



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## **NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION**

Date: 09/08/2014  
Jurisdiction: Deschutes County  
Local file no.: PA-14-1 & ZC-14-1  
DLCD file no.: 004-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/05/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 43 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

<b>FOR DLCD USE</b>
File No.: 004-14 {19893}
Received: 9/5/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Deschutes County

Local file no.: **PA-14-1 and ZC-14-1**

Date of adoption: 08/27/2014      Date sent: 9/5/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 03/10/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change?      Yes      No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Cynthia Smidt, Associate Planner

Phone: 541-317-3150

E-mail: Cynthia.Smidt@deschutes.org

Street address: PO Box 6005, 117 NW Lafayette Ave

City: Bend

Zip: 97708-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Amend: Deschutes County Code, Title 23, Section 23.01.010

Amend: Deschutes County Comprehensive Plan, Section 5.10, Goal Exception Statements, and 5.12, Legislative History,

Amend: Deschutes County Comprehensive Plan Map to change plan designation

Adopt: Reasons Exception to Goal 4

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from Sunriver Forest      to Sunriver Utility      4.28 acres.      A goal exception was required for this change.

Change from      to      acres.      A goal exception was required for this change.

Change from      to      acres.      A goal exception was required for this change.

Change from \_\_\_\_\_ to \_\_\_\_\_ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 19, 11, 00 (33), 102 and 18305 Cottonwood Rd, Sunriver

The subject property is entirely within an urban growth boundary *No*

The subject property is partially within an urban growth boundary *No*

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Amend: Deschutes County Code, Title 18, Zoning Ordinance

Add: Deschutes County Code, Section 18.108.175, Utility – U / Limited Use Combining District

Amend: Deschutes County Zoning Map to change zone designation

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from Sunriver Forest to Sunriver Utility Acres: 4.28 acres

Change from \_\_\_\_\_ to \_\_\_\_\_ Acres:

Change from \_\_\_\_\_ to \_\_\_\_\_ Acres:

Change from \_\_\_\_\_ to \_\_\_\_\_ Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

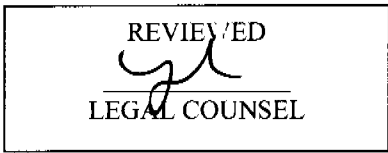
Overlay zone designation: Limited Use (LU) Acres added: 4.28 acres Acres removed:

Location of affected property (T, R, Sec., TL and address): 19, 11, 00 (33), 102 and 18305 Cottonwood Rd, Sunriver

List affected state or federal agencies, local governments and special districts: Sunriver Service District, Sunriver Owners' Association, Sunriver Resort, and Sunriver Utilities

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Deschutes County Ordinance Nos. 2014-021 and 2014-022 including exhibits



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code, \*  
Title 23, and Amending Deschutes County \* ORDINANCE NO. 2014-021  
Comprehensive Plan, Sections 5.10 and 5.12, to \*  
Adopt an Exception to Goal 4 and To Change the \*  
Plan Designation for Certain Property From Sunriver \*  
Urban Unincorporated Community Forest to Sunriver \*  
Urban Unincorporated Community Utility \*

WHEREAS, Sunriver Service District proposed a "reasons" exception to Goal 4 and a Plan Amendment to Deschutes County Code ("DCC"), Section 23.01.010, Introduction, and Deschutes County Comprehensive Plan, Section 5.10, Goal Exception Statements, and Section 5.12, Legislative History, to change the comprehensive plan designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on April 22, 2014 before the Deschutes County Hearings Officer, and on June 13, 2014 the Hearings Officer recommended approval of the exception to Goal 4 and a Plan Amendment; and

WHEREAS, after notice was give in accordance with applicable law, a de novo public hearing was held on August 13, 2014 before the Board of County Commissioners ("Board"), and

WHEREAS, the Board, after review conducted in accordance with applicable law, approved the goal exception to Goal 4 to change the comprehensive plan designation from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility; now, therefore,

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

Section 1. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "A", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC Section 5.10, Goal Exception Statements, is amended to read as described in Exhibit "B", attached and incorporated by reference herein with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. AMENDMENT. DCC Section 5.12, Legislative History, is amended to read as described in Exhibit "C", attached and incorporated by reference herein with new language underlined and deleted language set forth in ~~strikethrough~~.


///

Section 4. AMENDMENT. The Deschutes County Comprehensive Plan Map is amended to change the plan designation for certain property described in Exhibit "D" and depicted on the map set forth as Exhibit "E", with both exhibits attached and incorporated by reference herein, from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility.

Section 5. FINDINGS. The Board adopts as its findings in support of this decision Exhibit "F," attached and incorporated by reference herein.

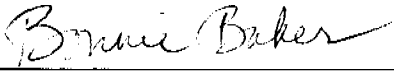
Dated this 27<sup>th</sup> of August, 2014

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
TAMMY BANEY, Chair

  
ANTHONY DEBONE, Vice Chair

ATTEST:

  
Recording Secretary

  
ALAN UNGER, Commissioner

Date of 1<sup>st</sup> Reading: 13<sup>th</sup> day of August, 2014.

Date of 2<sup>nd</sup> Reading: 27<sup>th</sup> day of August, 2014.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony DeBone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 26<sup>th</sup> day of November, 2014.

## 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 amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.

(Ord. 2014-021 §1, 2014; Ord. 2014-12 §1, 2014; Ord. 2014-006 §2, 2014; Ord. 2014-005 §2, 2014; Ord. 2013-012 §2, 2013; Ord. 2013-009 §2, 2013; Ord. 2013-007 §1, 2013; Ord. 2013-002 §1, 2013; Ord. 2013-001 §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. 2011-017 repealed; Ord. 2011-003 §3, 2011)

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

# Section 5.10 Goal Exception Statements

---

## Background

The purpose of this section is to identify the lands where Deschutes County demonstrated an exception to meeting the requirements of the Statewide Planning Goals. The intent of goal exceptions is to allow some flexibility in rural areas under strictly defined circumstances. Goal exceptions are defined and regulated by Statewide Planning Goal 2 and Oregon Administrative Rule 660-004 (excerpt below).

*660-004-0000(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met.*

## Statewide Planning Goals with Deschutes County Exceptions

- Goal 3 Agricultural Lands
- Goal 4 Forest Lands
- Goal 11 Public Facilities and Services
- Goal 14 Urbanization

Three types of exceptions are permitted by Oregon Administrative Rule 660-004

- Irrevocably committed
- Physically developed
- Reasons

The summary below identifies approved goal exceptions and identifies the adopting ordinance for those interested in further information. The ordinances listed are incorporated by reference into this Plan.

## 1979 Exceptions

### *Comprehensive Plan entire County – PL 20 - 1979*

During the preparation of the 1979 Comprehensive Plan it was apparent that many rural lands had already received substantial development and were committed to non-resource uses. Areas were examined and identified where Goal 3 and 4 exceptions were taken. At this time exceptions to Goals 11 and 14 were not required.

The total area excepted was 41,556 acres. These lands were residentially developed, committed to development or needed for rural service centers.

## Additional Exceptions

### *Bend Municipal Airport – Ordinances 80-203, 1980 and 80-222, 1980*

The Bend Municipal Airport received an exception to Goal 3 to allow for the necessary and expected use of airport property.

### *La Pine UUC Boundary – Ordinance 98-001, 1998*

Exceptions to Goals 3, 11 and 14 were taken to allow lands to be included in the La Pine UUC boundary and planned and zoned for commercial use.

*Spring River Rural Service Center – Ordinances 90-009, 1990; 90-010, 1990; 96-022, 1996; 96-045,, 1996*

A reasons exception was taken to Goal 14 to allow the establishment of the Spring River Rural Service Center on residentially designated lands.

*Burgess Road and Highway 97 – Ordinance 97-060, 1997*

An exception was taken to Goal 4 to allow for road improvements.

*Rural Industrial Zone – Ordinances 2010-030, 2010; 2009-007, 2009*

Two separate ordinances for rural industrial uses. The 2009 exception included an irrevocably committed exception to Goal 3 and a reasons exception to Goal 14 with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals. The 2010 exception took a reasons exception to Goal 14 with a Limited Use Combining Zone for storage, crushing, processing, sale and distribution of minerals.

*Prineville Railway – Ordinance 98-017*

An exception was taken to Goal 3 to accommodate the relocation of the Redmond Railway Depot and the use of the site for an historic structure to be utilized in conjunction with the Crooked River Dinner Train operations.

*Resort Communities – Ordinance 2001-047, 2001*

An exception was taken to Goal 4 for Black Butte Ranch and Inn of the 7<sup>th</sup> Mountain/Widgi Creek during the designation of those communities as Resort Communities under OAR 660-22.

*Barclay Meadows Business Park – Ordinance 2003-11, 2003*

A reasons exception was taken to Goal 3 to include certain property within the Sisters Urban Growth Boundary.

*Sisters School District # 6 – Ordinance 2003-11, 2003*

A reasons exception was taken to Goal 3 to include certain property within the Sisters Urban Growth Boundary.

*Sisters Organization of Activities and Recreation and Sisters School District #6 – Ordinance 2003-017, 2003*

A reasons exception was taken to Goal 4 to include certain property within the Sisters Urban Growth Boundary.

*Oregon Water Wonderland Unit 2 Sewer District – Ordinances 2010-015, 2010; 2003-015, 2003*

A reasons exception was taken to Goals 4 and 11 to allow uses approved by the Board of County Commissioners in PA-02-5 and ZC-02-3 as amended by PA-09-4.

*City of Bend Urban Growth Boundary Amendment (Juniper Ridge) – Ordinance 97-060, 1997*

An exception was taken to Goal 3 to allow an amendment of the Bend Urban Growth Boundary to incorporate 513 acres for industrial uses.

*Joyce Coats Revocable Trust Johnson Road and Tumalo Reservoir Road Properties – Ordinance 2005-015, 2005*

An irrevocably committed exception was taken to Goal 3 to allow a change of comprehensive plan designation from Surface Mining to Rural Residential Exception Area and zoning from Surface Mining to Multiple Use Agriculture for Surface Mine Sites 306 and 307.



*Watson/Generation Development inc – Ordinance 2005-015*

An exception was taken to Goal 3 to include a portion of agricultural property.

*Oregon Department of Transportation – Ordinance 2005-019, 2005*

An exception was taken to Goal 3 to include a portion of agricultural property.

*Conklin/Eady Property – Ordinance 2005-035, 2005*

An exception was taken to Goal 3 to include a portion of agricultural property.

*City of Sisters Property – Ordinance 2005-037, 2005*

An exception was taken to Goal 4 to include a portion of forest property.

*McKenzie Meadows Property – Ordinance 2005-039, 2005*

An exception was taken to Goal 4 to include a portion of forest property.

*Bend Metro Park and Recreation District Properties – Ordinance 2006-025*

A reasons exception was taken to Goal 3 to include a portion of agricultural property.

*Harris and Nancy Kimble Property and Portion of CLR, Inc Property A.K.A. the Klippel Pit Property – Ordinance 2008-001, 2008*

An irrevocably committed exception was taken to Goal 3 to allow reclassification and zoning from Surface Mine to Rural Residential Exception Area and Rural Residential 10 acre for Surface Mine Site 294.

*Sunriver Service District, Sunriver Fire Department – Ordinance 2014-021, 2014*

A reasons exception was taken to Goal 4 to include a portion of forest property. To ensure that the uses in the Sunriver Utility District Zone on the approximate 4.28 acre site of Tax Lot 102 on Deschutes County Assessor's Map 19-11-00 are limited in nature and scope to those justifying the exception to Goal 4 for the site, the Sunriver Forest (SUF) zoning on the subject site shall be subject to a Limited Use Combining Zone, which will limit the uses on the subject site to a fire training facility and access road for the Sunriver Service District and Sunriver Fire Department.

## Section 5.12 Legislative History

### Background

This section contains the legislative history of this Comprehensive Plan.

