

<p>REVIEWED</p> <p><i>[Signature]</i></p> <p>LEGAL COUNSEL</p>
<p>REVIEWED</p> <p><i>[Signature]</i></p> <p>CODE REVIEW COMMITTEE</p>

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 11, County Owned Land and Property, of the Deschutes County Code And Declaring an Emergency. *
 *
 * ORDINANCE NO. 2002-010

WHEREAS, Chapter 23.44, Regional Problem Solving for South Deschutes County, in the Deschutes County Comprehensive Plan directs the County to develop a Transferable Development Credit ("TDC") program in order to implement some of the goals and strategies identified by the Regional Problem Solving Project for South Deschutes County; and

WHEREAS, the Deschutes County Board of County Commissioners ("Board") amended the County's Comprehensive Plan pursuant to Ordinance No. 2002-009 (file no. PA-02-01), to explain the need for and specify the elements of a TDC program; and

WHEREAS, Ordinance No. 2002-010 (file no. TA-02-01) contains the components, including definitions, criteria and procedures, necessary to implement the TDC program described in the Comprehensive Plan; and

WHEREAS, the TDC program will be administered by the Community Development Department with assistance as needed from other county departments; now, therefore,

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

Section 1. ADDING. Title 11, County Owned Land and Property, of the Deschutes County Code, is amended to add a new chapter, Transferable Development Credit Program, to read as described in Exhibit "A," attached hereto and by this reference incorporated herein.

Section 2. SENDING AREA. The sending area established for the TDC program under this Ordinance is identified on a map entitled TDC Sending Area, as shown on Exhibit "B," attached hereto and by this reference incorporated herein.

Section 3. RECEIVING AREA. The receiving area established for the TDC program under this Ordinance is identified on a map entitled TDC Receiving Area, as shown on Exhibit "C," attached hereto and by this reference incorporated herein.

Section 4. TDC ALLOCATION. For the purpose of the TDC program the initial allocation of TDCs in the sending area shall be one (1) TDC per eligible lot. An additional one-half (1/2) TDC shall be allocated to eligible lots located in the High Priority Wildlife Corridor map as shown on Exhibit "D," attached hereto and by this reference incorporated herein.

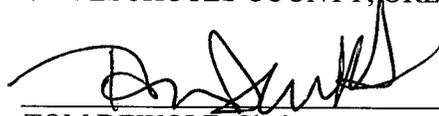
Section 5. TDC REDEMPTION. For the purpose of the TDC program the initial requirement for redeeming TDCs in the receiving area shall be 5.5 TDCs per net developable acre as that term is defined in Exhibit "A" to the this ordinance.

Section 6. RECORDS. The Deschutes County Community Development Department shall keep a record of TDC transactions and shall maintain and periodically update the TDC Sending Area and TDC Receiving Area maps referred to in sections 2 and 3 of this Ordinance.

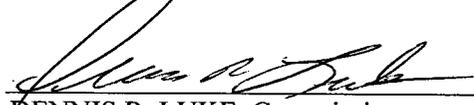
Section 5. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 24th day of April, 2002.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



TOM DEWOLF, Chair



DENNIS R. LUKE, Commissioner



MICHAEL M. DALY, Commissioner

Date of 1st Reading: 24th day of April, 2002.

Date of 2nd Reading: 24th day of April, 2002.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Tom DeWolf	✓	—	—	—
Dennis R. Luke	✓	—	—	—
Michael M. Daly	✓	—	—	—

Effective date: 24th day of July, 2002.
April

ATTEST:



Recording Secretary

EXHIBIT "A"

**Chapter 11.12. TRANSFERABLE
DEVELOPMENT
CREDIT PROGRAM**

- 11.12.010. Definitions.**
- 11.12.020. TDC Transactions.**
- 11.12.030. TDC Sending Area Eligibility
Criteria.**
- 11.12.040. TDC Review Committee**

11.12.010. Definitions.

As used in DCC 11.12, the following words and phrases shall mean as set forth in DCC 11.12.010.

