



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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### STAFF REPORT REVISED 5/18/17

**FILE NUMBERS:** 247-17-000140-ZC/141-PA/142-TA

**APPLICANT:** Deschutes County Community Development  
117 NW Lafayette Avenue, P.O. Box 6005  
Bend, Oregon 97708-6005

**REQUEST:** Legislative Amendments to the Deschutes County Comprehensive Plan, Zoning Map, and Zoning Ordinance changing the Flood Plain zone from a primary zone to a combining (overlay) zone and related ancillary changes.

**STAFF CONTACT:** Matthew Martin, AICP, Associate Planner

#### I. APPLICABLE CRITERIA:

Title 22, Deschutes County Development Procedures Ordinance

#### II. BASIC FINDINGS:

- A. **PROPOSAL:** Legislative Amendments to the Deschutes County Comprehensive Plan, Zoning Map, and Zoning Ordinance changing the Flood Plain zone from a primary zone to an overlay (combining) zone. The changes are intended to clarify and simplify zoning for properties encumbered by the Flood Plain zone and will NOT affect the mapped FEMA flood plain boundary or the standards applicable to most development within the special flood hazard area (aka 100-year flood plain). Also included are recommended amendments from the Oregon model flood plain code and other "housekeeping" amendments.

#### III. CONCLUSIONARY FINDINGS:

##### A. CHAPTER 22.12, LEGISLATIVE PROCEDURES

1. Section 22.12.010.

***Hearing Required***

**FINDING:** The applicant meets this criterion because a public hearing will be held before the Deschutes County Planning Commission on April 13, 2017.

2. Section 22.12.020, Notice

**Notice**

**A. Published Notice**

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

**FINDING:** Notice is published in the Bend Bulletin newspaper on April 2, 2017, and contained the information described in DCC 22.12.020(A)(2).

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

**FINDING:** This criterion will be met with notice posted in the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend.

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

**FINDING:** Given the proposed amendments in question are legislative and do not apply to any specific property, no individual formal notices were sent or required. With that said, staff notes that individual postcards were mailed to all owners with flood plain zoned property, excluding federal ownership, to inform them of the proposed changes and scheduled public meetings that were held at various locations throughout the county.

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

**FINDING:** Notice will be provided to the County public information official for wider media distribution. This criterion has been met.

3. Section 22.12.030 Initiation of Legislative Changes.

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

**FINDING:** The application was initiated by the Deschutes County Planning Division, which received a fee waiver. This criterion has been met.

4. Section 22.12.040. Hearings Body

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

**2. The Board of County Commissioners.**

**FINDING:** This criterion will be met.

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

**FINDING:** This Planning Commission will hold a public hearing on April 13, 2017, and review the proposed changes.

**5. Section 22.12.050 Final Decision**

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

**FINDING:** If approved, the proposed legislative changes included in file nos. 247-17-000140-ZC/141-PA/142-TA will be implemented by ordinances upon approval and adoption by the Board of County Commissioners; this criterion will be met.

**IV. PROPOSED AMENDMENTS:**

The proposed amendments are detailed in the Exhibits A-L attached hereto. The maps identify the changes and text amendments are identified by underline for new text and ~~strikethrough~~ for deleted text. Below are explanations of the proposed changes.

**ZONE CHANGE**

**A. Deschutes County Zoning Map Amendment**

The proposed zoning map amendment changes the flood plain from a primary zone to a combining (overlay) zone. Conversely, the primary zone for the areas previously zoned flood plain is amended to reflect the comprehensive plan designation and primary zoning of the adjacent areas of the subject property. Where the comprehensive plan designation is not identified, the nearest and most similar zoning has been applied.

**REVISED:** The original exhibit was revised to more accurately provide references to maps of unincorporated communities.

(See Exhibit A for proposed amendment.)

**PLAN AMENDMENTS**

**A. Text Amendment to Comprehensive Plan, Chapter 2, Section 2.5 - Water Resources.**

The proposed amendment is a minor change updating reference to the flood plain zone as a combining zone.

(See Exhibit B for proposed amendment.)

**B. Text Amendment to Comprehensive Plan, Appendix B – Tumalo Community Plan.**

The proposed text and map amendments remove reference to flood plain comprehensive plan designation. This is necessary because the flood plain will no longer be a primary zone. Also included is the addition of references to the flood plain as combining zone as discussed above.

(See Exhibit C for proposed amendment)

**C. Text Amendment to Comprehensive Plan, Newberry County: A Plan for Southern Deschutes County.**

Text and map amendments remove reference to flood plain comprehensive plan designation. This is necessary because the flood plain will no longer be a primary zone. Also included are related references to combining zone as discussed above.

