



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

March 21, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 010-06



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: April 9, 2007

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
Will Grover, Deschutes County

<paa> ya

FORM 2

DEPT OF

MAR 20 2007
LAND CONSERVATION AND DEVELOPMENT

D L C D 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

(See reverse side for submittal requirements)



Jurisdiction: DESCHUTES Co Local File No.: PA-06-3
ZC-06-112
(If no number, use none)

Date of Adoption: 3/5/7 Date Mailed: 3/19/7
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: UNKNOWN WAS MAILED, THOUGH.

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡
ZONE CHANGE AND PLAN AMMENDMENT REZONING
±2 ACRES FROM RURAL RESIDENTIAL TO RURAL
COMMERCIAL. SITE HAD BEEN IN LEGAL, NON-CONFORMING
USE FOR DECADES.

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 AN/A.≡
SAME

Plan Map Changed from: RURAL RES to RURAL Com

Zone Map Changed from: " to "

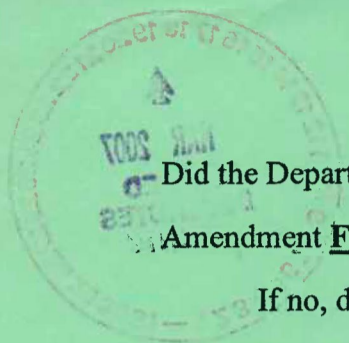
Location: _____ Acres Involved: ±2

Specify Density: Previous: 1 RES^{RES} / 10 AC New: 1 RES PER ACRE

Applicable Statewide Planning Goals: RURAL RES WAS ALREADY EXCEPTION AREA

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 010-06 (15454)



Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**? Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

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

Local Contact: WILL GROVER Area Code + Phone Number: 541-788-1037

Address: 117 NW LAFAYETTE City: BEND



Zip Code+4: 97701 Email Address: WELLG@DESCHUTES.ORG

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 ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice 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 23, of the Deschutes *
County Code Regarding Rural Commercial Zoning * ORDINANCE NO. 2007-006
and Declaring an Emergency. *

WHEREAS, Terry L. Mowry filed an application with the Deschutes County Planning Division that proposed text amendments to Title 23, the Deschutes County Comprehensive Plan, to the Unincorporated Communities chapter, and

WHEREAS, the Deschutes County Hearings Officer held a duly noticed public hearing on October 3, 2006, and recommended to the Board of County Commissioners ("Board") the proposed changes to Title 23 as described in Exhibit "A"; now, therefore,

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

Section 1. AMENDMENT. DCC 23.40, Unincorporated Communities is amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDMENT. DCC Title 23, the Deschutes County Comprehensive Plan Map is hereby amended to change the zoning designation for certain property described in Exhibit "B" and depicted on the map set forth in Exhibit "C," both Exhibits "B" and "C" being attached and incorporated by reference herein, from Rural Residential to Rural Commercial – Pine Forest.

Section 3. FINDINGS. The Board adopts the Hearings Officer's decision adopted as Exhibit "D" and attached and incorporated by reference herein, as its findings to support this Ordinance.


Section 4. 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 March 2007

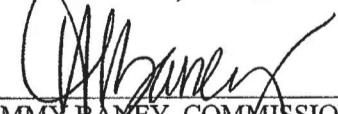
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

- absent -

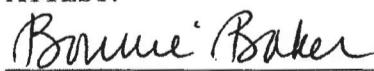
MICHAEL M. DALY, CHAIR



DENNIS R. LUKE, VICE CHAIR



TAMMY BAMEY, COMMISSIONER

ATTEST:


Recording Secretary

EXHIBIT "A"

Note: "*****" denotes code text and sections not amended by Ordinance 2007-006.

Chapter 23.40. UNINCORPORATED COMMUNITIES

- 23.40.010. **Unincorporated Communities.**
- 23.40.020. **Urban Unincorporated Community - La Pine.**
- 23.40.025. **Urban Unincorporated Community - Sunriver.**
- 23.40.030. **Rural Communities – Terrebonne and Tumalo.**
- 23.40.040. **Rural Service Centers – Alfalfa, Brothers, Hampton and Millican, Whistlestop and Wildhunt**
- 23.40.050. **Resort Communities - Black Butte Ranch and Inn of the Seventh Mountain/Widgi Creek.**
- 23.40.060. **Rural Commercial Deschutes Junction, Deschutes River Woods Store, Pine Forest, Rosland and Spring River.**
- 23.40.070. **Rural Industrial.**
- 23.40.080. **Maps.**

23.40.010. Unincorporated Communities.

The 1979 comprehensive plan designated the following rural service centers (RSC): Alfalfa, Brothers, Hampton, and Millican. La Pine, Whistle Stop, Wickiup Junction, Terrebonne, Wild Hunt and Tumalo. These areas were designated in that plan as exception areas from Goals 3 and 4. Zoning under the Comprehensive Plan allowed for a mix of residential uses and commercial uses to support nearby residential uses. The scope of those uses was never clearly defined but, until the early 1990's, was ever much of an issue since there was little development pressure.

