



For Recording Stamp Only

Deschutes County Board of Commissioners  
1300 NW Wall St., Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

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## MINUTES OF WORK SESSION

### DESCHUTES COUNTY BOARD OF COMMISSIONERS

**WEDNESDAY, JULY 13, 2016**

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*Present were Commissioners Alan Unger, Tammy Baney and Anthony DeBone. Also present were Erik Kropp, Deputy County Administrator; and Dave Doyle and John Laherty, County Counsel. Attending for a portion of the meeting were Whitney Hale, Communications; James Lewis, Property Manager; Joe Stutler, Forestry Consultant; Nick Lelack and Peter Gutowsky, Community Development; and five other citizens, including Ted Shorack of The Bulletin.*

*Chair Unger opened the meeting at 1:30 p.m.*

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#### **1. Discussion of Extension of Brightside Animal Center Loan.**

Patricia Bowling, the new shelter manager for Brightside, and Mark Crose, president of their board, were introduced.

Erik Kropp discussed the outstanding loan of about \$534,000, which was due on December 31, 2015. There was a discussion at that time, and it was extended for four months. The group tried to meet with the trustee of the Teater trust regarding possible early disbursement. They also met with HSCO. The trustee is open to conversation, but asked for a plan to show how this would benefit the animals. They want to extend the loan to December 31, 2016. Disbursements are scheduled for 2018 and 2023.

Chair Unger said he is glad they are talking with the trustee. He thought that the property would have already been sold and the funds disbursed, but the trustee makes a lot of money off this client.

Commissioner Baney asked how it is going overall. Ms. Bowling replied that there has been good and bad. The previous shelter manger left, and their long-term veterinarian died suddenly, and these issues put things behind schedule. Other veterinarians stepped up and either donated services, or were paid.

Adoptions are picking up. They have 200 kittens now. They are stabilizing after about three or four months of adjustments. They are involved in events and fundraising. She is shelter manager, but they have hired a CPA to do all the financial work starting the end of the month, so that she or volunteers do not have to try to find the time.

Mr. Kropp advised that the County is supposed to receive a monthly financial report. Mr. Crose replied that their board was not getting this information in a timely manner previously, either. Bookkeepers and managers came and left. He said they will not be coming to the County again in the future to ask for funding like was done in the past. They are now much more fiscally responsible.

Mr. Kropp asked if they have developed a business plan. Mr. Crose stated that they are working on it. Mr. Kropp said that the County can look it over before it goes to the trustee. Mr. Crose added that there is no point in selling the property now and have the trustee sit on the money for years, but he does draw a lot out of it each year for his services. He asked if the County would help them pressure the trustee into settling the estate sooner.

Commissioner DeBone said that about \$534,000 is due end of this year, and asked if this is realistic. He asked if they are making payments. Mr. Crose said that disbursements that come in from the estate go to the County. Chair Unger suggested that this go to December 2016, but it will need to be resolved. He is not sure of the trustee's plan, but the trustee will want to be sure that the money is used as specified by the Teaters.

Chair Unger added that the COCC vet tech program is a big benefit, too. Ms. Bowling noted that they are working well with HSCO now. They exchange animals, and for whatever reasons HSCO does not have many cats. It used to be a difficult situation but they are trying to work together.

DEBONE: Move Chair signature of Document No. 2016-423, a loan extension agreement.

BANEY: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

## **2. CDD Work Plan First Quarter Update.**

Nick Lelack discussed some activities in the department, and provided statistics for last fiscal year. There were 452 code enforcement actions last year, up 50%; and already 250 so far this year. There are hiring new staff, as approved.

One issue is the timing of the opt out for marijuana, which will bring many inquiries. There have been lots of applications but they do not necessarily say they are for marijuana. He asked for some lead-time before the rescission, now that they are past any appeal dates. They want to do community open houses to help educate the public, probably in early August. They are working with the Oregon Health Authority to send a mailing to all existing medical growers.

Commissioner DeBone asked if these individuals come to the counter. Mr. Lelack indicated that most do, but the planners are well informed. In some cases, they need to ask senior planning staff, and sometimes this needs a separate meeting. The website is up to date. They have prepared brochures but those are not finalized. OHA will mail information to all the registered medical growers to preserve confidentiality.

