



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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STAFF REPORT

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.

(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 plan 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 plan 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

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.
- 18.96.045: Specifies approval is required prior to construction or initiation of the listed uses. Further, an exception to the conditional use permit requirements and standards is included for development that is located within the mapped flood plain combining zone but located outside all areas designated as “Special Flood Hazards” on the FIRM maps. This recognizes there are areas within the mapped flood plain that upon onsite evaluation are found to not be located in the special flood hazard

area and, therefore, not susceptible to the associated hazards and risks. This can be confirmed through the submittal and review of a flood elevation survey prepared by a licensed land surveyor. This exception will result in permit cost saving and expedite land use review.

- 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.
- 18.96.090/18.96.110: 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.

VI. PLANNING COMMISSION OPTIONS

The Planning Commission has several options at the end of public testimony on April 13, 2017:

- Continue the public hearing and accept oral and written testimony at its April 27 meeting;
- Close the oral record, but keep the written record open until April 20, with deliberation on April 27;
- Close the oral and written record tonight and set deliberations for April 27; or
- Close the oral and written record tonight and deliberate.

Attachments: Exhibits A-L