



## FINDINGS AND DECISION

<b>FILE NUMBER:</b>	247-20-000214-CU
<b>SUBJECT PROPERTY:</b>	The project will be located in the western portion of Deschutes County Assessor Tax Map 16-12-28, in the right-of-way of the relocated Tumalo Road and Old Bend Redmond Highway intersection and the associated travel lanes.
<b>OWNER:</b>	N/A
<b>APPLICANT:</b>	Deschutes County Road Department
<b>REQUEST:</b>	The applicant requests a Conditional Use Permit to allow excavation, grading, fill, paving and removal within a mapped flood plain. The project consists of shifting the center of the intersection of Tumalo Road and Old Bend Redmond Highway approximately 80 feet to the west and 10 feet to the north to construct a roundabout and realign Tumalo Road and Old Bend Redmond Highway.
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### I. APPLICABLE CRITERIA

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

- Chapter 18.04, Title, Purpose and Definitions
- Chapter 18.16, Exclusive Farm Use Zones (EFU)
- Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
- Chapter 18.96, Flood Plain Zone (FP)
- Chapter 18.128, Conditional Use

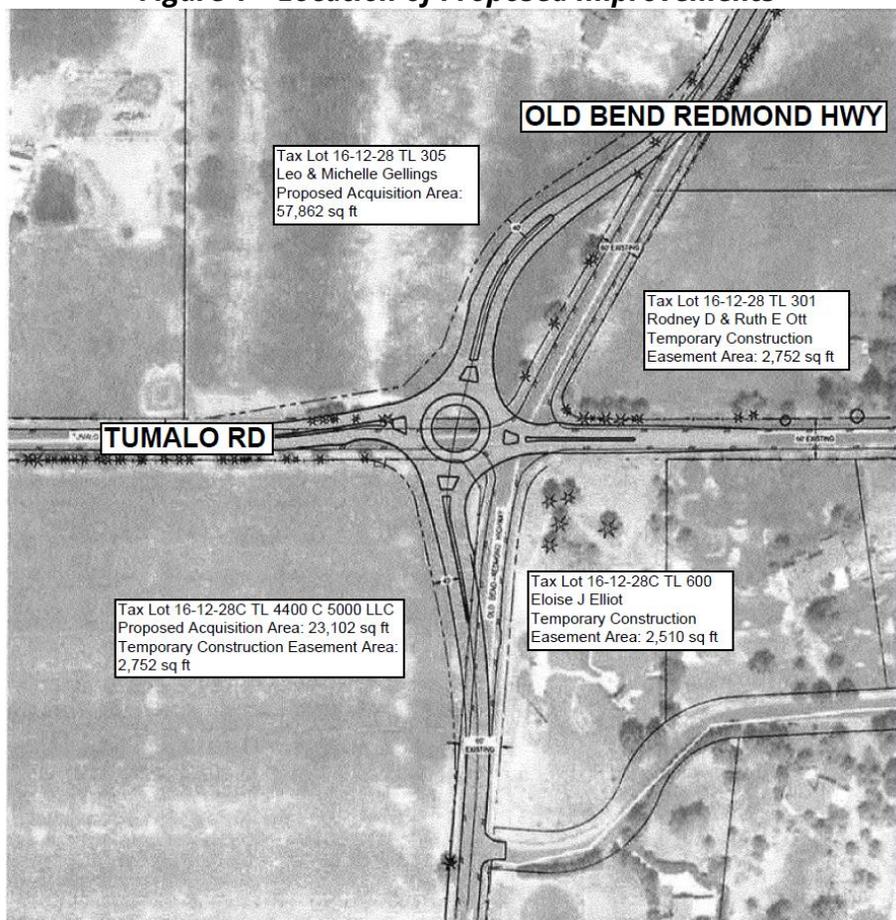
Title 22, Deschutes County Development Procedures Ordinance  
Oregon Administrative Rule 660-012, Transportation Planning Rule

## II. BASIC FINDINGS

**LOT OF RECORD:** The proposed project will be located in the public right-of-way and, as such, lot of record verification requirements do not apply to the subject application.