Chair Unger said that he likes the planning, but the Board needs to talk about the rescission. They need to support the process. Commissioner Baney indicated that this is the last remaining question. Commissioner DeBone stated that they should work backwards from what is being planned to figure out a date. Mr. Kropp said that CDD could come up with a recommendation.

Chair Unger stated that there are two fronts: how to deal with medical marijuana, and how to deal with expectations when there are conversions or if more enforcement is needed. Mr. Lelack told them that Matt Martin is meeting with the OLCC and others today. The agencies have to figure out how to deal with enforcement. Most are unclear as to who the appropriate enforcement agencies are, and who is supposed to pay for this.

Commissioner Baney said that those in the business made a business decision, and need to pay their way. This comes with appropriate oversight. Mr. Lelack indicated he would return with a plan in a couple of weeks.

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Peter Gutowsky said that they have received over 400 applications for various projects, so there is lots of volume. Some staff are working on weekends to try to make a dent in it. These decisions impact citizens' development expectations. Some of the applications are complicated.

Since the middle of June, they started tracking counter visits, phone calls and pre-application meetings. Just during the past four weeks, they have had 253 counter visits, 380 development-related phone calls and 53 pre-application meetings. This is an indication of the demand they are experiencing. Hiring new planners will help.

Commissioner Baney asked if they are contracting out any work. Mr. Lelack said that they were approved for five new FTE and two are now on board. They are still interviewing for the second associate planner. They need one more person for the building division, but maybe not two.

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Mr. Lelack said that there are three big long-range projects in process. Those are the Bend UGB expansion; housekeeping text amendments as recommended by the Planning Commission; and the agricultural lands recommendations from the Planning Commission.

There are two other projects that require minimal resources: a text amendment for medical hardships and getting the spotted frog habitat language into the comprehensive plan, with no new regulations.

Mr. Gutowsky added that the Deschutes Basin study group is coming out with final recommendations on the spotted frog in 2018. It can wait for that to happen. Commissioner DeBone asked about the accuracy of DIAL on this. Mr. Gutowsky replied that it has been mapped and is fairly black and white.

Chair Unger noted that their workload is already heavy. The Basin group is trying to figure out how to moderate river flows. When this is more consistent, the wetlands can be more easily determined. Commissioner DeBone said that irrigation flows may not yet be more normalized.

Mr. Gutowsky added that the Board needs to figure out whether the County should fund efforts to come up with a new inventory. It is understood that critical habitat is a very extensive process. The likelihood of this being modified is low. A longer study time may make it more beneficial in the end. Most people understand where the wetlands are and usually can get a clear idea of what is required. The Board indicated they are supportive of using what is now in place.

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Chair Unger said he supports the medical hardship dwelling change. Commissioner Baney stated that she wants to know how other communities are doing this. Chair Unger said that in this case, there is already a structure, so why can't they allow its use for something like this. Commissioner DeBone said it is fairly black and white; that if there is a kitchen, bath and closets, it is a residence. He does not want to support a gray area. Mr. Gutowsky said that State law already allows for this. They could initiate this in the first quarter, and it could be done in short order. They want to get some of these smaller things done now because they expect a lot of plan amendments from the DSL in October.

Chair Unger emphasized that he is frustrated with situations where there is a family farm, and the parents and children want to work together, but one of the groups has to live elsewhere. This does not make sense. They should support letting families live closer together.

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Mr. Lelack said there are a few things not on the adopted work plan that have come up recently. One of these is surface mining and grading, especially in the Deschutes River Woods case. The work plan often evolves, but he doesn't see this being addressed until 2017. He recommends not initiating a grading ordinance at this point. This issue is getting a lot of public interest, but the department has no capacity to manage it right now.

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Mr. Lelack explained that there is another issue; the DLCD rulemaking regarding Goal 5 historic resources. This stems directly from the Pilot Butte Canal situation, and will be in place by November 2016. It is an important issue to monitor. Mr. Gutowsky added that they will likely invite the County to be involved in an advisory capacity.

Chair Unger asked about adoption someone else's ordinance. Mr. Lelack replied that they often start that way. However, something of this nature will generate a lot of public interest. It's the outreach to the public that takes the most time.

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Chair Unger asked what is happening with the Haner Park issue. Mr. Lelack responded that this is under the agricultural lands umbrella, and the Planning Commission has recommended approval. It will probably be addressed in August. They are also dealing with agricultural or equine properties that are exempt from farm deferral. They also need to clarify the process for applicants trying to rezone property into EFU. Most of these changes have come about based on Hearings Officers' decisions.

