



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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MEMORANDUM

DATE: November 20, 2015

TO: Deschutes County Planning Commission

FROM: Matthew Martin, Associate Planner
Nick Lelack, Community Development Director

RE: November 23, 2015 Continued Deliberations – File No. 247-15-000542-TA
Proposed Land Use Regulations of Marijuana–Related Businesses

The purpose of the November 23 Planning Commission meeting is to continue deliberations on proposed land use regulations of marijuana-related businesses in unincorporated Deschutes County and to make a recommendation on this matter to the Board of County Commissioners for consideration.

During the deliberations on November 16, the commission discussed several revisions to consider. Below is a summary of those revisions and next steps.

The Planning Commission will make the following recommendations to the Board of County Commissioners at this meeting:

1. Approval the proposed or modified definitions, including the revised definition of marijuana processing.
2. The marijuana uses allowed (permitted or conditional use permit) or prohibited in each zone.
3. The specific use standards to be applied to each marijuana business.

MARIJUANA PROCESSING

- **Marijuana Processing, Type 1:** As proposed, Marijuana processing, Type 1 is defined as “the processing of marijuana limited to trimming, drying, curing, and packaging of harvested marijuana, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

In a document prepared by the Oregon Department of Land Conservation and Development (DLCD) titled Guide to Recreational Marijuana in Exclusive Farm Use Zones, the question “What does marijuana processing include?,” was answered stating:

“Marijuana processing includes the processing, compounding or conversion of marijuana into cannabinoid products, concentrates or extracts. It does not include packaging or

labeling of marijuana items. Marijuana processing does not include drying marijuana by a marijuana producer, which DLCDC considers to be “preparation” of farm products and part of the definition of farm use at OAR 660-033-0020(7)(b)(A).”

Based on this, the Planning Commission can consider revising the definitions of processing by consolidating into one definition stating:

“Marijuana Processing” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

- **Cannabinoid Extracts Processing:** The proposed definition of Cannabinoid Extract is:

“A substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.”

These extraction methods that use of solvents or high pressure/heat methods are those can be combustible and have increased hazards. Other processing methods for concentrates, edibles, and products are not combustible and pose no added hazard beyond that of typical cooking methods.

The intent of defining Type II processing was to distinguish the locations where processing methods that are combustible and increased hazards are located. With this new understanding, the Planning Commission can specify where “Marijuana Processing of Cannabinoid Concentrates and Cannabinoid Products Not Including Processing of Cannabinoid Extracts” and “Marijuana Processing of Cannabinoid Extracts” are permitted.

USES PERMITTED BY ZONE/“OPT OUT”

- **Zoning:** The Planning Commission reviewed the Proposed Marijuana Related Business – Permitted deliberation worksheet. Absent a formal recommendation, the Planning Commission discussed several conception recommendations. Staff has revised the worksheet (attached) and identified the conceptual recommendations discussed.

In addition, Staff has prepared the requested maps (attached) that identify parcels 20 acres and greater in the Exclusive Farm Use (EFU) and Multiple Use Agriculture (MUA-10) zones as it pertains to the discussion of where to allow marijuana production. The maps also identify the Rural Industrial (RI) zone because the Planning Commission is conceptually considering allowing marijuana production in that zone. Please note there is only one MUA-10 map which encompasses all lands designated MUA-10 in the County.

- **“Opt Out”:** The Planning Commission also briefly discussed the options to recommend the Board “opt out” of marijuana-related businesses. This remains an option for both the Planning Commission and the Board.

Staff will not provide policy recommendations on the proposed zoning, uses allowances/prohibitions or “opting out.”

SPECIFIC USE STANDARDS

The specific uses standards were discussed throughout the deliberations but no recommendation was made. Staff has revised the Proposed Specific Uses Standards for Marijuana Related Business deliberation worksheet (attached) to include a column identifying “Planning Commission Options.” These options include various options for the Planning Commission to consider in the recommendation to the Board. These options include those previously noted by the Planning Commission, recommendations made in public comments, and Staff recommendations. These recommendations and list of options should not be construed as definitive or comprehensive. Planning Commission may identify options not included or yet contemplated.