**SITE DESCRIPTION:** The proposed project site is located within the right-of-way associated with Tumalo Road, which aligns mainly east-west, and Old Bend-Redmond Highway, which aligns mainly north-south. Please see **Figure 1**, below, for a depiction of the proposed project scope and location. Topography on the site is predominantly flat with a slight gain in elevation to the north and east.

**Figure 1 - Location of Proposed Improvements**



**PROPOSAL:** The Deschutes County Road Department analyzed this intersection as part of the Old Bend Redmond Highway Safety Audit in August 2017 due to its crash history and current and future increase in average daily traffic (ADT) volumes. The proposed project will correct the intersection's skew, improve the currently reduced sight distance, and meet the County's mobility performance standards in 2040. The project will relocate the center of the intersection of Tumalo Road, a County collector, and Old Bend Redmond Highway, a County arterial, approximately 80 feet to the west and 10 feet to the north. Old Bend Redmond Highway is the through-road with stop signs on Tumalo Road. A single-lane roundabout will replace the current intersection controls. The combination of a roundabout and realignment of the approaches to introduce slight curves will slow entering traffic, reducing the risk of crashes and their severity. The Deschutes County Road Department, based on

national research and local experience with the Powell Butte Highway/Neff-Alfalfa Market Road roundabout, has found roundabouts to be a preferred intersection improvement and an effective countermeasure to crashes related to rural intersections.

**SURROUNDING LAND USES:** Land uses surrounding the proposed project location include farm uses consisting primarily of irrigated fields and pastures with farmhouses in the northwest and southwest quadrants. To the northwest is the 10-acre Gellings' property, 65025 Old Bend Redmond Highway, aka 16-12-28, Tax Lot 305. To the southwest is the 21.5-acre Q 5000 LLC property, 64943 Old Bend Redmond Highway, aka 16-12-28C, Tax Lot 4400. Rural residences are found in the northeast and southeast quadrants. These include the 6.8-acre Ott property, 20500 Tumalo Road, aka 16-12-28, Tax Lot 301 to the northwest. To the southeast is the 2.59-acre Elliot property, 64970 Glacier View Drive, aka 16-12-28C, Tax Lot 600.

The zoning surrounding the current Tumalo/Old Bend Redmond Highway intersection is Flood Plain (FP) and the approaches include Exclusive Farm Use (EFU) and Multiple Use Agriculture (MUA-10). The slight shift of the intersection to the west and the realignment of the Tumalo Road and Old Bend Redmond Highway will not change the zones where the intersection and roads lie.

**PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice on March 24<sup>th</sup>, 2020, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

*NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.*

*Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.*

Deschutes County Senior Transportation Planner, Peter Russell

*I have reviewed the transmittal materials for 247-20-000214-CU for excavating, fill and removal, grading, and paving within a mapped flood plain to shift the center of the Tumalo-Old Bend-Redmond Highway intersection approximately 80 feet west and 10 feet. The two roads will be realigned and a roundabout will be constructed. The project is in the western portion of Assessor's Map 16-12-28. The project lies in the following zones: Exclusive Farm Use (EFU); Multiple Use Agricultural (MUA-10); and Floodplain (FP).*

*The Tumalo/Old Bend-Redmond Highway intersection currently has a significant skew, poor sight lines, and has stop signs on the Tumalo Road approaches while Old Bend-Redmond is not stop-controlled. Tumalo Road provides a connection to the unincorporated community of Tumalo to the west and a grade-separated interchange with U.S. 97 to the east. Old Bend-Redmond serves as a backdoor commuting route between the two cities for which it is named. Both roads are rural, high-speed facilities. The intersection was analyzed based on its crash history as part of a larger corridor analysis in the "Old Bend-Redmond Highway Evaluation and Road Safety Audit" in August 2017. The audit was commissioned by the Road*

