unit Property Tax Exemption application for Penn Avenue development at 445 NE Penn Avenue, Bend
6. **9:55AM** Application for two OHA Reproductive Health Services Grants
7. **10:05 AM** OHA grant amendment #180009-8 and Resolution No. 2024-013
8. **10:10 AM** First Reading of Ordinance 2023-016 adopting the Tumalo Community Plan Update 2020-2040
9. **10:15 AM** Consideration to hear an appeal of the Hearings Officer's Decision concerning three non-farm dwellings on properties in the EFU zone
10. **10:30 AM** General Administrative Policy No. GA-23A – Removal of Unauthorized Encampments Located on Vacant County-owned Property
11. **10:40 AM** Cannabis Advisory Committee Budget Recommendations



## 12. Salary, Market, and Equity Review Project Overview

### **OTHER ITEMS**

*These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.*

### **EXECUTIVE SESSION**

*At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.*

*Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.*

### **ADJOURN**



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** Approval of a change order to the Knott Landfill Cell 9 construction project

**RECOMMENDED MOTION:**

Move approval of Chair signature of Change Order No. 2024-359 to the contract for the Knott Landfill Cell 9 Construction Project.

**BACKGROUND AND POLICY IMPLICATIONS:**

In September 2023, the Department of Solid Waste issued an Invitation to Bid for the Cell 9 Construction Project at Knott Landfill. The project includes excavation of an estimated 500,000 cubic yards (CY) of fill material, aggregate crushing, placement of geosynthetics, gas extraction piping, fencing and a water tank fill station. The contract was awarded to Scarsella Bros in the amount of \$4,968,915.00 on October 13,2023.

During the course of excavation an additional 50,000 cy of rock was encountered. This change order is requesting crushing this material to a 2" minus at \$9.75/cy for operational use on roads and landings. There is a need for approximately 100,000 cubic yards of rock over the next six years for this purpose to close out the landfill with roughly 60,000 cy remaining in Cell 10, the final Cell. The average bid estimate for 2" minus crushing was \$13.33 per cy for the Cell 9 Construction project. This would save the Department approximately \$180,000 and reduce the cost for Cell 10 construction scheduled for 2027.

**BUDGET IMPACTS:**

The budgeted amount for the Cell 9 Construction Project for FY24 was \$6,500,000. This Change Order falls within the budget for the project.

**ATTENDANCE:**

Tim Brownell, Director of Solid Waste

# Contract Change Order No. 6

<b>Project:</b>	Knott Landfill - Cell 9 Construction Project
<b>Contractor:</b>	Scarsella Bros., Inc.
<b>Engineer:</b>	G. Friesen Associates / Tent Engineering / Siemens and Associates
<b>Owner:</b>	Deschutes County Department of Solid Waste

You are hereby directed to make the following revisions to the Contract Documents:

1. Increase the **Approximate Quantity** listed in the **Bid Schedule** for **Bid Item #9 – 2-inch Minus Aggregate** from 20,000 cy to 70,000 cy.
2. Coordinate with Taylor NW and expand the **2-in Minus Aggregate Stockpile Area** shown on **Drawing S2** to the North so that the additional 2-in Minus Aggregate that is generated can be stockpiled and measured.
3. Identify the area where the additional stockpiling will occur prior to the start of work so that an Existing Ground Survey can be performed.

**ATTACHMENTS:**

None

**REASON FOR CHANGE ORDER**

Operations at the landfill utilizes 2-inch Minus Aggregate material for deck building and road construction. The County is requesting that the additional rock that is available from the Cell 9 excavation be crushed into 2-inch Minus Aggregate and stockpiled for future use.


**COST CHANGES:**

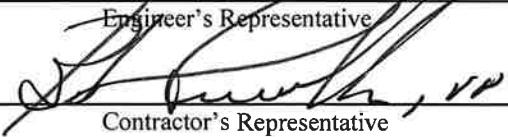
Approximate Addition this Change Order: 50,000 cy x \$ 9.75 per cy = \$ 487,500.00

Work to be paid on a unit price basis under this change order.

**TIME CHANGES:** Addition of days of Contract time due to this Change Order:  0  Calendar Days

Upon acceptance and approval, this document shall become a supplement to the Contract and all provisions in the Contract shall apply thereto.

SUBMITTED BY:    Date:  March 27, 2024   
Engineer's Representative

ACCEPTED BY:    Date:  April 11, 2024   
Contractor's Representative

APPROVED BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Owner's Representative



**BOARD OF  
COMMISSIONERS**

**AGENDA REQUEST & STAFF REPORT**

**MEETING DATE:** April 24, 2024

**SUBJECT:** Approval of revision to F-10 Investment Policy

**RECOMMENDED MOTION:**

Move approval of County Administrator signature of revised Investment Policy F-10 to reflect current procedures.

**BACKGROUND:**

A review of the current F-10 Investment Policy was completed during the most recent meeting of the Investment Advisory Committee held on April 2, 2024. The only recommended change (see the bottom of page 9) was in regard to reporting, with a change to reflect that the Monthly Treasurer’s Report is available online on the public website and no longer needs to be sent out to committee members.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Bill Kuhn, County Treasurer



**Deschutes County Administrative Policy No. F-10**

Effective Date: January 7, 2008      Revised Date: March 20, 2019  
Revised Date: June 24, 2009      Revised Date: March 11, 2020  
Revised Date: September 20, 2012      Revised Date: March 17, 2021  
Revised Date: December 11, 2013      Revised Date: March 16, 2022  
Revised Date: December 15, 2014      Revised Date: March 20, 2023  
Revised Date: December 17, 2015  
Revised Date: December 27, 2017

**INVESTMENT POLICY GUIDELINES**

**PURPOSE**

This Investment Policy defines the parameters within which funds are to be invested by Deschutes County. Deschutes County’s purpose is to provide County Level Services for a large portion of Central Oregon. This policy also formalizes the framework, pursuant to ORS 294.135, for Deschutes County’s investment activities to ensure effective and judicious management of funds within the scope of this policy.

These guidelines are intended to be broad enough to allow designated investment staff to function properly within the parameters of responsibility and authority, yet specific enough to adequately safeguard the investment assets.

**GOVERNING AUTHORITY**

Deschutes County’s investment program shall be operated in conformance with Oregon Revised Statutes and applicable Federal Law. Specifically, this investment policy is written in conformance with ORS 294.035; 294.040; 294.052; 294.135; 294.145; and 294.810. All funds within the scope of this policy are subject to Laws established by the State of Oregon. Any revisions or extensions of these sections of the ORS shall be assumed to be part of this Investment Policy immediately upon being enacted.

**SCOPE**

This policy applies to activities of Deschutes County with regard to investing the financial assets of all County funds including County Service Districts and Trust Funds. Investments of employees' retirement funds, deferred compensation plans, and other funds are not covered by this policy. The amount of funds falling within the scope of this policy over the next three years is expected to range between \$160 million and \$230 million.

**GENERAL OBJECTIVES**

The primary objectives, in priority order, of investment activities shall be:

1. **Preservation of Invested Capital.** Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The goal is to manage credit risk and interest rate risk.
2. **Liquidity.** The investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated operating requirements. Furthermore, the portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio also may be placed in the Oregon

Short Term Fund which offers next-day liquidity. Where possible and prudent, the portfolio should be structured so that investments mature concurrent with anticipated demands.

- 3. **Return.** The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the safety and liquidity needs of the portfolio. Although return consists of both principal return (gains and losses due to market value fluctuations) and income return (yield), this policy discourages active trading and turnover of investments. Investments should generally be held to maturity.

**STANDARDS OF CARE**

- 1. **Prudence.** The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy, and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported and appropriate action is taken to control adverse developments within a timely fashion as defined in this policy.

The "prudent person" standard states that *“Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.”*

- 2. **Ethics and Conflicts of Interest.** Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the County. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

3. **Delegation of Authority and Responsibilities**

- a. **Governing Body.** The Board of County Commissioners will retain ultimate fiduciary responsibility for invested funds. The governing body will receive reports, pursuant to, and with sufficient detail to comply with ORS 294.155.
- b. **Delegation of Authority.** Authority to manage investments within the scope of this policy and operate the investment program in accordance with established written procedures and internal controls is granted to the Treasurer and/or Chief Financial Officer, hereinafter referred to as Investment Officer, and derived from the following: ORS 294.035 to 294.053, 294.125 to 294.145, and 294.810.

No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

All participants in the investment process shall seek to act responsibly as custodians of the public

trust. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and supporting procedures.

- c. **Investment Committee.** The Deschutes County Board of County Commissioners established an investment advisory committee on April 19, 1995 by resolution 95-12520 to provide guidance to the Investment Officer and monitor investment policy compliance.
- d. **Investment Adviser.** The Investment Officer may engage the services of one or more external investment managers to assist in the management of the County’s investment portfolio in a manner consistent with this investment policy. Investment advisers may be hired on a non-discretionary basis. All investment transactions by approved investment advisers must be pre-approved in writing by the Investment Officer and compliant with this Investment Policy. If the Investment Officer hires an investment adviser to provide investment management services, the adviser is authorized to transact with its direct dealer relationships on behalf of Deschutes County.

**TRANSACTION COUNTERPARTIES, INVESTMENT ADVISERS AND DEPOSITORIES**

- 1. **Broker/Dealers.** The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives.

The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

- a. **Broker/Dealer firms** must meet the following minimum criteria:
  - i. Be registered with the Securities and Exchange Commission (SEC);
  - ii. Be registered with the Financial Industry Regulatory Authority (FINRA).
  - iii. Provide most recent audited financials.
  - iv. Provide FINRA Focus Report filings.
- b. **Approved broker/dealer employees** who execute transactions with Deschutes County must meet the following minimum criteria:
  - i. Be a registered representative with the Financial Industry Regulatory Authority (FINRA);
  - ii. Be licensed by the state of Oregon;
  - iii. Provide certification (in writing) of having read; understood; and agreed to comply with the most current version of this investment policy.
- c. **Periodic (at least annual) review** of all authorized broker/dealers and their respective authorized registered representatives will be conducted by the Investment Officer. Factors to consider would be:
  - i. Pending investigations by securities regulators.
  - ii. Significant changes in net capital.
  - iii. Pending customer arbitration cases.
  - iv. Regulatory enforcement actions.

- 2. **Investment Advisers.** A list will be maintained of approved advisers selected by conducting a process of due diligence.

- a. The following items are required for all approved Investment Advisers:

- i. The investment adviser firm must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon; (Note: Investment adviser firms with assets under management > \$100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon)
  - ii. All investment adviser firm representatives conducting investment transactions on behalf of Deschutes County must be registered representatives with FINRA;
  - iii. All investment adviser firm representatives conducting investment transactions on behalf of Deschutes County must be licensed by the state of Oregon;
  - iv. Certification, by all of the adviser representatives conducting investment transactions on behalf of Deschutes County, of having read, understood and agreed to comply with this investment policy.
- b. A periodic (at least annual) review of all authorized investment advisers will be conducted by the Investment Officer to determine their continued eligibility within the portfolio guidelines. Factors to consider would be:
- i. Pending investigations by securities regulators.
  - ii. Significant changes in net capital.
  - iii. Pending customer arbitration cases.
  - iv. Regulatory enforcement actions.
3. **Depositories.** All financial institutions who desire to become depositories must be qualified Oregon Depositories pursuant to ORS Chapter 295.
4. **Competitive Transactions**
- a. The Investment Officer shall obtain and document competitive bid information on all investments purchased or sold in the secondary market. Competitive bids or offers should be obtained, when possible, from at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform.
  - b. In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, the Investment Officer shall document quotations for comparable or alternative securities.
  - c. When purchasing original issue securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price. However, the Investment Officer is encouraged to document quotations on comparable securities.
  - d. If an investment adviser provides investment management services, the adviser must retain documentation of competitive pricing execution on each transaction and provide upon request.

**ADMINISTRATION AND OPERATIONS**

- 1. **Delivery vs. Payment.** All trades of marketable securities will be executed (cleared and settled) by delivery vs. payment (DVP) to ensure that securities are deposited in the County’s safekeeping institution prior to the release of funds.
- 2. **Third-Party Safekeeping.** Securities will be held by an independent third-party safekeeping institution selected by the County. All securities will be evidenced by safekeeping receipts in the County’s name. Upon request, the safekeeping institution shall make available a copy of its Statement on Standards for Attestation Engagements (SSAE) No. 16.



- 3. **Internal Controls.** The investment officer is responsible for establishing and maintaining an adequate internal control structure designed to reasonably assure that invested funds are invested within the parameters of this Investment policy and, protected from loss, theft or misuse. Specifics for the internal controls shall be documented in writing. The established control structure shall be reviewed and updated periodically by the Investment Officer.

The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived and the valuation of costs and benefits requires estimates and judgments by management.

The internal controls shall address the following points at a minimum:

- a. Compliance with Investment Policy.
  - b. Control of collusion.
  - c. Separation of transaction authority from accounting and record keeping.
  - d. Custodial safekeeping.
  - e. Avoidance of physical delivery of securities whenever possible and address control requirements for physical delivery where necessary.
  - f. Clear delegation of authority to subordinate staff members.
  - g. Confirmation of transactions for investments and wire transfers in written or digitally verifiable electronic form.
  - h. Dual authorizations of wire and automated clearing house (ACH) transfers.
  - i. Staff training.
  - j. Review, maintenance and monitoring of security procedures both manual and automated.
- 4. An external auditor in conjunction with the annual County audit shall review compliance with Oregon state law and Deschutes County policies and procedures.

**SUITABLE AND AUTHORIZED INVESTMENTS**

- 1. **Permitted Investments.** The following investments are permitted pursuant to ORS 294.035, 294.040, and ORS 294.810. (Note: Permitted investments may be more restrictive than ORS 294.035 and 294.810).
  - a. US Treasury Obligations. U.S. Treasury and other government obligations that carry the full faith and credit guarantee of the United States for the timely payment of principal and interest.
  - b. US Agency Obligations. Senior debenture obligations of US federal agencies and instrumentalities or U.S. government sponsored enterprises (GSE).
  - c. Oregon Short Term Fund.

- d. Corporate Indebtedness.
  - e. Commercial Paper issued under the authority of section 3(a)2 or 3(a)3 of the Securities Act of 1933.
  - f. Corporate Bonds.
  - g. Municipal Debt.
  - h. Bankers Acceptances.
  - i. Qualified Institution Time Deposits/Savings Accounts/Certificates of Deposit.
2. **Approval of Permitted Investments.** If additional types of securities are considered for investment, per Oregon state statute they will not be eligible for investment until this Policy has been amended and the amended version adopted by Deschutes County.
3. **Prohibited Investments**
- a. Private Placement or “144A” Securities. Private placement or “144A” securities are not allowed. For purposes of the policy, SEC Rule 144A securities are defined to include commercial paper privately placed under section 4(a)(2) of the Securities Act of 1933.
  - b. US Agency Mortgage-backed Securities. US agency mortgage-backed securities such as those securities issued by FNMA and FHLMC are not allowed.
  - c. Securities Lending. The County shall not lend securities nor directly participate in a securities lending program.
4. **Demand Deposits and Time Deposits**
- a. All demand deposits and time deposits (Examples of time deposits are: certificates of deposit and savings accounts) shall be held in qualified Oregon depositories in accordance with ORS Chapter 295.
  - b. Demand deposits in qualified depository institutions are considered cash vehicles and not investments and are therefore outside the scope and restrictions of this policy. Pursuant to ORS 294.035(3)(d), time deposits, certificates of deposit and savings accounts are considered investments and within the scope of this policy.

**INVESTMENT PARAMETERS**

1. **Credit Risk.** Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt. Credit risk will be managed by the following guidelines:
- a. Diversification. It is the policy of Deschutes County to diversify its investments. Where appropriate, exposures will be limited by security type; maturity; issuance, issuer, and security type. Allowed security types and Investment exposure limitations are detailed in the table below.
  - b. Recognized Credit Ratings. Investments must have a rating from at least one of the following nationally recognized statistical ratings organizations (NRSRO): Moody’s Investors Service;

Standard & Poor’s; and Fitch Ratings Service as detailed in the table below. At least one such rating must meet the minimum rating requirements shown in the table below. Ratings used to apply the guidelines below should be investment level ratings and not issuer level ratings.

- c. Portfolio Average Credit Rating. The minimum weighted average credit rating of the portfolio’s rated investments shall be Aa2/AA/AA by Moody’s Investors Service; Standard & Poor’s; and Fitch Ratings Service respectively. For purposes of evaluating the average credit rating for the portfolio, the County will use the single rating for those securities that only have one rating, the lower of two ratings for those securities that have two ratings and the middle rating for those securities that have three ratings.
- d. Exposure Constraints and Minimum Investment Credit Ratings. The following table limits exposures among investments permitted by this policy.

Issue Type	Maximum % Holdings	Minimum Ratings Moody’s/S&P/Fitch	Oregon Revised Statue Reference
US Treasury Obligations	100%	N/A	
US Agency Securities	100%		
Per Agency (Senior Obligations Only)	33%		
Oregon Short Term Fund	Maximum allowed per ORS 294.810		
Bankers’ Acceptances	25%	A1+/P1/F1+	25% maximum holding per ORS 294.035(3)(h)(C).
Time Deposits, Savings Accounts, Certificates of Deposit	50%		Authorized by ORS 294.035(3)(d).
Per Institution	25%		
Corporate Debt (Total)	25%		35% maximum holding per ORS 294.035(3)(h)(D).
Corporate Commercial Paper per Issuer	5%	A1/P1/F1	5% maximum holding per ORS 294.035(3)(h)(D).
Corporate Bonds			
Per Oregon Issuer	5%	A2/A/A	5% max holding per ORS 294.035(3)(h)(D), A- min rating per ORS 294.035(3)(b).
All Other Issuers	5%	Aa3/AA-/AA-	5% max holding per ORS 294.035(3)(h)(D), AA- min rating for CA, WA & ID per ORS 294.035(3)(b).
Municipal Debt	25%		
Municipal Bonds		Aa3/AA-/AA-	

- e. Restriction on Issuers with Prior Default History. Per ORS 294.040, the bonds of issuers listed in ORS 294.035 (3)(a) to (c) may be purchased only if there has been no default in payment of either the principal of or the interest on the obligations of the issuing county, port, school district or city, for a period of five years next preceding the date of the investment.

2. **Liquidity Risk.** Liquidity risk is the risk that an investment may not be easily marketable or redeemable. The following strategies will be employed to manage liquidity risks:
  - a. The value of at least 10% of funds available for investing or three months of budgeted operating expenditures will be invested in the Oregon Short Term Fund, with a qualified depository institution, or investments maturing in less than 30 days to provide sufficient liquidity for expected disbursements.
  - b. Funds in excess of liquidity requirements are allowed for investments maturing in greater than one year. However, longer-term investments tend to be less liquid than shorter term investments.

Portfolio investment maturities will be limited as follows:

Total Portfolio Maturity Constraints:

Maturity Constraints	Minimum % of Total Portfolio
Under 30 days	10% or three months est. operating expenditures
Under 1 year	25%
Under 5 years	100%
Weighted Average Maturity of Portfolio	2.0 years

- c. Reserve or Capital Improvement Project funds may be invested in securities exceeding the maximum term if the maturities of such investments are made to coincide as nearly as practicable with the expected use of the funds.
- d. Larger issuance sizes enhance liquidity as there are likely to be a greater number of investors. Issuance sizes above a minimum amount qualify a corporate or municipal debt bond issuance for index eligibility. Index eligible bonds have a significantly larger investor base which improves liquidity.
- e. Limiting investment in a specific debt issuance improves secondary market liquidity by assuring there are other owners of the issuance.

Issue Type	Maximum % of Issuance (Par)
US Agency Securities	50%
Corporate Debt	
Corporate Commercial Paper	25%
Corporate Bonds	25%
Municipal Bonds	25%

3. **Interest Rate Risk.** Longer-term investments have the potential to achieve higher returns but are also likely to exhibit higher market value volatility due to the changes in the general level of interest rates over the life of the investment(s). Interest rate risk will be managed by providing adequate liquidity for short term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes. Certain types of securities, including variable rate securities, securities with principal pay-downs prior to maturity, and securities with embedded options, will affect the interest rate risk profile of the portfolio differently in different interest rate environments. The following strategies will be employed to control and manage adverse changes in the market value of the portfolio due to changes in interest rates:

- a. Where feasible and prudent, investment maturities should be matched with expected cash outflows to manage market risk.
- b. To the extent feasible, investment maturities not matched with cash outflows, including liquidity investments under one year, should be staggered to manage re-investment risk.
- c. No commitments to buy or sell securities may be made more than 14 business days prior to the anticipated settlement date or receive a fee other than interest for future deliveries.

- d. The maximum percent of callable securities in the portfolio shall be 25%;
- e. The maximum stated final maturity of individual securities in the portfolio shall be five years, except as otherwise stated in this policy.
- f. The maximum portfolio average maturity (measured with stated final maturity) shall be 2.0 years.

**INVESTMENT OF PROCEEDS FROM DEBT ISSUANCE**

- 1. Investments of bond proceeds are restricted under bond covenants that may be more restrictive than the investment parameters included in this policy. Bond proceeds shall be invested in accordance with the parameters of this policy and the applicable bond covenants and tax laws.
- 2. Funds from bond proceeds and amounts held in a bond payment reserve or proceeds fund may be invested pursuant to ORS 294.052. Investments of bond proceeds are typically not invested for resale and are maturity matched with outflows. Consequently, surplus funds within the scope of ORS 294.052 are not subject to this policy’s liquidity risk constraints within section IX (2).

**INVESTMENT OF RESERVE OR CAPITAL IMPROVEMENT FUNDS**

Pursuant to ORS 294.135(1)(b), reserve or capital Improvement project funds may be invested in securities exceeding three years when the funds in question are being accumulated for an anticipated use that will occur more than 18 months after the funds are invested, then, upon the approval of the governing body of the county, the maturity of the investment or investments made with the funds may occur when the funds are expected to be used.

**GUIDELINE MEASUREMENT AND ADHERENCE**

- 1. **Guideline Measurement.** Guideline measurements will use par value of investments.
- 2. **Guideline Compliance.**
  - a. If the portfolio falls outside of compliance with adopted investment policy guidelines or is being managed inconsistently with this policy, the Investment Officer shall bring the portfolio back into compliance in a prudent manner and as soon as prudently feasible.
  - b. Violations of portfolio guidelines as a result of transactions; actions to bring the portfolio back into compliance and; reasoning for actions taken to bring the portfolio back into compliance shall be documented and reported to the Board of County Commissioners.
  - c. Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer or investment type may be exceeded at a point in time. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.

**REPORTING AND DISCLOSURE**

- 1. **Compliance.** The Investment Officer shall prepare a report at least monthly that allows the Board of County Commissioners to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report will also be provided available online on the public website which will provide access for ~~to~~ the investment advisory committee. The report will include,

at a minimum, the following:

- a. A listing of all investments held during the reporting period showing: par/face value; accounting book value; market value; type of investment; issuer; credit ratings; and yield to maturity (yield to worst if callable).
  - b. Average maturity of the portfolio at period-end.
  - c. Maturity distribution of the portfolio at period-end.
  - d. Average portfolio credit quality of the portfolio at period-end.
  - e. Average weighted yield to maturity (yield to worst if callable investments are allowed) of the portfolio.
  - f. Distribution by type of investment.
  - g. Transactions since last report.
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Approved by the Board of Commissioners \_\_\_\_\_.

\_\_\_\_\_  
Nick Lelack  
County Administrator



**Deschutes County Administrative Policy No. F-10**

Effective Date: January 7, 2008      Revised Date: March 20, 2019  
Revised Date: June 24, 2009      Revised Date: March 11, 2020  
Revised Date: September 20, 2012      Revised Date: March 17, 2021  
Revised Date: December 11, 2013      Revised Date: March 16, 2022  
Revised Date: December 15, 2014      Revised Date: March 20, 2023  
Revised Date: December 17, 2015  
Revised Date: December 27, 2017

**INVESTMENT POLICY GUIDELINES**

**PURPOSE**

This Investment Policy defines the parameters within which funds are to be invested by Deschutes County. Deschutes County’s purpose is to provide County Level Services for a large portion of Central Oregon. This policy also formalizes the framework, pursuant to ORS 294.135, for Deschutes County’s investment activities to ensure effective and judicious management of funds within the scope of this policy.

These guidelines are intended to be broad enough to allow designated investment staff to function properly within the parameters of responsibility and authority, yet specific enough to adequately safeguard the investment assets.

**GOVERNING AUTHORITY**

Deschutes County’s investment program shall be operated in conformance with Oregon Revised Statutes and applicable Federal Law. Specifically, this investment policy is written in conformance with ORS 294.035; 294.040; 294.052; 294.135; 294.145; and 294.810. All funds within the scope of this policy are subject to Laws established by the State of Oregon. Any revisions or extensions of these sections of the ORS shall be assumed to be part of this Investment Policy immediately upon being enacted.

**SCOPE**

This policy applies to activities of Deschutes County with regard to investing the financial assets of all County funds including County Service Districts and Trust Funds. Investments of employees' retirement funds, deferred compensation plans, and other funds are not covered by this policy. The amount of funds falling within the scope of this policy over the next three years is expected to range between \$160 million and \$230 million.

**GENERAL OBJECTIVES**

The primary objectives, in priority order, of investment activities shall be:

1. **Preservation of Invested Capital.** Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The goal is to manage credit risk and interest rate risk.
2. **Liquidity.** The investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated operating requirements. Furthermore, the portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio also may be placed in the Oregon



Short Term Fund which offers next-day liquidity. Where possible and prudent, the portfolio should be structured so that investments mature concurrent with anticipated demands.

- 3. **Return.** The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the safety and liquidity needs of the portfolio. Although return consists of both principal return (gains and losses due to market value fluctuations) and income return (yield), this policy discourages active trading and turnover of investments. Investments should generally be held to maturity.

**STANDARDS OF CARE**

- 1. **Prudence.** The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy, and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported and appropriate action is taken to control adverse developments within a timely fashion as defined in this policy.

The "prudent person" standard states that *“Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.”*

- 2. **Ethics and Conflicts of Interest.** Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the County. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

3. **Delegation of Authority and Responsibilities**

- a. **Governing Body.** The Board of County Commissioners will retain ultimate fiduciary responsibility for invested funds. The governing body will receive reports, pursuant to, and with sufficient detail to comply with ORS 294.155.
- b. **Delegation of Authority.** Authority to manage investments within the scope of this policy and operate the investment program in accordance with established written procedures and internal controls is granted to the Treasurer and/or Chief Financial Officer, hereinafter referred to as Investment Officer, and derived from the following: ORS 294.035 to 294.053, 294.125 to 294.145, and 294.810.

No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

All participants in the investment process shall seek to act responsibly as custodians of the public

trust. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and supporting procedures.

- c. **Investment Committee.** The Deschutes County Board of County Commissioners established an investment advisory committee on April 19, 1995 by resolution 95-12520 to provide guidance to the Investment Officer and monitor investment policy compliance.
- d. **Investment Adviser.** The Investment Officer may engage the services of one or more external investment managers to assist in the management of the County’s investment portfolio in a manner consistent with this investment policy. Investment advisers may be hired on a non-discretionary basis. All investment transactions by approved investment advisers must be pre-approved in writing by the Investment Officer and compliant with this Investment Policy. If the Investment Officer hires an investment adviser to provide investment management services, the adviser is authorized to transact with its direct dealer relationships on behalf of Deschutes County.

**TRANSACTION COUNTERPARTIES, INVESTMENT ADVISERS AND DEPOSITORIES**

- 1. **Broker/Dealers.** The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives.

The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

- a. **Broker/Dealer firms** must meet the following minimum criteria:
  - i. Be registered with the Securities and Exchange Commission (SEC);
  - ii. Be registered with the Financial Industry Regulatory Authority (FINRA).
  - iii. Provide most recent audited financials.
  - iv. Provide FINRA Focus Report filings.
- b. **Approved broker/dealer employees** who execute transactions with Deschutes County must meet the following minimum criteria:
  - i. Be a registered representative with the Financial Industry Regulatory Authority (FINRA);
  - ii. Be licensed by the state of Oregon;
  - iii. Provide certification (in writing) of having read; understood; and agreed to comply with the most current version of this investment policy.
- c. **Periodic (at least annual) review** of all authorized broker/dealers and their respective authorized registered representatives will be conducted by the Investment Officer. Factors to consider would be:
  - i. Pending investigations by securities regulators.
  - ii. Significant changes in net capital.
  - iii. Pending customer arbitration cases.
  - iv. Regulatory enforcement actions.

- 2. **Investment Advisers.** A list will be maintained of approved advisers selected by conducting a process of due diligence.

- a. The following items are required for all approved Investment Advisers:

- i. The investment adviser firm must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon; (Note: Investment adviser firms with assets under management > \$100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon)
  - ii. All investment adviser firm representatives conducting investment transactions on behalf of Deschutes County must be registered representatives with FINRA;
  - iii. All investment adviser firm representatives conducting investment transactions on behalf of Deschutes County must be licensed by the state of Oregon;
  - iv. Certification, by all of the adviser representatives conducting investment transactions on behalf of Deschutes County, of having read, understood and agreed to comply with this investment policy.
- b. A periodic (at least annual) review of all authorized investment advisers will be conducted by the Investment Officer to determine their continued eligibility within the portfolio guidelines. Factors to consider would be:
- i. Pending investigations by securities regulators.
  - ii. Significant changes in net capital.
  - iii. Pending customer arbitration cases.
  - iv. Regulatory enforcement actions.
3. **Depositories.** All financial institutions who desire to become depositories must be qualified Oregon Depositories pursuant to ORS Chapter 295.
4. **Competitive Transactions**
- a. The Investment Officer shall obtain and document competitive bid information on all investments purchased or sold in the secondary market. Competitive bids or offers should be obtained, when possible, from at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform.
  - b. In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, the Investment Officer shall document quotations for comparable or alternative securities.
  - c. When purchasing original issue securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price. However, the Investment Officer is encouraged to document quotations on comparable securities.
  - d. If an investment adviser provides investment management services, the adviser must retain documentation of competitive pricing execution on each transaction and provide upon request.

**ADMINISTRATION AND OPERATIONS**

- 1. **Delivery vs. Payment.** All trades of marketable securities will be executed (cleared and settled) by delivery vs. payment (DVP) to ensure that securities are deposited in the County’s safekeeping institution prior to the release of funds.
- 2. **Third-Party Safekeeping.** Securities will be held by an independent third-party safekeeping institution selected by the County. All securities will be evidenced by safekeeping receipts in the County’s name. Upon request, the safekeeping institution shall make available a copy of its Statement on Standards for Attestation Engagements (SSAE) No. 16.

- 3. **Internal Controls.** The investment officer is responsible for establishing and maintaining an adequate internal control structure designed to reasonably assure that invested funds are invested within the parameters of this Investment policy and, protected from loss, theft or misuse. Specifics for the internal controls shall be documented in writing. The established control structure shall be reviewed and updated periodically by the Investment Officer.

The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived and the valuation of costs and benefits requires estimates and judgments by management.

The internal controls shall address the following points at a minimum:

- a. Compliance with Investment Policy.
  - b. Control of collusion.
  - c. Separation of transaction authority from accounting and record keeping.
  - d. Custodial safekeeping.
  - e. Avoidance of physical delivery of securities whenever possible and address control requirements for physical delivery where necessary.
  - f. Clear delegation of authority to subordinate staff members.
  - g. Confirmation of transactions for investments and wire transfers in written or digitally verifiable electronic form.
  - h. Dual authorizations of wire and automated clearing house (ACH) transfers.
  - i. Staff training.
  - j. Review, maintenance and monitoring of security procedures both manual and automated.
- 4. An external auditor in conjunction with the annual County audit shall review compliance with Oregon state law and Deschutes County policies and procedures.

**SUITABLE AND AUTHORIZED INVESTMENTS**

- 1. **Permitted Investments.** The following investments are permitted pursuant to ORS 294.035, 294.040, and ORS 294.810. (Note: Permitted investments may be more restrictive than ORS 294.035 and 294.810).
  - a. US Treasury Obligations. U.S. Treasury and other government obligations that carry the full faith and credit guarantee of the United States for the timely payment of principal and interest.
  - b. US Agency Obligations. Senior debenture obligations of US federal agencies and instrumentalities or U.S. government sponsored enterprises (GSE).
  - c. Oregon Short Term Fund.

- d. Corporate Indebtedness.
  - e. Commercial Paper issued under the authority of section 3(a)2 or 3(a)3 of the Securities Act of 1933.
  - f. Corporate Bonds.
  - g. Municipal Debt.
  - h. Bankers Acceptances.
  - i. Qualified Institution Time Deposits/Savings Accounts/Certificates of Deposit.
2. **Approval of Permitted Investments.** If additional types of securities are considered for investment, per Oregon state statute they will not be eligible for investment until this Policy has been amended and the amended version adopted by Deschutes County.
3. **Prohibited Investments**
- a. Private Placement or “144A” Securities. Private placement or “144A” securities are not allowed. For purposes of the policy, SEC Rule 144A securities are defined to include commercial paper privately placed under section 4(a)(2) of the Securities Act of 1933.
  - b. US Agency Mortgage-backed Securities. US agency mortgage-backed securities such as those securities issued by FNMA and FHLMC are not allowed.
  - c. Securities Lending. The County shall not lend securities nor directly participate in a securities lending program.
4. **Demand Deposits and Time Deposits**
- a. All demand deposits and time deposits (Examples of time deposits are: certificates of deposit and savings accounts) shall be held in qualified Oregon depositories in accordance with ORS Chapter 295.
  - b. Demand deposits in qualified depository institutions are considered cash vehicles and not investments and are therefore outside the scope and restrictions of this policy. Pursuant to ORS 294.035(3)(d), time deposits, certificates of deposit and savings accounts are considered investments and within the scope of this policy.

**INVESTMENT PARAMETERS**

1. **Credit Risk.** Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt. Credit risk will be managed by the following guidelines:
- a. Diversification. It is the policy of Deschutes County to diversify its investments. Where appropriate, exposures will be limited by security type; maturity; issuance, issuer, and security type. Allowed security types and Investment exposure limitations are detailed in the table below.
  - b. Recognized Credit Ratings. Investments must have a rating from at least one of the following nationally recognized statistical ratings organizations (NRSRO): Moody’s Investors Service;

Standard & Poor’s; and Fitch Ratings Service as detailed in the table below. At least one such rating must meet the minimum rating requirements shown in the table below. Ratings used to apply the guidelines below should be investment level ratings and not issuer level ratings.

- c. Portfolio Average Credit Rating. The minimum weighted average credit rating of the portfolio’s rated investments shall be Aa2/AA/AA by Moody’s Investors Service; Standard & Poor’s; and Fitch Ratings Service respectively. For purposes of evaluating the average credit rating for the portfolio, the County will use the single rating for those securities that only have one rating, the lower of two ratings for those securities that have two ratings and the middle rating for those securities that have three ratings.
- d. Exposure Constraints and Minimum Investment Credit Ratings. The following table limits exposures among investments permitted by this policy.

Issue Type	Maximum % Holdings	Minimum Ratings Moody’s/S&P/Fitch	Oregon Revised Statute Reference
US Treasury Obligations	100%	N/A	
US Agency Securities	100%		
Per Agency (Senior Obligations Only)	33%		
Oregon Short Term Fund	Maximum allowed per ORS 294.810		
Bankers’ Acceptances	25%	A1+/P1/F1+	25% maximum holding per ORS 294.035(3)(h)(C).
Time Deposits, Savings Accounts, Certificates of Deposit	50%		Authorized by ORS 294.035(3)(d).
Per Institution	25%		
Corporate Debt (Total)	25%		35% maximum holding per ORS 294.035(3)(h)(D).
Corporate Commercial Paper per Issuer	5%	A1/P1/F1	5% maximum holding per ORS 294.035(3)(h)(D).
Corporate Bonds			
Per Oregon Issuer	5%	A2/A/A	5% max holding per ORS 294.035(3)(h)(D), A- min rating per ORS 294.035(3)(b).
All Other Issuers	5%	Aa3/AA-/AA-	5% max holding per ORS 294.035(3)(h)(D), AA- min rating for CA, WA & ID per ORS 294.035(3)(b).
Municipal Debt	25%		
Municipal Bonds		Aa3/AA-/AA-	

- e. Restriction on Issuers with Prior Default History. Per ORS 294.040, the bonds of issuers listed in ORS 294.035 (3)(a) to (c) may be purchased only if there has been no default in payment of either the principal of or the interest on the obligations of the issuing county, port, school district or city, for a period of five years next preceding the date of the investment.

2. **Liquidity Risk.** Liquidity risk is the risk that an investment may not be easily marketable or redeemable. The following strategies will be employed to manage liquidity risks:

- a. The value of at least 10% of funds available for investing or three months of budgeted operating expenditures will be invested in the Oregon Short Term Fund, with a qualified depository institution, or investments maturing in less than 30 days to provide sufficient liquidity for expected disbursements.
- b. Funds in excess of liquidity requirements are allowed for investments maturing in greater than one year. However, longer-term investments tend to be less liquid than shorter term investments.

Portfolio investment maturities will be limited as follows:

Total Portfolio Maturity Constraints:

Maturity Constraints	Minimum % of Total Portfolio
Under 30 days	10% or three months est. operating expenditures
Under 1 year	25%
Under 5 years	100%
Weighted Average Maturity of Portfolio	2.0 years

- c. Reserve or Capital Improvement Project funds may be invested in securities exceeding the maximum term if the maturities of such investments are made to coincide as nearly as practicable with the expected use of the funds.
- d. Larger issuance sizes enhance liquidity as there are likely to be a greater number of investors. Issuance sizes above a minimum amount qualify a corporate or municipal debt bond issuance for index eligibility. Index eligible bonds have a significantly larger investor base which improves liquidity.
- e. Limiting investment in a specific debt issuance improves secondary market liquidity by assuring there are other owners of the issuance.

Issue Type	Maximum % of Issuance (Par)
US Agency Securities	50%
Corporate Debt	
Corporate Commercial Paper	25%
Corporate Bonds	25%
Municipal Bonds	25%

3. **Interest Rate Risk.** Longer-term investments have the potential to achieve higher returns but are also likely to exhibit higher market value volatility due to the changes in the general level of interest rates over the life of the investment(s). Interest rate risk will be managed by providing adequate liquidity for short term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes. Certain types of securities, including variable rate securities, securities with principal pay-downs prior to maturity, and securities with embedded options, will affect the interest rate risk profile of the portfolio differently in different interest rate environments. The following strategies will be employed to control and manage adverse changes in the market value of the portfolio due to changes in interest rates:

- a. Where feasible and prudent, investment maturities should be matched with expected cash outflows to manage market risk.
- b. To the extent feasible, investment maturities not matched with cash outflows, including liquidity investments under one year, should be staggered to manage re-investment risk.
- c. No commitments to buy or sell securities may be made more than 14 business days prior to the anticipated settlement date or receive a fee other than interest for future deliveries.

- d. The maximum percent of callable securities in the portfolio shall be 25%;
- e. The maximum stated final maturity of individual securities in the portfolio shall be five years, except as otherwise stated in this policy.
- f. The maximum portfolio average maturity (measured with stated final maturity) shall be 2.0 years.

**INVESTMENT OF PROCEEDS FROM DEBT ISSUANCE**

- 1. Investments of bond proceeds are restricted under bond covenants that may be more restrictive than the investment parameters included in this policy. Bond proceeds shall be invested in accordance with the parameters of this policy and the applicable bond covenants and tax laws.
- 2. Funds from bond proceeds and amounts held in a bond payment reserve or proceeds fund may be invested pursuant to ORS 294.052. Investments of bond proceeds are typically not invested for resale and are maturity matched with outflows. Consequently, surplus funds within the scope of ORS 294.052 are not subject to this policy’s liquidity risk constraints within section IX (2).

**INVESTMENT OF RESERVE OR CAPITAL IMPROVEMENT FUNDS**

Pursuant to ORS 294.135(1)(b), reserve or capital Improvement project funds may be invested in securities exceeding three years when the funds in question are being accumulated for an anticipated use that will occur more than 18 months after the funds are invested, then, upon the approval of the governing body of the county, the maturity of the investment or investments made with the funds may occur when the funds are expected to be used.

**GUIDELINE MEASUREMENT AND ADHERENCE**

- 1. **Guideline Measurement.** Guideline measurements will use par value of investments.
- 2. **Guideline Compliance.**
  - a. If the portfolio falls outside of compliance with adopted investment policy guidelines or is being managed inconsistently with this policy, the Investment Officer shall bring the portfolio back into compliance in a prudent manner and as soon as prudently feasible.
  - b. Violations of portfolio guidelines as a result of transactions; actions to bring the portfolio back into compliance and; reasoning for actions taken to bring the portfolio back into compliance shall be documented and reported to the Board of County Commissioners.
  - c. Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer or investment type may be exceeded at a point in time. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.

**REPORTING AND DISCLOSURE**

- 1. **Compliance.** The Investment Officer shall prepare a report at least monthly that allows the Board of County Commissioners to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report will also be available online on the public website which will provide access for the investment advisory committee. The report will include, at a



minimum, the following:

- a. A listing of all investments held during the reporting period showing: par/face value; accounting book value; market value; type of investment; issuer; credit ratings; and yield to maturity (yield to worst if callable).
  - b. Average maturity of the portfolio at period-end.
  - c. Maturity distribution of the portfolio at period-end.
  - d. Average portfolio credit quality of the portfolio at period-end.
  - e. Average weighted yield to maturity (yield to worst if callable investments are allowed) of the portfolio.
  - f. Distribution by type of investment.
  - g. Transactions since last report.
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Approved by the Board of Commissioners \_\_\_\_\_.

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Nick Lelack  
County Administrator



# BOARD OF COMMISSIONERS

## AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** 2024 Public Safety Campus Plan

**BACKGROUND AND POLICY IMPLICATIONS:**

Staff and project consultants will report to the Board on the draft 2024 Public Safety Campus Plan.

In 2022, Pinnacle Architecture and KMB architects were contracted by Deschutes County to develop a campus plan that anticipates future growth and establishes a clear vision for the services provided on the campus. The plan seeks to anticipate and meet needs for the near-term (0-5 years), mid-term (5-10 years), and long-term (11-20 years).

At the outset of the planning process, a steering committee comprised of senior leadership from six campus stakeholder groups was established along with core stakeholders from each office, department, and agency. Over the last 18 months, the steering committee and stakeholders have participated in an intentional and well-defined planning process that included group programming and planning charrettes as well as individual meetings to identify the key operational components of each group.

The team is presenting the vision, goals, and objectives of the 2024 Public Safety Campus Plan for Board review and consideration. The team will return at a future date for final approval of the plan.

**BUDGET IMPACTS:**

None at this time. Funding requests for individual projects identified in the plan will be presented to the Board through the typical budget process.

**ATTENDANCE:**

- Lee Randall, Facilities Director
- Eric Nielsen, Facilities Capital Improvement Manager
- Henry Alaman, OTAK
- Emily Freed, Pinnacle Architecture
- Greg Cook, KMB Architects

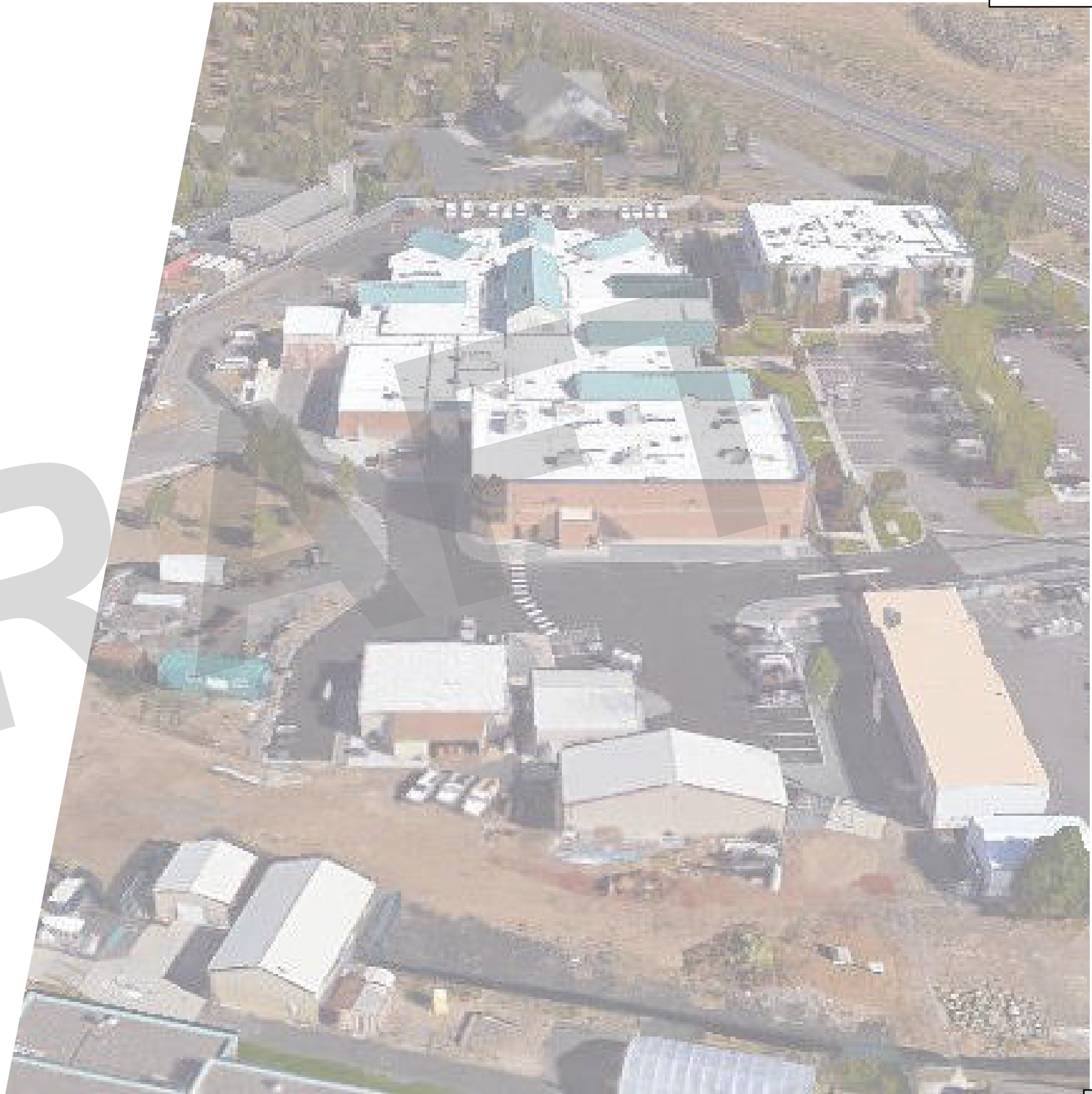


March 22, 2024

**Deschutes County**  
Public Safety Campus Plan

Final Report

DR





DRAFT

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# PROJECT DIRECTORY

## Deschutes County Leadership

### Deschutes County Board of County Commissioners

Anthony DeBone, Chair  
Patti Adair, Vice-Chair  
Phil Chang, Commissioner

### Deschutes County Administration

Nick Lelack, Deschutes County Administrator  
Whitney Hale, Deputy Administrator  
Erik Kropp, Deputy Administrator

### Deschutes County Sheriff's Office

Sheriff L. Shane Nelson

### Deschutes County Facilities Department

Lee Randall, Director  
Eric Nielsen, Capital Improvement Manager

### Owners Representative

Otak CPM  
Henry Alaman, Project Manager

### Design Team

#### Pinnacle Architecture (Architect of Record)

Peter Baer, Principal in Charge  
Emily Freed, Project Manager  
Victoria Tranca, Project Designer

#### Emily Freed

Pinnacle Architecture, Project Manager  
EmilyF@parch.biz

#### Gregory Cook

KMB architects, Design Lead  
GregoryCook@kmb-architects.com

#### Sheri O'Brien

KMB architects, Design Lead  
SheriOBrien@kmb-architects.com



# Steering Committee

## Deschutes County Facilities Department

Lee Randall, Director  
Eric Nielsen, Capital Improvement Manager

## Deschutes County Sheriff's Office

Captain Michael Shults, Corrections Commander  
Jim Groves, Maintenance Supervisor  
Captain William Bailey, Patrol Division Commander  
Captain Paul Garrison, Division Commander  
Joe Brundage, Business Manager

## Deschutes County Community Justice

Deevy Holcomb, Director

## Deschutes County Behavioral Health and Crisis Services

Holly Harris, Director  
Janice Garceau, Past Director  
Christopher Weiler, Officer  
Adam Goggins, Manager

## Deschutes County 9-1-1

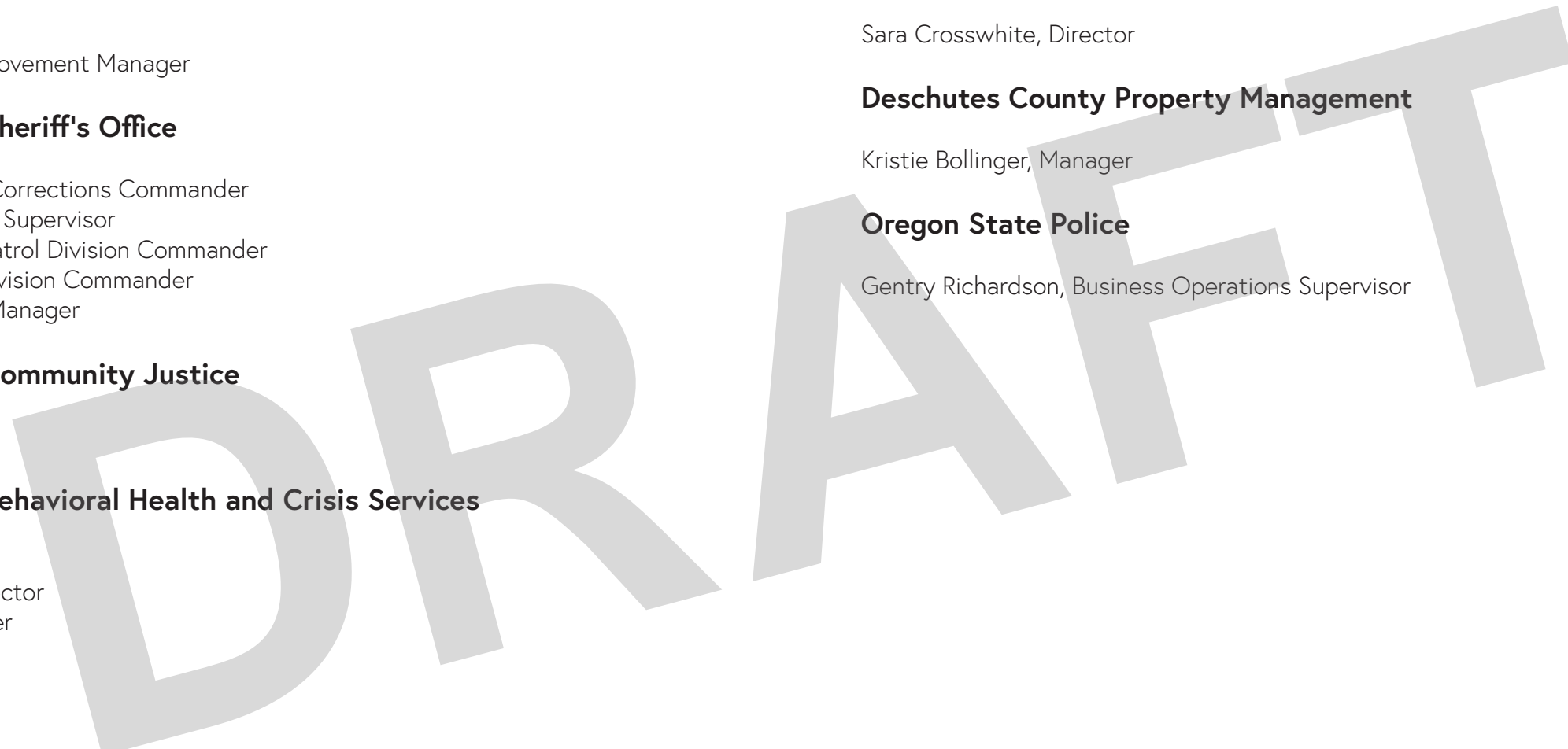
Sara Crosswhite, Director

## Deschutes County Property Management

Kristie Bollinger, Manager

## Oregon State Police

Gentry Richardson, Business Operations Supervisor



# Deschutes County Stakeholders

## Deschutes County Facilities Department

Josh Clawson, Past Facilities Project Coordinator  
Brian Hayward, Maintenance Specialist II

## Deschutes County Sheriff's Office (Station 9: Adult Jail)

Lieutenant Mike Gill, Corrections Administrative Lieutenant  
Lieutenant Joshua McGowan, Corrections Jail Programs  
Lieutenant John Jernigan, Corrections  
Sergeant Daniel Marsh, Corrections  
Sergeant Christopher Gibson, Corrections / Courts Transport  
Eden Aldrich, FNP, Corrections Medical Director

## Deschutes County Sheriff's Office (Station 10: Administrative & Supporting Services)

Lieutenant Zachary Neemann, IT & Digital Forensics  
Lieutenant Bryan Husband, Patrol  
Lieutenant Ty Rupert, Detectives  
Deputy Joshua Barker, Patrol  
Elsa Lilienthal, Records Supervisor  
Pete Martin, Automotive Supervisor & Fleet Manager  
Adam Lowrie, Fleet Technician  
Sergeant Nathan Garibay, Emergency Services Manager  
Lieutenant Mike Biondi, Search & Rescue Coordinator  
Deana Tucker, Evidence Technician  
Jennifer Hill, Civil Technician  
Thomas Lilienthal, Detective Sergeant, Digital Forensics  
Jennifer Mannix, Human Resources Specialist  
Rachel McKim, Office Assistant  
Sergeant Zachary Steward, Training Manager

## Deschutes County Community Justice

Trevor Stephens, Business Manager, Operations & Innovations  
Sonya Littledeer-Evans, Deputy Director, Juvenile  
Robert Gilman, Detention Manager  
Tanner Wark, Deputy Director, Adult Parole & Probation

## Deschutes County Behavioral Health

Kim Bohme, Administrative Analyst  
Jill Kaufmann, Supervisor, Stabilization Center

## Deschutes County 9-1-1

Chris Perry, Operations Manager  
Jonathan Spring, Tech Systems Manager  
Megan Craig, Training Manager

## Oregon State Police

Lieutenant Chris Seber, Patrol Commander  
Lieutenant Roberto Robles, East Region CID  
Brian Medlock, Forensic Division Director





# Other Community Stakeholders



### City of Bend

Aaron Henson, Senior Planner  
Chris Henningsen, Principal Engineer

### Oregon Department of Transportation (ODOT)

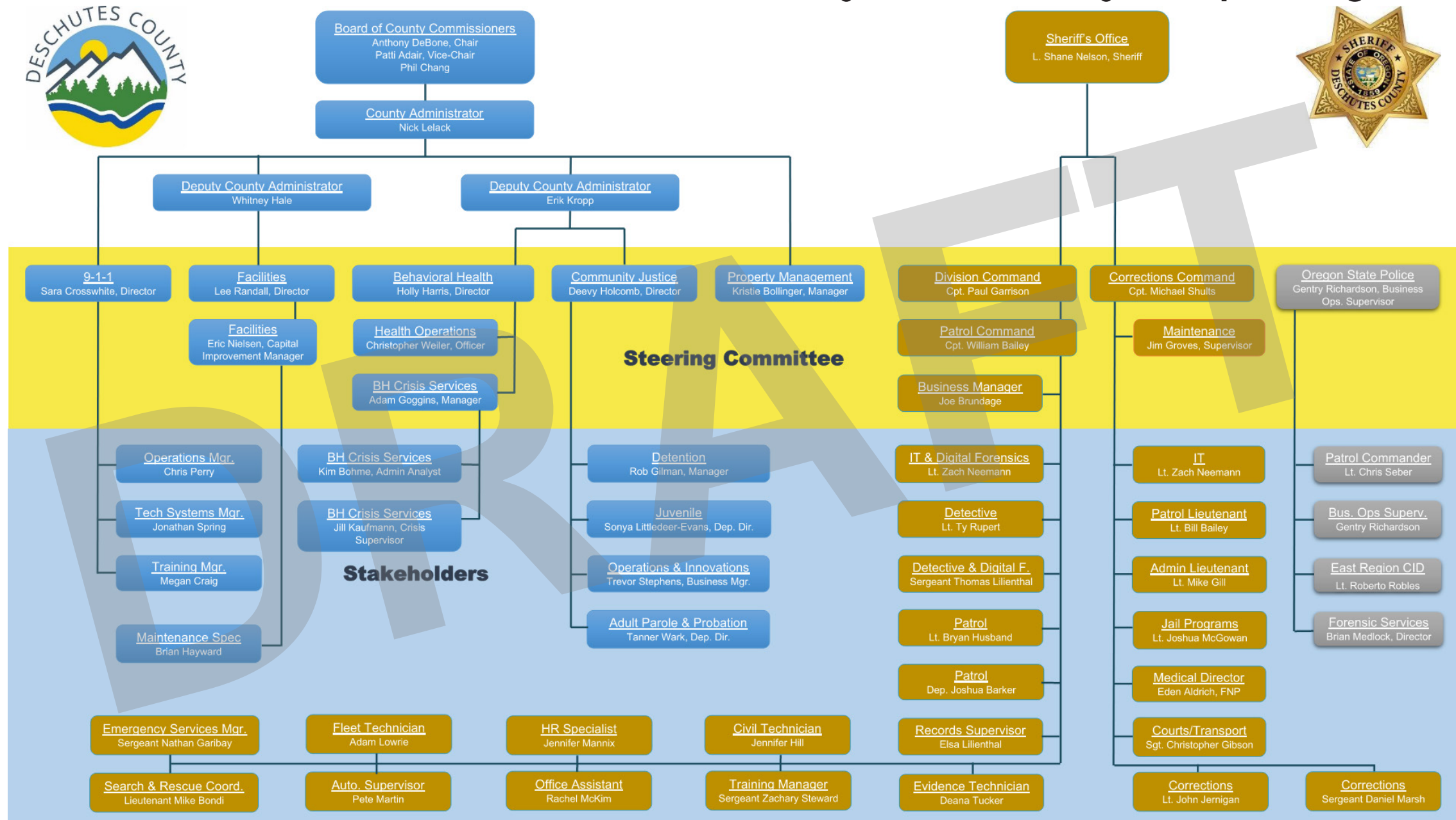
Omar Ahmed, Region 4 Tech Center Manager  
Miranda Wells, Resident Engineer  
Richard Williams, Project Manager

### Swalley Irrigation District

Jer Camarata, general Manager & Board Secretary  
Karl Conklin, Operations Manager



# Deschutes County Public Safety Campus Organization Chart





# ACKNOWLEDGMENTS



**Pinnacle Architecture and KMB architects** are grateful to the members of the Deschutes County Public Safety Campus Steering Committee who participated in this campus development plan process and provided guidance, feedback, and direction. We are appreciative to all who gave time to walk us through their spaces and process, explain the challenges they experience, and met with us multiple times over the course of several months to discuss the current and future needs of their departments and the services they provide to the community.

This collaborative effort allowed our team to develop an understanding of each department's operational and spatial needs, and how departments work together on the campus. This understanding facilitated development of the programs and campus development plan concepts contained in this report.

The team would also like to acknowledge the previous studies that Deschutes County has completed; these studies provided valuable background information and helped focus our investigation and complete this campus development plan.





# Background

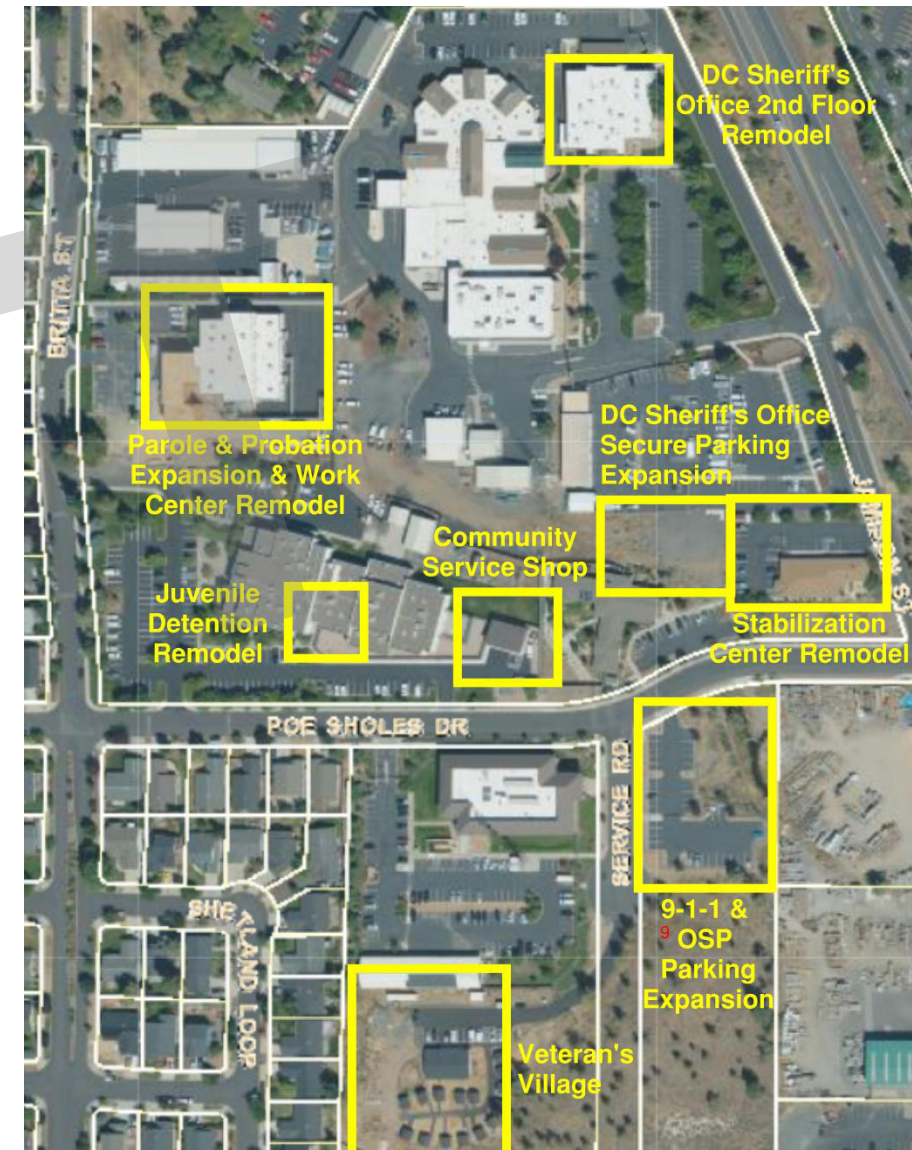
Several projects have been completed on the public safety campus since the development of the 2018 campus plan:

- Additional parking was added near the 9-1-1 & Oregon State Police facility.
- Existing Parole & Probation Programs building was remodeled to accommodate the Stabilization Center
- Community Service Shop was constructed.
- Veteran's Village opened on the south end of the campus.
- Parole & Probation was remodeled and expanded.
- Work Center was remodeled to include a fitness room.
- Unused juvenile detention space was remodeled for detention administration offices and meeting space.
- Additional secure parking has been provided for DCSO.

In 2018, Deschutes County completed a near-term campus plan to meet the immediate and near-term needs of the programs on the existing site. Because of the constrained nature of the site, it was determined that a long-term campus plan should be developed to ensure that incremental development on the site would not impede the long-term vision for County operations.

Prior to engaging with the Steering Committee, the Deschutes County Leadership & Project Management Team identified project goals and objectives to initiate the campus planning process:

- Design solutions must protect the safety of the public, individuals in-custody, and Sheriff's Office Security Personnel
- Design must be flexible, efficient, and durable
- Design solutions will consider life cycle costs, i.e., initial costs of proposed materials and systems will be balance against the cost of repair, maintenance, and replacement.
- Design solutions will consider and develop a campus vernacular.



# Deschutes County Goals & Objectives



**Protect the community through planning, preparedness, and delivery of coordinated services.**

- Provide safe and secure communities through coordinated public safety and crisis management services.
- Reduce crime and recidivism and support victim restoration and wellbeing through equitable engagement, prevention, reparation of harm, intervention, supervision and enforcement.
- Collaborate with partners to prepare for and respond to emergencies, natural hazards and disasters.

**Enhance and protect the health and well-being of communities and their residents.**

- Support and advance the health and safety of all Deschutes County's residents.
- Promote well-being through behavioral health and community support programs.
- Help sustain natural resources and air and water quality in balance with other community needs.
- Continue to support pandemic response and community recovery, examining lessons learned to ensure we are prepared for future events.

**Provide solution-oriented service that is cost-effective and efficient.**

- Ensure quality service delivery through the use of innovative technology and systems.
- Support and promote Deschutes County Customer Service "Every Time" standards.
- Continue to enhance community participation and proactively welcome residents to engage with County programs, services and policy deliberations.
- Preserve, expand and enhance capital assets, to ensure sufficient space for operational needs.
- Maintain strong fiscal practices to support short and long-term county needs.
- Provide collaborative internal support for County operations with a focus on recruitment and retention initiatives.

**Promote policies and actions that sustain and stimulate economic resilience and a strong regional workforce.**

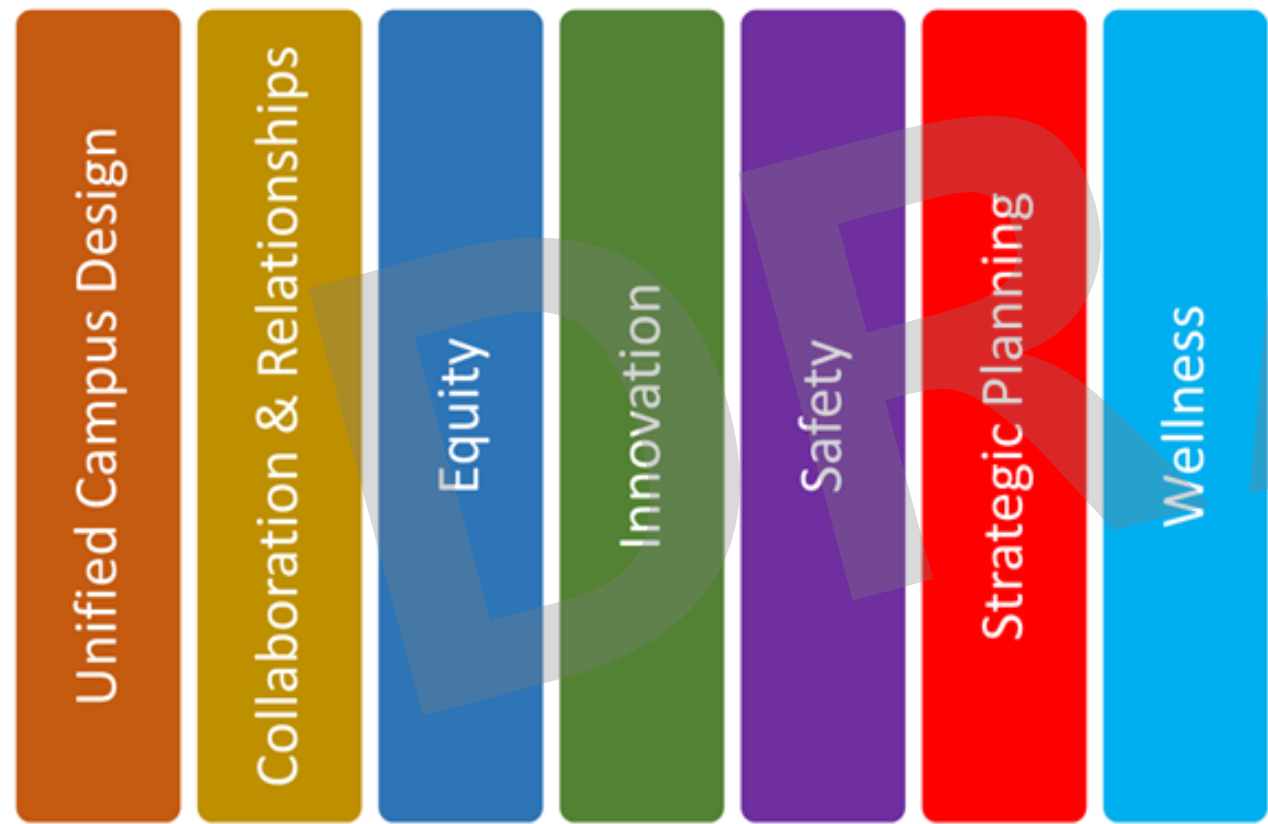
- Update County land use plans and policies to promote livability, economic opportunity, disaster preparedness, and a healthy environment.
- Maintain a safe, efficient and economically sustainable transportation system.
- Manage County assets and enhance partnerships that grow and sustain businesses, tourism, and recreation.

**Support actions to increase housing production and achieve stability.**

- Expand opportunities for residential development on appropriate County-owned properties.
- Support actions to increase housing supply.
- Collaborate with partner organizations to provide an adequate supply of short-term and permanent housing and services to address housing insecurity.

# Campus Plan Guiding Principles

## Delivery of Core Services



**UNIFIED CAMPUS:** Develop a unified campus that reflects the culture and values of Deschutes County and creates non-institutional designs that support restoration, healing and an integrated approach to services. The campus should be flexible and prepare Deschutes County for the future. Create a welcoming campus that is planned for current services and future growth. Provide flexibility that allows the campus to adapt to changes over time. Increase pathways and connectedness across campus. Increase access to amenities and improve wayfinding across campus.

**COLLABORATION AND RELATIONSHIPS:** Enhance collaboration and stronger relationship between individual campus functions, community service partners, and the surrounding community. The campus should seek to be accessible and transparent to the community.

**EQUITY:** Go beyond design strategies and become operationalized. Everyone in the community must have a voice, and those impacted by services provided on the campus should have a meaningful voice in the planning process. The process and design should reach beyond a discussion only of diversity, equity and inclusion and identify tangible methods to provide increased DE&I.

**INNOVATION:** Promote creative thinking and be bold in planning for the future campus to provide for appropriate services and programs for our clients and increase staff recruitment and retention. Leverage technology to improve operations and the services we provide.

**SAFETY:** Maintain and enhance safety for the public, staff, and detainees. Include design features that are welcoming, trauma-informed, and people-centered.

**STRATEGIC PLANNING:** Strategize to make the best use of resources and integrate flexibility into the solution. Include champions in the community and in County executive leadership in the process from the start. Remain bold, and do not let the fear of conflict allow the process to lose momentum.

**WELLNESS:** The campus plan must integrate and prioritize spaces for staff wellness and incorporate spaces in the design that are organic, welcoming, and life-affirming for our clients.