Attachments: Deschutes County Planning Commission Deliberation Worksheet 11/23/15
 - Proposed Marijuana Related Businesses – Permitted
 Deschutes County Planning Commission Deliberation Worksheet 11/23/15
 - Proposed Specific Use Standards For Marijuana Related Business
 Map - North Deschutes County Marijuana Production – EFU (20 Acre Analysis)
 Map - South Deschutes County Marijuana Production – EFU (20 Acre Analysis)
 Map - East Deschutes County Marijuana Production – EFU (20 Acre Analysis)
 Map - North Deschutes County Marijuana Production – MUA-10 (20 Acre Analysis)

DESCHUTES COUNTY PLANNING COMMISSION DELIBERATION WORKSHEET 11/23/15

PROPOSED MARIJUANA RELATED BUSINESSES – PERMITTED

(This table identifies the zones where marijuana related businesses are under consideration to be allowed.)

Zone	Processing	Production	Retail	Wholesale	Noted Revisions	
Permitted: P Conditional Use: CU Not Allowed: - Conceptual Recommendations Discussed On 11/16/15: delete (added)						
	Type 1	Type 2			P-office only CU —w/ storage	
TITLE 18 – Deschutes County						
18.16 Exclusive Farm Use - EFU	P	P	P	-	-	(20-acre minimum parcel size)
18.32 Multiple Use Agricultural - MUA10	CU	CU	CU	-	-	(20-acre minimum parcel size)
18.36 Forest Use - F-1	-	-	CU (--)	-	-	
18.40 Forest Use - F-2	-	-	CU (--)	-	-	
18.52 Surface Mining - SM	-	-	CU (--)	-	-	
18.60 Rural Residential - RR-10	-	-	CU (--)	-	-	
18.65 RURAL SERVICE CENTER - UC						
18.65.020 Commercial Mixed Use District (Brothers, Hampton, Millican, Whistlestop, Wildhunt)	-	-	CU (--)	CU	P	
18.65.021 Commercial Mixed Use (Alfalfa)	-	-	CU (--)	CU	P	
18.65.022 Residential District (Alfalfa)	-	-	CU (--)	-	-	
18.66 TERREBONNE RURAL COMMUNITY						
18.66.030 Residential 5-acre - TeR5	-	-	CU (--)	-	-	
18.66.040 Commercial - TeC	CU	CU	-	P (CU)	P/(CU)	(No storage of marijuana products allowed)
18.66.050 Commercial Rural - TeCR	CU	CU	-	P (CU)	P/(CU)	(No storage of marijuana products allowed)
18.67 TUMALO RURAL COMMUNITY						
18.67.030 Residential 5-acre - TuR5	-	-	CU (--)	-	-	
18.67.040 Commercial - TuC	CU	CU	-	P (CU)	P/(CU)	(No storage of marijuana products allowed)
18.67.060 Industrial - Tul	P	CU	-	CU	-	
18.74 RURAL COMMERCIAL						
18.74.020 Deschutes Junction and Deschutes River Woods Store	-	-	CU (--)	CU	-	
18.74.025 Spring River	-	-	-	CU	-	
18.74.027 Pine Forest and Rosland	-	-	-	CU	P	
18.100 Rural Industrial	P/CU	CU	CU	CU	-	
18.108 SUNRIVER UUC						
18.108.050 Commercial - SUC	-	-	-	CU	P	
18.108.055 Town Center - TC	-	-	-	CU	-	
18.108.110 Business Park - SUBP	P	CU	-	CU	P/(CU)	
TITLE 19 - BEND						
No Marijuana Related Businesses Allowed						
TITLE 20 - REDMOND						
No Marijuana Related Businesses Allowed						
TITLE 21 - SISTERS						
No Mariiuaana Related Businesses Allowed						

DESCHUTES COUNTY PLANNING COMMISSION DELIBERATION WORKSHEET 11/23/15
PROPOSED SPECIFIC USE STANDARDS FOR MARIJUANA RELATED BUSINESS