"Bargain and Sale Deed" means the legal instrument that conveys transferable development credits from a lot or parcel of land in a sending area to a tract of land in a receiving area.

"Restrictive Covenant" means a legal instrument which places restrictions on future development on a lot or parcel of land in a sending area.

"Development Interest" means the right to construct a dwelling and an on-site sewage disposal system on a lot or parcel.

"High Priority Deer Migration Corridor Area" means the area mapped in 2000 by the Oregon Department of Fish and Wildlife which shows the area of priority protection for migrating mule deer within a larger migration corridor acknowledged under statewide planning Goal 5. A copy of this map is on file with the Community Development Department.

"Net developable acre" means the acreage in a tract of land in a receiving area calculated by subtracting the acreage reserved for collector road right-of-way and community parks and open space from the gross acreage of a subject tract.

"Option Agreement" means the legal contract allowing the County to buy TDCs

from a willing seller at a given price until the contract expires.

"Preliminary Title Report" means a report showing the condition of title before a TDC transaction is completed.

"Receiving area" means the area designated by the County where transferable development credits are required in order to purchase and develop a tract of land.

"Request for a Letter of Verification Regarding Transferable Development Credits" means the application requesting the County to verify the number of TDCs recognized for a sending area property.

"Sales Agreement" means the legal contract acknowledging the sale of TDCs from a willing seller to a willing buyer with specified provisions to complete the transaction.

"Sending Area" means the area designated by the County in which transferable development credits may be sold in exchange for a permanent conservation easement.

"Transferable Development Credit" (TDC) means the credit given for a severable development interest in specified real property.
(Ord. 2002-010 § 1, 2002)

11.12.020. TDC transactions.

- A. TDCs may be conveyed to any person or legal entity.
- B. Sale of TDCs from the Sending Area. The following procedures shall be followed when a property owner desires to sell TDCs from an eligible lot or parcel in the Sending Area to Deschutes County:
 - 1. A property owner (Seller) shall submit to the Community Development Department a copy of the real property deed that conveyed the property to the Seller and a

EXHIBIT "A"

- request, on a form prepared by the County, for verification of the number of TDCs for which the subject property is eligible.
 2. The County shall send written verification to the Seller of the number of TDCs for which the subject property is eligible based on the criteria in DCC 11.12.030.
 3. After receipt of the Letter of Verification, if the Seller is eligible for at least one (1) TDC and desires to initiate a TDC sale to the County, the Seller shall send a written request to the County to initiate the sale.
 4. After receipt from the Seller of a request to initiate a sale of TDCs, if the County chooses to initiate the sale, the Seller and County shall sign and record an Option agreement prepared by the County.
 5. If the County decides to exercise an option and complete the purchase of TDCs, the County shall order a Preliminary Title Report.
 6. When the preliminary title report is deemed satisfactory by the County pursuant to DCC 11.12.020(E), the County and Seller shall enter into a Sales Agreement on a form prepared by the County indicating the final transaction provisions.
 7. The County shall prepare a Bargain and Sale Deed and a Restrictive Covenant which the Seller must sign prior to any transfer of funds. Both documents shall be recorded by the County after the transfer of funds.
- C. The following procedures shall be followed if a property owner desires to sell TDCs from an eligible lot or parcel in the Sending Area to an individual or entity ("Buyer") other than Deschutes County:
1. A Seller shall follow the procedures in 11.12.020 B. 1. and 2.
 2. The Seller and Buyer shall enter into a written sales transaction on a form prepared by the County and submit the completed form to the County.
4. The Seller shall submit a current Preliminary Title Report to the County.
 5. The Seller shall resolve any issues with title to the satisfaction of the County pursuant to 11.12.020 (E) prior to proceeding with the TDC sale.
 6. When the Preliminary Title Report is deemed satisfactory by the County:
 - a) the Seller and Buyer shall sign and record a Bargain and Sale Deed prepared by the County; and
 - b) The Seller and the County shall sign and record a Restrictive Covenant prepared by the County.
- D. Transfer of TDCs to the Receiving Area. Prior to the development of any lot in the Receiving Area, TDCs shall be transferred by a Sales Agreement and a Bargain and Sale deed, prepared by the County, to a tract or lot meeting the following criteria within the receiving area:
1. The tract or lot shall be located within the La Pine Neighborhood Planning Area in the La Pine Urban Unincorporated Community and be zoned Residential General or Residential Center. The TDC receiving area is identified on a map prepared and maintained by the Community Development Department.
 2. TDCs shall be transferred by the County at the rate of 5.5 TDCs per net developable acre to any tract of land sold in the receiving area which is zoned Residential General or Residential Center.
 3. The Board may by Resolution adjust the number of TDCs required per acre or alter the factors for which TDCs are required in the receiving