# Campus Development Priorities

## Shared Building Needs

### High Priorities

- Training and Meeting Space
- Staff Wellness

### Medium Priorities

- Staff Dining / Food Service
- Child Care

### Low Priorities

- Central Facility Maintenance Building

## Shared Site Needs

### High Priorities

- Open Space (Low Maintenance)
- Secure Parking
- Pedestrian Circulation / Program Connectivity
- Consolidated Vehicular Access

### Medium Priorities

- Separated Vehicular Circulation

### Low Priorities

- Separated Pedestrian Circulation

## Site Improvements

### High Priorities

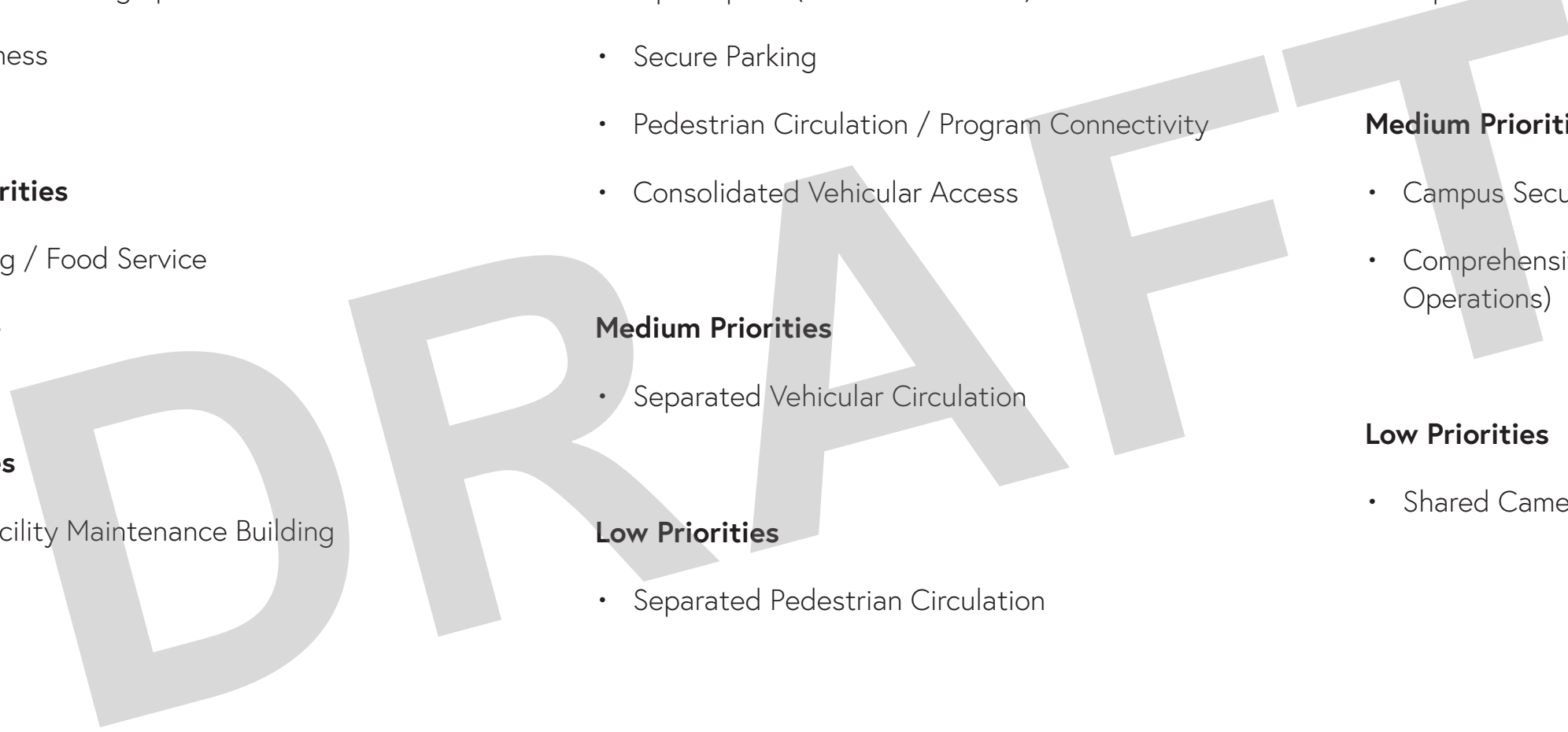
- Improved Wayfinding & Signage

### Medium Priorities

- Campus Security (Duress Signals, Lighting)
- Comprehensive Infrastructure (Technology & Operations)

### Low Priorities

- Shared Camera System





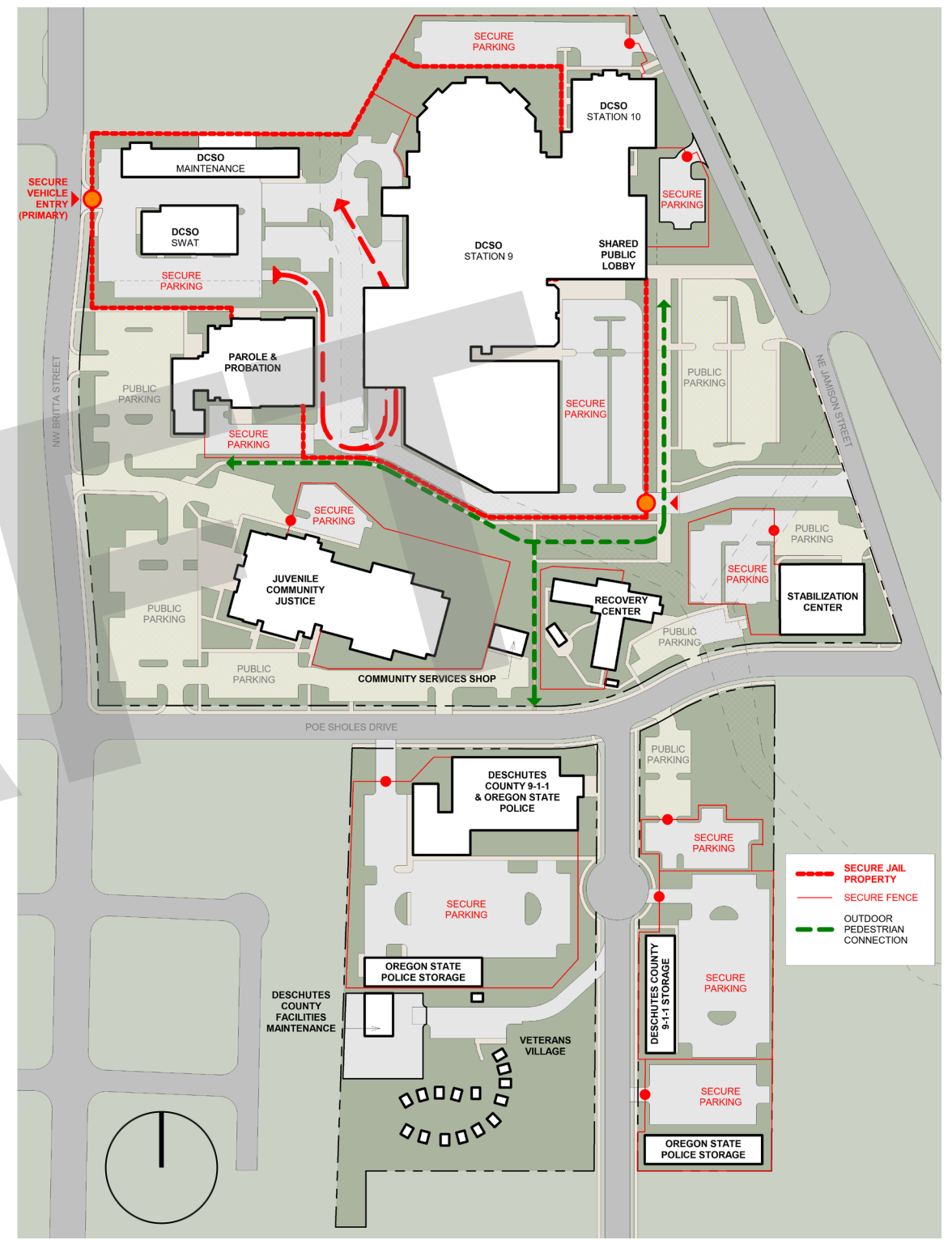
# Long-Term Campus Plan Vision

The Public Safety Campus is bounded on all sides and therefore unable to grow outward without potentially disconnecting core services on the site. Long-term growth of core services on the site will require the future relocation of functions that are essential to the county, but do not require direct proximity to the campus. To satisfy the campus development priorities of the County, DCSO vehicle maintenance and Search and Rescue (SAR) functions will be expanded elsewhere, allowing for significant future expansion of both DCSO Stations 9 and 10. The relocation of those functions allows circulation into and through the site to be reorganized and simplified, improving wayfinding and safety.

To create a safe and welcoming environment for visitors, public access to Stations 9 and 10 will be consolidated and accessed from a single public parking lot off of NE Jamison Street.

Other core services on the site, including Parole & Probation, Juvenile Community Justice, Recovery Center, Stabilization, Deschutes County 9-1-1, Oregon State Police, and Veteran's Village are all able to expand in place as needed. Additional secure parking and storage for Deschutes County 9-1-1 and Oregon State Police will be accommodated on the undeveloped parcel of land at the southeast corner of the site alongside a service road connecting Poe Sholes Dr. to Halfway Rd. to the south. Importantly, the connections between all services will be enhanced through improved pedestrian and vehicular circulation throughout the campus.

To create more open space in the heart of the campus, SWAT & DCSO Facility Maintenance operations will need to be relocated, but that can be done on the existing property.



## Near-Term Development Priorities (0-5 Years)

### Sheriff's Office Adult Jail (Station 9)

#### Visitation & Arraignment

The most urgent need for the Adult Jail was for expanded and renovated visitation and arraignment space.

Visitation is used for both personal and professional visits, and there are currently only 3 professional visiting spaces. Professionals, including attorneys, are often left waiting in the lobby for a room to become available.

The old non-contact visiting area has become obsolete, and can be re-purposed for a better use. Non-contact visitation is currently provided to visitors via iPad from the Work Center. When the area in the Work Center becomes unavailable, visitation will need to be provided at the jail.

Video arraignment is currently done using holding cells and a mental health evaluation room. Pro se dependents are in need of video court rooms with additional technology.

### Sheriff's Office Administration & Support (Station 10)

#### On-Site Evidence Storage

The space provided at Station 10 does not currently provide adequate room or appropriate conditions for the secure storage of evidence. The near-term projection for growth will require more than twice the area currently used. Additionally, it is critical that evidence is stored in a safe and secure environment, which includes improvements to HVAC and fire protection systems, safety measures, and adequate locker storage for law enforcement officers to transfer possession of items to the storage area.

#### Concealed Handgun License Processing

CHL identification and processing happens in the public lobby next to the evidence storage space. Due to changes in Oregon state laws related to licensure, it is expected that the CHL space will need to expand to accommodate more visitors.

#### Administration

Additional space is required in the DCSO administrative office to meet current and projected needs. While some additional administrative space can be provided at DCSO substations, critical adjacencies at the PSC require specific functions to be collocated.

### Site Improvements

#### Improved Wayfinding

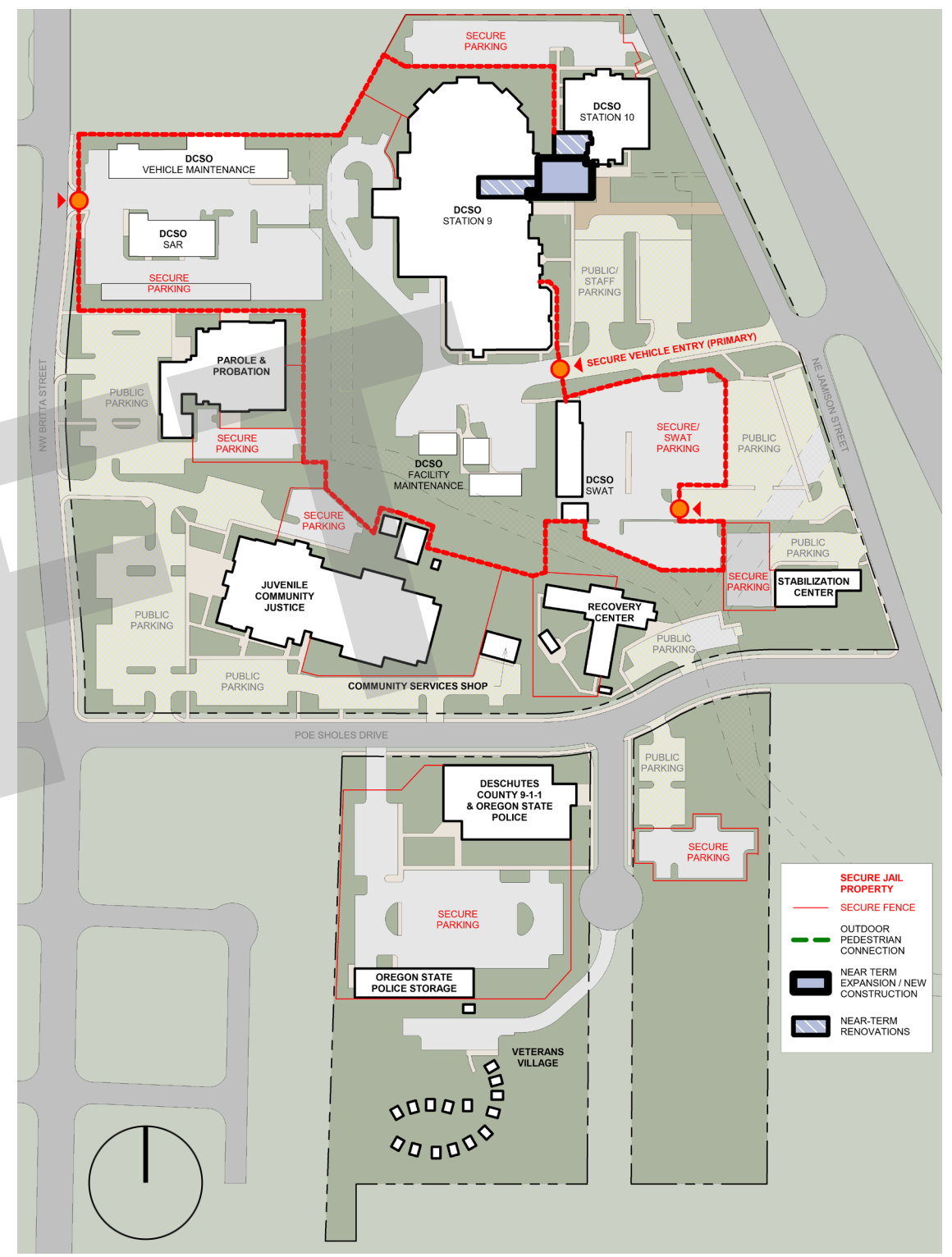
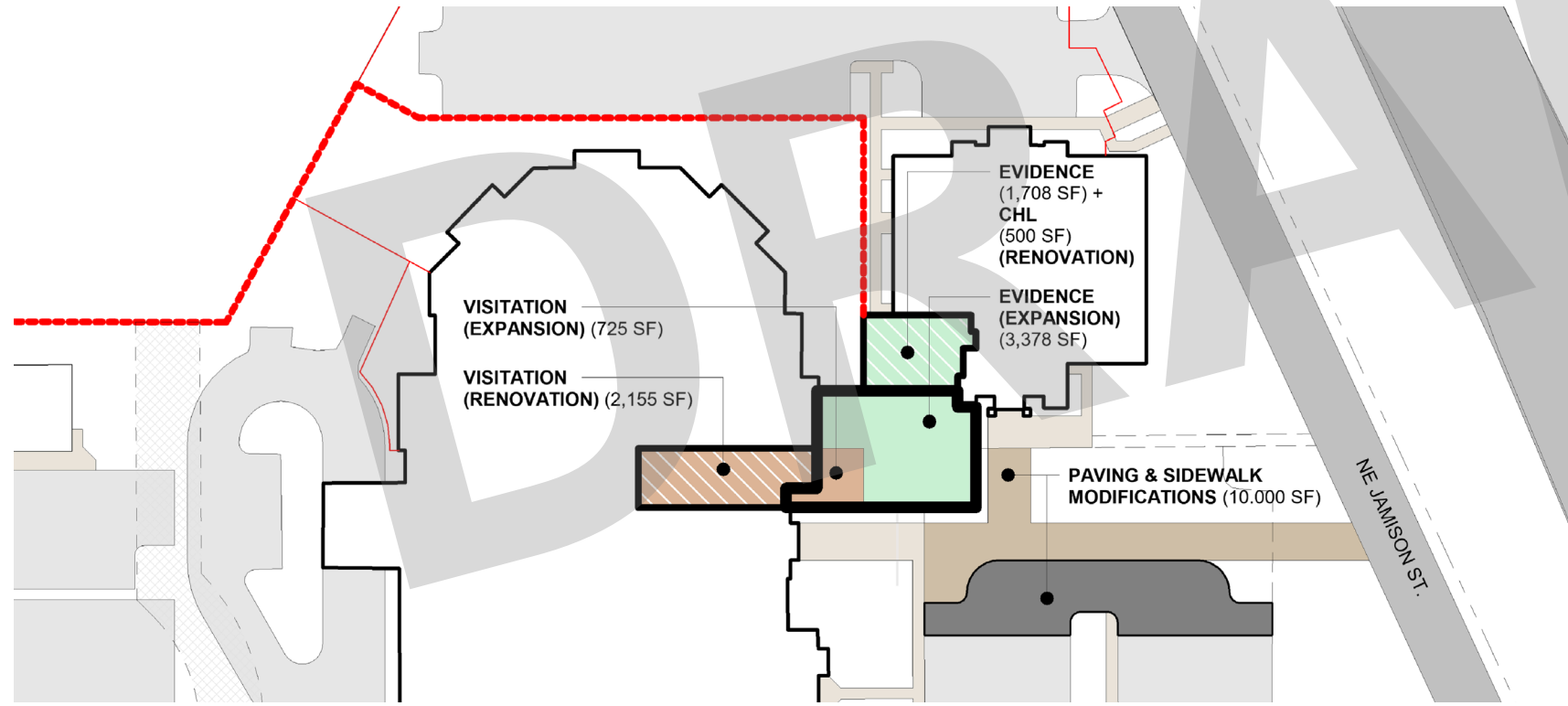
Wayfinding on the campus is confusing for visitors and can lead to unsafe conditions for staff. Providing clear signage and utilizing design elements that direct visitors to their point of entry is essential for public safety.

The desire to create a welcoming environment for visitors is deeply important to the public safety mission of the campus.

# Near-Term Campus Plan (0-5 Years)

Near-term development on the public safety campus will be limited to the area currently in between DCSO Station 9 and Station 10, and will include a connecting two-story expansion between the existing buildings.

Vehicular access to the site will remain unchanged in the near-term. The shared public / staff parking lot that currently serves Stations 9 and 10 will require modification to allow for the building expansion. The changes to the parking lot provide Deschutes County with an opportunity to reconsider the pedestrian connection to Jamison Street, and create a new identity for the Sheriff's Office.





## Mid-Term & Long-Term Development Priorities (6-20 Years)

### Sheriff's Office Adult Jail (Station 9)

#### Orientation & Mental Health Housing

The current jail lacks adequate space for housing inmates with mental health issues. The inclusion of therapeutic spaces that are trauma-informed aligns with the County's goals for public safety and wellness by preparing those in custody for successful treatment when they return to the community.

Orientation housing is an essential component of a jail facility in that it allows staff to better observe and understand inmates as they arrive to the facility. Through direct observation staff can be alerted to issues related to inmate and staff safety that need to be addressed.

#### Intake, Transfer & Release

Intake, transfer and release (ITR) functions for the jail are critical to operations and currently occupy a shared, undersized space in the facility. ITR is an active area and is directly connected to the vehicle sally port and the main corridor to the jail.

The proximity of inmates that are coming off of the street with those that are being transferred to other facilities or released to the community requires comprehensive security and separation of movement that can not be accommodated in the current facility.

#### Food Service & Laundry

The food service and laundry spaces in the jail were not expanded when additional housing was added in 2014, leaving them undersized for the current jail population.

#### Inmate Programs

Inmate programs are an effective way to improve safety in the jail and prepare inmates to successfully return to the community. Inmate program spaces include classrooms and covered outdoor areas for recreation. Classrooms should be designed to safely allow volunteers from the community to lead programs in the jail.

#### Work Center and Alternative Sentencing

The work center allows inmates to work under supervision in the community during the day while being housed in the jail at night. Currently, work center inmates are housed in the adjacent Parole & Probation building, which is not directly connected to the jail and creates redundancy with regards to security and the delivery of food. Attaching the work center to the jail improves safety and staff efficiency.

#### Administration & Lobby

The administrative spaces within the jail are undersized for the projected future staffing level and will need to be expanded.

As the administrative space is expanded, the connection to the public lobby will need to be moved, allowing for the creation of a safe, welcoming entry for visitors to the staff.

# Mid-Term & Long-Term Development Priorities (6-20 Years)

## Sheriff's Office Administration & Support (Station 10)

### Vehicle Maintenance

Vehicle maintenance is not a core service for the public safety campus and requires significant expansion long-term. An alternative location will need to be identified for future expansion.

### Search and Rescue | Emergency Management

Search and rescue (SAR) is not a core service for the public safety campus and requires significant expansion long-term. An alternative location will need to be identified for future expansion.

### SWAT

While SWAT is not a core service of the public safety campus, it requires proximity to both Stations 9 and 10 and will need to expand on site. A facility assessment deemed the current SWAT building to be in poor condition.

### IT

As other functions expand on site, IT services will continue to grow to meet the greater need.

### Digital Forensics

Digital forensics has grown exponentially in recent years and will continue to grow long-term. Some specialized spaces and services will need to be provided in the long term.

### Reception, Records, & Civil

The reception function for DCSO in Station 10, which provides access to the Records & Civil divisions, requires expansion. The creation of a new shared lobby for Station 9 and Station 10 long term provides an opportunity to create a safe and welcoming environment for visitors and will improve efficiency for DCSO staff.

### Detectives & Patrol

Office space for detectives and patrol will need to be expanded to meet future needs. The proximity of detectives and patrol to on-site evidence storage and digital forensics is critical.

### Shared Resources & Training

Support spaces for staff, including locker rooms, restrooms, conference rooms, and training spaces will be required to support the long-term growth of the public safety campus. Wherever possible, spaces should be designed to be multi-functional and should allow access from both Stations 9 and 10.

The CORE3 training facility will not alleviate the need for training space at the Public Safety Campus. Training and certification programs require specific spaces designed and dedicated to PSC services, and the proximity of PSC staff to the training space is critical.

# Mid-Term & Long-Term Development Priorities (6-20 Years)

## Campus Improvements

### Stabilization Center Addition and Parking Expansion

To meet future demands the Stabilization Center will require an expansion and light remodel in its current location, including additional public and secure staff parking.

### Juvenile Center Lobby Remodel

The Juvenile Center lobby should be re-imagined as a welcoming, supportive space. The building is currently underutilized and there could be opportunities to locate additional services if needed.

### On-site Pedestrian Circulation & Open Space

The creation of open space and the simplification of pedestrian circulation should be a primary driver of future design decisions for the campus. The Campus Plan envisions a pedestrian pathway through the heart of the campus that allows staff and visitors to move safely and benefit from the outdoors. Separation of pathways for inmate release, visitors and staff should be incorporated. Pedestrian circulation should included proper illumination and clear sight lines.

### Training & Wellness Center

Shared training & wellness & support space for the agencies on the campus will provide significant benefits to staff. Demand of training space on this campus is high due to requirements for certifications related to public safety, custody, and treatment.

### Deschutes County 9-1-1 & Oregon State Police Interior Remodels

OSP requires additional work stations and huddle space, additional storage bays, and small tenant improvements to improve security and functionality. 9-1-1 was designed to expand in its current footprint and will likely require an expansion in the future.

### County Maintenance Facility & Parking

County maintenance will require space on the campus, outside of the secure perimeter of the jail.

### Recovery Center Remodel or Relocation

The Campus Plan did not provide a recommendation as to the future of the Recovery Center.





# Mid-Term Campus Plan (6-10 Years)

Mid-term development on the Public Safety Campus reflects the priorities developed by the steering committee and user groups, and is comprised of several significant expansion and renovation projects on the site.

**Station 9** expansion will provide new Intake, Transfer & Release (ITR) space with a larger vehicle sallyport, orientation housing and housing designed for mental health treatment. Food service and laundry will expand into the former ITR space and will utilize the former vehicle sallyport for a dock and loading area. The medical clinic will expand into adjacent vacated housing units, and additional medical beds will be provided adjacent to the clinic. DCSO Vehicle Maintenance will be relocated off-site, allowing DCSO Facility Maintenance to move into the vacated space.

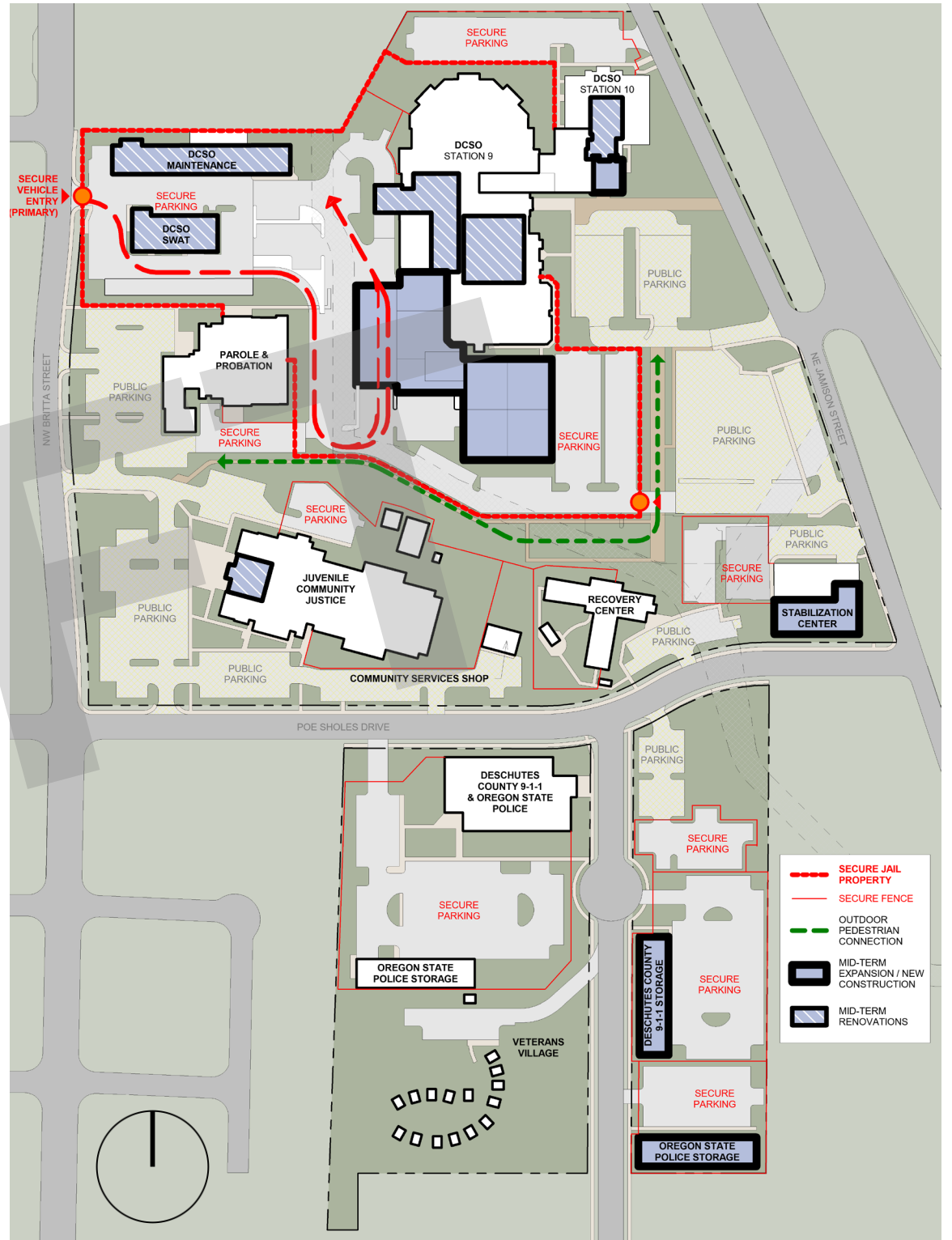
**Station 10** will further expand to provide additional space for Reception & Records, Civil, Concealed Handgun Licenses, Administration, Patrol, Detectives, and Digital Forensics. Search and Rescue will be relocated off-site, and the SWAT building will be demolished to allow for new DCSO secure parking, and SWAT functions will be relocated to the former Search and Rescue space.

**Juvenile Community Justice** will update the public lobby and public-facing functions to provide a safe, welcoming, and accessible space for visitors.

**Stabilization Center** will expand and lightly renovate existing space to provide necessary accommodations for existing and projected future needs.

**Deschutes County 9-1-1 and Oregon State Police** will occupy expanded secure parking and storage facilities on the undeveloped parcel of land across the extended service road.

Secure vehicle access to the adult jail will be moved to Britta Street, and the reconfiguration of secure parking around the adult jail will allow for the development of a pedestrian connection through the site.



# Long-Term Campus Plan (11-20 Years)

Long-term development on the Public Safety Campus reflects the priorities developed by the steering committee and user groups, and is comprised of several significant expansion and renovation projects on the site. Deschutes County Facility Maintenance will be provided a dedicated space away from the core functions of the campus to further expand central open space.

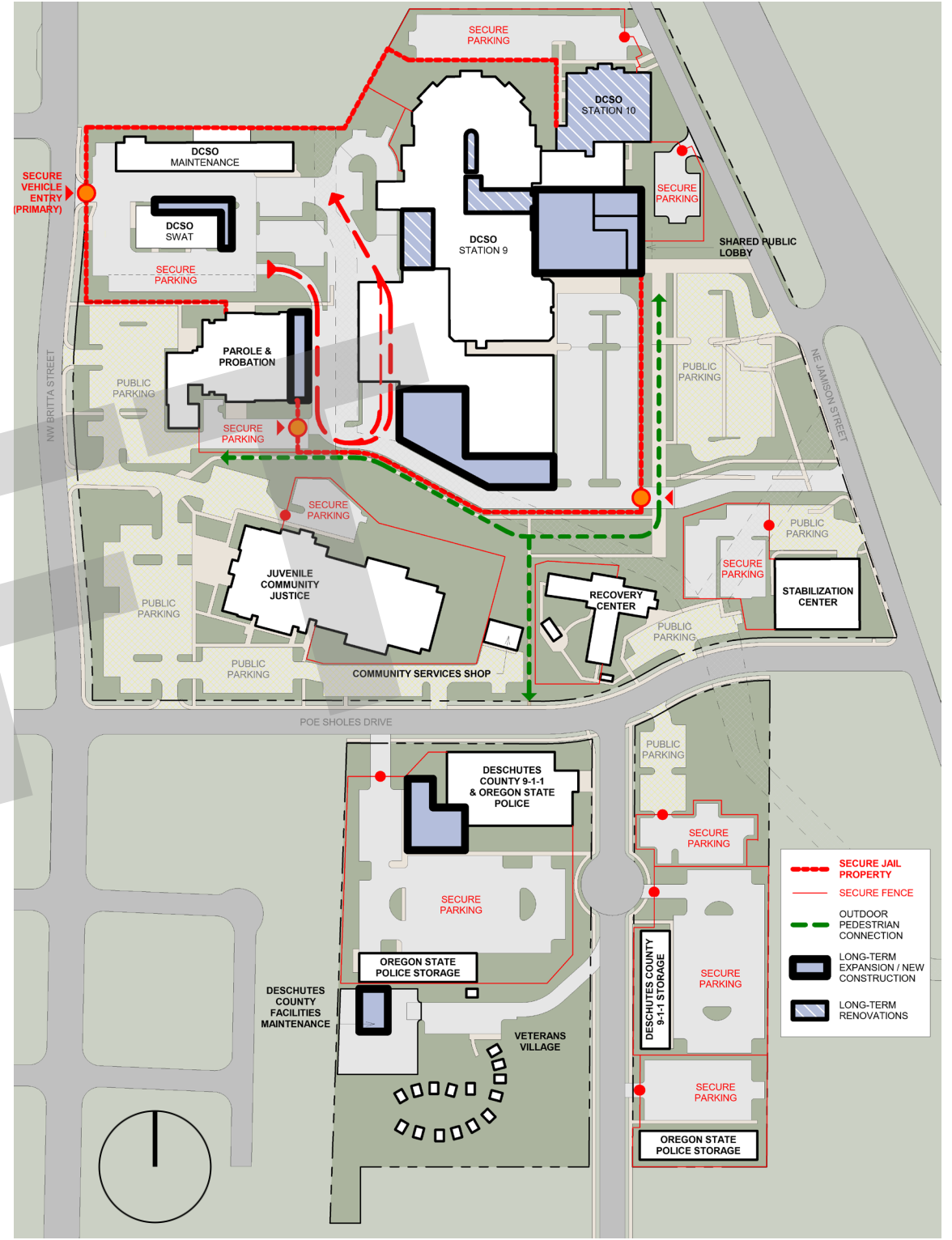
**Station 9** expansion includes new Work Center and Work Release Housing, connecting those functions to security operations in the Adult Jail. Jail Administration will be expanded in new construction and connect to a new shared lobby with Station 10. The former staff support spaces will be renovated to provide inmate programs and services.

**Station 10** will further expand administrative functions and connect to a new shared lobby with Station 9. Existing spaces for Patrol, Detectives, Digital Forensics, and Training will be renovated.

**Deschutes County 9-1-1 and Oregon State Police** will expand in an addition to their current building.

**Deschutes County Facilities** will move into a new storage facility near Veteran's Village.

The long-term plan for the public safety campus completes an open pedestrian connection linking all of the functions on the campus.





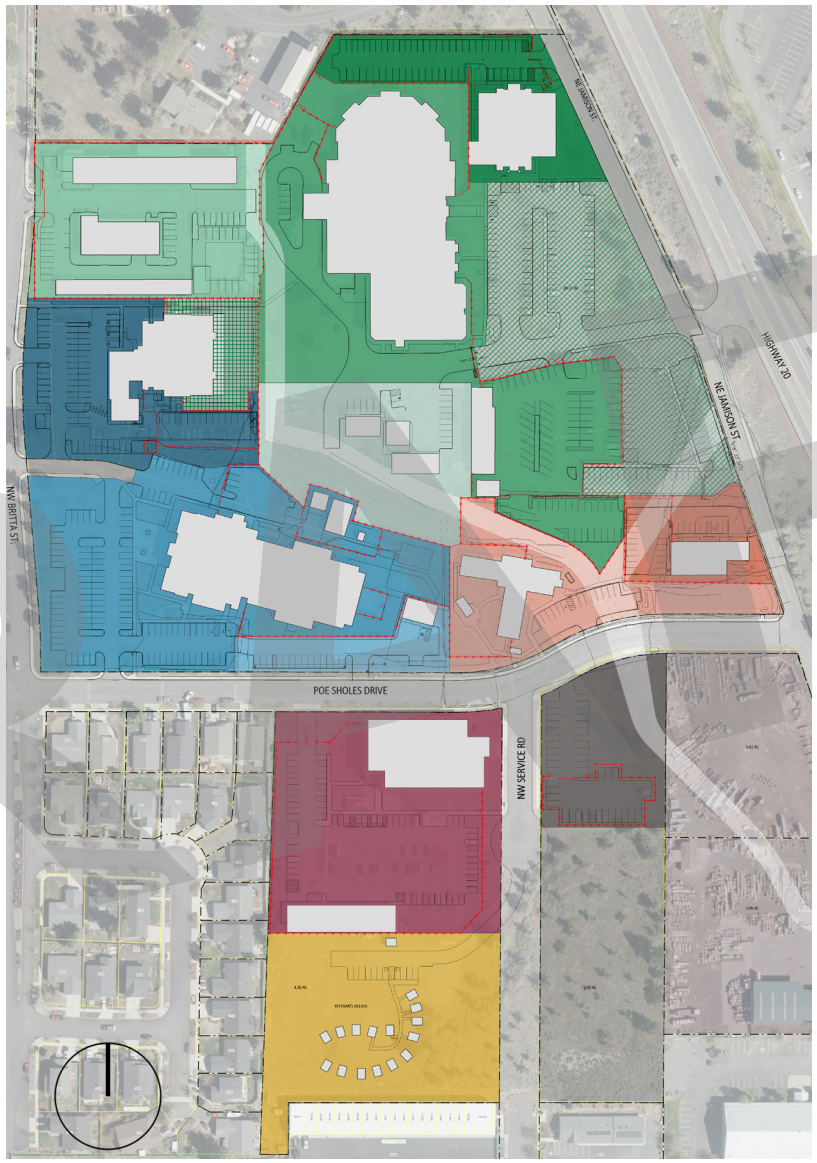
# CAMPUS DEVELOPMENT NEEDS

## Definition of Core Services

The Design Team, in collaboration with the Steering Committee, facilitated several workshops to identify the core services provided on the Public Safety Campus as a decision-making tool during the planning process. This involved identifying essential functions crucial for ensuring safety, security, and effective operations on the campus to best serve Deschutes County now and in the future.

By systematically evaluating community needs, engaging key stakeholders, and enhancing comprehensive services, this campus plan seeks to efficiently and effectively address the safety and security concerns of Deschutes County.

Core Services for the Public Safety Campus have been identified as Critical, Moderate, and Low Level.



### Critical

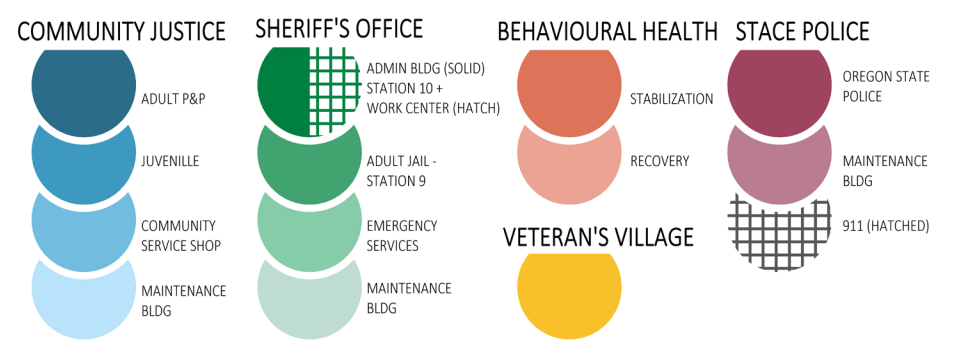
Essential services related to public safety that must remain on campus to continue effectively.

### Moderate

Services that benefit from adjacencies or previous County investment on the campus, but are not essential.

### Low

Services that provide minimal benefit to functions on the campus, or that may better serve the community in an alternate location.



## CURRENT CAMPUS SERVICES

### Behavioral Health:

- Stabilization Center- Provides children and adults who are in need of short-term, mental health crisis assessment and stabilization, that do not require the medical capabilities of an acute care hospital or longer-term residential care. Provides crisis walk-in appointments & adult respite services,
- Supporting Services- Forensic Diversion Programs, civil commitment peer support, mobile crisis assessment team, co-responder program, case management.
- Recovery Center- Provides a stable living environment for people who are transitioning from the state hospital or other secure facilities to a community-based program as a primary component of their mental health treatment.

### Community Justice:

- Adult Parole & Probation- Provides supervision and treatment resources for adult offenders.

- Juvenile- Provides supervision and treatment resources to at-risk and delinquent youth and families; includes detention, behavioral health services, supervision and skill development.
- Community Service workshop on campus to support the community service program for youth and adult offenders
- Partners with other Departments- DC Sheriff's Office Command Unit, Redmond & Bend Police, Fish & Wildlife, Forensics

### Deschutes County 9-1-1:

- Provides consolidated public safety dispatching for police, fire, and medical assistance in Deschutes County
- Provides standards-based lifesaving public emergency care.

### Oregon State Police:

- Main Operations- Patrol, Regional Forensics Lab, Vehicle Maintenance
- Special Services Provided- Back parking lot/SWAT Training, Community Training, Reconstruction Folks on Training

- Partners with other Departments- DC Sheriff's Office Command Unit, Redmond & Bend Police, Fish & Wildlife, Forensics
- Client Services- Provides registration for sex offenders and performs VIN inspections

### Sheriff's Office

- Civil Division- processes, serves and enforces court orders.
- Detective Division- investigates serious crimes against persons and property
- Records Division- takes incoming calls or provides in-person service, handles information for staff and community regarding police reports or police records, and maintains and distributes copies of records to authorized persons/agencies.
- Special Services- provides search and rescue, marine patrol, forest patrol, off highway vehicle patrol, emergency management.

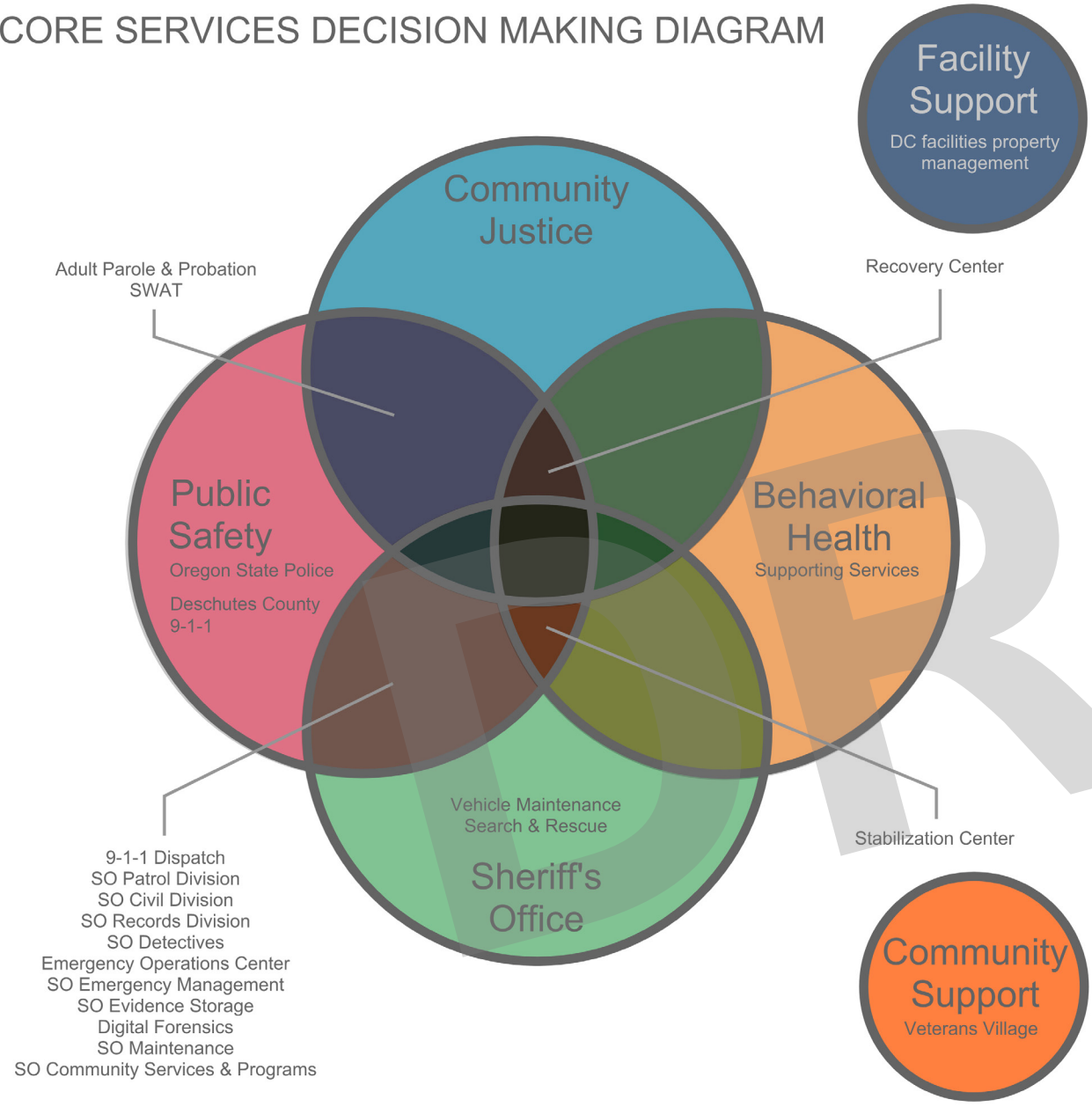
- Patrol Division- patrols and responding to calls for service, both emergency and non-emergency.
- Other Services- Concealed Handgun Licenses, Crime Prevention, Safety, Community Programs
- Corrections Division- Adult jail with the capacity of 452 beds with programs designed to help inmates make positive changes in their behavior
- Vehicle Maintenance- For patrol vehicles (non-public facing)

### Veterans Village:

- Transitional Housing- 15 tiny homes on campus
- Community Services- behavioral and physical health, social service programs, employment training and skill building, and housing placement

# CORE SERVICES DECISION-MAKING DIAGRAM

CORE SERVICES DECISION MAKING DIAGRAM



### Critical Level Services:

- Adult Jail (Station 9) including Building Maintenance and Work Center
- Sheriff's Office Administration (Station 10)
- SWAT and Mobile Field Force
- Adult Parole & Probation
- Juvenile Detention
- Stabilization Center
- Facility Support

### Moderate Level Services:

- Deschutes County Recovery Center
- 9-1-1

### Low Level Services:

- Oregon State Police
- Vehicle Maintenance
- Search & Rescue and Emergency Management
- Veterans Village



# CRITICAL ADJACENCIES

**Adult Jail (Station 9) ..... Stabilization Center**

- Shared Medical Services
- First Responder Law Enforcement Is available when needed
- Inmates released often go directly to Stabilization Center

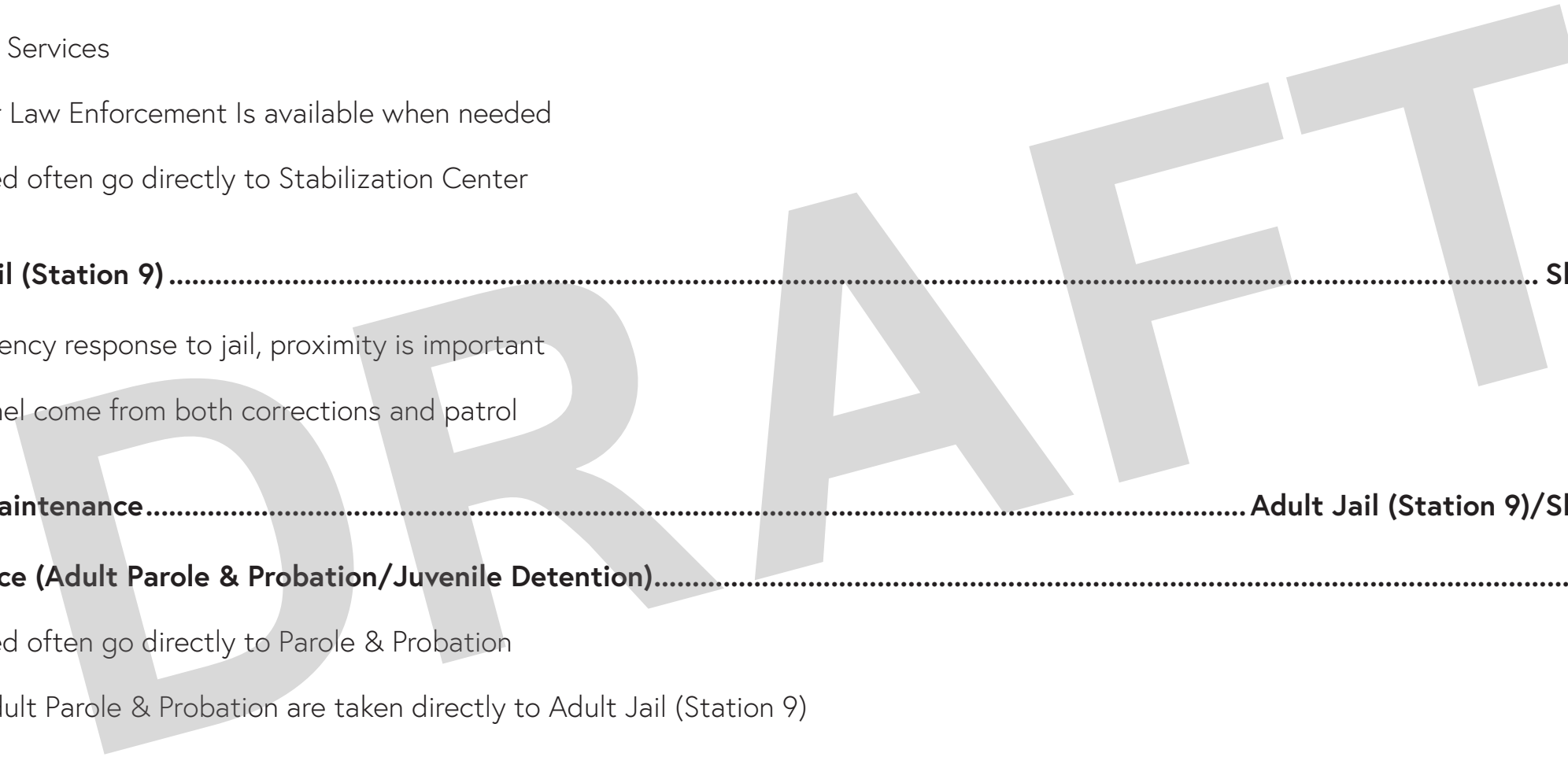
**SWAT & Adult Jail (Station 9) ..... Sheriffs Office Admin (Station 10)**

- Provides Emergency response to jail, proximity is important
- Service personnel come from both corrections and patrol

**Sheriff's Office Maintenance ..... Adult Jail (Station 9)/Sheriffs Office Admin (Station 10)**

**Community Justice (Adult Parole & Probation/Juvenile Detention) ..... Adult Jail (Station 9)**

- Inmates released often go directly to Parole & Probation
- Arrests from Adult Parole & Probation are taken directly to Adult Jail (Station 9)
- Food Service to Juvenile Detention is provided by Adult Jail (Station 9)
- Juvenile Detention and Adult Parole & Probation share staffing, vehicles, and the community service shop



# CAMPUS DEVELOPMENT CHALLENGES

## Public Facing vs. Secure Programs

Public and private/secure spaces are often adjacent, which is disorienting for visitors and increases potential risk for staff.

### Public Facing Programs

- Stabilization Center
- Sheriff's Office (Station 10)
- Adult Jail (Station 9)
- Adult Parole & Probation
- Juvenile Services

### Semi-Public Facing Programs

- Oregon State Police

### Non-Public Facing Programs

- Recovery Center
- 9-1-1
- Maintenance & Storage Facilities
- Veterans Village

## Maintenance & Storage Facilities

Maintenance & storage facilities occupy the heart of the campus, constricting flow (public entries overlap with sheriff and law enforcement), interrupting critical adjacencies and greatly reducing the opportunity for campus connections.

### Wayfinding & Signage

Wayfinding doesn't clearly direct the public to their destination.

- Staff are constantly removed from their duties to give clients/visitors directions.
- Longer paths of travel with poor wayfinding adds to the trauma inflicted on the clients' receiving services who are traveling by foot or bike.

### Food Service:

Lunch hour traffic prohibits employees from leaving campus, and sworn officers are prohibited from leaving campus while on duty.

## Access to & from Site

Intersections at Hwy 20 and Empire are congested and dangerous, and do not allow staff to easily travel to and from site, especially for a limited lunch or dinner break.

### Pedestrian & Vehicular Circulation

Staff share pathways and a secure drive aisle with public and clients receiving services.

- Facility maintenance crews are required to pass through secure barriers
- There are no secure direct pathways through the core of the site for direct access between buildings and/or parking areas, creating unsafe conditions and inefficient flows for staff.

### Green Space & Walking Paths

Green spaces are desired for all and dedicated/secure walking paths are desired for employees.

## Wellness Facilities

Employees need safe and dedicated rooms to decompress indoors. Most staff respite areas have been converted to client service or administration space. A workout facility on campus was completed for Sheriff's Office sworn employees, and non-sworn employees have requested a fitness facility.

### Meeting Space

Most departments have outgrown their administration areas and are in need of meeting room space that can accommodate up to 50 people in a classroom arrangement.

### Training Space for Tactile & Self Defense:

Tactical / self-defense training is required for all campus sworn officers and most non-sworn employees, and is offered to public volunteers and community partners as well. Several departments report needing additional large meeting rooms for training that has direct exterior or lobby access.

## AGENCY NEEDS

### Adult Parole & Probation

- Construction completed for expansion intended to meet long-term needs
- If work center moves to jail proper, 1st floor space is underutilized and may be used for training and wellness functions

### Deschutes County 9-1-1

- No current space expansion needs
- Small tenant improvements to improve functionality
- Mildly underutilized space today, but accommodates for future expansion needs
- Has the room to grow, but will need to re-purpose wasted space when the time comes and provide separation between kitchen and quiet spaces
- Additional secure parking & onsite storage bays

### Juvenile Services

- Small tenant improvements to improve circulation and welcoming environment
- Underutilized space today in both first floor secure detention areas and second floor office/administration space
- Improved signage in lobbies for client wayfinding
- Provide accessible (replace elevator) and open stair access to the 2nd floor.
- Re-purpose large unused lobbies into inviting, family friendly waiting areas for all clients

### Oregon State Police

- Additional work stations and huddle space needed
- Additional secure parking & onsite storage bays needed
- Small tenant improvements to improve security and functionality
- Emergency generator backup for forensics lab and lobby signage.
- Improve lighting, site lines and relationship of front workstations to intercoms/ windows
- Reconfigure customer service window and employee workstations for direct line of communication
- Additional admin workspace for forensics and Patrol Division. Reconfigure layout to maximize space for permanent workstations.
- Ballistic resistant glazing and wall panels at vulnerable Forensic Lab
- Access control at public restroom

### Stabilization Center

- Small tenant improvements to improve minor functionality
- Identified increased need of 100% additional space (doubling of existing space)
- Secure parking
- Emergency generator backup for 24-hour critical care facility to be completed 2024
- Replacement of shower
- Double the number of recliners to 10, shelter area for client dogs, additional intake/counseling/calming room
- At least double the number of workstations currently provided today, not accounting for future growth
- Larger kitchen to serve 50-70 employees who use the facility between the three shifts.

## DEPARTMENTAL NEEDS

### Adult Jail (Station 9)

- Identified space need increase of 70% additional space
- Expand medical, kitchen, in-person visitation & booking to accommodate south housing expansion; also wants to plan for a work release program
- Direct supervision housing units for female and male inmates

### Sheriff's Office Administration (Station 10)

- Identified space need increase of 70% additional space
- More space for Search and Rescue for emergency services, operations and equipment
- Office & meeting space for forensic, patrol, detectives & 1st floor administration unit
- Safety
- More secure and covered parking for staff & improved parking lot efficiencies

### Vehicle Maintenance

- Identified space need increase of 200% additional space

### Campus Training Facility

- Identified space need increase of 520% additional space

### Search and Rescue

- Identified space need increase of 170% additional space

### Special Operations (SWAT and MFF)

- Identified space need increase of 150% additional space

### Recovery Center

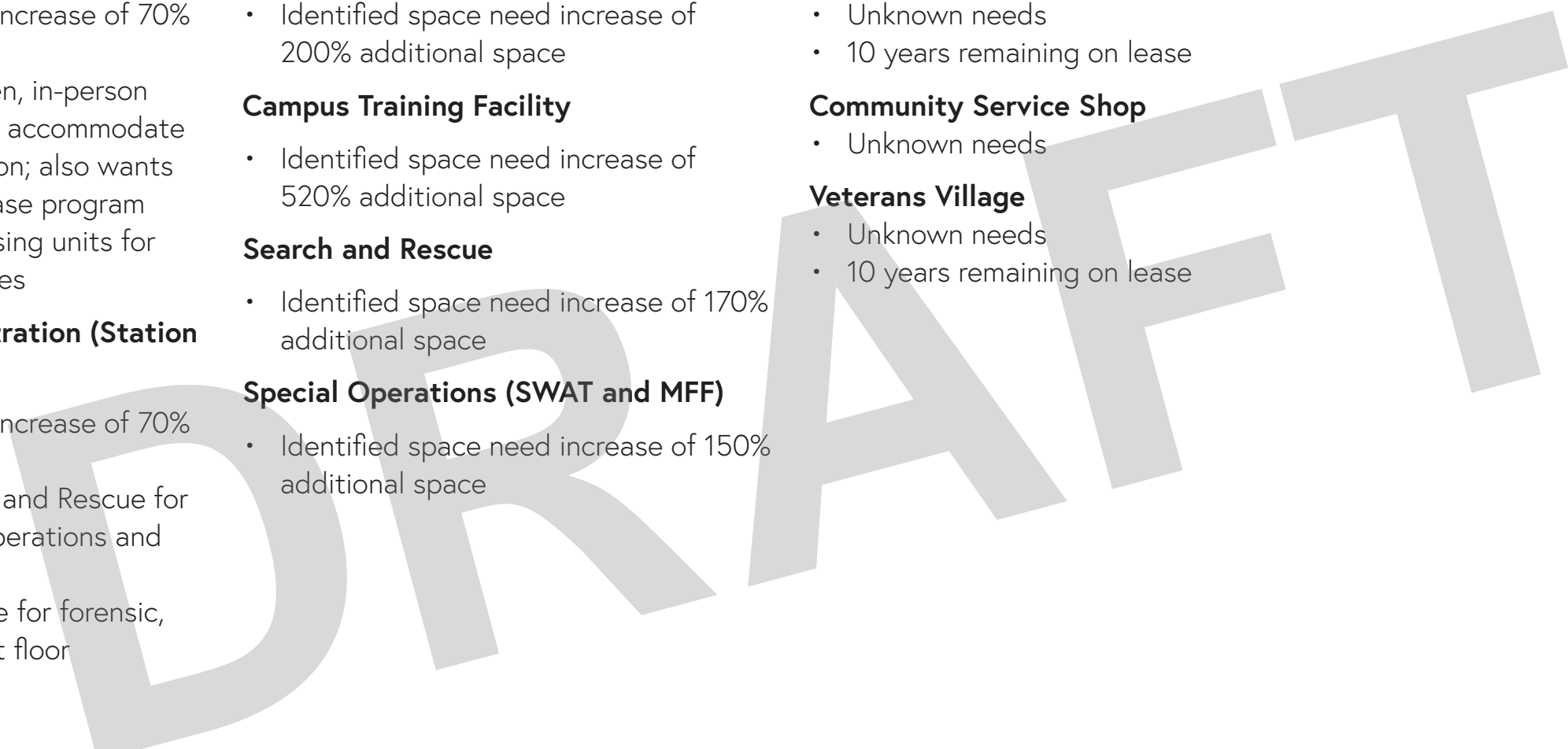
- Unknown needs
- 10 years remaining on lease

### Community Service Shop

- Unknown needs

### Veterans Village

- Unknown needs
- 10 years remaining on lease



# SPACE NEEDS

## Establishing Near-Term (0-5 Years), Mid-Term (6-10 Years), and Long-Term (11-20 Years) Space Needs

Facility programming and planning is a process that involves comprehensive analysis, strategic decision-making, and design considerations to meet the functional needs and objectives of the intended users. Detailed analysis of functional requirements based on current and future projects was developed, which included spatial needs, workflow analysis, technical requirements, operational processes, and the relationships between different spaces.

The Design Team collaborated with stakeholders from Deschutes County Sheriff's Office Station 9 and Station 10 on a detailed assessment of future needs. Future needs for other campus functions were not reviewed in detail, and require additional study. Station 9 and Station 10 needs will be prioritized further to provide direction for near-term projects.

DRAFT

**Net Square Feet (NSF):** the usable or assignable square footage within a room or area (inside wall-to-wall dimensions).

**Department Gross Square feet (DGSF):** the actual footprint of a specific department or functional area. This includes the net square footage of all rooms/areas within the department plus the space occupied by intradepartmental circulation and the walls and partitions within the department.

**Building Gross Square Feet (BGSF):** the overall footprint of a floor or building, respectively, including shared public corridors and atriums, elevators, stairs, the space occupied by the building's exterior wall, and major mechanical spaces.



# STATION 9 SPACE NEEDS

DEPARTMENT	EXISTING		Near Term			Mid Term					
	NSF	BGSF	NSF	DGSF	GSF	NSF	DGSF	GSF	NSF	DGSF	GSF
<b>INCUSTODY HOUSING</b>											
DORMITORY HOUSING Northern Dorms - Original Bldg. Even Numbered Rooms	5,332		5,275	6,330	7,596	5,435	6,522	7,826	5,435	6,522	7,826
CELLED HOUSING Northern Housing - Original Building Odd Numbered Rooms	7,105		7,105	9,592	11,510	7,105	9,592	11,510	7,105	9,592	11,510
DORMITORY HOUSING - Central Dorms - Original Bldg.	1,311		1,311	1,770	2,124	-	-	-	-	-	-
MENTAL HEALTH & ORIENTATION HOUSING - Possibility to convert central housing area in original building with additional space need.	-		2,695	3,638	4,366	10,780	14,553	17,464	10,780	14,553	17,464
CELLED HOUSING Southern Housing - Double beds??? 2014 Addition	10,687		10,687	14,427	17,313	10,687	14,427	17,313	10,687	14,427	17,313
<b>INCUSTODY HOUSING Subtotal</b>	<b>24,435</b>		<b>27,073</b>	<b>35,757</b>	<b>42,909</b>	<b>34,007</b>	<b>45,094</b>	<b>54,113</b>	<b>34,007</b>	<b>45,094</b>	<b>54,113</b>
<b>WORK CENTER AND WORK RELEASE</b>											
WORK CENTER HOUSING - DORMITORY (M)	3,705		-	-	-	2,350	3,173	3,807	2,350	3,173	3,807
WORK CENTER HOUSING - DORMITORY (F)	-		-	-	-	555	749	899	1,075	1,451	1,742
WORK RELEASE HOUSING - DORMITORY (M)	-		-	-	-	695	938	1,126	695	938	1,126
WORK RELEASE HOUSING - DORMITORY (F)	-		-	-	-	415	560	672	415	560	672
WORK CENTER & RELEASE HOUSING SUPPORT	2,299		2,299	3,104	3,724	3,528	4,763	5,715	3,500	4,725	5,670
OUTDOOR RECREATION	6,500		6,500	7,150	8,580	800	880	1,056	800	880	1,056
WORK CREW EQUIP.STORAGE	240		400	400	480	400	400	480	400	400	480
<b>WORK CENTER AND WORK RELEASE Subtotal</b>	<b>12,744</b>		<b>9,199</b>	<b>10,654</b>	<b>12,784</b>	<b>8,743</b>	<b>11,463</b>	<b>13,756</b>	<b>9,235</b>	<b>12,127</b>	<b>14,553</b>
<b>INMATE PROGRAMS</b>											
PROGRAMS	436		2,515	3,395	4,074	2,515	3,395	4,074	2,515	3,395	4,074
OUTDOOR RECREATION	3,519		4,859	5,345	6,414	5,659	6,225	7,470	7,639	8,403	10,083
<b>INMATE PROGRAMS Subtotal</b>	<b>3,955</b>		<b>7,374</b>	<b>8,740</b>	<b>10,488</b>	<b>8,174</b>	<b>9,620</b>	<b>11,544</b>	<b>10,154</b>	<b>11,798</b>	<b>14,158</b>



# STATION 9 SPACE NEEDS

DEPARTMENT	EXISTING		Near Term			Mid Term					
	NSF	BGSF	NSF	DGSF	GSF	NSF	DGSF	GSF	NSF	DGSF	GSF
<b>JAIL ADMINISTRATION</b>											
RECEPTION: PUBLIC SIDE	1,203		1,572	2,122	2,547	1,572	2,122	2,547	1,572	2,122	2,547
JAIL ADMINISTRATION OFFICES @ RECEPTION: NONSECURE	961		2,492	3,364	4,037	2,492	3,364	4,037	2,796	3,775	4,530
JAIL ADMINISTRATION OFFICES: SECURE	436		1,080	1,458	1,750	1,080	1,458	1,750	1,200	1,620	1,944
JAIL ADMINISTRATION SUPPORT SPACE: NON-SECURE	2,674		3,710	5,009	6,010	4,322	5,835	7,002	4,406	5,948	7,138
<b>JAIL ADMINISTRATION Subtotal</b>	<b>5,274</b>		<b>8,854</b>	<b>11,953</b>	<b>14,343</b>	<b>9,466</b>	<b>12,779</b>	<b>15,335</b>	<b>9,974</b>	<b>13,465</b>	<b>16,158</b>
<b>VISITATION AND ARRAIGNMENT</b>											
VISITATION AND ARRAIGNMENT	1,002		1,605	2,167	2,600	1,605	2,167	2,600	1,605	2,167	2,600
<b>VISITATION AND ARRAIGNMENT Subtotal</b>	<b>1,002</b>		<b>1,605</b>	<b>2,167</b>	<b>2,600</b>	<b>1,605</b>	<b>2,167</b>	<b>2,600</b>	<b>1,605</b>	<b>2,167</b>	<b>2,600</b>
<b>JAIL OPERATIONS</b>											
CENTRAL CONTROL	818		1,444	1,949	2,339	1,440	1,944	2,333	1,440	1,944	2,333
TRAINING	-		-	-	-	-	-	-	-	-	-
<b>JAIL OPERATIONS Subtotal</b>	<b>818</b>		<b>1,444</b>	<b>1,949</b>	<b>2,339</b>	<b>1,440</b>	<b>1,944</b>	<b>2,333</b>	<b>1,440</b>	<b>1,944</b>	<b>2,333</b>
<b>HEALTH SERVICES</b>											
MEDICAL CLINIC	1,074		2,841	3,977	4,773	2,905	4,067	4,880	3,033	4,246	5,095
MEDICAL HOUSING	712		1,475	2,065	2,478	1,470	2,058	2,470	1,470	2,058	2,470
<b>HEALTH SERVICES Subtotal</b>	<b>1,786</b>		<b>4,316</b>	<b>6,042</b>	<b>7,251</b>	<b>4,375</b>	<b>6,125</b>	<b>7,350</b>	<b>4,503</b>	<b>6,304</b>	<b>7,565</b>
<b>INTAKE AND RELEASE</b>											
PRE-INTAKE	2,341		9,308	9,766	11,719	9,308	9,766	11,719	9,308	9,766	11,719
INTAKE AND BOOKING	10,113		2,720	3,672	4,406	2,720	3,672	4,406	2,720	3,672	4,406
PROPERTY AND CHANGING	708		1,340	1,809	2,171	1,340	1,809	2,171	1,340	1,809	2,171
RELEASE AND TRANSPORT	768		1,240	1,674	2,009	1,288	1,739	2,087	1,336	1,804	2,164
<b>INTAKE AND RELEASE Subtotal</b>	<b>13,930</b>		<b>14,608</b>	<b>16,921</b>	<b>20,305</b>	<b>14,656</b>	<b>16,986</b>	<b>20,383</b>	<b>14,704</b>	<b>17,050</b>	<b>20,460</b>
<b>SERVICES AND SUPPORT</b>											
JAIL WAREHOUSE/MAINTENANCE	5,785		5,785	7,810	9,372	8,470	11,435	13,721	8,470	11,435	13,721
LAUNDRY	502		1,260	1,449	1,739	1,260	1,449	1,739	1,260	1,449	1,739
FOOD SERVICE	2,099		4,635	5,330	6,396	4,635	5,330	6,396	4,635	5,330	6,396
COMMISSARY	275		480	552	662	480	552	662	480	552	662
UTILITIES   BUILDING SUPPORT	2,273		2,566	3,464	4,157	2,566	3,464	4,157	2,566	3,464	4,157
<b>SERVICES AND SUPPORT Subtotal</b>	<b>10,934</b>		<b>14,726</b>	<b>18,605</b>	<b>22,326</b>	<b>17,411</b>	<b>22,230</b>	<b>26,676</b>	<b>17,411</b>	<b>22,230</b>	<b>26,676</b>
<b>TOTAL</b>	<b>74,878</b>	<b>71,488</b>	<b>89,199</b>	<b>112,788</b>	<b>135,346</b>	<b>99,877</b>	<b>128,408</b>	<b>154,089</b>	<b>103,033</b>	<b>132,180</b>	<b>158,616</b>



# STATION 10 SPACE NEEDS

DEPARTMENT	EXISTING		Near Term		Mid Term		Long Term	
	NSF	GSF	DGSF	GSF	DGSF	GSF	DGSF	GSF
<b>ADMINISTRATION</b>								
ADMINISTRATION	2,738	3,286	3,699	4,439	8,663	10,396	9,677	11,612
<b>ADMINISTRATION Subtotal</b>	<b>2,738</b>	<b>3,286</b>	<b>3,699</b>	<b>4,439</b>	<b>8,663</b>	<b>10,396</b>	<b>9,677</b>	<b>11,612</b>
<b>RECEPTION, RECORDS, and CIVIL</b>								
RECEPTION   RECORDS	2,454	3,436	2,075	2,490	2,367	2,841	2,556	3,067
CIVIL	244	342	733	880	796	955	879	1,055
<b>RECEPTION, RECORDS, and CIVIL Subtotal</b>	<b>2,698</b>	<b>3,777</b>	<b>2,808</b>	<b>3,370</b>	<b>3,163</b>	<b>3,795</b>	<b>3,435</b>	<b>4,122</b>
<b>CONCEALED HANDGUN LICENSE (CHL) and ONSITE EVIDENCE</b>								
CONCEALED HANDGUN LICENSE (CHL)	265	371	556	668	738	886	920	1,104
EVIDENCE STORAGE ONSITE	1,465	2,051	4,410	5,292	5,424	6,508	6,271	7,525
<b>CONCEALED HANDGUN LICENSE (CHL) and ONSITE EVIDENCE Subtotal</b>	<b>1,730</b>	<b>2,422</b>	<b>4,966</b>	<b>5,959</b>	<b>6,162</b>	<b>7,394</b>	<b>7,192</b>	<b>8,630</b>
<b>EVIDENCE STORAGE OFFSITE</b>								
EVIDENCE STORAGE OFFSITE	1,880	2,632	11,131	13,357	14,911	17,893	16,711	20,053
<b>EVIDENCE STORAGE OFFSITE Subtotal</b>	<b>1,880</b>	<b>2,632</b>	<b>11,131</b>	<b>13,357</b>	<b>14,911</b>	<b>17,893</b>	<b>16,711</b>	<b>20,053</b>
<b>DIGITAL FORENSICS AND IT</b>								
DIGITAL FORENSICS	1,420	1,988	2,699	3,239	3,536	4,243	3,978	4,774
IT	385	539	1,144	1,373	1,326	1,591	1,456	1,747
<b>DIGITAL FORENSICS AND IT Subtotal</b>	<b>1,805</b>	<b>2,527</b>	<b>3,843</b>	<b>4,611</b>	<b>4,862</b>	<b>5,834</b>	<b>5,434</b>	<b>6,521</b>
<b>DETECTIVES</b>								
DETECTIVES	2,523	3,532	2,876	3,451	3,463	4,156	3,869	4,643
<b>DETECTIVES Subtotal</b>	<b>2,523</b>	<b>3,532</b>	<b>2,876</b>	<b>3,451</b>	<b>3,463</b>	<b>4,156</b>	<b>3,869</b>	<b>4,643</b>



# STATION 10 SPACE NEEDS

DEPARTMENT	EXISTING		Near Term		Mid Term		Long Term	
	NSF	GSF	DGSF	GSF	DGSF	GSF	DGSF	GSF
<b>PATROL</b>								
PATROL	1,573	2,202	2,925	3,510	3,202	3,842	3,375	4,050
<b>PATROL Subtotal</b>	<b>1,573</b>	<b>2,202</b>	<b>2,925</b>	<b>3,510</b>	<b>3,202</b>	<b>3,842</b>	<b>3,375</b>	<b>4,050</b>
<b>SHARED RESOURCES AND COMMUNITY PARTNERS</b>								
COMMUNITY PARTNERS	177	248	767	920	819	983	1,014	1,217
STAFF SUPPORT/SHARED RESOURCES	2,750	3,850	4,225	5,070	4,381	5,257	4,537	5,444
BUILDING SUPPORT	5,003	7,004	1,493	1,792	1,493	1,792	1,493	1,792
<b>SHARED RESOURCES AND COMMUNITY PARTNERS Subtotal</b>	<b>7,930</b>	<b>11,102</b>	<b>6,485</b>	<b>7,782</b>	<b>6,693</b>	<b>8,032</b>	<b>7,044</b>	<b>8,453</b>
<b>TRAINING</b>								
TRAINING	2,241	3,137	11,687	14,024	11,687	14,024	11,687	14,024
<b>TRAINING Subtotal</b>	<b>2,241</b>	<b>3,137</b>	<b>11,687</b>	<b>14,024</b>	<b>11,687</b>	<b>14,024</b>	<b>11,687</b>	<b>14,024</b>
<b>VEHICLE MAINTENANCE</b>								
VEHICLE MAINTENANCE	10,955	15,337	18,970	22,764	23,855	28,626	27,062	32,475
<b>VEHICLE MAINTENANCE Subtotal</b>	<b>10,955</b>	<b>15,337</b>	<b>18,970</b>	<b>22,764</b>	<b>23,855</b>	<b>28,626</b>	<b>27,062</b>	<b>32,475</b>
<b>SEARCH AND RESCUE EMERGENCY MANAGEMENT</b>								
SEARCH AND RESCUE and EMERGENCY MANAGEMENT SERVICES	6,590	9,226	12,742	15,290	14,490	17,388	14,798	17,758
<b>SEARCH AND RESCUE EMERGENCY MANAGEMENT Subtotal</b>	<b>6,590</b>	<b>9,226</b>	<b>12,742</b>	<b>15,290</b>	<b>14,490</b>	<b>17,388</b>	<b>14,798</b>	<b>17,758</b>
<b>SPECIAL OPERATIONS TEAM (SOT) - SWAT &amp; MFF</b>								
SOT   Special Operations Team SWAT and MFF	4,440	6,216	6,937	8,324	7,102	8,523	7,613	9,136
<b>SPECIAL OPERATIONS TEAM (SOT) - SWAT &amp; MFF Subtotal</b>	<b>4,440</b>	<b>6,216</b>	<b>6,937</b>	<b>8,324</b>	<b>7,102</b>	<b>8,523</b>	<b>7,613</b>	<b>9,136</b>
<b>TOTAL</b>		<b>65,397</b>		<b>106,881</b>		<b>129,904</b>		<b>141,476</b>





# SITE ANALYSIS

The Public Safety Campus comprises several County functions on approximately 28 acres north of downtown Bend. The campus is bounded by NE Jamison Street and Highway 20 on the east and NW Britta Street on the west, and is bisected by Poe Sholes Drive.

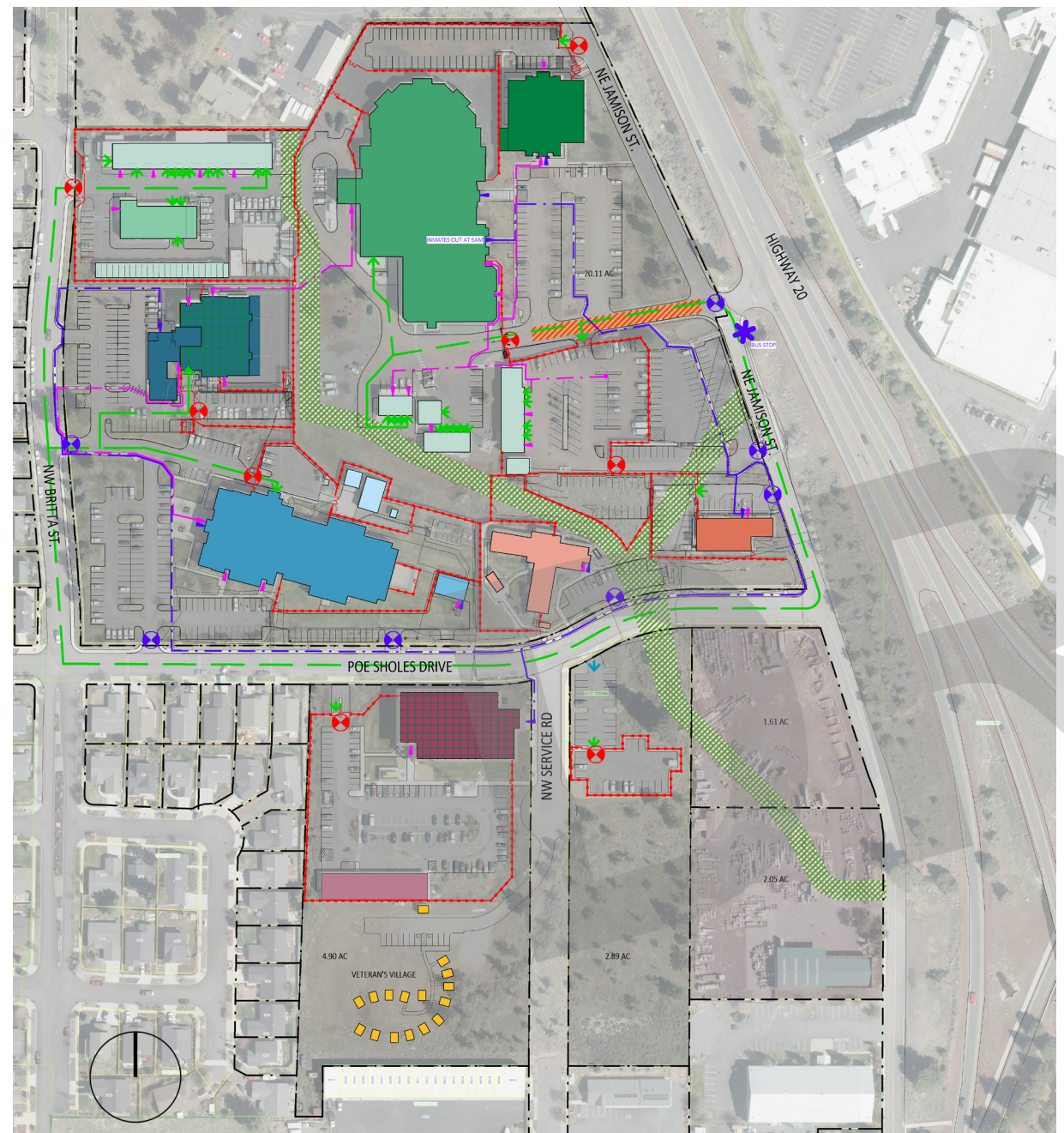
The campus is surrounded by residential developments on the west and south, as well as some commercial property closer to Highway 20. Bend Fire Department has a station and training facility directly north of the campus.

Swalley Irrigation District has an easement that impacts a significant portion of the center of the site.