	Marijuana Processing	Marijuana Production	Marijuana Retail	Marijuana Wholesaling	Planning Commission Options (Staff Recommendations in BOLD)
Section 18.116.280					
Home Occupation	Prohibited	Prohibited	Prohibited	Prohibited	1. Accept as proposed. 2. Allow one, some, or all uses as home occupations.
Section 18.116.320					
Medical Marijuana Dispensaries (Repeal)					1. Accept as proposed. 2. Retain standards.
Section 18.116.330					
Yard Setback	100 feet	100 feet			1. Accept as proposed. 2. Increase setback (200 ft, 500 ft, 1,000 ft, other). 3. Decrease setback or existing setback.
Additional Setback	300 feet from an existing dwelling unit not located on the same property	300 feet from an existing dwelling unit not located on the same property			1. Accept as proposed. 2. Increase setback (400 ft, 500 ft, 1,000 ft, other). 3. Decrease setback or existing setback.
Access	<ul style="list-style-type: none"> Public road Exclusive road or easement If shared private road or easement, all other property owners who have access rights to the private road or easement must agree 	<ul style="list-style-type: none"> Public road Exclusive road or easement If shared private road or easement, all other property owners who have access rights to the private road or easement must agree 			1. Accept as proposed. 2. Remove requirement. 3. Amend to not permit use of shared private roads or easements .
Odor	<ul style="list-style-type: none"> Buildings and Greenhouses shall: <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM. 	<ul style="list-style-type: none"> Buildings and Greenhouses shall: <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM. 			1. Accept as proposed. 2. Remove requirement. 3. Prohibit outdoor production that is entirely outdoors, permitting only use of building or greenhouse that accommodates the required filtration equipment. 4. Require that no odor is detectable at the property line. 5. Require that no odor is detectable outside of the building or greenhouse. 6. Amend to include: <ol style="list-style-type: none"> The filtration system shall be maintained in working order and shall be in use. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
Lighting	<ul style="list-style-type: none"> Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 	<ul style="list-style-type: none"> Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 			1. Accept as proposed. 2. Remove requirement. 3. Amend provision. 4. Remove and add provision DCC 15.10, Outdoor Lighting Control, applying to all greenhouses and all farm uses and requiring compliance for existing uses by December 31, 2016.

Security Cameras	Shall be directed to record only the subject property and public rights-of-way.	Shall be directed to record only the subject property and public rights-of-way.			<ol style="list-style-type: none"> 1. Accept as proposed. 2. Remove standard because this is a civil trespass/privacy issue under the jurisdiction of the Sheriff's Office.
Secure Disposal	<ul style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided Marijuana items shall not be placed within exterior refuse containers on the subject property. 	<ul style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided Marijuana items shall not be placed within exterior refuse containers on the subject property. 	<ul style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided Marijuana items shall not be placed within exterior refuse containers on the subject property. 	<ul style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided Marijuana items shall not be placed within exterior refuse containers on the subject property. 	<ol style="list-style-type: none"> 1. Accept as proposed. 2. Remove because OLCC Rule 845-025-7750(1)(b) requires a licensee to “Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.”
Noise	<ul style="list-style-type: none"> compliance with the Noise Control Standards of DCC 8.08 Noise from mechanical equipment used shall not produce sound that, when measured at any lot line of the subject property, exceed 50 dB(A) anytime between 10:00 p.m. and 7:00 a.m. the following day. 	<ul style="list-style-type: none"> compliance with the Noise Control Standards of DCC 8.08 Noise from mechanical equipment used shall not produce sound that, when measured at any lot line of the subject property, exceed 50 dB(A) anytime between 10:00 p.m. and 7:00 a.m. the following day. 			<ol style="list-style-type: none"> 1. Accept as proposed. 2. Remove standard with existing Noise Control Standards of DCC 8.08 applicable. 3. Expand requirement (additional hours, lower decibel level). 4. Move provision to 8.08, Noise Control, and apply to all building and mechanical equipment outside of a commercial or industrial zone.
Screening	<ul style="list-style-type: none"> Land area and buildings, including greenhouses, shall be screened in the following manner: <ol style="list-style-type: none"> a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. b. Vegetation shall be continuously maintained. c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area. 	<ul style="list-style-type: none"> Land area and buildings, including greenhouses, shall be screened in the following manner: <ol style="list-style-type: none"> a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. b. Vegetation shall be continuously maintained. c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area. 			<ol style="list-style-type: none"> 1. Accept as proposed. 2. Remove requirement. 3. Expand requirements (additional vegetation, larger vegetation, other materials). 4. Revise standard to apply to all greenhouses, not just those used for the production of marijuana. 5. Revise to not require screening of buildings (i.e. ag or accessory buildings customary in rural setting).
Water	Proof of a water right for the proposed marijuana production or marijuana processing, or proof of access to a public or community water system.	Proof of a water right for the proposed marijuana production or marijuana processing, or proof of access to a public or community water system.			<ol style="list-style-type: none"> 1. Accept as proposed. 2. Revise to require proof that proposed water supply complies all applicable local, state, and federal laws. 3. Remove because OLCC Rule 845-025-1030(4)(g)(D) requires “A water right permit or certificate number; a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.”