**Table 5.11.1 Comprehensive Plan Ordinance History**

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

<b><u>Ordinance</u></b>	<b><u>Date Adopted/ Effective</u></b>	<b><u>Chapter/Section</u></b>	<b><u>Amendment</u></b>
2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
<u>2014-021</u>	<u>8-X-14/11-X-14</u>	<u>23.01.010, 5.10</u>	<u>Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility</u>

## LEGAL DESCRIPTION

A Fire Training Facility Site located in the Southwest One-Quarter of the Southeast One-Quarter (SW 1/4 SE 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said site being more particularly described as follows:

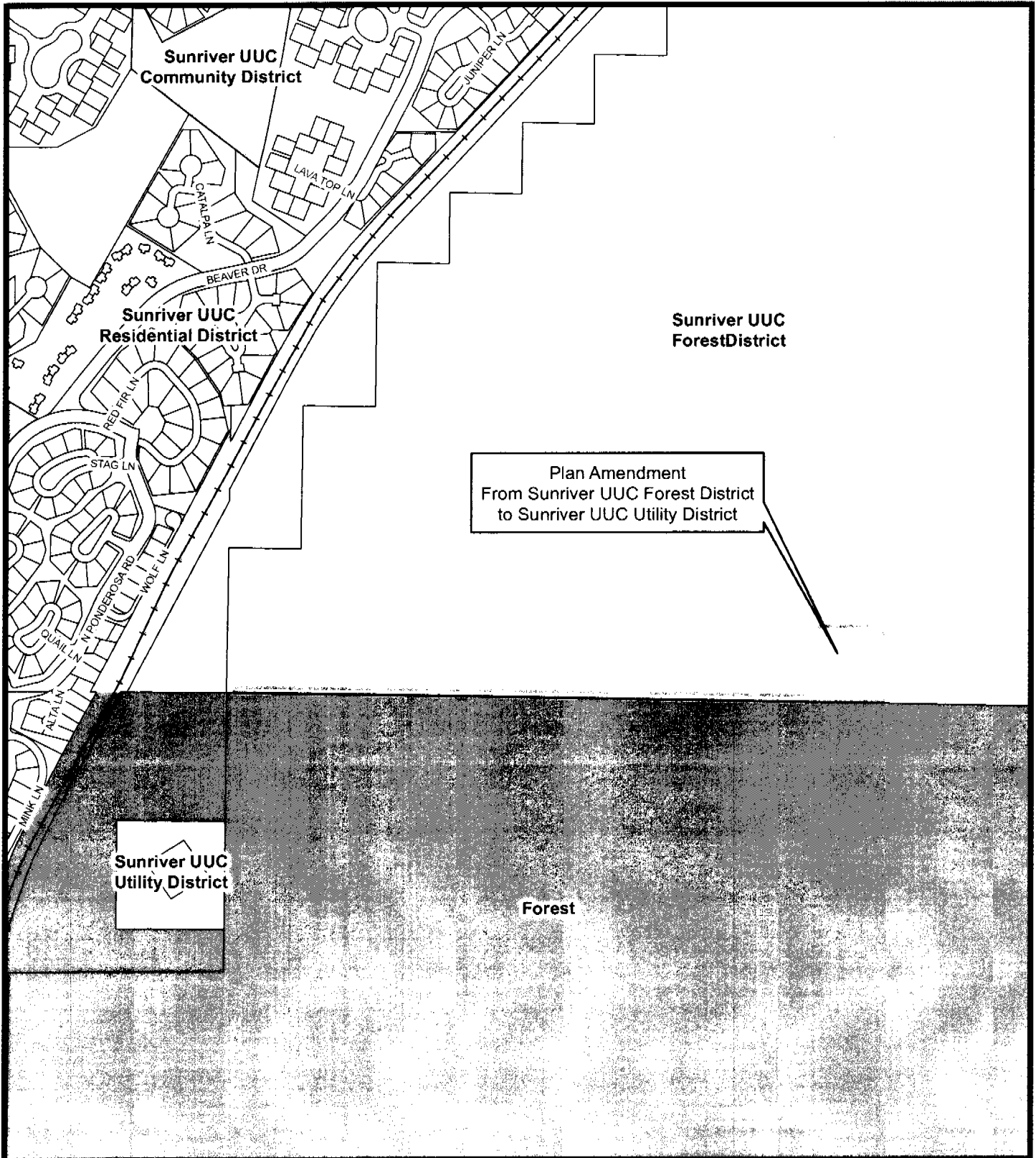
Commencing at the South One-Quarter (1/4) corner of said Section 33, thence along the South line of said Section 33 East 60.00 feet to the TRUE POINT OF BEGINNING; thence leaving said South line on a line perpendicular to said South line North 350.00 feet; thence on a line parallel to and 350.00 feet from said South line East 300.00 feet; thence on a line perpendicular to said South line South 350.00 feet to a point on the South line of said Section 33; thence along said South line West 300.00 feet to the TRUE POINT OF BEGINNING, containing 2.41 acres, more or less.

TOGETHER WITH a 30.00 foot wide Access Corridor located in the Southwest One-Quarter of the Southeast One-Quarter (SW 1/4 SE 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said Access Easement being more particularly described as follows:

Beginning at the South One-Quarter (1/4) corner of said Section 33, said point being the TRUE POINT OF BEGINNING of said Access Easement; thence leaving the South line of said Section 33 along the North-South center section line of said Section 33 30.00 feet, more or less, to a point on a line parallel to and 30.00 feet from the South line of said Section 33; thence on said line that is parallel to and 30.00 feet from said South line East 60.00 feet, more or less, to a point that lies on a line perpendicular to said South section line and 60.00 feet East from said South One-Quarter corner of Section 33 ; thence along said line perpendicular to said South line South 30.00 feet to a point on the South line of said Section 33; thence along said South line West 60.00 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH a 30.00 foot wide Access Corridor located in the Southwest One-Quarter (SW 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said Access Easement being more particularly described as follows:

The South 30.00 feet of said SW 1/4 of said Section 33, EXCEPTING THEREFROM the West 30.00 feet of said South 30.00 feet.



**Legend**

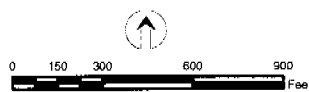
Subject Property

**Comprehensive Plan Designation**

- Forest
- Sunriver UUC Forest District
- Sunriver UUC Residential District
- Sunriver UUC Utility District
- Sunriver UUC Community District

**COMPREHENSIVE PLAN MAP**

Exhibit "E"  
to Ordinance 2014-021



August 12, 2014

BOARD OF COUNTY COMMISSIONERS  
OF DEWHEES COUNTY, OREGON

Tammy Baney, Chair  
Anthony DeBone, Vice Chair  
Alan Unger, Commissioner

ATTEST: Recording Secretary

Dated this 27<sup>th</sup> day of Aug 2014  
Effective Date: 8/27/2014

**DECISION OF DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** PA-14-1, ZC-14-1

**APPLICANT:** Sunriver Service District  
P.O. Box 3609  
Sunriver, Oregon 97707

**PROPERTY OWNER:** Sunriver Environmental, LLC  
Post Office Box 3609  
Sunriver, Oregon 97707

**APPLICANT'S ATTORNEY:** Tia Lewis  
Schwabe, Williamson & Wyatt  
360 S.W. Bond Street, Suite 400  
Bend, Oregon 97702

**REQUEST:** The applicant requests approval of a plan amendment and zone change from Sunriver Urban Unincorporated Community Forest District (SUF) to Sunriver Urban Unincorporated Community Utility District (SUU), and an exception to Goal 4, Forest Lands, for a 4.28-acre site on the subject property. The proposal would facilitate development of the site with a fire training facility.

**STAFF REVIEWER:** Cynthia Smidt, Associate Planner

**HEARING DATE:** April 22, 2014

**RECORD CLOSED:** May 13, 2014

**I. APPLICABLE STANDARDS AND CRITERIA:**

**A. Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance**

- 1. Chapter 18.108, Urban Unincorporated Community Zone - Sunriver**
- 2. Chapter 18.80, Airport Safety Combining Zone**
- 3. Chapter 18.88, Wildlife Area Combining Zone**
- 4. Chapter 18.112, Limited Use Combining Zone**
  - \* Section 18.112.010, Purpose**
- 5. Chapter 18.136, Amendments**
  - \* Section 18.136.010, Amendments**
  - \* Section 18.136.020, Rezoning Standards**

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 1

- B. **Title 22 of the Deschutes County Code, the Development Procedures Ordinance**
  - 1. **Chapter 22.28. Land Use Action Decisions**
- C. **Deschutes County Comprehensive Plan**
  - 1. **Chapter 4, Urban Growth Management**
    - \* **Section 4.4, Sunriver**
- D. **Oregon Administrative Rules (OAR) Chapter 660**
  - 1. **Division 4, Interpretation of Goal 2 Exception Process**
    - \* **OAR 660-004-0018, Planning and Zoning for Exception Areas**
    - \* **OAR 660-004-0020, Goal 2, Part II(c), Exception Requirements**
    - \* **OAR 660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)**
  - 2. **Division 12, Transportation Planning**
    - \* **OAR 660-012-0060, Plan and Land Use Regulation Amendments**
  - 3. **Division 15, Statewide Planning Goals and Guidelines**
    - \* **OAR 660-015-0000, Statewide Planning Goals and Guidelines 1-14**
    - \* **OAR 660-015-0005, Statewide Planning Goals and Guidelines 15**
    - \* **OAR 660-015-0010, Statewide Planning Goals and Guidelines 16-19**

**II. FINDINGS OF FACT:**

- A. **Location:** The subject property has an assigned address of 18305 Cottonwood Road, Sunriver, and is further identified as Tax Lot 102 on Deschutes County Assessor's map 19-11-00. The property is located on the east side of the Sunriver resort community.
- B. **Zoning and Plan Designation:** The subject property is zoned Sunriver Urban Unincorporated Community Forest District (SUF). A small area in the northwest corner of the property is zoned Forest Use (F-1). The property also is located within the Wildlife Area (WA) and Airport Safety (AS) Combining Zones. The subject property is designated Urban Unincorporated Community-Forest on the Deschutes County Comprehensive Plan map.
- C. **Site Description:** The entire subject property is 332 acres in size and has relatively level topography. Vegetation consists of scattered lodgepole pine trees and native brush and grasses as well as irrigated fields on which sewage effluent has been applied. The property is developed with a sewage effluent storage pond and irrigation facility, wood and debris composting facility, accessory structures, access roads, parking areas, and a wireless telecommunications facility consisting of a 150-foot-tall lattice tower and ground equipment. Primary access to the subject property is from Cottonwood Road on the north. A gravel U.S. Forest Service (USFS) road known as Crawford Road provides access to the wireless telecommunications facility from South Century Drive.

The proposed 4.28-acre site for the fire training facility is located near the southeast corner of the subject property and will take access from the USFS road. The site is located adjacent to the southern property boundary and includes a 1.87-acre road easement and a 2.41-acre square area on which the fire training facility would be located. According to the Flood Insurance Rate Map (FIRM) for Deschutes County and the National Wetlands Inventory, respectively, the subject property is not located within the 100-year flood plain and contains no mapped wetlands.

- D. **Soils:** According to Soil Resource Inventory for the Deschutes National Forest, there are two soil units mapped on the subject property.

**Mapping Unit 64.** This soil type includes 70 percent or more of Landtype (or Unit) 64 soils and may have inclusions of Landtypes 14, 63, 64, 76, 6G, 6A, and 6B. Vegetation is composed ponderosa pine trees and native shrubs and grasses. According to the soils characteristics data for this mapping unit, the productivity is Site Class 5, which estimates a range of 56 to 65 cubic feet per acre per year of wood fiber.

**Mapping Unit 6J.** This soil type includes 70 percent or more of Landtype 6J soils and may have inclusions of Landtypes 15, 63, 64, and 41. Vegetation is composed primarily of ponderosa pine and lodgepole pine trees and native shrubs and grasses. According to the soils characteristics data for this mapping unit, the productivity is Site Class 5, which estimates a range of 56 to 65 cubic feet per acre per year of wood fiber.