Chair Unger asked where they go from here regarding non-resource lands. Everything that isn't something else defaulted to RR-10. There needs to be a choice. EFU could be set aside for open space. Mr. Lelack replied that this is on the work plan. Recently members of DLCD and other people from six states met here, and determined that one of the top projects is dealing with refinements to non-resource lands.

### **3. Other Items.**

Joe Stutler said that the last ten years the U.S. Forest Service took the lead to contract for private wildfire services. There are the hot-shot fire fighters and a group just below that. Some private companies had received contracts and invested heavily in equipment and training to bring the standards up. They use the idea of a qualified pool.

Recently, over half of the companies now participating were underbid significantly by what he feels are less qualified companies. Two of the established companies are in Deschutes County, and they lost many of their contracts. The new companies selected were done so by price, but they are either brand new or were not really the best overall value.

Work is being done on a formal protest and they have asked for legislative intervention. It is a life and safety issue. They have asked if the Board would write a letter to Congressman Walden to support other than low bid in this situation.

Commissioner Baney stated that she would want to react to what the documents state. Mr. Stutler said that the agencies have worked hard on a relationship regarding standards; and for previous awards, best value was used. This time it was based on the dollar amount.

Chair Unger indicated that he wants to go with the best value. What they do is hard and dangerous work. If the cost difference is less than 10%, having a good work force is a bigger factor. Commissioner Baney said that there are guidelines for the protest of an award, to make sure the protest is appropriate and sticks. She asked if there were standards emphasized now or previously, since they are asking the Board to support their protest. Mr. Stutler stated that they can draft a letter for the Board to consider.

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*The Board went into Executive Session: Pending or Threatened Litigation and Real Estate Negotiations, at 3:50 p.m.*

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Chair Unger asked what the City of Sisters is doing in the way of developing affordable housing in the City. Commissioner Baney asked if the County can generate funds for this through additional building permit fees, and allocate it towards affordable housing. She does not know about State law on this, because it would mean the whole community area would be supporting what happens within the cities.

Chair Unger would like to see more affordable housing in the County overall. Commissioner Baney said that the County can't do much now, but could ask for a higher fee for development that could be used for this purpose inside the cities. She stated that there are a lot of factors to consider. Mr. Lewis said a big problem is the lack of land, until the UGB is expanded. Chair Unger is supportive but wants to run this idea by the builders' groups.

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Mr. Kropp asked if the Commissioners will be attending the groundbreaking of the Redmond Rod & Gun Club new location, on Friday, July 15 at 1 p.m. All three said they will try to attend.

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Mr. Kropp said the American Cancer Society has been asking for support to raise the age for tobacco use to age 21. They want to hold an event in August and asked for help in finding a venue to do so, or other types of support.

The Health Department feels this is premature, given the Department's other programs. There might also be State legislation on this issue anyway, to be addressed in the next session. The Board declined to support the request.

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The Board received an e-mail from someone regarding sponsorship of the Human Dignity Coalition and an event. The Board had approved a discretionary grant in the past. Chair Unger said it is okay for the County to have its logo on their literature as a supporter, and that the County needs to be cognizant of supporting people of all kinds. Commissioner DeBone questioned whether this is appropriate.

Commissioner Baney stated that Health is very involved anyway because of suicide rates and relevant public health programs. The County needs to indicate that it supports all kinds of people and programs, and there are valid reasons for this. Whitney Hales stated that giving a grant often means that a group will use the County logo, and perhaps this needs to be clarified for the future.

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Commissioner DeBone stated that the EDCO annual meeting is tomorrow and his time of being chair of the group will end.

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Commissioner DeBone was approached by a member of the Sunriver Chamber of Commerce board. He said their group still wants more money, and does not necessarily want to hear the facts. They are still not clear on what they are or should be. There is a lot of confusion within this group. There are other players in that area and that is a big factor as well.

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Chair Unger went to an event, the "Civility Project" in Sisters, where attendees could learn how to defuse problems and be good neighbors. There was a decent turnout, and he found it very interesting.

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Commissioner DeBone said the Sisters Economic Development Committee is trying to regroup, after months of changes. There is a lot of interest in the Sisters area, but no one is handling many of the inquiries presently.