# EXISTING SITE ANALYSIS

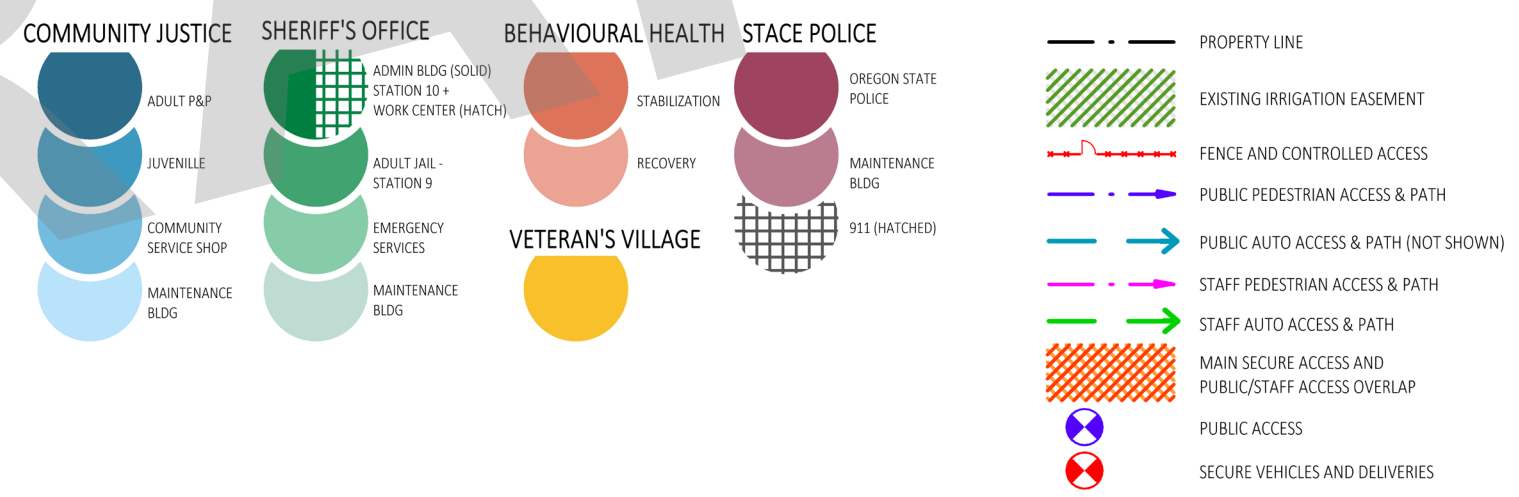


## Challenges & Opportunities

The campus has been partitioned and compartmentalized in such a manner that connections between agencies and services have become increasingly difficult. The Swalley Irrigation District easement has been an additional barrier to development and of interior connections on the site.

In an effort to enhance connectivity, future development on the site should seek to simplify access to the site for public and staff, creating clear zoning for secure operations.

The campus plan envisions the easement not as an impediment but as an opportunity to create an outdoor connection between facilities that promotes collaboration and supports staff and visitor well-being.

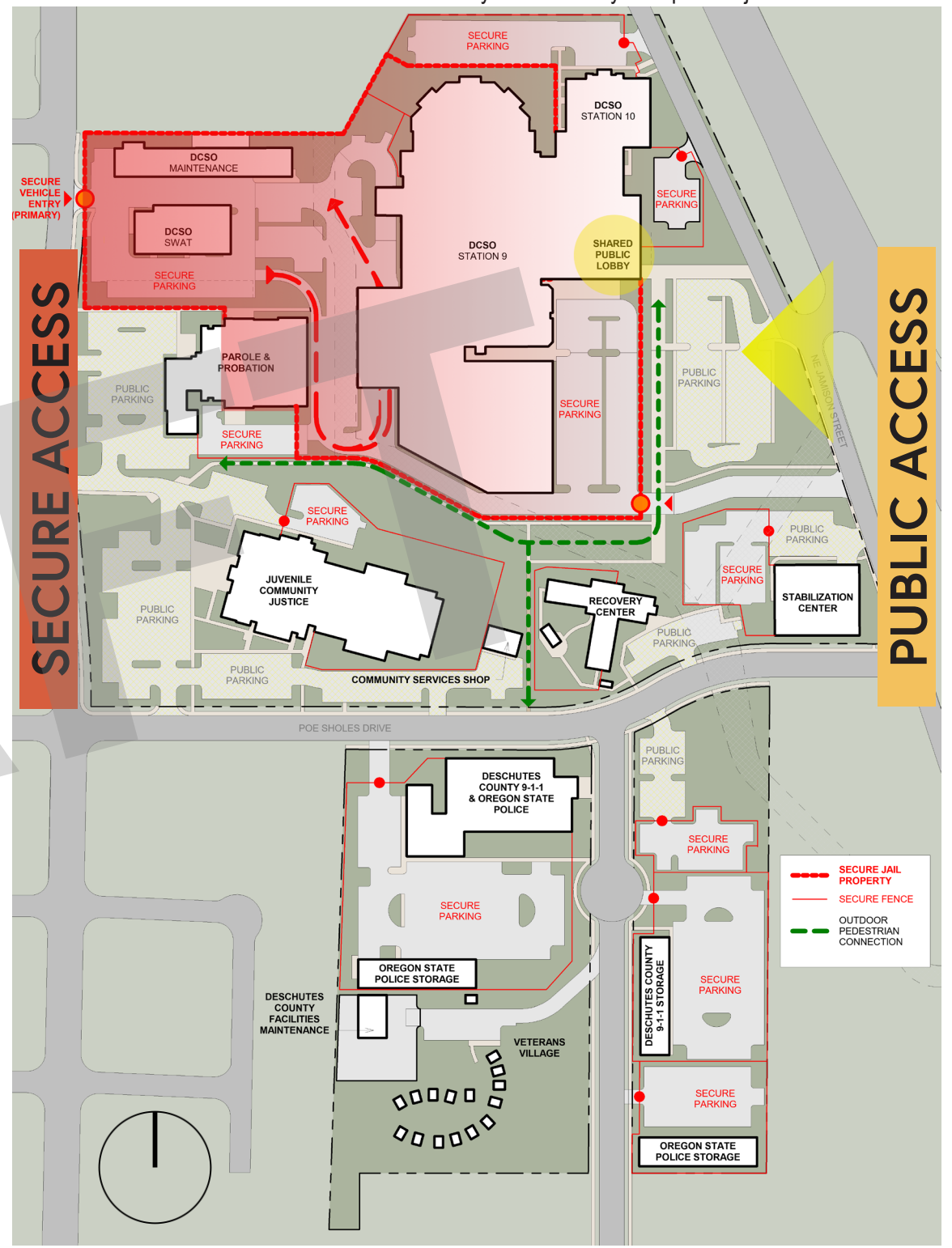


Section 4: SITE ANALYSIS  
Deschutes County Public Safety Campus Projects

# LONG-TERM SITE PLANNING

The long-term vision for the Public Safety Campus creates separate zones for public and secure site access. This is intended to clarify wayfinding on the campus and improve safety for both staff and visitors. A new shared lobby for Station 9 and Station 10 is envisioned to provide a dignified public image for the campus, representing the importance of the core services provided to Deschutes County by the agencies located here.

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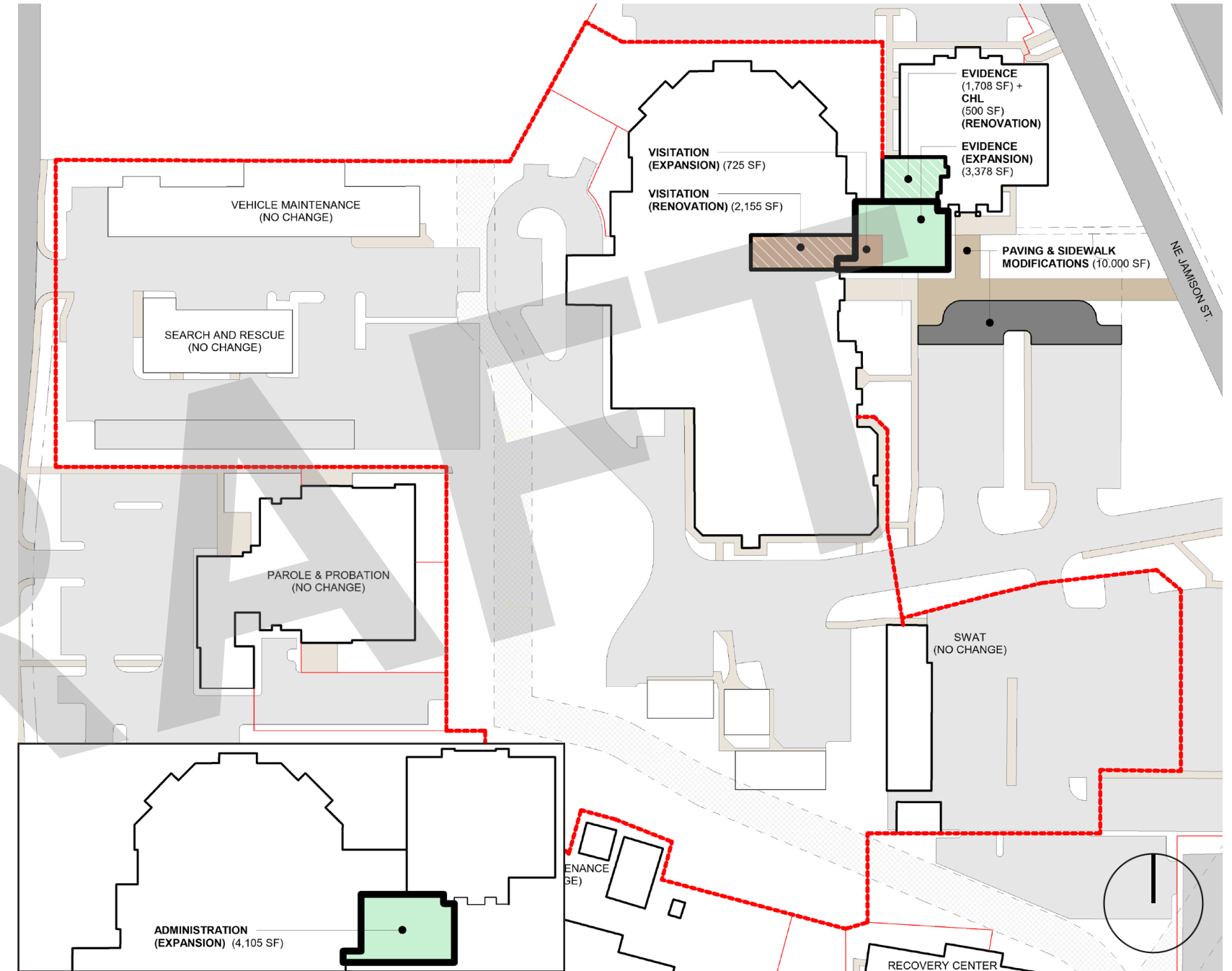




## Near-Term Priorities (0-5 Years)

SHERIFF'S OFFICE ADULT JAIL (STATION 9)			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Visitation &amp; Arraignment</b>			
New Construction	725	\$ 1,303	\$ 944,675
Heavy Renovation	2,155	\$ 1,264	\$ 2,723,920
<b>Site Modifications</b>			
Paving & Sidewalk	10,000	\$ 46	\$ 460,000
<b>STATION 9 NEAR TERM SUBTOTAL</b>		\$	<b>4,128,595</b>

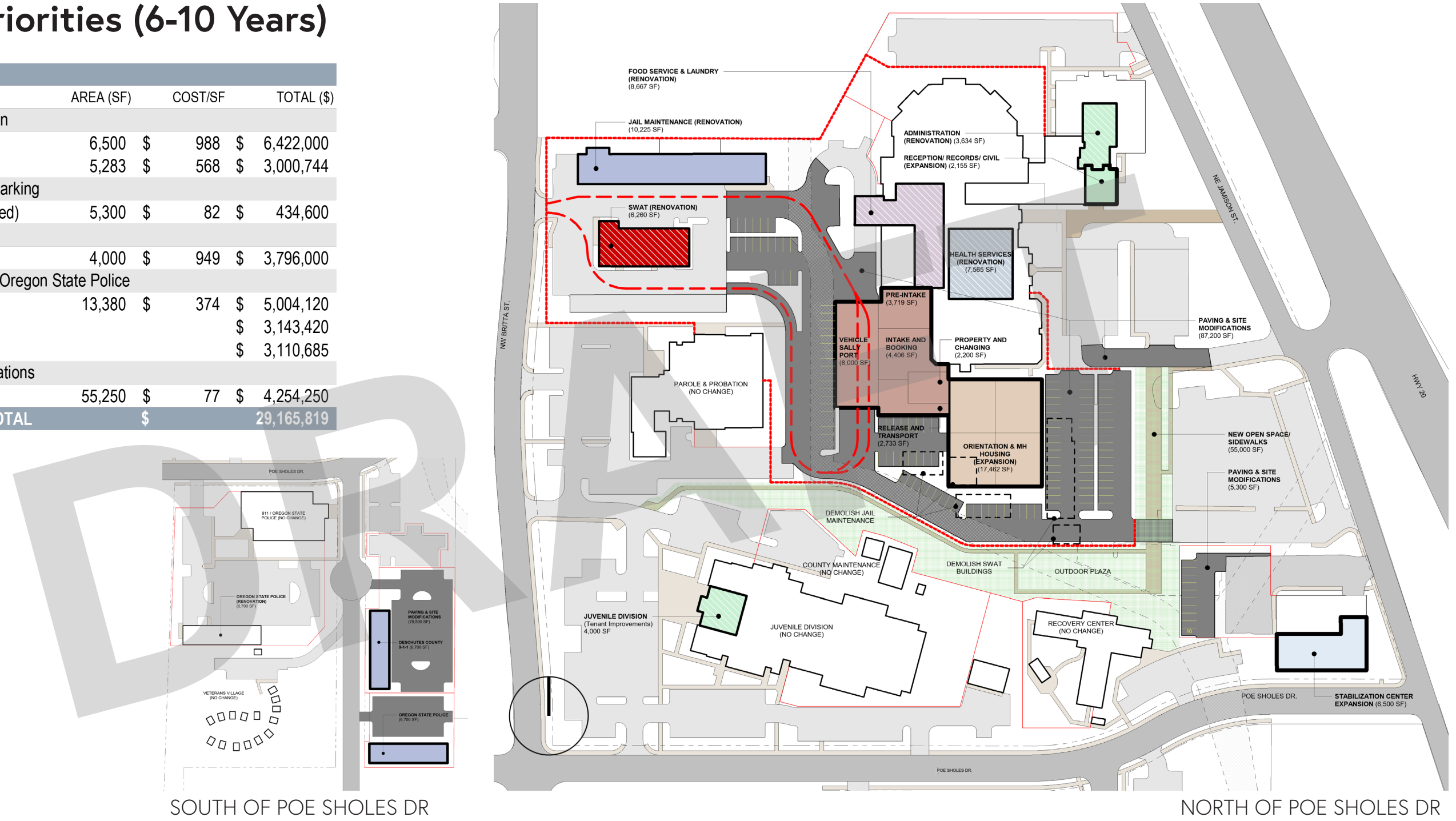
SHERIFF'S OFFICE ADMINISTRATION & SUPPORT SERVICES (STATION 10)			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Evidence Storage</b>			
New Construction	3,378	\$ 975	\$ 3,293,550
Heavy Renovation	1,708	\$ 1,264	\$ 2,158,912
<b>CHL Expansion</b>			
Heavy Renovation	500	\$ 997	\$ 498,500
<b>Administration</b>			
New Construction	4,105	\$ 893	\$ 3,664,410
<b>STATION 10 NEAR TERM SUBTOTAL</b>		\$	<b>9,615,372</b>



SECOND FLOOR PLAN

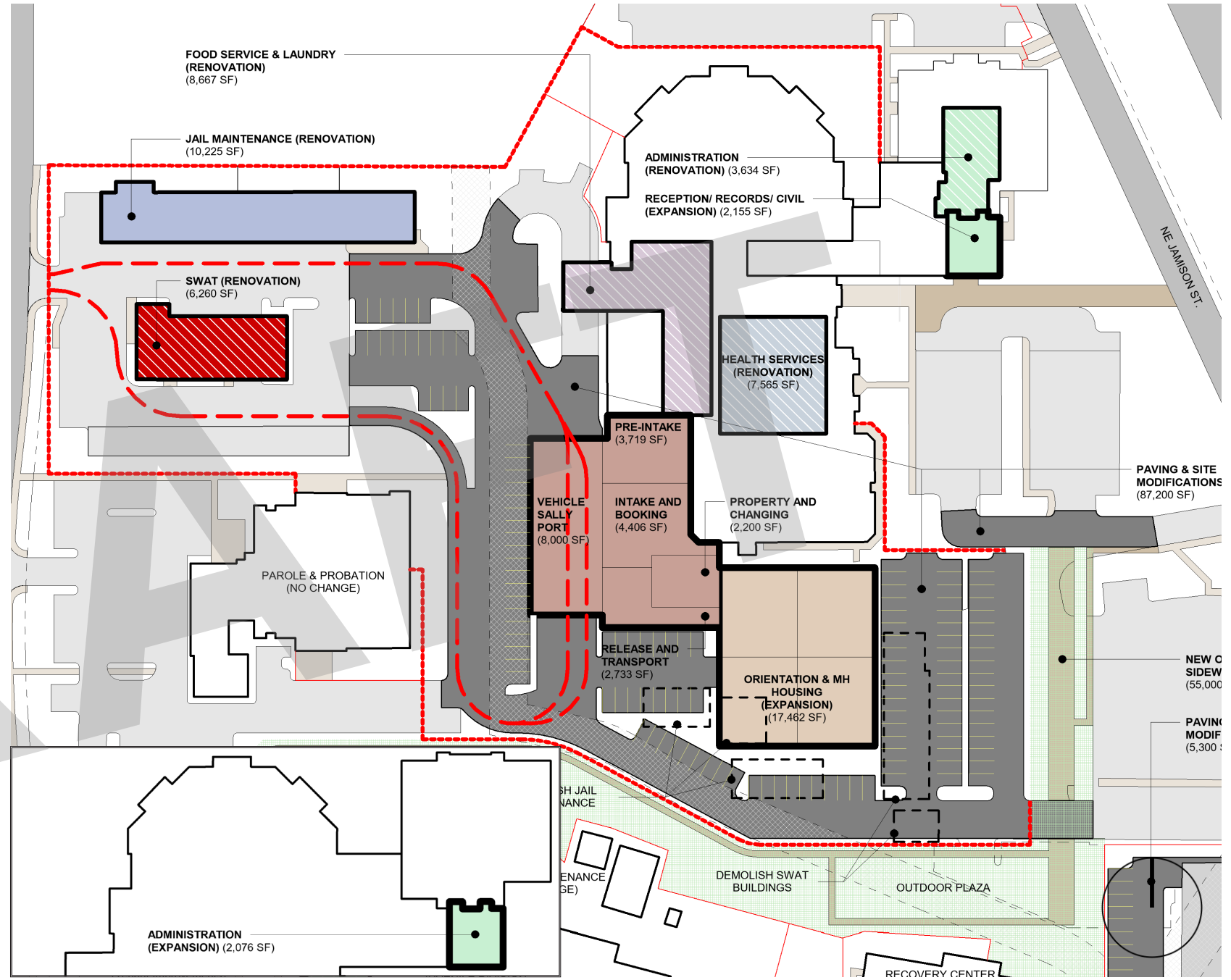
## Mid-Term Priorities (6-10 Years)

CAMPUS IMPROVEMENTS			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Stabilization Center Expansion</b>			
New Construction	6,500	\$ 988	\$ 6,422,000
Heavy Renovation	5,283	\$ 568	\$ 3,000,744
<b>Stabilization Center Secure Parking</b>			
Site Modifications (Uncovered)	5,300	\$ 82	\$ 434,600
<b>Juvenile Division TI</b>			
Heavy Renovation	4,000	\$ 949	\$ 3,796,000
<b>Deschutes County 9-1-1 and Oregon State Police</b>			
New Construction	13,380	\$ 374	\$ 5,004,120
Secure Parking			\$ 3,143,420
NW Service Road			\$ 3,110,685
<b>Outdoor / Landscape Modifications</b>			
Site Modifications	55,250	\$ 77	\$ 4,254,250
<b>CAMPUS MID TERM SUBTOTAL</b>		<b>\$</b>	<b>\$ 29,165,819</b>



## Mid-Term Priorities (6-10 Years)

SHERIFF'S OFFICE ADMINISTRATION & SUPPORT SERVICES (STATION 10)			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Relocate SWAT</b>			
Demolish	5,535	\$ 55	\$ 304,425
Light Renovation	6,260	\$ 632	\$ 3,956,320
<b>Vehicle Maintenance Off-Site</b>			
New Construction	28,626	\$ 759	\$ 21,727,134
<b>VM Fueling Station Off-Site</b>			
New Construction, Covered Only	3,000	\$ 755	\$ 2,265,000
<b>Reception / Records / Civil</b>			
New Construction	2,155	\$ 1,098	\$ 2,366,190
<b>Administration</b>			
New Construction	2,076	\$ 988	\$ 2,051,088
Light Renovation	3,634	\$ 632	\$ 2,296,688
<b>Search &amp; Rescue Off-Site</b>			
New Construction	17,388	\$ 1,142	\$ 19,857,096
<b>Search &amp; Rescue Covered Parking Off-Site</b>			
New Construction	10,600	\$ 558	\$ 5,914,800
<b>Search &amp; Rescue Uncovered Parking Off-Site</b>			
New Paving	23,800	\$ 55	\$ 1,309,000
<b>Existing Station 10</b>			
Light Refresh	117,337	\$ 55	\$ 6,453,535
<b>STATION 10 MID TERM SUBTOTAL</b>		\$	<b>68,501,276</b>

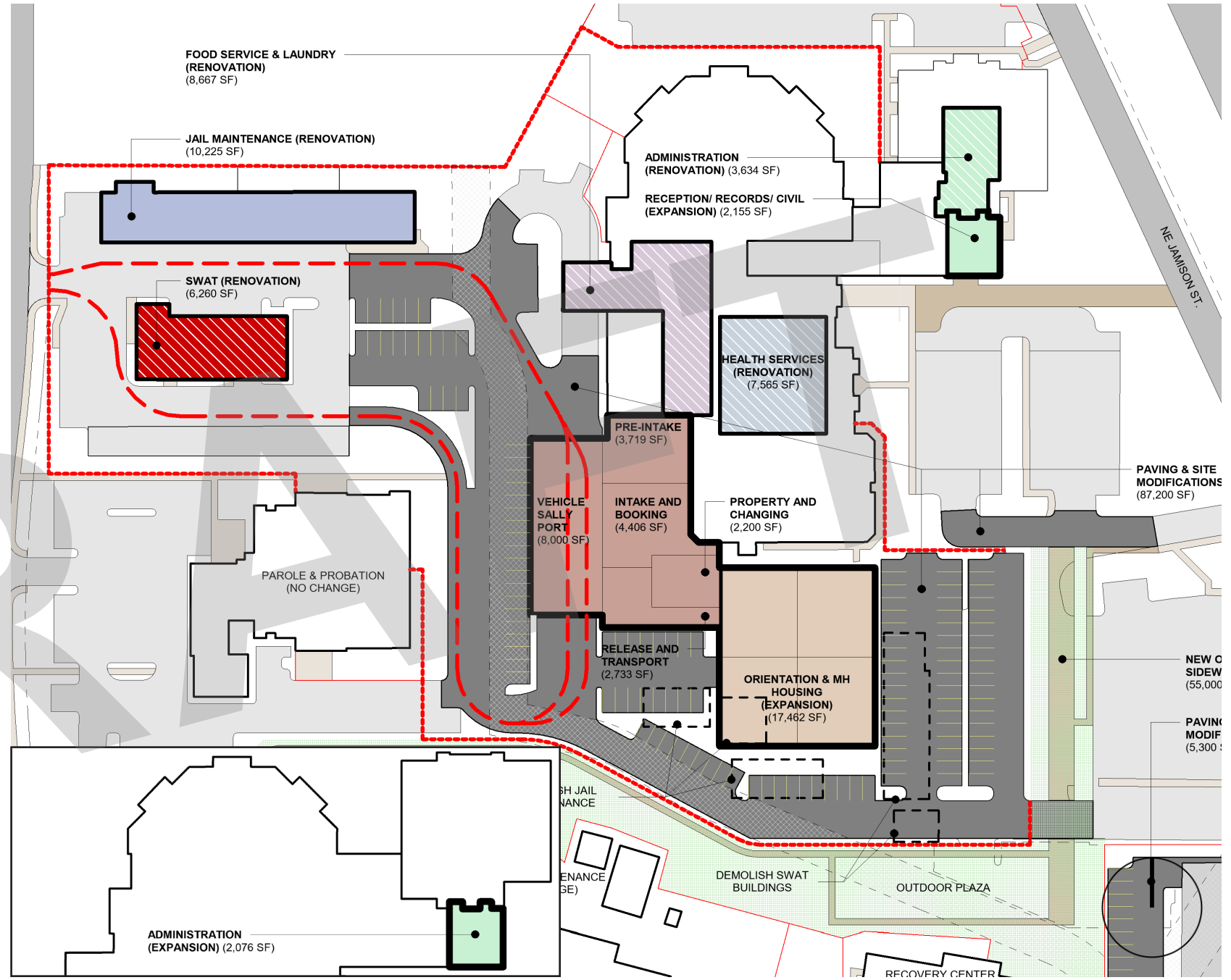


SECOND FLOOR PLAN



## Mid-Term Priorities (6-10 Years)

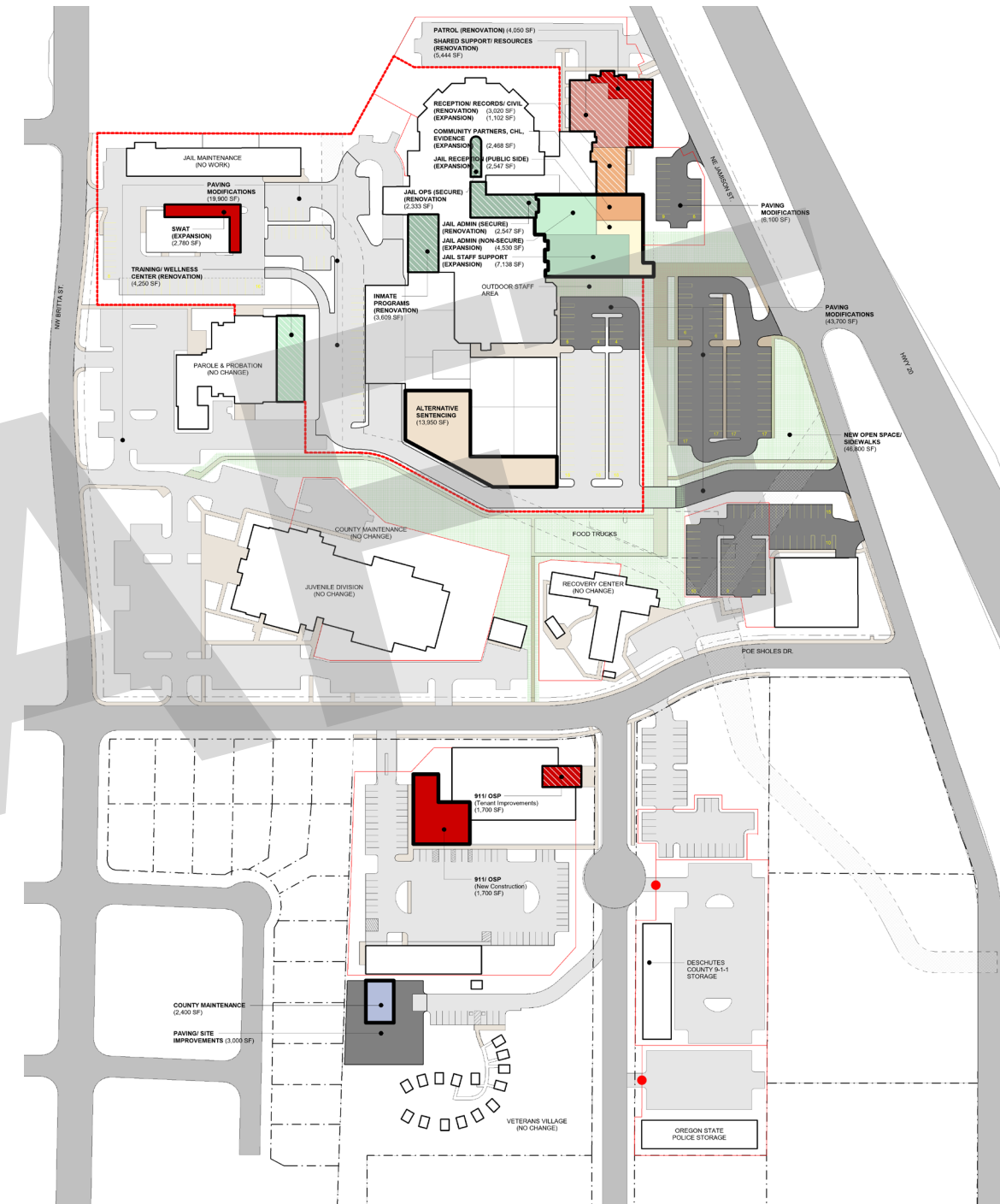
SHERIFF'S OFFICE ADULT JAIL (STATION 9)			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Relocate Jail Maintenance</b>			
Demolish	7,810	\$ 55	\$ 429,550
Light Renovation	10,225	\$ 404	\$ 4,130,900
<b>Intake / Release</b>			
New Construction	13,058	\$ 1,584	\$ 20,683,872
<b>Vehicle Sallyport</b>			
New Construction	8,000	\$ 878	\$ 7,024,000
<b>Health Services</b>			
Heavy Renovation	7,565	\$ 1,268	\$ 9,592,420
<b>Food Service &amp; Laundry</b>			
Heavy Renovation	8,667	\$ 1,319	\$ 11,431,773
<b>Mental Health &amp; Orientation Housing</b>			
New Construction	17,462	\$ 1,584	\$ 27,659,808
<b>Site Modifications</b>			
Paving & Sidewalk	87,200	\$ 55	\$ 4,796,000
<b>Existing Station 9</b>			
Light Refresh	151,055	\$ 55	\$ 8,308,025
<b>STATION 9 MID TERM SUBTOTAL</b>		<b>\$</b>	<b>\$ 94,056,348</b>



SECOND FLOOR PLAN

## Long-Term Priorities (11-20 Years)

CAMPUS IMPROVEMENTS			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Stabilization Center Parking (Uncovered)</b>			
Site Modifications	15,500	\$ 82	\$ 1,271,000
<b>County Maintenance Buildings</b>			
Site Modifications (Uncovered)	2,400	\$ 1,127	\$ 2,704,800
<b>County Maintenance Parking</b>			
New Paving	3,000	\$ 82	\$ 246,000
<b>Training &amp; Wellness Center</b>			
Heavy Renovation	4,205	\$ 1,565	\$ 6,580,825
<b>Deschutes County 9-1-1 &amp; Oregon State Police</b>			
Light Renovation	1,700	\$ 937	\$ 1,592,900
<b>Recovery Center</b>			
Heavy Renovation	7,900	\$ 1,467	\$ 11,589,300
<b>Recovery Center Parking (Uncovered)</b>			
New Paving	6,500	\$ 82	\$ 533,000
<b>Deschutes County 9-1-1 and Oregon State Police</b>			
New Construction	12,522	\$ 2,525	\$ 31,618,050
<b>Outdoor / Landscape Modifications</b>			
Site Modifications	46,750	\$ 115	\$ 5,376,250
<b>CAMPUS LONG TERM SUBTOTAL</b>		<b>\$</b>	<b>\$ 61,512,125</b>



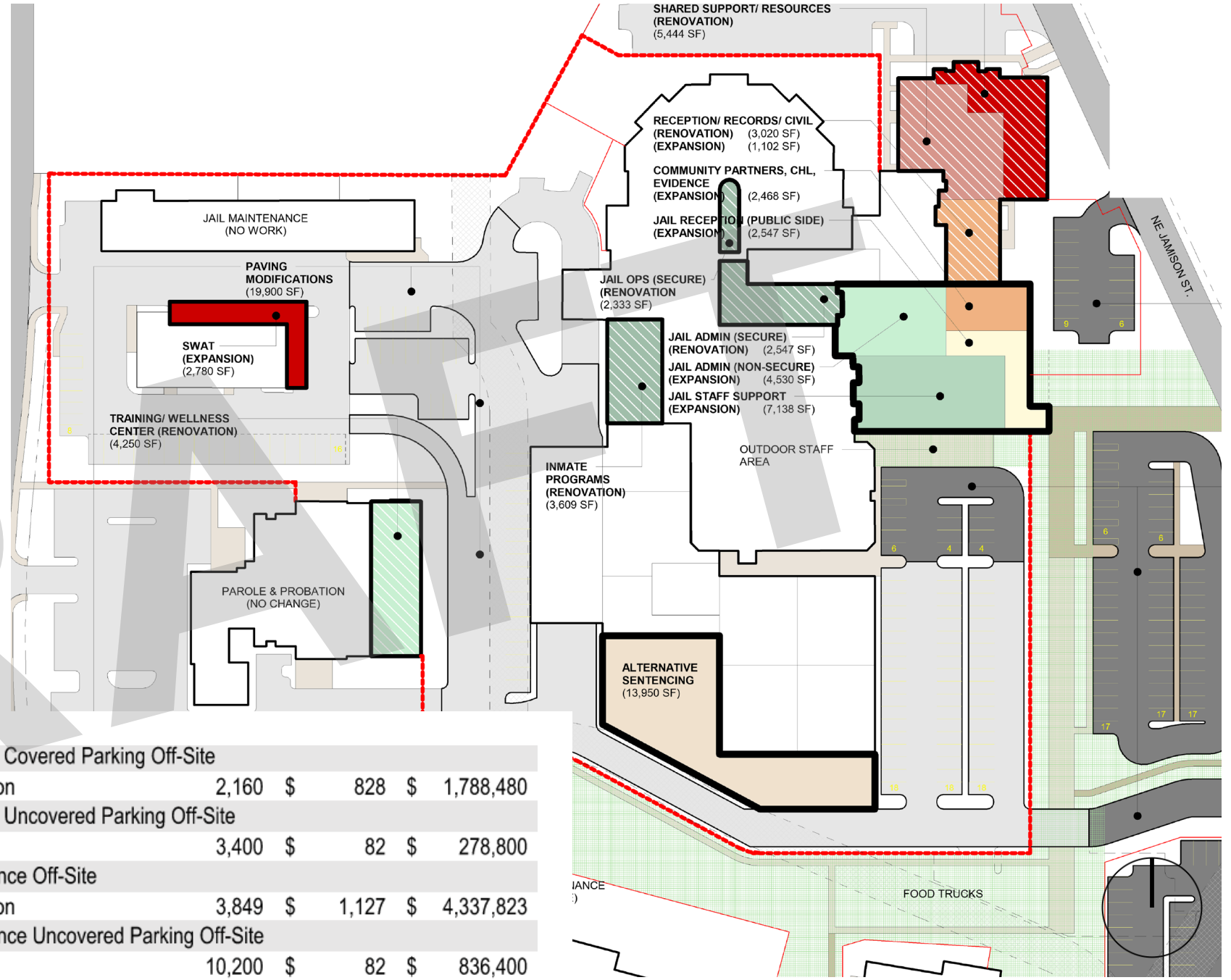


# Long-Term Priorities (11-20 Years)

## SHERIFF'S OFFICE ADMINISTRATION & SUPPORT SERVICES (STATION 10)

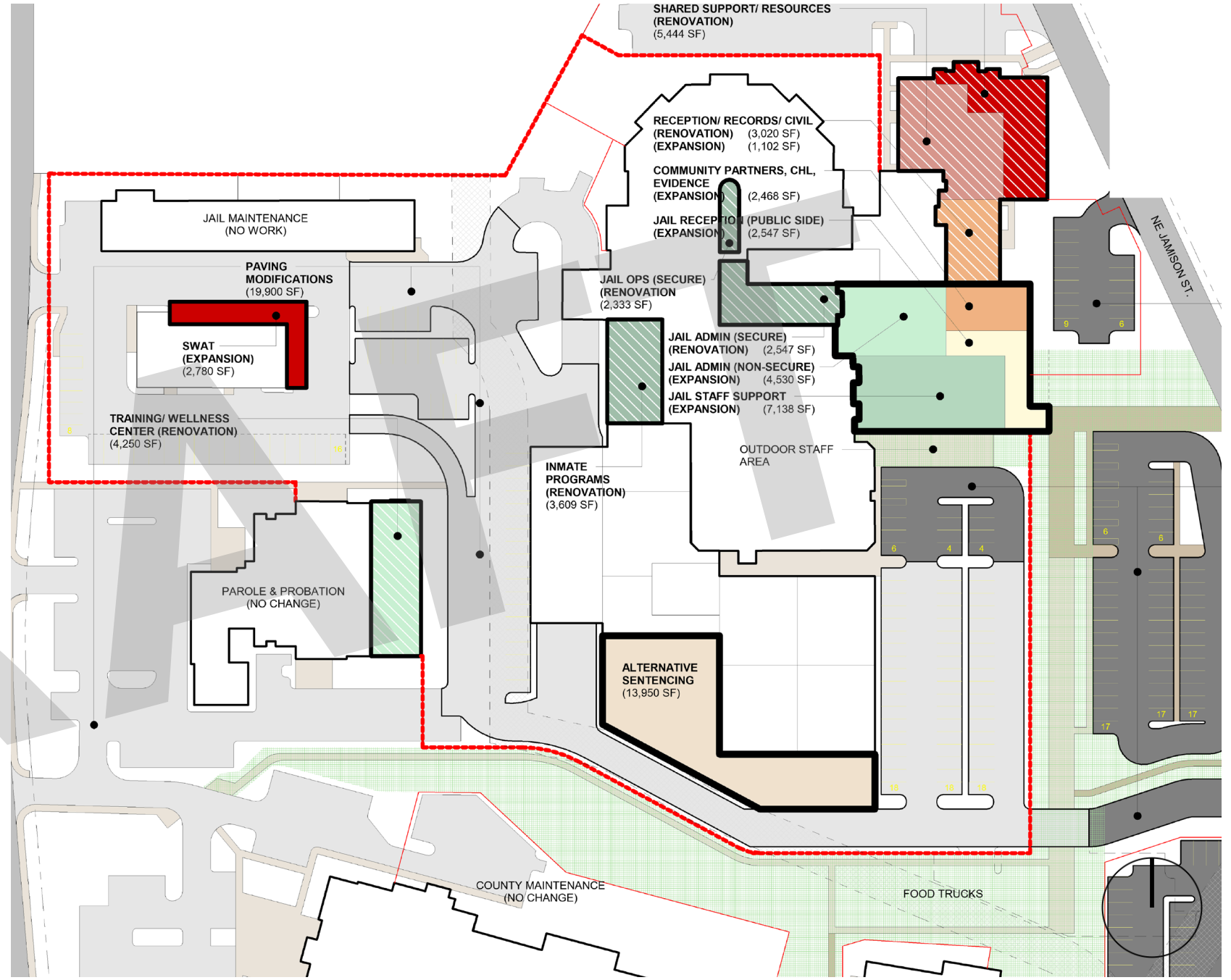
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Patrol</b>			
Light Renovation	4,747	\$ 937	\$ 4,447,939
<b>Shared Support / Resources</b>			
Heavy Renovation	6,334	\$ 1,565	\$ 9,912,710
<b>Reception / Records / Civil</b>			
New Construction	2,155	\$ 1,098	\$ 2,366,190
Heavy Renovation	3,020	\$ 1,690	\$ 5,103,800
<b>Community Partners, CHL &amp; Evidence</b>			
New Construction	2,469	\$ 1,760	\$ 4,345,440
<b>Detectives</b>			
Light Renovation	4,648	\$ 937	\$ 4,355,176
<b>Administration</b>			
Light Renovation	9,979	\$ 937	\$ 9,350,323
<b>Digital Forensics &amp; IT</b>			
New Construction	6,521	\$ 1,760	\$ 11,476,960
<b>Training</b>			
New Construction	9,774	\$ 1,760	\$ 17,202,240
<b>Evidence Storage Off-Site</b>			
New Construction	20,053	\$ 1,760	\$ 35,293,280
<b>SWAT</b>			
New Construction	2,876	\$ 937	\$ 2,694,812
<b>Existing Station 10</b>			
Light Refresh	60,130	\$ 163	\$ 9,801,190
<b>Secure Parking (Uncovered)</b>			
Site Modifications	6,109	\$ 80	\$ 488,720
<b>Search &amp; Rescue Off-Site</b>			
New Construction	370	\$ 1,695	\$ 627,150

<b>Search &amp; Rescue Covered Parking Off-Site</b>			
New Construction	2,160	\$ 828	\$ 1,788,480
<b>Search &amp; Rescue Uncovered Parking Off-Site</b>			
New Paving	3,400	\$ 82	\$ 278,800
<b>Vehicle Maintenance Off-Site</b>			
New Construction	3,849	\$ 1,127	\$ 4,337,823
<b>Vehicle Maintenance Uncovered Parking Off-Site</b>			
New Paving	10,200	\$ 82	\$ 836,400
<b>STATION 10 LONG TERM SUBTOTAL</b>		\$	<b>124,707,433</b>



# Long-Term Priorities (11-20 Years)

SHERIFF'S OFFICE ADULT JAIL (STATION 9)			
	AREA (SF)	COST/SF	TOTAL (\$)
<b>Inmate Programs</b>			
Heavy Renovation	3,609	\$ 2,282	\$ 8,235,738
<b>Jail Administration (Secure)</b>			
Heavy Renovation	2,547	\$ 2,282	\$ 5,812,254
<b>Jail Operations</b>			
Heavy Renovation	2,333	\$ 2,282	\$ 5,323,906
<b>Jail Administration (Non-Secure)</b>			
New Construction	4,503	\$ 1,760	\$ 7,925,280
<b>Jail Reception</b>			
New Construction	2,547	\$ 1,760	\$ 4,482,720
<b>Staff Support (Non-Secure)</b>			
New Construction	7,138	\$ 1,760	\$ 12,562,880
<b>Alternative Sentencing</b>			
New Construction	13,951	\$ 1,760	\$ 24,553,760
<b>Site Modifications</b>			
Paving Modifications	63,538	\$ 82	\$ 5,210,116
<b>Existing Station 9</b>			
Light Refresh	121,834	\$ 163	\$ 19,858,942
<b>STATION 9 LONG TERM SUBTOTAL</b>		\$	<b>93,965,596</b>





# COST ESTIMATE

Conceptual estimates were done for the purpose of prioritizing campus needs and potential projects. Potential project costs include numerous assumptions and variables that will likely change over time. These estimates are to be taken as a best guess estimate figures that lie within a possible range. No detailed design studies have been conducted. The program areas and construction types estimated are reasonable assumptions based on group discussions with Deschutes County. Therefore these estimate figures are only to be used for high level decision making and next steps planning. They are not to be used for capital funding requests. More study is needed.

## **BASIS OF COST ESTIMATE**

### **Pricing is based on the following general conditions of construction:**

- The general contract procurement method will be CM/GC
- Pricing assumes a minimum of (3) bidders in all trades
- There will not be small business set aside requirements
- Key subcontractors will be brought on as trade partners
- The contractor will be required to pay prevailing wages

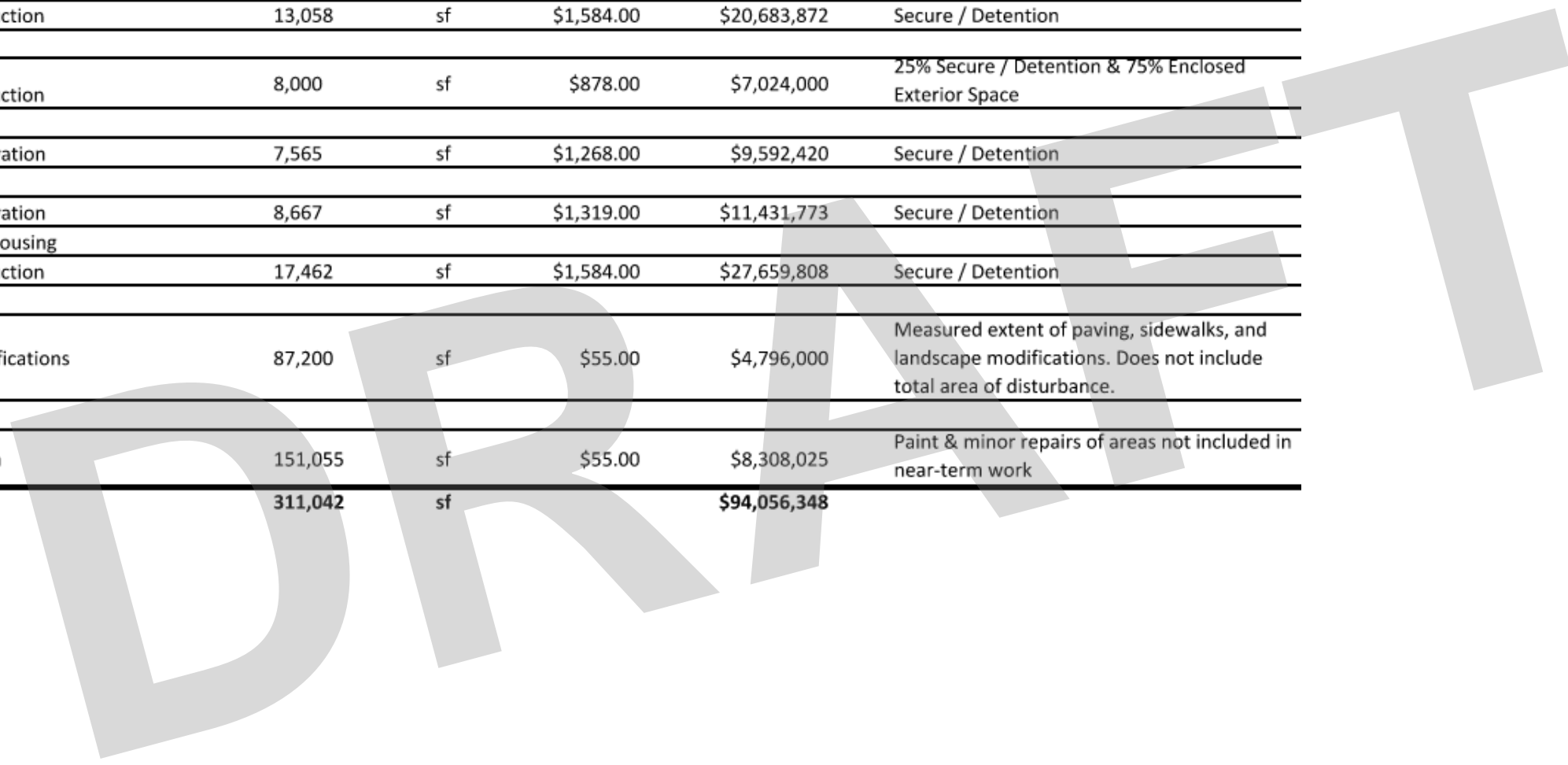
### **Exclusions:**

- Oregon BOLI fees
- Allowance for Percent for Art
- Adjustments for workforce training/PLA/MWESB
- Ground improvements or special foundations
- Hazardous material handling, disposal and abatement except as identified
- Compression of schedule, premium or shift work, and restrictions on the contractor's working hours
- Assessments, taxes, finance, legal and development charges
- Land and easement acquisition
- Environmental impact mitigation

NEAR TERM (5-YEAR) PROJECTS (2028-2032)						
Department	Construction Type	Quantity	Unit	Rate	Total	Additional Notes
<b>DC Sheriff's Office: Adult Jail (Station 9)</b>						
A1	Construction Costs					
	Visitation & Arraignment					
	New Construction	725	sf	\$1,303.00	\$944,675	Secure / Detention
	Heavy Renovation	2,155	sf	\$1,264.00	\$2,723,920	Secure / Detention
	Site Modifications					
	Paving Modifications	10,000	sf	\$46.00	\$460,000	Measured extent of paving, sidewalks, and landscape modifications. Does not include total area of disturbance.
	<b>Total Construction Costs</b>	<b>12,880</b>	<b>sf</b>		<b>\$4,128,595</b>	
<b>DC Sheriff's Office: Admin Building &amp; Support Services (Station 10)</b>						
A2	Construction Costs					
	Evidence Storage					
	New Construction	3,378	sf	\$975.00	\$3,293,550	Secure / Law Enforcement
	Heavy Renovation	1,708	sf	\$936.00	\$1,598,688	Secure / Law Enforcement
	Concealed Handgun License (CHL)					
	Heavy Renovation	500	sf	\$997.00	\$498,500	50% Secure Law Enforcement / 50% Admin
	Administration					
	New Construction	4,105	sf	\$892.67	\$3,664,425	Admin Offices
	<b>Total Construction Costs</b>	<b>9,691</b>	<b>sf</b>		<b>\$9,055,163</b>	
B	Construction Cost Contingency					
	Estimating Contingency	0%	of A1 & A2 Total		\$0	Estimate reflects contingency
	Owner Construction Contingency	10%	of A1 & A2 Total		\$1,318,376	
	Escalation (add 5% for each year after 2032)	0%	of A1 & A2 Total		\$0	Estimate reflects 5% per year to midpoint of each phase (44% factored for near-term), compound rates
	<b>Total Construction Cost Contingency</b>				<b>\$1,318,376</b>	
C	Soft Costs					
	A&E Fees, Permits, Inspections, Owner's Insurance	25%	of A1 & A2 Total		\$3,295,939	
D	Interior Costs					
	Furniture, Fixtures & Equipment	\$30	per sq ft A1 + A2 Total		\$677,130	
E	Total Project Costs					
	Total Construction Costs		A1+A2		\$13,183,758	
	Total Construction Cost Contingency		B		\$1,318,376	
	Total Soft Costs		C		\$3,295,939	
	Total Interior Costs		D		\$677,130	
	<b>Total Near-Term Project Costs</b>				<b>\$18,475,203</b>	



<b>MID TERM (10-YEAR) PROJECTS (2033-2037)</b>						
Department	Construction Type	Quantity	Unit	Rate	Total	Additional Notes
<b>DC Sheriff's Office: Adult Jail (Station 9)</b>						
A1	<b>Construction Costs</b>					
<b>Relocate Jail Maintenance</b>						
	Demolish	7,810	sf	\$55.00	\$429,550	Demolition of existing facilities
	Light Renovation	10,225	sf	\$404.00	\$4,130,900	Warehouse / Utility Space
<b>Intake / Release</b>						
	New Construction	13,058	sf	\$1,584.00	\$20,683,872	Secure / Detention
<b>Vehicle Sallyport</b>						
	New Construction	8,000	sf	\$878.00	\$7,024,000	25% Secure / Detention & 75% Enclosed Exterior Space
<b>Health Services</b>						
	Heavy Renovation	7,565	sf	\$1,268.00	\$9,592,420	Secure / Detention
<b>Food Service &amp; Laundry</b>						
	Heavy Renovation	8,667	sf	\$1,319.00	\$11,431,773	Secure / Detention
<b>Mental Health &amp; Orientation Housing</b>						
	New Construction	17,462	sf	\$1,584.00	\$27,659,808	Secure / Detention
<b>Site Modifications</b>						
	Paving Modifications	87,200	sf	\$55.00	\$4,796,000	Measured extent of paving, sidewalks, and landscape modifications. Does not include total area of disturbance.
<b>Existing Station 9</b>						
	Light Refresh	151,055	sf	\$55.00	\$8,308,025	Paint & minor repairs of areas not included in near-term work
<b>Total Construction Costs</b>		<b>311,042</b>	<b>sf</b>		<b>\$94,056,348</b>	





DC Sheriff's Office: Admin Building & Support Services (Station 10)						
A2 Construction Costs						
<b>Relocate SWAT</b>						
	Demolition	5,535	sf	\$55.00	\$304,425	Demolition of existing facilities
	Light Renovation	6,260	sf	\$632.00	\$3,956,320	Secure Law Enforcement
<b>Vehicle Maintenance, Off-Site</b>						
	New Construction	28,626	sf	\$759.00	\$21,727,134	Warehouse / Utility Space. New development of future off-site location. Includes excavation of relatively flat site, utility infrastructure, street improvements, paving, landscaping, secure fencing with (1) vehicle gate. Assume future offsite location doesn't require demolition of existing facilities. Doesn't include acquisition costs.
<b>Vehicle Maintenance Fueling Station, Off-Site</b>						
	New Construction, Covered Only	3,000	sf	\$755.00	\$2,265,000	
<b>Reception / Records / Civil</b>						
	New Construction	2,155	sf	\$1,098.00	\$2,366,190	Admin Offices
<b>Administration</b>						
	New Construction	2,076	sf	\$988.00	\$2,051,088	Admin Offices
	Light Renovation	3,634	sf	\$632.00	\$2,296,688	Admin Offices
<b>Search &amp; Rescue, Off-Site</b>						
	New Construction	17,388	sf	\$1,142.00	\$19,857,096	Warehouse / Utility / Admin space. New development of future off-site location adjacent to vehicle maintenance. Doesn't include acquisition costs.
<b>Search &amp; Rescue Covered Parking, Off-Site</b>						
	New Construction	10,600	sf	\$558.00	\$5,914,800	
<b>Search &amp; Rescue Uncovered Parking, Off-Site</b>						
	New Paving	23,800	sf	\$55.00	\$1,309,000	
<b>Existing Station 10</b>						
	Light Refresh	117,337	sf	\$55.00	\$6,453,535	Paint & minor repairs of areas not included in near-term work
<b>Total Construction Costs</b>		<b>220,411</b>	<b>sf</b>		<b>\$68,501,276</b>	

Campus Improvements						
<b>A3 Construction Costs</b>						
Stabilization Center Expansion						
	New Construction	6,500	sf	\$988.00	\$6,422,000	Admin Offices, expansion of current location
	Light Renovation	5,283	sf	\$568.00	\$3,000,744	Remodel to accommodate addition
Stabilization Center Secure Uncovered Parking						
	Site Modifications	5,300	sf	\$82.00	\$434,600	Measured extent of paving, sidewalks, and landscape modifications. Does not include total area of disturbance.
Juvenile Division TI						
	Heavy Renovation	4,000	sf	\$949.00	\$3,796,000	Remodel of existing lobby/waiting & public vertical circulation.
Outdoor / Landscape Modifications						
	Site Modifications	55,250	sf	\$77.00	\$4,254,250	Measured extent of sidewalks and landscape modifications. Includes single plaza with additional landscaping. Does not include total area of disturbance.
911 Storage & Secure Parking						
	New Construction	6,690	sf	\$374.00	\$2,502,060	PEMB building w/ freeze protection
	Secure Parking	30,520	sf	\$67.00	\$2,061,232	Includes 777 LF of 8' H chain link fencing, (1) vehicular gate, (1) man gate, utility infrastructure and excavation
Oregon State Police Storage & Secure Parking						
	New Construction	6,690	sf	\$374.00	\$2,502,060	PEMB building w/ freeze protection
	Secure Parking	13,638	sf	\$79.00	\$1,082,188	Includes 512 LF of 8' H chain link fencing, (1) vehicular gate, (1) man gate, utility infrastructure and excavation
NW Service Road						
	Road Extension	435	lf	\$7,151.00	\$3,110,685	Assumes 36' wide road with ROW improvements
<b>Total Construction Costs</b>		<b>134,306</b>	<b>sf</b>		<b>\$29,165,819</b>	
<b>B Construction Cost Contingency</b>						
	Estimating Contingency	0%	of A1, A2 & A3 Total		\$0	Estimate reflects contingency
	Owner Construction Contingency	10%	of A1, A2 & A3 Total		\$19,172,344	
	Escalation (add 5% for each year after 2032)	0%	of A1, A2 & A3 Total		\$0	Estimate reflects 5% per year to midpoint of each phase (84% factored for near-term), compound rates
<b>Total Construction Cost Contingency</b>					<b>\$19,172,344</b>	
<b>C Soft Costs</b>						
	A&E Fees, Permits, Inspections, Owner's Insurance	25%	of A1, A2 & A3 Total		<b>\$47,930,861</b>	
<b>D Interior Costs</b>						
	Furniture, Fixtures & Equipment	\$30	per sq ft A1 + A2 + A3 Total		<b>\$19,972,770</b>	
<b>E Total Project Costs</b>						
	Total Construction Costs		A1+A2+A3		\$191,723,443	
	Total Construction Cost Contingency		B		\$19,172,344	
	Total Soft Costs		C		\$47,930,861	
	Total Interior Costs		D		\$19,972,770	
<b>Total Mid-Term Project Costs</b>					<b>\$278,799,418</b>	



LONG TERM (20-YEAR) PROJECTS (2043-2047)						
Department	Construction Type	Quantity	Unit	Rate	Total	Additional Notes
DC Sheriff's Office: Adult Jail (Station 9)						
A1 Construction Costs						
Inmate Programs						
	Heavy Renovation	3,609	sf	\$2,282.00	\$8,235,738	Secure / Detention
Jail Administration, Secure						
	Heavy Renovation	2,547	sf	\$2,282.00	\$5,812,254	Secure / Detention
Jail Operations						
	Heavy Renovation	2,333	sf	\$2,282.00	\$5,323,906	Secure / Detention
Jail Administration, Non-Secure						
	New Construction	4,503	sf	\$1,760.00	\$7,925,280	Non-Secure / Detention
Jail Reception						
	New Construction	2,547	sf	\$1,760.00	\$4,482,720	Non-Secure / Detention
Staff Support Space, Non-Secure						
	New Construction	7,138	sf	\$1,760.00	\$12,562,880	Non-Secure / Detention
Alternative Sentencing						
	New Construction	13,951	sf	\$1,760.00	\$24,553,760	Secure / Detention
Site Modifications						
	Paving Modifications	63,538	sf	\$82.00	\$5,210,116	Measured extent of paving, sidewalks, and landscape modifications. Does not include total area of disturbance. Includes 2 new secure vehicle gates and ~500' of secure fencing.
Existing Station 9						
	Light Refresh	121,834	sf	\$163.00	\$19,858,942	Paint & minor repairs of areas not included in mid-term work
<b>Total Construction Costs</b>		<b>222,000</b>	<b>sf</b>		<b>\$93,965,596</b>	

DC Sheriff's Office: Admin Building & Support Services (Station 10)						
A2 Construction Costs						
<b>Patrol</b>						
	Light Renovation	4,747	sf	\$937.00	\$4,447,939	Secure Law Enforcement
<b>Shared Support / Resources</b>						
	Heavy Renovation	6,334	sf	\$1,565.00	\$9,912,710	Admin Offices
<b>Reception / Records / Civil</b>						
	New Construction	1,102	sf	\$1,760.00	\$1,939,520	Admin Offices
	Heavy Renovation	3,020	sf	\$1,690.00	\$5,103,800	Admin Offices
<b>Community Partners, CHL &amp; Evidence</b>						
	New Construction	2,469	sf	\$1,760.00	\$4,345,440	Secure Law Enforcement
<b>Detectives</b>						
	Light Renovation	4,648	sf	\$937.00	\$4,355,176	Secure Law Enforcement
<b>Administration</b>						
	Light Renovation	9,979	sf	\$937.00	\$9,350,323	Admin Offices
<b>Digital Forensics &amp; IT</b>						
	New Construction	6,521	sf	\$1,760.00	\$11,476,960	Secure Law Enforcement
<b>Training</b>						
	New Construction	9,774	sf	\$1,760.00	\$17,202,240	Admin Offices
<b>Evidence Storage, Off-Site</b>						
	New Construction	20,053	sf	\$1,760.00	\$35,293,280	Secure Law Enforcement
<b>SWAT</b>						
	New Construction	2,876	sf	\$1,760.00	\$5,061,760	Secure Law Enforcement
<b>Existing Station 10</b>						
	Light Refresh	60,130	sf	\$163.00	\$9,801,190	Paint & minor repairs of areas not included in mid-term work
<b>Secure Parking Uncovered</b>						
	Site Modifications	6,109	sf	\$80.00	\$488,720	On-site secure parking expansion
<b>Search &amp; Rescue, Off-Site</b>						
	New Construction	370	sf	\$1,695.00	\$627,150	50% Secure Law Enforcement & 50% Admin Offices, expansion of mid-term improvements
<b>Search &amp; Rescue Covered Parking, Off-Site</b>						
	New Construction	2,160	sf	\$828.00	\$1,788,480	Expansion of building from mid-term
<b>Search &amp; Rescue Uncovered Parking, Off-Site</b>						
	New Paving	3,400	sf	\$82.00	\$278,800	Expansion of parking from mid-term
<b>Vehicle Maintenance, Off-Site</b>						
	New Construction	3,849	sf	\$1,127.00	\$4,337,823	Expansion of building from mid-term
<b>Vehicle Maintenance Uncovered Parking, Off-Site</b>						
	New Paving	10,200	sf	\$82.00	\$836,400	Expansion of parking from mid-term
<b>Total Construction Costs</b>		<b>157,741</b>	<b>sf</b>		<b>\$126,647,711</b>	



Campus Improvements					
<b>A3 Construction Costs</b>					
Stabilization Center Parking Uncovered					
Site Modifications	15,500	sf	\$82.00	\$1,271,000	Expansion of parking from mid-term
County Maintenance Buildings					
New Construction	2,400	sf	\$1,127.00	\$2,704,800	Warehouse / Utility space. Includes only site county facility storage buildings, excludes central county maintenance facility.
County Maintenance Parking					
New Paving	3,000	sf	\$82.00	\$246,000	on-site dedicated parking for maintenance
Training & Wellness Center					
Heavy Renovation	4,205	sf	\$1,565.00	\$6,580,825	Conversion of former work crew space to new use for entire campus
911 & Oregon State Police TI					
Light Renovation	1,700	sf	\$937.00	\$1,592,900	Secure Law Enforcement.
Recovery Center Remodel					
Heavy Renovation	7,900	sf	\$1,467.00	\$11,589,300	Remodel for aged building improvements
Outdoor / Landscape Modifications					
Site Modifications	46,750	sf	\$115.00	\$5,376,250	Measured extent of sidewalks and landscape modifications. Includes single plaza with additional landscaping. Does not include total area of disturbance.
911 & Oregon State Police Addition					
New Construction	12,522	sf	\$2,524.00	\$31,605,528	2-story addition
<b>Total Construction Costs</b>	<b>93,977</b>	<b>sf</b>		<b>\$60,966,603</b>	
<b>B Construction Cost Contingency</b>					
Estimating Contingency	0%	of A1, A2 & A3 Total		\$0	Estimate reflects contingency
Owner Construction Contingency	10%	of A1, A2 & A3 Total		\$28,157,991	
Escalation (add 5% for each year after 2032)	0%	of A1, A2 & A3 Total		\$0	Estimate reflects 5% per year to midpoint of each phase (200% factored for near-term), compound rates
<b>Total Construction Cost Contingency</b>				<b>\$28,157,991</b>	
<b>C Soft Costs</b>					
A&E Fees, Permits, Inspections, Owner's Insurance	25%	of A1, A2 & A3 Total		<b>\$70,394,978</b>	
<b>D Interior Costs</b>					
Furniture, Fixtures & Equipment	\$30	per sq ft A1 + A2 + A3 Total		<b>\$14,211,540</b>	
<b>E Total Project Costs</b>					
Total Construction Costs		A1+A2+A3		\$281,579,910	
Total Construction Cost Contingency		B		\$28,157,991	
Total Soft Costs		C		\$70,394,978	
Total Interior Costs		D		\$14,211,540	
<b>Total Long-Term Project Costs</b>				<b>\$394,344,419</b>	





# WELCOME

## DESCHUTES COUNTY 2023 PUBLIC SAFETY CAMPUS PLAN

ENHANCING THE LIVES OF CITIZENS BY DELIVERING  
QUALITY SERVICE IN A COST-EFFECTIVE MANNER



**Otak CPM**

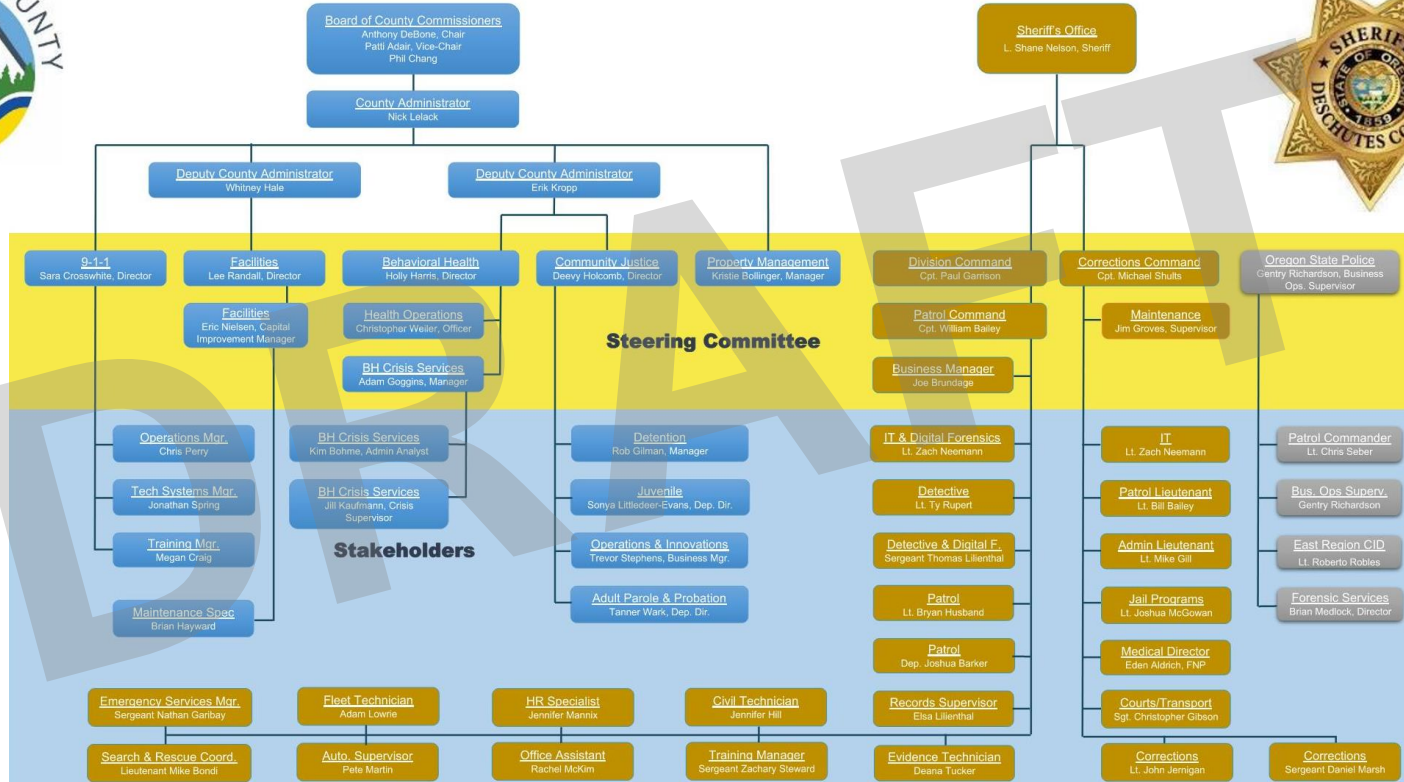
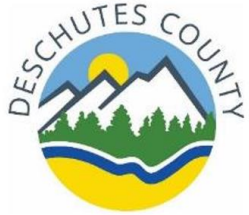
COMPREHENSIVE  
PROJECT  
MANAGEMENT

**KWB**  
architects

pinnacle  
architects

# ACKNOWLEDGEMENTS

04/24/2024 Item #4.









# Other Community Stakeholder Groups

- City of Bend
- Oregon Department of Transportation (ODOT)
- Swalley Irrigation District





# DC PUBLIC SAFETY CAMPUS BACKGROUND & PLAN PURPOSE



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# 2023 CAMPUS PLAN SHARED VISION

04/24/2024 Item #4.