- E. **Surrounding Zoning and Land Uses:** The area surrounding the subject property consists of large forest-zoned parcels in private and public ownership as well as the Sunriver resort zoned Urban Unincorporated Community (UUC). Adjacent to the subject property on the west is a long narrow parcel owned by Sunriver Environmental, LLC, which abuts the Great Northern Railroad (Burlington Northern-Santa Fe or BNSF) right-of-way. Farther west are residential properties within the Sunriver community. Cottonwood Road abuts the northern property boundary. Farther to the north as well as to the south and east are public forest lands managed by the USFS. Approximately 600 feet south of the subject property is land owned by Sunriver Water, LLC zoned Sunriver Utility District (SUU) and developed with three water reservoirs, small accessory structures, and a manufactured home.
- F. **Land Use History:** During the 1997 comprehensive plan update the county included the subject property within the boundaries of the Sunriver UUC for the storage and disposal of sewage effluent through ground application. The property subsequently received several land use approvals. On April 11, 2001, the county approved an accessory structure (AD-01-3). On December 9, 2002, the county approved a commercial composting facility (CU-02-98, SP-02-48). In February 2008, the county approved a wireless telecommunications facility (CU-06-101). However, the staff report states this approved facility was never established. In May of 2009, the county approved another wireless telecommunications facility that was constructed (CU-09-15).
- G. **Procedural History:** In July 2011 the applicant requested conditional use approval to establish a fire training facility on a lot zoned Rural Residential (RR-10) and located in the Deschutes River Recreation Homesites Subdivision (CU-11-24). The record indicates the applicant withdrew that application in December of 2011. The subject plan amendment, zone change and goal exception applications were submitted on February 20, 2014 and were accepted as complete on March 20, 2014. A public hearing on the



applications was held on April 22, 2014. At the hearing, the Hearings Officer received testimony and evidence, left the written evidentiary record open through May 13, 2014, and allowed the applicant through May 20, 2014 to submit final argument pursuant to ORS 197.763. The applicant submitted its final evidence and argument on May 6, 2014. The record closed on May 13, 2014. Because this request includes a plan amendment, the 150-day period for issuance of a final local land use decision under ORS 215.427 is not applicable.

- H. **Proposal:** The applicant requests approval of a plan amendment and zone change from SUF to SUU, and an exception to Goal 4, Forest Lands, for a 4.28-acre site on the subject property (hereafter "site"). The applicant intends to develop the site with a fire training facility for the Sunriver Fire Department. The applicant did submit a concurrent request for approval of the fire training facility. However, the applicant's burden of proof and supplemental materials describe the proposed use and facility as follows. The physical facility would consist of a prefabricated structure called a fire simulator comprised of a 21' by 14'6" one-story component and a 21' by 25'4" two-story component with features including windows, doors, a "live burn" room, a temperature monitoring system, interior stairs and an exterior ladder with a roof hatch. The facility would include a vehicle parking and maneuvering area around the structure and a larger surrounding area cleared of vegetation.

The facility would be used for routine weekly training drills and quarterly live fire training exercises, and structural search and rescue and vertical ventilation training. The routine training would occur between 9:00 a.m. and 5:00 p.m. and would last for no more than 3 hours. There would be 3-4 routine evening or night training drills per quarter concluding no later than 10:00 p.m. No more than two emergency and two utility vehicles would be located on the site at any one time. The training facility would not house staff offices. The training would allow fire department personnel to maintain required certifications.

- I. **Public/Private Agency Comments:** The Planning Division sent notice of the applicant's proposal to a number of public and private agencies and received responses from: the Deschutes County Senior Transportation Planner; and the Sunriver Owners Association. These comments are set forth verbatim at pages 3-4 of the staff report and are included in the record. The following agencies did not respond or had no comments: the Deschutes County Assessor and Road Department; the Oregon Departments of Fish and Wildlife (ODFW) and Land Conservation and Development (DLCD); and the Sunriver Fire Department, Sunriver Resort, and Sunriver Utilities.
- J. **Public Notice and Comments:** The Planning Division mailed individual written notice of the applicant's proposal and the public hearing to the owners of record of all property located within 750 feet of the subject property. In addition, notice of the public hearing was published in the Bend *Bulletin* newspaper, and the subject property was posted with a notice of proposed land use action sign. As of the date the record in this matter closed the county had received two letters from the public and one letter from the Sunriver Owners Association in response to these notices. No members of the public testified at the public hearing. Public comments are addressed in the findings below.
- K. **Lot of Record:** The staff report states the county recognizes the subject property as a legal lot of record based on previously issued land use approvals and building permits.

**III. CONCLUSIONS OF LAW:**

**GOAL EXCEPTION**

**A. Oregon Administrative Rules, Chapter 660**

**1. Division 4, Interpretation of Goal 2 Exception Process**

**a. OAR 660-004-0018, Planning and Zoning for Exception Areas**

**(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception...**

**\* \* \***

**(4) "Reasons" Exceptions:**

**(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.**

**(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.**

**(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.**

**FINDINGS:** The applicant requests approval of a "reasons" exception to Goal 4 to allow a change in the comprehensive plan designation and zoning of the 4.28-acre subject site from Sunriver Urban Unincorporated Community Forest (SUF) to Sunriver Urban Unincorporated Community Utility District (SUU). This rule limits any approved "reasons" exception to the uses, density, public facilities and services, and activities that are justified in the exception. As discussed in the findings below, such limitations are established through the adoption of a Limited Use (LU) Combining Zone.

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 5

The existing SUF Zone includes a tract of land approximately 366 acres in size located east of the BNSF railroad tracks and the Sunriver resort. This property originally was planned for forest uses and zoned F-1. However, in 1997 the Sunriver UUC boundary was expanded to include this land in order to provide a site for sewage effluent storage and disposal for the Sunriver resort (Ordinance 97-076). The county did not adopt an exception to Goal 4 for this amendment because the only uses proposed for the UUC expansion area were uses permitted in the SUF Zone. For this reason, the Hearings Officer finds Subsections (4)(b) and (c) of this rule do not apply as the original UUC amendment was not approved through a "reasons" exception.

**b. OAR 660-004-0020, Goal 2, Part II(c), Exception Requirements**

- (1) **If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.**

**FINDINGS:** As addressed in the findings below, incorporated by reference herein, the Hearings Officer has found the applicant's proposal satisfies the requirements for a "reasons" exception under OAR 660-04-0022. I also have found the justification for the exception will be included in the comprehensive plan.

- (2) **The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:**
  - (a) **"Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;**

**FINDINGS:**

**Basis for Determining State Policy Embodied in the Goals Should Not Apply.** The state policy embodied in Goal 4 is to conserve forest lands for forest use as well as to protect soil, air and water quality, fish and wildlife resources and recreational opportunities. The subject property was included in the Sunriver UUC boundary for the purpose of siting sewage effluent storage and disposal facilities for the Sunriver community. No exception to Goal 4 was taken, and no exception analysis was done, since these uses were permitted in the SUF Zone.

The applicant proposes to utilize the 4.28-acre subject site for a fire training facility, a use not permitted in the SUF Zone. Therefore, the applicant requests approval to re-designate and re-zone the site to SUU where the proposed fire training facility would be an allowed use. The applicant also proposes establishment of an LU Zone to limit uses on the subject site to a fire

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 6

training facility and an access road. The rest of the subject property would remain in its current SUF zoning and uses that are primarily utility uses – i.e., sewage effluent and disposal, wood and debris recycling, and a wireless telecommunications facility.

The proposed use for the subject site would be a fire training facility for the Sunriver Fire Department (hereafter “department” or “fire department”). The record indicates the department employs 11 career staff and up to 20 reserve firefighters. The department’s service area encompasses 322 square miles including the Sunriver UUC and surrounding areas through mutual aid agreements with the La Pine Rural Fire Protection District. The service area includes large forested areas as well as hundreds of rural residences. The applicant argues the proposed facility is necessary to provide a location for emergency personnel to practice firefighting techniques in a setting that is both close to the department’s office and primary service area and is far enough from residences to assure no risk of fire thereto. At the public hearing, the department’s chief Art Hatch testified the proposed training facility would be used for both structural and wildland firefighting training. Chief Hatch stated the proposed facility site is in an area already cleared of trees, is not utilized or planned for tree harvesting, and will be surrounded by land planned and used for sewage effluent storage and disposal.

The staff report states staff believes the applicant’s proposal is consistent with the policy embodied by Goal 4. However, the Hearings Officer finds that since the proposal would change the plan designation and zoning of the subject site to a non-resource designation and zone, it is not consistent with Goal 4. Nevertheless, I find the applicant has demonstrated the policy embodied in Goal 4 should not apply to the proposed site for several reasons. First, the site represents a very small portion of the subject property (approximately 1.2 percent). Second, the site is in an area that already has been cleared of trees and is not planned for timber harvesting. The record includes three aerial photographs of the subject property showing the amount of land cleared for sewage effluent storage and land application increased significantly from 2000 to 2012.<sup>1</sup> Finally, the subject property has been planned for, and largely converted to, non-resource uses.

**The Amount of Land Required for the Use Being Planned.** The 4.28-acre subject site consists of a 1.87-acre road easement that provides access road to the wireless telecommunications facility and a 2.41-acre square area on which the fire training facility would be located. The applicant’s burden of proof states the 2.41-acre area is the size needed to accommodate the fire training facility, associated vehicle parking and maneuvering areas, and an adequate buffer area around the structure that is cleared of vegetation.

**Why the Use Requires a Location on Resource Land.** The staff report states staff could not find that the applicant had adequately addressed this exception factor because the applicant had not submitted an alternative sites analysis. The applicant submitted such an analysis at and following the public hearing. As discussed in detail in the findings below, incorporated by reference herein, the Hearings Officer has found from the alternative sites analysis that the applicant has demonstrated the proposed use requires a location on resource land.

- (b) **“Areas that do not require a new exception cannot reasonably accommodate the use”. The exception must meet the following requirements:**

---

<sup>1</sup> These photos are attached as exhibits to planning staff’s May 6, 2014 memorandum to the Hearings Officer.

- (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

**FINDINGS:** The applicant's burden of proof stated the fire department searched for several years for a suitable fire training facility site and considered several alternative sites. The applicant submitted an alternative sites analyses at and following the public hearing in memoranda dated April 22, 2014 ("April 22 memo") and May 6, 2014 ("May 6 memo"). Exhibit A to the April 22 memo includes a map generally showing the location of possible alternative sites that do not require a new exception within three miles of the subject site.

- (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

**FINDINGS:** In its May 6 memo, the applicant stated its parameters for identifying potential alternative sites for the proposed fire training facility as follows:

- a location within three miles of the fire department's fire station;
- a minimum size of 2 to 2.75 acres;
- a minimum distance of 300 feet from the nearest adjacent uses, preferably with dense intervening vegetation for buffering and screening;
- good all-weather road access with at least a 22-foot-wide improved surface;
- sufficient area for fire engines and emergency vehicles to turn around;
- land zoned for industrial uses or public facilities and not residential areas;
- low improvement costs; and
- minimal to no public opposition.

The Hearings Officer finds that with the exception of the last factor, these parameters are reasonable and appropriate considering the nature of the proposed use for the subject site. In particular, I find the three-mile radius for the search area properly reflects the applicant's need to train staff within reasonably close proximity to the department's fire station and service area so that staff can promptly respond to emergencies that may occur during training exercises. However, I find the presence or lack of public opposition, while of concern to the applicant, is not a relevant factor in determining the appropriate search area for the alternative sites analysis. Nevertheless, as discussed in the findings below concerning the ESEE (environmental, social, economic and energy) consequences analysis, I have found it is relevant when considering the

social consequences of selecting the subject property over other potential sites.

The applicant's April 22 and May 6 memos state land within the three-mile search radius that does not require a goal exception includes land within the Sunriver UCC (except the subject property), land zoned RR-10 located outside the Sunriver UCC to the south and southwest within a rural subdivision and within the Caldera and Crosswater destination resorts.

With respect to land within the Sunriver UCC, the memos state the proposed fire station use is permitted conditionally in several zoning districts within the Sunriver UCC and is permitted outright subject to site plan review in the SUA district. However, the memos state all lands within these zoning districts not requiring a goal exception are "committed and developed" with existing Sunriver resort-related uses. In addition, the memos note land within the Sunriver UCC is developed at urban and/or suburban densities that would make difficult mitigation of potential negative impacts from the fire training facility such as smoke from live-fire training exercises.

