



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

June 19, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist *Larry French*

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 004-06

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: June 30, 2006

This amendment was submitted to DLCD for review 45 days 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 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.**

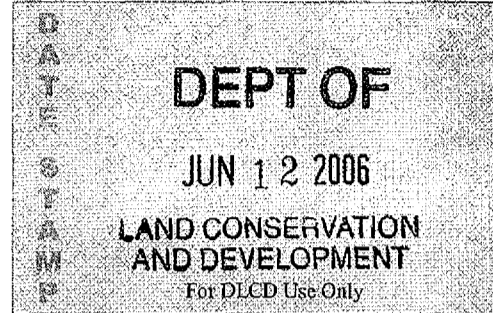
Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Rob Hallyburton, DLCD Community Services Manager
Peter Gutowsky, Deschutes County

<paa> ya/



2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: Deschutes County Local file number: TA-06-1

Date of Adoption: 6/5/2006 Date Mailed: 6/7/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 3/10/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Deschutes County is proposing to amend its Transferable Development Credit (TDC) Code (DCC 11.12), a program designed to protect the sole source aquifer in the La Pine Region from nitrate loading, to include Pollution Reduction Credits (PRCs) that would be created when one retrofits a standard onsite wastewater treatment system to a nitrogen reducing system. PRCs, like TDCs would be accumulated so developers could develop in the Neighborhood Planning Area.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: n/a to: n/a

Zone Map Changed from: n/a to: n/a

Location: Deschutes County Acres Involved: n/a

Specify Density: Previous: n/a New: n/a

Applicable Statewide Planning Goals: n/a

Was and Exception Adopted? YES NO

DLCD File No.: 004-06
(15079)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) 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

Affected State or Federal Agencies, Local Governments or Special Districts:



Deschutes County

Local Contact: **Peter Gutowsky** Phone: **(541) 385-1709** Extension: _____
Address: **117 NW Lafayette** City: **Bend**
Zip Code + 4: **97701-** Email Address: **peterg@co.deschutes.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

REVIEWED  LEGAL COUNSEL
REVIEWED  CODE REVIEW COMMITTEE

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 11, County Owned
Land and Property, and Declaring an Emergency

*

*

ORDINANCE NO. 2006-016

WHEREAS, nitrogen, particularly in the form of nitrate, contained in inadequately treated sewage discharged to groundwater poses a risk to both public health and water quality in south Deschutes County and

WHEREAS, the primary goal for south Deschutes County is to protect public health and the environment with the specific objective of protecting public waters of the La Pine sub-basin from impacts of wastewater treatment and dispersal and

WHEREAS, at this time, except for limited areas served by a community water system with access to deeper aquifers, the shallow unconfined aquifer in south Deschutes County provides the sole source of residential drinking water and

WHEREAS, findings from the US Geological Survey's 3D Groundwater Nutrient Fate and Transport Model, La Pine National Decentralized Wastewater Treatment Demonstration Project, and Nitrate Loading Management Model for South Deschutes County (La Pine Studies) illustrate that the assumptions used for the development of the Transferable Development Credit program require modification because the Transferable Development Credit program will have significantly less impact on improving groundwater quality than alternative wastewater treatment systems and

WHEREAS, the La Pine Studies show continued use of conventional wastewater treatment systems in the region will ultimately increase the nitrate-nitrogen levels in the groundwater in most areas of the region beyond the EPA safe drinking water standard of 10 mg/l and

WHEREAS, the La Pine Studies show alternative treatment technologies exist that can denitrify wastewater and using available nitrogen reducing wastewater treatment technologies on individual properties in the La Pine sub-basin will protect the groundwater from exceeding safe drinking water standards for nitrate and

WHEREAS, the Transferable Development Credit Review Committee and Planning Staff met for six months from July 2005 to December 2005, and reconvened on April 11, 2006 to discuss the need for, and direction of, changes to the Transferable Development Credit Program based on findings from the La Pine Studies.

WHEREAS, the Transferable Development Credit Review Committee recommends that the Transferable Development Credit program should be amended to include Pollution Reduction Credits that would be created when a conventional onsite wastewater treatment system is retrofitted to become a nitrogen reducing system; that existing property owners in the south County need incentives to accept retrofits or financial assistance in order to afford to install retrofits; and that development should be able to commence in the Neighborhood Planning Area regardless of whether or not there are sufficient retrofitted onsite wastewater treatment systems at the time a developer is ready to begin development so long as the developer provides sufficient funds to allow the County to retrofit existing onsite wastewater treatment systems, and

WHEREAS, the Deschutes County Planning Commission concurs with the recommendation of the Transferable Development Credit Review Committee to amend the Transferable Development Credit program as described and

WHEREAS, additional formulas are needed to calculate the number of Pollution Reduction Credits required for developing a tract in the La Pine Neighborhood Planning Area and for establishing the amount per Pollution Reduction Credit when a developer of the Neighborhood Planning Area chooses to fund the proportional cost of a retrofit and

WHEREAS, the purpose of the County fund is solely to provide financial assistance for property owners to retrofit existing wastewater treatment systems and

WHEREAS, Deschutes County entered into a contract with Pahlisch Homes, Inc. to develop Quadrants 2a, 2b, and 2d in Neighborhood 2 of the Neighborhood Planning Area and Pahlisch Homes, Inc., now Elk Horn Land Development LLC, wants to submit a tentative plat for their next phase in Quadrant 2a in Spring 2006 and

WHEREAS, Vic Russell owns Quadrants 1a, 1b, and 1d of Neighborhood 1 and is responsible for obtaining Transferable Development Credits for those quadrants; now therefore,

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

Section 1. AMENDMENT. DCC 11.12 is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

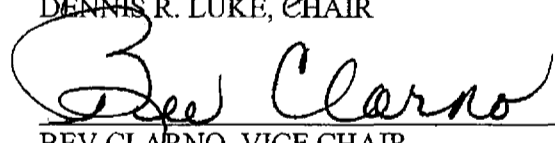
Section 2 FINDINGS. The Board of Commissioners adopts as its findings in support of this amendment the Staff Report dated 5/31/06, EXHIBIT "B" to Ordinance 2006-016 and incorporated by reference herein.

Section 3. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Dated this 5th of June, 2006

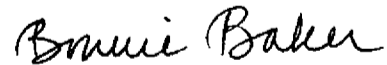
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


DENNIS R. LUKE, CHAIR


BEV CLARNO, VICE CHAIR


MICHAEL M. DALY, COMMISSIONER

ATTEST:



Recording Secretary

Date of 1st Reading: 5th day of June, 2006.

