



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/19/2013

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 010-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, March 01, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Paul Bilkstad, Deschutes County
Jon Jinings, DLCD Community Services Specialist
Karen Swirsky, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist

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FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	FEB 11 2013
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: Deschutes County

Local file number: PA-11-7, ZC-11-2

Date of Adoption: February 6, 2013

Date Mailed: February 8, 2013

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: Nov. 8, 2011☐ Comprehensive Plan Text Amendment☒ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☒ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Plan Amendment to change the designation of 380 acres from Agriculture to Rural Residential Exception Area, and a Zone Change from Exclusive Farm Use - Tumalo/Redmond/Bend subzoned (EFU-TRB) to Multiple Use Agricultural (MUA-10).

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: Agriculture

to: Rural Residential Exception Area

Zone Map Changed from: Exclusive Farm Use

to: Multiple Use Agricultural (MUA-10)

Location: Stevens Road/SE 27th Street intersection 18-12, 1700/1800 Acres Involved: 380 acres

Specify Density: Previous: N/A

New: 1 dwelling per 10 acres

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. 010-11 (19047) [17354]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

County Road Department, Oregon Department of Land Conservation and Development, City of Bend,

Local Contact: Paul Blikstad, Senior Planner

Phone: (541)388 - 6554 Extension:

Address: 117 NW Lafayette

Fax Number: 541 - 385- 1764

City: Bend, OR

Zip: 97701

E-mail Address: paulb@co.deschutes.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County
Code Title 23, the Deschutes County Comprehensive
Plan, to Change the Designation of Certain Property
from Agriculture to Rural Residential Exception
Area.

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ORDINANCE NO. 2013-009

WHEREAS, the Oregon Department of State Lands applied for a Comprehensive Plan Amendment to Deschutes County Code ("DCC") Title 23, to change the designation of certain property from Agriculture to Rural Residential Exception Area; and,

WHEREAS, after duly notice hearings, the Deschutes County Board of Commissioners approved the comprehensive plan map; now therefore,

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

Section 1. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan Map is amended to change the plan designation for certain property described in Exhibit "A" and depicted on the map set forth as Exhibit "B", with both exhibits attached and incorporated by reference herein, from Agriculture to Rural Residential Exception Area.

Section 2. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan is amended to read as described in Exhibit "C", attached and incorporated by reference herein, with new language underlined.

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Section 3. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Board, attached as Exhibit "D" and incorporated by reference herein.

Dated this 6th of Feb., 2013

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Alan Unger
ALAN UNGER, Chair

Tammy Baney
TAMMY BANEY, Vice Chair

ATTEST:

Forrest Baker
Recording Secretary

Anthony DeBone
ANTHONY DeBONE, Commissioner

Date of 1st Reading: 23rd day of January 2013.

Date of 2nd Reading: 6th day of February 2013.