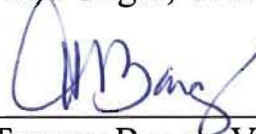
**4. Adjourn.**

*Being no further discussion, the meeting was adjourned at 4:15 p.m.*

APPROVED this 18<sup>th</sup> Day of July 2016 for the  
Deschutes County Board of Commissioners.



Alan Unger, Chair



Tammy Baney, Vice Chair

ATTEST:



Recording Secretary



Anthony DeBone, Commissioner

Work Session

7-13-16

(Please Print)

Name

Agency

Mailing Address

City

Zip

Phone #

e-mail address

Carolyn (Juniata)		19335 Dayton Rd Bend	Bend	97703	541 317-0731	sadaca_2@msn.com
Sam Davis		"	"	"	"	"
PAT BOWLING	BRIGHTSIDE	P.O. Box 1404	REMNOND	97756	541-923-0882	recruiting@brightside acadels.org
MARK CROSE	"	"	"	"	"	MARKCROSE@GMAIL.COM
Diane LOZITO	c/o CB MorrisRE	486 SW Bluffor Bend	Bend	97702	548-3598	centraloregonRealEstate eentlink.net
Joe Stetler	Deschutes Co					

# Deschutes County CDD Monthly Issued Building Permits

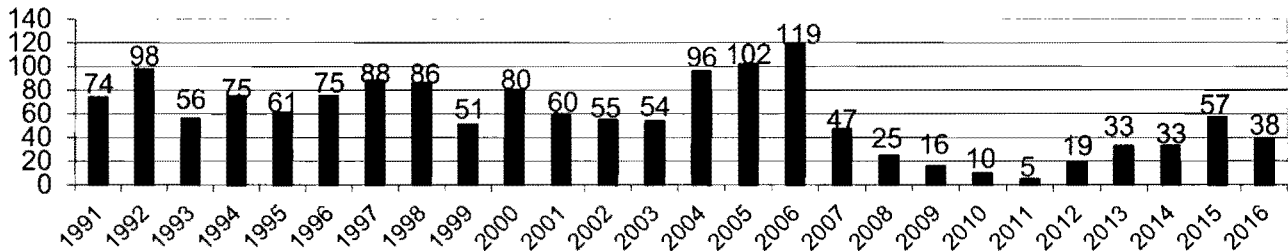
## June

Month	Customers	New Homes	Commercial Valuation	Septic Evaluations	Total Valuation
Jun-04	2,330	96	\$140,000	43	\$28,589,825
Jun-05	2,343	102	\$228,493	53	\$35,737,078
Jun-06	2,638	119	\$3,800,000	57	\$41,584,161
Jun-07	2,125	47	\$406,258	38	\$20,723,617
Jun-08	1,501	25	\$641,716	11	\$11,975,847
Jun-09	1,253	16	\$327,853	14	\$9,435,078
Jun-10	935	10	\$135,500	4	\$5,107,188
Jun-11	570	5	\$990,300	9	\$4,339,507
Jun-12	541	19	\$2,280,000	7	\$12,407,206
Jun-13	628	33	\$2,790,285	7	\$15,420,457
Jun-14	479	33	\$2,451,970	15	\$14,411,547
Jun-15	354	57	\$251,898	13	\$20,581,544
Jun-16	372	38	\$849,199	75	\$13,852,642

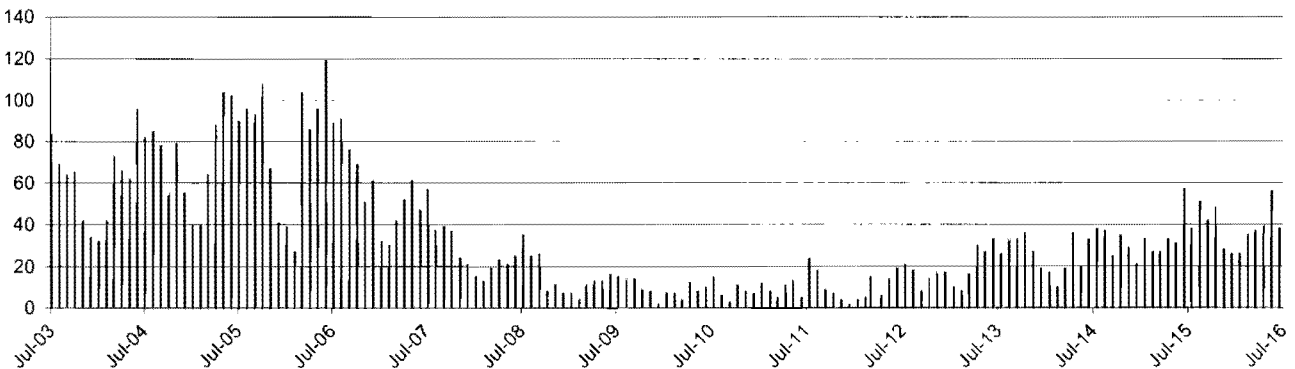
### Fiscal Year Totals (July through June)