Date of 2nd Reading: 5th day of June, 2006.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Dennis R. Luke	<u>K</u>	___	___	___
Bev Clarno	<u>✓</u>	___	___	___
Michael M. Daly	<u>✓</u>	___	___	___

Effective date: 5th day of June, 2006.

ATTEST:

Bonnie Baker
Recording Secretary

“Exhibit A”

Chapter 11.12. TRANSFERABLE DEVELOPMENT CREDIT PROGRAM

the US Geological Survey to determine the nitrate loading capacity of the drinking water aquifer underlying south Deschutes County.

11.12.010. Definitions.

“Nitrogen Reducing System” means a wastewater treatment system that reduces nitrogen loading to the groundwater in accordance with the Nitrate Loading Management Model and that is approved by Deschutes County.

11.12.020. TDC transactions.

11.12.030. TDC sending area eligibility criteria.

11.12.040. TDC Advisory Committee.

11.12.010. Definitions.

As used in DCC 11.12, the following words and phrases shall mean as set forth in DCC 11.12.010.

“Pollution Reduction Credit” (PRC) means the credit given for the Retrofitting of an Existing Wastewater Treatment System or payment into the County’s fund.

“Certificate of TDC Purchase” means a certificate from Deschutes County that documents the purchase or, in the case of a PRC, creation of TDC(s).

“Receiving Area” means the area designated by the County where Transferable Development Credits are required in order to purchase and develop a tract of land.

“Department” means, for purposes of this chapter, the Deschutes County Community Development Department.

“Restrictive Covenant” means a legal instrument which places restrictions on future development on a lot or parcel of land in the Sending Area.

“Existing Wastewater Treatment System” means a wastewater treatment system in use in the Sending Area on May 31, 2006 that is not a Nitrogen Reducing System approved by Deschutes County.

“Retrofit” means to upgrade or replace an Existing Wastewater Treatment System in the Sending Area with a Nitrogen Reducing System approved by the County.

“High Priority Deer Migration Corridor Area” means the area mapped in 2000 by the Oregon Department of Fish and Wildlife which shows the area of priority protection for migrating mule deer within a larger migration corridor acknowledged under statewide planning Goal 5. A copy of this map is on file with the Community Development Department.

“Sending Area” means the area designated by the County in which Transferable Development Credits may be sold.

“Net Developable Acre” means the acreage in a tract of land in a Receiving Area calculated by subtracting the acreage reserved for collector road right-of-way and community parks and open space from the gross acreage of a subject tract.

“TDC Report” means a report from a title company verifying title to and encumbrances on the subject property.

“Nitrate Loading Management Model” means the groundwater model developed by

“Transferable Development Credit” (TDC) means the credit given for a Restrictive Covenant granted to Deschutes County restricting the placement of a septic system on the subject property or a PRC. (Ord. 2006-016 § 1, 2006; Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.020. TDC transactions.

A. Sale of TDCs from the Sending Area. Either Section B or C The following

“Exhibit A”

~~procedures shall be followed for a property owner to sell the creation of TDCs, from an eligible lot or parcel in the Selling Area to Deschutes County or other TDC purchaser.~~

B. Restrictive Covenant

1. The property owner or any other interested person shall request verification from the County that the subject property is eligible for a TDC.
2. The Department shall send the property owner or interested person written verification confirming the number of TDCs the subject property is eligible for based on the criteria in DCC 11.12.030.
3. Upon mutual agreement of a sale between the property owner and TDC purchaser, the following transactions shall occur:
 - a. The property owner shall provide a TDC Report to the Department.
 - b. If the TDC purchaser is other than the County then the property owner and TDC purchaser shall sign a TDC Contract form provided by the County.
 - c. Upon Department review and approval of the TDC Report and receipt of payment of the consideration in accordance with the County's agreement with the property owner or the TDC Contract pursuant to DCC 11.12.010(A)(3)(b), the County shall prepare a Restrictive Covenant that restricts development on the subject property. This Restrictive Covenant shall be signed by the County and the property owner. The County shall record the Restrictive Covenant.
 - d. Contemporaneously with the recording of the Restrictive Covenant, County shall provide the TDC purchaser with

documentation of the TDC purchase.

C. PRC.

1. The property owner or any other interested person shall request verification from the County that the subject property is eligible for a PRC.
2. The Department shall provide the property owner or interested person written verification confirming the subject property is eligible for a PRC based on the criteria in DCC 11.12.030.
3. The County shall grant a PRC to a developer in the Receiving Area if the developer provides one of the following:
 - a. A Retrofit, in cooperation with the property owner of a property eligible for a PRC, Existing Wastewater Treatment System and documentation submitted to the County that includes proof of ownership of the subject property, proof of consent of the property owner for the Retrofit, and final County inspection of the Retrofit; or
 - b. Payment into the County's fund for TDCs and PRCS the proportional cost established by Board of County Commissioner resolution for a Retrofit. The County's fund shall be used to aid property owners in Retrofitting their Existing Wastewater Treatment Systems.

BD. Assignment of TDCs to the Receiving Area. Prior to ~~tentative~~ final plat approval in the Receiving Area, the Department must have record of the required number of TDCs ~~purchased established and available for transfer to~~ apply to development of a tract or lot meeting the following criteria within the Receiving Area:

1. The tract or lot shall be located within the La Pine Neighborhood Planning Area in the La Pine Urban

"Exhibit A"

Unincorporated Community and be zoned Residential General or Residential Center. The TDC Receiving Area is identified on a map prepared and maintained by the Community Development Department.

2. TDCs shall be assigned to a lot or tract based on the Net Developable Acres at a rate approved by Board of County Commissioner Resolution.
3. PRCs shall be assigned to a tract at a rate established by Board of County Commissioner resolution.
4. The Board may, by Resolution, adjust the number of TDCs required per acre or alter the factors for which TDCs are required in the receiving Area.

E. ~~Non-Residential Uses—Districts.~~ Where permitted under DCC 18.61.050, uses in non-residential uses—districts in the Receiving Area do not require TDCs.

F. Right to Develop. If an owner of a lot or parcel of land eligible for a TDC chooses not to participate in the TDC program, the owner shall not be restricted from developing said lot or parcel in accordance with the applicable zoning standards in DCC Title 18, and any other applicable regulations, rules or standards.

(Ord. 2006-016 § 1, 2006; Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.030. TDC sending area eligibility criteria.