*Department and performed by an outside consultant. The audit looked at several options and recommended a roundabout as the appropriate countermeasure. The roundabout will reduce both crash frequency and severity.*

Department of State Lands, Grey Wolf

*It is unlikely that there are jurisdictional wetlands or waterways on the property based upon a review of the wetland maps, the county soil survey and other available information.*

*A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.*

*A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.*

*Based on review of mapping submitted, the proposed project ("Grading, excavation, etc. in Floodplain Zone for roundabout construction") does not appear to impact jurisdictional wetlands, waterways, or other waters of the state.*

The following agencies did not respond to the notice: Deschutes County Assessor, Deschutes County Environmental Soils Division, Deschutes County Road Department, Bend Fire Department, Army Corps of Engineers (Eugene Field Office), and Swalley Irrigation District.

**PUBLIC COMMENTS:** The Planning Division mailed notice of the conditional use application to all property owners within 750 feet of the proposed project location on March 24<sup>th</sup>, 2020. The applicant also complied with the posted notice requirements of Section 22.23.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on March 20<sup>th</sup>, 2020. One public comment was received via phone call from Rodney Ott on March 27<sup>th</sup>, 2020. Mr. Ott is co-owner of the property located at 20500 Tumalo Road, Bend, OR 97703, directly northeast of the proposed project location. Mr. Ott sought to clarify whether the county's zoning map depicted the project location as being within the Floodplain (FP) Zone. Planning staff confirmed that the project location was still within the Floodplain (FP) Zone according to county zoning information and that the subject application provided a burden of proof statement to address the applicable floodplain requirements. No other public comments, written or verbal, were received.

**REVIEW PERIOD:** The subject application(s) were submitted on March 11<sup>th</sup>, 2020 and deemed complete by the Planning Division on April 6<sup>th</sup>, 2020. The 150th day on which the County must take final action on this application is September 3<sup>rd</sup>, 2020.

### **III. FINDINGS & CONCLUSIONS**

#### **Title 18 of the Deschutes County Code, County Zoning**

## Chapter 18.04, Title, Purpose, and Definitions

### Section 18.04.030. Definitions

DCC 18.04.030 defines road and street projects and then further defines them as Class I, II, or III road projects. Specifically, DCC 18.04.030 states:

***“Road and street project” means the construction and maintenance of the roadway, bicycle lane, sidewalk or other facility related to a road or street. Road and street projects shall be a Class I, Class II or Class III project.***

The different classes of road projects are defined in DCC 18.04.030 as:

- A. Class I Project: Land use permit required. “Class I Project” is a major project such as:**
- 1. A new controlled access freeway;***
  - 2. A road or street project of four or more lanes on a new location;***
  - 3. A major project involving the acquisition of more than minor amounts of rights of way, substantial changes in access control, a large amount of demolition, displacement of a large number of residences or businesses or substantial changes in local traffic patterns.***

**FINDING:** The project does not involve a freeway. Tumalo Road and Old Bend Redmond Highway will remain two lanes each. The project involves only minor amounts of right of way and there are no changes in access control. No residences will be displaced and there are no businesses in the project area. Local traffic patterns will remain the same as all moves now allowed at the intersection will continue after the project. The roundabout and associated minor realignment is thus not a Class I project.

- B. Class II Project: Land use permit required. “Class II Project” is a:**
- 1. Modernization where a road or street is widened by more than one lane;***
  - 2. Traffic safety or intersection improvement which changes local traffic patterns;***
  - 3. System change which has significant land use implications; or***
  - 4. The Construction of a new County road or street within a dedicated right of way, where none existed before.***

**FINDING:** Tumalo Road and Old Bend Redmond Highway will not be widened. The local traffic moves at the intersection (through movement and turns) will remain, vehicles will just make them via roundabout rather than a four-legged intersection. The zoning designations remain the same, so there are no significant land use implications. Tumalo Road and Old Bend Redmond Highway are existing County roads. The roundabout and associated minor realignment is thus not a Class II project.