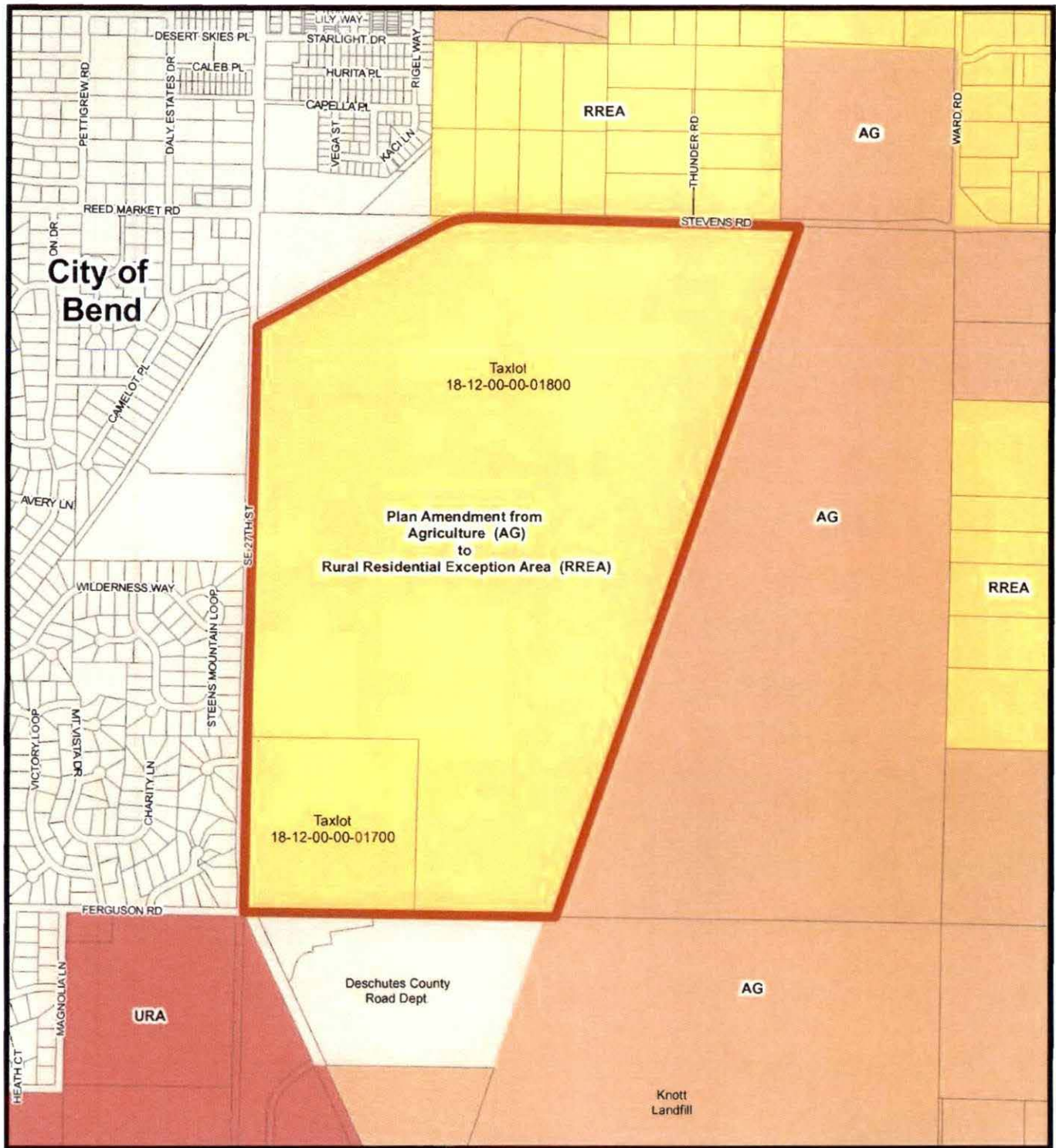
Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	✓	—	—	—
Tammy Baney	✓	—	—	—
Anthony DeBone	✓	—	—	—

Effective date: 8th day of May, 2013.

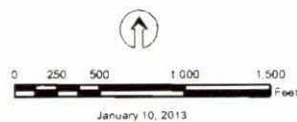
Exhibit "A"

All that portion of Section 11, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon lying west of the easterly extent of the following easement: Commencing at the North Quarter corner of Section 11; thence South $89^{\circ} 27' 02''$ East along the northern line of said Section 11, a distance of 1490.00 feet, more or less, to the easterly line of an existing PG&E Gas Transmission Company Northwest natural gas pipeline easement; thence South $18^{\circ} 22' 12''$ West along the easterly line of said easement, 5558.08 feet, more or less, to the South line of said Section 11, also excluding that portion of Section 11 North of the southerly right of way of Stevens Road.



PROPOSED COMPREHENSIVE PLAN MAP

Exhibit "B"
to Ordinance 2013-009



Legend

- Proposed Plan Amendment Boundary
- Bend City Limit

Comprehensive Plan

- AG - Agriculture
- RREA - Rural Residential Exception Area
- URA - Urban Reserve Area

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Alan Unger
Alan Unger, Chair

Tammy Baney
Tammy Baney, Vice Chair

Tony DeBane
Tony DeBane, Commissioner

Bonnie Baker
ATTEST Recording Secretary

Dated this 6th day of February, 2013
Effective Date May 8, 2013

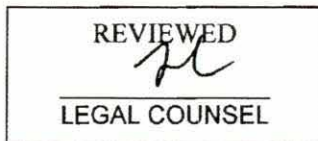
Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- 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. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendment, adopted by the Board in Ordinance 2013-009, is incorporated by reference herein.