Otak CPM

COMPREHENSIVE  
PROJECT  
MANAGEMENT



# DESCHUTES COUNTY GOALS & OBJECTIVES



DRAFT



Otak CPM

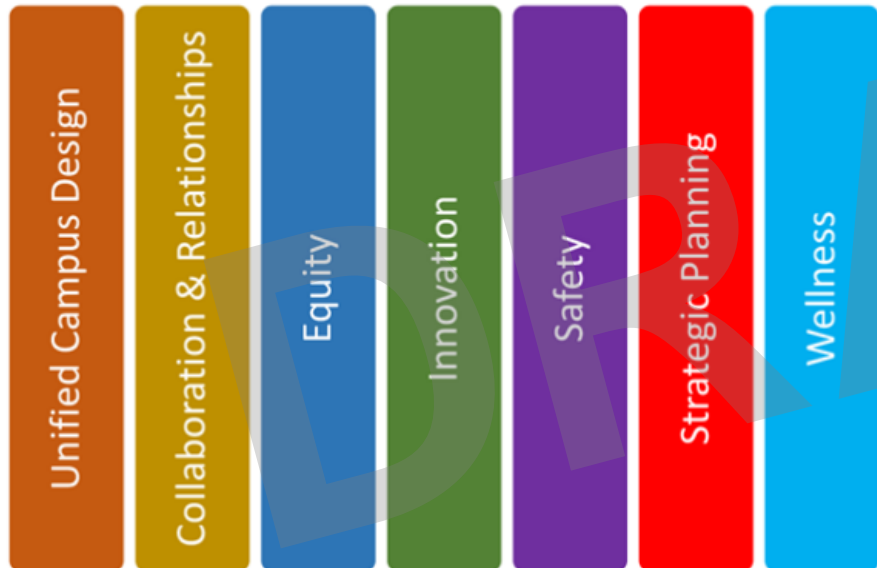
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# Delivery of Core Services



# 2023 CAMPUS PLAN GUIDING PRINCIPALS



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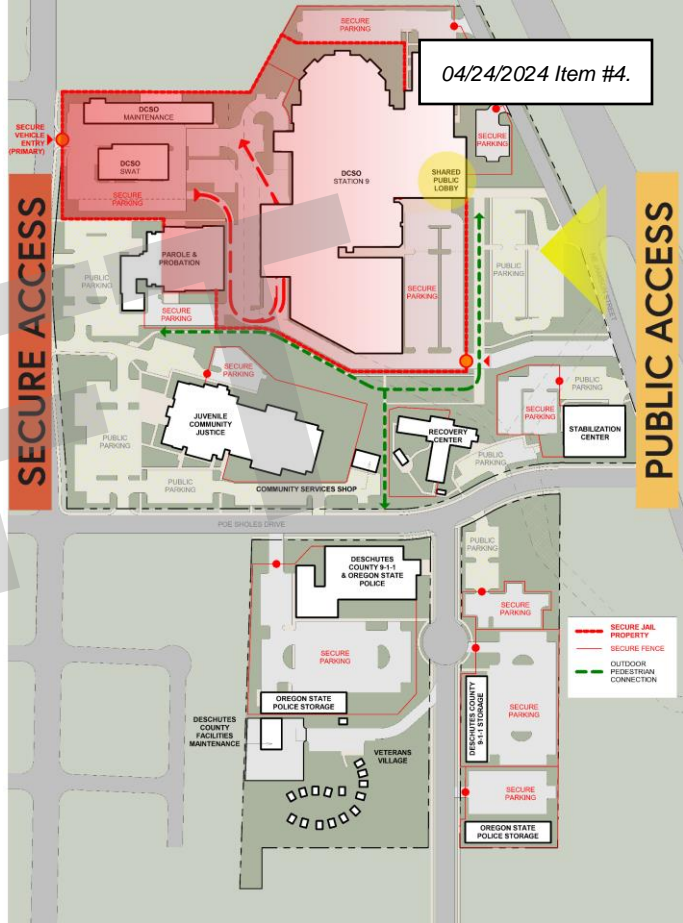
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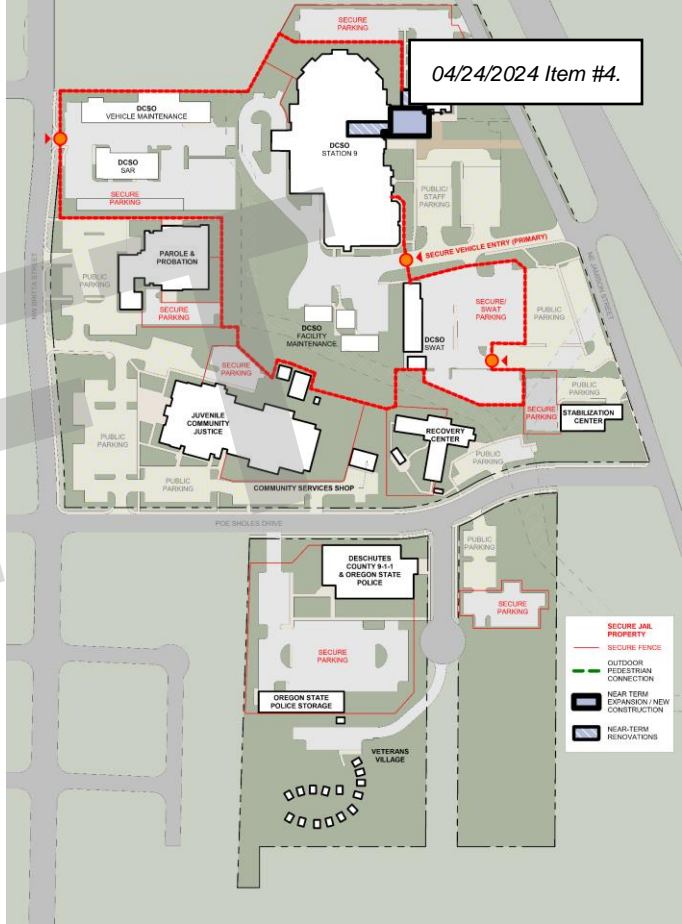
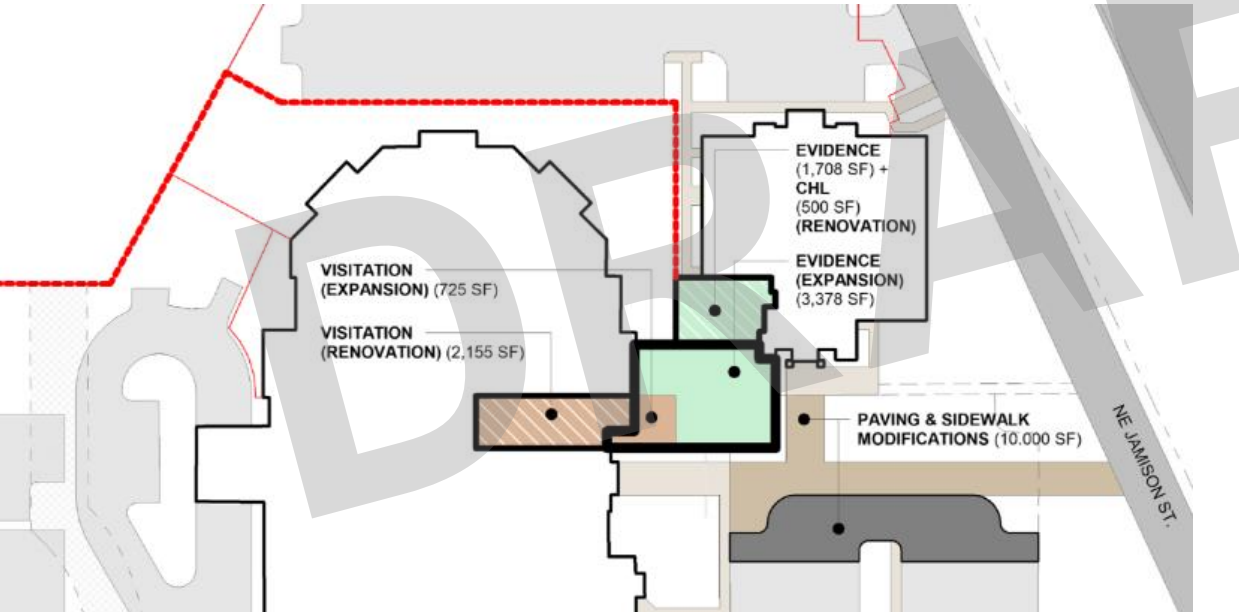
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# LONG-TERM CAMPUS PLAN VISION



# NEAR-TERM CAMPUS PLAN (5-10 YEARS)



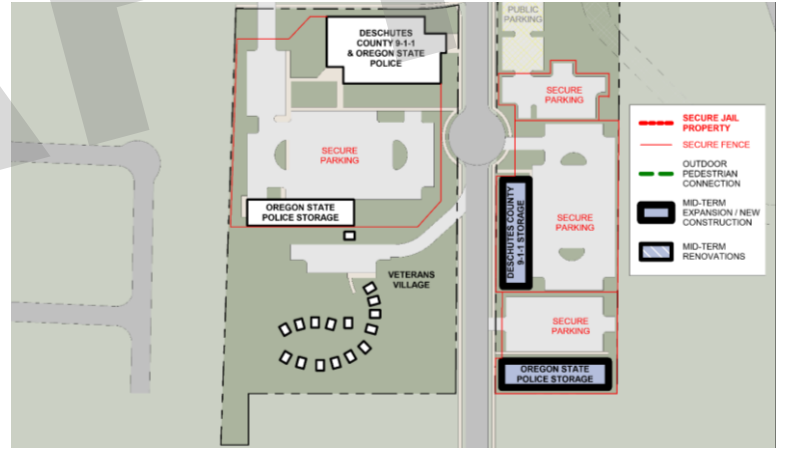
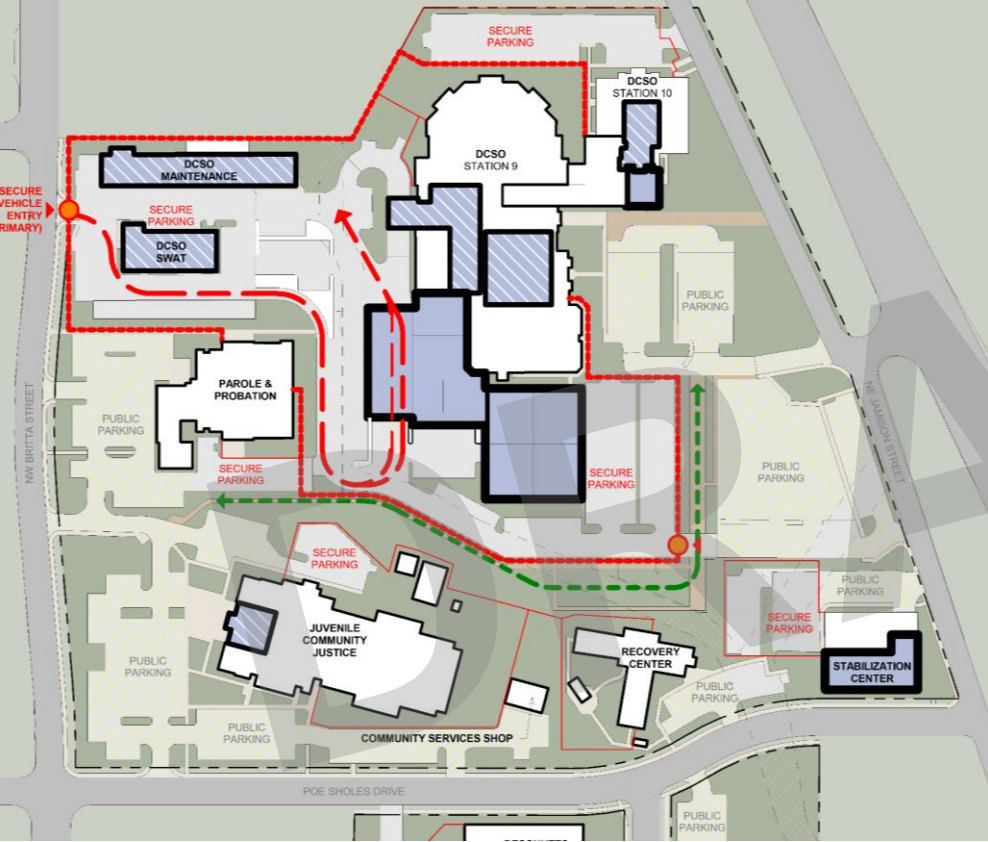
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PROJECT  
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architect

# MID-TERM CAMPUS PLAN (6-10 YEARS)

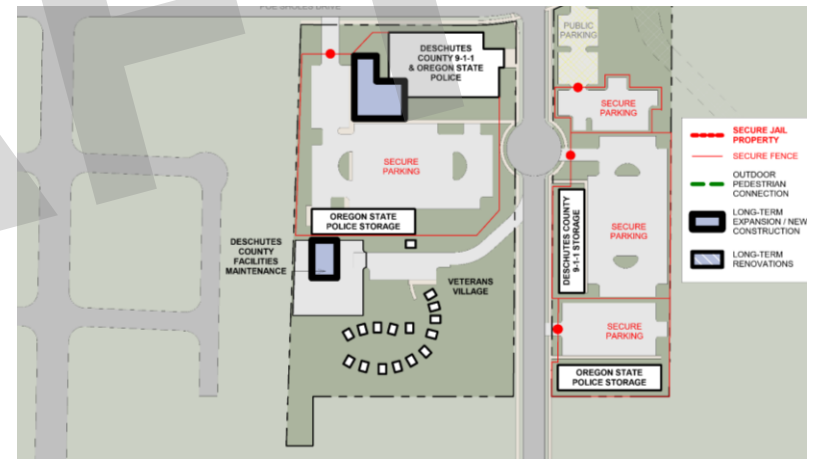
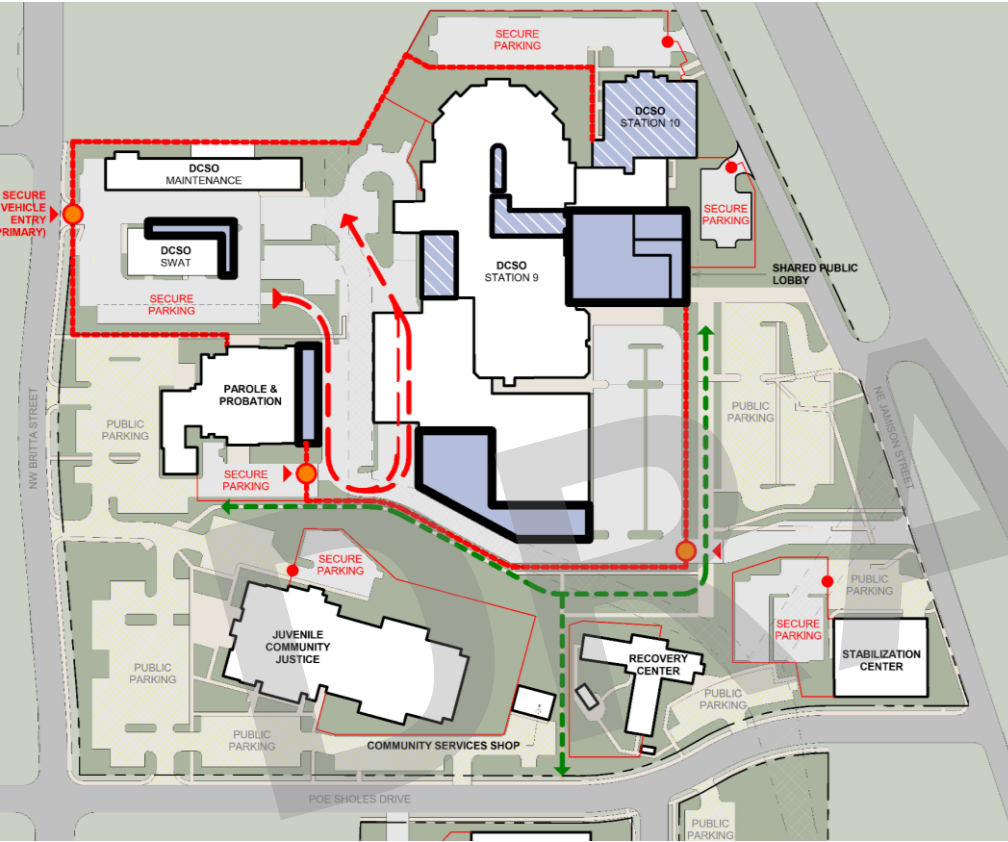


NORTH OF POE SHOLES DR.

SOUTH OF POE SHOLES DR.



# LONG-TERM CAMPUS PLAN (11-20 YEARS)



NORTH OF POE SHOLES DR.

SOUTH OF POE SHOLES DR.





# THANK YOU!

**pinnacle**  
architecture, inc.

ENHANCING LIVES AND COMMUNITIES

**KWB**  
**architects**





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 24, 2024

SUBJECT: Multiple Unit Property Tax Exemption application for Penn Avenue development at 445 NE Penn Avenue, Bend

RECOMMENDED MOTION:

Consider the application from Hiatus Homes for a Multiple Unit Property Tax Exemption relating to property at 445 NE Penn Avenue in Bend.

BACKGROUND AND POLICY IMPLICATIONS:

In August 2022, the Bend City Council adopted a Multiple Unit Property Tax Exemption (MUPTEx) program to support development and redevelopment goals in Bend's core and transit-oriented areas. The program is available for multi-story residential projects in certain areas of Bend that provide three or more units, provide at least three defined public benefits, and that demonstrate that they are not financially viable but for the tax exemption

The Penn Avenue project proposes one 3-story micro-unit building with 59 dwelling units outside the Core Tax Increment Finance (TIF) Area. The applicant would be required to deed-restrict 18 of the units to middle income levels (i.e., available to those making 120% Area Median Income or less) for the 10-year exemption period. The other two required public benefits that the applicant is using to qualify for MUPTEx include stormwater facilities designed to retain and treat stormwater from more than a 25-year storm event, and at least 50% of parking spaces to be provided with EV charging infrastructure (see staff report for more details).

***This application is a revised application for a property tax exemption that was previously approved by the Board.*** The primary differences between the current application in comparison to the initial one are the addition of 19 residential units (six of these additional units would be deed restricted to those making 120% AMI or less) and a 50% reduction of total parking spaces, including one less space to be served with EV charging infrastructure.

The applicant has not begun construction and has communicated that it cannot proceed with construction without this tax exemption. For this project to qualify for the tax exemption, it must be approved by the boards which represent at least 51% of the

combined levy of taxing districts. This project was reviewed by the Bend City Council on April 17, 2024 and will be considered by the School Board on May 14, 2024.

**BUDGET IMPACTS:**

The City has not provided estimated impacts to Deschutes County and the 911 Service District over the ten years of the tax exemption period, if granted, because the project is not financially possible without the exemption and thus will not be built unless the exemption is approved.

The City does note that the project is estimated to receive a total 10-year tax exemption of approximately \$1.28 million on residential and parking improvements based on an estimated building value of \$15,424,128—see Table 1 in the staff report which projects the amount of property tax that would be collected in year 11 after the exemption expires.

**ATTENDANCE:**

Nick Lelack, County Administrator  
Allison Platt, Core Area Project Manager, City of Bend



**CITY OF BEND**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

**STAFF REPORT FOR  
MULTIPLE UNIT PROPERTY TAX EXEMPTION**

**PROJECT NUMBER:** PRTX202300065  
**CITY COUNCIL DATE:** April 17, 2024  
**APPLICANT/  
OWNER:** Hiatus Homes  
Jesse Russell  
740 NE 3<sup>rd</sup> Street 3-314  
Bend, OR 97703

**OWNER:** Hiatus Capital Fund LLC  
20856 SE Sotra Loop  
Bend, OR 97702

**APPLICANT'S  
REPRESENTATIVE:** n/a

**LOCATION:** 445 NE Penn Avenue Bend, OR; Tax Lot 171233BB00200  
Between Revere and Olney Avenues and NE 4<sup>th</sup> & NE 5<sup>th</sup> Street

**REQUEST:** Multiple Unit Property Tax Exemption, 10-year tax abatement on residential improvements

**STAFF REVIEWER:** Allison Platt, Economic Development

**RECOMMENATION:** Approval

**DATE:** February 20, 2024

**PROJECT & SITE OVERVIEW:**

The project site is at 445 NE Penn Ave in the High Density Residential (RH) zone, outside the Core Tax Increment Finance (TIF) Area. This application, submitted in January 2024, is a revision from an initial Multiple Unit Property Tax Exemption (MUPTE) application submitted by the same applicant in February of 2023. The project, subject to this MUPTE application proposes one (1) 3-story micro-unit building with 59 dwelling units. Thirty percent (30%) - 18 units - will be designated middle income housing and rented at levels affordable to those making 120% Area Median Income (AMI) or less. While the applicant will be required to deed-restrict 18 of the units to middle income levels for the 10-year exemption period, the project's proforma indicates a total of 27 units will likely meet middle-income rental levels (\$1,998 per month or less). In addition, two of the units will be dedicated as units accessible under Americans with Disabilities Act (ADA) standards. The project emphasizes community interaction and will include: three community spaces, one on each floor; a south-facing deck on the third floor; a community kitchen; and co-working spaces. Nine parking spaces will be provided on site and serve the project's tenant and common area uses. Five of these spaces will be served with Electric Vehicle (EV) charging infrastructure. In addition, the project includes



77 total bicycle parking spaces (18 more than is required by the Bend Development Code) as well as e-bike charging stations.

The previous MUPTE application submitted by this applicant was for a micro-unit building that would consist of 40 units utilizing the same public benefits. The primary differences between this application in comparison to the initial application include the following:

- Addition of 19 residential units
  - 6 additional units to be deed restricted to those making 120% AMI or less
- 50% reduction of total parking spaces
  - One less space to be served with EV charging infrastructure

The property is currently vacant land with no buildings, so there is no residential or commercial displacement associated with this project.

A land use decision was approved by the City for this project in September of 2022 (PLSPR20210456) and a modification of approval (PLMOD20230480) to increase the unit count was approved in November of 2023 to increase the total number of units to 59, as proposed in this revised Multiple Unit Property Tax Exemption (MUPTE) application. Building permits for the project (PRNC202202626) were issued in October of 2023 and a building permit revision was submitted to the City on October 31, 2023, for the proposed revisions to the project that are being considered as part of this MUPTE application. The building permit revisions are still under review by the City. The applicant has not begun construction and has communicated to the City that they can't proceed with construction of this revised site plan without this tax exemption. Proceeding with a building permit revision will allow the applicant some administrative efficiencies in moving this project forward if approved for MUPTE.



Figure 1. Site Location



Figure 2. Project Rendering

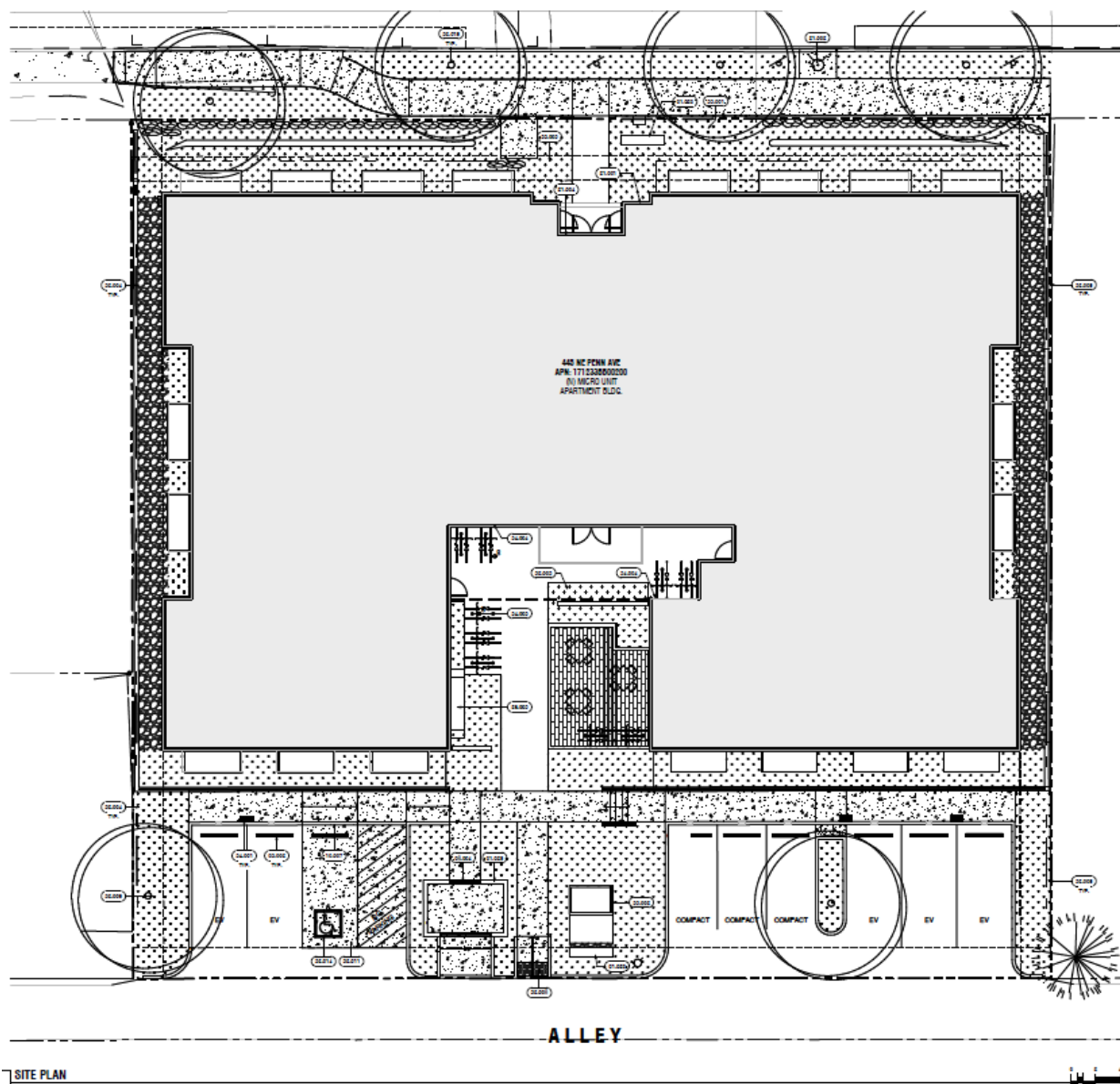


Figure 3. Site Plan

### INFRASTRUCUTURE NEEDED TO SERVE THE SITE

The project will be required to upsize an existing 2-inch water main located within Penn Street to an 8-inch water main to serve the site and improve the alley providing access to the development. Infrastructure improvements, currently being reviewed by the City under permit number PRINF202108539, demonstrate that the site will be served with the necessary infrastructure to serve the development. The applicant received a letter from City of Bend Private Engineering Division confirming this as part of their application.



**ELIGIBILITY CRITERIA**

**APPLICATION OF THE CRITERIA:**

**LOCATION/ELIGIBLE ZONE REQUIREMENTS**

This project is located within the High Density Residential (RH) zone between NE 4<sup>th</sup> Street and NE 5<sup>th</sup> Street, which is an eligible zone for the MUPTE Program per BMC 12.35.015D(3).

**MULTI-STORY REQUIREMENTS**

Projects on lots greater than 10,000 sf must be three (3) or more stories high to be eligible for the MUPTE Program per BMC 12.35.015(C). The proposed project is on a 20,999 square foot lot and is proposed to be 3 stories and satisfies this requirement.

**HOTELS, MOTELS, SHORT TERM VACATION RENTALS ON SITE**

The MUPTE Program requires that projects include a restriction on transient occupancy uses, including use by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days (including bed and breakfast inns, hotels, motels, and short-term rentals). Applicant will be required to demonstrate a restriction of uses on the property for the period of the exemption satisfactory to the City before staff certifies the exemption with the County Assessor’s office.

**JUSTIFICATION FOR ELIMINATION OF ANY EXISTING HOUSING AND BUSINESSES ON THE PROJECT SITE**

The existing site is vacant and therefore there is no anticipated displacement of housing or businesses by the project and therefore no mitigation is proposed. This meets the requirements of the MUPTE Program.

**PUBLIC BENEFIT REQUIREMENTS**

MUPTE requires that applicants provide three public benefits as defined in the MUPTE code, including one priority public benefit to qualify for the MUPTE program, per BMC 12.35.025.

***Priority Public Benefit***

The applicant plans to provide Middle Income Housing as their Priority Public Benefit. This requires the applicant to record a deed restriction limiting 30% of the units as only available to those making 120% Area Median Income (AMI) or less. Based on 2023 Department of Housing and Urban Development’s Income Limits for the Community Development Block Grants (CDBG), 120% AMI in the Bend area is \$79,950 for a family of one (\$91,400 for a household of 2) and therefore rent must be below \$1,998 per month for a studio and \$2,142 for a 1 bedroom including all utilities and other costs of renting. The project includes 59 residential units; therefore 18 units are required to be deed restricted to middle income levels. The applicant has met with City of Bend Housing Department staff and will be required to demonstrate compliance with this public benefit in a form satisfactory to the City before staff certifies the exemption with the County Assessor’s office.



**Additional Public Benefits**

In addition to the Priority Public Benefit, the applicant must provide two additional public benefits as defined in the MUPTE code. The applicant plans to provide the following to meet those requirements: 1) Stormwater; and 2) Electric Vehicle (EV) Charging.

*Stormwater:* The stormwater public benefit requires the applicant to develop the site to retain and treat stormwater from more than a 25-year storm water event by qualifying for the City’s Stormwater Credit program. Qualification for this program is not a minimum requirement of the Bend Development Code; this must be an enhanced stormwater retention and treatment system. City of Bend Utility Department staff have reviewed the Penn Avenue Micro-Apartments Private Site Improvements Stormwater Design Report prepared by Adam Erlandson, PE provided by the applicant and have confirmed that the project meets the requirements of the stormwater credit program. The planned stormwater facilities will be designed to treat a 100-year stormwater event, exceeding the minimum requirements of this public benefit.

*Electric Vehicle (EV) Charging:* The EV charging public benefit requires the applicant to provide at least 10% more parking spaces with EV charging infrastructure (conduit for future electric vehicle charging stations) than the minimum required. Currently Oregon Building Codes require that multifamily projects provide 40% of provided parking spaces with EV charging infrastructure. Therefore, the applicant is required to provide at least 50% of parking spaces

with EV infrastructure. The applicant plans to provide 9 onsite parking spaces and therefore five (5) of these spaces must be provided with EV charging infrastructure.

The applicant provided a power plan for the site as part of their application that demonstrates the required five (5) spaces that will be served with EV charging infrastructure.

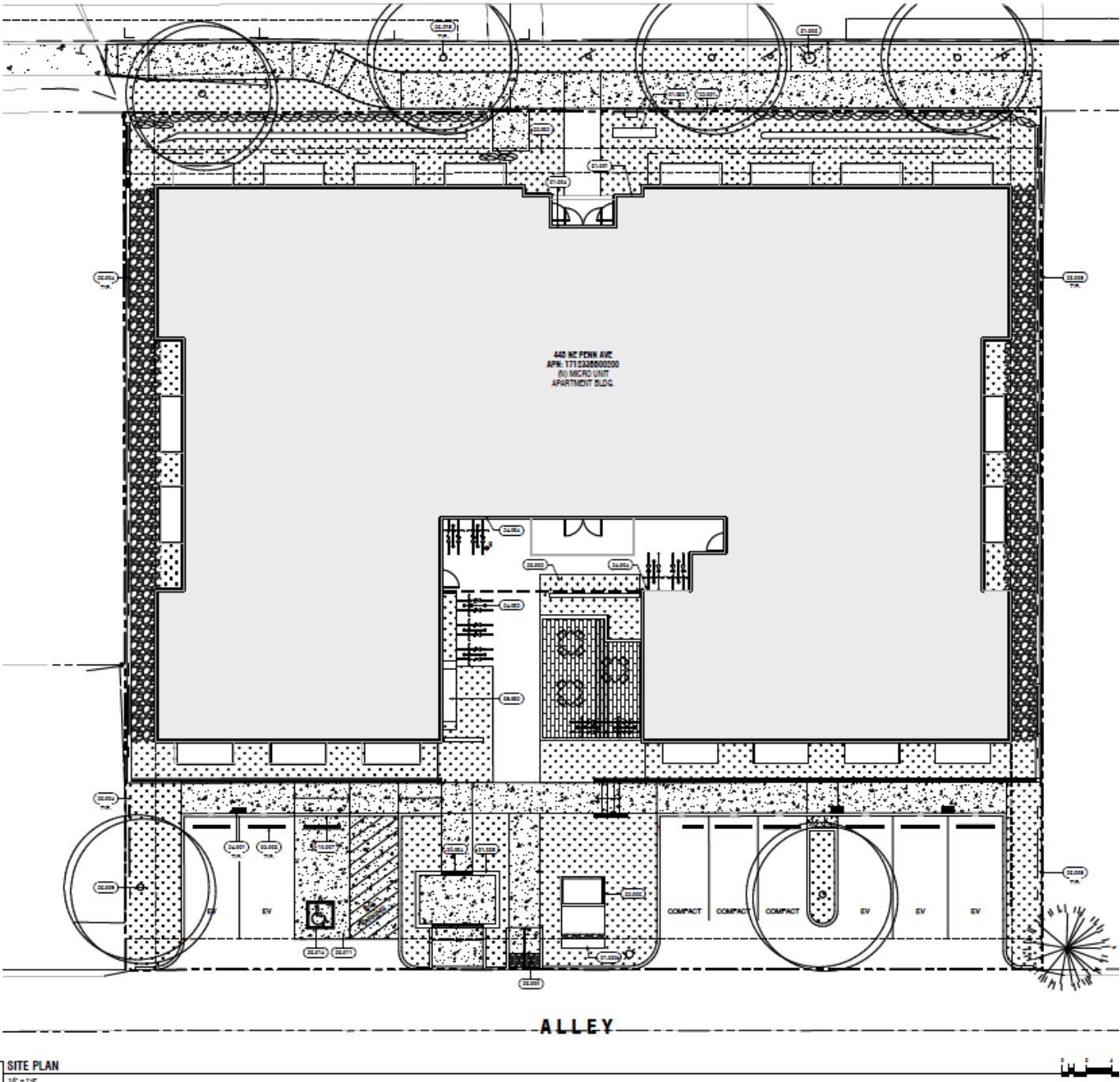


Figure 4. EV Ready Parking Space Locations as indicated on Site Plan (5 EV spaces are designated on Site Plan)

**DEMONSTRATION OF FINANCIAL NEED**

The applicant submitted a proforma income statement both with and without the tax exemption to demonstrate that the project would not be financially viable but for the property tax exemption. These proforma were reviewed by a City-hired third party independent financial consultant.

PNW Economics completed a review of the proformas in February of 2024. A summary of their findings is included as Attachment A. The review confirms that the project, including 18 of 40 units rent-restricted to be affordable to households earning not more than 120% of Area Median Income (AM), is not financially feasible without the MUPTE.

Without MUPTE, the Penn Avenue project’s Internal Rate of Return (IRR)<sup>1</sup> begins at negative 3.6% and grows over time to no more than 5%, well below a rule of thumb minimum IRR of 10%<sup>2</sup>. With MUPTE, the project’s financial feasibility is improved beginning at 5.5% IRR with a maximum IRR of 8.5% achieved, which still never reaches the 10% minimum IRR benchmark.

The financial review suggested that staff should clarify with the developer the rationale for anticipated rental rates of the non-deed restricted units, and their assumed financing interest rates. The item and the applicant’s response are included below:

***Basis for high rental levels for non-middle-income units***

The applicant clarified that assumed rents, which were detailed in the proforma, were valued based on specific amenities for each unit (building floor, unit size, deck square footage, orientation within the building and view) as opposed to picking an average price for a generic unit.

Staff further evaluated the assumed rental levels and found that rental levels for the 59 units vary between \$1,350 to \$1,958 with an average price of \$1,772 per unit for the 27 units that will be priced under \$1999 which is the affordability benchmark for those making 120% Area Median Income or less. The remaining units range between \$2,002 and \$2,997 with an average price of \$2,480 per unit. Units that were estimated to achieve higher rents were on the 2<sup>nd</sup> and 3<sup>rd</sup> floors, had larger deck square footage, and included mountain, butte or hill views as opposed to alley, street, or neighborhood views. Square footage between units did not vary significantly; units projected for higher rents were typically between 452-495 square feet and lower priced units between 466 and 476 square feet.

If not awarded for the tax exemption, the project with these anticipated rents is not feasible. Only if awarded for the tax exemption, can the applicant commit to deed restricting 18 of the units to remain within middle income levels for the exemption period otherwise rental levels for all units would float with the market.

<sup>1</sup> IRR is calculated as the total rate of return for all combined inflows and outflows of equity investment dollars from predevelopment through a hypothetical sale date of the development at its full market value that year.

<sup>2</sup> It should be noted that the rule of thumb minimum of 10% for Internal Rate of Return (IRR) measurement is higher than a rule of thumb minimum of 6% for a Return on Investment (ROI) measurement which has been used to evaluate other MUPTE applicants.

**Financing interest rates (the assumed 8% rate was observed to be on the high side)**

The applicant clarified that when the application was prepared in December, interest rates were at an all-time high and the applicant anticipated 8% interest rates based on a review of multiple Multifamily Commercial Mortgager summary documents. Interest rates have been moving up and down since December, and 8% is conservative in the current environment. The applicant noted that the financial consultant can use their proforma to model the impact of lower interest rates (which staff asked the financial consultant to do as part of a sensitivity analysis). The financial consultant found that it would take an interest rate well below 7% to make a measurable difference to the rate of return.

**ADDITIONAL PUBLIC FUNDS SUPPORTING THIS PROJECT**

On October 4, 2023, the Bend City Council awarded \$225,000 from the 2023 Middle-Income Pilot Program supported by General Fund dollars to this project. The award was contingent on the applicant agreeing to record a deed restriction to restrict rents of at least 18 units to households making up to 120% area median income (AMI) for 10 years. The applicant has stated they will only record the deed restriction if awarded the MUPTE, so they will not receive the Middle-Income grant funds if they do not receive the MUPTE. Council has allowed the applicant until June 4, 2024, to agree to record a deed restriction to receive the Middle-Income grant funds.

**ESTIMATED EXEMPTION & FINANCIAL IMPACT**

This project is estimated to receive a total 10-year tax exemption of approximately **\$1.28 million on residential and parking improvements** based on an estimated building value of \$15,424,128. The project is expected to be completed and certified for MUPTE, if approved, beginning in the 2027 tax year. Because the project is not financially possible without the exemption, the project will not be built, and those tax payments will not happen, unless the project receives MUPTE and therefore the exemption does not represent an actual loss of tax revenue to taxing districts.

Total tax collection for the 10-year exemption period of the site will be about \$46,350 if the project is not constructed and if it is constructed and approved for the tax exemption.

Table 1 demonstrates the tax collection that would take place on the site in year 11, after the the exemption period in both a no build and build scenario of the project. The data shows that in Year 11, total tax collection for the site would increase by 4,998% when the exemption expires. The table demonstrates the tax benefits to all districts starting in Year 11 if this project is approved for MUPTE and moves forward.

**Table 1. Forecasted Tax Collection by Taxing District in Year 11 (2037)**

Taxing District	% of Tax Levy*	No Project is Built	Proposed Project is Built
Bend La Pine School District**	40.5%	\$1,262	\$63,076
City of Bend	21.6%	\$670	\$33,485
Deschutes County (All)	17.9%	\$558	\$27,878
<i>Deschutes County</i>	<i>7.9%</i>	<i>\$246</i>	<i>\$12,304</i>



Taxing District	% of Tax Levy*	No Project is Built	Proposed Project is Built
Countywide Law Enforcement	7.7%	\$240	\$11,992
Countywide Extension	0.1%	\$3	\$156
911 Service District	2.2%	\$69	\$3,426
Bend Park and Recreation District	9.8%	\$305	\$15,263
Central Oregon Community College	4.3%	\$134	\$6,697
Library District	5.3%	\$168	\$8,410
High Desert Education Service District*	0.6%	\$19	\$934
<b>Total</b>	<b>100%</b>	<b>\$3,116</b>	<b>\$155,744</b>

\* These tax collection percentages include division of taxes and local levies.

\*\*The Bend/La Pine School District and the High Desert Education Service District are funded through per pupil allocations from the State School Fund which is comprised of many sources, including property tax revenues. The State Legislature sets the per pupil allocations and funds the State School Fund accordingly. Therefore, tax exemptions have an “indirect” impact on the funding for local districts. Tax exemptions throughout the state all have an impact on the State School Fund.

**TAXING DISTRICT REVIEW PROCESS**

For the tax exemption to apply to the full taxable amount, approval by taxing district agency boards that comprise at least 51% of the combined tax levy is required. Since the City and School District tax rates combine equate to 62.1% of the combined tax levy for the 2023-24 assessment year, if the project is approved by those two districts, the project would be exempt from all taxes on residential and parking improvements. All the Taxing District agencies will be provided a 45-day comment period to review the application materials and this staff report from February 20, 2024, through Council consideration on April 17, 2024.

The following district reviews are scheduled for this project:

- March 19, 2024: Applicant Presentation to Bend Park and Recreation District Board
- April 17, 2024: City Council Review and Decision on Application
- April 24, 2024: Applicant Presentation to Deschutes County Board of County Commissioners
- May 14, 2024: Bend La Pine School District Board Review and Decision on Application

Because the applicant will not have 51% approval before City Council considers the application, the proposed action for City Council will be to approve the exemption for the City’s ad valorem taxes only, and for the total tax levy if 51% approval is reached before the tax exemption is certified to the Deschutes County assessor.

**CONCLUSION:** Based on the application materials submitted by the applicant, and these findings, the proposed project meets all applicable criteria for City Council approval.

**CONDITONS TO BE MET IF APPROVED, IN ADVANCE OF EXEMPTION CERTIFICATION WITH TAX ASSESSOR'S OFFICE:**

1. Applicant must record a deed restriction that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
2. Applicant must record a deed that restricts income levels for 30% of the units at 120% Area Median Income or less for the period of the exemption.
3. Applicant must provide EV charging infrastructure and stormwater facilities as approved for the MUPTE Program in future inspections prior to Certificate of Occupancy. Applicant must record an approved maintenance agreement for stormwater facilities.

**ATTACHMENTS**

- **Attachment A:** Review of Financial Feasibility Penn Avenue Project Hiatus Development, PNW Economics
- **Attachment B:** Application Materials

**MEMORANDUM**

To: Allison Platt  
 Core Area Project Manager  
 CITY OF BEND, OREGON

From: Bill Reid, Principal  
 PNW ECONOMICS, LLC

Subject: Revised MUPTe Return on Investment Findings: Hiatus Penn Avenue Project

Date: February 5, 2024

This memorandum summarized revised return on investment calculations for the Hiatus Penn Avenue project in Bend, Oregon for the purposes of Mixed-Use Property Tax Exemption (MUPTe) benefit consideration by the City of Bend and its partners.

In March of 2023, PNW Economics submitted to the City of Bend a review of the Penn Avenue development MUPTe application financial pro formas required by City ordinance for the MUPTe incentive program. Since that time, Hiatus Development has submitted a revised development plan that does the following:

- Increases the number of planned units at the project to 59 (from 40);
- Provides all units with a loft and deck except two ADA units; and
- Provides 27 units affordable to households earning 120% of Area Median Income, 18 of which would be deed restricted as middle-income units (up from 12 in the prior design).

The project does have updated economics along with the updated development program, thus this memorandum is a summary of updated information about the project and a review in the context of required MUPTe pro forma review.

**Project Design Update & Rents**

Table 1 below provides a summary the new, larger project’s economics.

**Table 1 – Updated Penn Avenue Development Program (Hiatus Development) & 2026 Rents**

Unit Type	Unit Mix		Average Unit Size (Sq. Ft.)	Monthly Rent	Rent per Square Foot
	Units	Percentage			
Lofted One bed	31	53%	502	\$2,476	\$4.93
One bed ADA (No loft, no deck)	1	2%	450	\$2,250	\$5.00
MUPTe Units: 120% AMI	<u>27</u>	<u>46%</u>	<u>492</u>	<u>\$1,772</u>	<u>\$3.60</u>
<b>Subtotals/Averages</b>	<b>59</b>	<b>100%</b>	<b>497</b>	<b>\$2,150</b>	<b>\$4.33</b>

Note: 27 units are planned to rent affordably to households earning no more than 120% of AMI, 18 of which will be deed restricted as “middle income” units.

Overall, units have generally gotten slightly larger and planned monthly rent for standard Lofted one-bed units increased (to \$2,476 on average compared to \$2,050 monthly before). Planned average rent for the 120% of AMI “MUPTe Units” are slightly lower at \$1,772 (compared to \$1,888 on average before). Since almost a year has passed, it is worth reviewing how those rents compare to market presently as context for what rents might be in two years. Published rents at comparable projects are found on the following page.

- **The Current** (954 SW Emkay Drive, Bend) – the newest project to delivery identified in the city:
  - 416 average square foot Studio units for \$1,649 average (\$3.98 per square foot).
  - 548 square foot 1 bed units for \$1,809 average (\$3.30 per square foot).
- **The Nest** (1609 SW Chandler Avenue, Bend):
  - 481 average square foot Studio units for \$1,890 average (\$3.93 per square foot).
- **Solis at Petrosa** (63190 Deschutes Market Road):
  - 620 square foot 1 beds for \$1,805 average (\$2.91 per square foot).
- **The Eddy Apartments** (801 SW Bradbury Way): 678 square foot 1 bed for \$1,913 average (\$2.82 per square foot).
- **Outpost 44 Apartments** (643 NE Ross Road) – located more distantly from the river, central commercial district amenities and east of Highway 97 thus reflecting lower rents than the rest of the peer group.
  - 734 square foot 1 beds for \$1,770 average (\$2.41 per square foot).
- **Jackstraw (Planned)** - The MUPTe-approved Jackstraw project has declared market rents as follows:
  - 483 average square foot Studio units for \$1,824 average (\$3.78 per square foot).
  - 669 average square foot 1 bed units for \$2,167 average (\$3.24 per square foot).
- **Timber Yards A/1 (Planned)** - This project currently has a MUPTe application under review by the City. Its declared rents are as follows:
  - 530 average square foot Studio units for \$1,805 average (\$3.41 per square foot).
  - 744 average square foot 1 bed units for \$2,139 average (\$2.88 per square foot).

**Conclusion: Two years of current market rent growth can plausibly reach planned 2026 rents at the Penn Avenue project. However, what is not clear is how much of a discount by 2026 declared rents for the 120% of AMI units will be. Clarification of 120% of AMI rent levels in 2026 given current rent level context would be appropriate elaboration to ask of the Applicant.**

Should restricted rents be adequately clarified, higher realized rents in the pro forma will tend to make the need for a MUPTe less likely – higher rents covering the same operating expenses will increase cash flow in a manner that helps the project approach financial feasibility without incentives. Should rents materialize lower than documented, the opposite will be true: the Penn Avenue project will have a more challenging path to financial feasibility and so a MUPTe would be more crucial to viability of the new housing units to reach market.



Project Financing Assumptions

Table 2 on the following page provides a summary of revised development costs and project permanent financing assumptions compared to the original application in 2023. Overall, with 19 additional units and a year of significant construction industry cost increases, the project is expected to cost \$21.286 million, up from \$12.7 million before. The project on a per-unit basis continues to be significantly lower than other projects recently reviewed by the City of Bend; Penn Avenue’s total cost per unit is \$360,774 compared to \$475, 415 for Timber Yards A/1 and \$546,956 for the Jackstraw. At only three stories and having no concrete structured parking element, the Penn Avenue project can build with wood frame (“stick built”), which is the least expensive construction method for multi-story structures.

Table 2 – Revised Project Development Costs and Permanent Financing Assumptions

	<b>40 Units</b>	<b>59 Units</b>
	<b>Prior Plan</b>	<b>Revised Plan</b>
<b>Total Development Cost</b>	\$12,698,256	\$21,285,691
<b>Permanent Loan</b>	\$8,253,866	\$9,148,485
<b>Equity</b>	\$4,444,390	\$12,137,206
<b>Percent Financed</b>	65%	43%
<b>Annual Interest Rate</b>	6.00%	8.00%
<b>Amortization (Years)</b>	30	30
<b>Annual Permanent Debt Service</b>	(\$593,833)	(\$805,540)

Permanent financing has changed somewhat, with the project now assumed to be only 43% debt financed, the remaining 57% coming from equity investment. The prior program assumed 65% of the project cost would be financed and the remaining 35% would be equity investment. The change seems in line with lending market as higher risk lending environment generally has led to higher equity investment shares of the total capital stack.

Somewhat unexpectedly, the 30-year interest rate on the planned loan is up to 8.00%. While every developer has different lending and equity investment relationships, an 8.00% interest rate on permanent financing seems somewhat high based on review of other recent projects. The City of Bend may want to have that assumption clarified. Even so, sensitivity analysis conducted by PNW Economics indicates that it would take an interest rate well below 7% to make a measurable difference to the rate of return for the project.

Property Tax & MUPTE Calculation

With a larger project and higher cost of replacement-based value for property tax assessment, the total potential MUPTE for the Penn Avenue project has been updated for Fiscal Year 24 Deschutes County tax information. Results are found in Table 3 on the following page. The larger, more expensive project has resulted in the following Year 1 (2026) property tax estimates for analysis purposes:

- **FY 24 Taxable Assessed Value of Improvements:** \$8.391 million (compared to only \$5.854 million prior).

Prepared for: City of Bend, Oregon  
Prepared by: PNW Economics, LLC  
Updated MUPTE Award and Return on Investment Calculations for the Hiatus Penn Avenue Project

- Year 1 Property Tax on Land Only: \$2,122 (compared to \$2,041 prior).
- Year 1 Property Tax on Improvements Only: \$134,159 (compared to \$92,713 prior). *Property tax for improvements only would be the value of a MUPTTE starting in Year 1 if awarded.*
- Year 1 Total Combined Property Tax: \$136,281 (compared to \$94,754 prior).

**Table 3 – Revised Penn Avenue Project Property Tax & MUPTTE Calculations for FY24**

				Cost of Replacement - Improvements	\$20,823,539		
				Exception Value Ratio - Multifamily (7)	0.403		
				<b>FY 24 Taxable Assessed Value</b>	<b>\$8,391,886</b>		
				<b>Taxable Assessed Value (FY 24)</b>			
<b>Parcel</b>	<b>Account #</b>	<b>Acres</b>	<b>Zoning</b>	<b>Land</b>	<b>Improvements</b>	<b>Total</b>	
445 NE Penn	105177	0.48	RH High Density Residential	\$132,740	\$0	\$132,740	
				Tax Code Area 1001 (per \$1,000 TAV)	15.9868	15.9868	15.9868
				<b>Total Property Tax - Land Only</b>	<b>\$2,122</b>	<b>\$0</b>	<b>\$2,122</b>
445 NE Penn	105177	0.48	RH High Density Residential	\$132,740	\$8,391,886	\$8,524,626	
				Tax Code Area 1001 (per \$1,000 TAV)	15.9868	15.9868	15.9868
				<b>Total Property Tax - Combined</b>	<b>\$2,122</b>	<b>\$134,159</b>	<b>\$136,281</b>

**Updated Internal Rate of Return (IRR) Results: No MUPTTE and Yes MUPTTE**

Table 4 provides annual estimates of Internal Rate of Return (IRR) for the Penn Avenue project assuming no MUPTTE is awarded as well as assuming a MUPTTE is awarded, for necessary comparisons. It should be noted that Hiatus Development has chosen to express rate of return utilizing IRR, when in the original application for the smaller project design, Extended Internal Rate of Return (XIRR) was the chosen measure of return.

IRR is the total rate of return on equity invested when factoring in the cumulative time investors have held interest in a project during development and during project operations, as well as investor cash-out of their initial investment. IRR utilizes cumulative, annual income and expense performance measures, while XIRR allows for different revenues and expenses in different months during the course of a year and over the course of several years. In other words, XIRR is a more complicated model. Still, we evaluate the IRR for the project assuming 10% is the generally recognized minimum rate of return to make the risk of a real estate development attractive to the equity investment required for a project to be financed.

**Table 4 – Updated Internal Rate of Return (IRR) – 59 Unit Penn Avenue Project: No MUPTTE and Yes MUPTTE**

59 One-Bed Units 27 Units at 120% of AMI	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5 2030	Year 6 2031	Year 7 2032	Year 8 2033	Year 9 2034	Year 10 2035
<b>NO MUPTTE</b>										
<b>+ MUPTTE</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Internal Rate of Return</b>	-3.6%	3.3%	3.8%	4.2%	4.4%	4.6%	4.7%	4.8%	4.9%	5.0%
<b>YES MUPTTE</b>										
<b>+ MUPTTE</b>	\$134,159	\$138,184	\$142,330	\$146,600	\$150,998	\$155,528	\$160,193	\$164,999	\$169,949	\$175,048
<b>Internal Rate of Return</b>	5.5%	8.5%	7.7%	7.3%	7.0%	6.9%	6.8%	6.7%	6.7%	6.6%

Overall, we find the following:

- **Without a MUPTE**, the Penn Avenue project is assured to be a financially hamstrung development as both an investment and a lending opportunity. IRR is measured to begin at -3.6% and growing over time to no more than 5.0%, always well below the rule-of-thumb minimum IRR of 10%.
- **With a MUPTE**, the Penn Avenue project is enhanced significantly in its financial feasibility to both attract investment and lending in order to be a viable project. However, a MUPTE award of \$134,159 starting in Year 1 never helps the project reach the 10% minimum IRR benchmark. In other words, the project should still be considered a financially-challenged project by general standards.

It should be noted that Internal Rate of Return IRR (and Extended Internal Rate of Return - XIRR) are measures of return uniquely utilized by the Penn Avenue applicant. Therefore the 10% rule-of-thumb minimum IRR in this review will look different (higher) than rule-of-thumb criteria for reviewing other projects that have applied for a MUPTE. Those projects, including the Jackstraw, utilized Return on Investment (ROI) rather than IRR, and so review information about those projects will look different. Each measure of return are standard for such development and individual developers will choose to evaluate their own projects with different, standard measures.

Rapidly increasing construction costs and the increased cost of financing such a project are among the contributors to challenging feasibility for this project. These factors have dragged down Internal Rate of Return estimated in the previous version of this project. But in the current market, those challenges are difficult but far from unique. Given some of the updated findings about the project’s information, we’d offer these observations that are “sensitivity analysis” in nature:

- If project rents – potentially high compared to market in 2026 – do not materialize as projected, the project’s feasibility will be even more challenged than documented and a MUPTE will be even more crucial.
- If permanent (and construction) financing interest rates come down compared to planned by the Applicant – 8% annual interest on permanent financing in the Applicant pro forma – the project will perform better in terms of cash flow and resulting Internal Rate of Return. 8% was observed to be on the high side compared to other recent projects.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 24, 2024

SUBJECT: Application for two OHA Reproductive Health Services Grants

RECOMMENDED MOTION:

Move approval to apply for Oregon Health Authority Reproductive Health Services Infrastructure and Modernization Grants.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Health Services (DCHS) seeks approval to submit a grant application to the Oregon Health Authority (OHA) for \$150,000 of funding to support Reproductive Health (RH) services. DCHS would apply for both the infrastructure (\$50,000) and modernization (\$100,000) grants within one combined application.

Infrastructure Grant: The Oregon Health Authority (OHA) has recognized that Oregon’s Reproductive Health (RH) Program clinical network needs infrastructure support that is not provided in the fee-for-service structure. Understaffing, increased need, and program requirements make delivering reproductive healthcare challenging. Unfortunately, most of the RH Program’s funders require their funding to be spent on direct services. In response, OHA has acquired Title X funding through the U.S. Department of Health and Human Services to bolster clinic infrastructure and ensure access to reproductive health services. Acceptable uses of funds include salaries, training, translation/interpretation services, electronic health record systems, clinic equipment, clinical services such as labs and supplies, and costs associated with maintaining a clinic site.

DCHS is requesting approval to apply for OHA’s RH infrastructure grant in the amount of \$50,000. The term of the funding is April 1, 2024, through March 31, 2025. If approved, DCHS intends to use the funding as follows:

- \$13,500 to purchase vaccines and testing supplies,
- \$6,100 for clinical office equipment and software programs
- \$1,500 for interpretation services
- \$2,400 for training
- \$20,000 in reserve to cover the unrecovered costs of labs and visits
- \$6,500 for indirect expenses



**Modernization Grant:** Oregon Health Authority (OHA) is requesting applications for its Reproductive Health (RH) Clinical Network Modernization Funding. RH Clinics continue to face challenges with funding, understaffing, increased community needs, and meeting program requirements. The purpose of the funding is to help fill the gaps and offset costs associated with providing ongoing, high-quality, culturally responsive reproductive health services to Oregonians. Funding from this grant must be used for the purpose of ensuring access to reproductive health services. Acceptable uses include salaries, training, translation/interpretation services, electronic health record systems, clinic equipment and costs associated with maintaining a clinic site.

DCHS is requesting approval to apply for OHA’s RH Modernization grant in the amount of \$100,000. The term for this funding is April 1, 2024, through June 30, 2025. If approved, DCCHS intends to use the funding for fiscal year 2025 as follows:

- \$87,000 to support approximately 56% of a current 0.8 FTE Nurse Practitioner
- \$13,000 for indirect expenses

**BUDGET IMPACTS:**

If approved, \$150,000 in revenue.

**ATTENDANCE:**

Anne Kilty, Manager, Public Health Program



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 24, 2024

SUBJECT: OHA grant amendment #180009-8 and Resolution No. 2024-013

RECOMMENDED MOTIONS:

- 1. Move approval of Document No. 2024-351 an Oregon Health Authority grant agreement #180009-8.
2. Move approval of Resolution No. 2024-013 increasing appropriations within the 2023-24 Deschutes County Budget.

BACKGROUND AND POLICY IMPLICATIONS:

Oregon Health Authority intergovernmental agreement #180009 approved by the Board of County Commissioners on June 28, 2023, outlined program descriptions and reporting requirements for the County's use of these funds in fiscal years 2024 and 2025, and provided funding for most Program Elements for FY 2024.

This amendment #8 provides \$49,840 of funding for Program Element (PE 60), Suicide Prevention, Intervention and Postvention, and \$15,000 for PE 44-02, SBHC Mental Health Expansion, totaling \$64,840 for the period February 1, 2024, through June 29, 2024. If approved, \$13,500 in PE 44-02 funding will be used for education and training, with \$1,500 for indirect costs. PE 60 funding will be used according to the attached budget resolution, which includes 10% to cover indirect costs. A budget resolution is needed only for PE 60 funding.

BUDGET IMPACTS:

\$64,840 total revenue. Recognize State Miscellaneous revenue of \$49,840 in fiscal year 2024 and increase Program Expense appropriations by the same amount within the Health Services fund.

ATTENDANCE:

Jessica Jacks, Manager, Public Health Program
Dan Emerson, Budget & Financial Planning Manager

Agreement #180009



**AMENDMENT TO OREGON HEALTH AUTHORITY  
2023-2025 INTERGOVERNMENTAL AGREEMENT FOR THE  
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Eighth Amendment to Oregon Health Authority 2023-2025 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2023, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Deschutes County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Deschutes County. OHA and LPHA are each a “Party” and together the “Parties” to the Agreement.

**RECITALS**

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2024 (FY24) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. This Amendment is effective on February 1, 2024, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.
2. The Agreement is hereby amended as follows:
  - a. Exhibit C, Section 1 of the Agreement, entitled “Financial Assistance Award” for FY24 is hereby superseded and replaced in its entirety by Attachment A, entitled “Financial Assistance Award (FY24)”, attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C.
  - b. Exhibit J of the Agreement entitled “Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200” is amended to add to the federal award information datasheet as set forth in Attachment B, attached hereto and incorporated herein by this reference.
3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.

6. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

7. **Signatures.**

**STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY**

Approved by: \_\_\_\_\_

Name: /for/ Nadia A. Davidson

Title: Director of Finance

Date: \_\_\_\_\_

**DESCHUTES COUNTY LOCAL PUBLIC HEALTH AUTHORITY**

Approved by: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY**

*Agreement form group-approved by Steven Marlowe, Senior Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 11, 2023, copy of email approval in Agreement file.*

**REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION**

Reviewed by: \_\_\_\_\_

Name: Rolonda Widenmeyer (or designee)

Title: Program Support Manager

Date: \_\_\_\_\_

**Attachment A  
Financial Assistance Award (FY24)**

State of Oregon Oregon Health Authority Public Health Division		
<b>1) Grantee</b> Name: Deschutes County  Street: 2577 NE Courtney Dr. City: Bend State: OR Zip: 97701-7638	<b>2) Issue Date</b> Thursday, February 1, 2024	<b>This Action</b> Amendment
	<b>3) Award Period</b> From July 1, 2023 through June 30, 2024	

4) OHA Public Health Funds Approved				
Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
PE01-01	State Support for Public Health	\$255,927.00	\$0.00	\$255,927.00
PE01-09	COVID-19 Active Monitoring - ELC	\$645,823.36	\$0.00	\$645,823.36
PE01-10	OIP - CARES	\$328,551.36	\$0.00	\$328,551.36
PE01-12	ACDP Infection Prevention Training	\$1,517.82	\$0.00	\$1,517.82
PE07	HIV Prevention Services	\$28,467.00	\$0.00	\$28,467.00
PE08-01	Ryan White B HIV/AIDS: Case Management	\$186,656.00	\$0.00	\$186,656.00
PE08-02	Ryan White B HIV/AIDS: Support Services	\$65,742.00	\$0.00	\$65,742.00
PE08-03	Ryan White B HIV/AIDS: Oral Health	\$36,371.00	\$0.00	\$36,371.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	\$123,319.88	\$0.00	\$123,319.88
PE12-04	MRC-STTRONG	\$137,755.00	\$0.00	\$137,755.00
PE13	Tobacco Prevention and Education Program (TPEP)	\$732,549.98	\$0.00	\$732,549.98
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	\$161,713.00	\$0.00	\$161,713.00
PE40-01	WIC NSA: July - September	\$186,520.00	\$0.00	\$186,520.00
PE40-02	WIC NSA: October - June	\$559,559.00	\$0.00	\$559,559.00



<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE40-05	Farmer's Market	\$7,574.00	\$0.00	\$7,574.00
PE42-03	MCAH Perinatal General Funds & Title XIX	\$6,557.00	\$0.00	\$6,557.00
PE42-04	MCAH Babies First! General Funds	\$20,962.00	\$0.00	\$20,962.00
PE42-06	MCAH General Funds & Title XIX	\$12,302.00	\$0.00	\$12,302.00
PE42-11	MCAH Title V	\$69,713.00	\$0.00	\$69,713.00
PE42-12	MCAH Oregon Mothers Care Title V	\$57,515.00	\$0.00	\$57,515.00
PE42-13	Family Connects Oregon	\$73,317.00	\$0.00	\$73,317.00
PE43-01	Public Health Practice (PHP) - Immunization Services	\$47,791.00	\$0.00	\$47,791.00
PE43-05	OIP Bridge COVID	\$43,140.00	\$0.00	\$43,140.00
PE44-01	SBHC Base	\$360,000.00	\$0.00	\$360,000.00
PE44-02	SBHC - Mental Health Expansion	\$420,153.50	\$15,000.00	\$435,153.50
PE46-05	RH Community Participation & Assurance of Access	\$32,197.66	\$0.00	\$32,197.66
PE50	Safe Drinking Water (SDW) Program (Vendors)	\$122,310.00	\$0.00	\$122,310.00
PE51-01	LPHA Leadership, Governance and Program Implementation	\$788,004.00	\$0.00	\$788,004.00

<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE51-02	Regional Partnership Implementation	\$542,974.00	\$0.00	\$542,974.00
PE51-03	ARPA WF Funding	\$214,556.96	\$0.00	\$214,556.96
PE51-05	CDC PH Infrastructure Funding	\$622,298.28	\$0.00	\$622,298.28
PE60	Suicide Prevention, Intervention and Postvention	\$120,767.00	\$49,840.00	\$170,607.00
PE73	HIV Early Intervention and Outreach Services	\$369,254.00	\$0.00	\$369,254.00
		\$7,381,858.80	\$64,840.00	\$7,446,698.80

<b>5) Foot Notes:</b>	
PE01-10	2/2024: Any unspent funds will be rolled over into SFY25.
PE40-01	7/2023: Unspent SFY2024 Q1 award will be rescinded by the state, cannot be carried over to SFY2024 Q2-4 period.
PE40-02	7/2023: Q2-4 Unspent grant award will be rescinded by the state at end of SFY2024
PE42-11	7/2023: Indirect charges cap at 10%.
PE42-12	7/2023: Indirect Charges cap at 10%.
PE43-01	7/2023: Awarded funds can be spent on allowable costs for the period of 7/1/2023 - 9/30/23. Any unspent funds will be de-obligated.

PE43-01	9/2023: Prior Footnote dated 7/2023 Null and Void.
PE43-05	12/2023: Funds are available 7/1/23-12/31/24. Unspent SFY24 funds will be carried over to the first six months of SFY25.
PE43-05	2/2024: Prior Footnote dated 12/2023 Null and Void. Any unspent funds will be rolled over into SFY25.
PE51-01	7/2023: Bridge funding for 7/1/23-9/30/23.
PE51-01	8/2023: Prior Footnote dated 7/2023 Null and Void
PE51-02	7/2023: Bridge funding for 7/1/23-9/30/23.
PE51-02	9/2023: Prior Footnote dated 7/2023 Null and Void
PE51-03	9/2023: Federal funds expire 6/30/24 and will be ineligible for carryover into SFY25.
PE60	9/2023: Award available 7/1/23-6/29/24 only.
PE60	2/2024: Additional award available 2/1/24-6/29/24 only.

**6) Comments:**

PE01-01	8/2023: Prior Comment dated 7/2023 Null and Void 7/2023: SFY24 funding available 7/1/23-9/30/23 only.
PE01-09	10/2023: rollover unspent SFY23 funds of \$645,823.36
PE01-10	10/2023: rollover unspent SFY23 funds of \$328,551.36
PE08-01	12/2023: Budget Adjustment - Increase of \$9,262 moved from PE 08-02

PE08-02	12/2023: Budget Adjustment - Reduction of \$9,262 moving to PE 08-01
PE12-01	8/2023: Prior Comment dated 7/2023 Null and Void 7/2023: SFY24 Award funding for first 3 months only
PE13	10/2023: rollover unspent SFY23 funds of \$267,725.41 9/2023: All Prior Comments Null and Void 7/15/23: SFY24 Award adding funding for 10/1/23-6/30/24 7/2023: SFY24 Bridge Funding 7/1/23-9/30/23
PE40-01	7/2023: SFY2024 Q1 WIC NSA grant award. 37,304\$ must spent on Nutrition Ed; \$6,019 on BF Promotion. Underspend Q1 award cannot be carried over to Q2-4 period.
PE40-02	7/2023: SFY2024 Q2-4 grant award. \$111,912 must be spent on Nutrition Ed, \$18,056 on BF Promotion.
PE40-05	10/2023: Prior Comment dated 7/2023 Null and Void. 7/2023: SFY2024 WIC Farmers Market Mini grant award. Final Q2 Rev & Exp Report is required for final accounting. Underspent funds will be rescinded by the state in February 2024
PE42-13	11/2023: SFY24 Nurse workforce development funds of \$10,000 and HDHP funds of \$13,317
PE44-02	2/2024: Additional funds of \$15,000.00 available 2/1/24-6/29/24 only
PE51-03	10/2023: rollover unspent SFY23 funds of \$188,290.96
PE51-05	7/2023: SFY24 Award Available 7/1/23-6/30/24. Funds are available 7/1/23-11/30/27. Unspent Funds in SFY24 will be carried over to the next fiscal year.
PE60	2/2024: FY24 additional funds of \$49,840 available 2/1/24-6/29/24. 7/2023: Award for 7/1/23-6/29/24

**7) Capital outlay Requested in this action:**

Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.

Program	Item Description	Cost	PROG APPROV	

**Attachment B**  
**Information required by CFR Subtitle B with guidance at 2 CFR Part 200**

<b>PE60 Suicide Prevention, Intervention and Postvention</b>		
Federal Award Identification Number:	H79SM082094	H79SM082094
Federal Award Date:	06/13/23	11/22/23
Budget Performance Period:	06/30/2023-06/29/2024	06/30/2022-06/29/2024
Awarding Agency:	SAMHSA	SAMHSA
CFDA Number:	93.243	93.243
CFDA Name:	Substance Abuse and Mental Health Services_Projects of Regional and National Significance	Substance Abuse and Mental Health Services_Projects of Regional and National Significance
Total Federal Award:	736000	158152.49
Project Description:	Oregon GLS Youth Suicide Intervention and Prevention Initiative	Oregon GLS Youth Suicide Intervention and Prevention Initiative
Awarding Official:	Jennifer Cappella	Jennifer Cappella
Indirect Cost Rate:	18.06%	18.06
Research and Development (T/F):	FALSE	FALSE
HIPPA	No	No
PCA:	52619	52783
Index:	50339	50339

Agency	UEI	Amount	Amount	Grand Total:
Deschutes	SVJRCF7JN519	\$120,767.00	\$49,840.00	\$170,607.00



REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
OREGON

A Resolution Increasing Appropriations \*  
Within the 2023-24 Deschutes County \* RESOLUTION NO. 2024-013  
Budget \*

WHEREAS, Deschutes County Health Services presented to the Board of County Commissioners on 4/24/2024, with regards to a Oregon Health Authority grant, and

WHEREAS, ORS 294.471 allows a supplemental budget adjustment when authorized by resolution of the governing body, and

WHEREAS, it is necessary to recognize State Miscellaneous revenue and increase Program Expense appropriations by within the Health Services fund; now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, as follows:

Section 1. That the following revenue be recognized in the 2023-24 County Budget:

<u>Health Services</u>	
State Miscellaneous	\$ 49,840
<b>Health Services Total</b>	<b><u>\$ 49,840</u></b>

Section 2. That the following amounts be appropriated in the 2023-24 County Budget:

<u>Health Services</u>	
Program Expense	\$ 49,840
<b>Health Services Total</b>	<b><u>\$ 49,840</u></b>

Section 3. That the Chief Financial Officer make the appropriate entries in the Deschutes County Financial System to show the above appropriations.

DATED this \_\_\_\_\_ day of April, 2024.

BOARD OF COUNTY COMMISSIONERS OF  
DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
PATTI ADAIR, Chair

ATTEST:

\_\_\_\_\_  
ANTHONY DEBONE, Vice-Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

# DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

**Document number:** \_\_\_\_\_, hereinafter referred to as "Document."

I, \_\_\_\_\_  
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and

\_\_\_\_\_ by email.

**Contractor's name**

On \_\_\_\_\_,  
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

\_\_\_\_\_  
Authorizing signature Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** First Reading of Ordinance 2023-016 adopting the Tumalo Community Plan Update 2020-2040

**RECOMMENDED MOTION:**

Move approval of first reading of Ordinance No. 2023-016 by title only.

**BACKGROUND AND POLICY IMPLICATIONS:**

This 2020-2040 update of the Tumalo Community Plan (TCP) replaces the previous 2010-2030 Plan. The TCP provides a guide for development, capital improvements, and land use planning specific to the area within and surrounding the unincorporated community of Tumalo. Following a public hearing on December 6, 2023 and the conclusion of deliberations on March 27, 2024, the Board voted to adopt the updated TCP with amendments.

The full record is located on the project webpage:

<https://www.deschutescounty.gov/cd/page/tumalo-community-plan-update-2020-2040-247-23-000509-pa-510-ta>

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Tarik Rawlings, Senior Transportation Planner



COMMUNITY DEVELOPMENT

MEMORANDUM

**TO:** Deschutes County Board of Commissioners (Board)

**FROM:** Tarik Rawlings, Senior Transportation Planner

**DATE:** April 17, 2024

**SUBJECT:** Consideration of First Reading of Ordinance 2023-016 – Deschutes County Tumalo Community Plan Update

The Board of County Commissioners (Board) will consider a first reading of Ordinance 2023-016 on April 24, 2024 related to the Deschutes County Tumalo Community Plan (TCP) Update covering the years 2020-2040. The first reading of the TCP follows the conclusion of Board deliberations on March 27, 2024.

**I. BACKGROUND**

Tumalo is an Unincorporated Community under Oregon Administrative Rule (OAR) 660-022, meaning the land use pattern is quasi-urban in terms of density and land uses and predated Oregon’s land use system, which began in 1973. The state classifies Tumalo as a Rural Unincorporated Community<sup>1</sup> and the County administers it under Deschutes County Code (DCC) 18.67. The Tumalo Community Plan is Section 4.7 of the Comprehensive Plan and appears as Appendix B of the Comprehensive Plan.

In support of the TCP update, staff prepared a website, [www.deschutes.org/tumaloplan](http://www.deschutes.org/tumaloplan), which featured a StoryMap that provided a narrative of the project, the community’s history, the purpose of the TCP, surveys, and an opportunity to leave a contact email. Additionally, the full record including public and agency comments is included at the following project-specific website: <https://www.deschutescounty.gov/cd/page/tumalo-community-plan-update-2020-2040-247-23-000509-pa-510-ta>

Staff provided numerous methods for the public to provide input on what they wanted in the TCP, comments on the community vision, as well as specific draft goals and policies. The public outreach methods ranged from traditional meetings in the Tumalo School Gym to face-to-face meetings at a local coffeehouse to Zoom meetings. Public outreach included mailers to Tumalo residents initially.

<sup>1</sup> OAR 660-020-010(7) “Rural Community is an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding area, or to persons traveling through the area.”



These were followed by emails via Constant Contact based on information from attendance sheets, contact info left at the website, or phone calls and/or emails to Planning staff. Outreach for specific events included:

- Tumalo StoryMap #1, April 27-May 25, 2022
- Tumalo Community Plan Open House #1, May 11, 2022 (Kick Off meeting)
- Meet A Planner, Tumalo Coffeehouse, Zoom, or phone, June 13-24, 2022
- Tumalo StoryMap #2, June 29-July 27, 2022
- Tumalo Community Plan Open House, #2, August 22, 2022 (Draft TCP, 1<sup>st</sup> version)
- Meet A Planner, Tumalo Coffeehouse, Zoom, or phone, May 2-9, 2023
- Tumalo StoryMap #3, April 23, 2023, to present
- Tumalo Open House #3, May 17, 2023, (Draft TCP, 2<sup>nd</sup> version)

The Planning Commission (PC) hosted the initial hearings for review of this update. Staff held a July 27, 2023, work session<sup>2</sup> with the Planning Commission to provide an overview of the updated TCP and the process to create it. The PC held a public hearing<sup>3</sup> on August 10, 2023, on the draft 2020-2040 TCP. The PC voted to continue the public hearing to August 24, 2023<sup>4</sup> and collected additional public comments. At the conclusion of oral testimony on August 24, 2023, the PC voted to close the oral and record and leave the written record open until 4 p.m. on September 7, 2023. Deliberations before the PC were initially held on October 12, 2023<sup>5</sup> with the PC voting to continue deliberations until October 26, 2023. The PC held continued deliberations on October 26, 2023<sup>6</sup>, ultimately making a recommendation to the Board to adopt the TCP document including amendments. The PC's recommendation was presented to the Board at a public hearing on December 6, 2023<sup>7</sup> and the Board voted to keep the written record open until December 13, 2023 at 4:00pm to collect any additional public input. Most recently, the Board held deliberations on the TCP, closed deliberations, and voted to approve the TCP with amendments on March 27, 2024<sup>8</sup>.

In anticipation of the Board's public hearing on December 6, 2023, notice was provided to the Department of Land Conservation and Development (DLCD) on July 6, 2023 with a Notice of Application sent to agency partners on July 21, 2023. Additionally, a Notice of Public Hearing was published in the Bulletin newspaper on November 19, 2023 and courtesy email notice was sent to participating parties on November 17, 2023. These relevant dates and events are outlined in Table 1, below.

<sup>2</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-37>

<sup>3</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-38>

<sup>4</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-39>

<sup>5</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-41>

<sup>6</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-42>

<sup>7</sup> <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-140>

<sup>8</sup> <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-161>

**Table 1 – TCP Review Timeline**

Date	Event
July 6, 2023	Notice provided to the DLCDC in anticipation of the Board’s public hearing.
July 21, 2023	Notice of Application sent to agency partners.
July 27, 2023	Work session with the Planning Commission (PC) to overview the updated TCP.
August 10, 2023	Public hearing on the draft 2020-2040 TCP.
August 24, 2023	Continuation of public hearing and closure of oral testimony, written record left open.
September 7, 2023	Written record closed at 4 p.m.
October 12, 2023	Initial deliberations before the PC.
October 26, 2023	Continued deliberations and PC’s recommendation to adopt the TCP with amendments.
November 17, 2023	Courtesy email notice sent to participating parties.
November 19, 2023	Notice of Public Hearing published in the Bulletin newspaper.
December 6, 2023	Public hearing where the PC’s recommendation was presented to the Board.
December 13, 2023	Written record kept open until 4 p.m. for additional public input.
March 27, 2024	Board deliberations followed by vote to approve the amended version of the TCP.

**II. BOCC AMENDMENTS**

During the Board’s TCP deliberations on March 27, 2024, the Commissioners voted to include four amendments in the draft TCP related to multi-family housing density, river impacts, community engagement, and public art. Below is a summary of the Board’s amendments to the TCP and where they are located within the finalized TCP (attached as Exhibit C to Ordinance 2023-016):

1. Exhibit C pg. 32: Land Use Policy #5 (community engagement)
2. Exhibit C pg. 33: Natural Resources, Open Space, and Recreation Policy #10 (river impacts / replacing district policies previously included)
3. Exhibit C pg. 34: Residential Area Policy #4 (multi-family housing)
4. Exhibit C pg. 35: Economic Development Policy #8 (public art)

**III. NEXT STEPS / SECOND READING**

The Board is scheduled to conduct the second reading of Ordinance 2023-016 on May 8, 2024, fourteen (14) days following the first reading.

**ATTACHMENTS:**

1. Draft Ordinance 2023-016 and Exhibits
  - Exhibit A: Comprehensive Plan Section 23.01 (adding)
  - Exhibit B: Comprehensive Plan Section 4.7 (amending)
  - Exhibit C: Comprehensive Plan Appendix B – Tumalo Community Plan (adding)
  - Exhibit D: Comprehensive Plan Section 5.12, Legislative History (amending)
  - Exhibit E: TCP Findings (findings)

REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Repealing and Replacing the  
Deschutes County Comprehensive Plan’s Tumalo  
Community Plan (TCP) \* \* \* \* \*  
ORDINANCE NO. 2023-016

WHEREAS, the Community Development Department planning staff initiated a Comprehensive Plan amendment in order to update the Tumalo Community Plan (“TCP”) adopted by Ordinance 2010-027 on November 29, 2010; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held before the Deschutes County Planning Commission beginning on August 10, 2023 to consider the draft County Tumalo Community Plan update; and

WHEREAS, on October 26, 2023, the Planning Commission forwarded to the Board of County Commissioners (“Board”) a recommendation of approval to adopt changes to the Tumalo Community Plan component of the County’s Comprehensive Plan; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 6, 2023 and concluded that the public will benefit from changes to the Tumalo Community Plan component of the County’s Comprehensive Plan as amended during the Board’s deliberations on March 27, 2024; and

WHEREAS, the Board finds it in the public interest to adopt the following Comprehensive Plan amendments; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. REPEALING. Deschutes County Ordinance 2010-027, is repealed.

Section 2. REPEALING. Deschutes County Comprehensive Plan Appendix B, Tumalo Community Plan, is repealed.

Section 3. ADDING. Deschutes County Code 23.01(BM) is added as described in Exhibit “A”, attached and incorporated by reference herein with new language underlined.

Section 4. AMENDING. Deschutes County Comprehensive Plan Section 4.7 is amended by to read as described in Exhibit “B” attached and incorporated by reference herein with new language underlined and deleted language set forth in ~~striketrough~~.

Section 5. ADDING. Deschutes County Comprehensive Plan Appendix B, Tumalo Community Plan, is added as described in Exhibit “C”, attached and incorporated by reference herein.

Section 6. AMENDING. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit “D”, attached and incorporated by reference herein, with new language underlined.

Section 7. FINDINGS. The Board adopts as its findings Exhibit “E”, attached and incorporated by reference herein.

Section 8. EFFECTIVE DATE. This Ordinance takes effect on the 90<sup>th</sup> day after the date of adoption or, if appealed, the date the ordinance is no longer subject to appeal.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2024

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
PATTI ADAIR, Chair

\_\_\_\_\_  
ANTHONY DeBONE, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHILIP CHANG, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Patti Adair	___	___	___	___
Anthony DeBone	___	___	___	___
Philip Chang	___	___	___	___

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**TITLE 23 COMPREHENSIVE PLAN**

**CHAPTER 23.01 COMPREHENSIVE PLAN**

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. [Repealed by Ordinance 2013-001, §1]
- D. [Repealed by Ordinance 2023-017]
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.



- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- T. [Repealed by Ordinance 2016-027 §1]
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- AC. [repealed by Ord. 2019-010 §1, 2019]
- AD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- AE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- AF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- AG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- AH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.

AI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.

AJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.

AK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.

AL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-016, are incorporated by reference herein.

AM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.

AN. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-002, are incorporated by reference herein.

AO. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-003, are incorporated by reference herein.

AP. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-008, are incorporated by reference herein.

AQ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-007, are incorporated by reference herein.

AR. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-006, are incorporated by reference herein.