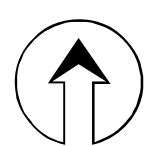
Minimum Separation Distances	<ul style="list-style-type: none"> 1000 from public/private elementary schools, licenses child care center, and licensed preschool all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ul style="list-style-type: none"> 1000 from public/private elementary schools, licenses child care center, and licensed preschool all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ul style="list-style-type: none"> 1000 from public/private elementary schools, licenses child care center, licensed preschool, and marijuana retailer all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ul style="list-style-type: none"> 1000 from public/private elementary schools, licenses child care center, and licensed preschool all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject property Change of use (i.e. new school) shall not cause violation of this standard 	<ol style="list-style-type: none"> Accept as proposed. Remove standard. Revise to include parks and youth activity centers (i.e. Boys & Girls Club).
In the RR-10, MUA-10, F-1, F-2 Zones	<ul style="list-style-type: none"> An owner of the subject property shall reside in a dwelling unit on the subject property. <ul style="list-style-type: none"> The subject property minimum parcel size shall be: <ul style="list-style-type: none"> Processing, Type 1: 5 acres. Processing, Type 2: 10 acres. Marijuana production and marijuana processing shall be located entirely within one or more completely enclosed buildings, including greenhouses. <ul style="list-style-type: none"> A maximum of 5,000 square feet of building space may be used for all activities associated with marijuana production on the subject property. A maximum of 3,000 square feet of building space may be used for all activities associated with marijuana processing on the subject property. If only a portion of a building is authorized for use in marijuana production or marijuana processing, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production or marijuana processing space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production or marijuana processing space and the remainder of the building. Marijuana processing, Type 2 shall only be permitted on properties located within the boundaries of a fire protection district. 	<ul style="list-style-type: none"> An owner of the subject property shall reside in a dwelling unit on the subject property. <ul style="list-style-type: none"> The subject property minimum parcel size shall be: <ul style="list-style-type: none"> Production: 5 acres. Marijuana production and marijuana processing shall be located entirely within one or more completely enclosed buildings, including greenhouses. <ul style="list-style-type: none"> A maximum of 5,000 square feet of building space may be used for all activities associated with marijuana production on the subject property. A maximum of 3,000 square feet of building space may be used for all activities associated with marijuana processing on the subject property. If only a portion of a building is authorized for use in marijuana production or marijuana processing, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production or marijuana processing space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production or marijuana processing space and the remainder of the building. Marijuana processing, Type 2 shall only be permitted on properties located within the boundaries of a fire protection district. 			<ol style="list-style-type: none"> Accept as proposed. Remove standards. Revise to: <ol style="list-style-type: none"> Remove RR-10, F-1, F-2 zones from consideration Add minimum parcel size of 20-acres for EFU and MUA-10 parcels Replace fire district require for Processing, Type 2 with this applying solvent based and high heat/pressure processing of extracts.