In 1994, LCDC adopted a new administrative rule, OAR 660 Division 22 to clarify what uses could be allowed in "unincorporated communities" without violating Statewide Planning Goals 11 and 14 relating to public facilities and urban uses. The rule identifies 4 different kinds of rural communities: Resort Community, Urban Unincorporated Community, Rural Community and Rural Service Center. In addition to the RSCs listed above the following developments were identified as communities that Deschutes County has been required to review for compliance with the rule: Black Butte Ranch and Inn of the Seventh Mountain/Widgi Creek resorts, Deschutes Junction RSC, Spring River RSC, lands zoned for Rural Industrial development and the Deschutes River Woods Country Store development. The latter four areas will be zoned in 2002 for Rural Commercial or Rural Industrial uses because they do not meet the criteria of any of the four types of unincorporated communities.

The Pine Forest Rural Commercial area was zoned Rural Commercial in 2007 because it was recognized as a small rural center that was committed to rural commercial development in 1970, prior to the adoption of statewide zoning rules by Deschutes County and the application of rural residential zoning to the subject property. This zoning failed to recognize the commercial nature of this property. The small size and rural nature of the development in the Pine Forest Rural Commercial area make it appropriate to apply an RC designation.

The County changed zoning for the Rosland Rural Commercial area from Rural Residential (RR-10) to Rural Commercial in 2003 because the County recognized the Rosland area as a small rural center that was established prior to the adoption of statewide zoning rules by Deschutes County. The County designated the subject property as Rural Residential Exceptions Area on the 1979 PL-15 zoning maps. This designation did not reflect the nature of the historically committed land uses on the subject property.

The County changed zoning for the Rosland Rural Commercial area from Rural Residential (RR-10) to Rural Commercial in 2003 because the County recognized the Rosland area as a small rural center that was established prior to the adoption of statewide zoning rules by Deschutes County. The County designated the

Upper Deschutes River Basin, with the Deschutes River generally forming the western boundary of the community. Sunriver includes approximately 3,374 acres which are bounded by the Deschutes National Forest on the east, west and north sides. Small lot residential subdivision development is the predominant land use to the south of the community boundary. However, Crosswater, a private residential/resort community has also recently been developed in the area immediately south of Sunriver.

1. Periodic Review

In order to comply with state rules for Periodic Review (OAR 660-025), Deschutes County has reviewed and updated the County comprehensive plan and land use regulations for the areas of Deschutes Junction, Deschutes River Woods Store and Spring River. Each of these communities was identified as an unincorporated community under OAR 660-022, Unincorporated Communities. OAR 660-022 defines several types of unincorporated communities and provides limitations on the types and sizes of uses permitted, generally restricting uses that are inappropriate considering available water, sewer, and transportation service, or uses that would tend to undermine the viability of nearby urban areas.

During its review of lands identified as rural service centers, the County determined that Deschutes Junction, Deschutes River Woods Store and Spring River do not qualify as any of the four types of unincorporated communities identified under OAR 660-022. The Rural Commercial plan designation and zoning brings each of these three areas into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.

As part of Periodic Review, the Comprehensive Plan and zoning map boundaries for all of the Rural Commercial areas were amended to comply with the requirements of the administrative rules and to reconcile historic mapping inconsistencies between the plan and the zoning maps.

2. Post-Acknowledgment Plan Amendments

The owner of the Rosland commercial center sought approval of a post-acknowledgment plan amendment in 2002. The amendment was sought to confirm her right to continue to operate the commercial center as it has been operated since 1973. The center was recognized because it is small and rural in character and would qualify for a goal exception as the land is physically developed with rural commercial uses.

The owners of the Pine Forest commercial center sought approval of a post-acknowledgment plan amendment in 2006. The amendment was sought to confirm their right to continue to operate the commercial center as it has been operated since 1970. The center was recognized because it is small and rural in character and would qualify for a goal exception as the land is physically developed with a rural commercial use and is needed for infrastructure to support the existing commercial use.

3. Rural Commercial

The Deschutes Junction Rural Commercial boundary includes 1.77 acres, bounded by Tumalo Road on the South, Highway on the East, with the remainder surrounded by agricultural lands (EFU).