With respect to land outside the Sunriver UCC zoned RR-10, the applicant's memos state these lands are privately owned and are developed with residential and/or other uses with which the proposed fire training facility likely would be incompatible due to impacts from smoke and noise. The memos note one of these RR-10 zoned sites is the parcel for which the applicant sought conditional use approval for a fire training facility in 2011 (CU-11-24), and which ultimately was rejected by the applicant because of significant neighborhood opposition due to concerns about smoke and uncontrolled fires moving off the training facility site.

Finally, with respect to land outside the Sunriver UCC and within the Caldera and Crosswater destination resorts, the applicant's May 6 memo states the proposed fire training facility could not be sited in those resorts for the following reasons:

*"All uses approved within a destination resort must be integral to the operation of the resort, a part of, and intended to serve persons at the resort. The proposed fire training facility serves the Sunriver Fire Department, the response area for which encompasses 322 square miles from north of Lava Butte and south to Vandever Road, east to the high lakes and west to USFS Road 45. It would not be allowed within the destination resorts of Crosswater or Caldera. Furthermore, any areas within these resorts not approved for resort related facilities and structures are committed and devoted to open space uses. Open space designations within the resort specifically prohibit permanent, non-recreational related structures."*

The Hearings Officer understands these comments reflect the applicant's belief that the Crosswater and Caldera destination resorts, although located within the fire department's service area, do not have land that is suitable to accommodate the proposed fire training facility. Copies of the county's decisions approving the Crosswater and Caldera destination resorts are included in this record as Exhibit "B" to planning staff's May 6, 2014 memorandum to the Hearings Officer (Crosswater) and Exhibits PH-1 and PH-2 attached to the applicant's May 6, 2014 memorandum. Those decisions indicate no fire station or similar facility was included in either approval and that the resorts would be served by the Sunriver fire department. I understand that land within these two destination resorts already has been committed to and/or developed with uses that are not compatible with the proposed fire training facility.

In its May 6 memo, the applicant stated the lands not requiring a goal exception within the three-mile-radius search area also were not of sufficient size to accommodate the proposed fire

training facility and did not have significant intervening vegetation between the training site and adjacent uses. Finally, the memo stated the subject site would be less costly to develop because it already has road access and is fenced, and noted the proposed site "received little public opposition" consisting of letters from two Sunriver lot owners whose property is located approximately 3,000 feet from the subject site.

Based on the applicant's April 22 and May 6 memos and the information and argument contained therein, the Hearings Officer finds the applicant has demonstrated the proposed use cannot reasonably be accommodated on nonresource land within the three-mile-radius search area that would not require an exception, including increasing the density of uses on nonresource land.

- (ii) **Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?**

**FINDINGS:** The subject property is located within the Sunriver UUC on land zoned SUF – i.e., resource land included within the UUC boundaries. The subject property was brought into the UUC for the purpose of providing a site for the effluent storage and land application. Therefore, the subject property is resource land in an existing unincorporated community. The record indicates there is no other resource land in the Sunriver UUC, and none that is irrevocably committed to nonresource uses not allowed by Goal 4. The applicant is proposing the subject site be zoned SUU which would not increase the density of uses allowed. For these reasons, the Hearings Officer finds the applicant has demonstrated that the proposed fire training facility cannot reasonably be accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by Goal 4, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands.

- (iii) **Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?**

**FINDINGS:** The record indicates the nearest urban growth boundary (UGB) is the Bend UGB located approximately 10 miles north of the subject property. The applicant's burden of proof states, and the Hearings Officer agrees, that the proposed fire training facility must be near the department's offices and its service area to allow the department's staff to promptly respond to emergencies that should arise during training exercises. Moreover, due to the nature of the proposed training facility, which would include live fire exercises, the facility needs to be located an adequate distance from residential properties to mitigate potential impacts. Location within a UGB likely would increase the likelihood of negative impacts. Therefore, I find the proposed fire training facility cannot reasonably be accommodated on land inside an urban growth boundary.

- (iv) **Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?**

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 10

PAGE 10 OF 34 – EXHIBIT "F" TO ORDINANCE 2014-021

**FINDINGS:** The applicant's burden of proof states the proposed facility will not require public facilities and services. Therefore, the Hearings Officer finds this factor is not applicable.

- (C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

**FINDINGS:** As discussed above, the applicant submitted an alternative sites map and analyses in its April 22 and May 6 memos. The applicant's analysis contains a broad review of land within three miles of the fire department's fire station. The only site-specific comparison included in the analyses involves the RR-10 zoned parcel proposed in 2011 for the fire training facility and ultimately rejected by the applicant due to neighborhood opposition. No other party to this application clearly identified an alternative site or sites that could more reasonably accommodate the proposed use. Opponents Jean and John Rudnicki made a general reference to a facility "within a short distance in the City of Bend" but did not identify its specific location or characteristics or how they compare with the subject site. Opponent Diana Eagen stated her belief that "there is so much property out there" that could be used for the proposed facility without affecting her property but did not identify any specific alternative sites. The Hearings Officer finds these comments are not sufficient to identify "specific alternative sites" the applicant and the county must analyze. Therefore, I find the requirement for an alternative site analysis has been met by a broad review of similar types of areas and a determination of whether those areas reasonably could accommodate the proposed use.

- (c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences



resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts (underscored emphasis added);

**FINDINGS:** This standard requires the Hearings Officer to identify and analyze the long-term environmental, economic, social and energy consequences resulting from the proposed fire training facility on the subject site to determine whether or not they are significantly more adverse than would typically result from the proposal use occurring in other areas requiring a goal exception. The applicant's burden of proof states:

*"These criteria do not apply, as they relate to alternative sites requiring an exception to Goal 4. As described under [OAR] 660-004-0020(1) above, the alternative considered for the Fire Training Facility was zoned RR-10. Since the site in this matter is within the Urban Unincorporated Community of Sunriver an ESEE analysis is not required."*

As discussed in the findings above, the applicant's burden of proof did not include an alternative sites analysis but rather identified only the RR-10 zoned parcel the applicant previously considered for siting the fire training facility. The above-quoted statement is consistent with the applicant's very limited initial approach to the Goal 4 exception process. However, the applicant's April 22 and May 6, 2014 memoranda address the ESEE goal exception criteria in a more comprehensive manner. The April 22 memo states in relevant part:

"Environmental.

*The long-term environmental consequences of locating the proposed use on the subject property could conceivably include impacts to water quality, wildlife habitat and degradation of the resource. There are no bodies or water courses on the subject property which could be impacted by the use. The applicant proposes to bring all water to the site and contain all surface water with catch basis or drainage swales in conformance with DEQ requirements. These protective mitigation measures can be designed, required, monitored and*

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 12

regulated through site plan review to ensure no adverse impacts to water quality. There could be some minimal disturbance to wildlife habitat; however the property is not within a designated wildlife protection area or known migration corridor. Environmental impacts to the site will be minimal as only a small portion of the site, 2.41 acres of the 4.28 acres subject to the amendment, will be occupied by the fire training facility. The property is not being managed for resource use but instead is already developed with utility uses to serve the resort community.

#### Economic.

The economic impacts of the proposed use on the site are minimal as there is no need for extensions of public infrastructure or the expenditure of public money or services to support the use. The access is via an existing road used to serve the cel [sic] tower and the subject property is already supporting public utility uses including the cel [sic] tower and sewage treatment facility. The cost savings to the community from having fire personnel train in-service exceeds \$40,000 annually. Locating the use on an alternative site requiring a goal exception would mean converting resource property to a non-resource use. This would have a much greater potential impact on the resource itself and surrounding property values, particularly upon resource management and recreational uses. The remote location ensures little to no economic impacts to surrounding property values.

#### Social.

The social consequences of locating the proposed use on the site are minimal in that the remote location ensures the resort owners and visitors will experience little to no impact to recreation, aesthetics or other social interests from the noise, odor and smoke that could be association with the use.

#### Energy.

The energy consequences of locating the proposed use on the site are positive in that it allows for efficient use of limited public funds, location in close proximity to the department facilitates in-service training thereby preserving limited public funds and utility services. The transportation infrastructure to serve the use is already in place and no new roads or services are necessary.

These above-described consequences of locating the use on the proposed site are not significantly more adverse, and in fact are substantially less adverse than locating the use on a site where a goal exception would be required. As discussed, the only sites also requiring a goal exception which could meet the Fire Department locational needs for this use are surrounding federal lands zoned Forest and managed by the USFS. Since these lands are in public ownership, mostly vacant, undeveloped and in management for resource and/or recreation, open space use, and impacts to them from the proposed use will be more detrimental, more adverse to the resource than locating the use on the subject property which, despite its zoning, is within the Sunriver UUC boundary, in private ownership, and is not being managed for a resource use but instead is already being used for utility purposes to serve the resort community.

The applicant's May 6, 2014 memo addresses the ESEE consequences analysis specifically with respect to the Caldera and Crosswater destination resorts, stating in relevant part:

*"At the hearing, it was pointed out by Staff that Crosswater and Caldera destination resorts are located within the 3-mile radius and zoned F-2 with a DR [destination resort] overlay, thus falling under the ESEE analysis. . . .*

*\* \* \**

*Locating this use within the destination resort areas, even if allowed, would require some expenditure of public monies to acquire a site and improve it to accommodate the use. . . . Any location within the destination resort areas would be significantly closer to adjacent uses causing more adverse social consequences. . . . Any less remote location [than the subject site] would require expenditures to minimize impacts such as introduced landscaping, screening and possible site clearing and improvements."*

The Hearings Officer notes that contrary to the applicant's statement above, the subject property is located within "a designated wildlife protection area or known migration corridor" because it is zoned WA due to its location within inventoried significant elk habitat. Nevertheless, I agree with the applicant's ESEE analysis and conclusion that the consequences of locating the proposed fire training facility at the subject site are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception. In particular, I find that because the subject property already is developed with utility uses and is not in resource management, the siting of the proposed facility on other forest-zoned lands in the surrounding area would have significantly more consequences – whether that land is federal forest land or located within a destination resort.

For the foregoing reasons, the Hearings Officer finds the applicant's proposal satisfies this administrative rule.

- (d) **"The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.**

**FINDINGS:** The Hearings Officer finds this rule requires me to find that the proposed fire training facility is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts, and the facility also is situated in such a manner that it will be compatible with surrounding natural resources and resource management or production practices.

As discussed in the Findings of Fact above, the area surrounding the subject property consists of large forest-zoned parcels in public and private ownership and the Sunriver, Crosswater and Caldera resort communities. To the west is the BNSF railroad right-of-way and beyond the

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 14

PAGE 14 OF 34 – EXHIBIT "F" TO ORDINANCE 2014-021

railroad tracks are Sunriver residential properties.

With respect to compatibility with surrounding natural resources, the staff report states, and based on this record the Hearings Officer agrees, that there is no evidence forest lands on *the subject property* have been or are actively being managed for timber production or harvest. A large portion of the subject property is developed with sewage effluent storage and disposal and a wood and debris composting facility. In addition, the property is developed with a wireless telecommunications tower facility. With respect to surrounding federal forest lands, I find there also is no evidence in this record that these lands are actively engaged in timber production, although they likely are being managed for the timber resource. Therefore, the proposed training facility will be located near potentially combustible timber. Nevertheless, although the USFS was sent notice of the applicant's proposal, it did not submit comments, strongly suggesting it has no concerns about the proposed facility. The applicant's burden of proof states the fire department will implement safety precautions to ensure the surrounding lands will not be negatively impacted by the activities of the proposed use. And as discussed throughout this decision, the applicant cannot establish the training facility without first obtaining county site plan review and approval through which the facilities design and operating characteristics will be reviewed, and conditions of approval imposed, to assure the proposed use is compatible with adjacent resource uses.

With respect to adjacent public service and utility uses, the Hearings Officer finds the proposed fire training facility will be compatible with the sewage effluent storage and land application use on the subject property as well as the wood and debris recycling facility and the wireless telecommunications facility. I find the proposed training facility will be similar to these utility uses on the subject property, as well as to the utility uses on land to the south owned by the Sunriver Water District.