Nonconformance (Applying to lawfully established medical marijuana grows that continue to by only medical marijuana grows)	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.			<ol style="list-style-type: none">1. Accept as proposed with correct cross reference of DCC 18.116.330(4) through (9) to DCC 18.116.330(A)(4) through (A)(9).2. Remove standards.3. Reduce the compliance time period from December 31, 2016.4. Revise to state “Nonconformance. All marijuana production and processing operations lawfully established prior to the effective date of the requirements codified in this ordinance are exempt from all such regulations until December 31, 2016, at which time all marijuana production, processing, wholesaling and retailing operations shall then comply with all provisions of this DCC 18.166.330 (1) through (13).”5. Prohibit expansion of existing operations unless complies with all standards.6. Explicitly state that conversion from medical to recreational marijuana production shall comply with all applicable standards.
Hours			No earlier than 10:00 a.m. or later than 7:00 p.m.		<ol style="list-style-type: none">1. Accept as proposed.2. Remove standard.3. Revise to expand hours available to sell marijuana to customers but no greater that 7:00am to 10:00pm, the maximum allowed by OLCC Rule 845-025-2820(1)(e).4. Revise to reduce hours available to sell marijuana to customers.
Window Service			Shall not have a walk-up window or drive-thru window service.		<ol style="list-style-type: none">1. Accept as proposed.2. Remove because OLCC Rule 845-025-1300(1) requires “a licensee may not sell any marijuana item through a drive-up window.”
Minors			No minors allowed, unless accompanying a parent or guardian as allowed by state law		<ol style="list-style-type: none">1. Accept as proposed.2. Remove because ORS and OLCC rules address this in multiple sections.
Co-Location			Shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.	Shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.	<ol style="list-style-type: none">1. Accept as proposed.2. Remove standard.3. Revise.
Other to Consider-Number of licenses of one type on a parcel					<ol style="list-style-type: none">1. No revision - OLCC licensing rules apply.2. Add limit on number of licenses on one type that can be issued to a parcel.
Other to Consider-Require Permit Renewal					<ol style="list-style-type: none">1. Require cursory review of operation for compliance with standards (1-year, 2-year).2. Do not require.
Others to Consider?					

North Deschutes County Marijuana Production - EFU

Planning Commission Deliberation
20 Acre Analysis

- Child Care Center
- School
- School / Child Care Center Buffer - 1,000'
- State Highway
- Urban Growth Boundary
- Bend Urban Reserve Area
- Unincorporated Community
- Zoning**
 - Exclusive Farm Use < 20 Acres
 - Exclusive Farm Use >= 20 Acres
 - Rural Industrial