(Ord. 2013-009 §2, 2013; Ord. 2013-002 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord. 2011-003 §3, 2011)

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



For Recording Stamp Only

DECISION OF DESCHUTES COUNTY BOARD OF COMMISSIONERS

FILE NUMBER: PA-11-7, ZC-11-2

**APPLICANT/
PROPERTY OWNER:** State of Oregon Department of State Lands
c/o Douglas Parker, Asset Planner
775 Summer Street NE, Suite 100
Salem, OR 97301

REQUEST: The applicant requests approval of a Plan Amendment to change the designation of certain property from Agriculture to Rural Residential Exception Area, and a Zone Change from Exclusive Farm Use (EFU-TRB) to Multiple Use Agricultural (MUA-10), for approximately 380 acres.

STAFF REVIEWER: Paul Blikstad, Senior Planner

HEARING DATES: September 24, 2012 and December 3, 2012

RECORD CLOSED: December 3, 2012

I. APPLICABLE STANDARDS AND CRITERIA:

Title 18 of the Deschutes County Code, the County Zoning Ordinance
Chapter 18.16, Exclusive Farm Use Zone
Chapter 18.32, Multiple Use Agricultural Zone
Chapter 18.136, Amendments

Title 23 of the Deschutes County Code, Deschutes County Comprehensive Plan
Chapter 2, Resource Management
Chapter 23.64, Transportation System Plan

Oregon Administrative Rules, Chapter 660
Division 12, Transportation Planning
OAR 660-012-0060, Plan and Land Use Regulation Amendments

Division 15, Statewide Planning Goals and Guidelines

II. FINDINGS OF FACT:

The Board of County Commissioners ("Board") adopts the Hearings Officer's Findings of Fact, except as specifically amended as follows.

- F. **Proposal:** The applicant is requesting approval of a plan amendment to change the comprehensive plan designation on approximately 380 acres of the subject property from Agriculture to Rural Residential Exception Area; and a zone change from Exclusive Farm Use (Tumalo/Redmond/Bend subzone) to the Multiple Use Agricultural (MUA-10) zone. The applicant is not requesting a goal exception to Statewide Planning Goal 3, Agricultural Land. The applicant is instead relying on the premise that the portion of the subject property west of the east boundary of the gas pipeline easement is predominantly not agricultural land, based on the Natural Resources Conservation Service Soil Survey Map, and a soils analysis conducted by the applicant's soil scientist.
- H. **Procedural History:** The subject property (tax lot 1800) was approved for three previous land use applications as follows:

CU-97-132, A conditional use permit to establish a mainline valve and blowdown assembly for an existing natural gas pipeline. This application was approved in January of 1998, mailed out on January 26, 1998. The applicant was Pacific Gas Transmission Company.

CU-04-21, A conditional use permit to establish a utility facility consisting of an electric substation. The applicant was Central Electric Cooperative¹.

PS-09-4, Department of State Lands sign-off for a renewal of Central Electric Cooperative's power line easement across State lands. The applicant was Central Electric Cooperative.

In addition to the procedural hearing described in the Hearings Officer's decision, the Board adds that the Hearings Officer's written recommendation for approval was mailed out on July 10, 2012.

Because the subject property is designated agricultural land, a de novo hearing in front of the Board is required under Deschutes County Code 22.28.030(C). The de novo hearing in front of the Board was conducted on September 24, 2012. The oral portion of the hearing was closed on that same day, and the written record was left open until October 10, 2012 for additional comments/submittals. A rebuttal period for the applicant was left open until October 26, 2012. During the applicant's rebuttal period, the applicant submitted what the Planning Division determined was new information. Based on that submittal, the Board determined that reopening the record was necessary to allow all parties to review and comment on the new information. The Board signed Order No. 2012-038, reopening the public hearing, but limiting it only to testimony regarding soils classifications. The Board conducted the reopened hearing on December 3, 2012. The oral and written records were closed at the end of the reopened hearing. The Board conducted deliberations for a decision on the proposed plan amendment/zone change applications on December 17, 2012. The Board upheld the Hearings Officer's decision and approved the request, subject to staff preparing a written decision for the Board's review at a later meeting. This decision constitutes the final decision by the Board in this matter.