With respect to adjacent residential uses, the Hearings Officer has found the closest residences are located within the Sunriver resort and approximately 3,000 feet to the west. As discussed in the findings above, I have found this distance, coupled with intervening topography and vegetation and the BNSF railroad track berm, will serve as a significant buffer between the subject site and the nearest residential uses. As also discussed above, the record indicates the prevailing winds are from the northwest, west and southwest, resulting in any smoke created by live fire exercises at the proposed fire training facility being blown away from residential development.

For the foregoing reasons, the Hearings Officer finds the proposed fire training facility is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts, the proposed facility is situated in such a manner that it will be compatible with surrounding natural resources and resource management or production practices.

- (3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.**

**FINDINGS:** The Hearings Officer finds this criterion is not applicable as the proposed goal exception involves only one area.

- (4) For the expansion of an unincorporated community**

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 15

PAGE 15 OF 34 – EXHIBIT "F" TO ORDINANCE 2014-021

described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in of subsections (2)(b), (c) and (d) of this rule, are modified to also include the following:

**FINDINGS:** The Hearings Officer finds this criterion is not applicable to the applicant's proposal because it does not include an expansion of the Sunriver UUC boundaries.

c. **OAR 660-004-0022, Reasons Necessary to Justify and Exception Under Goal 2, Part II(c)**

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

**FINDINGS:** The Hearings Officer finds this rule is not applicable because the proposed fire

training facility is not dependent upon a resource.

- (B) **The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.**

**FINDINGS:** As discussed in the findings above, the applicant proposes to site the fire training facility on the subject site because it would be close to the Sunriver Fire Department's fire station and would be within the department's service area. As a result, fire department personnel involved in training exercises would be able promptly to respond to emergencies that may occur within the service district during training. For this reason, the Hearings Officer finds the proposed fire training facility has special features or qualities that necessitate its location on the proposed 4.28-acre exception site.

For the foregoing reasons, the Hearings Officer finds the applicant's proposal satisfies all applicable administrative rule requirements for taking an exception to Goal 4.

#### ***PLAN AMENDMENT AND ZONE CHANGE***

#### ***TRANSPORTATION PLANNING RULE***

#### **2. Division 12, Transportation Planning (OAR 660-012)**

#### **a. OAR 660-012-0060, Plan and Land Use Regulation Amendments**

- (1) **If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:**
  - (a) **Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**
  - (b) **Change standards implementing a functional classification system; or**
  - (c) **Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction**

may diminish or completely eliminate the significant effect of the amendment.

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

**FINDINGS:** The Hearings Officer finds the Transportation Planning Rule (TPR) applies to the applicant's proposal because it involves an amendment to an acknowledged comprehensive plan. The applicant did not provide a traffic study with its application. In his March 24, 2014 comments on the applicant's proposal, the county's Senior Transportation Planner Peter Russell stated in relevant part:

*"The applicant has quoted my comments for a similar facility under a previous land use application (CU-11-24) where I stated the site would generate less than new 50 new weekday trips and thus under Deschutes County Code (DCC) 17.16.115(C)(4) no traffic analysis was required. There are two distinct differences, however, between these two land use applications. First, in CU-11-24 the site was zoned for the proposed use whereas the site for PA-14-1/ZC-14-1 requires both a plan amendment and a zone change. Also, the affected roads under CU-11-24 were different than those that will provide access to PA-14-1/ZC-14-1. The applicant indicates the site will be accessed via Cottonwood Road, although it appears South Century Drive is closer to the site. Second, the time horizon required for a traffic study for a conditionally allowed or outright permitted use is much shorter than that for a plan amendment/zone change. DCC 17.16.115(E)(3) for outright and permitted uses bases the analysis horizon year on buildout. DCC 17.16.115(E)(4) requires a 20-year study horizon for zone changes.*

*Regardless of how the site is accessed, the applicant will need to provide numeric analysis that no facility will be adversely affected. Staff believes that will be the case, but the applicant needs to provide sufficient findings to demonstrate that conclusion and comply with 660-012-0060."*

In response to Mr. Russell's comments, the applicant submitted a memorandum dated April 15, 2014 prepared by Casey Bergh, PE, of Kittelson & Associates, Inc., addressing the proposal's compliance with the TPR. The memorandum predicts vehicle trips generated by the proposed fire training facility would use South Century Drive and its interchange with U.S. Highway 97. The memorandum predicts that because of the intermittent nature of the proposed training facility use, and the relatively small number of people who would use the facility at any given

time, the proposed facility would generate only eight average daily vehicle trips (ADTs), of which a maximum of four trips would occur during the weekday p.m. peak hour (4:30 to 6:30 p.m.) The memorandum states the addition of this very small number of vehicle trips will have a negligible effect on the function of affected transportation facilities. By an electronic mail message dated April 15, 2014, Mr. Russell stated he agreed with the Kittelson traffic report's methodologies and conclusions.

For the foregoing reasons, the Hearings Officer finds the applicant has demonstrated its proposed plan amendment and zone change will not significantly affect an existing or planned transportation facility, thereby complying with the TPR.

- (4) **Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.**

**FINDINGS:** The record indicates notice of the applicant's proposal was sent to the Deschutes County Road Department and county's Senior Transportation Planner Peter Russell, as well as the Sunriver Fire Department and Utilities District and the Sunriver Owners Association. Comments from these agencies, if any, are included in this record. As discussed in the findings above, the applicant submitted a traffic analysis in response to comments submitted by Peter Russell, and Mr. Russell found the traffic analysis to be appropriate and correct. For these reasons, the Hearings Officer finds the applicant's proposal satisfies this criterion.

Based on the foregoing findings, the Hearings Officer finds the proposal satisfies the TPR.

### **STATEWIDE LAND USE PLANNING GOALS AND GUIDELINES**

3. **Division 15, Statewide Planning Goals (OAR 660-015)**
  - a. **OAR 660-015-0000, Statewide Planning Goals and Guidelines 1-14**

#### **Goal 1: Citizen Involvement**

**To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**

**FINDINGS:** As discussed in the Findings of Fact above, notice of the applicant's proposal and the public hearing was provided to interested public and private agencies and to the owners of record of all property located within 750 feet of the subject property. In addition, notice of the public hearing was published in the Bend *Bulletin* and the subject property was posted with a notice of proposed land use action sign. A public hearing was held before the Hearings Officer, and before the proposed plan amendment, zone change and goal exception can be approved the applicant's proposal will be considered at a public meeting of the Deschutes County Board of Commissioners (hereafter "board"). For these reasons, the Hearings Officer finds the process for consideration of the applicant's proposal meets Goal 1.

#### **Goal 2: Land Use Planning**

**To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.**

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 19



**FINDINGS:** The applicant submitted applications for the proposed plan amendment, zone change and goal exception. The applications have been reviewed by Planning Division staff and the Hearings Officer pursuant to the county's code, and the applications also will be reviewed by the board prior to final approval. Therefore, I find the applicant's proposal satisfies Goal 2.

**Goal 3: Agricultural Lands**

**To preserve and maintain agricultural lands.**

**FINDINGS:** The Hearings Officer finds Goal 3 is not applicable because the subject property is not designated or zoned for agriculture.

**Goal 4: Forest Lands**

**To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**

**FINDINGS:** The subject property is designated and zoned Sunriver Urban Unincorporated Community Forest on the comprehensive plan map and therefore Goal 4 is applicable. The applicant has requested an exception to Goal 4 to remove the forest designation and zoning for approximately 4.28 acres of the subject property. As discussed in the findings above, incorporated by reference herein, the Hearings Officer has found the applicant has demonstrated it has met the criteria for a "reasons" exception to Goal 4.

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

**To protect natural resources and conserve scenic and historic areas and open spaces.**

**FINDINGS:** The comprehensive plan inventory of Goal 5 resources identifies elk habitat as a significant Goal 5 resource on the subject property. The property is zoned WA to protect this resource. The applicant's proposal would redesignate and rezone 4.28 acres of the subject property for a public use – i.e., a fire training facility and access road. The WA Zone does not prohibit or restrict public uses or buildings in significant elk habitat. ODFW was notified of the applicant's proposal and did not submit comments, indicating the agency does not have concerns about the effect of the applicant's proposal on the elk habitat.

The record indicates the subject property has no identified mineral and aggregate resources, energy sources, ecologically and scientifically significant natural areas, outstanding scenic views, water areas, wetlands, watersheds, or groundwater resources, wilderness areas, historic areas, sites, structures or objects, or cultural areas.<sup>2</sup>

For the foregoing reasons, the Hearings Officer finds the applicant's proposal satisfies Goal 5.

**Goal 6: Air, Water and Land Resources Quality**

---

<sup>2</sup> The record indicates the closest inventoried historically significant site, Camp Abbot Hall, is located within the Sunriver resort but approximately 1.5 miles west-southwest of the subject property.

Sunriver Service District

PA-14-1, ZC-14-1

Page 20

**To maintain and improve the quality of the air, water and land resources of the state.**

**FINDINGS:** The applicant has requested approval of the proposed plan amendment, zone change and goal exception in order to develop the subject site with a fire training facility for the fire department. The staff report states, and the Hearings Officer agrees, that such a facility has the potential to generate smoke, and therefore to affect air quality, during live fire training exercises. However, as discussed in the findings above, the live fire training would occur only once per quarter. In addition, the record indicates the closest residence to the subject site is approximately 3,000 feet to the west, and the prevailing wind typically is from the northwest, north-northwest, and southwest, therefore likely to blow any smoke away from residences within the Sunriver resort. In addition, the staff report notes that before the applicant can construct the fire training facility it must obtain county site plan review and approval which will consider the impacts of smoke and can assure protection of air quality through conditions for site plan approval. For these reasons, I find the applicant's proposed plan amendment, zone change and goal exception are consistent with Goal 6.

**Goal 7: Areas Subject to Natural Hazards**

**To protect people and property from natural hazards.**

**FINDINGS:** The Hearings Officer finds the only natural hazard identified with the subject site is the potential for wildfire which *presently* is the same as that for all other properties in the surrounding area. Future development of the subject site with a fire training facility has the potential to increase the hazard from fire during live fire training exercise, but also may decrease the risk of wildfire in the community through increased and more realistic firefighter training. In any event, as discussed in the findings above, before the fire training facility can be constructed the applicant must obtain county site plan review and approval, and through that process requirements can be imposed to minimize fire risk, such as minimum clearance from vegetation and minimum amounts of water available on site. For these reasons, I find the applicant's proposal is consistent with Goal 7.

**Goal 8: Recreational Needs**

**To satisfy the recreational needs of the citizens of the state and visitors and, here appropriate, to provide for the siting of necessary recreational facilities including destination resorts.**

**FINDINGS:** The Hearings Officer finds Goal 8 is not applicable because the applicant's proposal does not propose or eliminate any opportunities for recreational facilities either on the subject property or in the area.

**Goal 9: Economic Development**

**To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.**

**FINDINGS:** The applicant argues its proposal will provide indirect economic benefits by facilitating the development of a training facility that will help the fire department save money and protect property over time. In addition, the applicant argues development and construction of the training facility will provide direct economic benefits through the temporary employment of construction contractors. The Hearings Officer finds that to the extent Goal 9 applies to the

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 21

applicant's proposal, it is satisfied.

**Goal 10: Housing**

**To provide for the housing needs of citizens of the state.**

**FINDINGS:** The Hearings Officer finds Goal 10 is not applicable to the applicant's proposal because it will not affect opportunities for housing on the subject property or surrounding area.

**Goal 11: Public Facilities and Services**

**To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**

**FINDINGS:** The record indicates the applicant's proposal will not require or result in the extension of urban services to the subject site. The proposed fire training facility will not require sewer or water service. As discussed in the findings above, the Hearings Officer has found the proposed fire training facility would not significantly affect a transportation facility. For these reasons, I find the applicant's proposal satisfies Goal 11.

**Goal 12: Transportation**

**To provide and encourage a safe, convenient and economic transportation system.**

**FINDINGS:** As discussed in the findings above, incorporated by reference herein, the Hearings Officer has found the applicant's proposal is consistent with the TPR. Because the TPR implements Goal 12, I find the applicant's proposal also satisfies Goal 12.