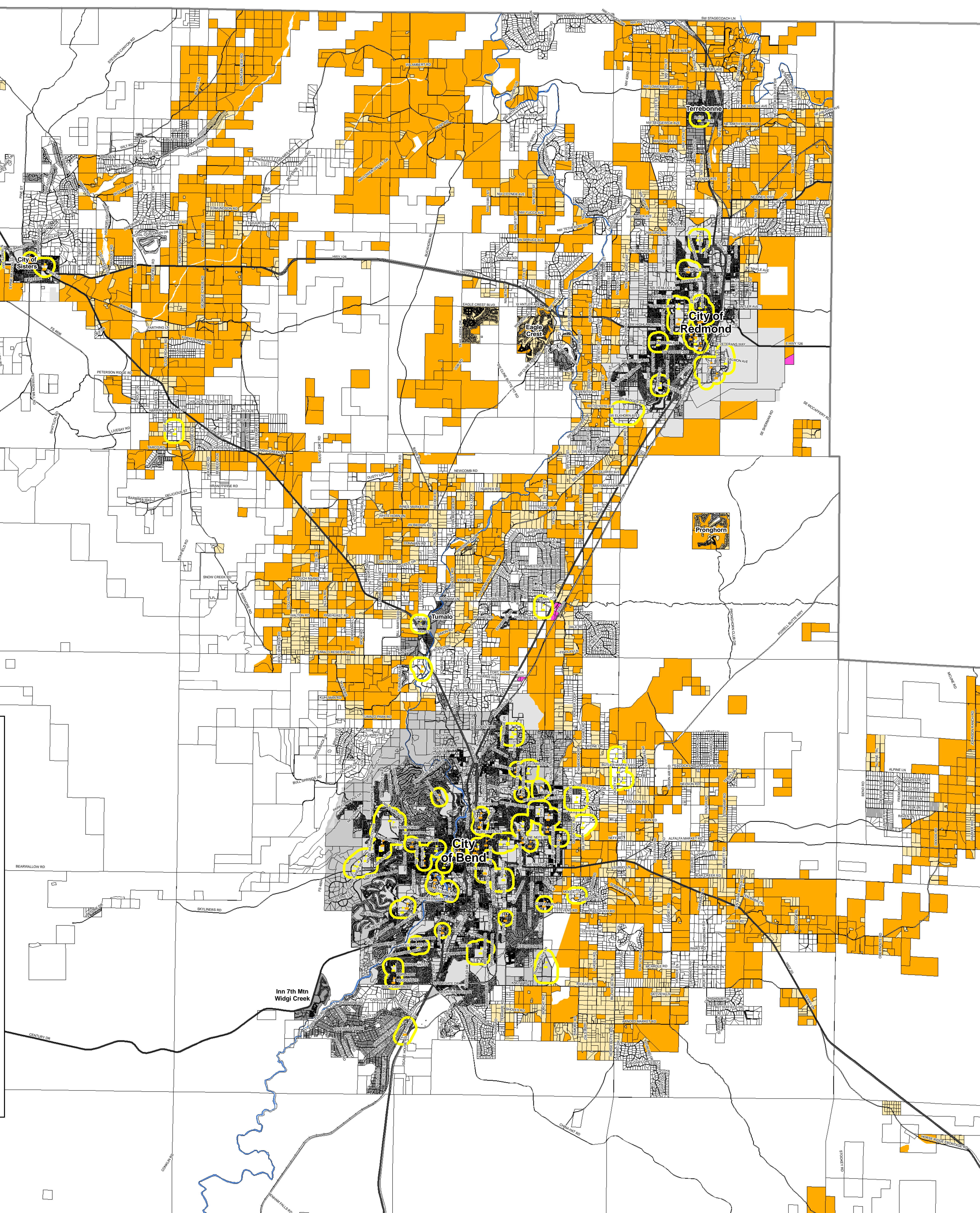


1.5 0.75 0 1.5 3 Miles

November 19, 2015

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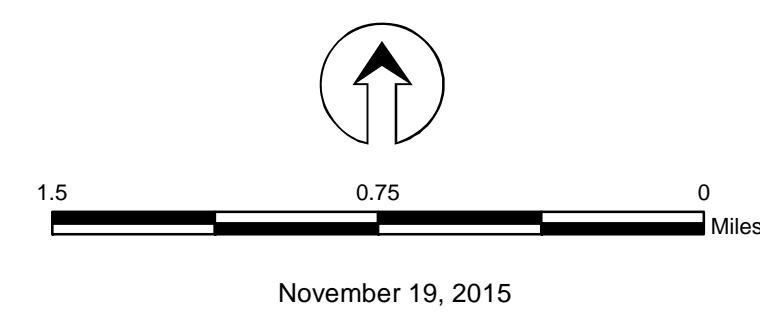
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South Deschutes County Marijuana Production - EFU