- C. Class III Project: No land use permit required. “Class III Project” is a modernization, traffic safety improvement, maintenance, repair, or preservation of a local street.**

**FINDING:** The proposed project is a traffic safety improvement, replacing a four-legged intersection that has stop signs on the east and west legs (Tumalo Road) and a blinking yellow caution light with a single-lane roundabout. The project also includes moving the intersection slightly west and north to improve sightlines to and through the intersection. Fences and vegetation cause reduced visibility at the current location. The moving of the intersection will also correct the current skew in the intersection. As discussed above, the roundabout is a traffic safety improvement, replacing a four-legged intersection and its two-way stop control (TWSC). Thus the roundabout and the minor realignment of Tumalo Road and Old Bend-Redmond Highway is a Class III Project. Class III Projects normally do not require a land use permit. This type of road project is an outright permitted use in EFU and MUA-10 (see findings below for specifics), but requires a CUP in the FP zone. The subject Conditional Use Permit application has been submitted in response to the CUP requirements of the FP Zone.

Initially, the FP zone appears to follow the logic of DCC 18.04.030 as DCC 18.96.030 lists outright permitted uses in the FP zone and DCC 18.96.030(F) states: "Class III road or street project that does not constitute Floodplain development as defined in DCC 18.04.030." Floodplain development is described as meaning "...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." Roadway projects by their nature change the ground on which they occur and often include filling, grading, paving, and storage of equipment. Thus, it appears per County code the Tumalo Road/Old Bend Redmond Highway roundabout is floodplain development and becomes a conditional use.

According to the applicant's submitted burden of proof statement, a closer analysis of the proposed project location reveals the project is "not actually floodplain development". The FEMA map update indicates the project is outside of the Special Flood Hazard Area (SFHA). This is indicated on FEMA map 41017C0470E (effective September 28, 2007) and Letter of Map Revision (LOMR) (effective date June 23, 2017). As the project is outside of the SFHA, the project is not floodplain development. However, the map revision does not rezone the subject property and, therefore, a Conditional Use Permit (CUP) is still required even though the project does not occur in an actual floodplain per the FEMA map update.

The FP zone lists conditional uses in DCC 18.96.040 and specifically lists roadways at DCC 18.96.040(A), additionally requiring compliance with Conditional Use requirements of DCC 18.128. The FP findings are provided below.

## **Chapter 18.16, Exclusive Farm Use Zones (EFU)**

### Section 18.16.020. Uses Permitted Outright.

***The following uses and their accessory uses are permitted outright:***

...

- F. *Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.***

**FINDING:** The proposed roundabout and minor realignment of Tumalo Road and Old Bend-Redmond Highway is a modification of the intersection. The project will remove and reconstruct several hundred feet of the two public roads. The number of travel lanes will be the same after the intersection modification as before the project. No buildings will be displaced by the project and no new land parcels will result due to the roundabout and the roadway realignment.

- G. *Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed.***

**FINDING:** The project is expected to begin in June 2020 and conclude by December 2020. Any temporary detours will be abandoned and the land restored to its original use.

Section 18.16.060. Dimensional Standards.

- E. *Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.***

**FINDING:** There are no structures proposed in association with the subject road right-of-way improvements. The above criterion does not apply to the subject application.

**Chapter 18.32, Multiple Use Agricultural Zone (MUA-10)**

Section 18.32.020, Uses Permitted Outright

***The following uses and their accessory uses are permitted outright:***

...

- E. *Class III road or street project.***

**FINDING:** The roundabout construction and minor realignment of Tumalo Road and Old Bend-Redmond Highway are a traffic safety improvement to the intersection, which by definition (in DCC 18.04.030) is a Class III road project. The project's eastern terminus will not extend past the Gardner property at 64960 Glacier View Drive, aka 16-12-28C, Tax Lot 500. The Gardner property has both FP and MUA-10 zoning. The project as it crosses the Gardner property returns to the existing alignment of Tumalo Road.