- A. A lot or parcel that meets the following criteria is eligible to receive a TDC. The lot or parcel shall:
 1. Be located within the "Sending Area" identified on a map prepared and maintained by the Department;
 2. Be no greater than two acres in area;
 3. Be capable of being served by an on-site sewage disposal system that meets current Oregon Department of Environmental Quality standards, as demonstrated by a satisfactory

feasibility evaluation for an on-site sewage disposal system or when the lot or parcel is shown as being eligible for such system on the TDC Sending Area map; and

4. Not be developed with an existing sewage disposal system, or if developed with an existing sewage disposal system, the landowner shall disable said system, or
 5. Have received prior approval for a site evaluation or an installed septic system that has expired or is no longer valid, or
 6. Have an Existing Wastewater Treatment System eligible for a Retrofit.
- B. TDCs and PRCs shall be assigned to an eligible lot or parcel that meets the criteria in DCC 11.12.030(A), as follows:
1. An eligible lot or parcel upon which a Restrictive Covenant is recorded shall be assigned receive one TDC.
 2. An eligible lot or parcel located in the High Priority Deer Migration Corridor Area upon which a Restrictive Covenant is recorded shall be assigned receive an additional one-half TDC.
 3. An eligible lot or parcel upon which an Existing Wastewater Treatment System has been Retrofitted shall be assigned one PRC.
 34. The Board of County Commissioners may by Resolution revise the number of TDCs assigned or the factors for which TDCs are assigned to eligible lots or parcels in the Sending Area.

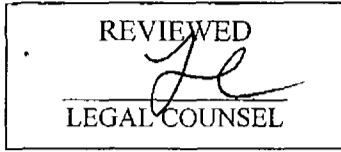
(Ord. 2006-016 § 1, 2006; Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.040. TDC Advisory Committee.

- A. Purpose. The TDC Advisory Committee is an advisory committee whose purpose is to assist staff in implementing the TDC program and to recommend to staff the means to accomplish the goals of Regional Problem Solving insofar as the transfer of development credits from the

“Exhibit A”

- sSending aArea to the rReceiving aArea are concerned.
- B. Duties. The committee will advise staff in evaluating the TDC program for record keeping accuracy, determine if program goals are being met, consider whether any changes to the TDC allocation criteria in the sSending aArea or TDC requirements in the rReceiving aArea are advisable, or if any other revisions to the program are warranted. The committee may assist the County in determining which TDC options to exercise.
- C. Committee member terms. Committee members will be selected by staff based on the knowledge and expertise that each member may contribute to the development of the TDC Program. One-half the initial members shall serve for one year and one-half shall serve for two years. Thereafter, members shall serve two-year terms. Members may be requested to serve additional terms. Staff shall report the membership of the TDC Advisory Committee to the Board of County Commissioners on an annual basis.
- D. Committee members. The TDC Advisory Committee may include a representative from each of the following organizations, agencies or professions:
1. The International Society of Appraisers or an Oregon State Certified Appraiser;
 2. A firm established for the purpose of real estate development or the representation of development interests;
 3. An individual with recognized expertise in hydrology or ground water;
 4. An individual with recognized expertise in big game wildlife management;
 5. The Community Solutions Team for Central Oregon;
 6. An individual who resides in the designated sSending Aarea;
 7. A member of the La Pine Community Action Team;
 8. The Deschutes County Community Development Department Director or designee as an ex officio member.
 9. Staff may select additional members as it deems appropriate.
 10. ~~The Deschutes County Community Development Department Director or designee as an ex officio member.~~
- (Ord. 2006-016 § 1, 2006; Ord. 2003-033 § 1, 2003; Ord. 2002-010 § 1, 2002)



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution establishing Pollution Reduction Credits as part of the Transferable Development Credit Program required for developing the La Pine Neighborhood Receiving Area	* * * *	RESOLUTION NO. 2006-043
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WHEREAS, on June 6, 2006, the Board of County Commissioners ("Board") adopted Ordinance 2006-016 amending Deschutes County Code Chapter 11.12 to define a Transferable Development Credit ("TDC") as including a Pollution Reduction Credit ("PRC") for the retrofitting, as that term is defined in Ordinance 2006-016, of existing wastewater treatment systems or for payment in lieu of retrofits, and

WHEREAS, Ordinance 2006-016 also amended Chapter 11.12 to allow developers to contribute to the County's fund for TDCs and PRCs instead of installing retrofits in order to develop in the TDC program's "Receiving Area;" and

WHEREAS, the TDC Review Committee met and recommended that 534 PRCs are needed to complete the development of Quadrants 2a, 2b and 2d, 325 TDCs are needed for Quadrants 1a, 1b and 1d, and 3,654 for Neighborhoods 3 and 4 in the Newberry Neighborhood with the PRCs to be divided proportionally, according to the gross number of acres, among each of the quadrants within each designated Neighborhood, and

WHEREAS, the TDC Review Committee also recommended that payment into the County's fund shall be used by the County to aid property owners in retrofitting existing wastewater treatment systems, and;

WHEREAS, DCC 11.12.020 states that the Board may, by Resolution, adjust the number of TDCs required in the Receiving Area or alter the factors for which TDCs are required in the Receiving Area; now, therefore,

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

Section 1. The number of PRCs needed to develop Quadrants 2a, 2b, and 2d is 534, to be divided proportionally, according to the gross number of acres, among each of those quadrants.

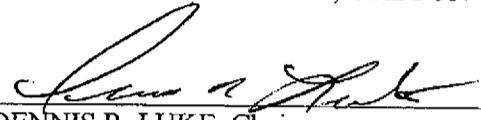
Section 2. The number of PRCs needed to develop Quadrants 1a, 1b, and 1d is 325, to be divided proportionally, according to the gross number of acres, among each of those quadrants.

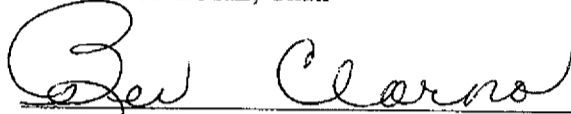
Section 3. The number of PRCs needed for Neighborhoods 3 and 4 total 3,654, to be divided proportionally, according to the gross number of acres, among each of the quadrants in those neighborhoods.

Section 4. Payment of \$7,500.00 into the County's fund by developers in the Newberry Neighborhood shall equal one PRC.