¹ This electric substation was never constructed. The subject property remains undeveloped.

III. CONCLUSIONS OF LAW:

The Board adopts the Hearings Officer's Conclusions of Law, except as specifically amended herein.

2. Section 18.136.020, Rezoning Standards

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:

- A. *That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.***

Chapter 2, Resource Management

Section 2.2, Agricultural Lands Policies

2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

FINDING: Newland raised questions about whether the County must adopt a nonagricultural land designation in the Comprehensive Plan, and perhaps an associated zone under the development code before the application can be approved. Those concerns appeared to be most closely associated with this policy.

The record shows that no such Comprehensive Plan designation or zone exists currently. The recently adopted policy acknowledges this fact and provides a general directive that requires the County to at least consider such a Comprehensive Plan designation at some point in the future. The policy sets no deadline for doing so. The policy also does not dictate any consequences for failing to do so. More specifically, from a statutory construction perspective, the policy does not state that quasi-judicial Comprehensive Plan amendment applications cannot be processed and approved until such a non-resource designation is established. To read this requirement into the policy would violate the most basic rule of construction which is to not add words or phrases which have been omitted from the text. ORS 174.010.

This being the case, the Hearings Officer found and the Board concurs that the current application presents essentially the same facts as were present in PA-07-1 (Pagel) in which Hearings Officer Karen Green found that a proposal to amend land from "Agriculture" to "Rural Residential Exception Area" could be allowed regardless of the fact that the applicant was not seeking a Goal 3 exception, and that no non-resource Comprehensive Plan designation existed to accommodate land that was determined to be nonagricultural.

The Hearings Officer found that the current circumstances with regard to the requirements of the Comprehensive Plan are essentially the same as when Hearings Officer Green reached her decision in 2007 on Pagel. Although the above policy indicates the desired direction for the County, that work has not yet been accomplished, and the Board finds that it was not intended to impose a moratorium on the type of quasi-judicial Comprehensive Plan amendment applications such as the one currently proposed.

OAR 660-033-0020, Agricultural Land definitions

The applicant testified and included written materials stating that the zone change is justified because the soils on the subject property are predominantly Class VII and VIII. The reopened hearing was allowed specifically to obtain additional testimony on the soils classifications. The question here is whether the 380 acres proposed for a rezone meets the state definition of "agricultural land."

OAR 660-033-0020(1)(a) provides the definition of "agricultural land" which includes the three following categories:

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;
- (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2), taking into consideration soil fertility, suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and
- (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands

OAR 660-033-0020(1)(a)(A)

Agricultural Land under this section of the OAR's lists Class I-VI soils as being agricultural land in Eastern Oregon.² The subject property was determined by Staff, based on the Natural Resource Conservation Service map, to have four (4) soil types, which are listed as follows:

58C, Gosney-Rock outcrop-Deskamp complex, 0 to 15% slopes
38B, Deskamp-Gosney complex, 0 to 8% slopes
157C, Wanoga-Fremkle-Rock outcrop complex, 0 to 15% slopes
36A, Deskamp loamy sand, 0 to 3% slopes

The 58C soil is found to have the following composition:

50% Gosney soil and similar inclusions
25% Rock outcrop
20% Deskamp and similar inclusions
5% contrasting inclusions

The 38B soil is found to have the following composition:

50% Deskamp soil and similar inclusions
35% Gosney soil and similar inclusions
15% contrasting inclusions

The 157C soil is found to have the following composition:

35% Wanoga soil and similar inclusions
30% Fremkle soil and similar inclusions
20% Rock outcrop

² Eastern Oregon is defined in OAR 660-033-0020(5): "means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon."