EXHIBIT "A"

area.

E. Preliminary Title Report. To be deemed satisfactory a preliminary title report must show:

1. that the subject property is free of restrictions or encumbrances which would prevent the severance of a development interest; or
2. if such a restriction or encumbrance exists, the beneficiary or holder of the restriction or encumbrances consents to the severance.

F. TDC Transaction Records. The Community Development Department shall maintain a record when TDCs are:

1. verified on eligible lots;
2. sold from eligible lots; and
3. transferred to the sending area.

G. Non-Residential Uses. Where permitted under DCC 18.61.050, non-residential uses in the receiving area do not require TDCs.

H. Right to Develop. If an owner of a lot or parcel of land eligible for a TDC chooses not to participate in the TDC program, the owner shall not be restricted from developing said lot or parcel in accordance with the applicable zoning standards in DCC Title 18, and any other applicable regulations, rules or standards.

(Ord. 2002-010 § 1, 2002)

11.12.030. TDC sending area eligibility criteria.

A. A lot or parcel that meets the following criteria is eligible to receive TDCs. The lot or parcel shall:

1. be located within the TDC "sending area" identified on a map prepared and maintained by the Community Development Department;
2. be no greater than 2.0 acres in area;
3. be capable of being served by an on-site sewage disposal system that meets current Oregon Department of Environmental Quality standards, as

demonstrated by a satisfactory feasibility evaluation for an on-site sewage disposal system or when the lot or parcel is shown as being eligible for such system on the TDC sending area map; and

4. not be developed with an existing dwelling or an existing sewage disposal system, or if developed with an existing sewage disposal system, the landowner shall disable said system.

B. TDCs shall be assigned to an eligible lot or parcel that meets the criteria in DCC 11.12.010(A), as follows:

1. An eligible lot or parcel shall receive one TDC.
2. An eligible lot or parcel located in the High Priority Deer Migration Corridor Area shall receive an additional one-half TDC.
3. The Board of County Commissioners may by Resolution revise the number of TDCs assigned or the factors for which TDCs are assigned to eligible lots or parcels in the sending area.

(Ord. 2002-010 § 1, 2002)

11.12.040. TDC review committee.

A. Purpose. The TDC Review Committee is an advisory committee whose purpose is to assist staff in implementing the TDC program and to recommend to staff and the Board of County Commissioners the means to accomplish the goals of Regional Problem Solving insofar as the transfer of development credits from the sending area to the receiving area are concerned.