DATED this 5th day of June, 2006.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

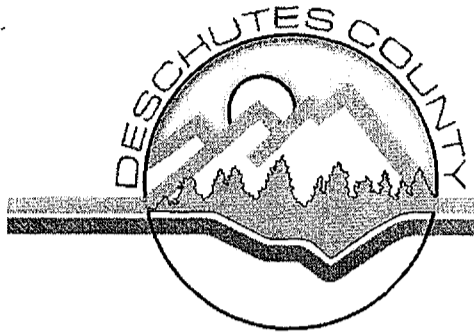

DENNIS R. LUKE, Chair


BEV CLARNO, Vice Chair

ATTEST:


Recording Secretary


MICHAEL M. DALY, Commissioner



"Exhibit B"

Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925

(541)388-6575 FAX (541)385-1764

<http://www.co.deschutes.or.us/cdd/>

STAFF REPORT

TO: Deschutes County Board of Commissioners
FROM: Catherine Morrow, Planning Director
DATE: May 24, 2006
SUBJECT: Transferable Development Credit Amendment / Public Hearing

The Board's May 31, 2006 public hearing on amendments to the County's Transferable Development Credit program completes an eleven-month process that involved a seventeen member Technical Advisory Committee (TAC) and, most recently, the County Planning Commission. The TAC, representing a diverse group of stakeholders, held seven meetings between July 2005 and April 2006 to assist the County in formulating changes to the County's Transferable Development Credit (TDC) program.

A milestone was reached in December, when the TAC recommended that staff focus funds from the La Pine Neighborhood Planning Area to help retrofit existing septic systems outside the La Pine Urban Unincorporated Area. Based on the direction received in December, staff drafted amendments to the TDC program and the TAC reconvened in April and unanimously recommended forwarding the TDC amendments and a draft resolution to the County Planning Commission.

The County Planning Commission held two work sessions in April and a public hearing in La Pine on May 11, 2006 to formally consider the amendments. News releases announcing the public hearing were made available in the *Newberry Eagle*, *Deschutes County's Citizen Update*, the *Bulletin*, *Sisters' Nugget*, and the *Redmond Spokesman*. Information booths were also provided at the grand opening of the South County Services Building and the Central Oregon Spring Home Show.

On May 11, the Planning Commission held a hearing and, after receiving testimony from La Pine area residents and stakeholders, unanimously recommended that the Board adopt the proposed code changes to the TDC program.

Notices announcing the Board's May 31, public hearing were distributed on May 16, 2006.

Attached are supporting materials for the public hearing:

- * Transferable Development Credit Amendments
- * Ordinance 2006-016
- * Resolution 2006-043
- * Oregon Department of Land Conservation and Development Letter of Support
- * Oregon Department of Environmental Quality Letter of Support



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Bend Field Office
20300 Empire Avenue, Suite B-1
Bend, OR 97701
(541) 388-6424
FAX (541) 388-6480

Web Address: <http://www.oregon.gov/LCD>

May 2, 2006

Peter Gutowsky, Senior Planner
Deschutes County Community Development
117 NW Lafayette Avenue
Bend, Oregon 97701

RE: Proposed Revisions to the Deschutes County Transferable Development Credit Program

Mr. Gutowsky: *PETER*

The department has completed our review of draft revisions to the Transferable Development Credit Program. As you know, this program was developed over several years of collaboration between federal, state and local government through a process known as Regional Problem Solving (RPS). RPS is a special tool to promote creative solutions to regional problems that may not otherwise be attainable in a conventional environment. In this case, the regional problem involved water quality issues in south Deschutes County.

Much has been learned since the original RPS program was adopted by Deschutes County. In some cases, original assumptions have been replaced with better information on how to protect and improve ground water in the Upper Deschutes Basin. The department agrees that using the best available information is the responsible course of action. Although the proposed revisions differ modestly from the way the original TDC program was anticipated to look and operate we are more concerned that the selected product yields the right results.

In conclusion, we agree that maintaining the Transfer Development Credit Program is the right thing to do. Better science and unexpected market forces are good reasons to consider adjusting the program. However, we do not believe there are reasons to abandon the tenets endorsed by the Land Conservation and Development Commission (LCDC). The county program has always been about striking a balance between the public interest and private responsibility. We believe the proposed revisions continue this heritage.

Respectfully,

[Signature]
Jon Jipings
Regional Representative



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

2146 NE 4th Street, Suite 104

Bend, OR 97701

(541) 388-6146

Eastern Region

Bend Office

April 10, 2006

Ms. Barbara Rich
Deschutes County Planning Department
117 NW Lafayette Ave.
Bend, OR 97701

RE: Proposed Pollution Reduction Credit Program

Barbara:

The Department has reviewed the draft Deschutes County Resolution that you e-mailed to us last week. The proposed resolution would establish a Pollution Reduction Credit and a Partnership Fund as part of the Transferable Development Credit Program required for developing the La Pine Neighborhood Receiving Area.

The Program would begin a process to provide subsidies to property owners for upgrading existing on-site sewage disposal systems in the LaPine area. The upgraded systems would produce a denitrified effluent which would better protect groundwater quality from nitrate contamination.

As you know, neither Bob Baggett nor I can attend the advisory committee meeting on April 11. As a result, our view of this proposed resolution is derived without the benefit of the opinions or perspectives of other committee members. The resolution seems to be a good first step to better controlling the discharge of domestic sewage pollutants into the LaPine groundwater. We do not object to the proposed resolution, but we think its adoption by the County should be driven by the overall consensus of the committee not just that of DEQ.

If you have questions on this matter, please contact me at 388-6146, X251.

Sincerely,


A handwritten signature in cursive script that reads "Dick".

Richard J. Nichols, Manager
Bend WQ Section
Eastern Region

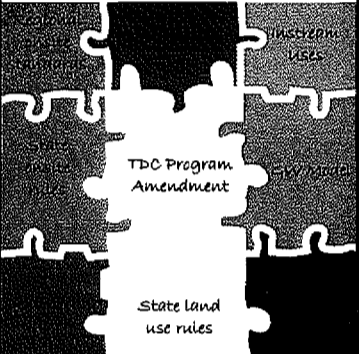
Cc: Mark Cullington - DEQ - WQ - HQ
Joni Hammond - DEQ - Hermiston Office
Bob Baggett - DEQ - WQ - Bend

Deschutes County Board of Commissioners
Public Hearing - May 31, 2006

**TDC Program
Amendments**



**The Groundwater
Protection Puzzle**

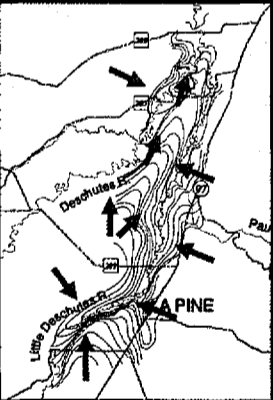


The puzzle diagram shows several interlocking pieces. The central piece is labeled 'TDC Program Amendment'. To its right, another piece is labeled 'State land use rules'. Other pieces are partially visible but not fully labeled.