Planning Commission Deliberation
20 Acre Analysis

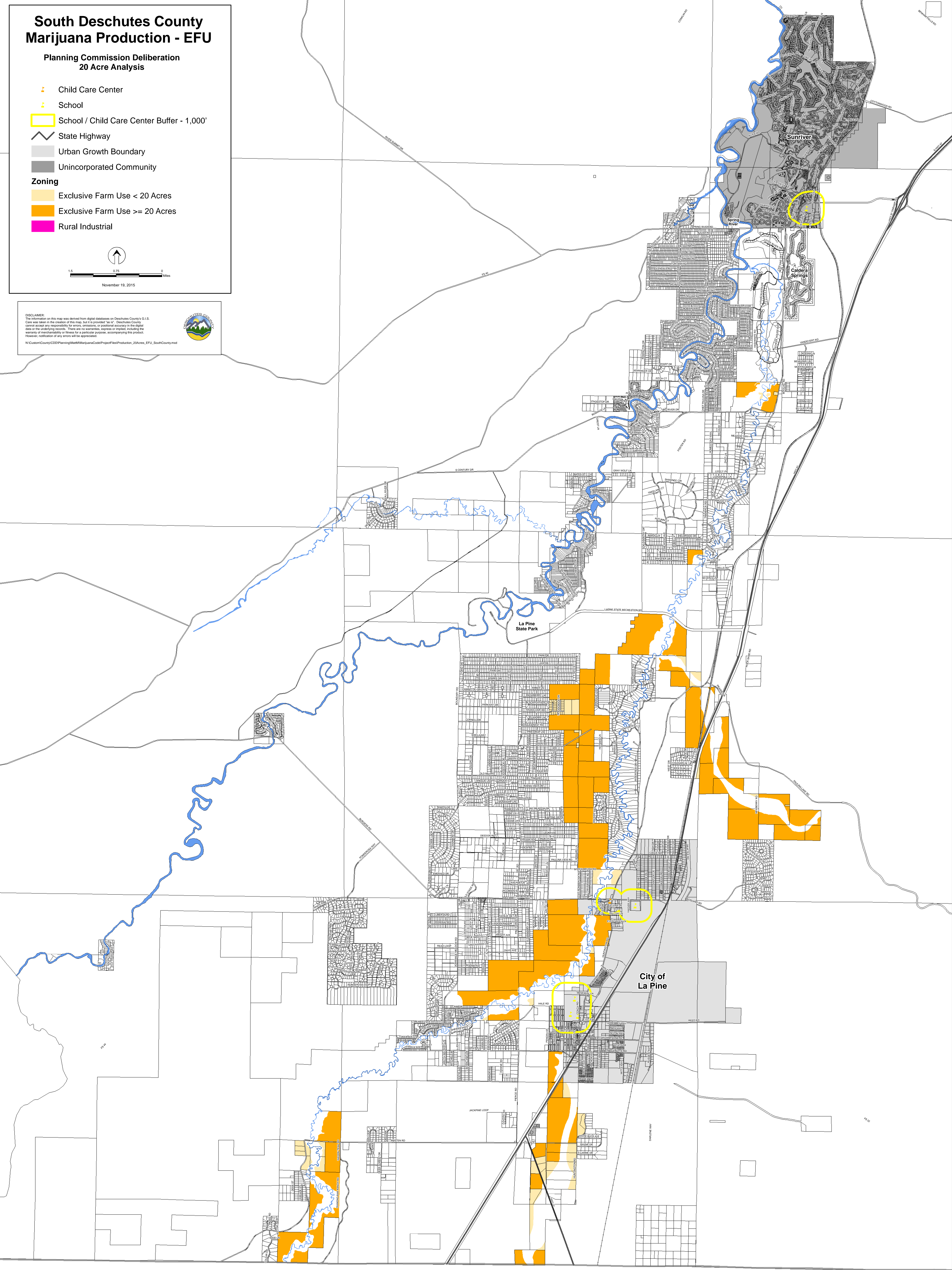
- Child Care Center
- School
- School / Child Care Center Buffer - 1,000'
- State Highway
- Urban Growth Boundary
- Unincorporated Community
- Zoning**
 - Exclusive Farm Use < 20 Acres
 - Exclusive Farm Use >= 20 Acres
 - Rural Industrial



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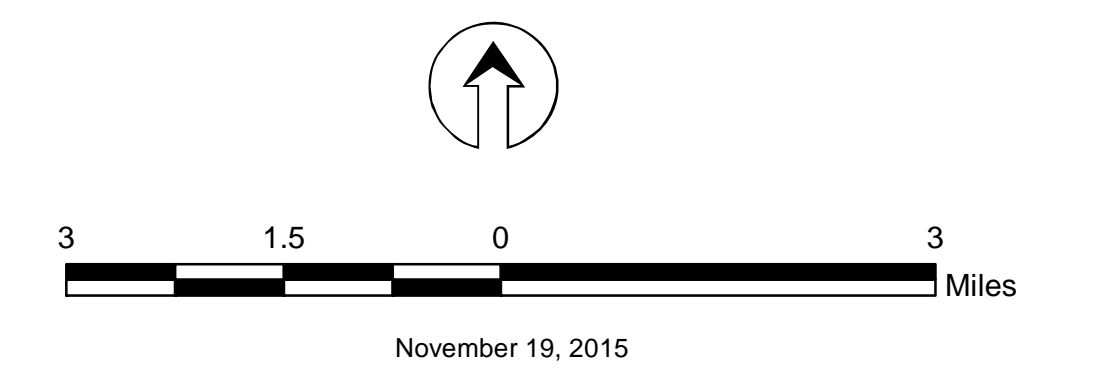
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East Deschutes County Marijuana Production - EFU