**Goal 13: Energy Conservation**

**To conserve energy.**

**FINDINGS:** The applicant argues, and the Hearings Officer agrees, that its proposal is consistent with Goal 13 because the plan amendment, zone change and goal exception will allow the subject site to be developed with a fire training facility in close proximity to the fire department's fire station and response area, thus conserving energy through reduction in the number and length of vehicle trips to and from the site.

**Goal 14: Urbanization**

**To provide for orderly and efficient transition from rural to urban use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.**

**FINDINGS:** The Hearings Officer finds Goal 14 is not applicable to the applicant's proposal because the subject property is located within an urban area – i.e., the Sunriver UUC -- and the proposal would not change the types or intensity of uses allowed in the UUC or its boundaries.

**b. OAR 660-015-0005, Statewide Planning Goals and Guidelines 15**

**Goal 15: Willamette River Greenway**

Sunriver Service District

PA-14-1, ZC-14-1

Page 22

PAGE 22 OF 34 – EXHIBIT "F" TO ORDINANCE 2014-021

c. OAR 660-015-0010, Statewide Planning Goals and Guidelines 16-19

**Goal 16: Estuarine Resources**

**Goal 17: Coastal Shorelands**

**Goal 18: Beaches and Dunes**

**Goal 19: Ocean Resources**

**FINDINGS:** The Hearing Officer finds Goals 15 through 19 are not applicable to the applicant's proposal because the subject site is not within the Willamette Greenway and does not have any estuarine areas, coastal shorelands, beaches and dunes, or ocean resources.

Based on the foregoing findings, the Hearings Officer finds the applicant's proposal satisfies all applicable statewide land use planning goals.

**COMPREHENSIVE PLAN**

**B. Deschutes County Comprehensive Plan**

**FINDINGS:** In *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004), LUBA held a comprehensive plan is a potential source of approval standards for quasi-judicial land use permit applications. However, LUBA stated local code provisions requiring that land use decisions be "consistent" with the comprehensive plan "do not mean that all parts of the comprehensive plan necessarily are approval standards." LUBA described the proper analysis of the effect of plan provisions as follows:

*"Local governments and this Board have frequently considered the text and context of cited parts of comprehensive plans and concluded that the alleged comprehensive plan standard was not an applicable approval standard. Stewart v. City of Brookings, 31 Or LUBA 325, 328 (1996); Friends of Indian Ford v. Deschutes County, 31 Or LUBA 248 258 (1996); Wissusik v. Yamhill County, 20 Or LUBA 246, 254-55 (1990). Even if the comprehensive plan includes provisions that can operate as approval standards, those standards are not necessarily relevant to all quasi-judicial land use permit applications. Bennett v. City of Dallas, 17 Or LUBA at 456. Moreover, even if a plan provision is a relevant standard that must be considered, the plan provision might not constitute a separate mandatory approval criterion, in the sense that it must be separately satisfied, along with any other mandatory approval criteria, before the application can be approved. Instead, that plan provision, even if it constitutes a relevant standard, may represent a required consideration that must be balanced with other relevant considerations. See Waker Associates, Inc. v. Clackamas County, 111 Or App 189, 194, 826 P2d 20 (1992) ('a balancing process that takes account of relative impacts of particular uses on particular [comprehensive plan] goals and of the logical relevancy of particular goals to particular uses is a decisional necessity')."*

*Before considering whether particular plan provisions must be applied as approval standards when considering individual land use permit applications, it is appropriate, as the hearings officer did in this case, to consider first whether the*

*comprehensive plan itself expressly assigns a particular role to some or all of the plan's goals and policies. Downtown Comm. Assoc. v. City of Portland, 80 Or App 336, 339, 722 P2d 1258 (1986); Eskadarian v. City of Portland, 26 Or LUBA 98, 103 (1993); Schellenberg v. Polk County, 21 Or LUBA 425, 429 (1991); Miller v. City of Ashland, 17 Or LUBA 147, 167-69 (1988). We review the hearings officer interpretation of the BAGP [Bend Area General Plan] to determine if her interpretation is correct. McCoy v. Linn County, 90 Or App 271, 275-76, 752 P2d 323 (1988)."*

The staff report and the applicant's burden of proof identify and address a number of plan provisions. Based on LUBA's analysis in *Save Our Skyline*, the Hearings Officer finds I must examine the text and context of these provisions to determine if any of them applies to the applicant's quasi-judicial applications for a plan amendment and zone change.

**1. Chapter 4, Urban Growth Management**

**a. Section 4.1 Introduction**

**Purpose**

The Urban Growth Management chapter, in concert with the other chapters of this Plan, specifies how Deschutes County will work with cities and unincorporated communities to accommodate growth while preserving rural character and resource lands.

**b. Section 4.4 Sunriver**

**Community Boundary**

2010 County GIS data showed Sunriver had approximately 3,745 acres of land inside the community boundary. Within this area, there were 4,447 total tax lots, including common areas. The community boundary is generally formed by the Deschutes River on the west, Spring River Road/South Century Drive on the south and the Deschutes National Forest on the north and east.

During the 1997 update, the Sunriver Urban Unincorporated Community boundary was amended to add 375-acres along the eastern boundary of the Sunriver Urban Unincorporated Community to be used for sewage effluent storage and disposal.

This area, once part of the Deschutes National Forest, was changed from a comprehensive plan designation of Forest to a comprehensive plan designation of Urban Unincorporated Community Forest. It was added per Oregon Department of Environmental Quality requirements. The effluent and storage capabilities of the existing sewage system were at or near capacity seasonally at that time. Thus, this expansion of the community boundary was necessary to provide adequate sewage disposal services to the existing communities being served at their build-outs.

## Comprehensive Plan Designations

\* \* \*

9. **Forest District.** The previous boundary for Sunriver was expanded in 1997 by approximately 366-acres to include land along the eastern boundary that has historically been zoned for forest uses and within the Deschutes National Forest. A recent decision by the U.S. Forest Service to permit an effluent storage pond and effluent irrigation site on approximately 50 acres and a potential land transfer to the Sunriver Utilities Company (now Sunriver Water LLC/Environmental LLC) prompted inclusion of this area within the community boundary. By including this area, future expansion of the sewage disposal system would permit the application of biosolids with the effluent irrigation site and storage pond. This will enable Sunriver to meet Oregon Department of Environmental Quality regulations for treated wastewater storage and disposal stemming from build-out within the community. An exception to Goal 4 was not taken because the only uses allowed in the expansion area are permitted in the Forest zone.

**FINDINGS:** The Hearings Officer finds these provisions are merely introductory and do not establish any approval criteria for the applicant's proposal.

### c. **Section 4.4, Sunriver Policies**

#### **Goals and Policies**

**No goals have been defined for the Sunriver Urban Unincorporated Community.**

**Policy 4.4.1. Land use regulations shall conform to the requirements of OAR 660 Division 22 or any successor.**

**Policy 4.4.2. County comprehensive plan policies and land use regulations shall ensure that new uses authorized within the Sunriver Urban Unincorporated Community do not adversely affect forest uses in the surrounding Forest Use Zones.**

**Policy 4.4.3. To protect scenic views and riparian habitat within the community, appropriate setbacks shall be required for all structures built on properties with frontage along the Deschutes River.**

**Policy 4.4.5. Public access to the Deschutes River shall be preserved.**

**FINDINGS:** Although these policies are written in mandatory terms – i.e., using the word “shall” – the Hearings Officer finds they are directed at action by the county and not by an applicant for a quasi-judicial land use permit or approval.

**Policy 4.4.4. Open space and common area, unless otherwise zoned for development, shall remain undeveloped except for community amenities such as bike and pedestrian paths, and parks and picnic areas.**

**FINDINGS:** The Hearings Officer finds this policy also is written in mandatory terms but is not expressly directed at the county. It could be read to apply to any quasi-judicial land use application involving open space and/or common areas. However, I find this policy is not applicable to the applicant's proposal because no such areas are included on the subject site.

**Policy 4.4.6. The County supports the design review standards administered by the Sunriver Owners Association.**

**FINDINGS:** The Hearings Officer finds this policy is merely a statement of county practice and does not establish any approval criteria for the applicant's proposal.

#### **Utility District Policies**

**Policy 4.4.24. Lands designated utility shall allow for development of administrative offices, substations, storage/repair yards, distribution lines and similar amenities for services such as water, sewer, telephone, cable television and wireless telecommunications.**

**FINDINGS:** The applicant proposes to change the plan designation and zoning of the subject site from SUF to SUU, thus placing the property within a "utility" designation. This policy is written in mandatory terms but is not expressly directed at the county. Therefore, the Hearings Officer finds it is reasonable to conclude this policy was intended to apply to quasi-judicial land use applications involving lands in the Sunriver UCC designated "utility." The applicant's proposal, if approved, would facilitate development of the subject site with a fire training facility for the fire department. Although the proposed fire training facility is not one of the uses specifically listed in this policy, the staff report states, and I agree, that it is similar to a "substation" or is an "accessory use" for the fire department. Therefore, I find the applicant's proposal satisfies this policy.

#### **Forest District Policies**

**Policy 4.4.25. Uses and development on property designated forest that are within the Sunriver Urban Unincorporated Community boundary shall be consistent with uses and development of other lands outside of the community boundary which are also designated forest on the Deschutes County comprehensive plan map.**

**Policy 4.4.26. Forest district property shall be used primarily for effluent storage ponds, spray irrigation of effluent, biosolids application and ancillary facilities necessary to meet Oregon Department of Environmental Quality sewage disposal regulations.**

**Policy 4.4.27. The development of resort, residential or non-forest commercial activities on Forest district lands shall be prohibited unless an exception to Goal 14 is taken.**

**FINDINGS:** These policies are written in mandatory terms and are not expressly directed at the county. Therefore, the Hearings Officer finds it is reasonable to conclude these policies were intended to apply to quasi-judicial land use applications affecting property within the SUF including the subject site. The applicant proposes to remove the 4.28-acre subject site from the SUF Zone in order to develop it with a fire training facility, a use not permitted in the SUF Zone. The rest of the large subject property would remain in the SUF. Because the remaining SUF-zoned property would continue to be used primarily for effluent storage and disposal, and because the applicant does not propose to develop the subject site with resort, residential or non-forest commercial activities, I find the applicant's proposal satisfies these policies.

#### **General Public Facility Policies**

**Policy 4.4.28. Residential minimum lot sizes and densities shall be determined by the capacity of the water and sewer facilities to accommodate existing and future development and growth.**

**FINDINGS:** This policy is written in mandatory terms. Nevertheless, the Hearings Officer finds it is not applicable because the applicant's proposal does not involve residential development.

**Policy 4.4.29. New uses or expansion of existing uses within the Sunriver Urban Unincorporated Community which require land use approval shall be approved only upon confirmation from the Sunriver Utility Company that water and sewer service for such uses can be provided.**

**FINDINGS:** This policy also is written in mandatory terms and is applicable to any new uses within the Sunriver UCC requiring land use approval. As discussed in the findings above, the Planning Division sent notice of the applicant's proposal to Sunriver Utilities but did not receive any comments from it. That is likely because the proposed fire training facility would not require any water or sewer service. For these reasons, the Hearings Officer finds the proposal satisfies this plan policy.

**Policy 4.4.30. Expansion of the Sunriver Water LLC/Environmental/LLC Water and Sewer District outside of the historic Sunriver boundaries shall adequately address the impacts to services provided to existing property owners.**

**FINDINGS:** This policy is written in mandatory terms. However, the Hearings Officer finds it is not applicable to the applicant's proposal because the applicant is not requesting approval to expand the water and sewer district, and the applicant's proposal will not have any impact on services to existing property owners.

#### **Water Facility Policies**

**Policy 4.4.31. Water service shall continue to be provided by the Sunriver Utilities Company.**

#### **Sewer Facility Policies**

**Policy 4.4.32. Sewer service shall continue to be provided by the Sunriver Utilities Company.**

**FINDINGS:** These policies are written in mandatory terms. However, the Hearings Officer finds



they are not applicable to the applicant's proposed fire training facility because it does not involve or require water or sewer service.