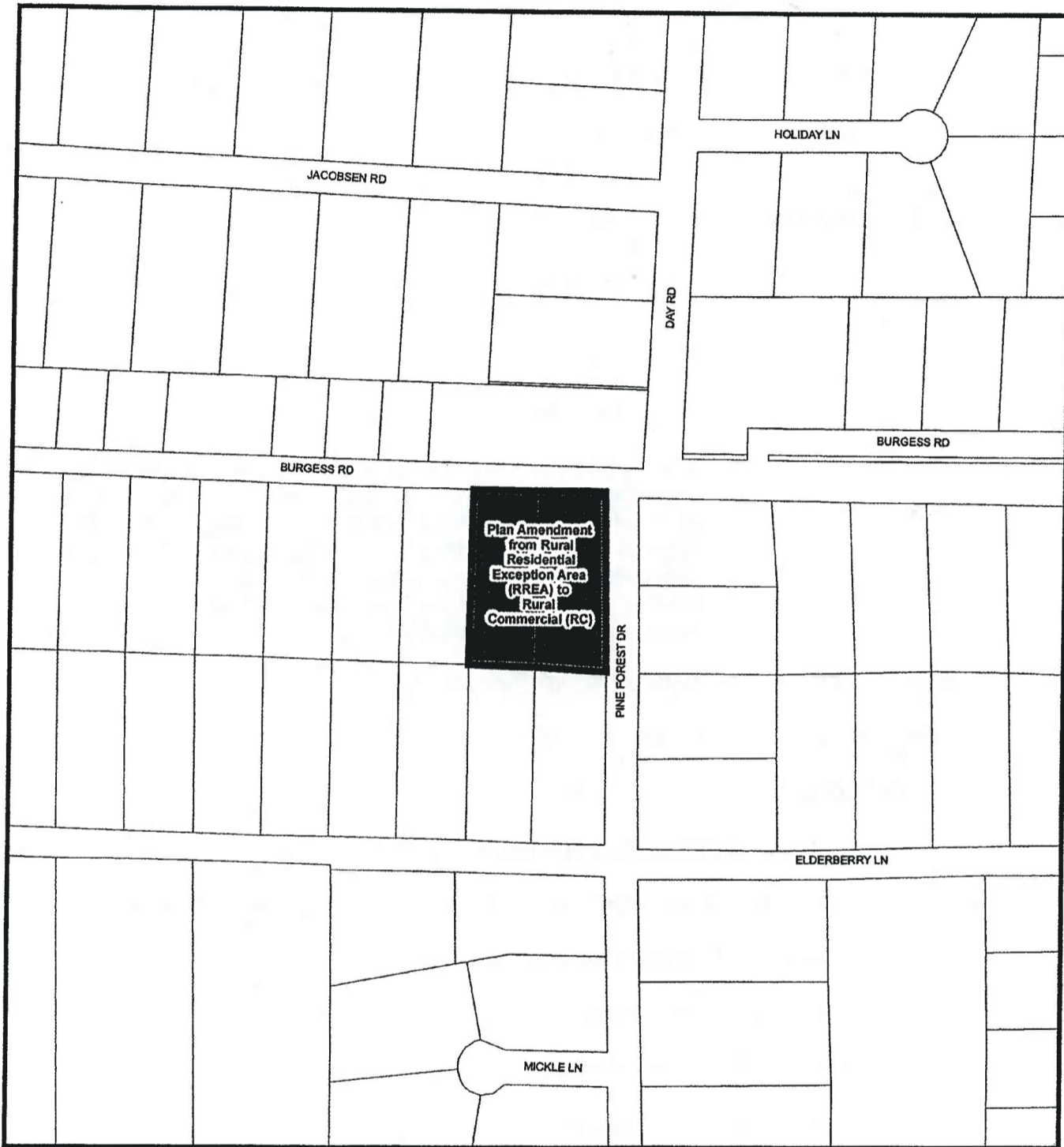
The Deschutes River Woods Store Rural Commercial boundary includes 4.99 acres bounded by Baker Road on the North, Highway 97 on the East, railroad tracks and Cheyenne Road on the West and

11. Residential and commercial uses shall be served by on site wells or public water systems.
12. Community sewer systems, motels, hotels and industrial uses shall not be allowed.
13. Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted.