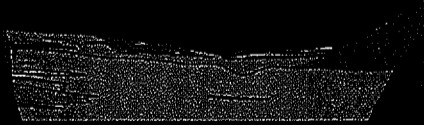
USGS
science for a changing world

Problem

- Thin, volcanic soils; shallow water table
- Most homes on septic & individual wells
- Upper 100 feet contains most productive aquifers
- About 60% of lots built on; area growing rapidly
- DEQ sampling found areas of high nitrate and ammonium

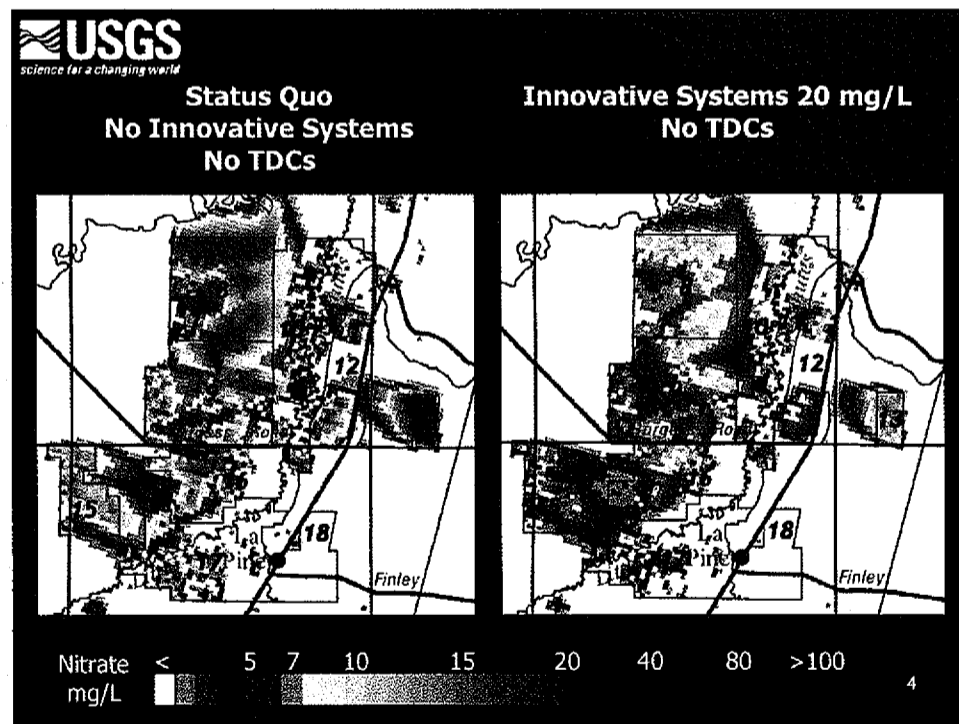
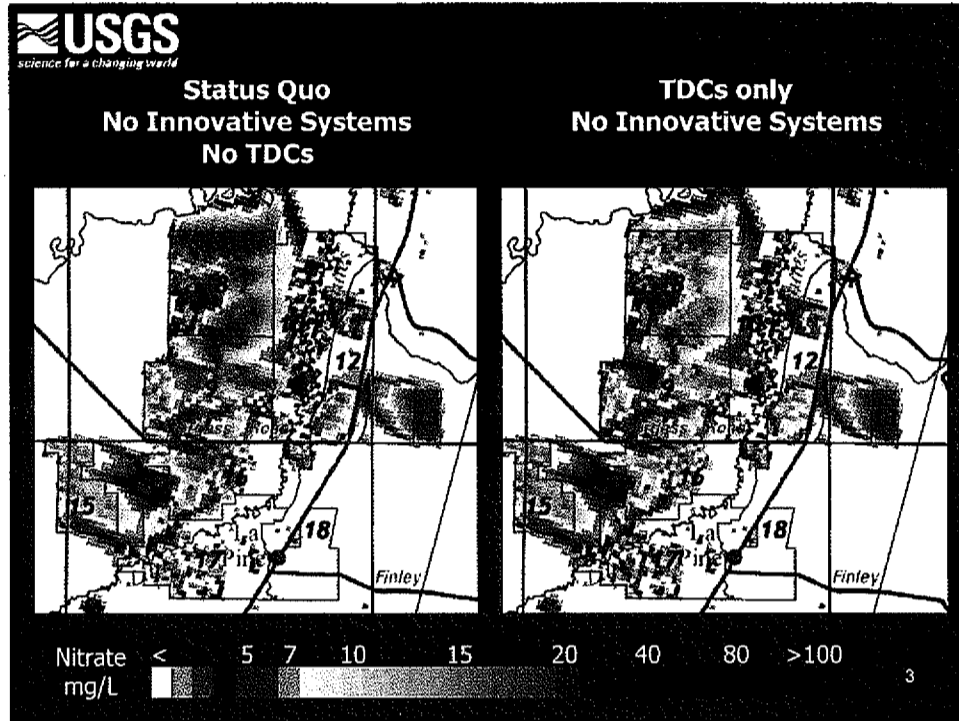