2003-04	23,886	633	\$11,917,482	461	\$213,830,632
2004-05	23,975	781	\$10,464,021	499	\$254,770,765
2005-06	25,801	847	\$7,444,445	511	\$270,243,645
2006-07	23,592	701	\$7,108,139	427	\$302,345,925
2007-08	18,795	331	\$4,630,100	204	\$169,203,140
2008-09	13,487	176	\$12,761,982	104	\$112,432,318
2009-10	9,854	109	\$17,622,610	62	\$79,920,870
2010-11	6,720	104	\$12,639,136	88	\$71,256,691
2011-12	6,536	127	\$14,815,446	74	\$79,687,561
2012-13	6,946	218	\$31,129,559	101	\$125,273,413
2013-14	7,205	308	\$12,846,909	122	\$133,968,155
2014-15	4,848	393	\$18,971,948	150	\$165,977,761
2015-16	3,768	438	\$13,956,398	242	\$173,785,347

### June New Houses



### New Houses by Month





## Community Development Department

Planning Division \* Building Safety Division \* Environmental Soils Division

117 NW Lafayette Avenue \* Bend, Oregon \* 97701-1925

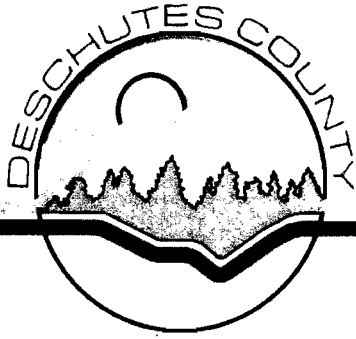
(541) 388-6575 \* FAX (541) 385-1764

<http://www.co.deschutes.or.us/cdd/>

### Permit Summary from 6/1/2016 through 6/30/2016

Compiled on 7/1/2016 9:22:16 AM

<b>Total Permits Issued:</b>		<b>Total Valuation:</b>	
662		\$13,852,642	
<b>Residential Buildings</b>		<b>Residential Valuation</b>	
New Construction:	34	New Construction:	\$8,913,256
Alterations/Additions:	26	Alterations:	\$2,428,256
Accessory Buildings:	23	Accessory Buildings:	\$1,661,930
<b>Commercial Buildings</b>		<b>Commercial Valuation</b>	
New Construction:	7	New Construction:	\$647,199
Alterations:	3	Alterations:	\$202,000
<b>Manufactured Home Permits</b>		<b>Customers</b>	
New Construction:	4	372	
Alterations/Additions:	0		
<b>Other Permits</b>			
Demolition:	1		
Driveway Access:	20		
Electrical:	180		
Mechanical:	137		
Plumbing:	46		
Septic:	107		
Septic Site Evaluations:	75		



# Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

## Memorandum

**DATE:** July 7, 2016  
**TO:** Deschutes County Board of Commissioners  
**FROM:** Nick Lelack, AICP, Director  
Peter Gutowsky, AICP, Planning Manager  
**RE:** Planning Division Fiscal Year 2016-27 Work Plan Update / 1<sup>st</sup> Quarter

### I. Summary

This memorandum updates the Board of County Commissioners (BOCC) on the Planning Division's Fiscal Year 2016-2017 Work Plan specifically relating to the first quarter. Regarding the Current Planning Section, land use applications submitted during the first six months of 2016 are exceeding last calendar year's pace by 44 applications (378 versus 334). If the BOCC rescinds the "opt out ordinance" and regulate marijuana related businesses, the total number of land use applications will further exceed last year's applications.

Based on the Community Development Department's (CDD) recently approved budget and sustained increases in the land use applications, CDD is recruiting two planners to meet business demands with the expectation to fill the positions by August 1, 2016. In addition, Senior Transportation Planner Peter Russell is performing development review for land use applications as the Division is employing an "all hands on deck" approach to speed up land use permit turnaround times during peak development season.