(Ord. 2007-006 § 1, 2007; Ord. 2003-079§ 1, 2003; Ord. 2002-018 § 2, 2002; Ord. 2002-005 § 1, 2002; Ord. 2000-017 § 1, 2000; Ord. 96-045, 1996)

23.40.080. Maps.

(Ord. 2007-006 § 1, 2007; Ord. 2003-079, § 1, 2003; Ord. 2002-026, § 1, 2002; Ord. 2002-018, § X, 2002; Ord. 2002-001 § 4, 2002; Ord. 20001-047 § 2, 2001; Ord. 2000-017 § 1, 2000)



Legend

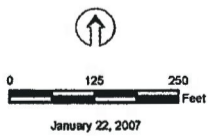
-  Proposed Comprehensive Plan Boundary
-  Comprehensive Plan Designations
-  Rural Commercial (RC)
-  Rural Residential Exception Area (RREA)



DISCLAIMER:
The information on this map was derived from digital databases on Deschutes County's GIS. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or outdated accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.
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**PROPOSED
COMPREHENSIVE PLAN MAP**

Exhibit "C"
to Ordinance 2007-006



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Michael M. Daly, Chair

Dennis R. Luke, Vice Chair

Tammy Baney, Commissioner

ATTEST: Recording Secretary

Dated this ____ day of February, 2007
Effective Date: May ____, 2007

Lots 100 and 200 on Deschutes County Assessor's Map 22-10-04A, and as Lots 9 and 10 of the Woodland Park Homesites Subdivision. The subject property has an assigned addresses of 52381 Pine Forest Drive (Tax Lot 100) and 15981 Burgess Road (Tax Lot 200), La Pine.

- B. Zoning and Plan Designation:** The subject property is zoned Rural Residential (RR-10) and designated Rural Residential Exception Area on the comprehensive plan map. The subject property also is zoned Landscape Management (LM) and Wildlife Area Overlay (WA) Zones.
- C. Site Description:** The subject property is rectangular in shape and bounded on the north by Burgess Road and on the east by Pine Forest Road. Tax Lot 200 is undeveloped. Tax Lot 100 is developed with a manufactured home, detached garage and 1,776-square-foot building hereafter referred to as the "commercial building." Access to the dwelling is from Pine Forest Drive and access to the commercial building is from Burgess Road. At the public hearing the applicant testified there currently are three access driveways off Burgess Road and three access driveways off Pine Forest Road, and that he intends to consolidate the driveways on each road and move them away from the intersection of Burgess Road and Pine Forest Road. The Deschutes County Assessor's records indicate the manufactured home a 1972 Guerdon/Van Dyke model. The county has no record of a placement permit for this manufactured home, although the staff report notes placement of this dwelling likely preceded any permit requirements. The county records show a 1988 building permit for the detached garage adjacent to the manufactured home. The record indicates the commercial building on Tax Lot 100 was built in 1970.
- D. Surrounding Zoning and Land Uses:** The subject property and surrounding property are part of the large La Pine rural exception area that was created in 1979 when the county adopted its current comprehensive plan. The exception area is zoned RR-10. Most surrounding properties are developed with single-family dwellings on large lots. However, the property to the north across Burgess Road is developed with a fire station owned and operated by the La Pine Rural Fire Protection District. Approximately two miles east of the subject property is the Wickiup Junction Planning Area on U.S. Highway 97 that includes a variety of commercial uses on both sides of the highway and Burgess Road.
- E. Procedural History:** The applicant purchased the subject property in 1994. In 2000 the county approved the applicant's request for a verification of nonconforming use for the existing commercial development on Tax Lot 100, consisting of a retail sales/rental business and/or a commercial, professional or non-profit office in the existing commercial building (NUV-00-1). The approval identified the following uses in the commercial building from 1970 through 2000:
- La Pine Tool Rental (1970-1986)
 - Pop and Produce Store (1982-1982)
 - Scovill Construction Office (1981-1983)
 - John's Video (1989-1993)

a. **Section 23.40.060. Rural Commercial – Deschutes Junction, Deschutes River Woods Store and Spring River**

A. **Introduction**

* * *

The rural uses and services are limited in size and scope and are intended to serve the immediate rural areas and travelers passing through the area. The plan policies and zoning standards restrict new commercial uses to those that are less intensive than those authorized in other types of unincorporated communities. The uses and densities are limited by the zoning, thereby maintaining these areas as rural lands.

FINDINGS: As discussed above, the subject property consists of two subdivision lots totaling approximately 1.97 acres. The property currently is developed with a 1,776-square-foot commercial building that has been used continuously since 1970 for a variety of commercial uses and which the applicant proposes to convert to a small convenience store. The Hearings Officer finds the relatively small size of the subject property and the existing commercial building will assure that development of the subject property under a rural commercial plan designation will be consistent with the plan provisions concerning rural commercial areas and their limited size and development intensity.

C. **Policies**

1. **Land use regulations shall ensure that the uses allowed are less intensive than those allowed for [in un]incorporated communities in OAR 660, Division 22 or any successor.**

FINDINGS: The applicant has proposed that commercial development of the subject property under the proposed a rural commercial area plan designation be subject to the same zoning restrictions as are applied to the Rosland Rural Commercial Zone also located in the La Pine area. The applicant has proposed zoning regulations that specifically limit the size of commercial buildings and size and intensity of uses in the same manner as in other RC-zoned areas. For these reasons, the Hearings Officer finds the applicant's proposal is consistent with this plan policy.