(See Exhibits D and E for proposed amendment)

**TEXT AMENDMENT TO TITLE 18, COUNTY ZONING**

**A. Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS**

The Oregon Department of Land Conservation and Development (DLCD) provides model codes for flood plain management and regulation. The proposed amendments incorporated terminology related to current best practices included in the model code. Also included are “housekeeping” amendments updating references to the current ordinance adopting the new Flood Insurance Rate Maps (FIRM) and to reflect the change of the flood plain from a primary to combining zone.

(See Exhibit F for proposed amendment)

**B. Chapter 18.12. ESTABLISHMENT OF ZONES**

The proposed amendment is to reflect the change of the flood plain from a primary zone to a combining zone.

(See Exhibit G for proposed amendment)

**C. Chapter 18.61. URBAN UNINCORPORATED COMMUNITY ZONE - LA PINE**

The proposed amendment is to reflect the change of the flood plain from a primary zone to a combining zone.

(See Exhibit H for proposed amendment)

**D. Chapter 18.96. FLOOD PLAIN ZONE**

**REVISED:** The original exhibit was revised and the proposed amendments include:

- Changes to reflect the change of the flood plain from a primary zone to a combining zone, incorporation of elements of the DLCD model code as noted above, other “housekeeping” amendments to correct errors or provide clarification.
- Section 18.96.030. Uses Permitted Outright

- 18.936.030(A): Reference to the underlining primary zone to determine those uses that are permitted outright.
- 18.96.030(B): Recognition there are additional uses that are specifically referenced in the flood plain zone that are permitted outright in the Flood Plain Combining Zone.
- 18.96.030(B)(10): Reference to uses listed in section 18.120.050, Fill and Removal Exceptions, that are permitted outright in the Flood Plain Combining Zone.
- 18.96.030(B)(11): Exception to flood plain zone standards if the location of development is located within the boundary of the Flood Plain Combining Zone but determined to be located outside of the Special Flood Hazard Area (aka 100-year flood plain).
- Section 18.96.040. Conditional Uses Permitted
  - 18.96.040(A): Reference to the underlining primary zone to determine those uses that are permitted as conditional uses.
  - 18.96.040(B): "Flood plain development" as a conditional use. As defined in Title 18, "flood plain development" means *any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.*
  - 18.96.040(C): Conditional uses specific to the Flood Plain Combining Zone.
- Section 18.96.070. Application for Conditional Use
  - 18.96.070(A): Exception to the submission of flood elevation data if the proposal expressly precludes residential and non-residential construction in the flood plain area.
- Section 18.96.080. Criteria to Evaluate Conditional Uses
  - 18.96.080(E)(4): Exception to the submission of flood elevation data if the proposal expressly precludes residential and non-residential construction in the flood plain area.
  - 18.96.080(G)(6): Relief from elevation or floodproofing requirements for small accessory structures that are less than 200 square feet in area, one story, not temperature controlled, not used for human habitation, and several other use and design standards. This recognizes that the risk to human safety and property loss is relatively low for these structures and the additional design and cost associated with elevation and floodproofing is not warranted under these specific conditions and criteria.
  - 18.96.080(G)(7): Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA). "Critical Facility," as proposed, means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response

installations, installations which produce, use or store hazardous materials or hazardous waste. The purpose of this amendment is to prevent loss of or damage to these critical facilities due to flooding and increase likelihood the facilities are available during and after a flood event.

- 18.96.080(G)(8): Moved from section 18.96.040, conditional uses permitted. This use will continue to be regulated as a conditional use that is now defined generally as “Flood Plain Development.”
- 18.96.090/18.96.110: The yard and setbacks requirements and dimension standards are proposed to be amended to reflect the standard of the underlying primary zone(s).

(See Exhibit I for proposed amendment)

#### **E. Chapter 18.113. DESTINATION RESORTS ZONE**

The proposed amendment is to reflect the change of the flood plain from a primary zone to a combining zone.

(See Exhibit J for proposed amendment)

#### **F. Chapter 18.116. SUPPLEMENTARY PROVISIONS**

The proposed amendment is to reflect the change of the flood plain from a primary zone to a combining zone.

(See Exhibit K for proposed amendment)

#### **G. Chapter 18.124. SITE PLAN REVIEW**

The proposed amendment is to reflect the change of the flood plain from a primary zone to a combining zone.

(See Exhibit L for proposed amendment)

#### **V. CONCLUSION:**

Based on the information provided herein, Staff recommends approval of the proposed plan and text amendments.

Attachments: Exhibits A-L