15% contrasting inclusions

The 36A soil is found to have the following composition:

85% Deskamp soil and similar inclusions

15% contrasting inclusions

Planning Staff requested, prior to the staff report being written, that Geographic Information Systems Specialist Tim Berg calculate the acreages of each soil type within the approximately 380-acre portion of the DSL property. Those calculations were as follows:

38B – 203.83 acres

58C – 153.13 acres

157C – 3.98 acres

36A – 2.06 acres

Total 363 acres

Testimony at the December 4, 2012 reopened hearing included input from Thor Thorson, Acting NRCS State Soil Scientist. Mr. Thorson indicated there are three types of soils classification measures which can be taken to determine whether land falls within different classes of soils. These three measures are listed as follows:

- Most limiting soil component
- Most dominant soil component
- Weighted average of major soil components

The **most limiting soil component** assigns the total area of a soil complex to the lowest soil classification. In the case of the subject plan amendment/zone change request, the 38B soil complex has the Gosney soil (class 7 – 71.34 acres) as the lowest classification; the 58C soil complex has the Rock outcrop (class 8 – 38.28 acres) as the lowest classification; and the 157C soil complex has the Rock outcrop (class 8 - .79 acres) as the lowest classification. The combined acreages for these three soil types are 110.41 acres, which is approximately 30% of the 363 acres. The property would thus be considered agricultural land, as more than 50% of it would be class 6 soils under this method.

The **most dominant soil component** assigns the total area of a soil complex to the soil type that has the highest percentage of soil classification. In the case of the subject plan amendment/zone change request, the 38B soil complex has the Deskamp soil (class 6) with the highest percentage within the soil complex (203.83 acres); the 58C soil complex has the Gosney soil (class 7) with the highest percentage within the soil complex (153.13 acres); the 157C soil has the Wanoga soil (class 6) with the highest percentage within the soil complex (3.98 acres); and the 36A soil is all class 6 (2.06 acres). The combined total of the soils with the dominant soil type class 6 is 209.87 acres, which is approximately 58% of the area of the property. The property would thus be considered agricultural land, as more than 50% of it would be class 6 soils under this method.

The **weighted average of major soil components** assigns a percentage/acreage to each soil type within the complex based on the NRCS soil breakdowns. In the case of the subject plan amendment/zone change request, the break downs are listed as follows:

Soil No.	Soil type area	Class 6 soils	Class 7 soils	Class 8 soils	%Class 7/8
36A	2.06 acres	2.06 acres			0%

38B	203.83 acres	101.91 acres	71.34 acres		35%
58C	153.13 acres	30.62 acres	76.56 acres	38.28 acres	75%
157C	3.98 acres	2.58 acres		.79 acre	.02%
	363 acres	137.17 acres	147.9 acres	39.07 acres	51.5%

The Board finds that it has the discretion to choose between the three methods presented by Mr. Thorson. The Board finds that the weighted average is the best and most accurate method for determining soils classifications, as it takes into account individual soil types within each complex. The weighted average method determined in the above case that more than 50% of the subject property was class 7 and 8 soils. Based on this figure, the subject property is not agricultural land, as the predominate soil types on the subject property are class 7 and 8 soils.

Each of the above three methods for determining soil classifications is based on the Web Soil Survey of the Natural Resources Conservation Service. Specifically the mapping that was done for Deschutes County under the Soil Survey of the Upper Deschutes River Area, Oregon.

The Board notes that the Borine/Sage West LLC soils investigation submitted with the applications, originally dated July 6, 2010, and amended (July 26, 2011) to include a reduced area for the plan amendment/zone change request stated that 56% of the subject property was land capability class 7 and 8 soils, and 44% class 6 soils. The Board finds that the soils investigation report merely corroborates the finding that the subject property is more than 50% class 7 and 8 soils and is not considered agricultural land. The soils report is thus not subject to DLCD review under Oregon Administrative Rules 660-033-0030(5), as the Board did not specifically use the soils report to determine that the subject property is not agricultural land.

As for the contrasting inclusions, the Board finds that staff's choice of not assigning a percentage to the contrasting inclusions to be the best method. This is the best method because, under the state administrative rules, an applicant need not provide a detailed soil classification study. Therefore, contrasting inclusions cannot be formally determined, as the percentages are not identified specifically within the soil type descriptions. As an example of this, the NRCS soils information indicates that for the 38B soil (Deskamp-Gosney complex), the contrasting inclusions are: Clovkamp soils in swales; soils that are very shallow to bedrock or are on ridges; and rock outcrop. The 58C soil (Gosney-Rock outcrop-Deskamp complex) has contrasting inclusions of: Clovkamp soils in swales; and soils that are very shallow to bedrock. The Board notes that the Clovkamp soils are class 4 soils, and the soils that are very shallow to bedrock and the rock outcrop are class 7 and 8 soils. For the purposes of this review and decision, the Board finds that determining the percentages of contrasting inclusions is not necessary, given that the property is more than 50 percent class 7 and 8 soils.