AS. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-009, are incorporated by reference herein.

AT. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-013, are incorporated by reference herein.

AU. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-002, are incorporated by reference herein.

AV. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-005, are incorporated by reference herein.

AW. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2021-008, are incorporated by reference herein.

AX. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-001, are incorporated by reference herein.

AY. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-003, are incorporated by reference herein.

AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.

BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-010, are incorporated by reference herein.

BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-011, are incorporated by reference herein. (superseded by Ord. 2023-015)

BC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-013, are incorporated by reference herein.

BD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-001, are incorporated by reference herein.

BE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-007, are incorporated by reference herein.

BF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-010 are incorporated by reference herein.

BG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-018, are incorporated by reference herein.

BH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-015, are incorporated by reference herein.

BI. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-025, are incorporated by reference herein.

BJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-001, are incorporated by reference herein.

BK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2024-003, are incorporated by reference herein.

BL. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-017, are incorporated by reference herein.

BM. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-016, are incorporated by reference herein.

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/compplan>)

HISTORY

*Amended by Ord. [2011-027](#) §10 on 11/9/2011*

*Adopted by Ord. [2011-003](#) §2 on 11/9/2011*

Amended by Ord. [2011-017](#) §5 on 11/30/2011  
Amended by Ord. [2012-012](#) §1, 2, 3, 4 on 8/20/2012  
Amended by Ord. [2012-005](#) §1 on 11/19/2012  
Amended by Ord. [2013-002](#) §1 on 1/7/2013  
Repealed by Ord. [2013-001](#) §1 on 1/7/2013  
Amended by Ord. [2013-005](#) §1 on 1/23/2013  
Amended by Ord. [2012-016](#) §1 on 3/4/2013  
Amended by Ord. [2013-009](#) §1 on 5/8/2013  
Amended by Ord. [2013-012](#) §1 on 8/8/2013  
Amended by Ord. [2013-007](#) §1 on 8/28/2013  
Amended by Ord. [2014-005](#) §2 on 2/26/2014  
Amended by Ord. [2014-006](#) §2 on 3/15/2014  
Amended by Ord. [2014-012](#) §1 on 8/6/2014  
Amended by Ord. [2014-021](#) §1 on 11/26/2014  
Amended by Ord. [2015-029](#) §1 on 11/30/2015  
Amended by Ord. [2015-010](#) §1 on 12/21/2015  
Amended by Ord. [2015-021](#) §1 on 2/22/2016  
Amended by Ord. [2015-018](#) §1 on 3/28/2016  
Amended by Ord. [2016-001](#) §1 on 4/5/2016  
Amended by Ord. [2016-022](#) §1 on 9/28/2016  
Repealed & Reenacted by Ord. [2016-027](#) §1, 2 on 12/28/2016  
Amended by Ord. [2016-005](#) §1 on 2/27/2017  
Amended by Ord. [2016-029](#) §1 on 3/28/2017  
Amended by Ord. [2017-007](#) §1 on 11/1/2017  
Amended by Ord. [2018-002](#) §1 on 1/25/2018  
Amended by Ord. [2018-005](#) §2 on 10/10/2018  
Amended by Ord. [2018-008](#) §1 on 10/26/2018  
Amended by Ord. [2018-008](#) §1 on 10/26/2018  
Amended by Ord. [2018-008](#) §1 on 10/26/2018  
Amended by Ord. [2018-006](#) §1 on 11/20/2018  
Amended by Ord. [2018-011](#) §1 on 12/11/2018  
Amended by Ord. [2019-004](#) §1 on 3/14/2019  
Amended by Ord. [2019-003](#) §1 on 3/14/2019  
Amended by Ord. [2019-002](#) §1 on 4/2/2019  
Amended by Ord. [2019-001](#) §1 on 4/16/2019  
Amended by Ord. [2019-010](#) §1 on 5/8/2019  
Amended by Ord. [2019-011](#) §1 on 5/17/2019  
Amended by Ord. [2019-006](#) §1 on 6/11/2019  
Amended by Ord. [2019-019](#) §2 on 12/11/2019  
Amended by Ord. [2020-001](#) §26 on 4/21/2020  
Amended by Ord. [2020-003](#) §1 on 5/26/2020  
Amended by Ord. [2020-002](#) §1 on 5/26/2020  
Amended by Ord. [2020-008](#) §5 on 9/22/2020  
Amended by Ord. [2020-007](#) §1 on 10/27/2020

*Amended by Ord. [2020-006](#) §1 on 11/10/2020*  
*Amended by Ord. [2020-009](#) §4 on 11/17/2020*  
*Amended by Ord. [2020-013](#) §1 on 11/24/2020*  
*Amended by Ord. [2021-002](#) §3 on 4/27/2021*  
*Amended by Ord. [2021-005](#) §1 on 6/16/2021*  
*Amended by Ord. [2021-008](#) §1 on 6/30/2021*  
*Amended by Ord. [2022-001](#) §2 on 7/12/2022*  
*Amended by Ord. [2022-003](#) §2 on 7/19/2022*  
*Amended by Ord. [2022-006](#) §2 on 7/22/2022*  
*Amended by Ord. 2022-010 §1 on 10/25/2022*  
*Amended by Ord. 2023-001 §1 on 3/1/2023*  
*Amended by Ord. 2022-013 §2 on 3/14/2023*  
*Amended by Ord. 2023-007 §19 on 4/26/2023*  
*Amended by Ord. 2023-010 §1 on 6/21/2023*  
*Amended by Ord. 2023-018 §1 on 8/30/2023*  
*Amended by Ord. 2023-015 §3 on 9/13/2023*  
*Amended by Ord. 2023-025 §1 on 11/29/2023*  
*Amended by Ord. 2024-001§1 on 01/31/2024*  
*Amended by Ord. 2024-003§3 on 02/21/2024*  
*Amended by Ord. 2023-017§1 on 03/20/2024*  
*Amended by Ord. 2023-016§3 on TBD*



## Section 4.7 Tumalo Community Plan

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### **Background**

The Tumalo Community Plan was adopted in Ordinance ~~2010-027~~ 2023-016 and is hereby incorporated into this Plan as Appendix B.

Deschutes County

# Tumalo Community Plan

2020-2040



Deschutes County Community Development  
Updated 2024

# Introduction

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The Tumalo Community Plan (Community Plan) is an integral part of the Deschutes County Comprehensive Plan and, upon adoption by the Board of County Commissioners, constitutes an official chapter (Section 4.7). The Community Plan may only be changed if it is reviewed through an official legislative plan amendment process. The Community Plan’s goals and policies provide a decision-making guide for land use planning, capital improvements, and physical development during the next 20 years (2020 – 2040). It is anticipated that Deschutes County, Oregon Department of Transportation (ODOT), special districts, residents, and community leaders will consult the Community Plan when preparing land use or transportation projects in Tumalo.

Tumalo is a small rural community located approximately three miles northwest of Bend in the center of Deschutes County. Oregon Administrative Rules recognize areas in Deschutes County like Tumalo as an “Unincorporated Community” under OAR 660-022. Of the four types of unincorporated communities identified in OAR 660-022, Tumalo is a Rural Community. OAR 660-022 states a Rural Community is a place “which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.”



Image: Metal Statute, Photo Credit: Deschutes County Staff

Deschutes County plans and regulates land uses in Tumalo under this legal definition. The Deschutes River and U.S. 20 bisect Tumalo. Single-family home neighborhoods, a small commercial node, as well as Tumalo Community School all lie north of the highway and west of the river. Additional commercial and industrial properties are located on the south side of the highway. This includes a more recent residential neighborhood with higher densities than previously found in Tumalo. Although this Community Plan only addresses lands within the Tumalo boundary, access to U.S. 20, local businesses, district offices, Tumalo Community School, and Tumalo State Park create a hub that attracts nearby residents and visitors.

The Tumalo Community School, within the Redmond School District, had originally served children between kindergarten and 8<sup>th</sup> grade, with an approximate attendance of 407 students in 2010. Beginning in 2020, due to decreasing student attendance numbers, the school transitioned away from a middle school model and began serving around 250 students between kindergarten and 5<sup>th</sup> grade. The school's geographic service area extends to the outlying areas of Bend, in addition to Tumalo.

Just one mile away, Tumalo State Park encompasses approximately 156 acres with an addition 52 acres of contiguous surrounding land also owned and operated by the Oregon State Parks system. The park offers camping, picnicking, fishing, hiking, and wildlife viewing and hosted approximately 517,000 visitors in 2021. Its location provides an excellent place to camp while enjoying Central Oregon's surrounding amenities and year-round recreation. A 2.4-mile segment of the 12-mile Deschutes River Trail is accessible from a day-use area parking lot within Tumalo. The trail follows the Deschutes River south 1.4 miles to Riley Ranch Nature Reserve, which offers additional trails.

Between 2010 and 2020, Tumalo has undergone significant changes in terms of land use activities and transportation improvements. Several artisan shops have opened along Cook Avenue, there is a thriving food cart pod, the Twin Bridges State Scenic Bikeway rolls through Tumalo, and a two-lane roundabout is due to open in 2023/24 at US 20/Cook-OB Riley intersection. The County anticipates an additional roundabout at Cline Falls Highway/Tumalo Road intersection. A small-scale sewer system has developed that serves the higher-density neighborhood in an area bounded by the south side of US 20, Bailey Road, and OB Riley Road. Based on residents' requests, the County hired a consultant to conduct a sewer feasibility study, which was conducted in 2022. The sewer feasibility study provides a high-level assessment of the costs and potential for sewer expansion throughout Tumalo as many properties are on older septic systems. The feasibility study provided information to residents on potential next steps if the community chooses to form a sewer district.

Based on the changes noted above and the population growth in the community, the County determined it was time to update the 2010-2030 TCP. The County also received a Transportation Growth Management (TGM) grant to focus on bicycling, walking, and transit, aka active transportation, in Tumalo. Both efforts involved extensive coordinated public outreach.

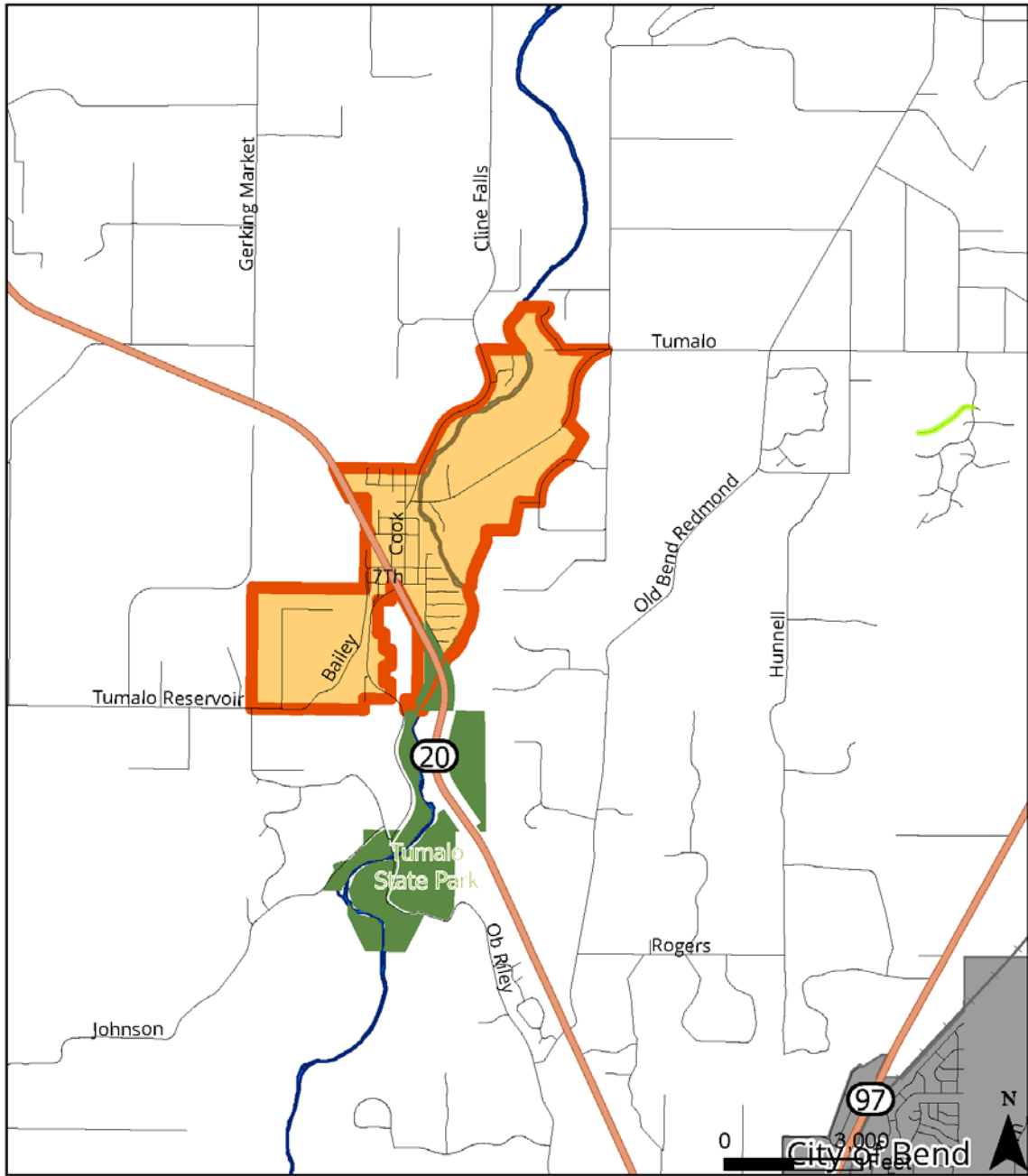
Exhibit C to Ordinance 2023-016 – Comprehensive Plan Appendix B – Tumalo Community Plan

The TCP Open Houses occurred in the Tumalo Community School gym on May 11, 2022 (kickoff meeting); August 8, 2022 (draft goals and policies); and May 17, 2023 (revised draft goals and policies). Additionally, staff held Meet A Planner one-on-one sessions in Tumalo from June 13-24, 2022 and again from May 2-9, 2023. Finally, staff created public web pages and online story maps to summarize the project, conduct surveys, and provide updates.

The TGM grant took a similar approach to public outreach, including a June 8, 2022, walking tour of downtown Tumalo where the public provided comments and suggestions. The TGM bike/ped/transit grant also included a story map, a website, and stakeholder advisory committee meetings. The TGM grant's recommendations for bike/ped/transit are incorporated into the TCP.



### Tumalo Vicinity Map



- Tumalo State Park
- City of Bend
- Unincorporated Community

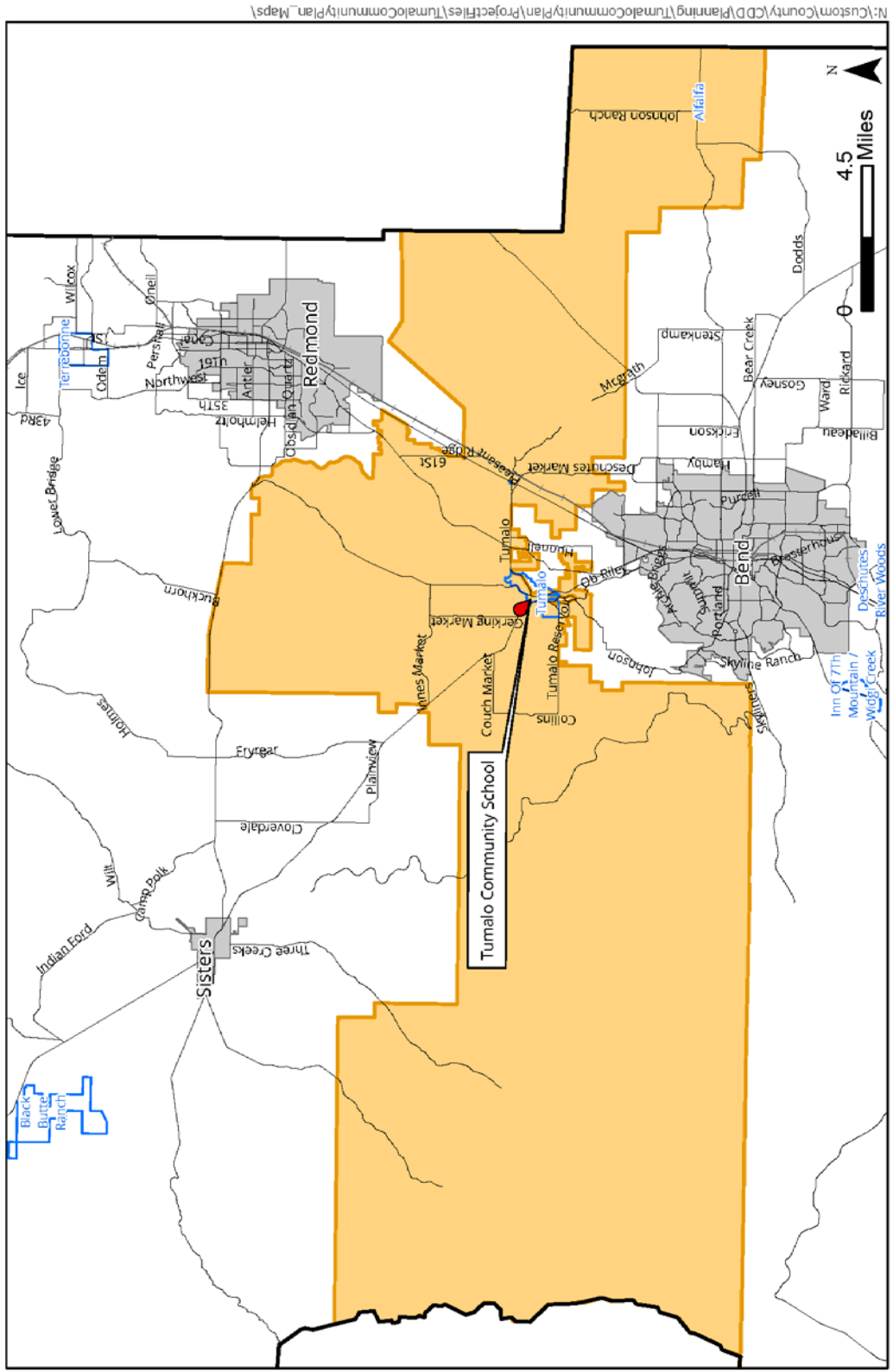
### Tumalo Vicinity Map



6/15/2022



### Tumalo Community School Student Boundary Map



**Tumalo Community School  
Attendance Area**

6/23/2022

- Tumalo Community School
- Tumalo School Attendance Area
- Unincorporated Community
- County Boundary

# Community Vision Statement

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*Retain the livability of Tumalo as a rural small town, by ensuring safe and efficient public services and collaborating with the surrounding rural area.*

Tumalo residents’ input crafted this community vision for 2020 to 2040. It is their intent that the Community Plan, developed in cooperation with Deschutes County, will serve as a framework to realize this vision. The community input came from several public venues. These included public open houses, one-on-one meetings with County planners, public surveys, online comments, and e-mails to County staff. Input came from people who lived within the boundaries of Tumalo as well as those who live near Tumalo and either shop or work there or send their children to school there.

Notice of the first open house was mailed to every property (261 total) in Tumalo as well as flyers hung through the community. In-person open houses were held at the Tumalo Community School on May 11 and August 22, 2022, and averaged between 50 and 70 attendees at each meeting. A virtual open house and survey was held between June 29, 2022 - July 22, 2022, and gathered 55 responses related to the community vision and key issues facing Tumalo.

Staff held a one-on-one engagement series called “Meet A Planner”, in which community members could have a 30-minute conversation with a planner to express the key issues, challenges, and concerns facing Tumalo. Seven meetings occurred between June 20-24, 2022, either in person at Tumalo Coffeehouse or virtually.

The County developed an e-mail listserv for the project updates by collecting emails through sign-in sheets at the open houses or directly via the project website. As of June 1, 2023, 181 community members subscribed for project updates. Nine total project updates were sent throughout the process to advertise in-person and online engagement events.

The 2010-2030 and 2020-2040 Community Vision statements are practically identical. The only changes were directed at deletion of the hyphen in “small-town” and changing “rural community” to “rural area.” The latter relates to Oregon Administrative Rule (OAR) 660-022 and how that provision clarifies that the word “community” refers to a more geographically limited area. Overall, respondents expressed a strong desire to keep the vision statement unchanged and for Tumalo to remain rural in nature. The intent to keep the community rural is consistent with OAR 660-022.

# Community Input



**May 11, 2022**

Community Open House #1  
at Tumalo Community School



**June 20-24, 2022**

"Meet-a-Planner" events at  
Tumalo Coffeehouse



**June 29-July 22, 2022**

Virtual open house and survey



**August 22, 2022**

Community Open House #2  
at Tumalo Community School



**May 2023**

Community Open House #3  
at Tumalo Community School  
Draft Plan Released for Community Input

# History

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Situated at an elevation of approximately 3,200 feet, Tumalo lies in the middle of the Upper Deschutes River Basin (river miles 157 and 158). The commercial core of Tumalo lies on an alluvial bowl bounded by the Laidlaw Butte and the bluff of the Deschutes River canyon. The Deschutes River bisects the community. Originally named Laidlaw, Tumalo was platted by the Laidlaw Townsite Company in 1904. However, development originally began in 1899 when the Three Sisters Irrigation Company incorporated. Under the Carey Act, they made plans for diverting water from Tumalo Creek and the Deschutes River to irrigate approximately 60,000 acres of arid land. As the town grew, it became a voting precinct in 1906, with 65 registered voters compared to Bend's 66. Out of nearly 900 platted lots, a third were sold by 1907.

Town founder A.W. Laidlaw of Portland and his investors believed that Tumalo would become the heart of Central Oregon. By 1909, the Laidlaw community aspired to establish the junction of two railroads, and thereby creating a new "metropolis" in Central Oregon. There were reasons for optimism as railroad magnates James Hill and E. H. Harriman were competing to finish a rail line from the mouth of the Deschutes River to Central Oregon. Mr. Laidlaw assumed the rail line would come south, up the Deschutes River canyon, into the newly platted town. Assertions were also made that the Laidlaw community would benefit from connection to another rail line, one that followed the North Santiam River and crossed over the Cascades.

Ultimately, neither of these two projects came to fruition. At the end of 1909, the Columbia Southern Railroad still ended in Shaniko, and the Corvallis and Eastern rail lines remained stalled at the foothills west of the Cascades. Both rail line projects ultimately languished for approximately 15 years. Following the announcement in 1910 that the Columbia Southern Railroad was connecting to Bend instead of Laidlaw, Bend began outpacing Laidlaw in population. As a result, Laidlaw's population decreased to 250 people, with many businesses relocating to Bend. The small town remained as Laidlaw until the Laidlaw Post Office closed in 1913. The post office eventually reopened in 1923 as the Tumalo Post Office, and the name of the town was changed to Tumalo.

In those early days, Laidlaw had a weekly newspaper, a barbershop, two-story hotel, lawyers' offices, wallpaper company, bakery, feed stores and bank. Today, legacy buildings include the Laidlaw Bank and Trust Property and Tumalo Community Church.



# Land Use

The 1979 Deschutes County Comprehensive Plan designated Tumalo as a Rural Service Center because it contained a concentration of residential and commercial properties. A 1979 inventory showed Tumalo consisting of 491 acres and 288 tax lots. In 1994, the Oregon Land Conservation and Development Commission adopted a new Oregon Administrative Rule for unincorporated communities, instituting new land use requirements for Tumalo (OAR 660, Division 22). As part of periodic review, in 1997 Deschutes County updated its Comprehensive Plan and implemented zoning regulations to comply with these state requirements. Based on public input, Tumalo’s boundary was amended to accommodate 504.11 acres and 321 tax lots. A 1999 amendment removed three tax lots that were accidentally included, leaving Tumalo with 318 tax lots as inventoried during the County’s 2010 update to the Tumalo Community Plan. Deschutes County Code (DCC) 18.67 implements land use zoning in Tumalo while DCC 18.67 Table A sets road standards.

Since the 2010 Deschutes County Comprehensive Plan update, including updates to the Tumalo Community Plan, the total number of tax lots has increased to 361. The increase in tax lots can be attributed to land use patterns in the area including land divisions, property line adjustments, and property-specific tax lot review related to the original Laidlaw Town Plat.

## Population and Demographic Data

Single-family residences are the predominant land use in Tumalo. Tables 1, 2 and 3 cite Deschutes County Assessor data and an adopted 20-year population forecast to estimate Tumalo’s 2021, future build out, and 2040 population.

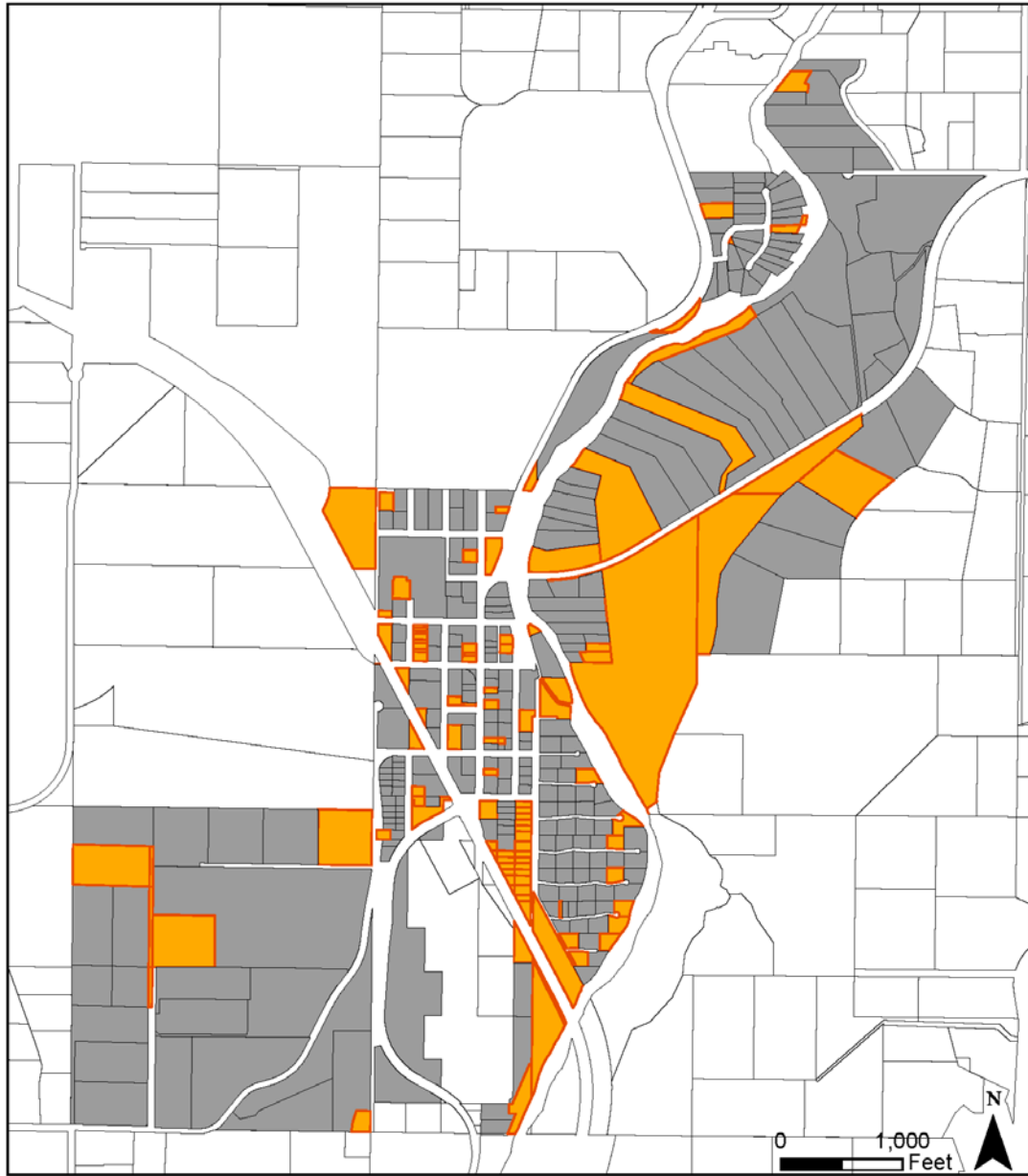
**Table 1 - 2021 Tumalo Population Estimate**

Housing Units*	Deschutes County 2020 Census (Persons Per House)	2021 Population Estimate
232	2.47*	574
*2021 Assessor's Data	*2020 Census Data	

**Table 2 - Tumalo Projected Build Out**

2021 Population Estimate	Potential Dwelling Units*	Deschutes County 2020 Census (Persons Per House)	Future Population on Undeveloped Lots	Build Out Population
<b>574</b>	101	2.47	<b>250</b>	<b>824</b>
*Assessor's Data 2021				

### Tumalo Vacant Parcels and Projected Build-Out Map (2020)



-  Vacant
-  Built Out



6/15/2022

**Table 3 - Tumalo Population Forecast**

Year	Forecasted Population	Average Annual Growth Rate (AAGR)
2021	574	2.2%
2022	587	2.2%
2025	600	2.0%
2030	612	1.7%
2035	622	1.5%
2040	631	1.3%
2045	639	1.2%
2047	647	1.1%
2050	654	1.1%
2055	661	1.1%
2060	669	1.1%
2065	676	1.1%
2070	684	1.1%
2072	691	1.1%

County Population Forecast (Portland State University, 2022)

Tumalo’s projected population for 2040 is 631. This projection is extremely conservative due to limited wastewater infrastructure discussed below in Public Facilities and Services. As Table 2 illustrates (and further detailed in Table 6), a vacant lands inventory performed in 2021 identified 105 undeveloped residential lots capable of supporting up to 101 potential dwelling units. If all 105 undeveloped lots become developed and household unit size remains at 2.47, Tumalo’s population would increase by 250 people, bringing its total to 824. Under this scenario, Table 3 shows that full build out would not occur until after 2072. Since the 2020 Tumalo Community Plan adoption, Tumalo and the surrounding County jurisdiction are projected to experience the compounding factors of an aging population and a notably lower fertility rate. The age and fertility data combined with an overall expectation for increased population within cities and other sub-areas of Deschutes County results in a lower average annual growth rate than previous years. Other factors potentially affecting the relatively low forecasted population growth rate include housing availability and affordability challenges, the heightened cost of living, and the detrimental impacts of regional wildfires.

**Race and Ethnicity**

Tumalo is a predominantly white community, though the population growth over the past 10 years has seen an increase in racial and ethnic diversity, primarily among Hispanic or Latino community members. The percentage of Hispanic or Latino community members has increased from 3.3% (2010) to 6.6% (2020) of the total population. For the purposes of providing race and ethnicity data for Tumalo, population counts for the Tumalo Census Designated Place (CDP) are utilized below in Table 4, rather than the County’s population estimate provided in referenced Tables 1 and 2. The most significant difference between

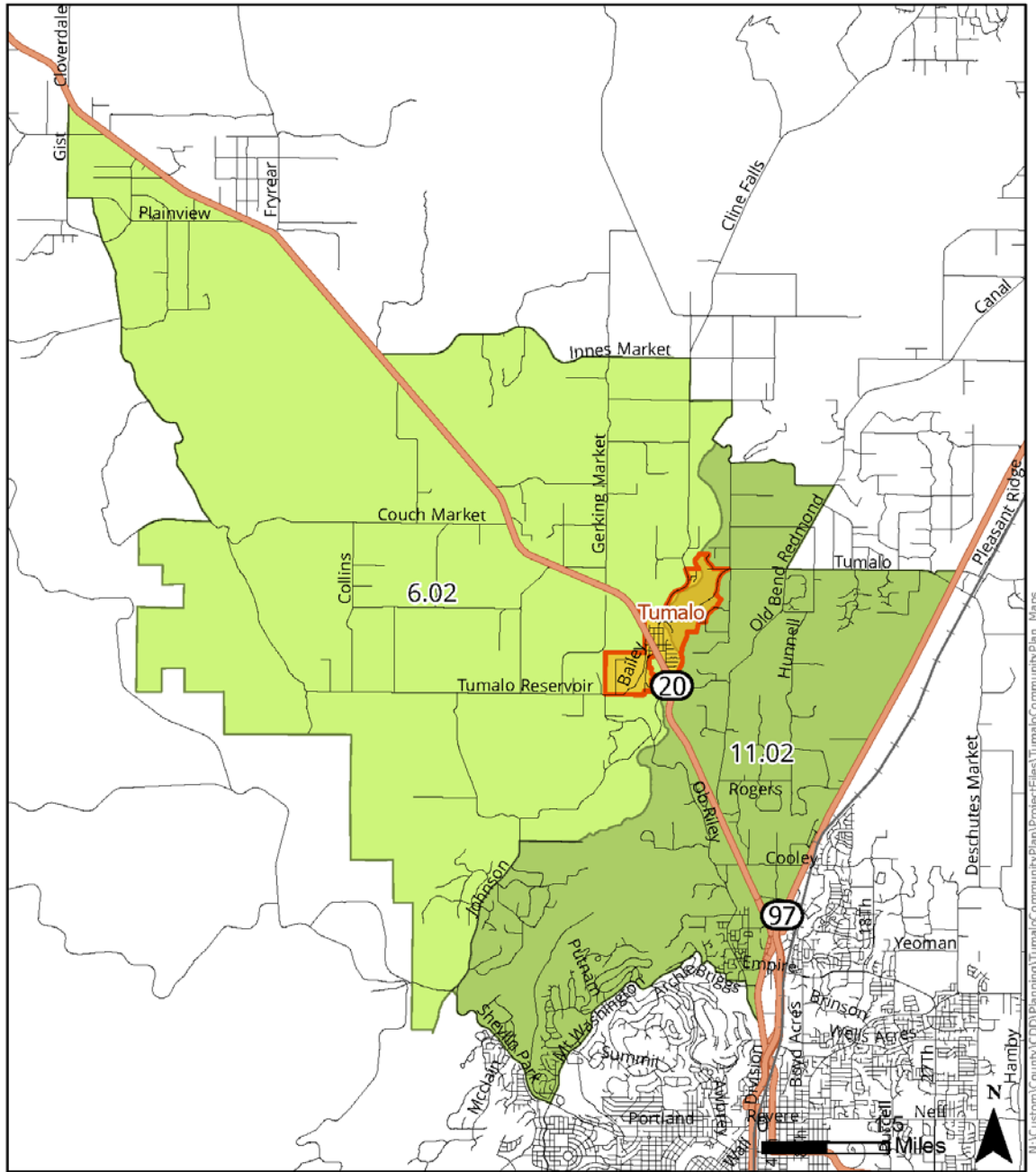
2010 and 2020 is seen in the “White alone” single-race individuals, with the percentage of individuals decreasing from 93.2% of the total population (2010) to 88.5% (2020).

**Table 4 - Tumalo CDP Race and Ethnicity (2010 and 2020)**

	<b>Tumalo (2010)</b>	<b>Tumalo (2020)</b>
<b>Total Population:</b>	488	558
Hispanic or Latino	16 (3.3%)	37 (6.6%)
Not Hispanic or Latino:	472 (96.7%)	521 (93.4%)
<b>Population of one race:</b>	460 (94.3%)	506 (90.7%)
White alone	455 (93.2%)	494 (88.5%)
Black or African American alone	1 (0.2%)	1 (0.2%)
American Indian and Alaska Native alone	3 (0.6%)	6 (1.1%)
Asian alone	1 (0.2%)	2 (0.4%)
Some Other Race alone	0	3 (0.5%)
<b>Two or More Races:</b>	12 (2.5%)	15 (2.7%)
<b>Population of two races:</b>	6 (1.2%)	12 (2.2%)
White; Black or African American	1 (0.2%)	1 (0.2%)
White; American Indian and Alaska Native	3 (0.6%)	6 (1.1%)
White; Asian	2 (0.4%)	0
White; Some Other Race	0	4 (0.7%)
Asian; Native Hawaiian and Other Pacific Islander	0	1 (0.2%)
<b>Population of three races:</b>	6 (1.2%)	3 (0.5%)
White; Asian; Native Hawaiian and Other Pacific Islander	6 (1.2%)	3 (0.5%)

*2010 and 2020 US Decennial Census, Tumalo CDP-specific data*

### Tumalo Census Designated Place (CDP) Map



Tumalo Census Designated Place

- Tumalo Unicorporated Community
- 11.02
- 6.02





### Land Use Designations and Inventory

Deschutes County Comprehensive Plan designations identify general land uses for the community of Tumalo and provide the legal framework for establishing zoning districts. Zoning regulates land uses that are allowed in each respective district. Table 5 lists Tumalo comprehensive plan designations and corresponding zoning districts. Table 6 summarizes existing property inventories within those zoning districts, including those properties that may be encumbered by multiple zones. Detailed descriptions of the Tumalo Comprehensive Plan designations are provided below.

**Table 5 - Tumalo Land Use Designations**

<b>Comprehensive Plan Designations</b>	<b>Zoning Districts</b>
Commercial (TuC)	Commercial District (TuC)
Floodplain (FP)	Floodplain (FP)
Industrial (Tul)	Industrial District (Tul)
Research and Development (TURE)	Research and Development District (TURE)
Residential (TuR)	Residential District (TuR)
Residential 5 Acre Minimum (TUR5)	Residential Five Acre Minimum District (TUR5)

**Table 6 - Tumalo Land Use Inventory**

<b>Zone</b>	<b>Residential Units / Number of Lots</b>	<b>Commercial &amp; Industrial Developments / Number of Lots</b>	<b>Undeveloped Parcels</b>	<b>Total Number of Parcels</b>
TUC	43 Units / 36 Lots	31 Buildings / 28 Lots	51	115
TUR	80 Units / 78 Lots		18	96
TUR/TUC	3 Units / 3 Lots		2	5
TUR/FP	27 Units / 27 Lots		10	37
TUR5	57 Units / 54 Lots		12	66
TUR5/FP	27 Units / 24 Lots		8	32
TURE		1 Building / 1 Lot	1	2
TUI		13 Buildings / 5 Lots	1	6
FP			2	2
<b>Total</b>	<b>237 Units / 222 Lots</b>	<b>45 Buildings / 34 Lots</b>	<b>105</b>	<b>361</b>

Assessor's Data 2021/2022

**Commercial (TUC).** A “Commercial” designation allows a range of limited commercial and industrial uses to serve Tumalo and the surrounding area. In general, the designation extends north from the approximate intersection of Riverview Ave and Cedar Lane (bound by U.S. 20 to the west) to 3<sup>rd</sup> Street between Wood and Wharton Avenues. Commercial lands

also comprise an area west of U.S. 20 between 5<sup>th</sup> and 8<sup>th</sup> Streets, bound on the west by Strickler Ave and Bailey Road.

This designation was originally intended to accommodate a mixture of small-scale commercial and limited industrial uses that historically existed within the community. The core commercial area initially encompassed lands adjacent to Cook Avenue, north of U.S. 20. The designation was ultimately expanded between Cook and Wharton Avenues, extending south to U.S. 20. This area includes the “Tumalo Mall,” an existing commercial and retail complex. The use of this building received authorization as a nonconforming use in 1986 and site plan alterations in 1987 and 1988. These land use actions brought the existing uses and structures into compliance with the commercial zone.

Currently, the core commercial area supports a variety of uses and development including cideries, a food cart pod, a greengrocer, the Tumalo Country Store gas station and general store, Tumalo Irrigation District office, a veterinary clinic, a second commercial complex at the intersection of 4<sup>th</sup> Street and Cook Ave, the Historic Tumalo Church buildings, vacant property owned and maintained by the Tumalo Community School, and a boutique leather goods manufacturer. The majority of these uses and structures have received land use approval within the past four years. The Tumalo commercial zoning district also allows for limited residential development and uses.



Photo: The Bite Food Cart Pod, Photo Credit: County Planning Staff

Floodplain (FP). A “Floodplain” designation protects the public and private property from hazards associated with floodplains; conserves important riparian areas along rivers and streams for fish and wildlife resources; and preserves significant scenic and natural resources. This designation follows the channel of the Deschutes River that bisects Tumalo. The areas of special flood hazard are identified by the Federal Insurance Administration in a report titled *Flood Insurance Study for Deschutes County, Oregon and Incorporated Areas*. This report was revised in September 2007, and includes accompanying Flood Insurance Rate Maps. The Flood Insurance Study is on file at the Deschutes County Community Development Department.

In 2020, the Deschutes Basin Habitat Conservation Plan (HCP) was finalized and approved by the U.S. Fish and Wildlife Service. The HCP, which is a 30-year plan, was part of an application for an Endangered Species Act incidental take permit (ITP) that authorizes incidental take, aka death, of listed species (Oregon spotted frog, bull trout, steelhead trout, and sockeye salmon) caused by covered activities. Based on the HCP, Wickiup Reservoir will alter its operation to improve conditions in the Deschutes River between the reservoir and Bend. The minimum flow will be 100 cubic-feet per second (cfs) in Years 1 through 7, 300 cfs in Years 8 through 12, and 400 cfs (with provisions for up to 500 cfs) in Years 13 through 30. These increases in winter flows will likely change floodplain patterns within range of the Tumalo community. Additionally, enhanced lidar terrain data derived from the Oregon Department of Geological and Mineral Industries (DOGAMI) may indicate a changing floodplain component of the Deschutes River within Tumalo. The existing FP zoning district is subject to goals and policies within this community plan and the Comprehensive Plan, are directed at producing the most accurate floodplain data possible for the Tumalo community.

Industrial (TUI). An “Industrial” designation allows a limited range of industrial uses to serve Tumalo and the surrounding area. The designation recognizes nonconforming industrial uses and properties suitable for limited amounts of additional industrial development. This designation is concentrated around the Knife River operation, which is technically outside of Tumalo, that fronts O.B. Riley Road and U.S. 20 and includes warehouse uses, mini-storage facilities, and other industrial-related development and uses.

Research and Development (TURE). A “Research and Development” designation allows research and development facilities requiring a more rural, non-industrial location to be sited in Tumalo. This designation contains two parcels in one ownership located on the southeast slope of Laidlaw Butte. It was originally created to accommodate a research and development site and associated uses predating Deschutes County’s 1979 zoning ordinance.

Residential (TUR). A “Residential” designation allows a mixture of housing types and densities suited to the level of available water and wastewater facilities. The purpose of this zoning district is to allow new residential development that is compatible with the rural character of the area. Originally, the residential district boundary coincided with the boundary of the old Laidlaw Plat including the Deschutes River Homesites platted between Riverview Avenue and

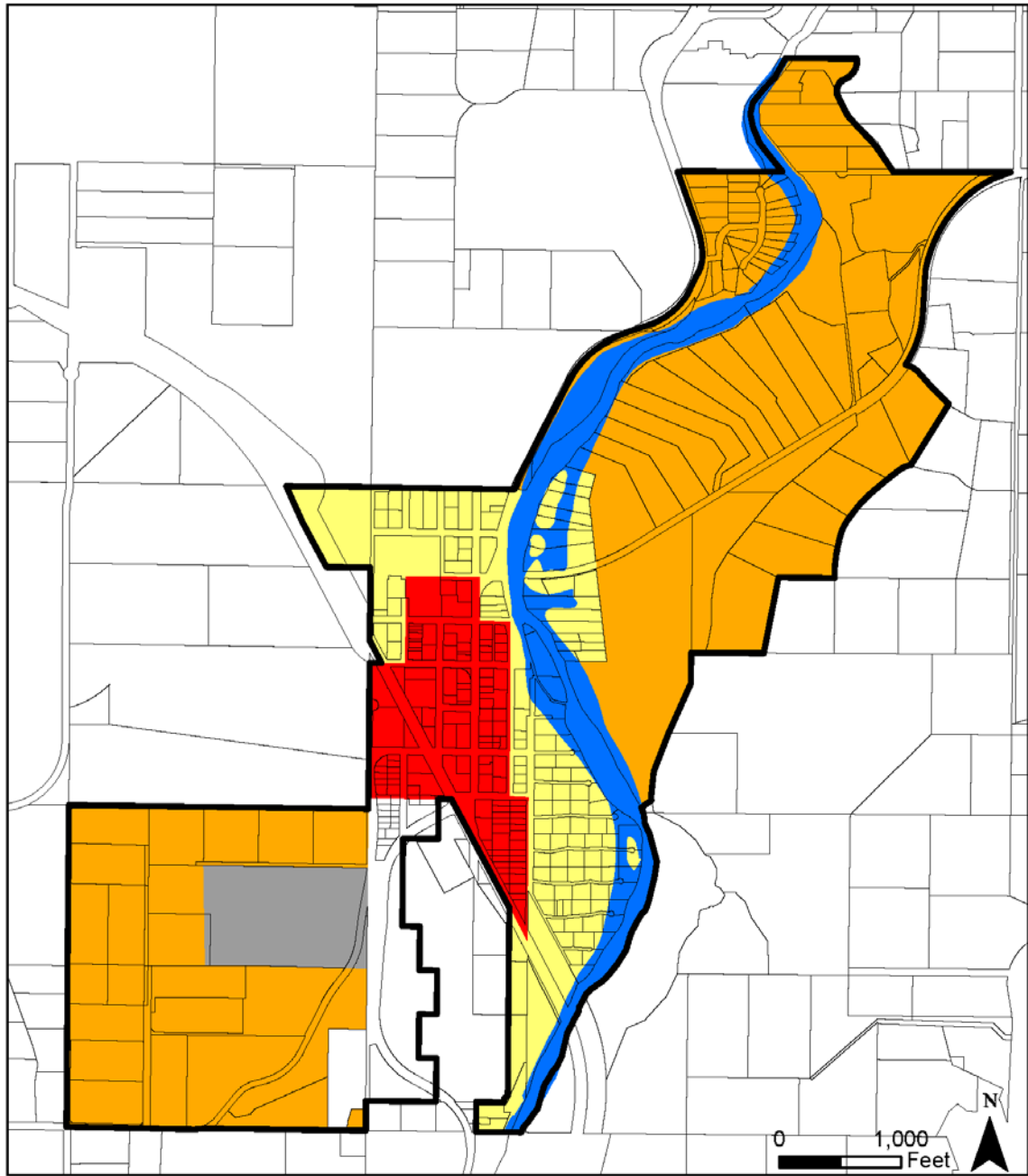


the Deschutes River. Today, it also includes the area surrounding the Knife River aggregate site south of U.S. 20.

Residential 5-Acre (TUR-5). A “Residential 5 Acre Minimum” designation retains large rural residential lots. The lands designated Residential-5 acre minimum include the larger parcels east of the Deschutes River and the southeast from Laidlaw Butte.



### Tumalo Comprehensive Plan Map



### Tumalo Comprehensive Plan 2020

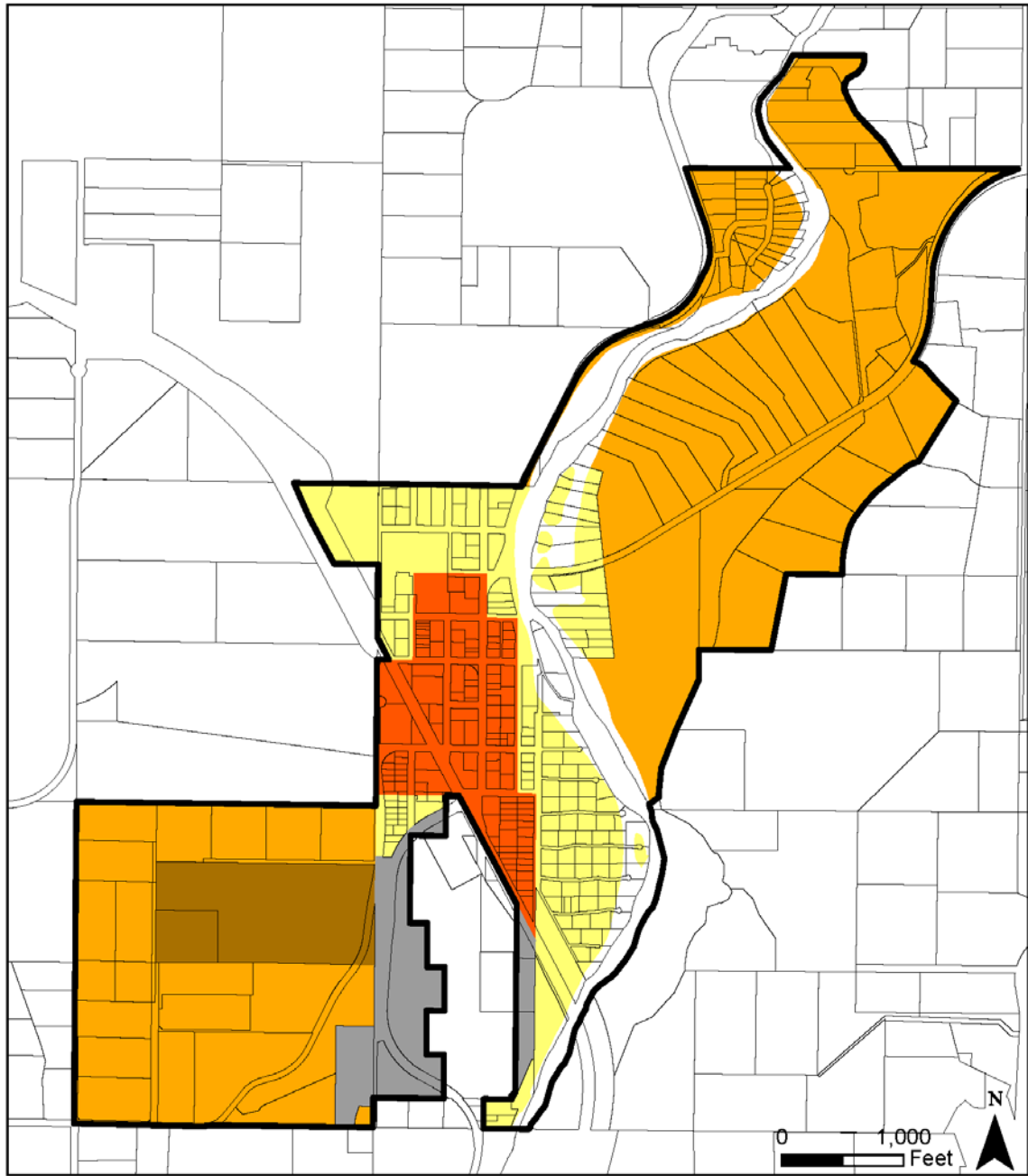
- FP - Flood Plain
- TUC - Tumalo Commercial
- TUR5 - Tumalo Residential 5 Acre Minimum
- TURD - Tumalo Research & Development
- TURM - Tumalo Residential - Medium Density



6/15/2022



### Tumalo Zoning Map



### Tumalo Zoning Map 2020

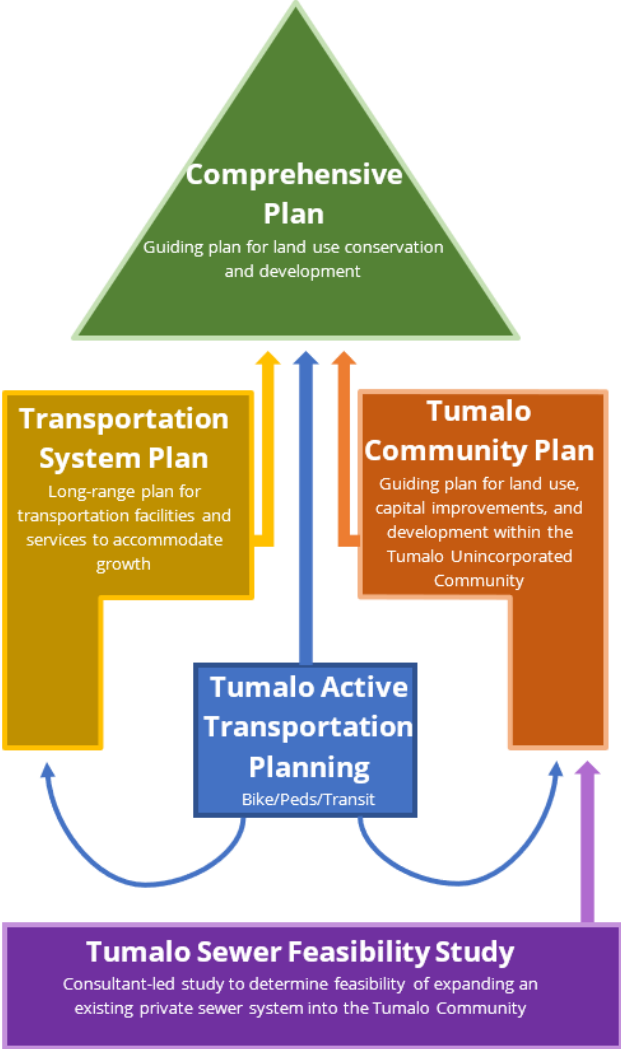
- TUC - Commercial
- TUR - Residential
- TUR5 - Residential 5 Acre Minimum
- TURE - Research & Development
- TUI - Industrial



6/15/2022

### Relevant Studies and Planning Processes

The Tumalo Community Plan, as a subset of the Deschutes County Comprehensive Plan, relates directly to other relevant county plans and policies. These plans and policies include, but are not limited to, the County Transportation System Plan (TSP), Tumalo Active Transportation Planning efforts, and a Tumalo sewer feasibility study. The TSP is a long-range plan that identifies improvements to the County’s transportation facilities and services to accommodate projected population and employment growth within the County over a 20-year period. The Tumalo Active Transportation update is an effort to update the transportation element of the Tumalo Community Plan, specifically regarding active transportation such as biking, pedestrian access, and public transit. The Tumalo Sewer Feasibility Study is a consultant-led study to evaluate three potential sewer options for Tumalo. The graphic below illustrates how these various plans interact with one another and fit within the larger regional planning efforts.



### Public Facilities and Services

Tumalo is served by six special districts: Laidlaw Water District; Deschutes County Rural Fire Protection District #2; Redmond School District; the Tumalo Town District Improvement Company, Tumalo Irrigation District (via the Rimrock Water Improvement District), and Swalley Irrigation District. Tumalo’s public facilities and services are described below in greater detail.

#### Domestic Water

The Laidlaw Water District serves the area identified as the old Laidlaw Plat, and the area described as T16S R12E section 29 (W1/2 SW1/4), section 30 (E1/2 SW 1/4), (SW 1/4 SE 1/4),

and section 31(NE1/4, N1/2 SE1/4), near Beaver Lane to the north of the core Tumalo community area. The power and authority given to Laidlaw Water Supply District as a government entity is vested and exercised by a board of commissioners, each of whom is an elector of the district. These commissioners have the authority under ORS Chapter 264 to determine rates and the type and extent of water supply facilities. Deschutes County coordinates with the Laidlaw Water Supply District when a property owner initiates a land use application within their district through noticing and the solicitation of agency comments. During the land use process, Laidlaw Water Supply District identifies conditions they will impose on the development proposal. The Laidlaw Domestic Water District currently depends on three groundwater wells.

The District’s groundwater source does not exceed current EPA maximum contaminant limits. No treatment is performed, and none has been required by the Oregon Health Authority. Properties in Tumalo, but located outside Laidlaw District boundaries, rely on private domestic wells for drinking water. State law, Oregon Revised Statute 537.545, exempts private wells if domestic consumption is less than 15,000 gallons per day and irrigation of a lawn or noncommercial garden is less than one half-acre.

**Wastewater**

Tumalo does not have a community-wide wastewater facility. Instead, land uses in Tumalo currently rely on on-site wastewater systems, ranging from newer alternative treatment technologies (ATT) and filter systems, to older drainfields. Onsite systems in some cases, are insufficient and improper for a development site. According to the Deschutes County Onsite Wastewater Division, most of Tumalo’s soils are rapidly draining, with rapid or very rapid permeability. Given these soil characteristics, standard septic systems can only be sited on lots greater than an acre. Smaller lots, between a half-acre and an acre are obligated to site more expensive onsite systems such as sand filters and ATTs. Additionally, there are circumstances in Tumalo where certain lots cannot be developed or redeveloped because they are too small or lack sufficient area to meet setback requirements for septic system drainfields.

Deschutes County zoning regulations restrict the type and intensity of allowed land uses to those which can be served by an Oregon Department of Environmental Quality (DEQ) approved onsite wastewater disposal system. The County does not allow uses or densities that are unable to obtain a permit for a DEQ approved onsite system. In addition, County zoning regulations set minimum lot sizes to ensure the onsite systems do not exceed soil capacity of treating wastewater effluent. These circumstances have prompted residents and business owners to express support for exploring funding opportunities to establish a community wastewater facility to maintain surface and groundwater quality.

The exception to the above is a small, privately owned wastewater system (Tumalo Property Owners Association or TPOA) that was approved in 2018 to service a compact residential development on the south side of U.S. 20 between essentially Bailey Road and O.B. Riley

Road. This private system also serves a strip mall and several other small businesses on that same south side of U.S. 20. TPOA is a Septic Tank Effluent Pumping (STEP) system, meaning biosolids are pretreated, placed in a septic tank, then the effluent is pumped into a pressurized pipe and sent up to a holding tank located on property owned by the Laidlaw Water District.

In 2022, at the request of property and business owners in Tumalo, Deschutes County, used American Rescue Plan Act monies to fund a feasibility study to evaluate possible ways to provide sewer service to Tumalo. The County selected the engineering firm Murraysmith (later absorbed by CONSOR) to perform the wastewater feasibility study with the results presented to the Board on December 21, 2022.<sup>1</sup> The feasibility study reviewed the following scenarios, all of which would require crossing U.S. 20:

- 1. Expand the TPOA system; establish a separate collection and treatment system within Tumalo;
- 2. Install a collection and disposal system in Tumalo with a connection to the City of Bend’s North Interceptor line at Cooley Road/U.S. 20.

The feasibility study included additional concepts related to scale and/or phasing such as:

- 1. Providing service to only the commercial core along Cook Avenue;
- 2. Providing a larger system that would serve the Tumalo commercial core and residential areas west of the Deschutes River and north of U.S. 20.

The feasibility study provided cost estimates for construction and hook-up fees and monthly bills. The amounts vary widely depending on number of lots served, amount of grant funds acquired, connection fees, and monthly bills.

Community members have expressed concerns about being required to hook up to the system when a) their septic system begins to fail and b) the private system is within 300 feet or less to their property line and legally available. Staff received a massive stream of public comments expressing opposition toward a private system expanding into Tumalo and concerns about the private system being able to charge onerous fees to connect to the system. A smaller group, primarily those with commercial properties along Cook Avenue, supported the development of a sewer system.

The sewer feasibility study documented the estimated costs and timelines for a sewer system. Ultimately, whether a sewer authority is created, and a sewer system is provided in Tumalo will be a decision for the community, not the County.

<sup>1</sup> <https://online-voice.net/tumaloseweroptions/>

The formation of a sewer district is not a land use action and thus is outside the scope of the TCP. However, based on massive public input during the various TCP open houses, the TCP has added policy language specific to sewers.

**Emergency Services**

The Deschutes County Rural Fire Protection District #2, governed by an elected five-member volunteer Board of Directors, was established in 1952 to provide fire prevention, protection, and suppression services to residents living outside municipalities and areas not already served by established fire protection districts. In 1991, the district added emergency medical services. Today, District #2 covers approximately 140 square miles of suburban and forested land surrounding Bend and serves approximately 25,000 constituents. The average population of the district greatly increases seasonally due to tourism.

The actual delivery of fire and emergency medical services to district constituents is provided through a contract with the City of Bend Fire Department. Station 302 is located on 4<sup>th</sup> Street in Tumalo. The station was originally built in the early 1970s and a new building was constructed in 2019 to the immediate east. The station is staffed with an advance life support-equipped fire engine, brush/interface pumper, and an ambulance.





**Irrigation Water**

Tumalo Town District Improvement Company (also known as the Tumalo Town Ditch Company) draws irrigation water based on three water right certificates with priority dates of 1904, 1905, 1938, 1950 and 1952. The system consists of a three-mile ditch that begins near the bridge at Tumalo State Park, parallels the river, crossing Bailey Road at the Tumalo Feed Company Restaurant, then continuing under U.S. 20 to the commercial district. The ditch serves approximately 43 customers and is used for irrigating lawns and gardens<sup>2</sup>.

North of the Tumalo commercial core, within the unincorporated community boundary, is a small residential enclave centered around Beaver Lane located within the Rimrock Water Improvement District. This District is owned and managed by a private water patron who distributes purchased water deliveries from Tumalo Irrigation District (TID) to the residential properties within this residential area. TID, first established through the construction of canal infrastructure in 1883 and organization as a district by 1922, diverts water from Tumalo Creek below Shevlin Park and the Deschutes River near Pioneer Park, with additional water storage through the Crescent Lake impoundment system. TID serves approximately 7,400 acres of irrigated lands to support livestock, hay, alfalfa, garlic, lavender and other crops and farm uses<sup>3</sup>. There are approximately 685 customers served by TID.

East of the Deschutes River, within the Tumalo unincorporated community boundary, are properties located within the Swalley Irrigation District. Swalley draws water based on a priority water right certificate dated September 1, 1899, and was incorporated as a municipal irrigation district in 1994 after 95 years of private ownership and operation. Swalley Irrigation District currently serves approximately 4,333 acres of irrigated lands around the vicinity of Tumalo, east of the Deschutes River and west of Highway 97. There are approximately 668 customers served by the Swalley Irrigation District.

**Recreational Trail**

The Bend Metro Park and Recreation District (Park District) provides parks, trails and recreation programming for residents encompassing the Bend Urban Area. Tumalo is located outside the district boundary by approximately two miles. However, the Park District does have recreational interests that extend outside its current boundary. In 2002, the Park District and the City of Bend collaborated on the development of the Deschutes River Trail (DRT) Action Plan. This plan identified the desire to complete the Deschutes River Trail through Bend and connect it on both ends to destinations outside the urban area. The development of the Riley Ranch Nature Reserve between O.B. Riley Road and the Deschutes River at the north end of Bend has helped extend the DRT. The ultimate northern extent of the planned DRT follows the Deschutes River from the Bend Urban Growth Boundary to Tumalo State Park and on to Tumalo. The Park District continues to work with private property owners and the Oregon State Parks and Recreation Department in an ongoing

<sup>2</sup> <https://www.tumalo.org/files/98649cf93/Water+User%27s+Handbook.pdf>

<sup>3</sup> <https://www.tumalo.org/about-us>

effort to assemble a continuous publicly owned corridor for the trail. Fortunately, the portions of the trail corridor closest to Tumalo are already in public ownership. The Park District and the County support the development of this trail corridor between Tumalo and Tumalo State Park as a hard-surfaced shared-use path that utilizes the current grade-separated crossing underneath the U.S. 20 bridge on the west bank of the Deschutes River. The State Historic Preservation Office (SHPO) has identified archeological resources that will need to be protected during the trail’s construction and usage.

ODOT in 2022-23 is building a bicyclist/pedestrian-only underpass at U.S. 20/4<sup>th</sup> Street to make crossing the highway much easier. This multiuse path will connect to Bailey Road. The existing Twin Bridges State Scenic Bikeway would also utilize this shared-use path instead of the U.S. 20/Bailey-7<sup>th</sup> intersection as it does currently.

**Transportation**

Tumalo requires a transportation network that provides safe and efficient through movements for traffic traveling on U.S. 20. Equally important is maintaining local access to residential and commercial areas, as well as the Tumalo Community School. U.S. 20 runs diagonally east-west through Tumalo and contains two travel lanes and a center turn lane. Its volumes and speed make north-south street connections challenging. ODOT has a two-lane roundabout at U.S. 20/Cook-O.B. Riley programmed for construction in 2023. The roundabout will add sidewalks along U.S. 20 for several hundred feet as well as along O.B. Riley and Cook. The roundabout will help lower speeds on U.S. 20, which is now posted at 45 mph down from the earlier posting of 55 mph.

There are three access points to U.S. 20: 5<sup>th</sup> Street; 7<sup>th</sup> Street/Bailey Road; and Cook Avenue/O.B. Riley Road. The first two have turn restrictions and only Cook/O.B. Riley will allow all movements. Within Tumalo, there are several paved and unpaved streets, totaling approximately 4.7 miles.

Average daily traffic (ADT) counts measured the following vehicles:

- 5<sup>th</sup> Street recorded 3,118 ADT (2022)
- Bailey Road, 1,234 ADT3 (2022)
- Cline Falls Hwy, 4,039 ADT (2022)
- Cook Avenue, 6,697 ADT (2022)
- Tumalo Road, 3,753 ADT (2022)
- O.B. Riley, 2,061 ADT (2022)
- U.S. 20, 0.10 miles east of Cline Falls Hwy, 10,276 ADT (2021)
- U.S. 20, 0.10 miles west of Cline Falls Hwy, 6,837 ADT (2021)

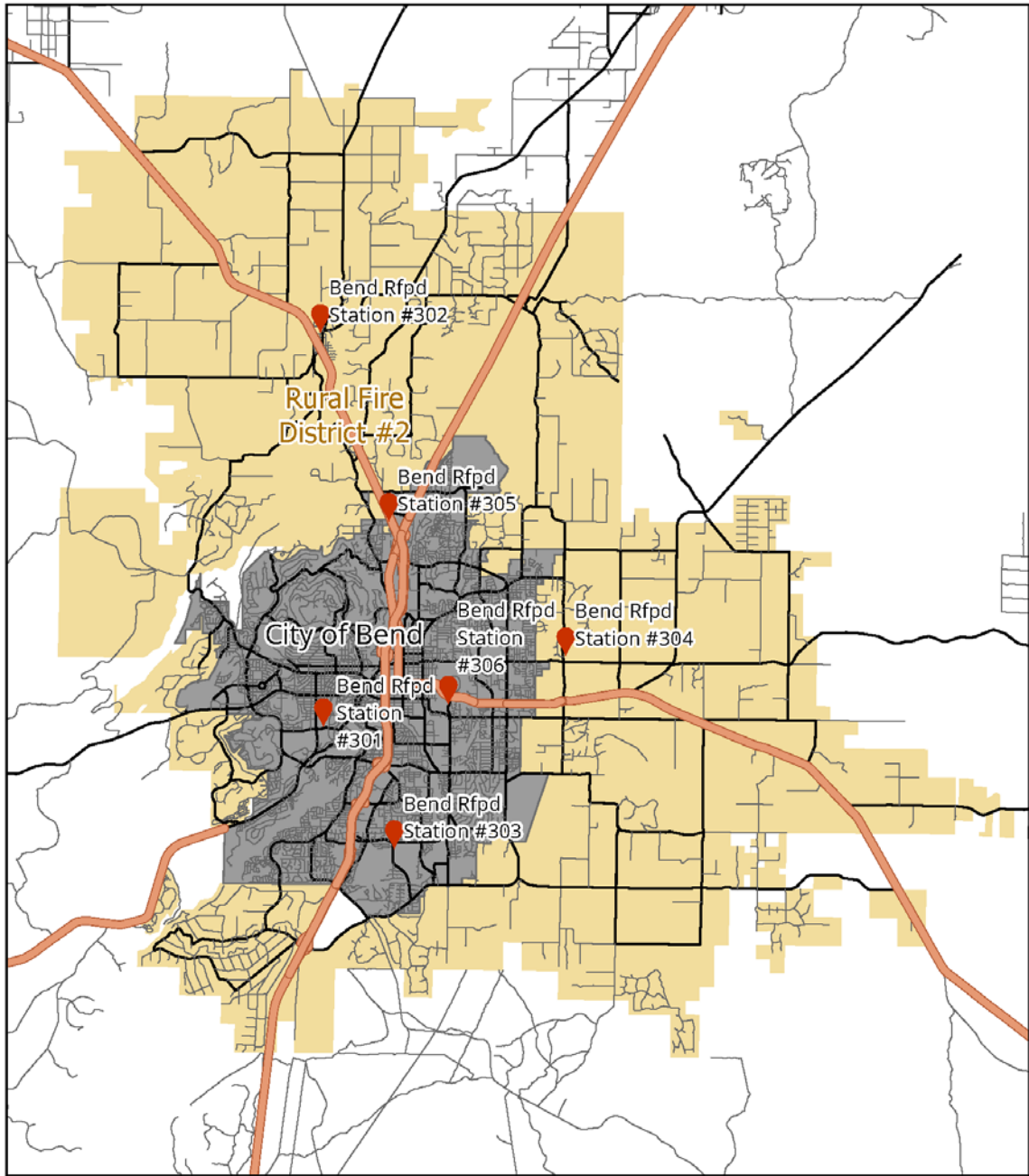
To protect the function of a highway, it is often necessary to limit access and control turning movements. ODOT limited the movements at U.S. 20/Bailey-7<sup>th</sup> to right-in, right-out only (RIRO) for 7<sup>th</sup> and RIRO and left-in at Bailey. There is also a raised refuge for bicyclists and pedestrians at U.S. 20/Bailey-7<sup>th</sup>. The two-lane roundabout will make U.S. 20/Bailey-7<sup>th</sup> into

a RIRO intersection and Cook/8<sup>th</sup> will become a RIRO intersection as well. This will reduce the number of conflict points at these intersections. A conflict point is a location where vehicles turning or passing through can collide. By restricting turn movements or redirecting property access to side streets or alleys, the number of crashes on the highway and the local road system can be lowered. Implementing additional measures such as traffic calming, improved pedestrian crossings, or reducing the travel speed on the highway can benefit an entire community.



The County continues to provide sidewalk infill through both transportation improvements and requirements tied to land use approvals. Cascade East Transit (CET) master plan calls for examining a transit stop in Tumalo. Due to ADA requirements, the transit stop must be accessed via sidewalks. The current intent is to have the stop on Bruce Avenue between 5<sup>th</sup> and 7<sup>th</sup> once there is sidewalk.

The only change to the functional classification system was changing Cook Avenue from a collector to an arterial in the 2010-2030 Transportation System Plan (TSP).

### Rural Fire Protection District #2 Map



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-  Fire Departments
-  Rural Fire District #2

### Tumalo Fire District



6/23/2022

# Surrounding Land Uses

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Residents outside Tumalo identify with the area because it is where many buy certain goods and services, send their children to Tumalo Community School, attend church, or otherwise convene with other community members. The following Comprehensive Plan designations and related zoning districts are within a mile of the formal Tumalo unincorporated community boundary.

## Agriculture

An “Agricultural” designation and Exclusive Farm Use (EFU) zone protect farmlands in Deschutes County pursuant to Statewide Planning Goal 3 (Agricultural Lands). As discussed in the Agricultural Lands Section of the Comprehensive Plan, protecting farmlands is one of the primary goals of Oregon’s land use system. When the Comprehensive Plan was first adopted in 1979, there was general consensus for an agricultural goal:

*“To preserve agricultural land in Deschutes County for the production of farm and forestry products, as well as the public need for open space.”*

In 1992, Deschutes County completed a farm study report. The purpose of the study was to ensure that EFU zoning and standards for farm divisions and dwellings were consistent with Goal 3 and relevant administrative rules. The study found that farms in Deschutes County usually contained irrigated and non-irrigated land, as well as soils of different classes. The study identified seven agricultural subzones. For each subzone, standards determined minimum parcel sizes for farm divisions to protect the commercial agricultural land base. The subzone immediately adjacent to Tumalo is the Tumalo/Redmond/Bend subzone (EFUTRB). The minimum acreage for this subzone is 23 acres of irrigated land. Approximately 2.5 miles farther east, there are approximately fourteen (14) Alfalfa area subzone parcels (EFUAL) that allow a minimum of 36 acres of irrigated land. The EFUAL subzone parcels are intermixed with EFUTRB subzone parcels.

Since the latest Tumalo Community Plan update in 2010, there have been increased numbers of land divisions approved in the vicinity of Tumalo, some of which are designed to support both nonfarm and farm-related dwellings and accessory structures. Home Occupations, or home-based business uses have become increasingly common within the surrounding EFU lands. In addition to the increasing number of approved land divisions, EFU dwellings, and Home Occupations, the EFU lands surrounding Tumalo have also seen an increase in marijuana and hemp-related farm uses and structures since the statewide legalization of recreational marijuana and the passage of the 2018 farm bill allowing hemp production. Please refer to the Agricultural Lands section of the Comprehensive Plan for more details about agricultural land in Deschutes County.



**Rural Residential**

A “Rural Residential Exception Area” designation and corresponding Multiple Use Agriculture (MUA-10) zone apply to lands for which Deschutes County justified an “exception” to Statewide Planning Goal 3. Multiple Use Agriculture applies to agricultural lands that have been demonstrated to be unsuitable for commercial farming, but retain enough agricultural practices that are compatible with rural development. The minimum lot size for new subdivisions in this zoning district is ten acres. There are several MUA-10 subdivisions within a mile of Tumalo. Approximately one-half mile south of Tumalo lies the Cascades Academy, located on MUA-10 zoned property. Cascades Academy is a pre-kindergarten through 12<sup>th</sup> grade independent private school<sup>4</sup>.

**Surface Mining**

Located just outside Tumalo, a “Surface Mining” designation and corresponding Surface Mining (SM) zone authorize surface mining activities. This district allows development and use of mineral and aggregate resources consistent with Statewide Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces). It applies to two properties in the immediate vicinity, one at the north end of Tumalo, west of the Deschutes River and the other, adjacent to U.S. 20 and bisected by O.B. Riley Road, known as the Knife River operation. The Knife River properties are allowed through a limited combining zone to store, crush, process, sell and distribute aggregate minerals. One additional surface mine designated property of approximately 75 acres is located 1 mile south of the Tumalo community boundaries.

**Flood Plain**

Several properties within the Tumalo unincorporated community and multiple parcels to the south and north are located within the Flood Plain Zoning District. These parcels are exclusively associated with the Deschutes River corridor and surrounding low-lying areas. The purpose of this zoning district is to protect the public from the hazards associated with flood plains; to conserve important riparian areas along rivers and streams for the maintenance of the fish and wildlife resources; and to preserve significant scenic and natural resources while balancing the public interests with those of individual property owners in the designated areas. Given the purpose of the zoning district, a majority of the flood plain designated areas outside of Tumalo are maintained as open spaces or otherwise undeveloped land, including portions of Tumalo State Park.

<sup>4</sup> <https://www.cascadesacademy.org/about>

**Open Space & Conservation**

Approximately one-half mile south of the Tumalo commercial core are properties within an “Open Space & Conservation” Zoning District, largely associated with the boundaries of Tumalo State Park and the contiguous Riley Ranch Nature Reserve, further south along the Deschutes River corridor. The purpose of this zoning district is to protect designated areas of scenic and natural resources; to restrict development in areas with fragile, unusual or unique qualities; to protect and improve the quality of the air, water and land resources and to plan development that will conserve open space<sup>5</sup>.



Photo: Tumalo State Park, Photo Credit: Hike Oregon

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<sup>5</sup> DCC 18.48.010

# Conclusion

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The TCP is the result of extensive outreach and interaction between staff and residents, business owners, property owners in Tumalo, and those who live near Tumalo and shop, recreate, or send their children to school there.