B. Duties. The committee shall present a report of its review of the TDC program at least annually to the Board. In conducting its review the committee should evaluate the TDC program for record keeping accuracy, determine if program goals are being met, consider whether any changes to the TDC allocation criteria in the sending area or

EXHIBIT "A"

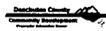
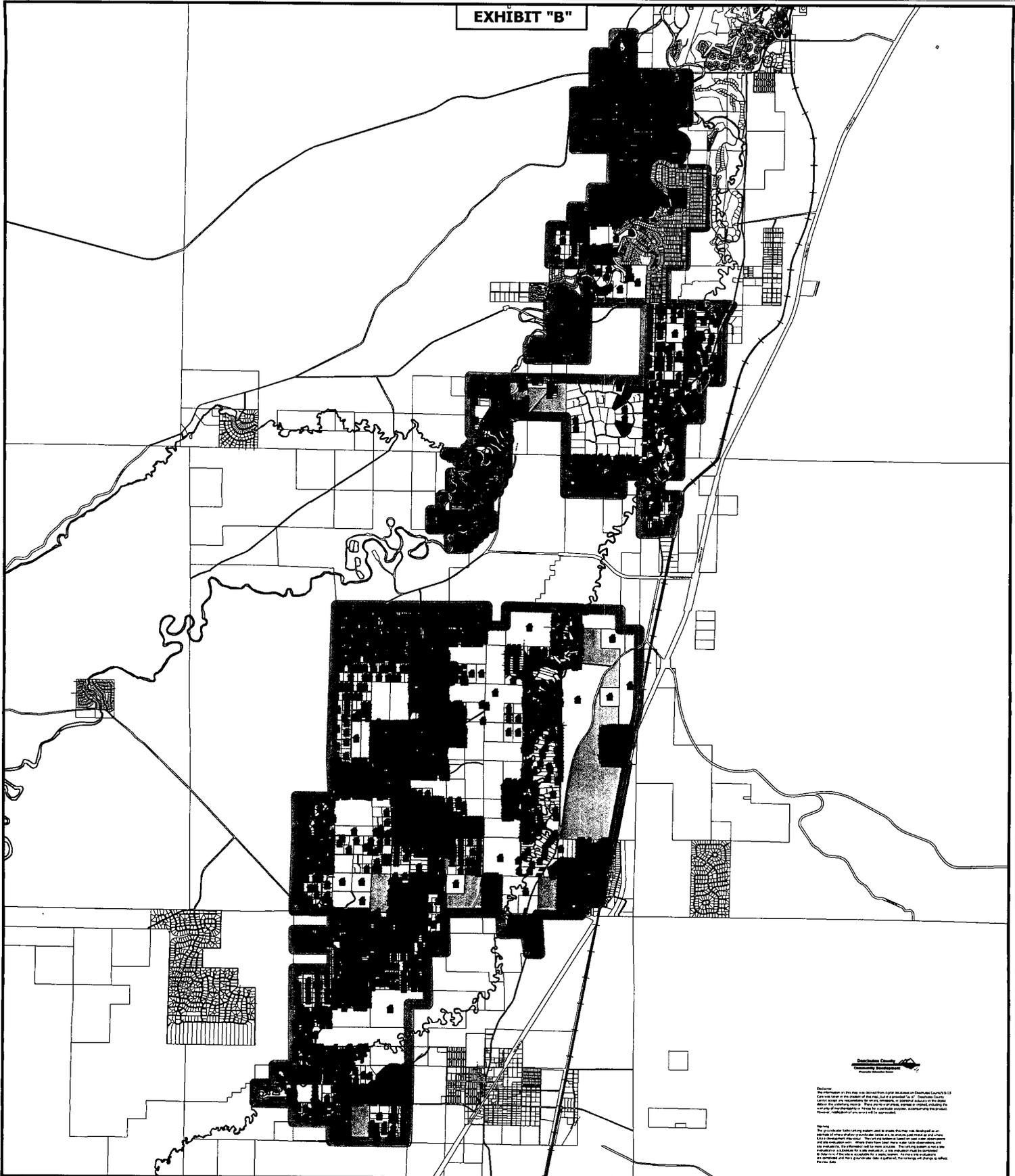
TDC requirements in the receiving area are advisable, or if any other revisions to the program are warranted. The committee may assist the County in determining which TDC options to exercise.

- C. Committee member terms. Committee members shall be appointed by the Board. One half the initial members shall be appointed for one year and one-half shall be appointed for two years. Thereafter, members shall serve two-year terms. Members may be reappointed by the Board to serve additional terms.