**Transportation System Maintenance Policies**

**Policy 4.4.33. Privately-maintained roads within the Sunriver Urban Unincorporated Community boundary shall continue to be maintained by the Sunriver Owners Association.**

**Policy 4.4.34. The bicycle/pedestrian path system in Sunriver shall continue to be maintained by the Sunriver Owners Association or as otherwise provided by a maintenance agreement.**

**Policy 4.4.35. The County will encourage the future expansion of bicycle/pedestrian paths within the Sunriver Urban Unincorporated Community boundary in an effort to provide an alternative to vehicular travel.**

**Policy 4.4.36. All public roads maintained by the County shall continue to be maintained by the County. Improvements to County maintained public roads shall occur as described the County Transportation System Plan.**

**FINDINGS:** These policies are written in mandatory terms. However, the Hearings Officer finds they are not applicable because the applicant's proposal does not affect the privately-maintained roads or the bicycle/pedestrian path system within the Sunriver UUC boundaries. As discussed in the findings above, access to the subject site will be primarily from South Century Drive via a USFS road. And in any event, the record indicates South Century Drive is a county-maintained public road that will continue to be maintained by the county.

For the foregoing reasons, the Hearings Officer finds the proposed plan amendment, zone change and goal exception are consistent with comprehensive plan policies to the extent they are applicable.

**ZONING ORDINANCE STANDARDS FOR PLAN AMENDMENTS AND ZONE CHANGES**

**C. Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance**

**1. Chapter 18.136, Amendments**

**a. Section 18.136.010, Amendments**

**DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.**

**FINDINGS:** The applicant has requested a quasi-judicial plan amendment and zone change to change the plan designation and zoning of the subject site from SUF to SUU. The applicant

submitted applications on forms provided by the county. The applications are being reviewed under the procedures of Title 22 of the Deschutes County Code.

**b. 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.**

**FINDINGS:** The applicant's proposal to rezone the subject site from SUF to SUU is not consistent with the site's comprehensive plan forest designation. For that reason the applicant has requested an amendment to the comprehensive plan map to change the plan designation of the subject site from SUF to SUU. The staff report correctly notes comprehensive plan no longer contains an "introductory statement and goals," provisions which were present in the prior comprehensive plan, and therefore the Hearings Officer finds that ordinance language no longer is applicable.

- B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.**

**FINDINGS:** Chapter 18.108 establishes the Sunriver UUC Zone. Section 18.108.010 states the purpose of the Sunriver UUC Zone as follows:

**The purpose of the Urban Unincorporated Community (UUC) Zone – Sunriver is to provide standards and review procedures for the future development of the urban unincorporated community of Sunriver. The UUC Zone – Sunriver is composed of 17 separate zoning districts and one combining zone district, each with its own set of allowed uses and distinct regulations, as further set forth in DCC 18.108.**

Section 18.108.170 governs the SUU but does not include a purpose statement for that district. Rather, it describes the uses permitted outright and conditionally, height regulations and lot requirements. Nevertheless, the Hearings Officer finds the applicant's proposed zone change is consistent with the overall purpose of the Sunriver UUC Zone because it would facilitate development of a use permitted in the SUU and which, as discussed in findings throughout this decision, is an integral part of the delivery of fire services within the Sunriver UUC. Therefore, I find the applicant's proposal satisfies this criterion.

- C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:**

- 1. The availability and efficiency of providing necessary public services and facilities.**

**FINDINGS:** The applicant's proposed plan amendment, zone change and goal exception, in and of themselves, will not require water or sewer service or have impacts on public facilities and services. In addition, the record indicates the proposed fire training facility will not require water

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 29

or sewer service and will have access to South Century Drive, a county-maintained road, from an existing USFS road. The Hearings Officer has found the additional vehicle traffic that would be generated by use of the fire training facility will have minimal if any impact on affected transportation facilities. The applicant argues, and I agree, that the fire training facility will serve the public health, safety and welfare by providing a location for necessary firefighting training for fire department staff. Therefore, I find the applicant's proposal satisfies this criterion.

**2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.**

**FINDINGS:** As discussed in the findings above, the Hearings Officer has found the applicant's proposal is consistent with the plan's goals and policies to the extent they are applicable. I find there will be no "impacts on surrounding land use" from the proposed plan amendment, zone change and goal exception themselves. The applicant proposes to develop the subject site with a fire training facility. I have found traffic impacts from such a facility would have minimal if any impact on affected transportation facilities. However, the applicant has stated use of the proposed facility would include quarterly live fire training exercises that will produce smoke. The applicant's burden of proof and May 6, 2014 memorandum state the effects from this smoke on nearby residential properties within the Sunriver community will be minimal because of prevailing winds blowing smoke from west to east and away from the residences, because of intervening topography, and because of the 3,000-foot distance and significant vegetative buffer between the subject site and the nearest residences.

As discussed in the findings above, the Planning Division received letters from the owners of two dwellings on Sequoia Lane in Sunriver, located approximately 3,000 feet west of the subject site and across the BNSF railroad tracks. These owners expressed concern about potential negative impacts from the fire training facility. In particular, they stated their belief that the facility would devalue their properties because of past and future removal of trees from the subject property, visibility of the training facility structure from their residences, and disruption caused by fire training activities. The record indicates that in the past the subject property was cleared of trees to facilitate storage and land application of sewage effluent. However, at the public hearing Sunriver Fire Chief Art Hatch testified that no trees would be cut on the subject site in order to establish the training facility.

With respect to visual impacts from the fire training structure, the Hearings Officer finds it is highly unlikely the structure will be visible from dwellings on Sequoia Lane. That is because of the relatively low height of the structure (approximately 26 feet), the 3,000-foot distance between the subject site and the nearest residence, the presence of the seven- to eight-foot-tall BNSF railroad track berm between the subject site and the nearest dwellings, and significant tree cover on the intervening land as evidenced by aerial photos of the subject property included in this record. I am aware that additional vegetation could be removed from the portion of the subject property between the subject site and the nearest residences in order to increase the available land for ground application of sewage effluent. Nevertheless, I find the remaining features – i.e., distance, topography and BNSF railroad berm – would continue to provide a significant buffer between the proposed fire station and the nearest residences. Finally, with respect to operational impacts, I find the significant distance between the subject site and the nearest residence will mitigate any noise from training activities, and the distance and prevailing winds, coupled with the quarterly timing of the live fire training exercises, will minimize any impacts from smoke on dwellings within the Sunriver community.

In his comments on the applicant's proposal, Hugh Palcic, General Manager of the Sunriver Owners' Association, requested that the Hearings Officer consider including in my decision provisions requiring that a "substantial area surrounding the subject site . . . receive treatment for ladder fuels reduction," and that provisions be made for a secondary access for the proposed fire training facility. The Hearings Officer finds these are reasonable requests but that the appropriate time to consider them is during site plan review for the proposed fire training facility.

For the foregoing reasons, the Hearings Officer finds the proposal satisfies this criterion.

- D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.**

**FINDINGS:**

**Mistake in Zoning.** As discussed in the findings above, the Sunriver UUC boundary was expanded in 1997 to include the subject property for the purpose of providing a location for sewage effluent storage and disposal for the Sunriver community. The property previously was zoned F-1. The Hearings Officer finds there was no mistake in that redesignation and rezoning.

**Change in Circumstances Since Property Was Last Zoned.** The applicant's burden of proof states there has been a change in circumstances justifying the proposed redesignation and rezoning of the subject property as follows:

*"The primary change is that the utility needs of the community have expanded beyond the available acreage to site utility uses. Specifically, the Sunriver Fire Department (SFD) has no method to regularly and predictably train personnel and there is no other suitable property within or surrounding Sunriver to accommodate the facility. The facility must be sited as close as possible to Sunriver, but distant enough to alleviate potential impacts to surrounding properties. The subject site places the facility in reasonably close proximity to Sunriver which is important because personnel being trained may need to respond in the event of a fire and must comply with SFD's Standards of Cover (deployment plan) which stipulates that total response times for structure fires within the district be as follows:*

*The SFD's Standards of Cover document calls for total response times for structure fires within the district to be as follows:*

*For 80 percent of all fire incidents within the district, the first unit will arrive on scene with a response time (turnout time + travel time) of 8 minutes and 30 seconds. On-scene staffing shall be sufficient to initiate a basic single-line interior attack.*

*Similarly, for emergency medical service responses it requires:*

*For 90 percent of all medical incidents within the fire district, SFD will arrive on scene with a response time (turnout time + travel time) of 8 minutes and 20 seconds.*

*These performance measures were developed using the following factors:*

- *Historical performance*
- *Current capabilities/critical tasking*
- *Risk analysis/risk exposure*
- *System demand*
- *Community expectations*

*The subject site is in an ideal location to accommodate these needs. The site is also large enough to accommodate the facility. Another change in circumstances pertains to economics. Facing the reality of a limited budget, the SFD must take measures to keep costs down. It is estimated that sending SFD personnel to existing training facilities outside of the Sunriver Service District (SSD) with the frequency required to maintain current service levels would cost the SSD approximately \$40,000 the first year (including overtime, travel, lodging, meals, etc.) and increasing each year afterward. This is an unsustainable cost. This means that personnel must be able to engage in these training activities while 'in-service' and able to discontinue training activities and respond to actual calls for service. The subject site fulfills these requirements.* (Underscored emphasis added.)

The Hearings Officer finds the fire department's needs to train its staff and operate within its budget are not changed circumstances that have occurred since the subject property was redesignated and rezoned in 1997. Neither can it be said there has been a change in circumstance based on the fire department's need to locate a fire training facility in proximity to the fire department's service area and a safe distance from residential and other uses. These are factors that have influenced the fire department's operations on a regular basis since 1997.

The staff report concludes "the change in use of the property" is a change in circumstances. The Hearings Officer assume staff's statement refers to the change in use of the overall subject property from forest uses to utility uses – i.e., sewage effluent storage and disposal, wood and debris recycling, and a wireless telecommunications facility. Expansion of the Sunriver UUC to include the subject property was for the specific purpose of providing a site for the storage and disposal of effluent from the Sunriver community. However, I agree with staff that the addition of wood/debris recycling and telecommunications facilities on the subject property reflects a greater change in the character of the subject property.

Although the recycling and telecommunications facilities are uses permitted in the SUF Zone, they represent a broadening of utility uses on the subject property, and a greater transition to general utility uses, than what appears to have been contemplated when the Sunriver UUC boundary was expanded in 1997. Attached as Exhibit B to planning staff's May 6, 2014 memorandum to the Hearings Officer are copies of the staff report and board findings and decision approving the 1997 Sunriver UUC expansion. These documents make clear the approved expansion was approved in order to permit the Sunriver community to meet the sewage treatment requirements of the Department of Environmental Quality (DEQ) and not to create a location for a broad array of utility uses. Although I find this is a close question, I agree with staff that the broader change in use of the overall subject property is a change of circumstance since the subject property was designated Sunriver UUC and zoned SUF.

The remaining question is whether this change in circumstance justifies the applicant's proposal – i.e., whether the proposed plan amendment and zone change will "presently serve the public

Sunriver Service District

PA-14-1, ZC-14-1

Page 32

PAGE 32 OF 34 – EXHIBIT "F" TO ORDINANCE 2014-021

health, safety and welfare considering" the change in circumstance. The Hearings Officer finds the applicant has demonstrated the need to locate a new fire training facility in proximity to the fire department's service area and a safe distance from residential and other uses. As discussed in the findings above, I have found the subject site will assure there will be minimal if any negative impacts on the rest of the Sunriver community from the fire training facility. Finally, as discussed in the goal exception findings above, I also have found the subject property is the most suitable location for the proposed facility. For these reasons, I find the change in circumstances identified by staff justifies the applicant's proposed plan amendment and zone change from SUF to SUU.

#### **LIMITED USE COMBINING ZONE**

### **2. Chapter 18.112, Limited Use Combining Zone – LU**

#### **a. Section 18.112.010, Purpose**

- A. The purpose of the LU Zone is to limit the list of permitted uses and general activities allowed in the underlying zone, when a plan amendment and zone change rezones a parcel to that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732.**
- B. The LU Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected by either a "physically developed" exception under ORS 197.732(1)(a), an "irrevocably committed" exception under ORS 197.732(1)(b), or a "reasons" exception under ORS 197.732(1)(c).**
- C. The LU Zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-04-018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.**

**FINDINGS:** The applicant has requested approval of a plan amendment and zone change from SUF to SUU, and a "reasons" exception to Goal 4, to facilitate the development of a fire training facility on the subject site. Therefore, the Hearings Officer finds an LU Zone is an appropriate means to limit uses on the subject site to those found to justify the "reasons" exception.