Nearly unanimously, respondents spoke of their deep affection for Tumalo and a sense of place. They valued the rural feel of Tumalo and appreciated the small-scale commercial core. Often they expressed a fear of not wanting Tumalo to become like Sisters or to be engulfed by Bend.

In updating the TCP, staff worked to balance the oft-expressed desire by the public for Tumalo to experience little to no change with a State land use system and County code that anticipates and legally must accommodate development. The Comprehensive Plan designations and the zoning designations for Tumalo in DCC 18.67 remain unchanged. Any application to amend the Comprehensive Plan or zoning designation would require public hearing before both the Deschutes County Planning Commission and the Board of County Commissioners. Those potential plan amendments and/or zone changes would have to demonstrate consistency with both the Comprehensive Plan and the TCP.

The TCP polices respond to public input regarding protecting the Deschutes River, concerns about the costs and timing of a future wastewater treatment system, the worries about traffic volumes, and the desire to protect the community and maintain its livability.

# Goals and Policies

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The following policies are designed to address issues specific to the Tumalo Rural Unincorporated Community. The policies supplement existing Comprehensive Plan policies and were developed from input received by community members, stakeholders, and input from relevant agency partners.

The following policies and policies are designed to address issues specific to the Tumalo Rural Unincorporated Community. The policies supplement existing Deschutes County Comprehensive Plan policies and were developed from input received by community members, stakeholders, and input from relevant agency partners.

## Community Vision Statement

Retain the livability of Tumalo as a rural small town, through safe and efficient public services and collaborating with the surrounding rural area.

## Land Use Goal

Continue to implement a clear and transparent planning process and policy framework reflective of the community’s small-town rural character.

## Land Use Policies

1. Conform land use regulations to the requirements of Unincorporated Communities as defined in OAR 660 Division 22 or any successor.
2. Ensure County plans and land use regulations comply with state requirements for agricultural uses in the Exclusive Farm Use (EFU) zones.
3. Encourage the preservation of historical structures such as the Tumalo Community Church (1905) and the Laidlaw Bank and Trust (1910).
4. Review the Tumalo Community Plan periodically to determine if it meets the current and future needs of the area.
5. Encourage residents and community groups to reach out to Deschutes County for updates and information.

**Natural Resources, Open Space, and Recreation Goal**

Support the preservation and conservation of natural resources, cultural resources, and open space while providing ample and diverse opportunities for recreation.

**Natural Resources, Open Space, and Recreation Policies**

1. Continue to support Tumalo as a regional bicycle destination.
2. Support community and agency partners in planning and development of a multiuse trail system from Tumalo State Park to Tumalo.
3. Encourage consolidation of designated access points to the Deschutes River and education of trail users to preserve riparian areas.
4. Encourage voluntary designation of open space and public access to Deschutes River on adjacent private properties.
5. Provide County perspective and support for community-based restoration projects to protect the health and vitality of the Deschutes River and its tributaries.
6. Preserve publicly owned lands along the Deschutes River as designated open space.
7. Collaborate with public, private, and nonprofit organizations on infrastructure improvements near recreation areas including formal river access points, wayfinding signage, lighting, or sanitary facilities.
8. Support community efforts to designate the segment of the Deschutes River through Tumalo as an Oregon Scenic Waterway for its recreational values.
9. Coordinate with community partners on the development of a trails and recreation master plan.
10. Support community-led efforts to address concerns regarding recreational use of and impacts to the Deschutes River and its floodplain.
11. Coordinate with community partners on efforts to designate new parks and maintain local parks.
12. Encourage preservation or improvement of groundwater quality and the conservation of groundwater supplies.
13. Provide public educational outreach on the importance and benefits of water conservation, encouraging low water use, and drought tolerant landscaping.



- 14. Encourage Tumalo to become a fire-adapted community through the Firewise Program.

**Residential Area Goal**

Maintain the small-town character and feel of Tumalo, while accommodating the community’s residential growth.

**Residential Area Policies**

- 1. Encourage density and design features that are compatible with existing development.
- 2. Permit livestock in the residential districts subject to use limitations.
- 3. Plan and zone for a diversity of housing types and densities suited to the capacity of the land to accommodate water and sewage requirements.
- 4. Explore legislative changes to limit multi-family housing to 4 units in Tumalo.

**Economic Development Goal**

Retain the economic vibrancy of Tumalo’s historic core and industrial areas while providing economic development opportunities that are compatible with the small town rural character of the community.

**Economic Development Policies**

- 1. Encourage design standards in the commercial district so new development is compatible with the rural character of the community and reduces negative impacts on adjacent residential districts.
- 2. Explore alternatives to the solar setback standards for development within the commercial zoning districts of Tumalo.
- 3. Allow residential uses and mixed residential/commercial uses, without inhibiting future commercial development opportunities in the Commercial Zoning Districts.
- 4. Support economic development initiatives and tourism in the Tumalo area.
- 5. Allow for existing and future uses without producing adverse effects upon water resources or wastewater disposal. Coordinate with relevant agencies to ensure industrial uses meet requirements for water availability and wastewater disposal.

- 6. Limit industrial activities to low-impact uses that rely on rural resources as defined in OAR 660-004-0022(3)(a).
- 7. Limit industrial activities to low-impact uses that rely on rural resources as defined in OAR 660-004-0022(3)(a).
- 8. Encourage opportunities for public art in Tumalo.

**Public Facilities Goal**

Ensure irrigation, domestic water, wastewater, and other utility systems are safe, efficient, and economical.

**Public Facility Policies**

- 1. Consider water and wastewater capacity when assessing development capabilities on individual lots in Tumalo.
- 2. Promote efficient water and wastewater systems in new development to manage water resources carefully.
- 3. Encourage early planning and acquisition of sites needed for public facilities.
- 4. Support replatting of lots in the area comprising the Laidlaw Plat and other lands designated commercial to create lots large enough to accommodate a DEQ approved on-site sewage disposal system, or connection to a public sewer system if available, consistent with the findings of the Tumalo Sewer Feasibility Study (2022).
- 5. Coordinate with local Irrigation Districts and the Tumalo Town Ditch to avoid adverse effects on their infrastructure and distribution systems.
- 6. Maintain efforts to ensure the Tumalo domestic water system complies with public health regulations and state and federal water quality regulations.
- 7. If Tumalo residents initiate district formation, coordinate with the residents and business owners on the creation of a public sewer district.
- 8. Explore legislative approaches to preclude non-voluntary connections to private sewer systems.
- 9. Explore with Department of Environmental Quality (DEQ) to determine whether a property owner can record a land use provision stating a private sewer is not lawfully available under Oregon Administrative Rule (OAR) 340-040-0160 unless the land owner voluntarily consents to the connection.

- 10. Prohibit private sewers in Tumalo, unless the property owners of the lots in the Laidlaw Plat, Deschutes River Tract, and Deschutes River Homesite Rimrock Addition form a district and vote on the issue.

**Transportation Goal**

Provide a safe and efficient system for all modes of transportation, including bicycle, pedestrian, and transit, to support local economic development, recreational uses, and community health.

**Road Network Policies**

- 1. Periodically review the Transportation System Plan policies and standards for Tumalo to reflect best practices.
- 2. Periodically review existing roadway design requirements to ensure complete streets which accommodate all modes of travel.
- 3. Collaborate with the Oregon State Police and Deschutes County Sheriff’s Office to address speeding within Tumalo.
- 4. Encourage ODOT to use its “Blueprint for Urban Design” for U.S. 20 projects to enhance the roadside environment by signage, accommodating alternate modes, roadside amenities, and landscaping.

**Road and Sidewalk Policies**

- 1. Implement road development standards for Tumalo that are consistent with the small-scale character of the community.
- 2. Utilize land development and grant funding opportunities to improve street segments identified for improvement in the Transportation System Plan.
- 3. Provide functional, cost-effective sidewalks within the commercial core while preserving the rural character of the residential areas.
- 4. Provide sidewalks or multiuse paths where they are needed for safety, as set forth in the Transportation System Plan.
- 5. Construct sidewalks specified on community roads without curbs and gutters and allow adequate room for utilities.
- 6. Provide wayfinding signage and maintenance best practices on County arterials and collectors to ensure safe and accessible routes for all users.

- 7. Review Deschutes County Code (DCC) 17.48, Table B, Minimum Bikeway Design Standards, and consider revising widths of multiuse paths from 8 feet to 10 feet and up to 12 feet in areas with high mixed use.

# Section 5.12 Legislative History

## Background

This section contains the legislative history of this Comprehensive Plan.

**Table 5.12.1 Comprehensive Plan Ordinance History**

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County



Exhibit “D” to Ordinance 2023-016 – Comprehensive Plan Section 5.12

2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.

2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal II to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone

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2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial
2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.

2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
2019-011	05-01-19/05-16/19	23.01.010, 4.2	Comprehensive Plan Map Amendment to adjust the Bend Urban Growth Boundary to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area I boundary. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.

Exhibit “D” to Ordinance 2023-016 – Comprehensive Plan Section 5.12

2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-001	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
2020-002	2-26-20/5-26-20	23.01.01, 4.2, 5.2	Comprehensive Plan Map Amendment to adjust the Redmond Urban Growth Boundary through an equal exchange of land to/from the Redmond UGB. The exchange property is being offered to better achieve land needs that were detailed in the 2012 SB 1544 by providing more development ready land within the Redmond UGB. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2020-003	02-26-20/05-26-20	23.01.01, 5.10	Comprehensive Plan Amendment with exception to Statewide Planning Goal 11 (Public Facilities and Services) to allow sewer on rural lands to serve the City of Bend Outback Water Facility.



2020-008	06-24-20/09-22-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add roundabouts at US 20/Cook-O.B. Riley and US 20/Old Bend-Redmond Hwy intersections; amend Tables 5.3.T1 and 5.3.T2 and amend TSP text.
2020-007	07-29-20/10-27-20	23.01.010, 2.6	Housekeeping Amendments correcting references to two Sage Grouse ordinances.
2020-006	08-12-20/11-10-20	23.01.01, 2.11, 5.9	Comprehensive Plan and Text amendments to update the County's Resource List and Historic Preservation Ordinance to comply with the State Historic Preservation Rule.
2020-009	08-19-20/11-17-20	23.01.010, Appendix C	Comprehensive Plan Transportation System Plan Amendment to add reference to J turns on US 97 raised median between Bend and Redmond; delete language about disconnecting Vandevent Road from US 97.
2020-013	08-26-20/11/24/20	23.01.01, 5.8	Comprehensive Plan Text And Map Designation for Certain Properties from Surface Mine (SM) and Agriculture (AG) To Rural Residential Exception Area (RREA) and Remove Surface Mining Site 461 from the County's Goal 5 Inventory of Significant Mineral and Aggregate Resource Sites.
2021-002	01-27-21/04-27-21	23.01.01	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)

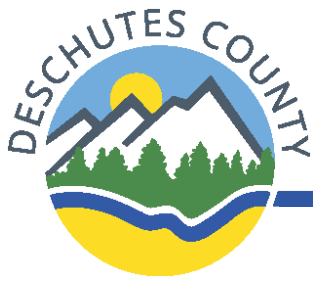
Exhibit “D” to Ordinance 2023-016 – Comprehensive Plan Section 5.12

2021-005	06-16-21/06-16-21	23.01.01, 4.2	Comprehensive Plan Map Amendment Designation for Certain Property from Agriculture (AG) To Redmond Urban Growth Area (RUGA) and text amendment
2021-008	06-30-21/09-28-21	23.01.01	Comprehensive Plan Map Amendment Designation for Certain Property Adding Redmond Urban Growth Area (RUGA) and Fixing Scrivener’s Error in Ord. 2020-022
2022-001	04-13-22/07-12-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-003	04-20-22/07-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2022-006	06-22-22/08-19-22	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2022-011	07-27-22/10-25-22 (superseded by Ord. 2023-015)	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)
2022-013	12-14-22/03-14-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)

2023-001	03-01-23/05-30-23	23.01.010, 5.9	Housekeeping Amendments correcting the location for the Lynch and Roberts Store Advertisement, a designated Cultural and Historic Resource
2023-007	04-26-23/6-25-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-010	06-21-23/9-17-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-018	08-30-23/11-28-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Residential Exception Area (RREA)
2023-015	9-13-23/12-12-23	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) to Rural Industrial (RI)
2023-025	11-29-23/2-27-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area
2024-001	01-31-24/4-30-24	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Rural Residential Exception Area (RREA) to Bend Urban Growth Area

Exhibit “D” to Ordinance 2023-016 – Comprehensive Plan Section 5.12

2024-003	2-21-24/5-21-24	23.01.010, 5.8	Comprehensive Plan Map Amendment, changing designation of certain property from Surface Mining (SM) to Rural Residential Exception Area (RREA); Modifying Goal 5 Mineral and Aggregate Inventory
2023-017	3-20-24/6-18-24	23.01(D) (repealed), 23.01(BL) (added), 3.7 (amended), Appendix C (replaced)	Updated Transportation System Plan
<u>2023-016</u>	<u>TBD/TBD</u>	<u>23.01(BM) (added), 4.7 (amended), Appendix B (replaced)</u>	<u>Updated Tumalo Community Plan</u>



COMMUNITY DEVELOPMENT

STAFF FINDINGS

**FILE NUMBER(S):** 247-23-000509-PA/510-TA

**SUBJECT PROPERTY/ OWNER:** N/A

**APPLICANT:** Deschutes County Planning Division  
P.O Box 6005  
Bend, OR 97708

**REQUEST:** Replace the 2010-2030 Tumalo Community Plan with the 2020-2040 Tumalo Community Plan, including updated Goals and Policies

**STAFF CONTACT:** Tarik Rawlings, Senior Transportation Planner  
Phone: 541-317-3148  
Email: [Tarik.Rawlings@deschutes.org](mailto:Tarik.Rawlings@deschutes.org)

**RECORD:** Record items can be viewed and downloaded from:  
[www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

Record items can be viewed and downloaded from:  
<https://www.deschutescounty.gov/cd/page/tumalo-community-plan-update-2020-2040-247-23-000509-pa-510-ta>

**I. APPLICABLE CRITERIA**

Deschutes County Code (DCC)  
Title 22, Deschutes County Development Procedures Ordinance  
Chapter 22.012, Legislative Procedures

Oregon Administrative Rule (OAR)  
OAR 660-015, Statewide Planning Goals and Guidelines  
OAR 660-022, Unincorporated Communities

Deschutes County Comprehensive Plan – Title 23  
Chapter 1, Comprehensive Planning



## Chapter 4, Urban Growth Management

### II. BASIC FINDINGS

#### PROPOSAL

This is a legislative plan and text amendment to the Deschutes County Comprehensive Plan to remove the 2010-2030 Tumalo Community Plan (TCP) and replace it with the 2020-2040 TCP. Tumalo is a Rural Unincorporated Community under OAR 660-022-0010(7). The TCP is Section 4.7 within the Deschutes County Comprehensive Plan. The TCP provides a Community Vision Statement, goals, and polices unique to Tumalo. The 2020-2040 TCP update includes several new goals and policies; updates information for population, traffic volumes, land use consumption; recaps general changes within the community; and identified issues of public concern.

#### BACKGROUND

In 2010, County staff prepared a Community Plan for Tumalo. As that plan is now halfway through its lifespan and Tumalo has undergone several changes in population, different types of land uses, and increased tourism, the County began the process in 2022 to update the TCP. This update was done concurrently with an update of the bike, pedestrian, and transit components of the TCP.

#### REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative plan and text amendment. Nonetheless, since Deschutes County is initiating one, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and the County's Comprehensive Plan.

### III. FINDINGS & CONCLUSIONS

#### CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.

#### *Hearing Required*

**FINDING:** This criterion will be met because a public hearing will be held before the Deschutes County Planning Commission on August 10, 2023, and a future public hearing will be held before the Board of County Commissioners.

Section 22.12.020, Notice

**Notice****A. Published Notice**

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.**
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.**

**FINDING:** This criterion is met as notice was published in the Bend Bulletin newspaper on July 20<sup>th</sup>, 2023 for the Planning Commission public hearing and additional published notice will be sent for the Board of County Commissioners' public hearing.

**B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.**

**FINDING:** Posted notice was determined by the Planning Director not to be necessary.

**C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.**

**FINDING:** Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

**D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.**

**FINDING:** Notice was provided to the County public information official for wider media distribution. This criterion is met.

Section 22.12.030 Initiation of Legislative Changes.

**A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.**

**FINDING:** The application was initiated by the Deschutes County Planning Division at the direction of the Board of County Commissioners and has received a fee waiver. This criterion is met.

Section 22.12.040. Hearings Body

- A. The following shall serve as hearings or review body for legislative changes in this order:**
- 1. The Planning Commission.**
  - 2. The Board of County Commissioners.**

**B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

**FINDING:** The Deschutes County Planning Commission held the initial public hearing on August 10, 2023. The Board will hold a public hearing on a future date to be determined. These criteria are or will be met.

Section 22.12.050 Final Decision

***All legislative changes shall be adopted by ordinance***

**FINDING:** The proposed legislative changes will be implemented by ordinance, number to be determined, upon approval and adoption by the Board of County Commissioners. This criterion will be met.

**OAR 660-015, Statewide Planning Goals and Guidelines**

Goal 1: Citizen Involvement:

**FINDING:** Deschutes County mailed notice to every property in Tumalo prior to Open House #1 (May 11, 2022) and posted flyers at various gathering centers. The latter locations included the bulletin boards for Tumalo's only gas station/convenience store, veterinary clinic, irrigation district offices, pizza parlor, Tumalo Community School, and post office. Open House #1 was the TCP kick off meeting and an opportunity for attendees to voice their opinions about vision statement, goals, policies, and issues of importance. Other opportunities for public comment and dialogue occurred via Meet A Planner meetings (June 20-24, 2022) which were scheduled face-to-face, one-on-one 30-minute sessions on the TCP update; County-held virtual open houses; and surveys (June 29-July 22, 2022). Open Houses #2 (August 22, 2022) and #3 (May 17, 2023) presented draft and final versions of the TCP with revisions based on public feedback. A second round of Meet A Planner meetings was offered (May 2-9, 2023). The County also created a website and an explanatory Story Map to garner public input throughout the process (<https://www.deschutes.org/cd/page/tumalo-community-plan-update>). The 2020-2040 TCP is therefore consistent with Goal 1.

Goal 2: Land Use Planning:

**FINDING:** The TCP 2020-2040 does not change any Comprehensive Plan designations or zoning designations in DCC 18.67, Tumalo Rural Community Zoning. The update is the subject of land use file 247-23-000509-PA/510-TA and will be processed under the County's procedures for a legislative amendment. On July 6, 2023, the County provided the required 35-day prior notice to the Department of Land Conservation and Development (DLCD) before the first evidentiary hearing. The 2020-2040 TCP is therefore consistent with Goal 2.

Goal 3: Agricultural Lands:

**FINDING:** Tumalo does not contain any lands with the Comprehensive Plan designation of Agriculture nor the zoning designation of Exclusive Farm Use (EFU). However, EFU properties abut

Tumalo and the following TCP 2020-2040 Land Use Policy #2 states that County plans and regulations must comply with state requirements for EFU lands. The TCP does not propose any changes to existing EFU zoning. The 2020-2040 TCP is therefore consistent with Goal 3.

Goal 4: Forest Lands:

**FINDING:** There are no lands designated Forest, either by Comprehensive Plan or DCC 18.67, within or abutting Tumalo. The TCP does not change any Forest zoning. Additionally, the majority of trees within the vicinity of Tumalo are juniper trees, which are not considered a commercially viable tree or a species that is commonly suitable for the production of merchantable trees. Therefore, either Goal 4 does not apply to the 2020-2040 or the application is consistent with Goal 4.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:

**FINDING:** The TCP 2020-2040 does not propose any changes to any Goal 5 resources. Two historic buildings in Tumalo are listed in the County's Goal 5 resources. The 2020-2040 TCP has a Natural Resources, Open Space, and Recreation Goal supporting the protection and conservation of natural resources, cultural resources, and open space. Various TCP polices address the elements and intent of Goal 5. Land Use Policy #3 encourages the preservation of historical structures in Tumalo such as the Tumalo Community Church (1905) and the Laidlaw Bank and Trust (1910). Natural Resources, Open Space, and Recreation Policies #4 and #6 address open space; Policies #3, #6-10 address the Deschutes River. The TCP proposes no changes to the County's Landscape Management (LM) overlay zone nor the Surface Mining Impact Area (SMIA) zones, which protect scenic view and aggregate mining, respectively. Therefore, the 2020-2040 TCP is consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality:

**FINDING:** The TCP has several goals and policies that address this goal. Specifically, Natural Resources, Open Space, and Recreation Policies #5, #13, and #14; Residential Policy #3; Economic Development Policies #1, #3, and #5-#7; the Public Facility Goal and Public Facility Policies #1-#10. In total, the policies will protect the quality of the air, water, and resources within Tumalo. Therefore, the 2020-2040 TCP is consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards:

**FINDING:** The Comprehensive Plan in Section 3.5 lists the following natural hazards endemic to Deschutes County: wildfire, snowstorms, flooding, and volcanic eruptions and earthquakes. Tumalo has a fire station and the Natural Resources, Open Space, and Recreation Policy #15 encourages Tumalo to become a fire-adapted community through the Firewise Program. The Road Department plows County-maintained roads in Tumalo while ODOT plows U.S. 20. The TCP does not change any existing building codes regarding snow loads or structural resistance to earthquakes. Therefore, the 2020-2040 TCP is consistent with Goal 7.

Goal 8: Recreational Needs:

**FINDING:** The major recreational draws to Tumalo are the Deschutes River and the State-designated Twin Bridges Scenic Bikeway, which uses Bailey Road, Cook Avenue, and Cline Falls Road. The Natural Resources, Open Space, and Recreation Goal and its Policies #1-4; and #7-#12 address these needs specifically. The Transportation Goal references supporting recreational uses of the road and sidewalk system. Therefore, the 2020-2040 TCP is consistent with Goal 8.

Goal 9: Economic Development:

**FINDING:** The TCP will not change any of the uses allowed outright or conditionally in the residential, commercial, industrial, or research and development zones in DCC 18.67 (Tumalo Rural Community). The following goal and policies support economic development in Tumalo: Land Use Policy #4; Economic Development Goal and Economic Development Policies #1-#7. Economic Development Policies #3 and #4 particularly support development in the commercial core and supporting economic development initiatives and tourism as the latter brings revenues into the community. Therefore, the 2020-2040 TCP is consistent with Goal 9.

Goal 10: Housing:

**FINDING:** This goal is not applicable because unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements. Tumalo is classified as a Rural Unincorporated Community under OAR 660-022-0010(7). The TCP does contain a Residential Goal and Residential Policies #1 and #3 to encourage a mix of housing types. Therefore, if it were applicable, the 2020-2040 TCP would be consistent with Goal 10.

Goal 11: Public Facilities and Services:

**FINDING:** The majority of Tumalo is on septic; there is a private wastewater system, Tumalo Property Owners Association (TPOA), which serves a small area on the south side of U.S. 20. Water, either for drinking or irrigation, is provided by private companies or private wells. The TCP contains a Public Facilities Goal as well as Public Facilities Policies #1-#10. The community was quite concerned about private sewers in Tumalo. Public Facilities Policies #3, #4, and #7 address public sewer systems while Policies #8, #9, and #10 address private sewer systems. Policies #1, #2, and #6 pertain to wastewater facilities regardless of public or private. Taken together, the Public Facilities goal and policies will protect Tumalo's current and future water and wastewater issues. The updated TCP does not propose any changes to the County's regulations regarding public facilities and services. Therefore the 2020-2040 TCP complies with Goal 11.

Goal 12: Transportation:

**FINDING:** The County's Transportation System Plan (TSP) is also being updated to 2040 to continue to provide a safe, convenient, and efficient economical transportation system. The TCP proposed Transportation Goal is to provide and encourage a safe, convenient, and economical transportation system. The Transportation Goal calls for such a transportation system for all modes and to support economic development, recreation, and community health. Of the specific transportation issues raised by the community, Road Network Policy #3 addresses speeding while Policy #4 calls for ODOT to use designs consistent with Tumalo's enduring vision of maintaining its small-town feel. Road and Sidewalk Policy #3 calls for sidewalks in the commercial core, but not in the residential neighborhoods to preserve their rural character. Road and Sidewalk Policies #6 and #7 will lead to a better experience for cyclists and pedestrians. The 2020-2040 TCP does not propose changes in the functional classification of any existing or planned transportation facility nor does it propose changes to any performance standards or access standards. Therefore, the 2020-2040 TCP is consistent with Goal 12.

Goal 13: Energy Conservation:



**FINDING:** As a Rural Unincorporated Community with a 30-foot height limit, Tumalo has minimal opportunities for infill or increased density, which can be used as a strategy for energy conservation. However, the various Transportation policies encourage energy-saving alternate modes, especially bicycling and walking. The small lots can make solar energy utilization impractical due to shadows from nearby structures. Economic Development Policy #2 addresses the issue. The 2020-2040 TCP does not propose to change the County's Plan or implementing regulations regarding energy conservation. Therefore, the 2020-2040 TCP is consistent with Goal 13.

Goal 14: Urbanization:

**FINDING:** Tumalo is a Rural Unincorporated Community under OAR 660-022-0010(7) and has no Urban Growth Boundary (UGB). As Tumalo by definition is rural, Goal 14 does not apply.

Goals 15 through 19

**FINDING:** These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

**OAR 660-022, Unincorporated Communities**

**FINDING:** OAR 660-022-0030(1) requires counties to provide zoning designations for all properties within an unincorporated community. Deschutes County has done so via DCC 18.67. The 2020-2040 TCP is not adding any new zones nor changing any uses allowed either outright or conditionally. The 2020-2040 TCP is therefore consistent with OAR 660-022.

**Deschutes County Comprehensive Plan**

**FINDING:** The relevant portions of the Comprehensive Plan are Chapter 1 (Comprehensive Planning), which sets the goals and policies of how the County will involve the community and conduct land use planning. These are specified in Section 1.2 (Community Involvement) and Section 1.3 (Land Use Planning). Chapter 4 (Urban Growth Management) and Sections 4.3 (Unincorporated Communities) and 4.7 (Tumalo Community Plan) are also applicable.

Section 1.2 sets a goal for an open and active community involvement program that engages the public during development of land use policies and codes. Policy 1.2.2 designates the Planning Commission as the Committee for Community Involvement. Policies 1.2.3 and 1.2.4 detail procedures for public outreach and avenues of outreach. As described above, the County complied with DCC 22.12 for a legislative amendment, including notice to the public, DLCD, and relevant agencies. Both the Planning Commission and Board will conduct separate public hearings and objectively evaluate the facts. Additionally, staff conducted extensive public outreach via flyers, email, open houses, website, and work sessions with the PC and the Board, which were open to the public and broadcast online.

Section 1.3 sets a goal of an open and public land use process to reach fact-based decisions. Policies 1.3.1 calls for protection of private-property rights and Policies through 1.3.2 through 1.3.9 concern public involvement, record keeping, use of websites, and review periods for the Comprehensive Plan. The 2020-2040 TCP does not identify any properties to be transferred from private to public

ownership; policies state clearly what is voluntary if private property is involved; policies regarding private sewers also would protect rights of private property owners that could be served by a private sewer. For the development of the TCP, the County has done extensive public outreach using traditional methods (flyers, face-to-face meetings) and newer methods (website, online public meetings, electronic records, video meetings, etc.)

Section 4.3 defines, lists, and categorizes Unincorporated Communities. Tumalo is a Rural Community and was approved in 1997. Section 4.3 does not have any goals or policies.

Section 4.7 is the Tumalo Community Plan itself and is incorporated into the Comprehensive Plan as Appendix B.

Based on the above, the 2020-2040 TCP is consistent with the Deschutes County Comprehensive Plan.

#### **IV. CONCLUSION**

The proposed 2020-2040 TCP complies with all relevant Deschutes County and OAR requirements.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 24, 2024

SUBJECT: Consideration to hear an appeal of the Hearings Officer’s Decision concerning three non-farm dwellings on properties in the EFU zone

RECOMMENDED MOTION:

Move approval of Order 2024-013, an Order denying review of the Hearings Officer’s Decision in File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA and 739-SMA.

BACKGROUND AND POLICY IMPLICATIONS:

A public hearing on the applications was held on February 6, 2024, before a Hearings Officer. On March 22, 2024 the Hearings Officer issued a decision approving the applications. Central Oregon LandWatch submitted a timely appeal of the Hearing’s Officer Decision on April 3, 2024. On April 24, 2024, the Board of County Commissioner will decide whether to hear this appeal.

BUDGET IMPACTS:

None

ATTENDANCE:

Haleigh King, Associate Planner
Jacob Ripper, Principal Planner
Legal Counsel



MEMORANDUM

TO: Board of County Commissioners
FROM: Haleigh King, Associate Planner
DATE: April 17, 2024
RE: Consideration to Hear on Appeal – Deschutes County Land Use File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA; Grossmann Non-Farm Dwellings

On April 24, 2024, the Board of County Commissioners (Board) will consider whether to hear an appeal of a Hearings Officer’s decision (ref. File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA) approving a series of land use applications to establish a non-farm dwelling on three separate properties under the same ownership.

I. BACKGROUND AND PROCEDURAL HISTORY

A public hearing before the Hearing’s Officer was held on February 6, 2024. On March 22, 2024, the Hearings Officer issued a tentative decision for the subject applications. Staff notes that while these applications were evaluated under one Hearing’s Officer decision, each Conditional Use Permit and corresponding SMIA Review are distinct and separate land use applications.

The Hearing Officer’s decision is summarized as such:

- Approval of Applicant’s requests for conditional use and surface mining impact area review to establish three (3) non-farm dwellings on three separate legal lots of record in the EFU zone.
• Denial of Applicant’s requested DCC 18.88.060 B.1 exception to site the dwelling envelopes within 300-feet of the road located on the west side of the subject property.

**II. PROPOSAL**

The applicant proposes to establish a non-farm dwelling on each of the three properties listed below:

- Property #1: 69900 NW Lower Valley Drive, Terrebonne, OR
  - (Map 14-12-30BA, Tax Lot 100)
- Property #2: 69850 NW Lower Valley Drive, Terrebonne, OR
  - (Map 14-12-30BA, Tax Lot 200)
- Property #3: 69800 NW Lower Valley Drive, Terrebonne, OR
  - (Map 14-12-30BA, Tax Lot 300)

The application review also included a Surface Mine Impact Area Review due to the location of the subject properties within ½ mile from the boundary of a property zoned Surface Mine (SM). The Wildlife Area Combining Zone, associated with the Metolius Deer Winter Range, also applies to the subject property and the application was required to address the dwelling siting standards in DCC 18.88.060.

**III. COLW APPEAL**

Central Oregon LandWatch submitted a timely appeal of the Hearing’s Officer Decision on April 3, 2024. The notice of appeal cited the following issues on appeal:

- The Hearings Officer erred in finding the proposed uses will not materially alter the stability of the land use pattern in the area.
- The Hearings Officer erred in finding the subject property is not suited for the production of farm crops and livestock and could not be used in conjunction with surrounding lands.
- The Hearings Officer misinterpreted DCC 18.88.060 regarding wildlife habitat protection.
- The Hearings Officer misinterpreted and misapplied state statute regarding parcel creation date.
- The Hearings Officer erred in their consideration of evidence in the record on multiple issue areas.
- The appellant disagrees with the appeal fee for BOCC appeals

The appellant did not specify whether *de novo*, limited *de novo*, or an on-the-record appeal was sought. The appellant requests the Board waive the transcript requirements outlined in DCC 22.32.024(D).

**IV. BOARD OPTIONS**

The Board may decide to hear this appeal, or to decline to hear the appeal. In determining whether to hear the appeal, the Board may consider only:

1. The record developed before the Hearings Officer;
2. The notices of appeal; and
3. Recommendation of staff<sup>1</sup>

**V. STAFF RECOMMENDATION**

Reasons not to hear the appeal:

- The Hearings Officer decision could be supported, as the record exists today, on appeal to the Land Use Board of Appeals.
- The Hearings Officer addressed the issues raised by the appellant, which are largely similar to the issues raised in File No. 247-24-000200-A, 201-A, 202-A.
- The applicant and appellant were both represented by legal counsel and had ample opportunity to submit evidence for the Hearings Officer to consider. Oral testimony was provided at the February 6, 2024 public hearing, and there was a 21-day open record period following the hearing, 14 days of which the appellant was eligible to participate and when additional arguments could be provided for consideration.
- The issues raised on appeal are primarily related to provisions in State statute, and the Board is unlikely to broadly receive deference if the application is further appealed to the Land Use Board of Appeals.

For these reasons, Staff, in coordination with Legal Counsel, recommends the Board decline to hear the appeal.

If the Board decides the Hearings Officer’s Decision shall be the final decision of the county, then the Board shall not hear the appeal and the party appealing may continue the appeal as provided by law. The decision on the land use application and associated appeals becomes final upon the mailing of the Board’s decision to decline review.

**VI. 150-DAY LAND USE CLOCK**

The 150<sup>th</sup> day on which the County must take final action on the Conditional Use applications is May 27, 2024. Because the Surface Mine Impact Area Review applications were submitted later in the process, the 150<sup>th</sup> day on which the County must take final action on these applications is July 15, 2024.

**VII. RECORD**

The record for File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA and the Notices of Appeal for Appeal No. 247-24-000200-A, 201-A, 202-A are as presented at the following Deschutes County Community Development Department website:

[www.deschutes.org/247-23-000293-CU-294-CU-295-CU](http://www.deschutes.org/247-23-000293-CU-294-CU-295-CU)

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<sup>1</sup> Deschutes County Code 22.32.035(D)



Attachments:

1. DRAFT Board Order 2024-013 Declining Review of the Hearings Officer's Decision
2. Notice of Appeal (Appeal No. 247-24-000200-A, 201-A, 202-A)
3. Hearing's Officer Decision (File No. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA)
4. Location Map

REVIEWED  

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LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Denying Review of Hearings \*  
Officer’s Decision in File Nos 247-23-000293- \* ORDER NO. 2024-013  
CU, 294-CU, 295-CU, 737-SMA, 738-SMA,  
739-SMA

WHEREAS, on March 22, 2024, the Hearings Officer issued a decision on File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA; and

WHEREAS, on April 3, 2024, Central Oregon LandWatch, the Appellant, appealed (Appeal Nos. 247-24-000200-A, 201-A, 202-A) the Deschutes County Hearings Officer’s Decision on File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA; and

WHEREAS, Sections 22.32.027 and 22.32.035 of the Deschutes County Code (“DCC”) allow the Deschutes County Board of County Commissioners (“Board”) discretion on whether to hear appeals of Hearings Officers’ decisions; and

WHEREAS, the Board has given due consideration as to whether to review this application on appeal; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. That it will not hear on appeal Appeal Nos. 247-24-000200-A, 201-A, 202-A pursuant to Title 22 of the DCC and/or other applicable provisions of the County land use ordinances.

Section 2. Pursuant to DCC 22.32.015, the County shall refund any portion of the appeal fee not yet spent processing the subject application. If the matter is further appealed to the Land Use Board of Appeals and the County is required to prepare a transcript of the hearing before the Hearings Officer, the refund shall be further reduced by an amount equal to the cost incurred by the County to prepare such a transcript.

Section 3. Pursuant to DCC 22.32.035(D), the only documents placed before and considered by the Board are the notice of appeal, recommendations of staff, and the record

developed before the lower hearing body for File Nos. 247-23-000293-CU, 294-CU, 295-SMA, 738-SMA, 739-SMA as presented at the following website:

[www.deschutes.org/247-23-000293-CU-294-CU-295-CU](http://www.deschutes.org/247-23-000293-CU-294-CU-295-CU)

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
PATTI ADAIR, Chair

ATTEST:

\_\_\_\_\_  
ANTHONY DEBONE, Vice Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner



# Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005  
Phone: (541) 388-6575 Fax: (541) 385-1764  
<http://www.deschutes.org/cd>

## APPEAL APPLICATION

FEE: \$13,102.80

### EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and *de novo* review is desired, a request for *de novo* review by the Board, stating the reasons the Board should provide the *de novo* review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

**It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.**

**Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.**

Appellant's Name (print): Central Oregon LandWatch Phone: (541) 647-2930

Mailing Address: 2843 NW Lolo Drive City/State/Zip: 97703

Land Use Application Being Appealed: 247-23-000293-CU, 294-CU, 295-CU / 737, 738, 739-SMA

Property Description: Township 15S Range WM 20E Section \_\_\_\_\_ Tax Lot 7700, 7800, 7900

Appellant's Signature: /s/ Carol Macbeth

**EXCEPT AS PROVIDED IN SECTION 22.32.024, APPELLANT SHALL PROVIDE A COMPLETE TRANSCRIPT OF ANY HEARING APPEALED, FROM RECORDED MAGNETIC TAPES PROVIDED BY THE PLANNING DIVISION UPON REQUEST (THERE IS A \$5.00 FEE FOR EACH MAGNETIC TAPE RECORD). APPELLANT SHALL SUBMIT THE TRANSCRIPT TO THE PLANNING DIVISION NO LATER THAN THE CLOSE OF THE DAY FIVE (5) DAYS PRIOR TO THE DATE SET FOR THE DE NOVO HEARING OR, FOR ON-THE-RECORD APPEALS, THE DATE SET FOR RECEIPT OF WRITTEN RECORDS.**

(over)

**NOTICE OF APPEAL**

LandWatch appeals the amount of the appeal fee charged. The correct appeal fee is no more than \$ 4367.60. This a single appeal of a single hearings officer's decision. ORS 215.422.

Because the County's position that this appeal is not of a single hearings officer's decision is not well-founded in law, LandWatch will seek attorney's fees for the hours spent recuperating the amount over \$4367.60 charged at the rate of \$398 per hour.

Grounds for appeal on the merits:

\*the challenged decision erroneously found the proposed uses will not materially alter the stability of the overall land use pattern of the area. ORS 215.284.

\* the decision erroneously found the property is not suited to the production of farm crops and livestock. ORS 215.284.

\* the decision misinterpreted and missapplied DCC 18.88.060 regarding wildlife habitat protection.

\* the decision misinterpreted and misapplied ORS 215.284(2)(c) restricting dwellings to parcels created before January 1, 1993. ORS 215.284(2)(c); DCC 18.16.050(G)(1)(a)(v).

\* the decision misinterpreted and misapplied OAR 660-033-0020(4), date of creation and existence.

\* the decision is not based on substantial evidence; relevant evidence is ignored on multiple issues including maps, roads, suitability for the production of farm crops and livestock, parcel creation, land use history, use in conjunction. ORS 197.835(9)(a)(C).

\* the decision erroneously found the land cannot be used in conjunction with the tens of thousands of acres of irrigated and nonirrigated farm uses surrounding the subject property in every direction, including irrigated lands in the same ownership.

Moreover the property qualified for a farm dwelling on the basis that these properties were used in conjunction with the irrigated farmlands in the same ownership for farm use. The applicant is estopped from now claiming the properties cannot be

put to farm or forest use in conjunction with those lands. ORS 215.284(2)(b).

(This page may be photocopied if additional space is needed.)

## HEARINGS OFFICER DECISION

**FILE NUMBER(S):** 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA

**OWNER:** GROSSMANN, ROGER W & CYNTHIA M

**SUBJECT PROPERTY:** Property #1: 69900 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 100)

Property #2: 69850 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 200)

Property #3: 69800 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 300)

Collectively referred to as the "Subject Property."

**APPLICANT:** Lisa Andrach  
Fitch and Neary, PC  
210 SW 5<sup>th</sup> Street, #2  
Redmond, OR 97756

**REQUEST:** Conditional Use Permit and Surface Mine Impact Area Review to establish three (3), non-farm dwellings on three separate legal lots of record (collectively "the Subject Property") in the Exclusive Farm Use – Sisters Cloverdale Subzone (EFU-SC), Wildlife Area (WA) Combining Zone and Surface Mining Impact Area Combining Zone (SMIA).

**HEARING TIMES/DATES:** 6:00 pm, Tuesday, December 5, 2023  
6:00 pm, Tuesday, February 6, 2024

**STAFF CONTACT:** Haleigh King, Associate Planner  
Phone: 541-383-6710  
Email: Haleigh.King@deschutes.org

**RECORD:** Record items can be viewed and downloaded from:  
[www.deschutes.org/247-23-000293-CU-294-CU-295-CU](http://www.deschutes.org/247-23-000293-CU-294-CU-295-CU)

### I. APPLICABLE CRITERIA

Deschutes County Code (DCC)  
Title 18, Deschutes County Zoning Ordinance  
Chapter 18.16, Exclusive Farm Use Zones (EFU)  
Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)  
Chapter 18.88, Wildlife Area Combining Zone (WA)



Title 22, Deschutes County Development Procedures Ordinance

II. **BASIC FINDINGS**

**LOT OF RECORD:** Tax Lot 100, 200 and 300 were determined to be individual legal lots of record pursuant to County File No. LR-04-26. The properties were subsequently adjusted via County File Nos. LL-09-117, LL-09-119, and LL-09-128 to their current configuration. The property line adjustment was perfected via the recordation of new property deeds and the property line adjustment survey (CS #20439).

**SITE DESCRIPTION:** Tax Lot 100, Tax Lot 200, and Tax Lot 300 are 4.98 acres, 4.98 acres, and 5.01 acres in size, respectively. Each property contains a cover of juniper trees and other vegetation typical of the high desert. The properties are rectangular in shape and are accessed via a private driveway extending off NW Lower Valley Drive, a private road. The grade of the property is varied.

**REVIEW PERIOD:** The Conditional Use applications were submitted on April 19, 2023. The applications were deemed incomplete and an incomplete letter was sent to the Applicant on May 19, 2023. The Applicant provided a response to the incomplete letter and requested the applications be deemed complete on September 15, 2023. The Applicant subsequently tolled the land use clock from October 4, 2023 to October 11, 2023, again from October 31, 2023 to November 14, 2023 and from the December 5, 2023 to February 6, 2024 and finally tolled for the time-period of February 6, 2024 to February 27, 2024; a total of 84 clock days to added from the date of March 4, 2024. The final action date (150<sup>th</sup> day), therefore, is May 27, 2024.

The Surface Mine Impact Area Review applications (File Nos. 247-23-000737-SMA, 738-SMA, 739-SMA) were submitted on October 25, 2023 and deemed complete by the Planning Division on November 24, 2023. The original 150<sup>th</sup> day on which the County must take final action on these applications was April 22, 2024. With the 84 days added from April 22, 2024 the final action date (150<sup>th</sup> day) is July 15, 2024.

**PROPOSAL:** The Applicant proposed to establish a nonfarm dwelling on each of the Subject Properties. Sewage disposal will be via an on-site wastewater system and water is anticipated to be provided by an on-site well. These applications are addressed in one Hearings Officer Decision but it is important to understand that each Conditional Use Permit and corresponding SMIA Review are distinct and separate land use applications.

**SURROUNDING LAND USES:** Immediately surrounding the Subject Properties to the north, south, east, and west are EFU-zoned parcels in a variety of sizes and shapes ranging from approximately 5 acres to 165 acres. The majority of surrounding EFU zoned properties contain large scale commercial irrigation pivots and are in active farm use. The Subject Properties are situated above Deep Canyon, with irrigated farm parcels up and down the canyon to the southwest and northeast. There appears to be some non-irrigated EFU parcels to the southwest that may be in use as dry rangeland. The Faith, Hope & Charity Winery, also owned by the property owner of the Subject Properties, is located approximately one mile to the northeast. The attributes of the adjoining EFU properties are summarized in the following table.

Owner	Tax Lots	Total Ac./ Irrigated Ac.	Farm Tax	Dwelling Unit	Soil Mapping Units
Deep Canyon LLC <i>West</i>	14-12, Tax Lot 706	20 / 0	Yes	No	101E, 106D, 71A
Grossmann <i>North</i>	14-12, Tax Lot 702	164.99 / 82.75	Yes	Yes <sup>1</sup>	101E, 106D, 71A, 81F, 71B

<sup>1</sup> County Land Use File No. MC-06-03

Two Canyons LLC <i>East</i>	14-12, Tax Lot 1999	160.09 / 72	Yes	Yes <sup>2</sup>	71A, 71B, 106D, 100C, 65A
Deschutes County <i>South</i>	14-12, Tax Lot 3201	80.75 / 0	No	No	100C, 106D, 65A, 37B

**LAND USE HISTORY:**

- LR-04-26: Legal Lot of Record Verification for the subject property.
- LL-09-117, LL-09-119, LL-09-125, LL-09-126, LL-09-127, LL-09-128, LL-09-120: Series of Property Line Adjustments between seven (7) legal lots of record verified under County File No. LR-04-26. These lot line adjustments resulted in today’s configuration of the subject property.

**SOILS:** According to the Natural Resources Conservation Service (“NRCS”) maps of the area, there are two soil units mapped on each of the subject properties. See Figures 1 to 3 below:

**Figure 1- Property #1 (Tax Lot 100)**



106D, Redslide-Licksillet complex, 15 to 30 percent north slopes. This soil is rated 6e/7e when nonirrigated and 7e when irrigated. This soil is not considered high-value farmland.

71A, LaFollette sandy loam, 0 to 3 percent slopes. This soil is rated 6s when non-irrigated and 3s when irrigated. This soil is considered high-value farmland.

<sup>2</sup> County Land Use File No. CU-89-117

**Figure 2 – Property #2 (Tax Lot 200)**



106D, Redslide-Licksillet complex, 15 to 30 percent north slopes. This soil is rated 6e/7e when nonirrigated and 7e when irrigated. This soil is not considered high-value farmland.

71A, LaFollette sandy loam, 0 to 3 percent slopes. This soil is rated 6s when non-irrigated and 3s when irrigated. This soil is considered high-value farmland.

**Figure 3 – Property #3 (Tax Lot 300)**



106D, Redslide-Licksillet complex, 15 to 30 percent north slopes. This soil is rated 6e/7e when nonirrigated and 7e when irrigated. This soil is not considered high-value farmland.

100C, Redcliff-Licksillet complex, 0 to 15 percent slopes. This soil is rated 6e/7e when non irrigated. There is no rating for irrigated soils. This soil is not considered high-value farmland.

Site Specific Soil Study:

The Applicant submitted three soil studies prepared by Brian T. Rabe, CPSS, WWS of Valley Science and Engineering. The studies, each dated October 21, 2021, provide a detailed analysis of the soils on each of the Subject Properties.

The Applicant provided the site-specific soil maps in their response to the incomplete letter and supplemental burden of proof on September 14, 2023. The map images below are cropped for clarity.

Figure 4 - Property #1 (Tax Lot 100)



The soil study states on Page 4:

All 4.98 acres of Property #1 were evaluated in detail, including 1.88 acres of Licksillet soils. The remaining 3.10 acres consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Licksillet soils and the property boundary or right right-of-way. A small delineation of Deskamp (0.79 acres) in the southeastern corner of Property #1 is across an access road from an adjacent area that appears to have been disked or mowed but not irrigated in the past. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties. Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.



Figure 5 - Property #2 (Tax Lot 200)

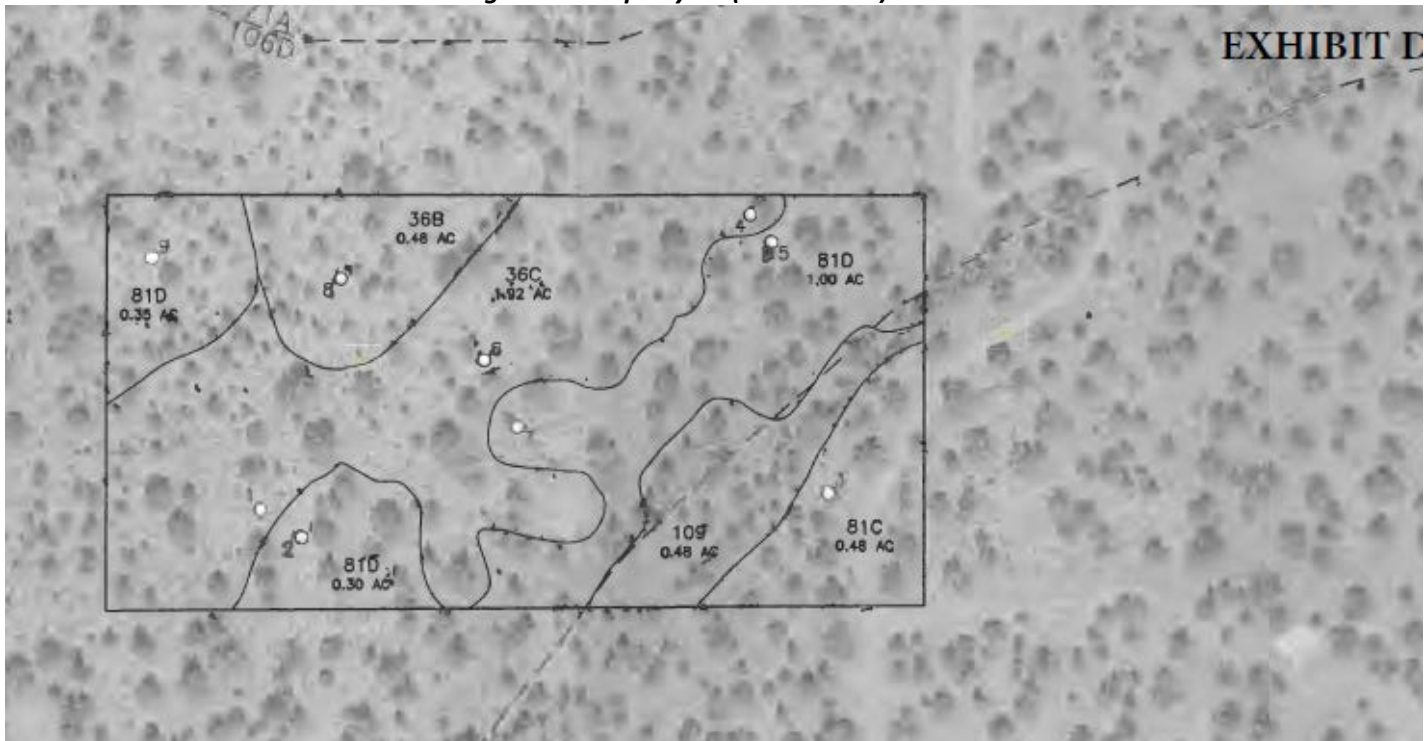


The soil study states on Page 4:

All 4.98 acres of Property #2 were evaluated in detail, including 1.65 acres of Licksillet soils. The remaining 3.33 acres consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Licksillet soils and the property boundary or right right-of-way. Small delineations of Deskamp (1.24 and 1.95 acres) in the northeast corner of Property #2 are across an access road from an adjacent area that appears to have been disked or mowed but not irrigated in the past. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties. Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.



Figure 6 - Property #3 (Tax Lot 300)



The soil study states on Page 4:

All 5.01 acres of Property #3 were evaluated in detail, including 2.13 acres of Licksillet soils and 0.48 acres of Rock outcrop. The remaining 2.40 acres, or 47.9%, consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Licksillet soils and the property boundary or right right-of-way. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties (none of which appear to be or ever have been farmed). Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.

Additional discussion and analysis, as it relates to Applicant’s site-specific soil study, is included in later Hearings Officer findings.

**PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice on April 28, 2023, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Onsite Wastewater, Todd Cleveland

The approved development area associated with the dwelling needs to include the existing approved site evaluation area or a new site evaluation will be required. See site evaluation 247-21-000500-EVAL

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for 247-23-000293-CU to develop a non-farm dwelling on a 4.98-acre parcel in the Exclusive Farm Use (EFU), Surface Mining Impact Area (SMIA), and Wildfire Area (WA) zones at 69900 NW Lower Valley Rd., aka County Assessor’s Map 14-12-30BA, Tax Lot 100.

The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Handbook indicates a single-family residence (Land Use 210) generates an average of approximately nine daily weekday trips. Deschutes County Code (DCC) at 18.116.310(C)(3)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use will not meet the minimum threshold for additional traffic analysis.

The property accesses NW Lower Valley Drive, a private road, functionally classified as a local. The access permit requirements of DCC 17.48.210(A) do not apply. Staff noted, however, that the Applicant may propose access via other roads. As these roads will provide access to more than three tax lots, the road naming requirements of DCC 16.16 are triggered. Staff recommended that the Hearings Officer defer to the County’s Property Address Coordinator for a final determination if the road naming requirement is met. The Hearings Officer concurred with Staff’s recommendation.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. County staff has determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore, the applicable SDC is \$4,115 (\$5,080 X 0.81). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

**THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2023. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.**

**ON JULY 1, 2023, THE SDC RATE GOES UP TO \$5,603 PER P.M. PEAK HOUR TRIP AND THE SDC FOR A SINGLE-FAMILY HOME WILL BE \$4,538 (\$5,603 X 0.81) AND THAT SDC AMOUNT WILL BE GOOD THROUGH JUNE 30, 2024.**

Deschutes County Property Address Coordinator, Tracy Griffin

It appears from the aerial map in DIAL that the access for these parcels, 14-12-30BA-00100, 00200 and 00300 trigger CDD 16.16.020,

All unnamed public and private roads and other roadways which provide access to three or more tax lots, or which are more than 1,320 feet in length, shall be assigned a name in accordance with the procedures in DCC 16.16.030’.

Therefore, further discussion with the property owner regarding the actual access to these parcels is necessary and a road naming application is probable.

State Fire Marshal, Clara Butler

Fire has no comments.

Oregon Department of Fish and Wildlife, Jessica Clark, May 3, 2023

ODFW recently received a Notice of Application for 3 neighboring properties owned by the same landowner under the same applicant. The File No.'s are 247-23-000293-CU and -295-CU (attached). The properties fall within the County's Metolius Deer Winter Range WA Zone and the applications all list Chapter 18.88, WA Zone as applicable criteria.

In the 3 applications, the applicant addresses 18.88.060 Siting Standards by stating that the dwellings will be built within 300' of a historical road (August 5, 1992), and goes on to provide engineering drawings (Exhibit 5 in the Applications) and aerial photos to support this claim.

Could you please provide some clarification on whether the County is accepting the historic roads drawn in Exhibit 5 as proof? From the aerial photographic evidence that they've provided, we have not seen a road that qualifies as historic and we encourage the county to ensure the criteria listed under 18.88 are followed.

For ease of reference, the links to the applications are below:  
<https://weblink.deschutes.org/cdd/DocView.aspx?id=1163189&cr=1>  
<https://weblink.deschutes.org/cdd/DocView.aspx?id=1163188>  
<https://weblink.deschutes.org/cdd/DocView.aspx?id=1163191>

Oregon Department of Fish and Wildlife, Jessica Clark, October 19, 2023

Cynthia Grossman called Andrew Walch yesterday, requesting to talk about their recent 'evidence' of roads existing prior to 1992 which is included in their Burden of Proof Statement. We called her back today and told her it wasn't up to us to accept the roads condition. Application: 247-23-000293/ 294/ 295-CU If there is a Hearing, could you please keep us in the loop of when it is scheduled?

Oregon Department of Fish and Wildlife, Jessica Clark, November 17, 2023

ODFW would like to re-iterate the comments made in our previous comment letter dated 5/03/2023. We'd also like to make clear that despite the additional maps and aerial photos provided by the applicant during the fall of 2023, ODFW does not see evidence of a road pre-dating August 5, 1992 in those documents provided in the application materials (link below). In this case, with the materials provided, ODFW does not support an exception to Deschutes County Code (DCC) 18.88.060 Siting Standards, and encourages the county to ensure that Goal 5 mule deer winter range habitat is allowed the protections outlined in DCC.

<https://www.deschutes.org/cd/page/247-23-000293-cu-294-cu-295-cu-conditional-use-permits-three-3-non-farm-dwellings>

Thank you for keeping us in the loop of this application! Please let me know if you want to discuss anything further, and please add this correspondence to the record.

Department of State Lands, Lynne McAllister, June 1, 2023

**Wetland Land Use Notice Response**

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**Response Page**

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**Department of State Lands (DSL) WN# \***  
WN2023-0364

**Responsible Jurisdiction**

<b>Staff Contact</b> Haleigh King	<b>Jurisdiction Type</b> County	<b>Municipality</b> Deschutes
<b>Local case file #</b> 247-23-000293-CU	<b>County</b> Deschutes	

**Activity Location**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>QQ section</b>	<b>Tax Lot(s)</b>
14S	12E	30	BA	100

Street Address  
69900 NW Lower Valley Dr  
Address Line 2

City: Terrebonne      State / Province / Region: OR

Postal / Zip Code: 97760      Country: Deschutes

**Latitude:** 44.333528      **Longitude:** -121.343128

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**Wetland/Waterway/Other Water Features** ^

There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

The National Wetlands Inventory shows wetland, waterway or other water features on the property

**Your Activity** ^

It appears that the proposed project **may** impact wetlands and **may** require a State permit.

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**Applicable Oregon Removal-Fill Permit Requirement(s)** ^

(continued)

A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

### Closing Information

#### Additional Comments

A 154-page document was submitted for the proposed dwelling, but it did not contain a site plan. A previous land use notice (WN2021-0428) documented the same. Therefore, this response cannot be more specific. A wetland/stream is mapped in the northeast portion of this property and can be seen on the State Wetlands Inventory. There are also aerial photo signatures in the southeastern sector that suggest wet ground. These are possibly from irrigation, but a more thorough inspection of current conditions may be needed to determine state jurisdiction. Without a wetland delineation, the proposed project should avoid roughly the eastern half of the property. Other portions of the property appear to be suitable for building. If building is proposed in the eastern portion, a wetland delineation is recommended to minimize impacts to potential jurisdictional waters. You are allowed a total of 50 cubic yards of removal, fill, and movement of material in jurisdictional wetlands and waters before needing a permit.

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

#### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

#### Response Date

6/1/2023

#### Response by:

Lynne McAllister

#### Response Phone:

503-986-5300

### Department of State Lands, Lynne McAllister, November 2, 2023

Thank you for the site plan. The notice was for only tax lot 100, so my response only pertains to the most northern lot in the diagram. The other 2 lots didn't show anything mapped on the SWI, so they wouldn't require a Wetland Land Use Notice.

The building envelope on tax lot 100 is directly on top of the mapped feature of concern, which is a tributary of Deep Canyon. This may only be an ephemeral drainage, but it is not possible for me to determine that from an offsite assessment. I still recommend an on-site check (determination/delineation) by a consultant before ground disturbance occurs. The report should be sent to DSL for review and approval. The feature appears on LiDAR imagery, so there is something present on the ground.

I am copying this message chain to Jessica Salgado, Jurisdiction Coordinator for Deschutes County, who would review a determination/delineation.

**Staff Comment (Staff Report, page 15):** Staff, provided the following comment related to the necessity of a wetland delineation.

As of the writing of this staff report, the applicant has not included a wetland delineation in the record specific to Tax Lot 100, per the DSL recommendation noted above. Based on the proposed building envelope, the proposed project occurs in the eastern half of the subject property. This is the area where DSL identified potential wetlands. Staff includes a recommended condition of approval for the applicant to prepare and submit a wetland delineation to DSL to precisely identify any wetlands on Tax Lot 100. The results of the delineation would determine if additional state or local permitting is required for site development.

Applicant Wetland Response (Third Supplemental Burden of Proof Statement, page 5):

The originally proposed building envelope for Tax Lot 100 was within the vicinity of a possible wetlands area. The applicant submitted a request to the State DSL, on November 6, 2023. (Exhibit 4) The applicant is still waiting for the results of that onsite determination. However, the proposed alternative dwelling location is outside of the vicinity of the potential wetland, and if approved, would be outside the vicinity of the possible wetland.

The Hearings Officer notes that the potential wetland on Tax Lot 100 is relevant to a final permitting approval and that a condition of approval is necessary to assure compliance with state and/or local law. The Hearings Officer included a condition of approval requiring Applicant to prepare and submit a wetland delineation to the Department of State Lands to verify the extent of potential wetlands on Tax Lot 100.

The following agencies did not respond to the notice: Central Electric Cooperative, Deschutes County Assessor, Deschutes County Property Management, and Watermaster – District 11.

**PUBLIC COMMENTS:** The Planning Division mailed notice of the conditional use applications to all property owners within 750 feet of the subject property on April 28, 2023. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on April 28, 2023.

Staff received a comment from Central Oregon LandWatch (“COLW”) on November 8, 2023 indicating that COLW believed that the Applicant, in this case, may have not met all relevant approval criteria and requested a Staff comment related to the “150-day clock.” Carol McBeth, on behalf of COLW, offered oral testimony at the Hearing and submitted open record documents. The findings below address COLW expressed concerns with the applications.

Staff Comment (Staff Report, page 15): Staff included the following response to the COLW “150-day clock” question:

Staff provided a response to Central Oregon Landwatch to respond to their 150-day clock question. However, the comments provided do not afford enough specificity to be addressed by Staff below in the decision.

See the Hearings Officer Review Period findings above.

**NOTICE REQUIREMENT:** On November 6, 2023, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property, agencies, and parties of record. A Notice of Public Hearing was published in the Bend Bulletin on November 12, 2023. The Applicant complied with the posted notice requirements of DCC 22.24.030(B). The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the land use action on April 28, 2023.



**III. FINDINGS & CONCLUSIONS**

**A. PRELIMINARY FINDINGS:**

**1. Purpose of the Preliminary Findings**

The Hearings Officer, in these Preliminary Findings, responds to a number of the issues raised by COLW. These Preliminary Findings are intended to provide an overview of the COLW issues, discussion of the relevant laws/rules related to those issues and the Hearings Officer’s legal interpretation of various sections of the DCC and State statutes/regulations relevant to the COLW issues. The Hearings Officer incorporates these Preliminary Findings as additional findings for relevant approval criteria.

**2. Road Related Siting Issues (DCC 18.88.060)**

All participants in this case concur that DCC 18.88.060 (Siting Standards) is a relevant approval criterion. Applicant proposed to satisfy the requirements of DCC 18.88.060 by (a) locating proposed building envelopes within 300-feet of an existing road located on the eastern side of the proposed lots (the “300’ Option”) and/or (b) locating building envelopes in proximity to a road located to the west of each proposed lot (the “Exception Option”). Understanding the specific details of each Applicant proposal is necessary to fully assess whether one or both proposals meet the requirements of DCC 18.88.060.

**a. Overview of the “300’ Option”**

The Applicant proposed to meet DCC 18.88.060 B requirements by locating building footprints, including decks and porches, for new dwellings within 300 feet of a “private road;” such road existing as of August 5, 1992 (the “300’ Option”). Applicant provided written documentation and oral testimony supporting its claim that a “private road” existed, as of August 5, 1992, within the eastern portion or on the eastern side of each of the Subject Property.

The Hearings Officer summarizes COLW’s “300’ Option” arguments as follows:

- (1) the Applicant’s evidentiary proof, in the record, of the existence of a qualifying eastern “road” is inadequate/insufficient; and
- (2) the Applicant’s interpretation of “road” is not legally supportable; and,
- (3) the Applicant must provide evidence/proof that that a “road” existed on the specific date of August 5, 1992; and
- (4) the Applicant must demonstrate that the “road” was used “continuously” (had not disappeared).

**b. Overview of Western Road (the “Exception Option”)**

The Applicant proposed to satisfy the requirements of DCC 18.88.060 B.1 (the “Exception Option”) by locating building footprints, including decks and porches, for new dwellings where habitat and migration corridors are afforded equal or greater protection through a different development pattern. COLW argued that the proper interpretation of DCC 18.88.060 B.1 requires that an applicant to first demonstrate that proposed building envelopes exist that meet the 300-foot distance requirement from a August 5, 1992 road. Restated, COLW argued that the 300-foot setback requirement in DCC 18.88.060 B is a prerequisite to a request for a DCC 18.88.060 B.1 exception. COLW (and the Oregon Department of Fish and Wildlife) also argued that factually the Applicant did not satisfy requirements demonstrating the alternative location afforded equal or greater protection by locating the dwellings near the road along the west of the Subject Property.

**c. General Interpretation of DCC 18.88.060**

DCC 18.88.060, in part, states:

**A. Setbacks shall be those described in the underlying zone with which the WA Zone is combined.**

**B. The footprint, including decks and porches, for new dwellings shall be located entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of August 5, 1992 unless it can be found that:**

**1. Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern; or,**

COLW’s first argument related to DCC 18.88.060 is that Applicant failed to provide adequate factual evidence, in the record, to demonstrate Applicant’s proposed location of building footprints met the 300-foot distance requirement from a August 5, 1992 road. The Hearings Officer does not address the COLW evidentiary argument in these Preliminary Findings. The evidentiary issue will be addressed in the general findings for DCC 18.88.060.

The Hearings Officer, in these Preliminary Findings, does address the following COLW’s interpretation arguments:

(1) Is DCC 18.88.060 B a prerequisite to consideration of one or more of the exceptions set forth in DCC 18.88.060 B.1, B.2 and B.3 (section d. **Prerequisite Issue**); and

(2) is a “farm road” a DCC 18.88.060 B.1 “private road (section e. **Road Definition Issue**);” and

(3) must an applicant demonstrate, on *the* specific date of August 5, 1992, that a “road” existed or can an applicant provide evidence that a “road” existed “prior to” August 5, 1992 (section f. **Disappearing Road Issue**); and

(4) must a “road” be used “continuously” (section f. **Disappearing Road Issue**)?

**d. Prerequisite Issue**

COLW argued that DCC 18.88.060 B requires, as a prerequisite to an applicant seeking a DCC 18.88.060 B.1, B.2 or B.3 “exception,” that there is satisfactory evidence in the record that the proposed footprint(s) is/are located within 300-feet of a road existing on August 5, 1992. Applicant disagrees with this COLW argument asserting that satisfying DCC 18.88.060 B is not a prerequisite to applying for and receiving approval of a DCC 18.88.060 B.1 “exception.”

DCC 18.88.060 B contains part of a single sentence with two separate thoughts or parts. These separate thoughts or parts are connected by the word “unless.” The first part of DCC 18.88.060 B clearly sets out a requirement that building footprints must be entirely located within 300-feet of a August 5, 1992 roadway (the Hearings Officer will address the interpretation of public roads, private roads or recorded easements in the findings below). The second part of DCC 18.88.060 B contains what the Applicant, Staff and COLW refer to as “exceptions.”

The Hearings Officer finds that the word “unless” creates an ambiguity in the interpretation of DCC 18.88.060 B. Consistent with *State v. Gaines*, 206 P.3d 1042 (2009), a decision maker facing a code/statute/regulation that contains an ambiguity must first consider the “text” and “context” of the ambiguous word/phrase.

“Unless” is not defined in the DCC. The Hearings Officer finds that the word “unless,” as used in DCC 18.88.060 B, is a “conjunction.” A “conjunction” is defined as a word “that join together other words or groups of words.” The word “unless” does in fact join two distinct groups of words in DCC 18.88.060 B.<sup>3</sup>

The *Merriam-Webster* Online dictionary defines “unless,” as: “*except if*” and “*except on the condition that.*” The Hearings Officer interprets the word “unless” as allowing an alternative or creating an exception process. Restated, the Hearings Officer finds that a textual review strongly suggests that DCC 18.88.060 B.1, B.2 and B.3 are alternative methods to satisfy the DCC 18.88.060 Siting Standards.

The Hearings Officer also considered the word “unless” within the context DCC 18.88 overall and specifically within 18.88.060. DCC 18.88.010 (Purpose Section) sets forth the overall goal of the Wildlife Area Combining Zone; to conserve important wildlife areas in Deschutes County and to permit development compatible with the protection of wildlife resources. The Hearings Officer finds DCC 18.88.060 B.1 does in fact focus on allowing an exception so long as a proposed exception request does in fact conserve important wildlife resources. Applicant seeks to satisfy the alternative or exception provisions of DCC 18.88.060 B.1. DCC 18.88.060 B.1 states that to approve an alternative or exception an applicant must show that:

“habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern.”

The Hearings Officer finds the above-quoted language of DCC 18.88.060 B.1 includes the phrase “afforded equal or greater protection...” The alternative location must respond to the DCC 18.88.060 B.1 mandated test: *equal or greater than* “something.” The Hearings Officer finds that the “something” can be reasonably interpreted to refer to footprints which are entirely located within 300-feet of a road that existed as of August 5, 1992; the standard set forth in DCC 18.88.060 B. The Hearings Officer finds that “equal or greater protection” means that the alternative must be “equal or greater” than the wildlife protection afforded by the location of a footprint within 300-feet of a August 5, 1992 road.

The context analysis of the word “unless” suggests that any DCC 18.88.060 B.1 exception must demonstrate that the proposed alternative provides “equal or greater” wildlife protection than a qualifying DCC 18.88.060 B proposal. The Hearings Officer finds the most reasonable and plausible contextual interpretation of DCC 18.88.060 B is that meeting the 300-foot (from a August 5, 1992 road) requirement is a prerequisite to affording an applicant the right to seek a DCC 18.88.060 B.1 alternative or exception.

The Hearings Officer also finds that consideration of ORS 174.010 is appropriate in this interpretative analysis. ORS 174.010 states:

*“In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.”*

The Hearings Officer finds that interpreting DCC 18.88.060 B as a prerequisite to the application of DCC 18.88.060 B.1 gives effect to all of DCC 18.88.060 B. The Hearings Officer finds that concluding that DCC 18.88.060 B.1 is not a prerequisite to the application of DCC 18.88.060 B.1 would constitute the omission of the 300-foot DCC

<sup>3</sup> DCC 18.88.060 B. includes a first group of words setting forth the 300-foot from a August 5, 1992 road requirement and a second group of words providing for exceptions described in DCC 18.88.060 B.1, B.2 and B.3.

18.88.060 B requirement and the disregarding (omission) of the DCC 18.88.060 B.1 "equal or greater" protection language.

**e. Road Definition Issue.**

DCC 18.88.060 B. includes references to "public roads," "private roads," and "recorded easements." COLW argued that Applicant's alleged roadway located to the east of the Subject Property (Subject Property refers to all three of the Applicant's proposed non-farm lots) is not a "public road," "private road" or "recorded easement" as required by DCC 18.88.060 B. COLW, in its February 13, 2024 record submission, stated the following:

*"The terms 'public road,' 'private road,' 'farm road,' and 'driveway are undefined in the County code. In plain English a "public road" is a road publicly maintained for use by cars and trucks. A "private road" is a road privately maintained by a group of persons with permission to use it to provide car and truck access to their driveways. A "driveway" is a privately maintained stretch of road connecting a public or private road to a residence. A "farm road" is a privately maintained road used by a farmer to access his fields.*

*There is no evidence of a road existing in 1992. Moreover, even if there were such a road there is no evidence it could be the access road to the nonfarm parcels, which must be located within 300 feet of such a road. DCC 18.88.060(B).*

*East of the subject property there is nothing even now except a farm road. A farm road is not one of the four alternatives in DCC 18.88.060(B).*

*According to the testimony of the applicant's representative, the road to the east, if it is a road, has disappeared at various times in the past. The phrase "as of" indicates the time specified by the acknowledged code as the beginning time for the road's existence, August 5, 1992. By the Protecting Central Oregon's Natural Environment And Working For Sustainable Communities 4 applicant's own admission, the farm road in question is not a road existing as of August 5, 1992, but is only existing as of the last time it disappeared. There is no qualifying road existing as of August 5, 1992 in the vicinity. Therefore, the application must be denied."*

Applicant (February 13, 2024 Applicant Statement, Open Record – Round One) responded with the following comments/arguments:

*"The criterion at issue broadly allows the standard to be met so long as a 'private road, easement for vehicular access or driveway' is established as being in existence on August 5, 1992. In 1995, the County broadened the application of the original standard adopted in 1992, which was originally limited to "roads or easements" to also include 'driveways.' (Exhibit 5 1992 Ordinance 92-042, Page 4) (Exhibit 6 - Ordinance No. 95-001, Exhibit "A" page 2-3) Therefore, the language is intended to be broadly inclusive, but also in 1995 the County clarified that to qualify, 'easements' would have to be for 'vehicle access.' (Exhibit 6) The County did not define or limit the scope of the types of vehicles that are required within the language of the code, leaving it broadly applicable and inclusive of all types of vehicles.*

*Merriam Webster Dictionary defines 'vehicle,' in part, as follows:*

- 1. A means of carrying or transporting something. Planes, trains, and other vehicles such as (a) motor vehicle (b) a piece of mechanized equipment.*

*Based upon the forgoing definition, the farm equipment, as well as trucks, trailers, tractors, and Mr. Howard's crane constitute 'vehicles.'*

The county adopted a definition of 'Road or Street' and of 'Driveway' in 1995 in conjunction with the amendments to DCC 18.88.060. (Exhibit 6 Ordinance 95-001)

"Driveway" was defined as 'A way created to provide vehicular access from a public or private road to a garage or parking area.' (Exhibit 6, Page 1)

'Road or Street' was defined as: 'A public or private way created to provide ingress or egress to one or more lots, parcels, areas or tracts of land.' (Exhibit 6, Page 1)

Here, the "ways" at issue constitute "roads" as defined by the county. They are private "ways" created to provide ingress and egress to one or more lots, parcels, areas or tracts of land. Again, the definition is very broad in scope and expressly includes the broad application to allow for "ways" that are used to access "areas or tracts of land."

Here, the aerial imagery shows that the "ways" at issue herein connect different farm fields, parcels, and different areas or tracts of land, including connectivity to neighboring lots, tracts, or areas including private and County and BLM public lands. The Declaration of Mr. Howard (Exhibit 1) also attests to the use of the roads to access different parts of the farm, the neighboring farm, county ground and BLM grazing allotments. The use was not limited to just the Howards, but as Mr. Howards states, the roads were used by the farmers of the area. (Exhibit 1) Notably, there is no minimum improvement standard for the road, the easement for vehicular access, or driveway.

Based upon the totality of the evidence in the record, the applicable criterion of DCC 18.88.060(B) and (C) pertaining to "roads or easements for vehicle access or driveway" has been met."

DCC 18.88.060 C, in its entirety, states:

- C. For purposes of DCC 18.88.060 (B):**
  - 1. A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to August 5, 1992 if the applicant submits any of the following:**
    - a. A copy of an easement recorded with the County Clerk prior to August 5, 1992 establishing a right of ingress and egress for vehicular use;**
    - b. An aerial photograph with proof that it was taken prior to August 5, 1992 on which the road, easement or driveway allowing vehicular access is visible;**
    - c. A map published prior to August 5, 1992 or assessor's map from prior to August 5, 1992 showing the road (but not showing a mere trail or footpath).**
  - 2. An applicant may submit any other evidence thought to establish the existence of a private road, easement for vehicular access or driveway as of August 5, 1992 which evidence need not be regarded as conclusive.**

Based upon the Hearings Officer's review of the record the possible "roadway" located to the east of the Subject Property is not a "public road" and was not created by a "recorded easement." It appears to the Hearings Officer that Applicant is seeking to characterize the possible "roadway," located to the east, as a "private road" as that phrase is used in DCC 18.88.060.