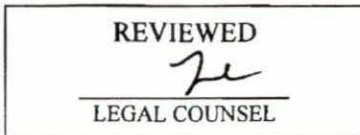
OAR 660, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Hearings Officer's findings regarding the Statewide Planning Goals and Guidelines are incorporated herein:

Goal 3, Agricultural Lands. Based on the evidence and argument in this proceeding, the applicant has successfully demonstrated that the subject property is not agricultural land. Goal 3 does not apply. The Board concurs with this finding.

CONCLUSION:

The Board finds that all criteria for the proposed plan amendment from Agriculture to Rural Residential Exception Area, and the zone change from Exclusive Farm Use – Tumalo/Redmond/Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10) have been met, and hereby approves the request as submitted.



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, the Deschutes
County Zoning Map, to Change the Zone
Designation on Certain Property from Exclusive
Farm Use (EFU-TRB) to Multiple Use Agricultural
(MUA-10).

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ORDINANCE NO. 2013-010

WHEREAS, the Oregon Department of State Lands proposed a Zone Change (file no. ZC-11-2) to Title 18, the Deschutes County Zoning Map, to rezone certain property from Exclusive Farm Use – Tumalo/Redmond/Bend Subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10); and

WHEREAS, the Deschutes County Board of Commissioners (Board), after review conducted in accordance with applicable law, approved the proposed change to the County Zoning Map; now, therefore,

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

Section 1. AMENDMENT. DCC Title 18, Zoning Map, is hereby amended to change the zone designation of the subject property, described as tax lots 1700 and 1800 in Section 11 of Township 18 South, Range 12 East, Willamette Meridian, and as further described by the legal description attached hereto as Exhibit “A” and the map set forth as Exhibit “B,” and by the reference incorporated herein, from Exclusive Farm Use – Tumalo/Redmond/Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10).

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Section 2. FINDINGS. The Board adopts as its findings in support of this Ordinance, the Decision of the Board of County Commissioners, attached to Ordinance 2013-009 as Exhibit "D," and incorporated by reference herein.

Dated this 6th of Feb., 2013

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Alan Unger

ALAN UNGER, CHAIR

Tammy Baney

TAMMY BANEY, VICE CHAIR

ATTEST:

Bonnie Baker

Recording Secretary

Anthony DeBone

ANTHONY DEBONE, COMMISSIONER

Date of 1st Reading: 23rd day of January 2013.

Date of 2nd Reading: 6th day of February 2013.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Alan Unger	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Tammy Baney	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Anthony DeBone	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

Effective date: 8th day of May, 2013.