#### **b. Section 18.112.020, Combining Zone Requirements**

**When the LU Zone is applied, the uses permitted in the underlying zone shall be limited to those uses and general activities specifically set forth in the ordinance adopting the underlying zone and the LU Zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process.**

**FINDINGS:** The applicant requests approval of a "reasons" exception to Goal 4 to redesignate and rezone the 4.28-acre subject site from SUF to SUU. The applicant has proposed establishment of an LU Zone to limit uses permitted on the subject site. Specifically, the applicant has proposed that the following language be included in the comprehensive plan as

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 33

justification for the requested exception.

*"To ensure that the uses in the Sunriver Utility District Zone on an approximate 4.28 acre portion of Tax Lot 102 on Deschutes County Tax Map 19-11-00 are limited in nature and scope, the Sunriver Forest (SUF) zoning on the subject parcel shall be subject to a Limited Use Combining Zone, which will limit the uses to a fire training facility for the Sunriver Service District, in particular the Sunriver Fire Department."*

The Hearings Officer finds that with the addition of language including the access road in the fire training facility, the proposed language is appropriate for inclusion in the comprehensive plan.

**IV. DECISION:**

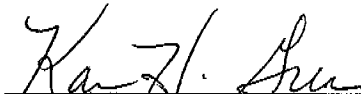
Based on the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer hereby **RECOMMENDS APPROVAL** of the applicant's proposed plan amendment to change the designation of the subject site from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utilities, the applicant's proposed zone change to change the zoning of the subject site from SUF to SUU, and "reasons" exception to Goal 4, **SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

1. This approval is based on the applicant's application, burden of proof statement, supplemental materials, and written and oral testimony. Any substantial change to the approved use will require a new land use application and approval.
2. The applicant/owner shall submit to the Planning Division a written metes-and-bounds description of all property subject to the approved plan amendment, zone change and goal exception.
3. The comprehensive plan shall be amended to include the following findings justifying the exception to Goal 4:

**To ensure that the uses in the Sunriver Utility District Zone on the approximately 4.28 acre site on Tax Lot 102 on Deschutes County Assessor's Map 19-11-00 are limited in nature and scope to those justifying the exception to Goal 4 for the site, the Sunriver Forest (SUF) zoning on the subject site shall be subject to a Limited Use Combining Zone which will limit the uses on the subject site to a fire training facility and access road for the Sunriver Service District and Sunriver Fire Department.**

Dated this 12<sup>th</sup> day of June, 2014

Mailed this 13<sup>th</sup> day of June, 2014

  
Karen H. Green, Hearings Officer

Sunriver Service District  
PA-14-1, ZC-14-1  
Page 34

REVIEWED  
*HL*  
LEGAL COUNSEL



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code	*	
Title 18, the Deschutes County Zoning Map, and	*	ORDINANCE NO. 2014-022
Adding DCC 18.108.175 to Change the Zone	*	
Designation for Certain Property From Sunriver	*	
Urban Unincorporated Community Forest District to	*	
Sunriver Urban Unincorporated Community Utility	*	
District and Adding a Limited Use Combining Zone.	*	

WHEREAS, Sunriver Service District applied for a zone change to the Deschutes County Code (“DCC”) Title 18, Zoning Map, to rezone certain property from Sunriver Urban Unincorporated Community Forest District (“SUF”) to Sunriver Urban Unincorporated Community Utility District (“SUU”) and add a Limited Use (“LU”) Combining Zone to allow a fire training facility for the Sunriver Service District and Sunriver Fire Department; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on April 22, 2014 before the Deschutes County Hearings Officer and, on June 13, 2014 the Hearings Officer recommended approval of the comprehensive plan map and zone change; and

WHEREAS, after notice was given in accordance with applicable law, a de novo public hearing was held on August 13, 2014 before the Board of County Commissioners (“Board”), and

WHEREAS, on this same date, the Board adopted Ordinance 2014-021, adopting a goal exception to Statewide Planning Goal 4 and amending DCC Title 23, the County Comprehensive Plan, changing the plan designation of the property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility; and

WHEREAS, a change to the Deschutes County Zoning Map is necessary to implement the amendment adopted in Ordinance 2014-021; now therefore,

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

Section 1. ADDING. DCC Section 18.108.175, Utility – U District / Limited Use Combining District, is added as described in Exhibit “A”, attached and incorporated by reference herein.

Section 2. AMENDMENT. DCC Title 18, Zoning Map, is amended to change the zone designation from Sunriver Urban Unincorporated Community Forest District (“SUF”) to Sunriver Urban Unincorporated Community Utility District (“SUU”) / Limited Use (“LU”) Combining District for certain property described in Exhibit “B” and depicted on the map set forth as Exhibit “C”, with both exhibits attached and incorporated by reference herein.




Section 3. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached to Ordinance 2014-021 as Exhibit "F", and incorporated by reference herein.


Dated this 27<sup>th</sup> of August, 2014

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
TAMMY BANEY, Chair

  
ANTHONY DEBONE, Vice Chair

ATTEST:

  
Recording Secretary

  
ALAN UNGER, Commissioner

Date of 1<sup>st</sup> Reading: 13<sup>th</sup> day of August, 2014.

Date of 2<sup>nd</sup> Reading: 27<sup>th</sup> day of August, 2014.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony DeBone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 26<sup>th</sup> day of November, 2014.

**18.108.175. Utility – U District / Limited Use Combining District**

A fire training facility is permitted subject to the applicable provisions of DCC 18.116 and 18.124.  
(Ord. 2014-022 §1, 2014)

## LEGAL DESCRIPTION

A Fire Training Facility Site located in the Southwest One-Quarter of the Southeast One-Quarter (SW 1/4 SE 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said site being more particularly described as follows:

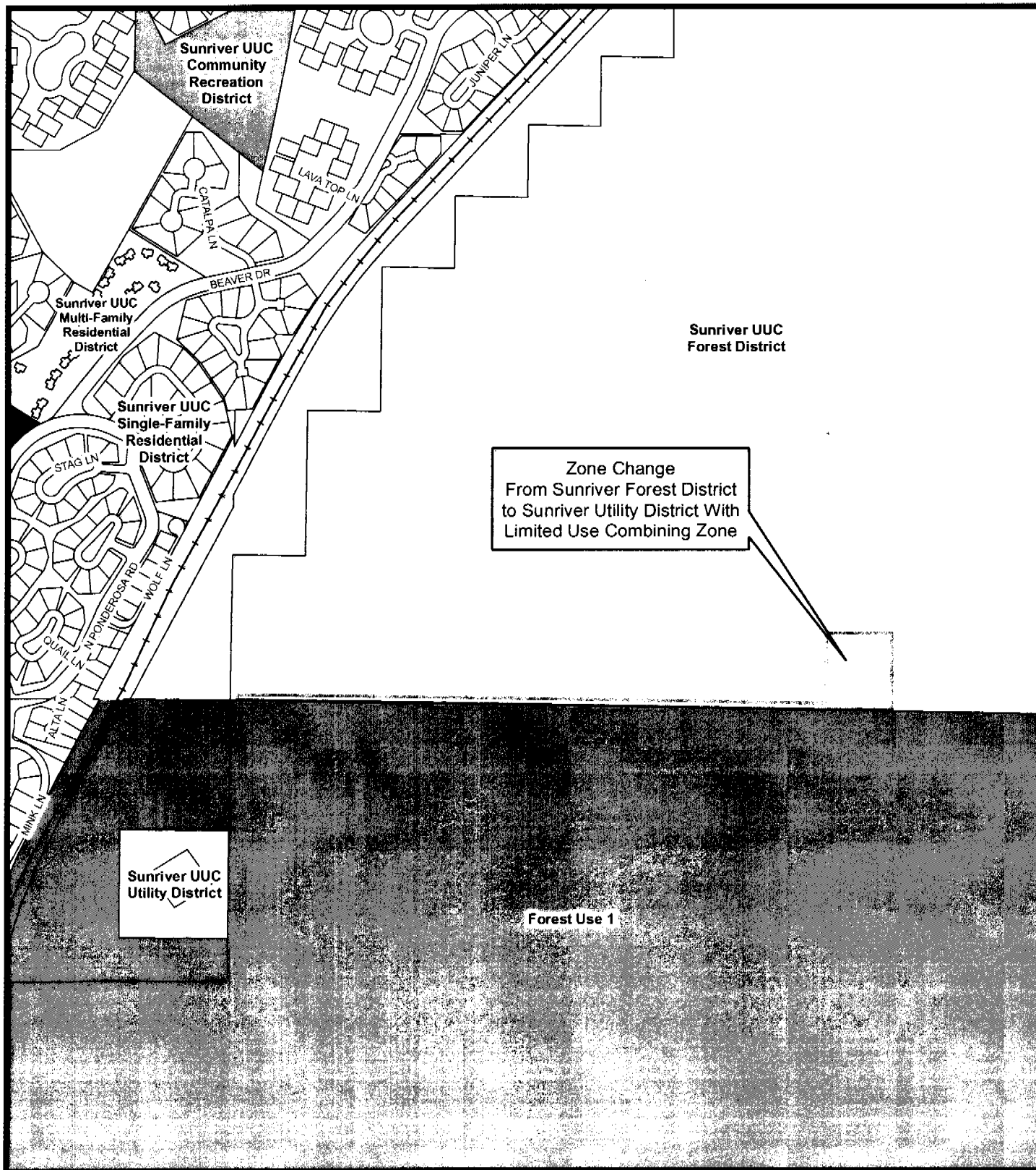
Commencing at the South One-Quarter (1/4) corner of said Section 33, thence along the South line of said Section 33 East 60.00 feet to the TRUE POINT OF BEGINNING; thence leaving said South line on a line perpendicular to said South line North 350.00 feet; thence on a line parallel to and 350.00 feet from said South line East 300.00 feet; thence on a line perpendicular to said South line South 350.00 feet to a point on the South line of said Section 33; thence along said South line West 300.00 feet to the TRUE POINT OF BEGINNING, containing 2.41 acres, more or less.

TOGETHER WITH a 30.00 foot wide Access Corridor located in the Southwest One-Quarter of the Southeast One-Quarter (SW 1/4 SE 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said Access Easement being more particularly described as follows:

Beginning at the South One-Quarter (1/4) corner of said Section 33, said point being the TRUE POINT OF BEGINNING of said Access Easement; thence leaving the South line of said Section 33 along the North-South center section line of said Section 33 30.00 feet, more or less, to a point on a line parallel to and 30.00 feet from the South line of said Section 33; thence on said line that is parallel to and 30.00 feet from said South line East 60.00 feet, more or less, to a point that lies on a line perpendicular to said South section line and 60.00 feet East from said South One-Quarter corner of Section 33 ; thence along said line perpendicular to said South line South 30.00 feet to a point on the South line of said Section 33; thence along said South line West 60.00 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH a 30.00 foot wide Access Corridor located in the Southwest One-Quarter (SW 1/4) of Section Thirty-Three (33), Township Nineteen (19) South, Range Eleven (11) East, Willamette Meridian, Deschutes County, Oregon, said Access Easement being more particularly described as follows:

The South 30.00 feet of said SW 1/4 of said Section 33, EXCEPTING THEREFROM the West 30.00 feet of said South 30.00 feet.



**Legend**

Subject Property

**County Zoning**

Forest Use 1

Sunriver UUC Utility District

Sunriver UUC Community General District

Sunriver UUC Community Recreation District

Sunriver UUC Multiple Family Residential District

Sunriver UUC Single Family Residential District

Sunriver UUC Forest District

**ZONING MAP**

Exhibit "C"  
to Ordinance 2014-022



August 12, 2014

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

*Tami Bandy*  
Tami Bandy, Chair

*Anthony DeBone*  
Anthony DeBone, Vice Chair

*Alan Unger*  
Alan Unger, Commissioner

*[Signature]*  
ATTEST: Recording Secretary

Dated this 27 day of June, 2014  
Effective Date: July 1, 2014