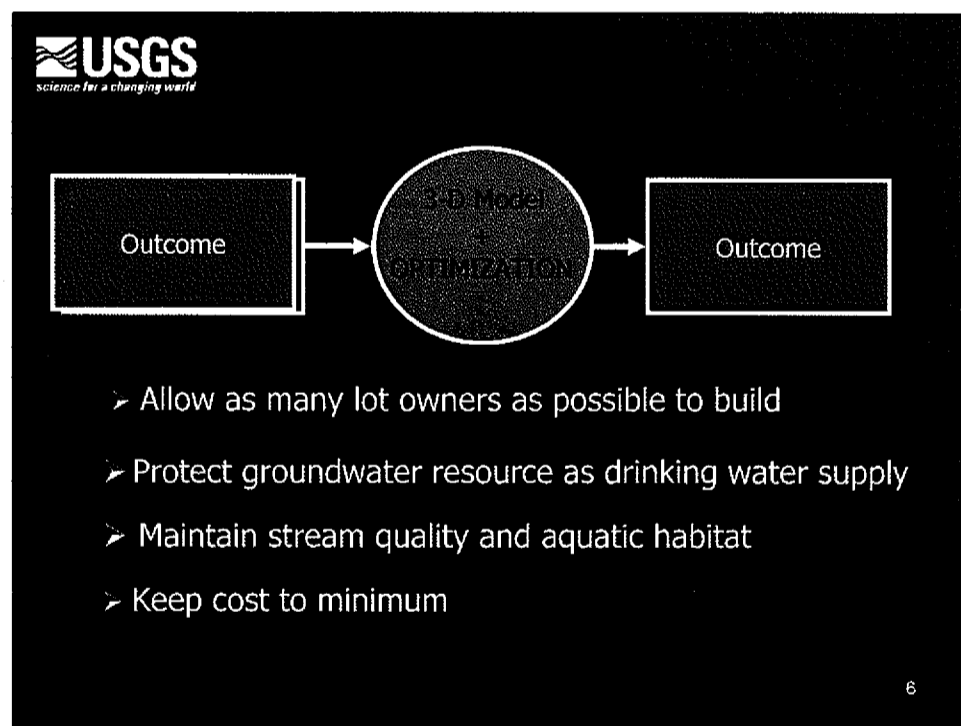
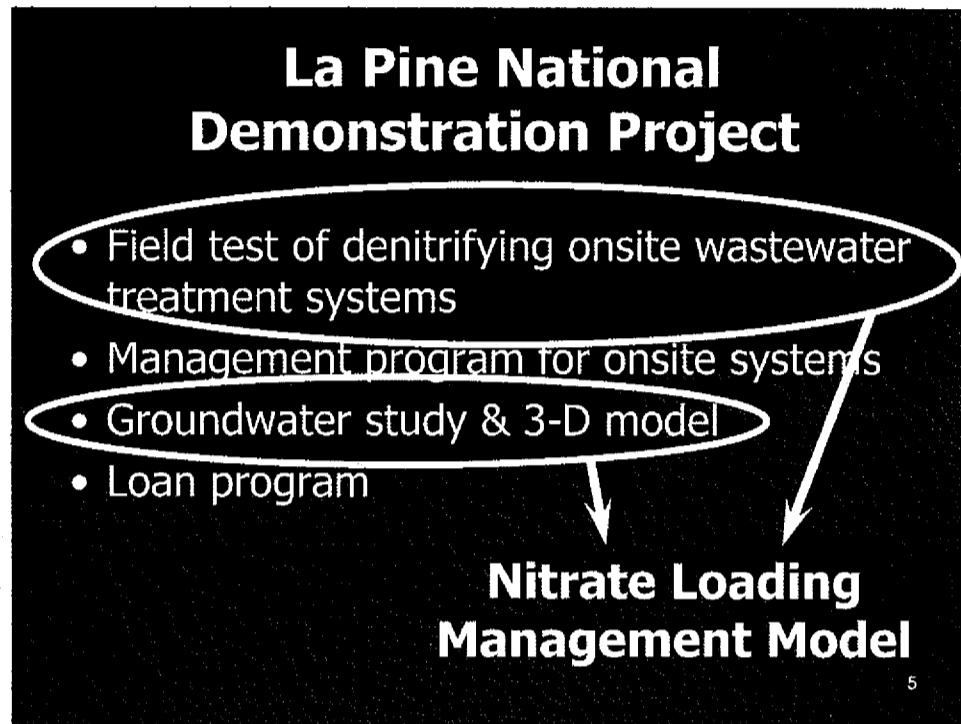
Map of groundwater flow directions

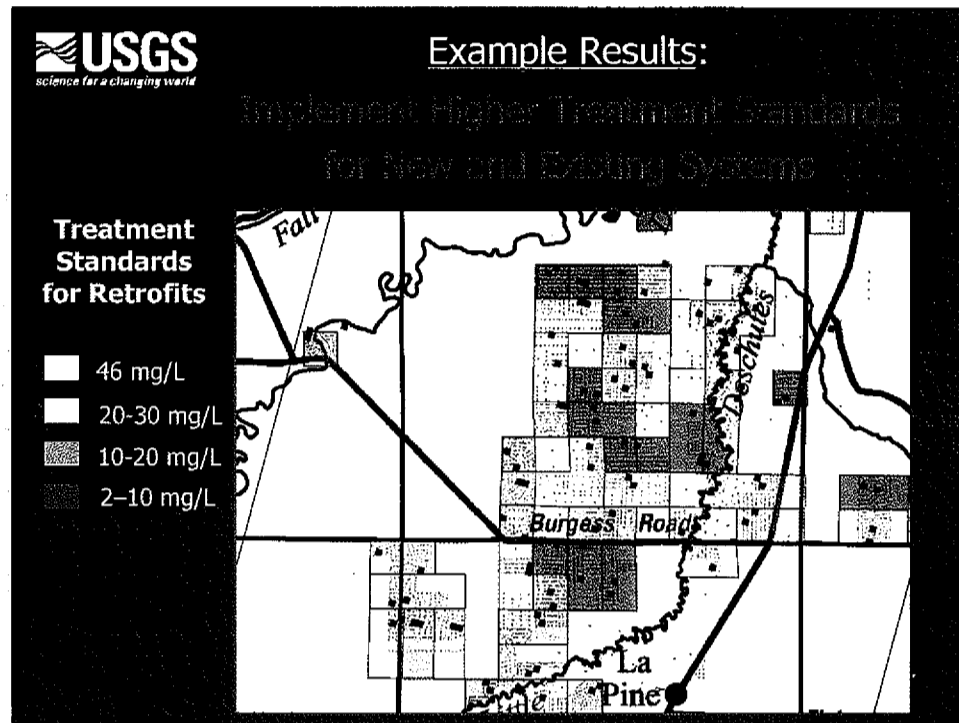


Geologic Cross-Section

2







Next steps: Drinking Water Protection Project

- TDC Program Amendment
- Regional rule requiring the use of nitrogen reducing systems
- O&M program implementation
- Low interest loan program
- GW monitoring network

We are here

EPA United States Environmental Protection Agency
...to protect human health and to safeguard the natural environment...*

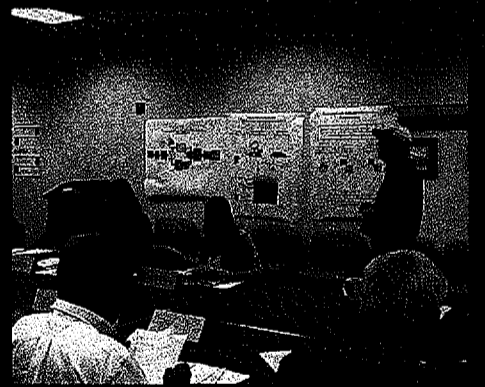
8

17-Member Advisory Committee

Ted Scholer	Realtor
Jon Jinnings	Oregon Department of Land Conservation and Development
Michael Bentz	Excavator
Vicki Allen	South Deschutes County Resident
Kristi Otteni	La Pine Community Action Team
Dan Goodrich	Pahlisch Homes
Dennis Pahlisch	Pahlisch Homes
Alan Jones	Realtor / County Planning Commissioner
Vic Russell	Developer / Excavator
Steve Wert	Soil Scientist/Sanitarian
Steven George	Oregon Department of Fish and Wildlife
Tara Donaca	Lowes Commercial Properties
Dick Nichols	Oregon Department of Environmental Quality
Kate Fitzpatrick	Deschutes River Conservancy
Bob Lovlien	Attorney / Baldwin-Herndon Trust
Gary Hughes	Kerr Commercial Group
Dave Morgan	US Geological Survey (advisory)