Section 18.32.040. Dimensional Standards

***In an MUA Zone, the following dimensional standards shall apply:***

...

- D. *Building height. No building or structure shall be erected or enlarged to exceed 30***

***feet in height, except as allowed by DCC 18.120.040.***

**FINDING:** There are no structures proposed in association with the subject road right-of-way improvements. The above criterion does not apply to the subject application.

## **Chapter 18.96, Flood Plain (FP) Zone**

Section 18.96.20, Designated Areas.

***The following uses and their accessory uses are permitted outright***

...

***F. Class III road or street project that does not constitute Floodplain development as defined in DCC 18.04.030.***

**FINDING:** Pursuant to DCC 18.04.030, a Class III road or street project is defined as,

*"Road and street project' means the construction and maintenance of the roadway, bicycle lane, sidewalk or other facility related to a road or street. Road and street projects shall be a Class I, Class II or Class III project.*

...

***C. Class III Project. No land use permit required. "Class III Project" is a modernization, traffic safety improvement, maintenance, repair or preservation of a road or street."***

The proposed roundabout is a traffic safety improvement and is, therefore, a Class III road or street project. This type of use is normally permitted outright – without the requirement for land use review. However, in the FP Zone, if the road or street project constitutes Floodplain development, the road or street project is not an outright permitted use. Floodplain development is defined in DCC 18.04.030 as,

*"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."*

The project includes filling and grading associated with the County standards in DCC 17.48 for an arterial (Old Bend Redmond Highway) and a collector (Tumalo Road) and paving to the County's standards within the 60 feet of public right of way. The cross-section is 6 inches of aggregate base and 8.5 inches of paving. The project occurs outside of the SFHA, but again, the Letter of Map Revision (LOMR) 17-10-0456-SP (effective date June 23, 2017) did not rezone the subject property from its FP zoning. As a result, the FP zoning must be addressed even though the project is not floodplain development. Thus, the roundabout and the realigned roadways require a conditional use permit (CUP) for grading, filling, paving, and storage of equipment and/or materials within the special flood hazard area. Compliance with applicable criteria are addressed below.

Section 18.96.040. Conditional Uses Permitted.

***The following uses and their accessory uses may be allowed subject to applicable sections of this title:***

- A. A roadway, bridge, or utility structure, except a landfill, that will not impede the waters of a base flood subject to DCC 18.128.***

**FINDING:** The project is an improvement to an existing roadway and lies within the FP zone, but does not lie in Federal Emergency Management Agency (FEMA) designated special flood hazard area. There are two areas in close proximity to the project defined as "AH" in the June 23, 2017, FEMA map number 41017C0470E, Panel 0470, Suffix E. The relocated southbound travel lane on Old Bend-Redmond Highway passes close by the east side of a polygon with a base elevation of 3,276 feet. The roadway, does not exist within the FEMA special hazard area, however, as the LOMR 17-10-0456-SP (effective June 23, 2017) did not rezone the subject property, the proposed use continues to be a conditional use.

Section 18.96.060. Limitations on Conditional Uses.

***The following limitations shall apply to all uses allowed by DCC 18.96.040:***

- A. No new construction of a dwelling (including manufactured housing), accessory structure or farm use structure shall be allowed in the floodway of any river or stream except for replacement in conformance with the applicable provisions of DCC 18.96 of a dwelling lawfully in existence as of the effective date of Ordinance 88 030.***

**FINDING:** The applicant does not propose a dwelling, accessory structure or farm structure. This criterion is met.

- B. No new construction of a dwelling (including manufactured housing), accessory structure or farm use structure shall be located in the flood plain unless it can be demonstrated by the applicant that no alternative exists on the subject property which would allow the structure to be placed outside of the flood plain.***