2. **Rural Commercial zoning shall be applied to Deschutes Junction, Deschutes River Woods Store, Rosland and Spring River.**

FINDINGS: As discussed above, the applicant has proposed to amend this provision to include the new Pine Forest Rural Commercial Zone.

assumed to be ten percent (10%) of the average daily traffic amount, then further adjusted to reflect a desirable flow rate. For a ten-percent (10%) peak hour flow ("K" factor), the corresponding ADT and LOS are identified in Table 2.

Table 2, labeled "Maximum Average Daily Traffic Allowed for Various Levels of Service," states that 9,600 ADTs (and 960 p.m. peak hour trips – i.e., between 4:00 and 6:00 p.m. weekdays) constitutes LOS D.

As discussed in detail in the findings below concerning compliance with the Transportation Planning Rule (TPR), the applicant submitted a traffic impact analysis (hereafter "traffic study") dated June 27, 2006 and prepared by Ferguson & Associates, Inc. This study is included in the record as Exhibit "J" to the applicant's burden of proof. The traffic study predicts commercial development of the subject property under the proposed rural commercial designation and zoning would result in an increase of 154 ADTs and 16 p.m. peak hour trips over current traffic, and concludes that this minimal traffic increase will not reduce the performance of either Burgess Road and Pine Forest Drive below LOS D, consistent with these plan policies.

In its comments on the applicant's proposal, the road department expressed concern about the current configuration of the intersection of Burgess Road, Day Road and Pine Forest Road. As shown on the aerial photographs of the subject property and vicinity included in the record, the centerlines of Day Road and Pine Forest Road do not align across Burgess Road. The centerline of Pine Forest Road is located approximately 30 feet west of the centerline of Day Road. As a result there is the potential for conflicting left turns and eventual left-turn lanes. However, it appears this configuration has existed all of the time the subject property has been developed with commercial uses. The road department commented that "the county has plans to align these roads," and that the subject property will not negatively impacted by the realignment since it will need to occur at either the northwest or southeast corner of the intersection, there appears to be sufficient undeveloped land to provide the right-of-way necessary for the realignment, and in any event any impacts to the subject property (such as additional right-of-way for turn lanes) would occur only at the time of site plan review for a new commercial use under the RC zoning.

For the foregoing reasons, the Hearings Officer finds the proposed plan amendment is consistent with this plan policy.

2. Chapter 23.68, Public Facilities

a. Section 23.68.020, Policies

- 1. Public facilities and services shall be provided at levels and in areas appropriate for such uses based upon the carrying capacity of the land, air and water, as well as the important distinction that must be made between urban and rural services. In this way public services may guide development while remaining in concert with the public's needs.**

Goal 3, Agricultural Lands and Goal 4, Forest Lands. The Hearings Officer finds these goals do not apply to the applicant's proposed plan amendment because the subject property is located within a rural exception area and is not designated or zoned for agriculture or forest use.

Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources. The Hearings Officer finds this goal is not applicable to the applicant's proposed plan amendment because the subject property does not include any inventoried Goal 5 resources.

Goal 6, Air, Water and Land Resources Quality. The Hearings Officer finds this goal requires that the county's zoning decisions not degrade air, water and land resources in applicable air sheds and river basins. I find approval of this zone change will not adversely affect natural resources as the subject property is already developed. I further find that the applicant's proposed RC plan designation and zoning may reduce air pollution by reducing vehicle trip lengths through local commercial development.

Goal 7, Areas Subject to Natural Disasters and Hazards. The Hearings Officer finds this goal is not applicable to the proposed plan amendment because the subject property is not a known natural disaster or hazard area.

Goal 8, Recreational Needs. The Hearings Officer finds this goal is not applicable to the proposed plan amendment because the subject property is not identified or planned for recreational uses or for a destination resort.

Goal 9, Economic Development. The Hearings Officer finds the proposed plan amendment is consistent with this goal because it and the related zone change would allow the subject property to continue in commercial use and to be developed with a small grocery store, thereby stimulating and supporting economic development.

Goal 10, Housing. The Hearings Officer finds this goal is not applicable to the proposed plan amendment because the existing dwelling will remain on the subject property, and the proposed RC plan designation and zoning will reflect the historic commercial use on the property.

Goal 11, Public Facilities and Services. This goal requires the county to plan and develop land in a timely, orderly and efficient fashion, based upon the availability of public services. As discussed in the findings below, the Hearings Officer has found all needed public facilities and services are available to and currently serve the subject property. Therefore, I find the proposed plan amendment is consistent with this goal.