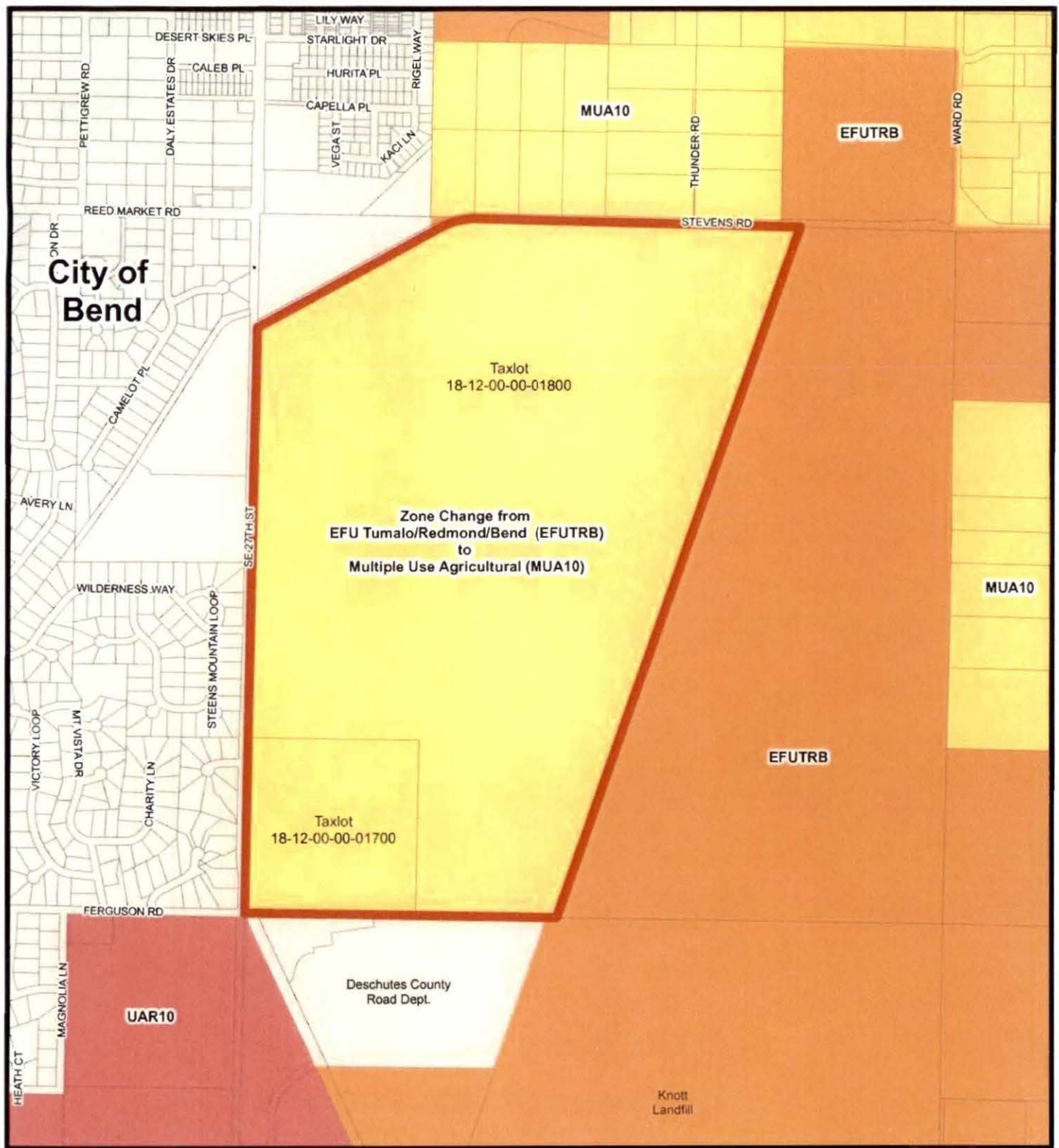
ATTEST:

Bonnie Baker

Recording Secretary

Exhibit "A"

All that portion of Section 11, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon lying west of the easterly extent of the following easement: Commencing at the North Quarter corner of Section 11; thence South $89^{\circ} 27' 02''$ East along the northern line of said Section 11, a distance of 1490.00 feet, more or less, to the easterly line of an existing PG&E Gas Transmission Company Northwest natural gas pipeline easement; thence South $18^{\circ} 22' 12''$ West along the easterly line of said easement, 5558.08 feet, more or less, to the South line of said Section 11, also excluding that portion of Section 11 North of the southerly right of way of Stevens Road.



PROPOSED ZONING MAP

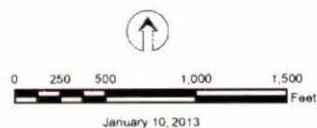
Legend

- Proposed Zone Change Boundary
- Bend City Limit

County Zoning

- EFUTRB - Tumalo/Redmond/Bend Subzone
- MUA10 - Multiple Use Agricultural - 10 Acre Min.
- UAR10 - Urban Area Reserve - 10 Acre Min.

Exhibit "B"
to Ordinance 2013-010



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Alan Unger
Alan Unger, Chair

Tammy Boney
Tammy Boney, Vice Chair

Tony DeBone
Tony DeBone, Commissioner

Bonnie Baker
ATTEST Recording Secretary

Dated this 6th day of February, 2013
Effective Date: May 8, 2013

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02/08/2013

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Deschutes County Community Development Department

117 NW LAFAYETTE AVENUE
BEND, OREGON 97701-1925
(541) 388-6575

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPT. OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OR 97301-2540

DEPT OF

FEB 11 2013

LAND CONSERVATION
AND DEVELOPMENT