COLW stated (COLW quoted material above) that "a farm road is not one of the four alternatives in DCC 18.88.060(B)." The Hearings Officer concurs with COLW that the phrase "farm road" is not a word/phrase included in the explicit language set forth in DCC 18.88.060 B; or, for that matter in DCC 18.88.060 C. The Hearings Officer

finds that the failure of the phrase “farm road” to be specifically included in DCC 18.88.060 is not necessarily determinative in this case.

The Hearings Officer concurs with COLW that the phrase “private road” is undefined in the County Code. The Hearings Officer does, however, take issue with COLW’s assertion that a “private road” is a “road privately maintained by a group of persons with permission to use it to provide car and truck access to their driveways.” The Hearings Officer disagrees with COLW’s limitation of use of a “private road” to “cars” and “trucks.”

The Hearings Officer finds Applicant’s reference to the dictionary definition of “vehicle” is relevant. Applicant’s Merriam-Webster quoted definition of “vehicle” is, in part, that a “vehicle” is a “means of carrying or transporting something.” The Merriam-Webster Online Dictionary definition of “vehicular” is “relating to, or designed for vehicles and especially motor vehicles.” The Hearings Officer, based on the dictionary definitions of “vehicle” and “vehicular,” finds that farm vehicles such as tractors and trucks and similar motorized transportation devices are included in the DCC 18.88.060 B and C meaning/definition of the phrase “vehicular access.”

As additional support for the “vehicle” and “farm road” findings above, the Hearings Officer takes note of the DCC 18.04.030 definitions of “road or street” and “roadway.” “Road or street” is defined, in part, as “a public or private way created to provide ingress or egress to one or more lots, parcels or tracts of land.” “Roadway” is defined to mean “that portion of a street or road right of way developed for vehicular traffic.” The term “way” is not defined in the DCC. Merriam-Webster Online Dictionary defines “way” as “connected with, or constituting an intermediate point on a route.” In the context of the DCC 18.04.030 definition of “road or street” the Hearings Officer finds that term “way” can reasonably be interpreted to mean an “access connection between two points.”

The Hearings Officer finds the DCC 18.88.060 reference to “private roads” is extremely broad in scope and includes private access connections between two places or points. The Hearings Officer finds that the DCC 18.88.060 phrase “private roads” is not limited to a discrete class or type of vehicles, by the level of physical improvement (i.e., dirt or paved surface) or the frequency of use. The Hearings Officer finds that a “farm road” meets the requirements of a DCC 18.88.060 “private road.”

**f. Disappearing Road Issue.**

COLW argued (February 13, 2024, pages 3 & 4) that Applicant’s alleged eastern “private road”

*“has disappeared at various times in the past. The phrase ‘as of’ indicated the time specified by the acknowledged code as the beginning time for the road’s existence, August 5, 1992. By the applicant’s own admission, the farm road in question is not a road existing as of August 5, 1992, but is only existing as of the last time it disappeared.”*

The above-quoted COLW statement requires the Hearings Officer to speculate as to the precise legal issue the Hearings Officer is asked to address. COLW may be arguing that an applicant must provide evidence in the record that on a very specific date (August 5, 1992) a “private road” existed. For example, if this characterization of COLW’s argument is correct, then an applicant would be required to include in the record an aerial photograph or map with a August 5, 1992 date stamp. The COLW argument may also be that an applicant must provide proof that a “private road” was used without interruption (i.e., it did not “disappear”). The Hearings Officer finds the above-quoted COLW statement does not provide the Hearings Officer a level of specificity to allow the Hearings Officer to respond in a limited and authoritative way.

In the alternative to the Hearings Officer’s rejection of the COLW “disappearing road issue” on the grounds that COLW’s argument lacked specificity, the Hearings Officer makes the following findings.



DCC 18.88.060 B states, in part, that an applicant must locate building footprints within 300-feet of a “private road ... existing as of August 5, 1992.” DCC 18.88.060 C.1 states that a private road “will conclusively be regarded as having existed prior to August 5, 1992.” DCC 18.88.060 C.1.a, b, and c all use the term “prior.” DCC 18.88.060 C.2 uses the “as of” August 5, 1992 language.

The Hearings Officer finds that the Deschutes County Board of Commissioners (“Board”), in adopting DCC 18.88.060, was likely aware that as time passes an applicant’s proof that a “private road” was in existence on August 5, 1992 would become more challenging. The Hearings Officer finds the use of “prior to” in DCC 18.88.060 C.1, C.1.a, C.1.b and C.1.c reflects the Board’s recognition of challenges facing an applicant attempting to use DCC 18.88.060 B. The Hearings Officer interprets DCC 18.88.060 C.1 as establishing the applicant’s evidentiary obligation to **prove** that a “private road” did exist “as of” August 5, 1992 and that **proof** may be in the form of a recorded easement establishing the right to use a “private road” prior to August 5, 1992, an aerial photograph taken prior to August 5, 1992 or a map published prior to August 5, 1992. The Hearings Officer rejects, if that was actually COLW’s argument, the proposition that an applicant must include in the record an aerial photograph taken or map published or dated precisely on August 5, 1992.

The Hearing Officer, as additional findings for the Disappearing Road Issue finds that COLW provided no citation or reference to relevant code/law/regulation supporting its general argument that a “private road” must be in continuous “use” (if that is what COLW meant by “disappearing”). The Hearings Officer finds that if there is evidence in the record that a “private road” was shown to have existed prior to August 5, 1992 and there is no persuasive evidence in the record that the “right” to “use” that “private road” was terminated then an applicant is not required to provide evidence of continuous “use.”

**3. Lot Creation Date – DCC 18.16.050 G.1.a.(6)**

COLW argued (February 6, page 5) that DCC 18.16.050 G.1.a.(6) is not satisfied in this case. COLW noted that DCC 18.16.050 G.1.a.(6) requires that to be eligible for a nonfarm dwelling a proposed site must be “located on a lot or parcel created prior to January 1, 1993.” COLW argued that Applicant acknowledged that the three properties subject to this decision were reconfigured in 2009. COLW argued that such reconfiguration changed the “date of creation” to a time after January 1, 1993. COLW relied upon OAR 660-033-0020(4) which states the following:

*“Date of Creation and Existence’. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.”*

The Hearings Officer reviewed the Staff analysis (Staff Report, pages 41 – 43) and Applicant’s open-record submission (Applicant Statement [Open Record – Round One], pages 4 - 5) related to DCC 18.16.050 G.1.a.(6). The Hearings Officer also reviewed the Oregon Court of Appeals decision in *Central Oregon LandWatch v. Deschutes County, Grossman*, 320 Or App 650 (2022). The Hearings Officer finds the Oregon Court of Appeals decision cited above supports Staff’s analysis and Applicant’s evidence and argument contained in the Staff Report and Applicant Open Record submission.

The Hearings Officer finds no evidence in the record supporting COLW’s suggestion that the 2009 lot line adjustment (or reconfiguration as referenced by COLW) was for the purpose of qualifying the adjusted or reconfigured parcels for the siting of a dwelling. The Hearings Officer finds that persuasive evidence is in the record that the three adjusted/reconfigured parcels, in this case, qualified prior to the 2009 lot line adjustment process, for the siting of dwellings.

#### 4. Unsuitability for Farm Use – Use in Conjunction

COLW, through testimony (Carol McBeth) and written submission (i.e., February 6, 2024, pages 5 – 9) asserted that the proposed parcels do not meet the “unsuitability tests” established by certain identified code and statutory provisions. COLW, in the February 6, 2024 record submission, summarized its arguments:

*“2. ORS 215.284 (7)(b); ORS 215.284 (2)(b); A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land;...”*

*...parcels cannot be found unsuitable unless it can be shown that they cannot be used in conjunction with other land for the production of farm crops and livestock. In this case, the standard cannot be met because Deschutes County CU-92-37 explains that the parcels were in farm use in conjunction with the rest of the land in the 300+ acre farm at TL702 as of 1992. Obviously, the same land cannot be used in 1992 to obtain a farm dwelling via CU-92-37 based on its agricultural productivity, and in 2024 to obtain a nonfarm dwelling via CU-92-37 based on its lack of productivity. The land was in agricultural use as part of a large productive far use because it has already been determined to have been in farm use with surrounding lands for the production of farm crops and livestock.”*

ORS 215.284 states, in part, the following:

***(2) In counties not described in subsection (1) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that:***

***(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;***

***(b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land;***

***(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;***

\*\*\*

***(7) In counties in eastern Oregon, as defined in ORS 321.805 (Definitions for ORS 321.805 to 321.855), a single-family residential dwelling not provided in conjunction with farm use may be established, subject to the approval of the county governing body or its designee, in any area zoned for exclusive farm use upon a finding that:***

***(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;***

***(b) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263 (Land divisions in exclusive farm use zones) (5);***

DCC 18.16.050 G.2.a states, in part, the following:

**2. For the purposes of DCC 18.16.050 (G) only, ‘unsuitability’ shall be determined with reference to the following:**

**a. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.”**

The Hearings Officer finds, for the purposes of this decision, that the section of ORS 215.284 (quoted above) and the section of DCC 18.16.050 G.2. (quoted above) prohibit a decision maker from concluding that a subject property is unsuitable for farm/forest purposes only in circumstances where an applicant argues the subject property is unsuitable for farm/forest purposes because of size or location. COLW failed to explain why the Hearing Officer should rely upon ORS 215.284 when it appears COLW’s argument is actually directed at a relevant County approval criterion set forth in DCC 18.16.050 G.2.a.

The Hearings Officer finds that DCC 18.16.050 G.2 (as well as ORS 215.284 and DCC 18.16.050 G.2), are not general tests of unsuitability to be applied in all cases or all circumstances. Rather, the Hearings Officer finds that DCC 18.16.050 G.2.a is limited to the consideration of unsuitability where an applicant is asserting that a site is unsuitable for farming/timber solely because of the site’s size or location. The Hearings Officer, based upon the evidence in the record of this case, finds that Applicant has not furthered the proposition that any property subject to this decision is “unsuitable for farm use” solely because of its size or location.

**B. GENERAL APPROVAL CRITERIA FINDINGS**

**Title 18 of the Deschutes County Code, County Zoning**

**Chapter 18.16, Exclusive Farm Use Zones (EFU)**

Section 18.16.030. Conditional uses permitted - High value and non-high value farmland.

***The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or nonhigh value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of Title 18.***

**A. Nonfarm dwelling**

**FINDING:** The Applicant proposes to establish three (3) nonfarm dwellings. The proposed dwellings may be allowed individually as a conditional use if the Applicant satisfies the applicable criteria in Title 18 of the County Code. The Applicant does not propose to establish a use other than a dwelling under this application.

Section 18.16.040. Limitations on Conditional Uses.

**A. Conditional uses permitted by DCC 18.16.030 may be established subject to ORS 215.296 and applicable provisions in DCC 18.128 and upon a finding by the Planning Director or Hearings Body that the proposed use:**

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and**
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest uses; and**

**FINDING:** Staff applied an area of analysis that covers all properties within a one-mile radius of the subject property. This radius has been considered, by the County, to be sufficient to identify farm or forest uses that might be impacted by a proposed nonfarm dwelling.

Due to the proximity of each of the Subject Properties to one another, the results of the study area analysis were substantially the same. Staff addressed (Staff Report, pages 16-19) each tax lot individually where the results differ. The Hearings Officer finds that the Staff comments, as quoted below, adequately address the issues raised by this approval criterion. The Staff (Staff Report, pages 16 – 19) comments follow:

**“Forest Practices**

*The closest properties zoned for forest use are approximately 5.39 miles to the west. The predominant tree species in the surrounding area is juniper, which is not a commercial species, with scattered pine trees in the area as well. Given the distance to forested lands and the lack of commercially viable tree species in the surrounding area, staff finds that the proposed nonfarm dwellings will not force a significant change in, or significantly increase the cost of, accepted forest practices on surrounding lands devoted to forest use.*

**Farm Practices**

*The USDA 2017 Census of Agriculture<sup>4</sup> shows agricultural production in Deschutes County roughly split between crop and livestock production in economic value. Predominant crop species include forage-land used for all hay and haylage, wheat for grain; and nursery production. Livestock production is predominated by cattle and calves, equestrian species, dairy and eggs/poultry.*

*Within the study area for each nonfarm dwelling, Staff includes a chart below which shows the amount of acres receiving farm tax deferral and of those, how many acres are irrigated.*

<b>Subject Property (Tax Lot)</b>	<b>Deferred Acres</b>	<b>Irrigated Deferred Acres</b>
<i>Tax Lot 100</i>	<i>2,231.45</i>	<i>1,185.77</i>
<i>Tax Lot 200</i>	<i>2,310.04</i>	<i>1,237.77</i>
<i>Tax Lot 300</i>	<i>2,677.71</i>	<i>1,231.77</i>

*Farm practices on the surrounding properties are described in the Surrounding Land Use Section, above.*

**Potential Impacts**

*Staff finds that the proposed nonfarm dwellings could change accepted farm or forest practices or increase the cost of accepted farm or forest practices on surrounding lands if it caused a reduction in available productive farmland, reduced the availability of irrigation water, or introduced conflicting uses. As described below, the applicant asserts that each subject property is generally unsuitable for farm use in their entirety. There is nothing in the record indicating a farmer has expressed interest in the proposed building envelope for farm use and no water rights would be impacted by this proposal.*

*Residential uses can conflict with farm uses. The record includes information from the Oregon State University Extension Service describing the types of impacts the farming practices in the surrounding area could generate on nearby lands. Maintaining irrigated pasture can generate dust from re-seeding, drifting of herbicides from spraying, vehicle noise from trucks, manure odor from fertilizing, and possible water runoff from irrigation. Grazing livestock can generate dust, manure odor, possible interference with vehicular traffic, and property damage if livestock escape. However, staff finds that potential conflicts are mitigated, as follows.*

*Pursuant to DCC 18.16.050, if these applications are approved, each property owner will be required to sign and record in the County Clerk’s office a document binding the landowner, and the landowner’s successors in*

<sup>4</sup>[https://www.nass.usda.gov/Publications/AgCensus/2017/Online\\_Resources/County\\_Profiles/Oregon/cp41017.pdf](https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Oregon/cp41017.pdf)

interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.396 or 30.397. The recordation of this document with the County Clerk helps ensure that the proposed nonfarm dwelling will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm use, nor will it significantly increase the cost of accepted farm practices.

The subject properties are surrounded by farm uses to the north, west, east, and southeast. The closest farm use is on Map 14-12 Tax Lot 1999, to the east, Map 14-12-30A, Tax Lot 100 to the southeast, and Map 14-12 Tax Lot 702 to the north. The property identified as Map 14-12, Tax Lot 701 to the northeast is currently in farm use, as it contains large, irrigated pivot fields. As proposed, the building envelopes will be 100 feet or greater from these farm uses. This distance meets the minimum 100-foot setback required from nonfarm dwellings to adjacent properties currently employed in farm use and receiving farm tax deferral. Staff finds this distance will provide a sufficient buffer to mitigate potential use conflicts. As discussed in further detail below, the location of the building envelope is further influenced by the required siting standards applicable to new dwellings in the WA Zone.

Within the study area, Staff includes data below for each property as it relates to private EFU lots developed with dwellings.

<b>Subject Property (Tax Lot)</b>	<b>Private EFU Dwellings</b>	<b>Private EFU Tax Lots</b>	<b>Percent of Private EFU Tax Lots developed with dwellings</b>
Tax Lot 100	12	29	41
Tax Lot 200	13	30	43
Tax Lot 300	13	29	43

Based on the data above, there appear to be more undeveloped EFU private parcels than those developed with residences. It is not clear if the existing residential uses have had a negative impact on farm uses.

As discussed below, of the properties developed with dwellings, the majority constructed in or after 1993 are nonfarm dwellings (approximately 60 percent). Other dwelling types constructed in or after 1993 including accessory farm dwellings (20 percent) and one dwelling of an unknown type. The most current dwelling development trend in the study area appears to be the establishment of nonfarm dwellings. Dwellings developed from 1979 through 1992 were primarily established as farm dwellings (approximately 71 to 83 percent).

However, Staff asks the Hearings Officer to make specific findings for this criterion.”

As noted above, the Hearings Officer finds the Staff evidence and analysis to be adequate to demonstrate this criterion has been met.

**3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.**

**FINDING:** The BOCC determined in the *Clough* decision (File No. 247-15-000035-CU/247-15-000403-A), that when the general unsuitability criterion of 18.16.050 (G)(1)(a)(iii) is met, the least suitable criterion of Section 18.16.040 (A)(3) above is satisfied as well. The findings under DCC 18.16.050(G)(1)(a)(iii) below are incorporated herein by reference.

Section 18.16.050. Standards for Dwellings in the EFU Zones.

***Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner’s successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.***

**FINDING:** As required under this section, Staff recommended a condition of approval requiring the property owner to sign and record the above document prior to issuance of a building permit for any nonfarm dwelling. The Hearings Officer finds that with Staff’s recommended condition, as set forth below, this criterion can be met.

*Farm & Forest Management Easement: Prior to the issuance of any building permit for a nonfarm dwelling, the property owner shall sign and record in the deed records for the County, a document binding the landowner, and the landowner’s successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. The applicant shall submit a copy of the recorded Farm and Forest Management Easement to the Planning Division.*

**G. Nonfarm Dwelling.**

**1. One single-family dwelling, including a manufactured home in accordance with DCC 18.116.070, not provided in conjunction with farm use may be permitted on an existing lot or parcel subject to the following criteria:**

**a. The Planning Director or Hearings Body shall make findings that:**

**(1) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.**

**FINDING:** This approval criterion is nearly identical to the approval criterion under DCC 18.16.040(A)(1) and (2). Those findings are incorporated herein by reference. The Hearings Officer finds with the incorporated findings this criterion will be met.

**(2) The proposed nonfarm dwelling does not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.**

**FINDING:** On June 1, 1998, the Land Conservation and Development Commission adopted amendments to the administrative rules implementing Goal 3, Agricultural Lands (OAR Chapter 660-033) to incorporate case law and to clarify the analysis under the “stability” approval criterion. The rules continue to apply the three-step “stability” analysis first articulated in the Land Use Board of Appeals (LUBA) case *Sweeten v. Clackamas County*, 17 Or LUBA 1234 (1989). OAR 660-033-0130(4)(a) states:



**(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:**

**(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;**

The County applied an area of analysis including all EFU-zoned land located within a one-mile radius of the subject property’s boundaries and including approximately 2,000 acres (hereafter the “Study Area”). The Hearings Officer finds this study radius is suitable to provide a comprehensive analysis of the character of the area surrounding each Subject Property because of its significant size and the number of parcels located within it.

The following is a summary of the sizes of private EFU tax lots within the Study Area for each individual Subject Property below.

Subject Property (Tax Lot)	EFU-zoned Tax Lots	Private EFU Tax Lots	Size range of Private EFU Tax Lots (acres)	Less than or equal to 20 acres	20.01 to 39.99 acres	Greater than or equal to 40 acres
Tax Lot 100	40	29	0.37 acres to 560 acres	13 (45%)	2 (7%)	14 (48%)
Tax Lot 200	41	30	0.37 acres to 560 acres	13 (43%)	2 (7%)	15 (50%)
Tax Lot 300	40	29	0.37 acres to 560 acres	13 (45%)	2 (7%)	14 (48%)

Of the private EFU lots within each Study Area, a majority are greater than or equal to 40 acres in size.

**OAR 660-033-0130 (4)(a)(D) [continued]**

**(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved under subsections (3)(a) and section 4 of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;**

**FINDINGS:** Staff (Staff Report, pages 19 – 26) provided a comprehensive recitation and analysis of factors relating to this approval criterion. The Hearings Officer finds the Staff information and analysis is adequate to justify the Hearings Officer to conclude this criterion is met. The Hearings Officer finds that there is no evidence or argument in the record disputing the Staff information and analysis set forth in full below:

**Farm Uses**

*The EFU-zoned lands in the study area that are engaged in farm use mainly consist of farming in the form of large-acreage pivot fields including turf production, hay and alfalfa production, vineyards, and keeping horses and/or cattle.*

*Within the study area for Tax Lot 100, 200 and 300, there are 24, 25, and 24 privately-owned tax lots that are receiving farm tax deferral, respectively. Of these privately-owned tax lots receiving farm tax deferral, 14 to 15 have water rights.*

*The total amount of water rights on these farm tax-deferred properties ranges from 1,185.77 to 1,237.77 acres. Based on the amount of irrigation and the size of the parcels in the study area, an estimated 1,185.77 to 1,237.77 acres (acreage that is possibly being irrigated) are engaged in irrigated farm use. According to Deschutes County GIS, a portion of the study area is in the Three Sisters Irrigation District.*

**Existing Dwellings**

*The chart below summarizes the types of dwellings constructed within the study area between 1979 and 1993:*

<b>Subject Property (Tax Lot)</b>	<b>Private EFU Dwellings</b>	<b>Dwelling built prior to 1979</b>	<b>Dwelling built between 1979 and 1992</b>	<b>Dwelling built from 1993 to present</b>
Tax Lot 100	12	1	6	5
Tax Lot 200	13	1	7	5
Tax Lot 300	13	1	7	5

*The one dwelling developed prior to 1979 predated the County’s EFU Zone and therefore was not subject to EFU zoning requirements.*

*Within the study area for all three tax lots, the 6 to 7 dwellings developed from 1979 through 1992 included 5 farm dwellings, 1 accessory farm dwelling, and 1 dwelling of an unknown type. Between this time period, it appears the dominant dwelling type was a farm dwelling.*

*Staff notes that dwellings constructed up until the late 1980s in this time period were not necessarily reviewed as either farm or nonfarm dwellings.*

*Of the 5 dwellings constructed in 1993 or after, 3 were nonfarm dwellings, 1 was an accessory farm dwelling and 1 is a dwelling of an unknown type.*

**Dwelling Development Trends Since 1993**

*As discussed above, those 5 dwellings constructed in or after 1993 were a mixture of nonfarm (60 percent), and accessory farm dwellings (20 percent). One dwelling is of an unknown type. For this reason, staff finds the most current dwelling development trend in the study area is the establishment of nonfarm dwellings.*

**Potential Nonfarm Dwellings**

To address this criterion, staff reviewed the study area to determine how many properties are “similarly situated to the subject property”. Staff finds that privately owned properties in the EFU Zone that are not presently developed with a dwelling are similarly situated, in that they may be eligible for a nonfarm dwelling. Based on staff’s review, 13 to 14 properties, excluding the subject properties, meet these characteristics including one property that has already been approved for nonfarm dwellings but have not been fully constructed yet. Therefore, 12 to 13 possible new nonfarm dwellings could be developed on similarly situated properties.

It is not clear whether a nonfarm dwelling could be approved on these properties since each property would be reviewed on its own merits. Any proposed nonfarm dwellings on the above-referenced properties must be reviewed for their effect on the stability of the land use pattern, whether they are on land generally unsuitable for the production of crops, livestock or merchantable trees, and whether they will cause a significant change in or significantly increase the cost of accepted farming practices on adjacent land. Staff notes many of the vacant, privately-owned EFU lots are owned by Two Canyons LLC or Deep Canyon LLC and contain large pivot fields in active farm use. For the purposes of this review, staff assumes all identified properties could be approved for a nonfarm dwelling.

**Potential Nonfarm Parcels**

In the EFU Zone, two types of land divisions creating new nonfarm parcels are possible: those where the parent parcel is irrigated (DCC 18.16.055(B)) and those where the parent parcel is not irrigated (DCC 18.16.055(C)). OAR 660-033-130(4)(c)(C) sets the rules for the stability analysis of properties outside of the Willamette Valley:

*‘The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and [...]’ (emphasis added)*

*In the case Elliott v. Jackson County, 43 Or LUBA 426 (2003), LUBA found that OAR 660-033-0130(4)(a)(D) requires that the stability analysis for nonfarm dwellings needs to consider the potential for newly created nonfarm parcels. In part, LUBA summarizes that decision as follows:*

*OAR 660-033-0130(4)(a)(D) requires that the county’s stability analysis consider the potential for new nonfarm parcels in the area, whether or not the applicant proposes a new nonfarm parcel.*

*OAR 660-033-0130(4)(c)(C) requires compliance with the standards of OAR 660-033-0130(4)(a)(D), and therefore also requires consideration of potential new nonfarm parcels, whether or not a new nonfarm parcel is proposed.*

*OAR 660-033-0130(4)(a)(D) and (c)(C) require consideration of the cumulative impact of a proposed nonfarm dwelling on lots or parcels that are “similarly situated.” Because OAR 660-033-0130(4)(a)(D)(ii) expressly requires consideration of whether parcels larger than the minimum parcel size may be divided*

to allow nonfarm dwellings, the scope of “similarly situated” parcels is not limited to substandard parcels or parcels that are the same size as the subject property.

In consideration of the above and of the privately owned properties in the study area, staff finds:

- There are no nonirrigated parcels between 85 and 90 acres in the study area capable of being partitioned under a nonirrigated land division to create a single nonfarm parcel. There are no nonirrigated parcels over 90 acres in the study area capable of being partitioned under a nonirrigated land division to create two nonfarm parcels.
- There are no parcels equal to or greater than 40 acres and less than or equal to 80 acres in the study area that may be capable of being partitioned under a nonirrigated land division to create a single nonfarm parcel.
- There are 2 to 3 parcels that are less than 80 acres in the study area and meet the minimum irrigated acres for the subzone that may be capable of being partitioned under an irrigated land division based on size to create a single nonfarm parcel.
- There are 11 parcels that are equal to or greater than 80 acres in the study area. Approximately 6 of these parcels appear to meet the minimum irrigated acres for the subzone that may be capable of being partitioned under an irrigated land division to each create two nonfarm parcels. It is important to note that many of the EFU parcels within the study area contain two EFU subzones; Lower Bridge and Sisters/Cloverdale. Each of these subzones have differing irrigated acreage requirements; 130 acres and 63 acres, respectively.

The potentially divisible parcels are composed of class 3 to 7 soils that are rated both high-value and non-high value farmland, so it is unknown if they would meet the “generally unsuitable” criteria of 18.16.055(B)(2)(a)(v) and 18.16.050(G)(2)(b). To be eligible for division the parent parcel must have been lawfully created prior to July 1, 2001. In addition, new parcels must meet certain access and frontage requirements. Staff notes that the eligibility of other properties for land use approvals or land divisions cannot be formally determined as part of this process. This assumed eligibility or ineligibility of these properties for land use approvals or land divisions is based on publicly available information and is not binding or final on these other properties.

Therefore, this analysis shows that between 14 to 15 new nonfarm dwelling parcels could potentially be created from land divisions.

**Potential Lot of Record Dwellings**

Under Section 18.16.050(E) and OAR 660-033-130(3), a lot of record dwelling may be sited on non-high value farmland in the EFU Zone if the parcel was created and acquired by the current owner prior to January 1, 1985, has continuously been owned by the present owner since then, and if the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract. Under Section 18.16.050(F) and OAR 660-033-130(3)(c), a lot of record dwelling may be sited on high value farmland if it meets the criteria for a lot of record dwelling on non-high value farmland and the Planning Division finds the parcel cannot practically be managed for farm use “due to extraordinary circumstances inherent in the land or its physical setting,” such as “very steep slopes, deep ravines or other similar natural or physical barriers.”

The Planning Division has previously determined that lot of record dwellings can be difficult to obtain, given the requirement for ownership prior to 1985 and the land cannot be suitable for farming based on the above

factors. Some parcels may qualify for a lot of record dwelling, but without a specific analysis of each and every parcel, this determination cannot be concluded. None of the dwellings approved within the Study Area were approved as a lot of record dwelling.

**Result From Approval of the Possible Nonfarm Dwellings**

The land use pattern and character of the study area is predominately a mixture of large, irrigated pivot fields and crop production.

Including the subject application, approximately 30 to 31 new nonfarm dwellings could be established in the study area on existing and potential future nonfarm parcels. Given the relatively limited number of existing dwellings in the study area and the relatively high number of potential nonfarm dwellings, the proposed nonfarm dwellings may cause a substantial change in the land use pattern of the area. However, staff asks the Hearings Officer to make specific findings on this issue.

There has been 5 dwellings constructed in the study area since 1993, over a 30 year span. It is unclear to staff if the land use pattern is generally stable. The majority of those dwellings were nonfarm dwellings.

For this reason, staff finds the most current dwelling development trends in the study area is the establishment of nonfarm dwellings. Additionally, it does not appear the existing and newly approved dwellings have precluded farm uses in the study area.

There are both irrigated and nonirrigated lands in the area, and most of the nonirrigated parcels are already developed with dwellings. Many of the irrigated parcels are developed with farm dwellings. Staff notes that no farm dwellings have been approved in the area since 1993, and no farm dwellings have been approved since 1995 when the farm dwelling standards included significant changes.

Staff asks the Hearings Officer to make specific findings on whether the proposed dwelling will be consistent with the land use pattern of the area by allowing a nonfarm dwelling on an unproductive portion of the property.

As noted above, the Hearings Officer finds that the above-quoted Staff information and analysis is comprehensive and adequately addressed this approval criterion. The Hearings Officer, based upon the above-quoted Staff material, finds OAR 660-033-0130 (4)(a)(D)(ii) is properly addressed and satisfied.

**OAR 660-033-0130 (4)(a)(D) [continued]**

- (iii) Determine whether approval of the proposed nonfarm/lot of record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;**

**FINDING:** Staff (Staff Report, pages 26 -27) provided a comprehensive recitation and analysis of factors relating to OAR 660-033-0130 (4)(a)(D)(iii). The Hearings Officer finds the Staff information and analysis is adequate to justify the Hearings Officer to conclude OAR 660-033-0130 (4)(a)(D)(iii) is satisfied. The Hearings Officer finds that there is no evidence or argument is in the record disputing the Staff information and analysis set forth in full below:

*“The cumulative effect of existing and potential nonfarm dwellings will increase the number of dwellings in the study area from 12 to 53. Such approvals may “materially alter the stability of the land use pattern in the area” by making it more difficult for the existing farms to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or by diminishing the number of tracts or acreage in farm use. As stated above, it is not clear to staff if such dwellings could be approved as nonfarm dwellings. However, staff notes nonfarm dwelling approvals would be limited to lands generally unsuitable for farm use and, as such, would not reduce available farmland or the number of tracts or acreage in farm use, individually or cumulatively.*

*Under Dowrie v. Benton County (38 Or LUBA 93, 2000), the County must determine whether the proposed nonfarm dwellings will encourage similar uses or divisions on similarly situated parcels in the area:*

*Dowrie v. Benton County, 38 Or LUBA 93 (2000). A local government cannot reach supportable conclusions as to the stability of the land use pattern required by OAR 660-033-0130(4)(a)(D) unless it adequately defines the study area and determines not only what the land use pattern is, but also whether the proposed use or land division will encourage similar uses or divisions on similarly situated parcels in the area.*

*It is not clear to staff if the addition of each individual dwelling, for a total of three, would tip the balance from resource to non-resource use. Air photos suggest the farm use in the area has remained relatively stable for many decades. There have been 3 nonfarm dwellings approved since 2000 within the study area.*

*Given the 3 nonfarm dwellings approved since 2000, it does not appear to staff that the approval of the proposed nonfarm dwellings will set a precedent for the wholesale approval of nonfarm dwellings to the detriment of surrounding farming. The parcels currently in farm use will likely remain relatively stable, with little or no expansion of farm use in the area, given the topography, soil types, availability of water rights. Parcel sizes vary within the study area with a relatively even mix of large and small parcels. The properties capable of being farmed appear to already be farmed. Additionally, no response to the notice of application or land use action sign was received by nearby farmers requesting the subject property be made available for farm use. The approval of the proposed dwellings will not affect the amount of farming or the type of farming in the study area. Lastly, nonfarm dwellings are reviewed on a case-by-case basis where each proposed nonfarm dwelling would need to demonstrate compliance with all of the applicable criteria for approval. For the foregoing reasons, staff finds that approval of the proposed nonfarm dwellings will not destabilize the mixture of agricultural and residential character of the surrounding area.*

*However, Staff asks the Hearings Officer to make specific findings on whether the nonfarm dwellings, if approved, would materially alter the stability of the land use pattern in the area.”*

The Hearings concurs with the above-quoted Staff information, analysis and conclusions. The Hearings Officer finds that if the Applicant’s proposal is approved if such approval will not materially alter the stability of the land use pattern in the area.

**DCC 18.16.050 G.1.a. [continued]**

***(3) The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.***



**FINDING:** The Hearings Officer incorporates, as additional findings for this section, the Preliminary Findings titled “Unsuitability for Farm Use- Use in Conjunction with Adjacent/Nearby Properties” (Preliminary Findings section A.4).

Staff (Staff Report, pages 27 – 28) referenced Oregon LUBA decisions it believed to be relevant to this criterion. The Hearings Officer sets for Staff’s summary of those cases below:

*Griffin v. Jackson County, 48 Or LUBA 1 (2004). The question is not whether land is generally unsuitable for all farm use; the question is whether the land is generally unsuitable to produce crops, livestock or merchantable trees.*

*Dorvinen v. Crook County, 33 Or LUBA 711 (1997); (discussing legislative history). ORS 215.284(2)(b) allows nonfarm dwellings to be sited on unproductive parts of the productive farm land on lands outside the Willamette Valley.*

*Williams v. Jackson County, 55 Or LUBA 223 (2007). A parcel can satisfy the generally unsuitable standard even if portions of the parcel contain areas that, if considered alone, do not satisfy the standard.*

*Frazer v. Jackson County, 45 Or LUBA 263 (2003). Where a nonfarm dwelling is proposed to be sited on unproductive parts of the productive farm land on lands outside the Willamette Valley, the county is to focus on the productivity of the part of the property selected for nonfarm development and should not consider the suitability of the rest of the parcel or tract.*

Applicant requested Staff and the Hearings Officer to focus on the “entire parcel” for each Subject Property as opposed to considering just the proposed “building envelope.’ Staff (Staff Report, page 27) did focus its analysis on the suitability of the entire property for each Subject Property. The Hearings Officer finds Applicant and Staff’s focus on the ‘entire parcel” for the review of this criterion is appropriate.

Staff (Staff Report, pages 28 – 37) provide a comprehensive review and analysis of each of the relevant DCC 18.16.050 G.1.(3) factors. The Staff review and analysis is quoted, in full, below:

**“Adverse Soil or Land Conditions**

*The applicant submitted three soil studies prepared by Brian T. Rabe, CPSS, WWS of Valley Science and Engineering. The studies, each dated October 21, 2021, provide a detailed analysis of the soils on each of the subject properties. The submitted soils report shows that the subject properties contain the following soil types:*

**Figure 7 - Property #1 (Tax Lot 100)**



Figure 7 illustrates the location of soil units on the property.

The soil study states on Page 4:

All 4.98 acres of the Site were evaluated in detail, including 1.88 acres of Lickskillet soils. The remaining 3.10 acres consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Lickskillet soils and the property boundary or right right-of-way. A small delineation of Deskamp (0.79 acres) in the southeastern corner of the parcel is across an access road from an adjacent area that appears to have been disked or mowed but not irrigated in the past. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties. Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.

Based on the description above contained in the soil study and corresponding acreages of the soil units provided in the soils map above, staff finds the subject property contains the following acreages:

Soil Type	Classification	Area (acres)
36B	Deskamp Loamy Sand	2.27
36C	Deskamp Loamy Sandy	0.83
81D	Lickskillet-Rock Outcrop Complex	1.18
81E	Lickskillet-Rock Outcrop Complex	0.70

Based on the chart above and the soil map included in the soil study, the subject property contains a total of 3.1 acres of 36B/C (62 percent), and 1.88 acres of 81D/E (38 percent). Therefore, based on these acreages, it appears the subject property is comprised primarily of Deskamp Loamy Sand.

The applicant’s supplemental burden of proof states in part:

As used in the soil report, Table 3 and Figure 4 (Exhibit B (TL 100), C (TL 200), D (TL 300), Brian Rabe has provided the following information:

The data in Table 3 provides the LCC for the soils by name: Deskamp, which is Map Unit 36 – slope phases A, B, or C, all of which are Class 6; Licksillet, which is Map Unit 81 – slope Phases C, D, E, or F, all of which are Class 7; Rock Outcrop, which is Map Unit 109, which is Class 8.

Based on the acreage amounts summarized above, the subject property contains predominantly Soil Unit 36. According to Mr. Rabe, Soil Unit 36 is Class 6, regardless of slope. DCC 18.16.050(G)(2)(b) above specifies that a parcel is presumed suitable for the production of farm crops and livestock if it is predominately composed of LCC 1-6 soils.

However, staff notes the soil study states in part, “The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties.” However, this statement appears to consider the suitability of the soils in conjunction with adjacent properties whereas the criteria requires an analysis of the suitability of the entire property or a specific building envelope. In this case, the applicant has chosen to focus on the suitability of the entire property.

Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

Figure 8 - Property #2 (Tax Lot 200)

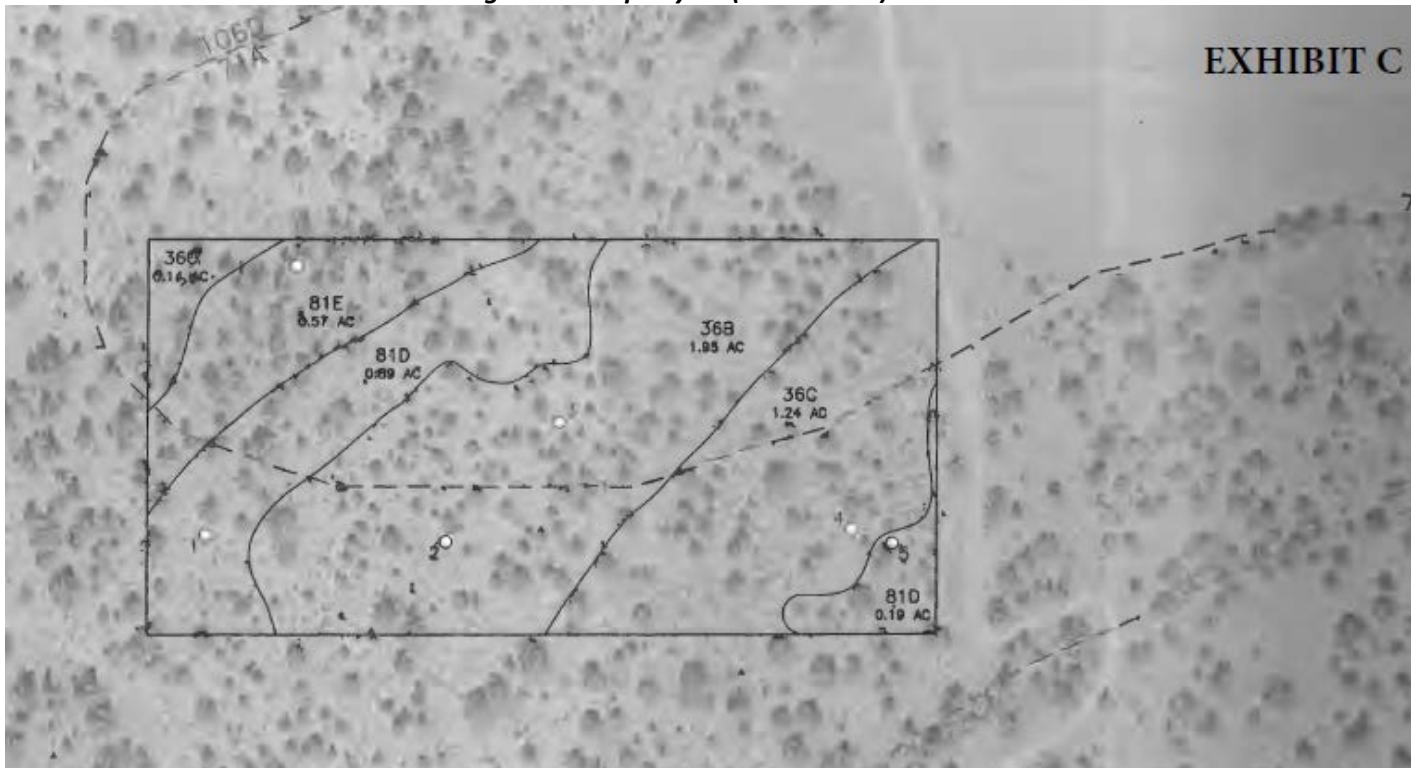


Figure 8 illustrates the location of soil units on the property.

The soil study states on Page 4:

All 4.98 acres of the Site were evaluated in detail, including 1.65 acres of Lickskillet soils. The remaining 3.33 acres consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Lickskillet soils and the property boundary or right right-of-way. Small delineations of Deskamp (1.24 and 1.95 acres) in the northeast corner of the parcel are across an access road from an adjacent area that appears to have been disked or mowed but not irrigated in the past. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties. Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.

Based on the description above contained in the soil study and corresponding acreages of the soil units provided in the soils map above, staff finds the subject property contains the following acreages:

Soil Type	Classification	Area (acres)
36B	Deskamp Loamy Sand	1.95
36C	Deskamp Loamy Sandy	1.38
81D	Lickskillet-Rock Outcrop Complex	1.08
81E	Lickskillet-Rock Outcrop Complex	0.57

Based on the chart above and the soil map included in the soil study, the subject property contains a total of 3.33 acres of 36B/C (67 percent), and 1.65 acres of 81D/E (33 percent). Therefore, based on these acreages, it appears the subject property is comprised primarily of Deskamp Loamy Sand.

The applicant’s supplemental burden of proof states in part:

As used in the soil report, Table 3 and Figure 4 (Exhibit B (TL 100), C (TL 200), D (TL 300), Brian Rabe has provided the following information:

The data in Table 3 provides the LCC for the soils by name: Deskamp, which is Map Unit 36 – slope phases A, B, or C, all of which are Class 6; Lickskillet, which is Map Unit 81 – slope Phases C, D, E, or F, all of which are Class 7; Rock Outcrop, which is Map Unit 109, which is Class 8.

Based on the acreage amounts summarized above, the subject property contains predominantly Soil Unit 36. According to Mr. Rabe, Soil Unit 36 is Class 6, regardless of slope. DCC 18.16.050(G)(2)(b) above specifies that a parcel is presumed suitable for the production of farm crops and livestock if it is predominately composed of LCC 1-6 soils.

However, staff notes the soil study states in part, “The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties.” However, this statement appears to consider the suitability of the soils in conjunction with adjacent properties whereas the criteria requires an analysis of the suitability of the entire property or a specific building envelope. In this case, the applicant has chosen to focus on the suitability of the entire property.

Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

**Figure 9 - Property #3 (Tax Lot 300)**

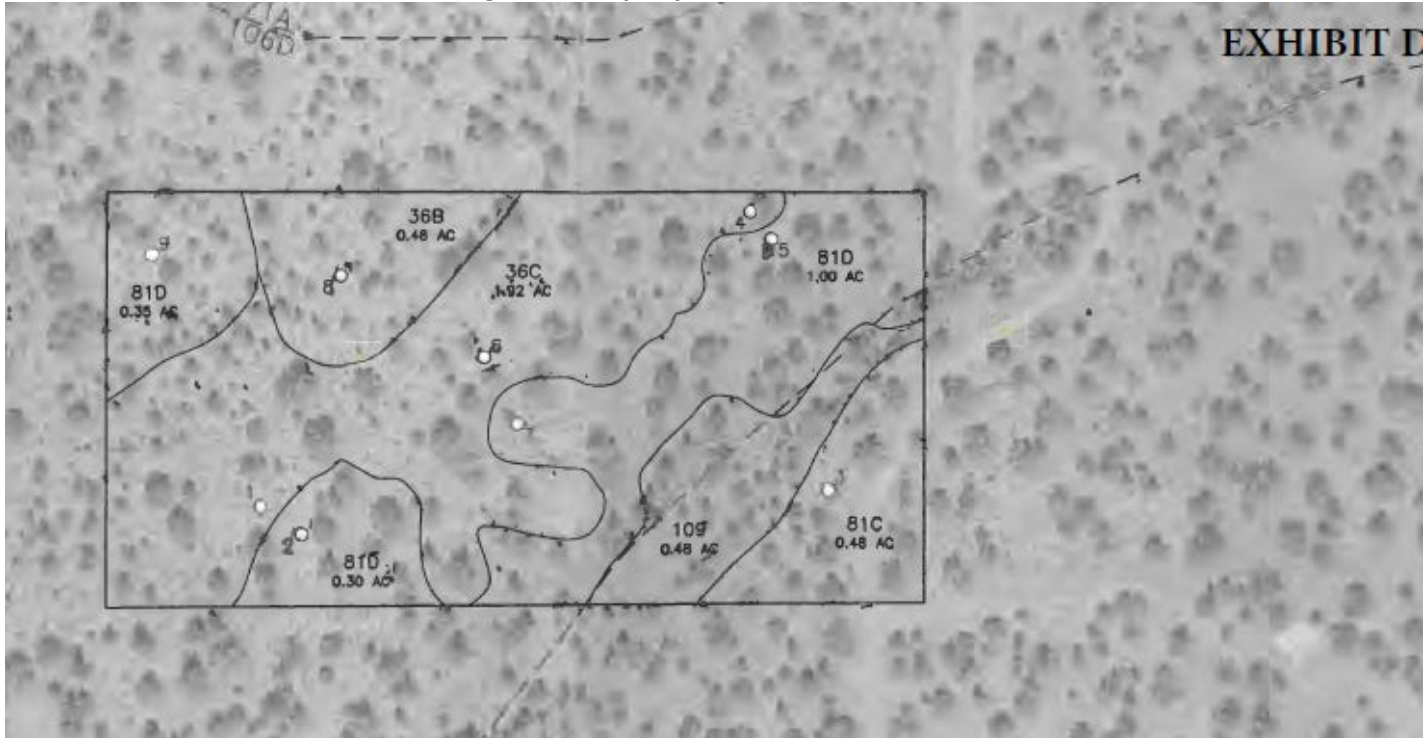


Figure 9 illustrates the location of soil units on the property.

The soil study states on Page 4:

*All 5.01 acres of the Site were evaluated in detail, including 2.13 acres of Lickskillet soils and 0.48 acres of Rock outcrop. The remaining 2.40 acres, or 47.9%, consisted of soils more like Deskamp in areas with slightly deeper soils and fewer coarse fragments between delineations of Lickskillet soils and the property boundary or right right-of-way. The delineations of Deskamp soils are relatively small and irregular in shape and, as such, are generally unsuitable for farm use in conjunction with adjacent properties (none of which appear to be or ever have been farmed). Therefore, the entire area evaluated is considered “generally unsuitable” for farm use.*

*Based on the description above contained in the soil study and corresponding acreages of the soil units provided in the soils map above, staff finds the subject property contains the following acreages:*

<b>Soil Type</b>	<b>Classification</b>	<b>Area (acres)</b>
36B	Deskamp Loamy Sand	0.48
36C	Deskamp Loamy Sandy	1.92
81C	Lickskillet-Rock Outcrop Complex	0.48
81D	Lickskillet-Rock Outcrop Complex	1.65
109	Rock Outcrop	0.48

*Based on the chart above and the soil map included in the soil study, the subject property contains a total of 2.4 acres of 36B/C (48 percent), 2.13 acres of 81D/E (43 percent), and 0.48 acres of 109 (10 percent). Lickskillet-Rock outcrop complex is rated Class 7 and 8 when not irrigated. There is no rating for irrigated soil of this type.*

The applicant’s supplemental burden of proof states in part:

As used in the soil report, Table 3 and Figure 4 (Exhibit B (TL 100), C (TL 200), D (TL 300), Brian Rabe has provided the following information:

The data in Table 3 provides the LCC for the soils by name: Deskamp, which is Map Unit 36 – slope phases A, B, or C, all of which are Class 6; Lickskillet, which is Map Unit 81 – slope Phases C, D, E, or F, all of which are Class 7; Rock Outcrop, which is Map Unit 109, which is Class 8.

The combination of the Rock Outcrop and Lickskillet soils total 2.61 acres or 52 percent of the subject property. In consideration of the soil study maps and ratings, staff finds the subject property is predominately composed of class 7 and 8 soils and is therefore “generally unsuitable” for the production of farm crops and livestock.

**Farm Crops**

Tax Lot 100

The soil study in the record indicates the soils within the subject property consist of the following two soil units: Deskamp-Loamy Sand and Lickskillet-Rock Outcrop. Based on the chart above and the soil map included in the soil study, the subject property contains a total of 3.1 acres of 36B/C (62 percent), and 1.88 acres of 81D/E (38 percent). Therefore, based on these acreages, it appears the subject property is comprised primarily of Deskamp Loamy Sand. Deskamp Loamy Sand (Soil Unit 36) is rated LCC 6. As noted above, the approval criterion presumes LCC 1 through 6 soils are suitable for farm use.

It is not clear to staff that Tax Lot 100 is not suitable for the production of farm crops. Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

Tax Lot 200

The soil study in the record indicates the soils within the subject property consist of the following two soil units: Deskamp-Loamy Sand and Lickskillet-Rock Outcrop. Based on the chart above and the soil map included in the soil study, the subject property contains a total of 3.33 acres of 36B/C (67 percent), and 1.65 acres of 81D/E (33 percent). Therefore, based on these acreages, it appears the subject property is comprised primarily of Deskamp Loamy Sand. Deskamp Loamy Sand (Soil Unit 36) is rated LCC 6. As noted above, the approval criterion presumes LCC 1 through 6 soils are suitable for farm use.

It is not clear to staff that Tax Lot 200 is not suitable for the production of farm crops. Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

Tax Lot 300

The soil study in the record indicates the soils within the subject property consist of the following three soil units: Deskamp-Loamy Sand, Lickskillet-Rock Outcrop, and Rock Outcrop. Based on the chart above and the soil map included in the soil study, the subject property contains a total of 2.4 acres of 36B/C (48 percent), 2.13 acres of 81D/E (43 percent), and 0.48 acres of 109 (10 percent).



The combination of the Rock Outcrop and Licksillet soils total 2.61 acres or 52 percent of the subject property. Rock Outcrop and Licksillet are reated LCC 7 and 8. In consideration of the soil study maps and ratings, staff finds the subject property is predominately composed of class 7 and 8 soils and is therefore “generally unsuitable” for the production of farm crops and livestock.

Consequently, staff finds Tax Lot 300 is not suitable for the production of farm crops.

**Livestock Production**

Nonirrigated soils in Deschutes County are agriculturally suitable only as dry range land, and then only on a limited basis. Estimates on the value of beef production are based on the following assumptions, which have been derived through consultation with OSU Extension Service:

- One AUM<sup>5</sup> is the equivalent to the forage required for a 1000 lb. Cow and calf to graze for 30 days (900 pounds forage).
- On good quality forage, an animal unit will gain 2 pounds per day.
- Two animal units will eat as much in one month as one animal unit will eat in two months.
- Forage production on dry land is not continuous: Once the forage is eaten, it generally will not grow back until the following spring.
- An average market price for beef is \$1.15 per pound.

The NRCS Rangeland and Forest Understory Productivity and Plant Composition table (September 18, 2015) provides forage capability for soil types, expressed in annual dry-weight production.

**Tax Lot 100**

The entire property is comprised of two soil types: 36B/C, Deskamp-sandy loam, and 81D/E, Licksillet-Rock Outcrop. The soil study states that the 36 soil has a forage capability of 900 lbs. per acre for a “normal year” and 81 soil has a forage capability of 700 lbs. per acre for a “normal year.”

It takes about 900 lbs. of forage to sustain a cow and calf for a month (one animal unit month, or AUM). So, the portion of the property comprised of 36 soils would provide the equivalent of 1.0 AUM per acre. The portion of the property classified as 81 soils would provide an equivalent of 0.78 AUM per acre for a “normal year.”

Based on the OSU and NRCS assumptions, the value of beef production on the property, considering the mix of soils, can be calculated using the following formula:

$(30 \text{ days}) \cdot (2 \text{ lbs./day/acre}) = 60 \text{ lbs. beef/acre}$

$1.0 \text{ AUM per acre and } 0.78 \text{ AUM per acre}$

The entire property is 4.98 acres in size.

$(60 \text{ lbs. beef per acre})(4.98 \text{ acres})(1.0 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$344$

$(60 \text{ lbs. beef per acre})(4.98 \text{ acres})(0.78 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$268$

<sup>5</sup> Animal Unit Month

Thus, the total gross beef production potential for the entire property would be between approximately \$268 and \$344 annually. This figure represents gross income and does not take into account any fencing costs, land preparation, purchase costs of livestock, veterinary costs, or any other costs of production. This calculation is also based on a simplified scenario where the property is entirely comprised of NRCS-rated soils which produce forage for livestock, which as the soil study shows is not necessarily the case. The area has little forage for livestock and may support only minimal dry land grazing. For these reasons, staff finds the soils in this property are generally unsuitable for the production of livestock.

**Tax Lot 200**

The entire property is comprised of two soil types: 36B/C, Deskamp-sandy loam, and 81D/E, Licksillet-Rock Outcrop. The soil study states that the 36 soil has a forage capability of 900 lbs. per acre for a “normal year” and 81 soil has a forage capability of 700 lbs. per acre for a “normal year.”

It takes about 900 lbs. of forage to sustain a cow and calf for a month (one animal unit month, or AUM). So, the portion of the property comprised of 36 soils would provide the equivalent of 1.0 AUM per acre. The portion of the property classified as 81 soils would provide an equivalent of 0.78 AUM per acre for a “normal year.”

Based on the OSU and NRCS assumptions, the value of beef production on the property, considering the mix of soils, can be calculated using the following formula:

$$(30 \text{ days}) \cdot (2 \text{ lbs./day/acre}) = 60 \text{ lbs. beef/acre}$$

1.0 AUM per acre and 0.78 AUM per acre

The entire property is 4.98 acres in size.

$$(60 \text{ lbs. beef per acre})(4.98 \text{ acres})(1.0 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$344$$

$$(60 \text{ lbs. beef per acre})(4.98 \text{ acres})(0.78 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$268$$

Thus, the total gross beef production potential for the entire property would be between approximately \$268 and \$344 annually. This figure represents gross income and does not take into account any fencing costs, land preparation, purchase costs of livestock, veterinary costs, or any other costs of production. This calculation is also based on a simplified scenario where the property is entirely comprised of NRCS-rated soils which produce forage for livestock, which as the soil study shows is not necessarily the case. The area has little forage for livestock and may support only minimal dry land grazing. For these reasons, staff finds the soils in this property are generally unsuitable for the production of livestock.

**Tax Lot 300**

The entire property is comprised of three soil types: 36B/C, Deskamp-sandy loam, 81C/D, Licksillet-Rock Outcrop, and 109, Rock Outcrop. The soil study states that the 36 soil has a forage capability of 900 lbs. per acre for a “normal year” and 81 soil has a forage capability of 700 lbs. per acre for a “normal year.” Rock outcrop does not have a forage capability.

It takes about 900 lbs. of forage to sustain a cow and calf for a month (one animal unit month, or AUM). So, the portion of the property comprised of 36 soils would provide the equivalent of 1.0 AUM per acre. The portion of the property classified as 81 soils would provide an equivalent of 0.78 AUM per acre for a “normal year.”

Based on the OSU and NRCS assumptions, the value of beef production on the property, considering the mix of soils, can be calculated using the following formula:

$$(30 \text{ days}) \cdot (2 \text{ lbs./day/acre}) = 60 \text{ lbs. beef/acre}$$

1.0 AUM per acre and 0.78 AUM per acre

The entire property is 5.01 acres in size.

$$(60 \text{ lbs. beef per acre})(5.01 \text{ acres})(1.0 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$346$$

$$(60 \text{ lbs. beef per acre})(5.01 \text{ acres})(0.78 \text{ AUM per acre})(\$1.15 \text{ per lbs.}) = \$270$$

Thus, the total gross beef production potential for the entire property would be between approximately \$270 and \$346 annually. This figure represents gross income and does not take into account any fencing costs, land preparation, purchase costs of livestock, veterinary costs, or any other costs of production. This calculation is also based on a simplified scenario where the property is entirely comprised of NRCS-rated soils which produce forage for livestock, which as the soil study shows is not necessarily the case. The area has little forage for livestock and may support only minimal dry land grazing. For these reasons, staff finds the soils in this property are generally unsuitable for the production of livestock.

Based on the information and case law cited above, staff finds the subject properties are not generally suitable for production of livestock based on the total gross beef production potential noted above.

**Merchantable Trees**

The majority of trees on-site are juniper trees. Juniper trees are not a commercially viable tree. None of the soil units present are rated for forest productivity. For this reason, staff finds the subject property is not suitable for the production of merchantable trees.

**Building Envelope**

In *Wetherell v. Douglas County*, LUBA found that “the portion of the parcel that is ‘generally unsuitable’ must be large enough to include not only the dwelling, but essential or accessory components of that dwelling.” Staff reads this decision to include the dwelling, detached residential-associated buildings (including garages), well, septic system, drainfield, and the septic reserve area, as essential or accessory components of the dwelling. LUBA however, expressly excluded driveways from “essential or accessory components of the dwelling”. The subject property can reasonably be expected to accommodate these essential and accessory components of a dwelling.”

Staff, in the above-quoted comments, asked the Hearings Officer to respond to a number of issues. The Hearings Officer will address Staff’s issues in the order raised.

Staff (Staff Report, page 29), with respect to Subject Property #1 (Tax Lot 100) referenced a statement, included in the Applicant’s soil report (See, Applicant submission 2023-04-19 [pages 34 et. seq.]), indicating that the soils found were “generally unsuitable for farm use in conjunction with adjacent properties.” Staff asked the Hearings Officer

*“to make specific findings on whether the applicant has demonstrated that the proposed non farm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the*

*production of crops and livestock, or merchantable tree species, considering the terrain, soil or land conditions, drainage and flooding, vegetation, location and size of tract.”*

The Hearings Officer reviewed carefully the Brian T. Rabe soil study (Exhibit 2 to Application Materials, Valley Science and Engineering) and Applicant’s Supplemental Burden of Proof Statement (pages 8 -13). The Hearings Officer finds no evidence in the record, submitted by a person/entity qualified to provide a professional soil classification/analysis or study that disputes or challenges the conclusions set forth in the Rabe soil study or the conclusions drawn from that study by Applicant.

The Hearings Officer, relying upon the Rabe Soil Study, finds that the soil scientist considered the “entire” Subject Property #1 and not any identified or proposed building envelope. The Hearings Officer finds that the use of the phrase “in conjunction” was not used, in the Rabe Soil Study, in a restrictive or limiting sense. The Hearings Officer finds the “in conjunction” language was used in the Rabe Soil Study on in the context of Deskamp soils and not in the context of the overall Subject Property.

The Hearings Officer finds the Rabe Soil Study clearly states that it considered “the entire area evaluated.” The Hearings Officer finds the Rabe Soil Study concluded that the Subject Property predominately consists of soils generally unsuitable for farming and the production of merchantable tree species. The Hearings Officer finds no persuasive evidence in the record to dispute the conclusions expressed by the professional soil scientist in the Rabe Soil Study. Further, the Hearings Officer finds that the Rabe Soil Study investigated and considered, in arriving at its conclusion, the terrain, adverse soil or land conditions, drainage, flooding and vegetation.

The Hearings Officer notes that Staff made the same request to the Hearings Officer, as discussed above, related to Subject Property #2 (Tax Lot 200). The Hearings Officer conducted a review of the Rabe Soil Study and the Applicant’s Supplemental Burden of Proof Statement in the context of Subject Property #2. The Hearings Officer finds, as set forth above, that the soil scientist considered the “entire” Subject Property #2 and concluded that the “entire” property was unsuitable for farming and the production of merchantable tree species. Further, the Hearings Officer finds that the Rabe Soil Study investigated and considered, in arriving at its conclusion for Subject Property #2, the terrain, adverse soil or land conditions, drainage, flooding and vegetation. This Hearings Officer comment also applies to Staff’s request related to Farm Crops (Staff Report, page 33).

In reliance upon the Rabe Soil Study (with attachments) and the Applicant’s Supplemental Burden of Proof Statement, as modified by the Hearings Officer’s responses to Staff issues above, the Hearings Officer finds this criterion is met.

- (4) *The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm dwelling or the agriculture of the area.***

**FINDING:** The Applicant provided the following response to this criterion:

*“This criterion is not applicable because the subject property is not within one-quarter mile of a dairy farm, feedlot, or sales yard.”*

There is nothing in the record indicating a nearby dairy farm, feedlot, or sales yard. For these reasons, the Hearings Officer agrees with the Applicant.

**(5) Road access, fire and police services and utility systems (i.e. electrical and telephone) are adequate for the use.**

**FINDINGS:**

Electricity. The record includes a letter from Central Electric Cooperative indicating they can serve all three Subject Properties (Applicant’s Exhibit 3).

Road access. The Hearings Officer incorporates the Preliminary Findings DCC 18.88.060 (section A.2) as additional findings for this criterion.

The Hearings Officer takes note that Applicant, in its initial Burden of Proof, appeared to desire to use a historic roadway located to the east of the Subject Property. Applicant, in its Third Supplemental Burden Of Proof Statement With Alternative Building Envelope Location (pages 2 – 3), proposed to use an access roadway located on the west side of the Subject Property. Based upon the Applicant’s comments in its Open-Record – Round Two submission it appears to the Hearings Officer that Applicant desires the Hearings Officer to approve, if possible, the alternative roadway location (to the west of the Subject Properties) even if the Hearings Officer concludes the historic roadway meets the requirements of DCC 18.88.060.B.1.

The Hearings Officer found (Preliminary Findings, Road Related Siting Issues, section A.2 and the findings for DCC 18.88.060 set forth later in this decision) that the historic roadway did meet the requirements of 18.88.060 B which would result in building envelopes/footprints to be located within 300-feet of a “private road” that existed on August 5, 1992. The Hearings Officer also found that Applicant’s proposed alternative roadway, located to the west of the Subject Properties, did not meet the requirements of DCC 18.88.060 B.1.

The Applicant’s preferred alternative access is via a road along the western side of the Subject Properties; a roadway that connects the Subject Property to NW Lower Valley Drive. NW Lower Valley Drive, a private road, is functionally classified as a local road. The County Transportation Planner indicated that each individual dwelling will not cause NW Lower Valley Drive to exceed its capacity. The private road terminates in the southwest corner of Tax Lot 300.

As quoted in the Agency Comments section above, the Property Address Coordinator provided the following comment:

*“It appears from the aerial map in DIAL that the access for these parcels, 14-12-30BA-00100, 00200 and 00300 trigger CDD 16.16.020,*

*‘All unnamed public and private roads and other roadways which provide access to three or more tax lots, or which are more than 1,320 feet in length, shall be assigned a name in accordance with the procedures in DCC 16.16.030.’*

*Therefore, further discussion with the property owner regarding the actual access to these parcels is necessary and a road naming application is probable.”*

In addition to the road naming process noted above, Staff (Staff Report, page 39) noted that the property owner would need to provide recorded easements as the road which accesses the subject property crosses nearby parcel.

Staff (Staff Report, page 39) recommended the following conditions to ensure compliance with access requirements:

*Road Naming: Prior to the issuance of building permits for any of the non-farm dwellings, the existing unnamed roadway which provides access to the subject property shall be assigned a name in accordance with the procedures in DCC 16.16.030. This requires the submittal and approval of a Road Naming Application.*

*Easement: Prior to the issuance of building permits, the applicant shall provide a copy of a recorded access easement showing legal access from the subject parcels to NW Lower Valley Drive.*

Telephone. The Applicant proposed to utilize cellular phone service for any dwelling on the Subject Properties.

Domestic water. The Applicant proposed that domestic water on the Subject Properties would be provided by a private well. The Applicant submitted well logs indicating that domestic water to the Subject Properties can be accommodated with a private well. The chart below lists the submitted well log and corresponding static water level.

Map and Tax Lot	Distance from Subject Property	Static Water Level
14-12-29B, Tax Lot 100	±0.70 miles	234
14-12-29B, Tax Lot 200	±0.60 miles	253
14-12, Tax Lot 702	Adjacent	157

The Hearings Officer finds there should be adequate water for a domestic well on this property.

Septic. Dwellings on each Subject Property are proposed to be served by an on-site septic disposal system. Staff (Staff Report, page 39) recommended the following condition of approval to ensure compliance with this criterion.

*Septic: The applicant shall secure any necessary septic permit approval for each nonfarm dwelling.*

Fire protection. The Subject Properties are located outside a fire protection district. Staff sent notice of the application to the Deputy State Fire Marshal and they responded with no comment. However, Staff expressed concerns (Staff Report, page 40) regarding adequacy of emergency access to the proposed dwelling locations. As discussed above, the access road to the Subject Properties is not over a County-maintained roadway. The private roadway crosses multiple privately owned parcels which appear to be under common ownership by the property owner for the subject applications. However, it is not clear how this roadway is maintained and to what standard it was constructed to. Therefore, staff recommended (Staff Report, page 40) the following conditions of approval:

*Firebreaks and Fuel Break: Prior to the issuance of any building permit, the applicant shall construct and maintain the firebreaks detailed below on land surrounding the structure and access road that are owned or controlled by the owner. These required fuel breaks shall be maintained at all times.*

1. *Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials.*
2. *Secondary Firebreak. A secondary firebreak of not less than 20 feet shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least*



- eight feet in height. Dead fuels shall be removed.*
- 3. *Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.*
- 4. *No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.*

Fire Safety Design Standards for Roads: Staff (Staff Report, pages 40 – 41) also recommended additional conditions related to fire safety design for the private road. The Staff recommended conditions follow:

***Prior to the issuance of any building permits, the Applicant shall provide written verification to the Planning Division from a professional engineer registered in the state of Oregon stating the fire safety design standards for the access road extending from the NW Lower Valley Drive right-of-way to each dwelling site is met as detailed below:***

- 1. *Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a professional engineer registered in Oregon.*
- 2. *Access roads shall have an unobstructed horizontal clearance of not less than 20 feet and an unobstructed vertical clearance of not less than 13.5 feet, and provide an all weather surface.*
- 3. *Turnarounds shall have a minimum of 50 feet of turn radius with an all weather surface and be maintained for turning of fire fighting equipment.*
- 4. *Road grades should not exceed eight percent, with a maximum of 12 percent on short pitches. Variations from these standards may be granted when topographic conditions make these standards impractical and where the local fire protection district states their fire fighting equipment can negotiate the proposed road grade.*

Police protection. The Subject Property (refers collectively to three separate lots) is served by the Deschutes County Sheriff.

The Hearings Officer, based upon the Preliminary Findings, Road Related Siting Issues (section A.2) and the findings set forth above, concludes that if all Staff recommended conditions are included then these criteria will be met.

**(6) *The nonfarm dwelling shall be located on a lot or parcel created prior to January 1, 1993, or was created or is being created as a nonfarm parcel under the land division standards in DCC 18.16.055(B) or (C).***

**FINDING:** The Hearings Officer incorporates, as additional findings for this criterion, the Preliminary Findings, **Lot Creation Date - DCC 18.16.050 G.1.a.(6)** (section A.3). The Applicant provided the following statement in response to this criterion:

*“The subject property (tax lot 14-12-30BA, 100) is one of nine (9) legal lots of record located within the boundaries of former tax lot 702, Map 14-12. It was created by deed in the Crook County records in 1913-prior to the establishment of Deschutes County. It was adjusted and became what is now tax lot 14-12-30BA, 100 as the result of property line adjustments LL-09-119 and LL-09-128. These adjustments were approved by the County in 2008 and 2009.*

The following definitions from Oregon Revised Statutes chapter 92, section 92.010 are applicable here:

- "Lot" means single unit of land created by a subdivision of land.
- "Parcel" means a single unit of land that is created by a partition of land.
- "Partitioning land" means dividing land to create not more than three parcels of land within a calendar year, but does not include:
  - (b) Adjusting a property line as property line adjustment is defined in this section.
- "Property line adjustment" means a relocation or elimination of all of a portion of the common property line between abutting properties that does not create an additional lot or parcel.

Deschutes County contains similar definitions in its acknowledged land use regulations.

Oregon Administrative Rules, under section 660-033-0020(4) has the following language as follows:

*"Date of Creation and Existence." When a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot parcel or tract.*

*The date of creation and existence definition was adopted by LCDC in the 1990s and it is likely the definition does not apply to the County's review of this application because the County's EFU zoning regulations have been revised and acknowledged by LCDC a number of times since the definition was adopted. Nonetheless, the definition makes it clear that a lot line adjustment does not create a new parcel and does not change the date of creation but for this rule. The 1913 deed created the parcel. This issue has already been judicially resolved by the court of appeals in COLW v. Deschutes County (Grossmann), 320 Or.App. 650 (2022) attached hereto for convenience.*

The Applicant also provided the following responses as it relates to each of the Subject Properties:

**Tax Lot 100**

*The subject property (14-12-30BA, 100) was not created by a subdivision or partition. No new parcels were created by the County-approved adjustment, and the effect of the property line adjustment did not qualify the subject property for a dwelling. The parent parcel of the subject property is a parcel identified as Lot of Record 2, a 14.90-acre parcel of land with 7 acres of irrigation and 7.90 acres of dry unproductive, unsuitable, Class 7 soils.*

*After adjustment, LL-09-119 was a 96.61-acre parcel. Adjustment LL-09-128 reduced the size of the dry parcel to 4.98 acres. The parcel as originally configured qualified for a dwelling, and the reduction in size of the subject property did not qualify it for approval of a dwelling.*

**Tax Lot 200**

*The subject property (14-12-30BA, 200) was not created by a subdivision or partition. No new parcels were created by the County-approved adjustment, and the effect of the property line adjustment did not qualify the subject property for a dwelling. The parent parcel of the subject property is a parcel identified as Lot of Record 1, a 40.51-acre parcel of land with 40 acres of irrigation and .51 acres of dry unproductive soils, and could have been approved for a dwelling. After adjustment, the property is 4.98 acres. The reduction in size of the subject property did not qualify it for approval of a dwelling.*

**Tax Lot 300**

*The subject property (14-12-30BA 300) was not created by a subdivision or partition. No new parcels were created by the County-approved adjustment, and the effect of the property line adjustment did not qualify the subject property for a dwelling. The parent parcel of the subject property is a parcel identified as Lot of Record 4, a 19.89-acre parcel of land with no irrigation and could have been approved for a dwelling.*

*After adjustment, LL 09-117 the parcel was 5.01 acres. The parcel as originally configured qualified for a dwelling, and the reduction in size of the subject property did not qualify it for approval of a dwelling.”*

The Hearings Officer, based upon the Preliminary Findings, **Lot Creation Date – DCC 18.16.050 G.1.a.(6)** (section A.3) related the legal interpretation of this approval criterion and the evidence supplied by Applicant, as quoted above, finds the Subject Properties were created prior to January 1, 1993.

- 2. For the purposes of DCC 18.16.050(G) only, “unsuitability” shall be determined with reference to the following:**
  - a. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.**

**FINDING:** The Hearings Officer incorporates the Preliminary Findings, Unsuitability for Farm Use – Use in Conjunction (section A.4) as additional findings for this criterion.

The Subject Property is not under forest assessment. LUBA determined the issue of whether nonfarm parcels can be put to farm use in conjunction with other properties “is triggered under DCC 18.16.050(G)(2)(a) if the parcels are found to be unsuitable solely because of size or location.” *Williams v. Jackson County*, 55 Or LUBA 223, 230 (2007).

The Applicant provided the following statement, in part, in their supplemental burden of proof statement, dated September 14, 2023 addressing the standard above:

*“Here, the applicant is not relying on the lot or parcel “size” or “location” to find the lot is unsuitable. The balance of the code provision makes clear that this criteria can be met when an entire parcel, or a portion of the parcel where the proposed building envelope will be located, is determined to be “unsuitable.” While it does not have to be the entire parcel, here, the level one soil analysis done by a professional soil scientist determined that the entire parcel is unsuitable as set forth in the exhibits...”*

In this case, and as articulated throughout this decision, the Staff Report and in the Applicant’s Burdens of Proof, the Subject Property (collectively refers to three lots) is not suitable due to adverse soil and land conditions, which could demonstrate that the properties proposed for the nonfarm dwellings are generally unsuitable for farm use. Because the Applicant does not claim unsuitability due to size or location, the Hearings Officer finds this criterion does not apply.

- b. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or**

***otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.***

**FINDING:** The Hearings Officer incorporates the Preliminary Findings, Unsuitability for Farm Use – Use in Conjunction (section A.4) as additional findings for this criterion. The Hearings Officer also incorporates the findings for DCC 18.16.050 G.1.a as additional findings for this criterion.

The Applicant’s supplemental Burden of Proof, dated September 14, 2023, states in part:

*“Here, the applicant is not relying on the lot or parcel “size” or “location” to find the lot is unsuitable. The balance of the code provision makes clear that this criteria can be met when an entire parcel, or a portion of the parcel where the proposed building envelope will be located, is determined to be “unsuitable.” While it does not have to be the entire parcel, here, the level one soil analysis done by a professional soil scientist determined that the entire parcel is unsuitable as set forth in the exhibits. Specifically, the balance of the code provides:*

*iii. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock, or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. (underline emphasis added)”*

The Hearings Officer agrees with the Applicant that it is not asserting any property subject to this decision is too small to be farmed profitably by itself. Rather, the Hearings Officer finds that the Applicant is asserting that the poor soil quality on each Subject Property renders them generally unsuitable for farming/timber production. The Applicant provided an analysis study for each property related to the general unsuitability for crop and livestock production (See findings for DCC 18.16.050 G.1.a (3)). While there are large scale commercial farm operations nearby the Subject Property, there is no evidence in the record that the Subject Property can be sold, leased, rented or otherwise managed as part of a nearby commercial farm or ranch. No other generally accepted farm practices are identified in the record.

Staff (Staff Report, page 45) provided the following comments related to this approval criterion:

*“... as discussed above, a lot or parcel is presumed to be suitable if it composed predominantly of Class I-VI soils. Tax Lot 100 and 200 appear to be predominantly composed of Class VI soils, based on the information in the soils report. Tax Lot 300 appears to be predominantly composed of Class VII soils, based on the information in the soils report.*

*Staff asks the Hearings Officer to make specific findings regarding the “unsuitability” of the subject properties based on these qualifications pursuant to DCC 18.16.050(G).”*

The Hearings Officer finds that the soil conditions existing at the Subject Property was adequately addressed by Applicant (See Applicant Supplemental Burden of Proof Statement pages 8 – 13 and attachments). The Hearings Officer finds, based upon soil conditions, each property subject to this decision, is generally unsuitable for the production of farm crops and livestock. Further, the Hearings Officer finds that Applicant addressed each of the

relevant DCC 18.16.050 G. factors (i.e., terrain, land conditions, drainage, flooding, vegetation and location). The Hearings Officer finds Applicant’s submissions related to the DCC 18.16.050 G evaluation factors demonstrates that the Subject Property is not suitable for the production of farm crops and livestock.

- c. ***If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.***

**FINDING:** The Subject Properties are not under forest assessment. Therefore, the Hearings Officer finds this criterion does not apply.