Goal 12, Transportation. As discussed in the findings above, incorporated by reference herein, the Hearings Officer has found the proposed plan amendment is consistent with and satisfies the requirements of the TPR which implements this goal.

Goal 13, Energy. The Hearings Officer finds this goal requires that land uses be developed and managed so as to maximize the conservation of all forms of energy, based upon sound economic principles. I find the proposed plan amendment may reduce the number of vehicle trips and trip lengths because it will allow development of commercial uses serving residents of the surrounding

Deschutes County's first zoning ordinance was PL-5. It was first applied to lands in the unincorporated areas of Deschutes County by Order of the Board of County Commissioners. The Order was adopted on November 15, 1972 and adopted zoning map ZM #1. The Order is recorded in Volume 16, page 228 of the County Clerk's records. The Order did not contain an emergency clause. Therefore, the Order was effective 90 days after adoption on or about February 13, 1973.

ZM #1 applied A-1 agricultural zoning to almost all unincorporated areas of the County. This action was taken to forestall development until appropriate zoning maps could be prepared and adopted. The zone applied a five-acre minimum lot size to A-1 properties.

On June 6, 1973, Deschutes County held a public hearing and adopted two zoning maps for the La Pine area by Order of the Board of Commissioners, submitted as Exhibit E of this application. The La Pine area zoning maps were numbered ZM-5 and ZM-6. The maps imposed zoning districts that were then found in County Zoning Ordinance PL-5. The zoning district applied to the subject properties was RR-1. This was a rural residential zoning district.

The original ZM-5 and ZM-6 zoning maps, like all other 1972/1973 zoning maps, were not signed by the County Board of Commissioners. In 1979, the County adopted an order to authorize the signature of the ZM-2 – 10 zoning maps 'nunc pro tunc' with an effective date of June 6, 1973. A copy of the 1979 Order was submitted as Exhibit F of this application.

On November 1, 1979, the County adopted PL-15 and its companion zoning map. That map applied RR-10 zoning to the subject property. This zoning also does not allow commercial uses but is a zone that required approval of a goal exception to Goals 3 or 4. Subsequently, Deschutes County adopted zoning maps of rural exceptions areas to clarify areas approved as rural residential exceptions area. The current comprehensive plan map shows the plan designation of the subject property as rural residential, demonstrating that it is a part of the La Pine rural residential exceptions area." (Bold text in original.)

The staff report states, and the Hearings Officer concurs, that this history demonstrates the subject property was lawfully developed as a rural commercial area prior to the implementation of county zoning that prohibited commercial development, and a mistake in zoning the subject property occurred when the property was first zoned for rural residential use.

2. Change of Circumstances. Because the Hearings Officer has found the original RR-10 zoning of the subject property was a mistake, the applicant is not required to demonstrate the proposed zone change also is justified by a change of circumstances. Nevertheless, the applicant argues the following changes of circumstance since the subject property originally was zoned RR-10 justify the proposed zone change:

- a dramatic increase in population in the surrounding La Pine exception area;

5. Zoning in the area shall ensure that the uses allowed are rural as required by Goal 14, Urbanization, and less intensive than those allowed for unincorporated communities as defined in OAR 660-022. New commercial uses shall be limited to those that are intended to serve the surrounding rural area or the travel needs of people passing through the area.
 6. New commercial uses shall be limited in size to 2500 square feet, or 3500 square feet, if for an agricultural or forest-related use.
 7. A lawful use existing on or before November 5, 2002, not otherwise allowed in a Rural Commercial zone, may continue to exist subject to the county's nonconforming use regulations.
 8. An existing lawful use may expand up to 25 percent of the total floor area existing on November 5, 2002.
 9. The Rural Commercial zoning regulations shall allow a mixed use of residential or rural commercial uses.
 10. Residential and commercial uses shall be served by DEQ approved on-site sewage disposal systems.
 11. Residential and commercial uses shall be served by on site wells or public water systems.
 12. Community sewer systems, motels, hotels and industrial uses shall not be allowed.
 13. Recreational vehicle or trailer parks and other uses catering to travelers shall be permitted."
8. Amend Section 23.40.070, Rural Industrial, to include a map that shows the boundaries of the Pine Forest Rural Commercial zoning district and that designates the area "Rural Commercial" as shown in the map included in the record as Exhibit I to the applicant's burden of proof.

AND

- **APPROVE** the following amendments to text of Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance (new text in **bold type**; deleted text in ~~strikethrough~~):
9. Amend Chapter 18.74 of the by revising the chapter index as follows:
- "Section 18.74.010, Purpose.