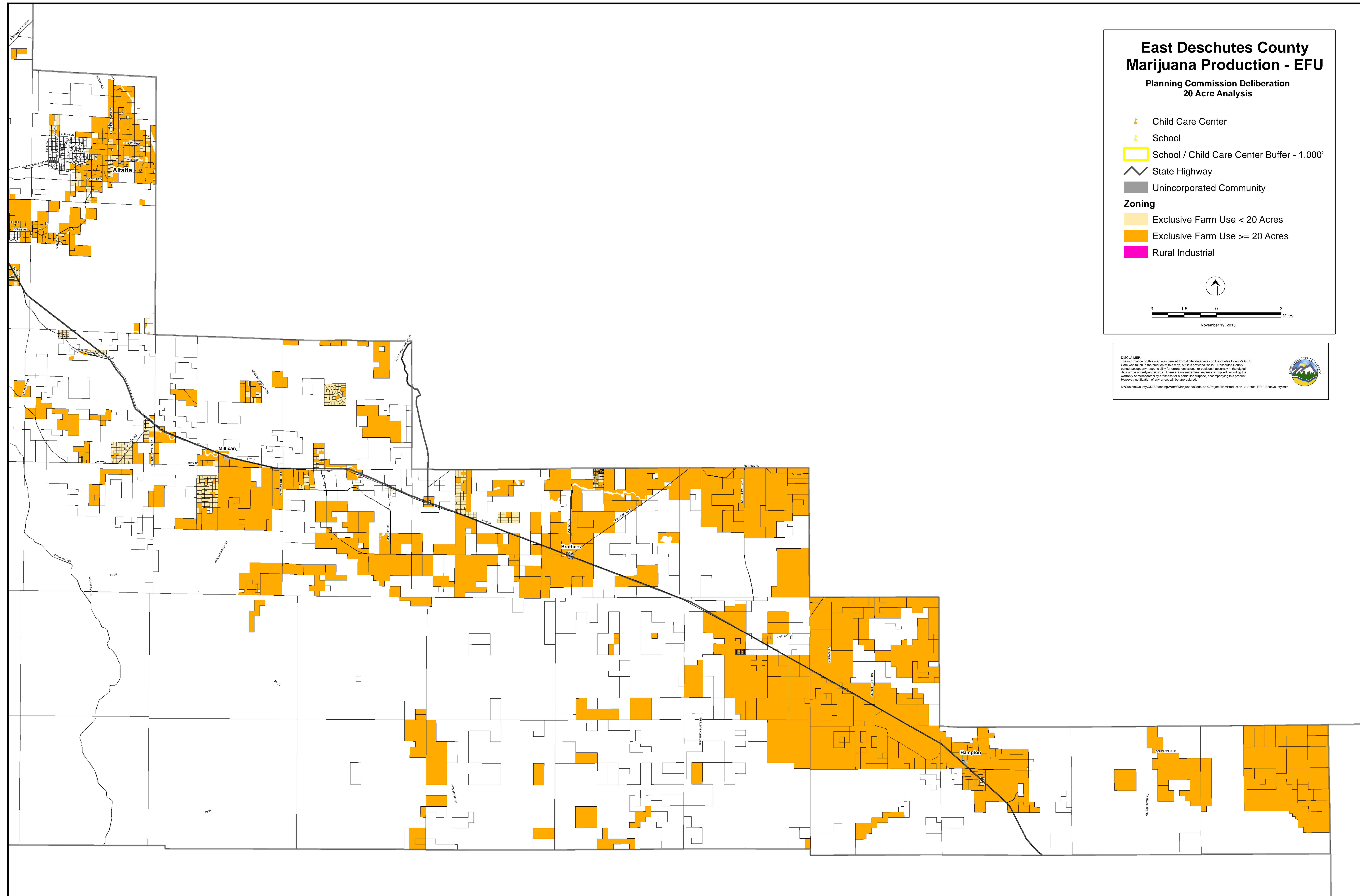
Planning Commission Deliberation
20 Acre Analysis

- Child Care Center
- School
- School / Child Care Center Buffer - 1,000'
- State Highway
- Unincorporated Community
- Zoning**
- Exclusive Farm Use < 20 Acres
- Exclusive Farm Use >= 20 Acres
- Rural Industrial



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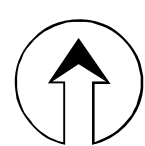
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North Deschutes County Marijuana Production - MUA10

Planning Commission Deliberation
20 Acre Analysis

- Child Care Center
- School
- School / Child Care Center Buffer - 1,000'
- State Highway
- Urban Growth Boundary
- Bend Urban Reserve Area
- Unincorporated Community
- Zoning**
 - MUA10 < 20 Acres
 - MUA10 >= 20 Acres
 - Rural Industrial



1.5 0.75 0 1.5 3 Miles

November 19, 2015

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