- 3. ***Loss of tax deferral. Pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the parcel upon which the dwelling is proposed has been disqualified under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.***

**FINDING:** Staff (Staff Report, pages 45-46) recommended the following condition of approval:

*Farm Tax Deferral Disqualification: Prior to the issuance of building permits, the applicant shall produce evidence from the County Assessor's Office that the parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815, and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.*

The Hearings Officer finds that with Staff’s recommended condition of approval this criterion can be met.

**Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)**

**FINDING:** The Subject Properties are located within the SMIA Zone in association with mine site 324.

Section 18.56.030, Application of Provisions.

***The standards set forth in DCC 18.56 shall apply in addition to those specified in DCC Title 18 for the underlying zone. If a conflict in regulations or standards occurs, the provisions of DCC 18.56 shall govern.***

**FINDING:** The standards under DCC 18.56 are addressed in the following findings.

Section 18.56.050. Conditional Uses Permitted

***Uses permitted conditionally shall be those identified as conditional uses in the underlying zone(s) with which the SMIA Zone is combined and shall be subject to all conditions of the underlying zone(s) as well***

*as the conditions of the SMIA Zone.*

**FINDING:** As discussed herein, the proposed use is a conditional use in the underlying zone. Therefore, the proposed use is also a conditional use in the SMIA Zone. Applicable standards are addressed below.

Section 18.56.070. Setbacks.

*The setbacks shall be the same as those prescribed in the underlying zone, except as follows:*

- A.** *No noise sensitive or dust sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within 250 feet of any surface mining zone, except as provided in DCC 18.56.140; and*
- B.** *No noise sensitive or dust sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within one quarter mile of any existing or proposed surface mining processing or storage site, unless the applicant demonstrates that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively.*
- C.** *Additional setbacks in the SMIA Zone may be required as part of the site plan review under DCC 18.56.100.*
- D.** *An exception to the 250 foot setback in DCC 18.56.070(A), shall be allowed pursuant to a written agreement for a lesser setback made between the owner of the noise sensitive or dust sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. Such agreement shall be notarized and recorded in the Deschutes County Book of Records and shall run with the land. Such agreement shall be submitted and considered at the time of site plan review or site plan modification.*

**FINDING:** The Hearings Officer finds that no noise sensitive or dust sensitive use or structure is proposed within one quarter mile of any surface mining zone.

Section 18.56.080. Use Limitations.

*No dwellings or additions to dwellings or other noise sensitive or dust sensitive uses or structures shall be erected in any SMIA Zone without first obtaining site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120.*

**FINDING:** This decision includes SMIA Zone site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120. Staff (Staff Report, page 45) found that this approval covers any noise and dust sensitive use anywhere on the property. Barring code changes to DCC 18.56 or changes in the boundaries of mine(s) in the area, no further SMIA review is required for permitted uses on the subject properties.

Section 18.56.090. Specific Use Standards.

*The following standards shall apply in the SMIA Zone:*

*New dwellings, new noise sensitive and dust sensitive uses or structures, and additions to dwellings or noise and dust sensitive uses or structures in existence on the effective date of Ordinance No. 90 014 which exceed 10 percent of the size of the existing dwelling or use, shall be subject to the criteria established in DCC 18.56.100.*

**FINDING:** The proposed use is listed in this criterion and is subject to DCC 18.56.100.

Section 18.56.100. Site Plan Review and Approval Criteria.



- A. *Elements of Site Plan. A site plan shall be submitted in a form prescribed by the Planning Director or Hearings Body detailing the location of the proposed noise sensitive use, the location of the nearby surface mine zone and operation, if any, and other information necessary to evaluate the approval criteria contained in DCC 18.56.100.***

**FINDING:** The Applicant submitted three SMIA applications, File Nos. 247-23-000737-SMA, 738-SMA, 739-SMA associated with Tax Lot 100, 200, and 300 respectively to address Chapter 18.56.

- B. *Site plan review and approval, pursuant to the County Uniform Land Use Action Procedures Ordinance, shall be required for all uses in the SMIA Zone prior to the commencement of any construction or use.***

**FINDING:** The Applicant applied for site plan review for the proposed use, which are being reviewed and processed under Title 22, Deschutes County Development Procedures Ordinance. The Hearings Officer finds that this criterion will be met.

- C. *The Planning Director or Hearings Body may grant or deny site plan approval and may require such modifications to the site plan as are determined to be necessary to meet the setbacks, standards and conditions described above.***

**FINDING:** The Hearings Officer finds that this approval does not require modifications to any site plan to meet the DCC 18.56 setbacks, standards and conditions described above.

- D. *The site plan shall be approved if the Planning Director or Hearings Body finds that the site plan is consistent with the site specific ESEE analysis in the surface mining element of the Comprehensive Plan and that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively.***

**FINDING:** Pursuant to 18.52.160(B), the subject mine is a preexisting mine. Therefore, the standards listed in Chapter 18.52 do not apply. The proposal is consistent with the site specific ESEE analysis.

- E. *Public notice shall be as set forth in DCC Title 22, the Uniform Development Procedures Ordinance, except that in all cases notice of the receipt of an SMIA application shall be sent to the mine owners and/or operators whose SM Zoned site triggered the SMIA review.***

**FINDING:** As set forth in DCC Title 22, notice will be sent to the mine owners and/or operators whose SM Zoned site triggered the SMIA review.

Section 18.56.110. Abbreviated SMIA Site Plan Review.

- A. *A new or enlarged noise or dust sensitive use to which DCC 18.56.110 applies that is at least one quarter mile from an SM Zone and that has at least two dwellings or other noise or dust sensitive uses between it and the SM zone is presumed to meet the approval criteria set forth in DCC 18.56.100(D), and shall be processed under DCC 18.56.110.***

**FINDING:** Staff provided the following findings (Staff Report, page 49) finds that any future new or enlarged noise or dust sensitive use on the subject property would likewise meet the applicable criteria of DCC 18.56 and that no

further review under DCC 18.56 is required for such uses. The Hearings Officer concurs with Staff’s analysis and conclusion. The Hearings Officer finds this criterion is met.

- B. *Abbreviated SMIA site plan review shall require the submission of an application in a form prescribed by the Planning Director or Hearings Body and such documentation as is necessary to demonstrate conformance with DCC 18.56.110(A).***

**FINDING:** The Applicant submitted three applications in a form prescribed by the Planning Director or Hearings Body and such documentation as is necessary to demonstrate conformance with DCC 18.56.110(A).

- C. *Unless the underlying zoning at the SMIA site would require additional review of the proposed use for some other land use permit, abbreviated site plan review shall be conducted (1) administratively without prior public notice; (2) with public notice of the Findings and Decision mailed consistent with DCC 18.56.100(E), to all persons entitled to receive notice; and (3) with an appeal period and procedures as set forth in DCC Title 22, the Uniform Development Procedures Ordinance. Appellants may submit evidence to overcome the presumption set forth in DCC 18.56.110(A).***

**FINDING:** This abbreviated site plan review is being conducted in accordance with this criterion.

Section 18.56.120. Waiver of remonstrance.

***The applicant for site plan approval in the SMIA Zone shall sign and record in the Deschutes County Book of Records a statement declaring that the applicant and his successors will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.***

**FINDING:** Staff (Staff Report, page 47) recommended a condition of approval that requires the Applicant to sign and record a Waiver of Remonstrance prior to the issuance of the building permits for the proposed uses. The Hearings Officer finds that with Staff’s recommended condition of approval this requirement can be met.

Section 18.56.140. Exemptions.

***The following shall be exempt from the provisions of DCC 18.56:***

- A. *Uses in the SMIA Zone which are not within one half mile of any identified resource in the SM Zone after all reclamation has occurred.***
- B. *Continuation and maintenance of a conforming or nonconforming use established prior to the effective date of Ordinance No. 90 014.***
- C. *The employment of land for farm or forest use.***
- D. *Additions to noise-sensitive or dust-sensitive uses or structures existing on the effective date of Ordinance No. 90 014 or established or constructed in accordance with DCC Chapter 18.56 which are completely screened from the surface mining site by the existing use or structure.***

**FINDING:** These criteria do not apply to this proposal.

**Chapter 18.88, Wildlife Area Combining Zone (WA)**

Section 18.88.040. Uses Permitted Conditionally.

- A. *Except as provided in DCC 18.88.040(B), in a zone with which the WA Zone is combined, the***

*conditional uses permitted shall be those permitted conditionally by the underlying zone subject to the provisions of the Comprehensive Plan, DCC 18.128 and other applicable sections of this title. To minimize impacts to wildlife habitat, the County may include conditions of approval limiting the duration, frequency, seasonality, and total number of all outdoor assemblies occurring in the WA Zone, whether or not such outdoor assemblies are public or private, secular or religious.*

**FINDING:** The proposed nonfarm dwelling is a conditional use in the EFU Zone and therefore is also a conditional use in the WA Combining Zone.

Section 18.88.060. Siting Standards.

**A. Setbacks shall be those described in the underlying zone with which the WA Zone is combined.**

**FINDING:** Setbacks are those described in the EFU Zone in which the WA Zone is combined.

**B. The footprint, including decks and porches, for new dwellings shall be located entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of August 5, 1992 unless it can be found that:**

- 1. Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern; or,**
- 2. The siting within 300 feet of such roads or easements for vehicular access would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least possible impact on wildlife habitat considering browse, forage, cover, access to water and migration corridors, and minimizing length of new access roads and driveways; or,**
- 3. The dwelling is set back no more than 50 feet from the edge of a driveway that existed as of August 5, 1992.**

**C. For purposes of DCC 18.88.060(B):**

- 1. A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to August 5, 1992 if the applicant submits any of the following:**
  - a. A copy of an easement recorded with the County Clerk prior to August 5, 1992 establishing a right of ingress and egress for vehicular use;**
  - b. An aerial photograph with proof that it was taken prior to August 5, 1992 on which the road, easement or driveway allowing vehicular access is visible;**
  - c. A map published prior to August 5, 1992 or assessor's map from prior to August 5, 1992 showing the road (but not showing a mere trail or footpath).**
- 2. An applicant may submit any other evidence thought to establish the existence of a private road, easement for vehicular access or driveway as of August 5, 1992 which evidence need not be regarded as conclusive.**

**FINDING:** The Hearings Officer incorporates the Preliminary Findings **Road Related Siting Issues** (section A.2) as additional findings for these criteria. Summarized the **Road Related Siting Issues** (section A.2) findings concluded that an applicant must, if seeking a DCC 18.88.060 B.1 exception, first demonstrate that proposed building footprints are within 300-feet of a August 5, 1992 road. The Hearings Officer found, in the Preliminary Findings, that a “private road” includes a “farm road.” The Hearings Officer found that a “private road” need not be paved or otherwise improved so long as it serves the purpose of providing vehicular access between two points. The Hearings Officer found that an applicant can provide proof of the existence of a August 5, 1992 private road by submitting into the record aerial photos and maps so long as those photos and maps were taken prior to August 5, 1992 and the roadway is visible. Finally, the Hearings Officer, in the Preliminary Findings, concluded that a DCC

18.88.060 “private road” shall be considered “in use” unless there is evidence in the record that the right to use the roadway was legally terminated or there is substantial evidence in the record that the road use has been permanently discontinued.

The Hearings Officer first addresses the COLW claim that Applicant failed to provide substantial evidence into the record that a “private road,” as set forth in DCC 18.88.060 B, was in existence on August 5, 1992. Applicant submitted comments, in its multiple Burdens of Proof (including its original Burden of Proof and subsequent Supplemental Burdens of Proof), that a “farm road” is located along the eastern side of the Subject Property. Staff also provided comments and evidence (Staff Report, pages 51 – 59) related to the alleged eastern roadway. The Hearings Officer finds COLW provided no evidence in the record disputing the authenticity or accuracy of the Applicant’s or Staff’s proffered record evidence; COLW simply argued that the evidence in the record was not adequate. The Hearings Officer finds all maps and photos submitted by Applicant and Staff to be credible.

The Hearings Officer takes note of the Hearing testimony and record submissions of Dirk Duryee (“Duryee”). Duryee represented, during his Hearing testimony, that he is an Oregon licensed professional engineer. Duryee submitted (Applicant February 12, 2024 record submission plus attachments) comments, maps and aerial photos addressing the alleged eastern roadway. The Hearings Officer finds Duryee’s testimony and record submissions constitute credible and substantial evidence related to the existence of the eastern roadway prior to August 5, 1992.

The Hearings Officer also takes note of an affidavit signed by Keenan Howard (“Howard”) (Applicant February 12, 2024 record submission, attachment). In summary, the Howard affidavit states that he is familiar with the Subject Property and land located east of and adjacent to the Subject Property. Howard stated, in the affidavit, that he used the roadway, located east of the Subject Property, with farm equipment. Howard stated that:

*“There is no question that these were historical roads used by the farmers for decades, extending before 1992.”*

The Hearings Officer sets forth, once again, a portion of DCC 18.88.060:

**C. For the purposes of DCC 18.88.060 (B):**

**1. A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to August 5, 1992 if the applicant submits any of the following:**

\*\*\*

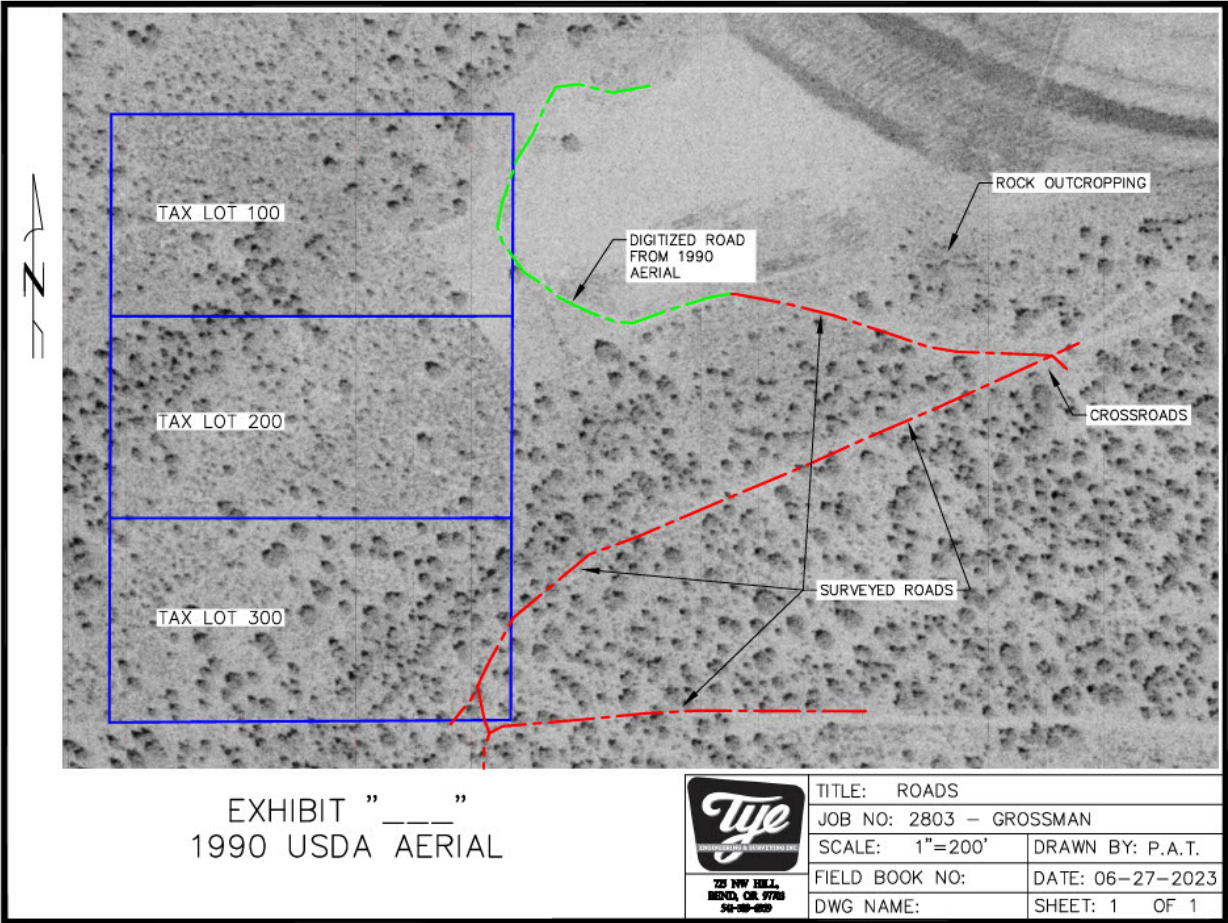
**b. An aerial photograph with proof that it was taken prior to August 5, 1992 on which the road, easement or driveway allowing vehicular access is visible.**

The level of proof required to demonstrate that a “private road” existed on August 5, 1992 (per DCC 18.88.060 B) is set forth above in DCC 18.88.060 C.1. The Hearings Officer finds that there must be in the record (a) one or more aerial photographs with proof that the photographs were taken prior to August 5, 1992 and (b) that the purported “private road” (in this case) is **visible** (*emphasis added*).

The Hearings Officer finds that many of the aerial photographs submitted by Applicant appear to show the alleged eastern “farm road” (Applicant’s Burdens of Proof, Staff Report, and Open-Record Submissions). The Hearings Officer finds many of those photographs are suggestive and perhaps conclusive that the eastern road met the DCC 18.88.060 C.1 proof requirements. The Hearings Officer finds that Duryee submitted Exhibit (1990 USDA Aerial), included below, clearly shows the Subject Property and an eastern roadway prior to August 5, 1992.

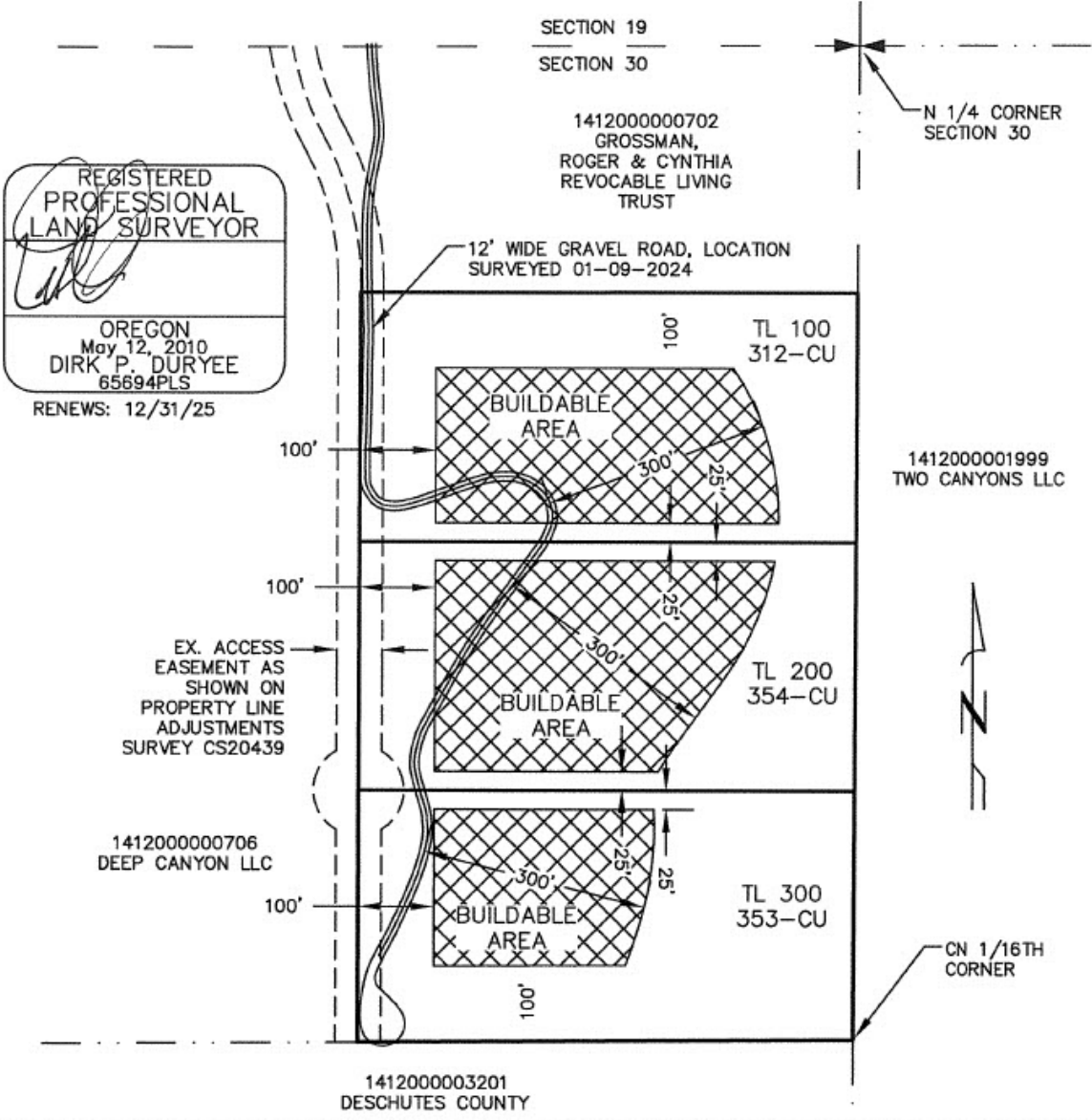
The Hearings Officer, based upon the Applicant’s submittals, the Staff Report, Duryee testimony and submitted

documentation and the Howard affidavit, finds that a “farm road” did exist, on and prior to August 5, 1992, as shown by the aerial photograph below. The Hearings Officer, based upon Duryee testimony and submitted documentation, finds that Applicant’s proposed building footprints as set forth in the initial Burden of Proof, are within 300-feet of a “private road”; thereby, satisfying the DCC 18.88.060 B requirements. The Hearings Officer finds COLW did not dispute or challenge the evidence in the record provided by Applicant that supported its claim that the eastern road met the 300-foot requirement. The only proof of meeting the 300-foot requirement was presented by Applicant. The Hearings Officer finds this evidence/representation by Applicant to be credible.



The Hearings Officer next addresses the Applicant’s preferred alternative; locating building footprints accessing a “private road” to the west of the Subject Property. Applicant’s preferred alternative is to utilize the DCC 18.88.060 B.1 “exception” process. Applicant provided the following map/plan showing its preferred access alternative.

BUILDING AREAS FOR CONDITIONAL USE PERMITS  
247-21-000312-CU, 353-CU AND 354-CU  
LOCATED THE NE 1/4 NW 1/4 OF SECTION 30,  
T. 14 S., R. 12 E., W.M., DESCHUTES COUNTY, OREGON



**TYE ENGINEERING, INC.**

725 NW HILL, BEND, OREGON 97703 (541) 389-6959

DATE: 01-10-2024	SCALE: 1"=200'	DRAWN BY: P.A.T.	2803-Grossman Site Plan.dwg
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COLW (February 6, 2024 page 5 and February 13, 2024 page 3) and the Oregon Department of Fish and Wildlife ("ODFW" January 30, 2024 email) argued that Applicant did not provide, in the record, substantial evidence that the habitat values and migration corridors are afforded equal or greater protection if Applicant's alternative (west side) roadway is approved. Applicant relied upon the testimony of Wendy Wente ("Wente") and a "wildlife study" submitted into the record (July 27, 2023, Mason, Bruce and Girard, Exhibit 2 to Third Supplemental Burden of Proof Statement – hereafter the "MB&G Study") in support of its request for its preferred alternative DCC 18.88.060 B.1 exception.

DCC 18.88.060 B.1 states:

*Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern"*

The Hearings Officer finds that DCC 18.88.060 B.1 describes, through a list contained in parenthesis, "habitat values." The Hearings Officer finds the list (in parentheses) following "habitat values" in DCC 18.88.060 B.1 is suggestive and does not ascribe the weight to be given to any item in the list. The Hearings Officer also finds the parenthesis list of "habitat values" is not exclusive; other habitat value factors could be considered. However, no participant in this case suggested that the listed factors should not be considered.

The Hearings Officer finds that the DCC 18.88.060 B.1 language "afforded equal or greater protection through a different development pattern" requires the Hearings Officer to compare the proposed alternative to the 300' Option. In this case the Hearings Officer is required to compare the west side road to the historical east side road. The Hearings Officer must determine, based upon the evidence in the record, whether the Applicant's proposed alternative (west side road) provides equal or greater habitat values and migration corridors than the historic eastern road.

The Hearings Officer finds that Applicant relied upon the MB&G Study, the testimony of Wente and a narrative (with accompanying photographs) submitted as part of Applicant Statement (Open Record – Round One) to demonstrate satisfaction of DCC 18.88.060 B.1. The Hearings Officer sets forth below a section of the MB&G Study titled "Professional Opinion:"

*"During the wildlife habitat assessment completed in 2022, MB&G noted a single habitat type, western juniper woodland, was uniformly distributed throughout the entire property. Topographically, the property lies on a southwest to northeast oriented ridge with parallel rock outcroppings erupting along the main ridge south of the property.*

*Mule deer likely use the juniper woodlands as cover habitat during winter rather than as a primary food source due to the juniper dominated vegetation community which primarily offers cover rather than forage. The property is also proximal to agricultural fields located immediately to the north-east and north of the property.*

*Alternatively siting the building footprints within 300 feet of the western-most road rather than within 300 feet of the prep1992 eastern-most road would:*

- 1) Provide a contiguous corridor that would allow mule deer to move through and utilize the eastern-most portions of the three tax lots by forming a corridor habitat following the ridgeline and connecting undeveloped public lands to the south to agricultural lands and pockets of juniper woodlands to the north.*
- 2) Reduce traffic related disturbance. The route along the eastern road would require traffic to travel approximately 1.25 miles through juniper woodland habitat and adjacent farmland before reaching the turnoff to FHC. The wester road reaches the nearest intersection within approximately .75 miles.*

*The juniper habitat transected by the eastern road also appears to create a corridor of habitat between agricultural fields, and is likely used by mule deer as they move about the winter range. Limiting traffic to the western road would, therefore, reduce impacts to overwintering deer.*

3) Concentrate disturbed areas including the new building footprints and driveways closer to the existing operating farm by keeping the development within 300 feet of the western road.

*Due to these factors, the mule deer winter range and other wildlife habitat would be better protected by locating the new dwellings within 300 feet of the western road rather than the eastern road."*

The MB&G Study, as quoted above, presented a challenge to the Hearings Officer to assess whether the habitat values and mitigation corridors factors were compared and contrasted as required by DCC 18.88.060 B.1. The Hearings Officer finds, in this case, that the habitat value factors of browse, forage and cover must be satisfactorily compared and contrasted by Applicant to meet the requirements of DCC 18.88.060 B.1. The migration corridor factor also is required to be compared and contrasted by Applicant.

The Hearings Officer will address below the required comparison/contrast factors individually.

The first DCC 18.88.060 B.1 habitat value factor is "browse." The Hearings Officer found no reference to "browse" in the MB&G Study. The Hearings Officer reviewed Wenté's February 6, 2024 hearing testimony and did not hear any reference to "browse." It is possible that Wenté and/or the MB&G Study intended the Hearings Officer to consider the "browse" factor was addressed using some other language or phrasing in testimony and documentation. However, the Hearings Officer will not engage in such speculation. The Hearings Officer finds that Applicant did not address the DCC 18.88.060 B.1 requirement to compare/contrast the "browse" habitat value.

The next habitat value required to be considered is "forage." The Hearings Officer finds that the MB&G Study did reference "food sources" which the Hearings Officer finds may be related to the "forage" habitat value.<sup>6</sup> However, the Hearings Officer finds that neither the Wenté testimony nor the MB&G Study clearly compared and contrasted the proposed western road location to the historic eastern road location with respect to the "forage" habitat value factor. The Hearings Officer will not speculate as to the Applicant's intentions related to the habitat factor "forage." The Hearings Officer finds that Applicant did not address the DCC 18.88.060 B.1 "forage" habitat value requirement to compare/contrast the proposed western road development pattern and the historic eastern road.

The next habitat value to be addressed is the DCC 18.88.060 B.1 "cover." The MB&G Study did address the "cover" habitat value factor. However, the MB&G Study does not clearly offer compare/contrast the "cover" habitat value factor (compare the "cover" habitat value for the western road to the historic eastern road). Based upon the evidence in the record the Hearings Officer will not speculate as to whether the proposed western road provides equal or greater "cover" habitat value compared to the historic eastern road.

The Hearings Officer finds the "access to water" habitat value factor is not relevant to this case.

The next DCC 18.88.060 B.1 factor to be compared and contrasted is "migration corridors." The Hearings Officer finds the MB&G Study did directly compare and contrast the proposed western road to the historic eastern road for the "migration corridors." The Hearings Officer finds the MB&G Study comments related to "migration corridors" did adequately compare and contrast the proposed western road to the historic eastern road. The Hearings Officer finds that neither COLW or ODFW offered any evidence to dispute the specific comments contained in the MB&G Study related to "migration corridors."

<sup>6</sup> The MB&G Study states, in part "mule deer likely use the juniper woodlands as cover habitat during winter rather than as a primary food source due to the juniper dominated vegetation community which primarily offers cover rather than forage."

The Hearings Officer finds that Applicant adequately compared and contrasted the “migration corridors” factor. The Hearings Officer finds Applicant did not provide substantial evidence in the record to support a finding that the “browse,” “forage” or “cover” factors were compared and contrasted sufficiently to allow the Hearings Officer to conclude the location of the dwellings closer to the western road would result in equal or greater protection of habitat values. The Hearings Officer finds Applicant did not carry its burden with respect to DCC 18.88.060 B.1. The Hearings Officer finds, based upon the evidence in the record and available for the Hearings Officer’s consideration, that Applicant’s alternative siting of the dwellings near the western road does not meet the requirements of DCC 18.88.060 B.1 and Applicant’s requested “exception” for an alternative dwelling location must be denied.

Section 18.88.070. Fencing Standards.

***The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.***

***A. New fences in the Wildlife Area Combining Zone shall be designed to permit wildlife passage. The following standards and guidelines shall apply unless an alternative fence design which provides equivalent wildlife passage is approved by the County after consultation with the Oregon Department of Fish and Wildlife:***

- 1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.***
- 2. The height of the fence shall not exceed 48 inches above ground level.***
- 3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.***

***B. Exemptions:***

- 1. Fences encompassing less than 10,000 square feet which surround or are adjacent to residences or structures are exempt from the above fencing standards.***
- 2. Corrals used for working livestock.***

**FINDING:** No new fencing is included in this proposal. Staff recommends a condition of approval to ensure compliance.

**SYSTEM DEVELOPMENT CHARGE**

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,603 per p.m. peak hour trip. Staff determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore, the applicable SDC is \$4,538 (\$5,603 X 0.81) per dwelling. The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final. This SDC amount will be good through June 30, 2024. **DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.**

**IV. CONCLUSION**

The Hearings Officer considered the Applicant’s proposal seeking conditional use approval for three non-farm dwellings on three separate lots and SMIA approval for each lot. The Hearings Officer considered Staff reservations related to a number of approval criteria. The Hearings Officer also considered COLW’s arguments that the conditional use applications failed to meet/satisfy a number of approval criteria.

The Hearings Officer, in the Preliminary Findings, addressed many of Staff’s and COLW’s legal interpretation

concerns. The Hearings Officer, in the General Findings for relevant approval criteria, addressed Staff’s and COLW’s evidentiary concerns in the context of the Hearings Officer’s legal interpretation of the criteria.

The Hearings Officer found, with one exception, that the Applicant’s proposals met the relevant approval criteria. The Hearings Officer concluded that Applicant failed to carry its evidentiary burden with respect to its request for exceptions to DCC 18.88.060 B.1 (Exception Requests). The Hearings Officer found that Applicant’s request to locate the non-farm dwellings on the west side of the lots, as proposed in their Exception Requests was not supported by substantial evidence in the record and therefore had to be denied.

The Hearings Officer concluded that Applicant’s proposals for three non-farm dwellings and SMIA review should be approved.

**V. DECISION**

**Approval** of Applicant’s requests for conditional use and surface mining impact area review to establish three (3) non-farm dwellings on three separate legal lots of record in the EFU zone.

**Denial** of Applicant’s requested DCC 18.88.060 B.1 exception to site the dwelling envelopes within 300-feet of the road located on the west side of the subject property.

**VI. CONDITIONS OF APPROVAL**

- A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the Applicant. Any substantial change in this approved use will require review through a new land use application.
- B. The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.
- C. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D. Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- F. Farm & Forest Management Easement: **Prior to the issuance of any building permit for a nonfarm dwelling**, the property owner shall sign and record in the deed records for the County, a document binding the landowner, and the landowner’s successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. The Applicant shall submit a copy of the recorded Farm and Forest Management Easement to the Planning Division.
- G. All new fences shall comply with DCC 18.88.070.
- H. Septic: The Applicant shall secure any necessary septic permit approval for each nonfarm dwelling.
- I. Farm Tax Deferral Disqualification: **Prior to the issuance of building permits**, the Applicant shall produce evidence from the County Assessor's Office that the parcel upon which the dwelling is proposed has been

disqualified for special assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815, and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

**J. Prior to issuance of building permits,** Applicant shall sign and record in the Deschutes County Book of Records a statement declaring that the Applicant and his successors will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site. A copy of this recording shall be provided to Deschutes County Planning, prior to issuance of building permits.

**K. Road Naming: Prior to the issuance of building permits for any of the non-farm dwellings,** the existing unnamed roadway which provides access to the subject property shall be assigned a name in accordance with the procedures in DCC 16.16.030. This requires the submittal and approval of a Road Naming Application.

**L. Firebreaks and Fuel Break: Prior to the issuance of any building permit,** the Applicant shall construct and maintain the firebreaks detailed below on land surrounding the structure and access road that are owned or controlled by the owner. These required fuel breaks shall be maintained at all times.

1. Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials.
2. Secondary Firebreak. A secondary firebreak of not less than 20 feet shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
3. Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.
4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.

**M. Fire Safety Design Standards for Roads: Prior to the issuance of any building permits,** the Applicant shall provide written verification to the Planning Division from a professional engineer registered in the state of Oregon stating the fire safety design standards for the access road extending from the NW Lower Valley Drive right-of-way to each dwelling site is met as detailed below:

1. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a professional engineer registered in Oregon.
2. Access roads shall have an unobstructed horizontal clearance of not less than 20 feet and an unobstructed vertical clearance of not less than 13.5 feet, and provide an all weather surface.
3. Turnarounds shall have a minimum of 50 feet of turn radius with an all weather surface and be maintained for turning of fire fighting equipment.
4. Road grades should not exceed eight percent, with a maximum of 12 percent on short pitches. Variations from these standards may be granted when topographic conditions make these standards impractical and where the local fire protection district states their fire fighting equipment can negotiate the proposed road grade.

- N. Easement: Prior to the issuance of building permits, the Applicant shall provide a copy of a recorded access easement showing legal access from the subject parcels to NW Lower Valley Drive.
- O. **Prior to the issuance of building permits on Tax Lot 100**, the Applicant shall prepare and submit a Wetland Delineation to the Department of State Lands to verify the extent of potential wetlands on the subject property. DSL’s review and approval of the delineation would determine if additional state or local permitting is required for site development.

**VII. DURATION OF APPROVAL, NOTICE AND APPEALS**

The Applicant shall obtain a building permit for each proposed nonfarm dwelling within four (4) years from the date this decision becomes final, or obtain an extension of time pursuant to Section 22.36.010 of the County Code, or this conditional use permit shall be void.

**This decision becomes final twelve (12) days after the date mailed**, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee, and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

**NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**



\_\_\_\_\_  
Gregory J. Frank, Hearings Officer

Attachments:

- 1. Approved Building Envelopes
- 2. Farm and Forest Management Easement(s)
- 3. Waiver of Remonstrance(s)





# HISTORICAL ROADS FOR CONDITIONAL USE PERMITS 247-21-000312-CU, 353-CU AND 354-CU LOCATED THE NE 1/4 NW 1/4 OF SECTION 30, T. 14 S., R. 12 E., W.M., DESCHUTES COUNTY, OREGON



SECTION 19  
SECTION 30

141200000702  
GROSSMAN,  
ROGER & CYNTHIA

N 1/4 CORNER  
SECTION 30

BUILDABLE AREAS  
WITHIN 300' OF  
HISTORIC ROADS AND  
BUILDING SETBACKS

1412000001999  
JANET D WHITMORE  
LIVING TRUST

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



OREGON  
May 12, 2010  
DIRK P. DURYEE  
65694PLS

RENEWS: 12/31/23

NOTE: LOCATION OF  
HISTORIC ROADS BASED ON  
USDA AERIAL DATED  
7-26-90 AND  
1985 WAC-850R TAKEN ON  
MAY 5, 1985 BY WAC AND  
SITE SURVEY ON  
12-07-2022

TAX LOT 100  
247-21-000312-CU

TAX LOT 200  
247-21-000354-CU

TAX LOT 300  
247-21-000353-CU

141200000706  
BSC LLC

1412000003201  
DESCHUTES COUNTY

CL HISTORIC  
ROADS

CL HISTORIC ROAD

CN 1/16TH  
CORNER

CL HISTORIC ROAD



## TYE ENGINEERING, INC.

725 NW HILL, BEND, OREGON 97703 (541) 389-6959

DATE: 01-12-2023

SCALE: 1"=200'

DRAWN BY: P.A.T.

2803-Grossman Site Plan.dwg

## FARM AND FOREST MANAGEMENT EASEMENTS

As a standard condition of a conditional use permit approval for a nonfarm dwelling in the Exclusive Farm Use Zone, the attached Farm and Forest Management Easement and an Exhibit "A," if needed, must be signed by the property owner and recorded with the Deschutes County Clerk. Exhibit A, if present, is a legal description (a metes and bounds description) that must be recorded in conjunction with the Easement.

You will need to sign the document before a notary public and then take it to the Clerk's office for recording. Please provide the Planning Division with a copy after recording.

To record the document, take the signed and notarized Easement and Exhibit "A" (if included) to the County Clerk's office, 1300 NW Wall Street, Suite 202, Bend, Oregon, 97701, between 8:00 a.m. and 4:00 p.m. There is a recording fee for the first page and a recording fee for each additional page. After this is accomplished, you must furnish copies of the recorded documents to the Planning Division. The Planning Division must have copies of the recorded Easement before the County issues any building permits.

If you have any questions regarding this matter, please feel free to contact the Planning Division at 388-6575.

Return to:  
 Haleigh King, Associate Planner  
 Community Development Department  
 117 NW Lafayette, P.O. Box 6005  
 Bend, Oregon 97708-6005

*Space Reserved for Recorder's Use*

## **FARM AND FOREST MANAGEMENT EASEMENT – CONDITIONAL USE**

Roger W Grossmann and Cynthia M Grossmann, Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, herein called the Grantors, are the owners of real property described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531, and by this reference incorporated herein, and further identified or depicted on Deschutes County Assessor's Map 14-12-30BA, as tax lot 100. In accordance with the conditions set forth in the decision of the Deschutes County Planning Division approving Land Use Permit 247-23-000293-CU, Grantors hereby grant to the owner(s) of all property adjacent to the above described property (Grantees), a perpetual non-exclusive farm and forest practices management easement as follows:

1. The Grantors, their heirs, successors, and assigns, hereby acknowledge by the granting of this easement that the above-described property is situated in a designated farm zone in Deschutes County, Oregon, and may be subjected to conditions resulting from farming or forest practices on adjacent lands. Such operations include management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof, and other accepted and customary farm and forest management activities conducted in accordance with federal and state laws. Such farm or forest management activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Except as allowed by ORS 30.930 through 30.947, Grantors hereby waive all common law rights to object to normal, non-negligent farm and forest management activities legally conducted on adjacent lands that may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby give an easement to the adjacent property owners for the resultant impact on Grantors' property caused by the farm and forest management activities on adjacent lands.
2. Grantors shall comply with all restrictions and conditions for maintaining residences in farm and forest zones that may be required by State, Federal, and local land use laws and regulations. Grantors shall comply with all fire safety regulations developed by the Oregon Department of Forestry for residential development within a forest zone.

This easement is appurtenant to all property adjacent to the above-described property, and shall bind the heirs, successors, and assigns of Grantors, and shall endure for the benefit of the adjacent landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third-party enforcement of this easement.

***Signature Pages to follow***

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ GRANTORS

Roger & Cynthia Grossmann Revocable Living Trust

\_\_\_\_\_  
Roger W Grossmann, Trustee

\_\_\_\_\_  
Cynthia M Grossmann, Trustee

STATE OF OREGON            )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for said County and State, personally appeared Roger W Grossmann and Cynthia M Grossmann, known to me to be the Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, who acknowledged to me that they executed the same freely and voluntarily on behalf of said Trust.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Return to:  
 Haleigh King, Associate Planner  
 Community Development Department  
 117 NW Lafayette, P.O. Box 6005  
 Bend, Oregon 97708-6005

*Space Reserved for Recorder's Use*

## **FARM AND FOREST MANAGEMENT EASEMENT – CONDITIONAL USE**

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1. The Grantors, their heirs, successors, and assigns, hereby acknowledge by the granting of this easement that the above-described property is situated in a designated farm zone in Deschutes County, Oregon, and may be subjected to conditions resulting from farming or forest practices on adjacent lands. Such operations include management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof, and other accepted and customary farm and forest management activities conducted in accordance with federal and state laws. Such farm or forest management activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Except as allowed by ORS 30.930 through 30.947, Grantors hereby waive all common law rights to object to normal, non-negligent farm and forest management activities legally conducted on adjacent lands that may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby give an easement to the adjacent property owners for the resultant impact on Grantors' property caused by the farm and forest management activities on adjacent lands.
2. Grantors shall comply with all restrictions and conditions for maintaining residences in farm and forest zones that may be required by State, Federal, and local land use laws and regulations. Grantors shall comply with all fire safety regulations developed by the Oregon Department of Forestry for residential development within a forest zone.

This easement is appurtenant to all property adjacent to the above-described property, and shall bind the heirs, successors, and assigns of Grantors, and shall endure for the benefit of the adjacent landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third-party enforcement of this easement.

***Signature Pages to follow***





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 Haleigh King, Associate Planner  
 Community Development Department  
 117 NW Lafayette, P.O. Box 6005  
 Bend, Oregon 97708-6005

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## **FARM AND FOREST MANAGEMENT EASEMENT – CONDITIONAL USE**

Roger W Grossmann and Cynthia M Grossmann, Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, herein called the Grantors, are the owners of real property described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06533, and by this reference incorporated herein, and further identified or depicted on Deschutes County Assessor's Map 14-12-30BA, as tax lot 300. In accordance with the conditions set forth in the decision of the Deschutes County Planning Division approving Land Use Permit 247-23-000295-CU, Grantors hereby grant to the owner(s) of all property adjacent to the above described property (Grantees), a perpetual non-exclusive farm and forest practices management easement as follows:

1. The Grantors, their heirs, successors, and assigns, hereby acknowledge by the granting of this easement that the above-described property is situated in a designated farm zone in Deschutes County, Oregon, and may be subjected to conditions resulting from farming or forest practices on adjacent lands. Such operations include management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof, and other accepted and customary farm and forest management activities conducted in accordance with federal and state laws. Such farm or forest management activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Except as allowed by ORS 30.930 through 30.947, Grantors hereby waive all common law rights to object to normal, non-negligent farm and forest management activities legally conducted on adjacent lands that may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby give an easement to the adjacent property owners for the resultant impact on Grantors' property caused by the farm and forest management activities on adjacent lands.
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This easement is appurtenant to all property adjacent to the above-described property, and shall bind the heirs, successors, and assigns of Grantors, and shall endure for the benefit of the adjacent landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third-party enforcement of this easement.

***Signature Pages to follow***

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ GRANTORS

Roger & Cynthia Grossmann Revocable Living Trust

\_\_\_\_\_  
Roger W Grossmann, Trustee

\_\_\_\_\_  
Cynthia M Grossmann, Trustee

STATE OF OREGON            )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for said County and State, personally appeared Roger W Grossmann and Cynthia M Grossmann, known to me to be the Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, who acknowledged to me that they executed the same freely and voluntarily on behalf of said Trust.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## WAIVERS

As a standard condition of any Site Plan approval in a Surface Mining Impact Area, the attached Waiver of Remonstrance form and an Exhibit "A" must be signed by the property owner and recorded with the Deschutes County Clerk. Exhibit "A" is a legal description (Subdivision, Lot, and Block Numbers, or a metes and bounds description) that must be recorded in conjunction with the Waiver.

To record the document, take the signed and notarized Waiver and attached Exhibit "A" to the County Clerk's office, 1300 NW Wall Street, Suite 202, Bend, Oregon, 97701, between 8:00 a.m. and 4:00 p.m. There is a recording fee for the first page and for each additional page. After this is accomplished, bring copies of the recorded documents to the Planning Division. The Planning Division must have copies of the recorded documents prior to the issuance of any building permits.

If you have any questions regarding this matter, please feel free to contact the Planning Division at 388-6575.



Return to:  
Haleigh King, Associate Planner  
Community Development Department  
117 NW Lafayette, P.O. Box 6005  
Bend, Oregon 97708-6005

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**EASEMENT  
(WAIVER OF REMONSTRANCE)**

As a condition of the grant of development approval pursuant to Chapter 18.56 of the Deschutes County Code, for property identified on Deschutes County Assessor's Map 14-12-30BA, as tax lot 100, and further described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531 (hereafter referred to as "burdened property"), Grantors hereby grant and/or relinquish to the owners of record of the property described Surface Mining Site No(s). 324, as described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531, and further identified on Deschutes County Assessor's Map 14-12, as Tax Lot 702, (hereafter referred to as the "benefited property"), as Grantees, any and all rights of remonstrance or protest that they may have by virtue of ownership of the burdened property or otherwise to the visual, noise, dust, reclamation, traffic and any other similar impacts from the following protected activities:

- (1) Surface mining activities lawfully conducted in connection with a pre-existing mine, as that term is defined in Section 18.52.160(B) of the Deschutes County Code, on the benefited property; or
- (2) Surface mining activities that might be lawfully conducted in the future on the benefited property under County or State permits or exemptions.

Grantors acknowledge that by virtue of such grant they have no remaining rights to complain or protest about the protected activities described above.

This Waiver of Remonstrance Easement runs with the land and is binding upon the heirs, successors and assigns of the undersigned's interest in the burdened property or any persons acquiring through the undersigned an interest in the burdened property.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ GRANTORS

Roger & Cynthia Grossmann Revocable Living Trust

\_\_\_\_\_  
Roger W Grossmann, Trustee

\_\_\_\_\_  
Cynthia M Grossmann, Trustee





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**EASEMENT  
(WAIVER OF REMONSTRANCE)**

As a condition of the grant of development approval pursuant to Chapter 18.56 of the Deschutes County Code, for property identified on Deschutes County Assessor's Map 14-12-30BA, as tax lot 200, and further described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531 (hereafter referred to as "burdened property"), Grantors hereby grant and/or relinquish to the owners of record of the property described Surface Mining Site No(s). 324, as described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531, and further identified on Deschutes County Assessor's Map 14-12, as Tax Lot 702, (hereafter referred to as the "benefited property"), as Grantees, any and all rights of remonstrance or protest that they may have by virtue of ownership of the burdened property or otherwise to the visual, noise, dust, reclamation, traffic and any other similar impacts from the following protected activities:

- (1) Surface mining activities lawfully conducted in connection with a pre-existing mine, as that term is defined in Section 18.52.160(B) of the Deschutes County Code, on the benefited property; or
- (2) Surface mining activities that might be lawfully conducted in the future on the benefited property under County or State permits or exemptions.

Grantors acknowledge that by virtue of such grant they have no remaining rights to complain or protest about the protected activities described above.

This Waiver of Remonstrance Easement runs with the land and is binding upon the heirs, successors and assigns of the undersigned's interest in the burdened property or any persons acquiring through the undersigned an interest in the burdened property.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ GRANTORS

Roger & Cynthia Grossmann Revocable Living Trust

\_\_\_\_\_  
Roger W Grossmann, Trustee

\_\_\_\_\_  
Cynthia M Grossmann, Trustee

STATE OF OREGON            )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for said County and State, personally appeared Roger W Grossmann and Cynthia M Grossmann, known to me to be the Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, who acknowledged to me that they executed the same freely and voluntarily on behalf of said Trust.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Return to:  
Haleigh King, Associate Planner  
Community Development Department  
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Bend, Oregon 97708-6005

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**EASEMENT  
(WAIVER OF REMONSTRANCE)**

As a condition of the grant of development approval pursuant to Chapter 18.56 of the Deschutes County Code, for property identified on Deschutes County Assessor's Map 14-12-30BA, as tax lot 300, and further described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06533 (hereafter referred to as "burdened property"), Grantors hereby grant and/or relinquish to the owners of record of the property described Surface Mining Site No(s). 324, as described as set forth in that certain Bargain and Sale Deed dated March 23, 2023, as recorded in the Official Records of Deschutes County as instrument number 2023-06531, and further identified on Deschutes County Assessor's Map 14-12, as Tax Lot 702, (hereafter referred to as the "benefited property"), as Grantees, any and all rights of remonstrance or protest that they may have by virtue of ownership of the burdened property or otherwise to the visual, noise, dust, reclamation, traffic and any other similar impacts from the following protected activities:

- (1) Surface mining activities lawfully conducted in connection with a pre-existing mine, as that term is defined in Section 18.52.160(B) of the Deschutes County Code, on the benefited property; or
- (2) Surface mining activities that might be lawfully conducted in the future on the benefited property under County or State permits or exemptions.

Grantors acknowledge that by virtue of such grant they have no remaining rights to complain or protest about the protected activities described above.

This Waiver of Remonstrance Easement runs with the land and is binding upon the heirs, successors and assigns of the undersigned's interest in the burdened property or any persons acquiring through the undersigned an interest in the burdened property.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ GRANTORS

Roger & Cynthia Grossmann Revocable Living Trust

\_\_\_\_\_  
Roger W Grossmann, Trustee

\_\_\_\_\_  
Cynthia M Grossmann, Trustee

STATE OF OREGON            )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for said County and State, personally appeared Roger W Grossmann and Cynthia M Grossmann, known to me to be the Trustees of the Roger & Cynthia Grossmann Revocable Living Trust, who acknowledged to me that they executed the same freely and voluntarily on behalf of said Trust.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

owner	agent	inCareof	address	cityStZip	type	cdd id	email
Roger W and Cynthia M Grossmann			70450 NW Lower Valley Drive	Terrebonne, OR 97760	HOFF Decision	23-293-CU, 294-CU, 295-CU, et al	cindy@fhcvineyards.com
Fitch and Neary PC		Lisa Andrach	210 SW 5th Street, Suite 2	Redmond, OR 97756	HOFF Decision	23-293-CU, 294-CU, 295-CU, et al	lisa@fitchandneary.com
Dirk Duryee			725 NW Hill Street	Bend, OR 97703	HOFF Decision	23-293-CU, 294-CU, 295-CU, et al	dirk@tyeengineering.com
Wendy Wentte			707 SW Washington Street, Suite 1300	Portland, OR 97205	HOFF Decision	23-293-CU, 294-CU, 295-CU, et al	wwente@masonbruce.com
Brian Rabe					HOFF Decision	23-293-CU, 294-CU, 295-CU, et al	elkhornconsultingllc@gmail.com





COMMUNITY DEVELOPMENT

**NOTICE OF HEARINGS OFFICER'S DECISION**

The Deschutes County Hearings Officer has issued a decision on the land use application(s) described below:

**FILE NUMBER(S):** 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA

**OWNER:** GROSSMANN, ROGER W & CYNTHIA M

**SUBJECT PROPERTY:** Property #1: 69900 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 100)

Property #2: 69850 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 200)

Property #3: 69800 NW Lower Valley Drive, Terrebonne, OR  
(Map 14-12-30BA, Tax Lot 300)

Collectively referred to as the "Subject Property."

**APPLICANT:** Lisa Andrach  
Fitch and Neary, PC  
210 SW 5<sup>th</sup> Street, #2  
Redmond, OR 97756

**REQUEST:** Conditional Use Permit and Surface Mine Impact Area Review to establish three (3), non-farm dwellings on three separate legal lots of record (collectively "the Subject Property") in the Exclusive Farm Use – Sisters Cloverdale Subzone (EFU-SC), Wildlife Area (WA) Combining Zone and Surface Mining Impact Area Combining Zone (SMIA).

**STAFF CONTACT:** Haleigh King, Associate Planner  
Phone: 541-383-6710  
Email: [Haleigh.King@deschutes.org](mailto:Haleigh.King@deschutes.org)

**RECORD:** Record items can be viewed and downloaded from:  
[www.deschutes.org/247-23-000293-CU-294-CU-295-CU](http://www.deschutes.org/247-23-000293-CU-294-CU-295-CU)

**APPLICABLE CRITERIA:** Deschutes County Code (DCC)  
Title 18, Deschutes County Zoning Ordinance  
Chapter 18.16, Exclusive Farm Use Zones (EFU)  
Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)  
Chapter 18.88, Wildlife Area Combining Zone (WA)  
Title 22, Deschutes County Development Procedures Ordinance

**DECISION:** The Hearings Officer finds the following:

**Approval** of Applicant’s requests for conditional use and surface mining impact area review to establish three (3) non-farm dwellings on three separate legal lots of record in the EFU zone.

**Denial** of Applicant’s requested DCC 18.88.060 B.1 exception to site the dwelling envelopes within 300-feet of the road located on the west side of the subject property.

**I. CONDITIONS OF APPROVAL:**

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the Applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.
- C.** No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D.** Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E.** In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- F.** Farm & Forest Management Easement: **Prior to the issuance of any building permit for a nonfarm dwelling**, the property owner shall sign and record in the deed records for the County, a document binding the landowner, and the landowner’s successors in interest,

prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. The Applicant shall submit a copy of the recorded Farm and Forest Management Easement to the Planning Division.

- G. All new fences shall comply with DCC 18.88.070.
- H. Septic: The Applicant shall secure any necessary septic permit approval for each nonfarm dwelling.
- I. Farm Tax Deferral Disqualification: **Prior to the issuance of building permits**, the Applicant shall produce evidence from the County Assessor's Office that the parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815, and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.
- J. **Prior to issuance of building permits**, Applicant shall sign and record in the Deschutes County Book of Records a statement declaring that the Applicant and his successors will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site. A copy of this recording shall be provided to Deschutes County Planning, prior to issuance of building permits.
- K. Road Naming: **Prior to the issuance of building permits for any of the non-farm dwellings**, the existing unnamed roadway which provides access to the subject property shall be assigned a name in accordance with the procedures in DCC 16.16.030. This requires the submittal and approval of a Road Naming Application.
- L. Firebreaks and Fuel Break: **Prior to the issuance of any building permit**, the Applicant shall construct and maintain the firebreaks detailed below on land surrounding the structure and access road that are owned or controlled by the owner. These required fuel breaks shall be maintained at all times.
  1. Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials.
  2. Secondary Firebreak. A secondary firebreak of not less than 20 feet shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
  3. Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all

directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.

- 4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.

**M. Fire Safety Design Standards for Roads: Prior to the issuance of any building permits, the Applicant shall provide written verification to the Planning Division from a professional engineer registered in the state of Oregon stating the fire safety design standards for the access road extending from the NW Lower Valley Drive right-of-way to each dwelling site is met as detailed below:**

- 1. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a professional engineer registered in Oregon.
- 2. Access roads shall have an unobstructed horizontal clearance of not less than 20 feet and an unobstructed vertical clearance of not less than 13.5 feet, and provide an all weather surface.
- 3. Turnarounds shall have a minimum of 50 feet of turn radius with an all weather surface and be maintained for turning of fire fighting equipment.
- 4. Road grades should not exceed eight percent, with a maximum of 12 percent on short pitches. Variations from these standards may be granted when topographic conditions make these standards impractical and where the local fire protection district states their fire fighting equipment can negotiate the proposed road grade.

**N. Easement: Prior to the issuance of building permits, the Applicant shall provide a copy of a recorded access easement showing legal access from the subject parcels to NW Lower Valley Drive.**

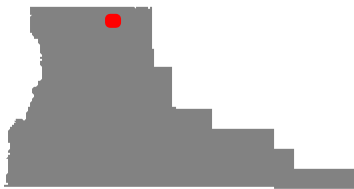
**O. Prior to the issuance of building permits on Tax Lot 100, the Applicant shall prepare and submit a Wetland Delineation to the Department of State Lands to verify the extent of potential wetlands on the subject property. DSL’s review and approval of the delineation would determine if additional state or local permitting is required for site development.**

**This decision becomes final twelve (12) days after the date mailed**, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

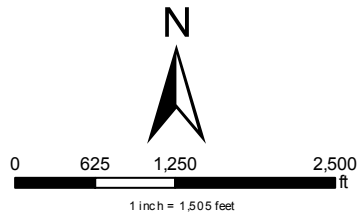
Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

# File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA



Date: 10/12/2023





owner	agent	inCareof	address	cityStZip	type	cdd id	email
DEPUTY STATE FIRE MARSHAL	Clara Butler		1345 NW WALL ST., SUITE 202	Bend, OR 97701	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	clara.butler@osp.oregon.gov
DESCHUTES CO. ASSESSOR			ELECTRONIC		NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
DESCHUTES CO. BUILDING SAFETY	Randy Scheid		ELECTRONIC		NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	Randy.Scheid@deschutes.org
DESCHUTES CO. ONSITE WASTEWATER	Todd Cleveland		ELECTRONIC		NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	Todd.Cleveland@deschutes.org
DESCHUTES CO. SR. TRANS. PLANNER	TARIK RAWLINGS		ELECTRONIC		NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
OREGON DEPT OF FISH & WILDLIFE	Jessica Clark/ Andrew Walch		ELECTRONIC		NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	Jessica.S.CLARK@odfw.oregon.gov; Andrew.J.Walch@odfw.oregon.gov
Fitch and Neary PC		Lisa Andrach	210 SW 5th Street #2	Redmond, OR 97756	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	lisa@fitchandneary.com
ROGER & CYNTHIA GROSSMANN REV LIV TRUST	GROSSMANN, ROGER W & CYNTHIA M TTEES		70450 NW LOWER VALLEY DR	TERREBONNE, OR 97760	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
KETTERING, QUAID			70000 NW LOWER VALLEY DR	TERREBONNE, OR 97760	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
DEEP CANYON LLC			222 N PACIFIC COAST HWY #1400	EL SEGUNDO, CA 90245	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
DESCHUTES COUNTY		C/O PROPERTY MANAGEMENT	PO BOX 6005	BEND, OR 97708-6005	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
TWO CANYONS LLC			5580 LA JOLLA BLVD #392	LA JOLLA, CA 92037	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
DESCHUTES VALLEY FARMS INC					NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
CENTRAL OREGON LANDWATCH			2843 NORTHWEST LOLO DRIVE, SUITE 200	BEND, OR 97703	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	carol@colw.org
Mark Stockamp					NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	mark.stockamp@710.properties
Steve Sabine			5175 SW Wickiup Avenue	Redmond, OR	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	quilterbychoice@msn.com
Brian Skidgel			4909 NW 83rd Street	Redmond, OR	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	
Ted Netter			70535 NW Lower Bridge Way	TERREBONNE, OR 97760	NOD	23-293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA	tnetteragr@gmail.com



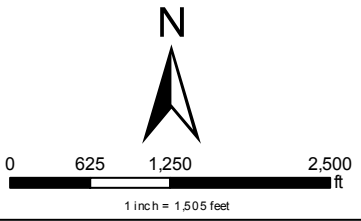
# File Nos. 247-23-000293-CU, 294-CU, 295-CU, 737-SMA, 738-SMA, 739-SMA



Source: Esri, Maxar, EarthstarGeographics, and the GIS User Community, Deschutes County GIS



Date: 10/12/2023





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** General Administrative Policy No. GA-23A – Removal of Unauthorized Encampments Located on Vacant County-owned Property

**RECOMMENDED MOTION:**

Move approval of County Administrator signature of County General Administrative Policy No. GA-23A.

**BACKGROUND AND POLICY IMPLICATIONS:**

On August 23, 2023, the Board of County Commissioners voted to adopt Ordinance No. 2023-013, which made substantial amendments to Deschutes County Code 11.04 relative to camping and other sleeping associated activity on public property.

The County previously adopted a policy relating to the removal of unsafe encampments (General Administrative Policy No. GA-23). Policy No. GA-23 will remain unchanged. Staff is requesting the approval of this additional policy (Policy No. GA-23A), which is substantially similar to Policy No. GA-23, to address the notification procedures for the removal of unauthorized encampments on vacant County-owned land that the County has closed to the public.

ORS 195.500 *et seq.* and DCC 11.04.050 requires the adoption of a removal policy as a prerequisite to removal of encampments and enforcement of DCC 11.04.

**BUDGET IMPACTS:**

None.

**ATTENDANCE:**

Legal



**Deschutes County Administrative Policy No. GA-23A**  
**Effective Date: \_\_\_\_\_, 2024**

## **Removal of Unauthorized Encampments Located on Vacant County-owned Property**

### **I. INTRODUCTION**

- a. Deschutes County recognizes that people experiencing homelessness need a place to sleep, shelter themselves, and store belongings. The County is committed to the safety and security of all people in the County that access County-owned property that is open to the public including people experiencing homelessness, adjacent property owners, and the general public, while protecting vacant County-owned property from environmental threats, destruction, and unsafe and dangerous conditions and compliance with State land use laws.
- b. This policy outlines the process to remove an encampment located on vacant County-owned property that is not open to the public.

### **II. PURPOSE**

- a. In accordance with Oregon Revised Statute (ORS) 195.500 through 195.530, Deschutes County developed this policy to:
  1. Recognize the social nature of the problem of homeless individuals camping on public property opened to the public;
  2. Ensure the most humane treatment of “homeless individuals” when removing Personal Property from unauthorized encampments on vacant County-owned property that is not open to the public.

### **III. DEFINITIONS**

- a. For the purpose of this policy, the following definitions apply.
  1. “Campsite or encampment” means a location on County-owned property where one or more tents, awnings, lean-tos, sleeping or bedding materials, cooking implements or materials, or other items or structures have been erected, constructed, or placed including vehicles and recreational vehicles, and that appear to be used for human habitation, including but not limited to sleeping, preparing cooking or warming fires, storing personal belongings, and urinating or defecating.
  2. “Garbage” means items voluntarily left on vacant County-owned land for collection by a third party, or otherwise abandoned by its apparent owner, and items not reasonably recognizable as belonging to individuals and which have no apparent utility or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination.

3. "Notice or Notices" means any type of notice described herein that provides encampment specific information about the closure of County-owned property to the public and how to remedy the issue by warning or removal of the encampment.
4. "Personal Property" means any item that is reasonably recognized as belonging to an individual and that has apparent utility. This may include camping equipment, bicycles, books, photographs, personal documents such as identification and social security cards, clothing, etc.
5. "Posting Notices" means law enforcement officials posting a written notice, in English and Spanish, at all entrances to the camping site to the extent that the entrances can reasonably be identified, pursuant to ORS 195.505.
6. "Removal of Personal Property" means the method the County will use to remove the encampment by use of contractors, county staff, community service or other resources as determined.
7. "Vacant County-owned property" means all County owned land which does not qualify as a "public place," "public service facility," "park" or "right of way" as they are defined in Deschutes County Code section 11.04.020.

#### IV. OVERVIEW

- a. When the County Administrator, pursuant to Deschutes County Code section 11.04.030(A)(2), identifies vacant County-owned property that has been used by the public for purposes such as sleeping, camping, or taking alternate shelter as defined in Deschutes County Code section 11.04, and the County has a need to close and discontinue the property to these uses and all other public uses, the County at its sole discretion, may take steps to remove encampments as outlined in this policy and pursuant to Deschutes County Code section 11.04.
- b. When the County Administrator, pursuant to Deschutes County Code 11.04.030(A)(2), has closed vacant County-owned property to the public and encampments are established on the closed property, the County at its sole discretion may take steps to remove encampments as outlined in this policy and pursuant to Deschutes County Code section 11.04.
- c. Property Management will provide notification to the Coordinated Houseless Response Office, other County departments, partner agencies, and relevant community services providers as appropriate, of the intent to issue notice of the property closure and removal of unauthorized encampments. Similar notification to these parties will be issued when the County intends to remove an unauthorized encampment on County-owned land that has been closed to the public. The notification for property closures will be sent in the form of an email and will include the location of the property and the estimated number of encampments on the property to be removed. Notice may also be sent to adjacent and nearby property owners.

#### V. NOTICES

- a. In the event the County determines that a vacant County-owned land will be closed to the public, the County at its sole discretion, may issue an encampment a 72-Hour Notice as provided by ORS 195.505. Under certain circumstances, a notice providing a different allotted time may be issued.
- b. In the event an unauthorized encampment has been identified on vacant County-owned land that has



been closed to the public, the County at its sole discretion, may issue the encampment an Emergency or 72-Hour Notice as provided by ORS 195.505. Under certain circumstances, a notice providing a different allotted time may be issued.

- c. The Notice will include the following and will be provided in English and Spanish (see attached example):
  1. Date of Notice
  2. Type of Notice (e.g. Emergency, 72-Hour, or other)
  3. Information regarding the property closure
  4. Request for the encampment to remove all Personal Property from the area by the deadline
  5. The process the County will use to remove Personal Property if all Personal Property is not removed by the deadline
  6. Accommodation Information for People with Disability and reference to County Policy GA-13 for requesting an accommodation
- d. The Property Manager will provide law enforcement a copy of the Notice for posting and distributing at the encampment.
- e. Law enforcement will date the Notice before posting and will provide the Property Manager with a “return of service.”
- f. The Notice must be posted at all entrances to the encampment site to the extent that the entrances can reasonably be identified, pursuant to ORS 195.505.
- g. At the expiration of the Notice period, but no later than twenty (20) days from the Notice expiration date and if Personal Property is still present at the encampment, the County will remove all Personal Property from the encampment with use of contractors, county staff, community service or other resources as determined. Additional time may be provided for accommodation requests in accordance with County Policy GA-13.
- h. If the posted Notice is not present at the encampment on the date Personal Property is removed, copies of the original notice must be reposted at that time.

## VI. REMOVAL AND STORAGE OF PERSONAL PROPERTY

- a. Upon the expiration of an Emergency, 72-hour or other specified timeframe Notice was posted, the County at its sole discretion may proceed with removing Personal Property from the encampment’s general vicinity.
- b. Personal Property within the general vicinity that was identified when the Notice was posted and provided to the encampment that has been relocated during the Notice period, may be removed by the County or its designee if it appears to be within 200 feet of the posted Notice.
- c. At the time the Personal Property is scheduled to be removed, the following must occur prior to removing any Personal Property from the area.
  1. Photos must be taken showing the general condition of the encampment area before items are removed, including the major Personal Property items in the area including but not limited to bicycles, camping equipment, etc.
    - i. Photos and other documentation should be kept at least two (2) years after the removal of the encampment.

- d. County staff, contractors or others as determined by the County, shall make a reasonable effort to engage owners of Personal Property to determine what items are viable and when possible preserve that property for storage as described below. Personal Property that is considered viable should be placed on a tarp or other barrier and photos should be taken of the item(s).
1. Items should be arranged so that they are distinguishable from one another in the photos.
  2. Bulky items such as blankets or clothing believed to be from the same tent or encampment may be piled on the tarp/barrier rather than spread out individually for the photos.
  3. Large items such as a bicycle, tent, or furniture may be photographed without placing on a tarp/barrier.
  4. Crews are not required to open boxes, bags or other containers to display items and contents.
  5. Non-bulky Items are placed in plastic bags and labeled for transport and storage.
  6. Bulky items are labeled for transport and storage.
  7. Labels must include:
    - i. Date of removal of Personal Property
    - ii. Approximate location
    - iii. Any names provided at the time the Personal Property is sorted, bagged and labeled.
    - iv. Expiration date of storage period, which will be no less than thirty (30) calendar days
- e. Items including but not limited to firearms and knives, drugs, drug paraphernalia and items that reasonably appear to be either stolen or evidence of a crime must be turned over to the appropriate law enforcement agency.
- f. Personal Property that is considered contaminated will be properly disposed of. This may include items that are wet from weather, urine or feces, fire or smoke damage, broken, or deemed inoperable or unsafe.
- g. Personal Property that is labeled will be stored in a weatherproof environmental container at the sole discretion of the County. This may include a rented storage unit, storage container or another location as appropriate.
1. Personal Property will be stored within a reasonable distance from where the Personal Property was removed and will be made available by appointment during regular business hours.
- h. Cards similar to the size of a business card will be provided to those who had Personal Property removed. Cards may also be attached to Notices in the area.
- i. Cards must include:
1. Date of removal
  2. Approximate location
  3. Location Personal Property will be stored
  4. Contact information to claim Personal Property (Claimant Contact)
  5. Expiration date of storage period, which will be no less than thirty (30) calendar days
- j. Following the removal of Personal Property from an encampment, law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a respectful humane and just manner and to determine any recommended policy changes.

## VII. CLAIMING AND DISPOSAL OF PERSONAL PROPERTY

- a. Any person claiming ownership of Personal Property removed from an encampment must contact the Claimant Contact during regular offices hours to make an appointment to arrange a time to recover Personal Property within thirty (30) days of the removal of the Personal Property.
  1. Any claimant who recovers Personal Property, will be required to sign a release form.
- b. Unclaimed Personal Property may be disposed either by discarding or donation after the expiration of the 30-day period.
  1. If the expiration of the thirty (30) day period falls on a weekend or holiday, the storage period will be extended to at least the next business day.

Approved by the Deschutes County Board of Commissioners April XX, 2024.

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Nick Lelack  
County Administrator





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** Cannabis Advisory Committee Budget Recommendations

**BACKGROUND AND POLICY IMPLICATIONS:**

The Cannabis Advisory Panel (CAP) provides recommendations to the Board of County Commissioners on how Deschutes County should spend its annual marijuana tax revenue. The CAP is scheduled to hear presentations from four County departments on April 22<sup>nd</sup> regarding requests for marijuana tax revenue.

The marijuana tax revenue for the current fiscal year is \$182,000. The forecasted marijuana tax revenue for FY '24-'25 is \$185,811. The CAP's recommended budget allocations will be presented at the Board's April 24<sup>th</sup> meeting (the CAP's deliberations on April 22<sup>nd</sup> occurred after the deadline for this staff report).

Below are the departmental requests for CAP consideration:

1. Community Justice, \$55,000
  - a. \$25,000 for a one-year contract to implement a substance abuse/use disorder treatment youth program.
  - b. \$10,000 to help support department based substance use disorder treatment services for youth.
  - c. \$20,000 to help fund "Moving On" therapy program workshop. Moving On is an Adult Parole and Probation gender responsive cognitive behavioral therapy program.
2. CDD, \$20,000
  - a. Code Enforcement related to marijuana code complaints.
3. Health Services, \$60,000
  - a. To continue paid media advertising focused on supporting parents and guardians in the County to talk with their kids about marijuana and other drugs.
4. Sheriff's Office, \$100,000
  - a. To continue the funding support of a marijuana detective.

**BUDGET IMPACTS:**

The marijuana tax revenue will result in increased revenues by \$185, 811 for FY '24 and '25.  
The marijuana tax revenue and associated expenditures will be included in the FY 24-25  
Proposed Budget.

**ATTENDANCE:**

Jen Patterson, Strategic Initiatives Manager



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 24, 2024

**SUBJECT:** Salary, Market, and Equity Review Project Overview

### **BACKGROUND AND POLICY IMPLICATIONS:**

Deschutes County Commissioners provided approval for the County to hire a consultant to complete a Salary, Market, and Equity study. Staff issued an RFP, conducted first and second round interviews with a Steering Committee earlier this year with the contract being awarded to HR Answers, Inc. This matter was initially presented to the Board on April 22, 2024.

HR Answers is a Woman-owned Business Enterprise (WBE) located in Tigard, Oregon with over 35 years in business with an experienced team of human resources professionals. The team has extensive experience not only in compensation for private and public sector clients, but also in working with leadership, as well as represented and non-represented employees in its consulting assignments. The team is committed to providing organizations with exceptional consulting by utilizing varied backgrounds and decades of experience.

The Salary, Market, and Equity study for Deschutes County will include work to help the County:

- Understand the equity and competitiveness of our employee's compensation and benefits,
- Update the existing program so that the program can be competitive, sustainable, and equitable for the future, and
- Recommend a budget plan to appropriately realign employees' compensation as necessary.

This project will encompass a thorough wage review and market analysis for Non-represented and AFSCME represented employees, as well as look at internal equity and pay equity organization-wide. A compensation structure will be recommended that includes methods to easily update the wage structure as new market indicators and minimum wage changes occur; as well as recommendations for addressing employee and position equity,

advancement, and development.

HR Answers will guide the County through processes to facilitate project planning and engage County leadership on establishing comparable agencies for market salary updates, updating the County's compensation philosophy, and reviewing salary structure for competitiveness and equity. They will also complete a review of existing policies and procedures applicable to administering compensation to ensure the organization follows industry best practices.

In 2017, the Board approved use of Clackamas, Lane, Marion, and Jackson counties as our comparable labor market; as well as the County's current Compensation Philosophy statement.

Our employees enjoy a rewarding work culture that is proudly focused on providing innovative and comprehensive services to our community. Our goal is to attract, reward, and retain a talented and diverse workforce to deliver these services. We value our employees and recognize their commitment by providing them with a competitive compensation, benefits, and retirement package that is internally equitable and fiscally responsible to the citizens and taxpayers of Deschutes County.

HR Answers will present a project overview and facilitate a conversation with the Board to review our current comparable labor market and discuss any changes to be considered when defining to the comparable labor market to be used for the County's compensation survey as part of this project.

**BUDGET IMPACTS:**

None at this time.

**ATTENDANCE:**

Kathleen Hinman, Human Resources Director  
Laurie Grenya, HR Answers, Inc.

# CLASSIFICATION AND COMPENSATION PROJECT OVERVIEW

PRESENTED BY; LAURIE GRENYA, HR ANSWERS, INC.



# AGENDA

- GUIDING STANDARDS
- PROJECT COMPONENTS
  - CLASSIFICATION
  - PAY EQUITY (INTERNAL)
  - MARKET EQUITY (EXTERNAL)
  - POLICY & PROCESS REVIEW/UPDATES
- Market Discussion
- Timeline
- Questions

# GUIDING STANDARDS

ORS 652.220. Pay Equity

ORS 243.743 Strike Prohibited Interest  
Arbitration

OAR 115.040.0015. Market Data Points

ORS 243.746 Strike Prohibited Interest  
Arbitration – Comparability and other  
considerations



# PROJECT COMPONENTS

Classification

Pay Equity

Market  
Equity

Policy and  
Process  
Review

# MARKET DISCUSSION

- Where is the County's market?
  - Public
  - Public & Private
  - Private
- How is market data collected
  - Public
  - Private

# TIMELINE

- Six – Nine Months
  - Most time consuming tasks
    - Gathering and confirming job information
    - Direct market comparison for job matches

# QUESTIONS