TDC Program Technical Advisory Committee

- Met from July to December 2005
- Focused facilitated work sessions
- Strategic planning
- Extensive staff time & energy



Advisory Committee Foundation

- Background / history
- Grant program work plan
- Goal

Goal: Change the TDC program to create a new funding mechanism to help solve the problem

11

Technical Advisory Committee

December 2005 Recommendations

- Everyone contributes to the problem so everyone should contribute to the solution
- Focus funds from the La Pine Neighborhood Planning Area to help retrofit existing septic systems
- A Local Rule should require Best Available Technology for future septic systems and set a standard for existing systems to meet over time



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Technical Advisory Committee

April 2005 Recommendations

- Forward Transferable Development Credit Amendments to the Planning Commission
- Move forward with the development of a Local Rule



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Deschutes County Planning Commission

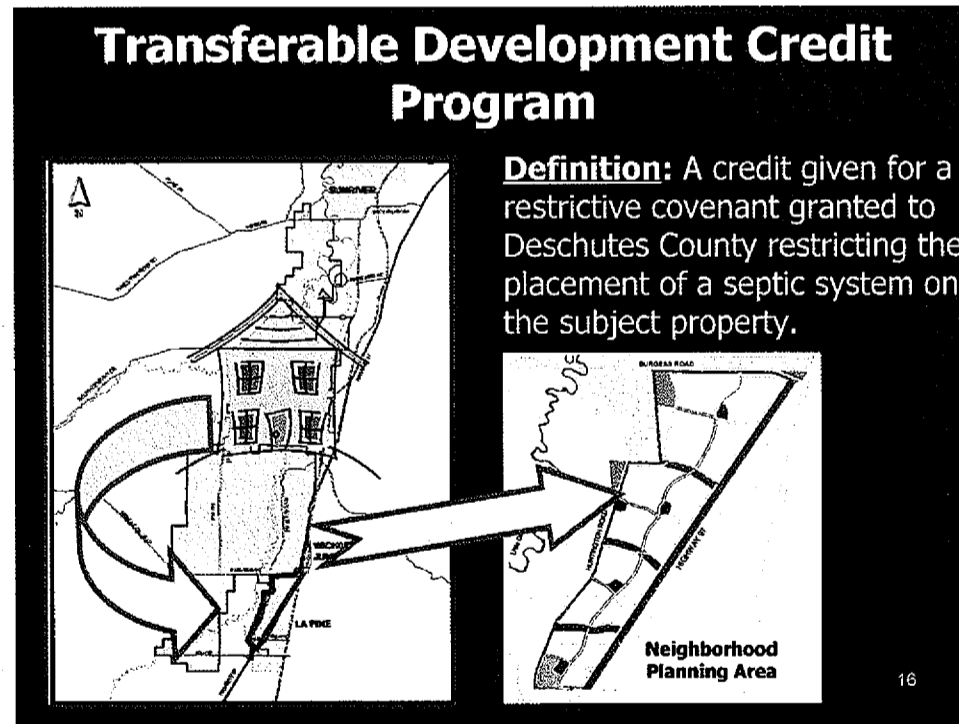
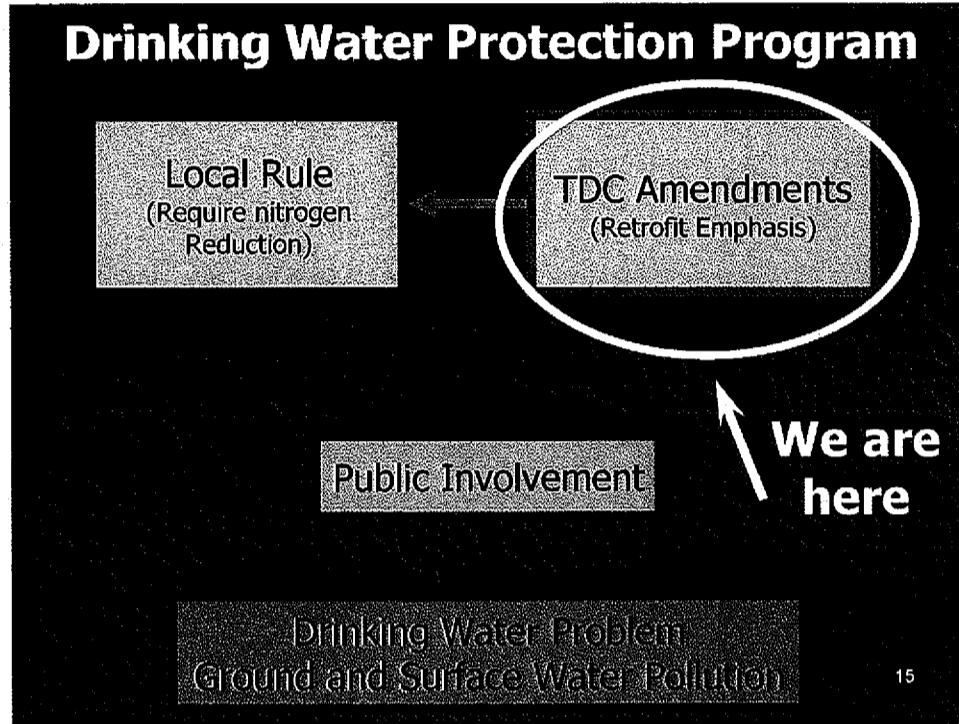
- Two work sessions in April
- Public hearing opened on April 27, 2006
- Public hearing continued to May 11, 2006 in La Pine
- Public Outreach Efforts
- Recommended approval of the proposed text amendment

Deschutes offers new nitrate plan for La Pine area
County proposes to pay residents to upgrade poor septic systems

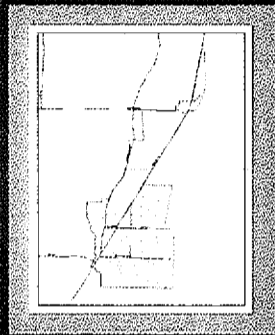
Deschutes County
Citizen Update
Enhancing the Lives of Citizens by Delivering Quality Services to 3 Local Communities
May 2006