EXHIBIT "A"

Chapter 18.74. Rural Commercial Zone

18.74.010. Purpose.

18.74.020. Uses permitted – Deschutes Junction and Deschutes River Woods Store.

18.74.025. Uses permitted – Spring River.

18.74.027. Uses permitted – Pine Forest and Rosland.

18.74.030. Development standards.

18.74.010. Purpose.

The purpose of this chapter is to establish standards and review procedures for development in the Rural Commercial Zone. The Rural Commercial (RC) zone provisions implement the comprehensive plan policies for rural commercial development and associated uses outside of unincorporated communities and urban growth boundaries. (Ord. 2003-080 § 1, 2003, Ord. 2002-019 § 2, 2002)

18.74.020. Uses permitted.

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright and do not require site plan review:

1. Single-family dwelling.
2. Manufactured home subject to DCC 18.116.070.
3. Two-family dwelling.
4. Type 1 Home Occupation, subject to DCC 18.116.280.
5. Agricultural uses.
6. Class I and II road or street project subject to approval as part of a land partition or subdivision, or subject to the standards and criteria established in DCC 18.116.230.
7. Class III road or street project.
8. A lawfully established use existing as of 11/05/02, the date this chapter was adopted, not otherwise permitted by this chapter.

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.128:

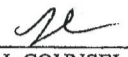
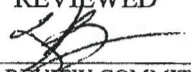
1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses.
 - a. Restaurant, café or delicatessen.
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- d. Retail sporting goods and guide services.
 - e. Barber and beauty shop.
 - f. General store.
 - g. Video store.
 - h. Antique, art, craft, novelty and second hand sales if conducted completely within an enclosed building.
2. Expansion of a nonconforming use listed under section B(1)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
 3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
 - a. Retail sales of agricultural or farm products.
 - b. Farm machinery sales and repair.
 - c. Kennel.
 - d. Veterinary clinic.
 - e. Automobile service station and repair garage, towing service, fuel storage and sales.
 - f. Public or semi-public use.
 - g. Residential use in the same building as a use permitted by this chapter.
 - h. Park or playground.
 4. Expansion of a nonconforming use listed under section B(3)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 3,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:
1. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
 - a. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 - b. Utility facility.
 - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

EXHIBIT "A"

J. Signs. All signs shall be constructed in accordance with DCC 15.08, Signs.
(Ord. 2006-008 § 7, 2006; Ord. 2003-080 § 1, 2003, Ord. 2002-019 § 2, 2002)

18.74.050. Maps.
(Ord. 2002-019 § 2, 2002)
(Ord. 2003-080 § 1, 2003)
(Ord. 2007-007 § 1, 2007)

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 18, of the Deschutes County Code Regarding Rural Commercial Zoning and Declaring an Emergency. *
*
*
ORDINANCE NO. 2007-007

WHEREAS, Terry L. Mowry filed an application with the Deschutes County Planning Division that proposes text amendments to Title 18, the Deschutes County Zoning Ordinance, to the Rural Commercial (RC) Zone chapter, and

WHEREAS, the Deschutes County Hearings Officer held a duly noticed public hearing on October 3, 2006, and recommended to the Board of County Commissioners ("Board") the proposed changes to Title 18 as described in Exhibit "A"; now therefore,

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

Section 1. AMENDMENT. DCC 18.74, Rural Commercial zone 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 ~~strike through~~.

Section 2. AMENDMENT. DCC Title 18, the Deschutes County Zoning Map is hereby amended to change the zoning designation for certain property described in Exhibit "B" and depicted on the map set forth in Exhibit "C," and by this reference incorporated herein, from Rural Residential to Rural Commercial – Pine Forest.

Section 3. FINDINGS. The Board adopts the Hearings Officer's decision adopted as Exhibit "D" to Ordinance 2007-006, and incorporated herein by this reference, as its findings to support this Ordinance.

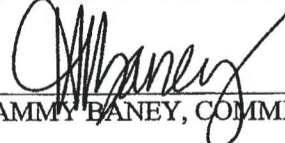
Section 4. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Dated this 5th of March, 2007

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

- absent -
MICHAEL M. DALY, CHAIR


DENNIS R. LUKE, VICE CHAIR


TAMMY BANEY, COMMISSIONER

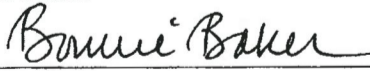
ATTEST:

Recording Secretary

EXHIBIT "A"