**FINDING:** The applicant does not propose a dwelling, accessory structure or farm structure. This criterion is met.

- C. No subdivision or partition shall be allowed which creates the potential for additional residential dwellings in the flood plain.***

**FINDING:** The applicant does not propose a subdivision or partition. This criterion is met.

- D. All necessary federal, state and local government agency permits shall be obtained.***

**FINDING:** The applicant's submitted burden of proof statement includes the following information related to federal, state and local government agency permits:

*"The Road Department does not need to obtain any federal or state agency permits. The subject CUP satisfies the applicant's obligation to secure a local government agency permit."*

To ensure compliance, a Condition of Approval has been added. This criterion will be met.

Section 18.96.080. Criteria to Evaluate Conditional Uses.

- A. A conditional use permit in a Flood Plain Zone shall not be approved unless all standards established by the Federal Emergency Management Agency and DCC Title 18 are addressed and findings are made by the Hearings Body or Planning Director that each of the standards and criteria are satisfied.**

**FINDING:** The standards established by the FEMA are incorporated into DCC Title 18. The applicant has demonstrated compliance with the applicable standards for the proposed project in the FP Zone, as discussed in this application and incorporated by reference herein. This criterion will be met.

- B. Approval to alter or relocate a water course shall require notification to adjacent communities, the Department of Land Conservation and Development and Department of State Lands, prior to any such alteration or relocation and submit evidence to the Federal Insurance Administration. Maintenance shall be provided within the altered and relocated portion of said watercourse so that the flood carrying capacity is not diminished.**

**FINDING:** No alteration or relocation of a water course is proposed. This criterion does not apply.

- C. A conditional use permit shall be based upon findings which relate to the property and existing and proposed structure(s). They shall not pertain to the property owner, inhabitants, economic or financial circumstances.**

**FINDING:** The application is based on the proposed project and affected properties. No structures exist within the project limits and the applicant does not propose any new structures. This criterion is met.

- D. All structures in the flood plain shall meet the following standards...**

**FINDING:** The applicant's submitted burden of proof statement contains the following information related to flood plain in and around the proposed project site:

*"Although the project lies in an area zoned flood plain (FP), that area is actually not flood plain per the revised FEMA map 41017C04E, Version 1.1.0, effective September 28, 2007, and LOMR 17-100456-SP, effective June 23, 2017. Thus no development is proposed in the flood plain."*

Based on the information contained in LOMR 17-100456-SP and the above statement, staff finds that the proposed development will not take place within a floodplain, but will take place in an area

that is zoned FP. No structures are proposed in association with the proposed road right-of-way improvements. As a result, the provisions of DCC 18.96.080(D)(1-4) do not apply to the subject application. Applicable FP criteria are reviewed in subsequent findings.

**E. Subdivision and Partition Proposals...**

**FINDING:** The applicant does not propose a subdivision or partition. This criterion does not apply.

**F. Review of Building Permits.**

**FINDING:** The proposal does not require building permits. This criterion does not apply.

**G. Specific Standards. In the Flood Plain Zone, the following requirements must be met:**

**1. Residential Construction.**

**FINDING:** The subject proposal does not include any residential construction. This criterion does not apply.

**2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:**

...

**FINDING:** No new structures or substantial improvement of any structures are proposed. This criterion does not apply.

**3. Small Accessory Structures. Relief from elevation or floodproofing as required in (G)(1) or (G)(2) above may be granted for small accessory structures that are:**

**FINDING:** No accessory structures are proposed. This criterion does not apply.

**4. Manufactured Dwellings.**

**FINDING:** No manufactured dwellings are proposed. This criterion does not apply.

**5. Docks, Piers and Walkways.**

**FINDING:** The applicant does not propose a dock, pier or walkway. This criterion does not apply.

**6. Parking Facilities.**

**FINDING:** No parking facilities are proposed. This criterion does not apply.

7. ***Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Area of Special Flood Hazard (100-year floodplain). Construction of new critical facilities shall be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Critical facilities constructed within the Area of Special Flood Hazard shall have the lowest floor elevated three feet above Base Flood Elevation or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that hazardous or toxic substances, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the Base Flood Elevation shall be provided to all critical facilities to the extent possible unless deemed impractical by the Hearings Body or Planning Director.***

**FINDING:** The proposed road right-of-way improvements are not considered a new “critical facility” as defined in DCC 18.04. This criterion does not apply.