NEWBERRY EAGLE
Volume V
News from the Greater La Pine Area
May 2006
Issue 3

14



TDC Program amendment will allow:



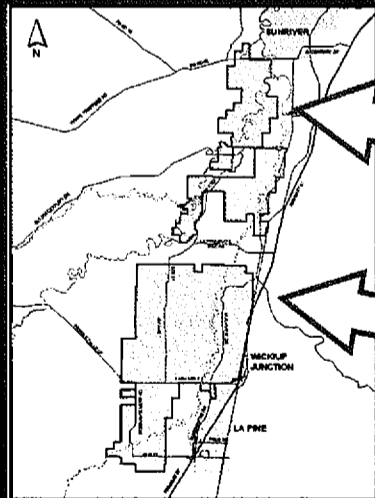
Transferred Development:
Eliminates pollution from new development

AND

Pollution Reduction:
Remove pollution from existing system

Transferable Development Credit Amendments

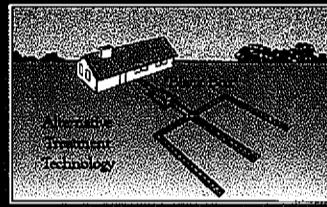
Pollution Reduction Credits



Transferable Development Credit Amendments

Part 1: Creating a Pollution Reduction Credit

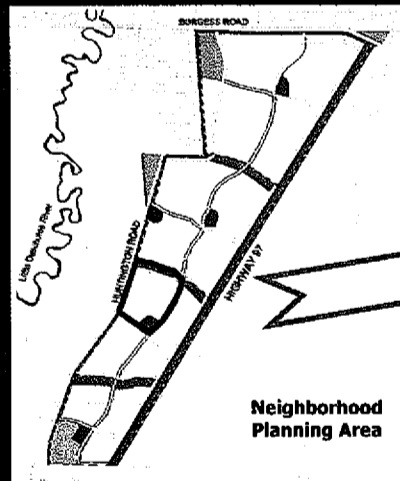
- Pollution Reduction Credits created when an existing system is upgraded, OR
- When a Neighborhood Planning Area developer pays into the Partnership Fund



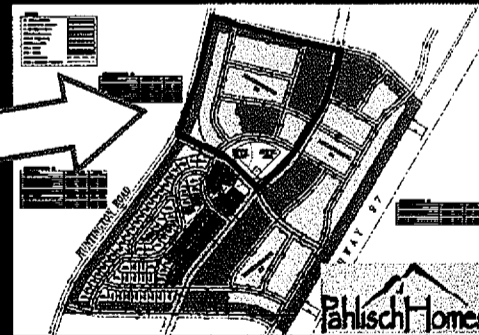
19

Transferable Development Credit Amendments

Part 2: Timing of Pollution Reduction Credits



Pollution Reduction Credits must be in place prior to final plat approval for new subdivisions in Neighborhood Planning Area



Transferable Development Credit Amendments

Resolution

Adopted by the Board of County Commissioners.
Establishes program details that may change over time

REVIEWED
EXAMINED

For Reviewing Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution authorizing Pollution Reduction Credits and a Partnership Fund as part of the Transferable Development Credit Program required for developing the La Pine Neighborhood Planning Area.

WHEREAS, the Board of County Commissioners ("Board") adopted Ordinance 2004-022 authorizing Pollution Credit ("PC") as including a Pollution Control Credit ("PCC") for abatement of existing individual domestic wastewater treatment systems, and WHEREAS, Ordinance 2004-017 also provided Chapter 111.12 authorizing the developer to construct a "Partnership Fund" ("PF") in order to secure additional TDCs for developing in the TDC program "Newberry Area, and WHEREAS, the TDC Board's Commission report dated July 15, 2004, has provided to complete the development of Quarters 2, 3, 10 and 11, 211 TDCs are needed for Quarters 2, 10 and 11, and 3,614 for each of Neighborhoods 1 and 4 in the Newberry Neighborhood, with the PFCs to be divided equally among each of the quarters within each neighborhood, and WHEREAS, the TDC Board's Commission also has not provided the payment of \$7,500.00 into the Partnership Fund for use by the County to aid property owners in installing individual domestic wastewater treatment systems that equal one PFC credit.

WHEREAS, the Board, after the Board met, by Resolution, set the number of Transferable Development Credits required in the Planning Area or over the term for which Transferable Development Credits are required in the Planning Area, and

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

Section 1. The number of Pollution Reduction Credits needed to develop Quarters 2, 10, and 11 is 314, to be divided equally among each of those quarters.

Section 2. The number of Pollution Reduction Credits needed to develop Quarters 3, 10, and 11 is 312, to be divided equally among each of those quarters.

Section 3. The number of TDCs needed for Neighborhoods 1 and 4 is 3,614 for each neighborhood to be divided equally among each of the quarters in those neighborhoods.

Section 4. Payment by developer of any of the Newberry Neighborhood quarters into the Partnership Fund at \$7,500.00 shall equal one PFC.

DATED this ____ day of _____, 2006.

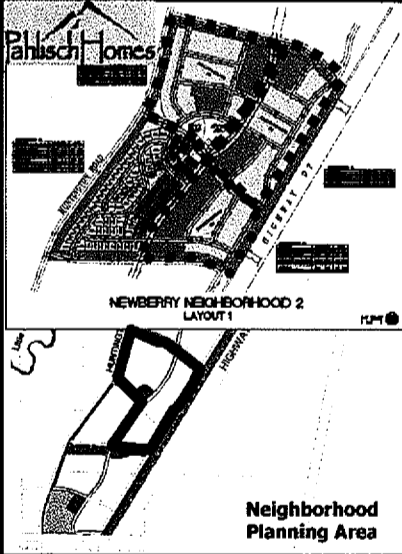
BOARD OF COUNTY COMMISSIONERS

PAGE 1 OF 2 - RESOLUTION NO. 2006-04 (PART)

Transferable Development Credit Amendments

Resolution Details

- Number of pollution reduction credits apportioned across the entire Neighborhood Planning Area
- Cost of the partnership fund for paying for credits instead of installing them
 - \$7,500 per credit
 - Partnership fund payment set high to create incentive for developers to retrofit instead of paying
 - Cost based on data from the La Pine National Demonstration Project and currently available technologies



Neighborhood Planning Area

Transferable Development Credit Amendments

Staff Recommendation:

Board of County Commissioners adopt the
proposed code changes

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Work prepared by
Debra Lee, County Commissioner
Environmental Health Division

24