- D. Committee members. The TDC Review Committee shall include a representative from each of the following organizations, agencies or professions:
 - 1. The International Society of Appraisers or an Oregon State Certified Appraiser;
 - 2. A firm established for the purpose of real estate development or the representation of development interests;
 - 3. An individual with recognized expertise in hydrology or ground water;
 - 4. An individual with recognized expertise in big game wildlife management;
 - 5. The Community Solutions Team for Central Oregon;
 - 6. An individual who resides in the designated sending area;
 - 7. A member of the La Pine Community Action Team;
 - 8. The Deschutes County Community Development Department Director or designee as an ex officio member.
 - 9. The Board may appoint additional members as it deems appropriate.

(Ord. 2002-010 § 1, 2002)

EXHIBIT "B"



Deschutes County
 Planning Department
 1000 NE Oregon Street
 Bend, Oregon 97701
 Phone: 531-324-2200
 Fax: 531-324-2201
 Website: www.deschutescounty.org

This map is a representation of the information provided by the applicant and is not a guarantee of accuracy. The Board of County Commissioners of Deschutes County, Oregon, is not responsible for any errors or omissions on this map. The Board of County Commissioners of Deschutes County, Oregon, is not responsible for any errors or omissions on this map. The Board of County Commissioners of Deschutes County, Oregon, is not responsible for any errors or omissions on this map.

Lots Eligible for TDC Program

- Vacant, 0-2 Acres, No Permitted Activity
- Vacant, 0-2 Acres, No Permitted Activity, Multiple Legal Lots
- Vacant, 0-2 Acres, Single Family Approved
- Vacant, 0-2 Acres, Single Family Approved, Multiple Lots
- Vacant, 0-2 Acres, 0-2 Chpts to Grandchildren, Single Family Approved
- Vacant, 0-2 Acres, Single Tract
- Vacant, 0-2 Acres, Single Tract, Multiple Lots
- Developed, Multiple Lots
- County Ownership
- Other Public Ownership
- Vacant, 2+ Acres, Multiple Lots

- Developer
- Building Permit Active - Not Eligible
- Single Permit Active - Not Eligible
- Vacant, 2+ Acres - Not Eligible
- 0-2 Chpts to Grandchildren - Not Eligible
- Adjoined
- Adjoiner
- River
- LA Fire Neighborhood
- Unincorporated Community
- Utility Easement
- Easement Easement
- Study Area Boundary