8. ***Storage of material or equipment, incidental to an established primary use on the property that is either not subject to damage by flood may be permitted. If such material is not readily removable, it shall be anchored to prevent flotation and shall not obstruct water flow. Material or equipment stored shall include only items which will not create a hazard to the health or safety of persons, property, animals or plant life should the storage area be inundated.***

**FINDING:** The submitted application materials do not propose any storage of material or equipment incidental to any primary use on the subject property. This criterion does not apply.

**H. *Floodways. In floodways the following provisions shall apply...***

**FINDING:** The proposed improvements are not within a mapped floodway. This criterion does not apply.

Section 18.96.085. Elevation Certification.

***Elevation of all new construction, including replacement and substantial improvements, relative to mean sea level of the lowest floor shall be documented before the framing inspection with a survey certified by a State of Oregon registered professional engineer or land surveyor.***

**FINDING:** No new structures, replacement structures or substantial improvements to existing structures are proposed. This criterion does not apply.

Section 18.96.090. Yard and Setback Requirements.

**FINDING:** No new structures or alterations to existing structures are proposed. This section does not apply.

Section 18.96.100. Stream Setback.

**FINDING:** No stream or lake exists within the project limits. This section does not apply.

Section 18.96.120. Warning and Disclaimer of Liability.

***The degree of flood protection required by DCC Title 18 is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. DCC Title 18 shall not create liability on the part of Deschutes County, any officer, agent or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on DCC Title 18 or any decision lawfully made hereunder.***

**FINDING:** The applicant has acknowledged this informational provision. This criterion will be met.

## **Chapter 18.128, Conditional Uses**

Section 18.128.015. General Standards Governing Conditional Uses.

***Except for those conditional uses permitting individual single family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:***

- A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:***
- 1. Site, design and operating characteristics of the use;***

**FINDING:** The site under consideration encompasses the right-of-way associated with the relocated intersection of Tumalo Road/Old Bend-Redmond Highway. The project replaces a four-legged intersection with a single-lane roundabout, including minor realignment of the segments of Tumalo Road and Old Bend-Redmond Highway as they approach the roundabout. The roundabout and associated roads have been designed by professional engineers<sup>1</sup>. The roundabout and the roads will be built to County standards and will meet the County's mobility standard. The proposed project complies with this criterion.

- 2. Adequacy of transportation access to the site; and***

**FINDING:** The applicant proposes improvements to the road right-of-way associated with Tumalo Road and Old Bend Redmond Highway. The roundabout and the realigned roads were designed by

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<sup>1</sup> The submitted application materials contain an engineer's report drafted by Parametrix, dated August 2017.

professional engineers to meet County standards. The applicant's submitted burden of proof statement indicates that the purpose of the proposed project is to increase safety and accommodate increased traffic rates. Based on the purpose of the proposed project, and the existing and proposed access to the site, staff finds that transportation access to the project site is adequate. This criterion is met.

**3. *The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.***

**FINDING:** No significant topographic features or natural resource values exist on-site other than the inherent value included in the existing vegetation and topography of the proposed project area. Based on the submitted application materials, the proposed road right-of-way improvements will cause the minimum amount of disturbance to existing vegetation and topography in order to accommodate the specific project design. The only significant natural hazard associated with the proposed project area is the possibility of flooding within the mapped floodplain area. As stated in previous findings, the proposed project does not occupy a FEMA special flood hazard area and, as such, there is effectively no flood risk associated with the proposed project site. This criterion is met.