Chapter 18.74. Rural Commercial Zone

18.74.010. Purpose.

18.74.020. Uses permitted – Deschutes Junction and Deschutes River Woods Store.

18.74.025. Uses permitted – Spring River.

18.74.027. Uses permitted – Pine Forest and Rosland.

18.74.030. Development standards.

18.74.010. Purpose.

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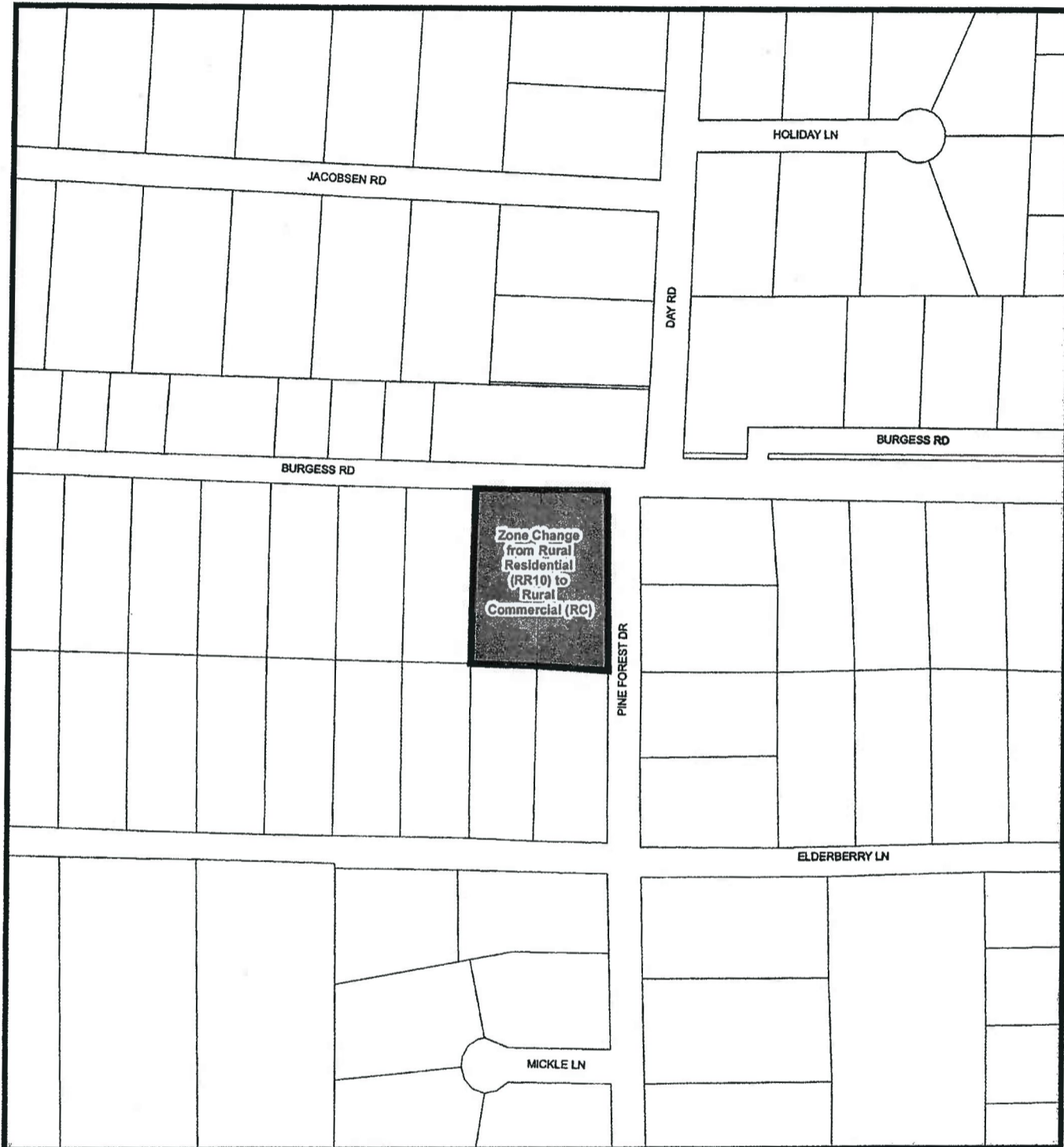
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18.74.050. Maps.
(Ord. 2002-019 § 2, 2002)
(Ord. 2003-080 § 1, 2003)
(Ord. 2007-0067 § 1, 2007)

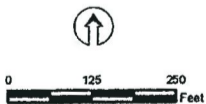


- Legend**
-  Proposed Zone Change Boundary
 - County Zoning**
 -  Rural Commercial (RC)
 -  Rural Residential (RR10)

PROPOSED ZONING MAP

Pine Forest Rural Commercial Zoning Map

Exhibit "C"
to Ordinance 2007-007



February 01, 2007

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Michael M. Daly, Chair

Dennis R. Luke, Vice Chair

Tammy Baney, Commissioner

ATTEST: Recording Secretary

Dated this ____ day of February, 2007
Effective Date: May ____, 2007

DISCLAIMER:
The information on this map was derived from digital databases on Deschutes County's O.L.S. County maps in the possession of the county and is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, when purveying this product. However, resolution of any errors will be appreciated.
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