TDC Sending Area Map

Exhibit "B" to Ordinance 2002-010



APRIL 26, 2002

**BOARD OF COUNTY COMMISSIONERS
 OF DESCHUTES COUNTY, OREGON**

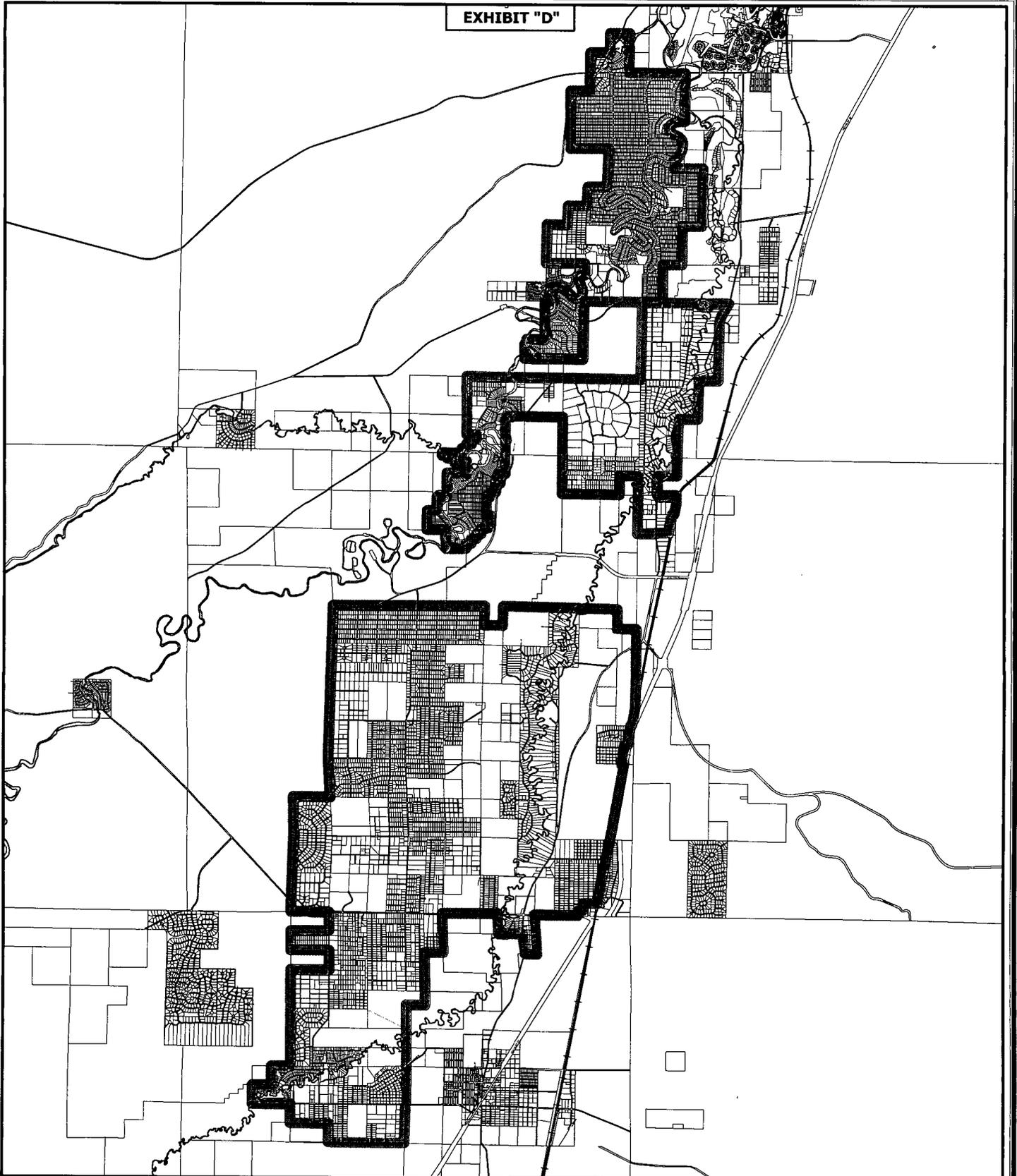
David R. Lake
 David R. Lake, Commissioner

Shirley M. Dwyer
 Shirley M. Dwyer, Commissioner

ATTEST: Hearing Secretary

Dated this 15th day of April, 2002
 Check Date: April 15, 2002

EXHIBIT "D"



- Railroad
- High Priority Wildlife Area
- Taxlots
- River
- La Pine Neighborhood
- Unincorporated Community
- Study Area Boundary

Deschutes County
Community Development

Notes:
1. This map is a representation of the information provided to the County and is not a warranty of accuracy.
2. The County is not responsible for errors or omissions in this map.
3. This map is for informational purposes only and should not be used for legal or financial decisions.
4. The County is not responsible for any loss or damage resulting from the use of this map.
5. The County is not responsible for any loss or damage resulting from the use of this map.

TDC High Priority Wildlife Area Map

Exhibit "D" to Ordinance 2002-010



PLA-03-002

BOARD OF COUNTY COMMISSIONERS
DESCHUTES COUNTY, OREGON

[Signature]
County Clerk

[Signature]
County Commissioner

[Signature]
ATTEST: Recording Secretary

Direct Mail: 24 May of April, 2002
Effective Date: April 23, 2002