**B. *The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).***

**FINDING:** As noted above, surrounding land uses consist of farms and rural residences. The intersection and the roads pre-date the surrounding residential development and staff finds that the proposed road right-of-way improvements constitute a continuance of this established intersection and road uses. As the current roads and intersection serve the existing residential and farm uses on surrounding properties, the projected uses are expected to be similar to existing uses in the area – farming and rural residential. As the project is located outside the SFHA, there are no impacts to the mapped floodplain on adjacent properties. This criterion will be met.

**C. *These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.***

**FINDING:** Staff includes Conditions of Approval related to federal and state permits, County road standards, and floodplain elevation to ensure conformance with relevant approval criteria. This criterion is met.

***OAR 660-012, Transportation Planning Rule (TPR)***

OAR 660-012-065, Transportation Improvements on Rural Lands

- (1) *This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.***
- (2) *For purposes of this rule, the following definitions:***

...

- (b) ***“Collectors” means public roads that provide access to property and that collect and distribute traffic between access roads and arterials as specified in an acknowledged comprehensive plan;***
- (c) ***“Arterials” means state highways and other public roads that principally provide service to through traffic between cities and towns, state highways and major destinations or as specified in an acknowledged comprehensive plan.***

**FINDING:** Tumalo Road is classified as a collector and Old Bend Redmond Highway is classified as an arterial in the County’s 2010-2030 Transportation System Plan which was acknowledged in 2012.

- (e) ***“Channelization” means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. “Channelization” does not include continuous median turn lanes.***

**FINDING:** The TPR predates the widespread use of roundabouts on state highways and County roads. While OAR 660-012-065 is silent on the term “roundabout”, this intersection treatment is essentially a form of channelization. All entering moves must turn to the right to circulate through the roadway. There is no conflicting traffic. Roundabouts also feature raised medians both upstream and downstream of the intersection. All traffic movements are thus physically separated. The proposal complies with the definition of channelization.

- (3) ***The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:***

...

- (a) ***Accessory transportation improvements for a use that is allowed or conditionally allowed by ORS 215.213, 215.283, or OAR Chapter 660, division 6 (Forest Lands);***
- (b) ***Transportation improvements that are allowed or conditionally allowed by ORS 215.213, 215.283 or OAR Chapter 660, division 6 (Forest Lands);***
- (c) ***Channelization not otherwise allowed under subsections (a) and (b) of this section;***

**FINDING:** The proposed project is neither a climbing lane nor a passing lane, but is rather a form of channelization and allowed. This criterion is met.

## **SYSTEM DEVELOPMENT CHARGES**

No transportation system development charges (SDCs) are required for this land use as the project will not consume any road capacity as that term is commonly understood.

### **IV. CONCLUSION**

Based on the foregoing findings, staff concludes that the proposed use can comply with the applicable standards and criteria of the Deschutes County zoning ordinance if conditions of approval are met.

**Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental Soils Division as well as any required state and federal permits.**

### **V. DECISION**

**APPROVAL**, subject to the following conditions of approval.

### **VI. CONDITIONS OF APPROVAL**

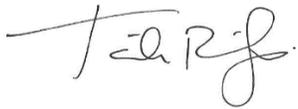
- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** All necessary federal, state and local government agency permits required for the proposed improvements shall be obtained.

### **VII. DURATION OF APPROVAL**

The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

**This decision becomes final twelve (12) days after the date of mailing, unless appealed by a party of interest.**

**DESCHUTES COUNTY PLANNING DIVISION**

A handwritten signature in black ink, appearing to read "Tarik Rawlings".

Written by: Tarik Rawlings, Associate Planner

A handwritten signature in black ink, appearing to read "Peter Gutowsky".

Reviewed by: Peter Gutowsky, Planning Manager