### II. Long Range Planning Section / 1<sup>st</sup> Quarter Tasks

For the first quarter of the new fiscal year, there are four long range planning task, and a potential fifth, for the BOCC's consideration:

#### 1. Comprehensive Plan and Zoning Text Amendments from Agricultural Lands Public Outreach Discussions

A public hearing with the BOCC is anticipated in August to consider three staff-initiated legislative amendments to County Code:<sup>1</sup>

<sup>1</sup> The Planning Commission conducted a public hearing in March and recommended approval of the proposed definition of agricultural-exempt buildings and the setback standards for Haner Park but did not support the proposed amendments to the Comprehensive Plan. A BOCC hearing was placed on hold due to reallocating staff resources to draft marijuana regulations. This project requires minimal staffing resources.

- A Comprehensive Plan amendment recognizing non-resource lands process allowed under State law to change Exclusive Farm Use (EFU) zoning;
- A zoning text amendment providing a definition of agricultural-exempt buildings; and,
- A zoning text amendment reducing setbacks in the Forest Use (F-2) Zone, explicitly for the Haner Park Subdivision.

## 2. City of Bend Urban Growth Boundary Amendment

The BOCC will conduct a joint public hearing with the Bend City Council on August 25 to consider a 2,329 acre Urban Growth Boundary (UGB) amendment and legislative amendments to County Code. Staff anticipates the BOCC will deliberate and issue a final local decision in September or October depending on the public hearing and City actions.

## 3. Oregon Spotted Frog

There is staff capacity to initiate Comprehensive Plan amendments to designate Oregon spotted frog critical habitat as a Goal 5 resource.<sup>2</sup> There are two options for the BOCC to consider:

- Maintain the status quo, or
- Initiate a Comprehensive Plan amendment to recognize critical habitat.

### Option 1 – Status Quo

There is no mandate for updating the Comprehensive Plan. Existing wetland, riparian and floodplain regulations already protect the Oregon spotted frog from human disturbance along the Upper Deschutes and Little Deschutes rivers. Designation of critical habitat does not affect land ownership, establish a refuge or preserve. It has no impact on private landowners taking actions on their land that do not require federal funding or permits. If a landowner needs a federal permit or receives federal funding for a specific activity, the agency responsible for issuing the permit or providing the funds would consult with the U.S. Fish and Wildlife Service to determine how the action may affect the spotted frog or its habitat.

The BOCC may want to consider postponing adoption of critical habitat until the Deschutes Basin Study Work Group (BSWG) completes its work in June 2018. While they are strictly focusing on water quantity, the Bureau of Reclamation and BSWG, as part of a \$1.5 million process through an agreement between Reclamation and the Deschutes Basin Board of Control, are developing a road map to meet water needs in the upper Deschutes, Whychus, and Crooked subbasins for rivers, agriculture and communities for the next 50 years.<sup>3</sup> BSWG is particularly focused on finding solutions to restore flows in the Upper Deschutes River, the largest and most complex restoration need in the basin.

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<sup>2</sup> **New regulations are not being proposed.** Wetlands and riparian habitat in the upper Deschutes River basin are already protected under Deschutes County Code. A majority of critical habitat along the Upper Deschutes and Little Deschutes rivers is identified as wetlands on Local and National Wetland Inventories. Wetland vegetation removal and wetland fill and removal require a conditional use permit. Along both rivers, a riparian setback of 100 feet measured from ordinary high water is also required for new development. Additionally, fill and removal as well as floodplain development requires a federal permit (Army Corps of Engineer and Federal Emergency Management Agency), which triggers a formal consultation with the U.S. Fish and Wildlife Service under ESA Section 7.

<sup>3</sup> <http://www.usbr.gov/pn/studies/deschutes/wrkgrp.html>

The objectives of the Basin Study are to:

- Develop a comprehensive analysis of water supply and demand, integrating and updating the analyses to account for climate change;
- Analyze how existing operations and infrastructure will perform under the projected future water supply conditions and demands;
- Develop and evaluate options for addressing identified water imbalances; and,
- Complete analysis to compare relative cost, environmental impact, risk, stakeholder response, and other common attributes of identified options.

### Option 2 – Comprehensive Plan Amendment

Adopting a federal critical habitat designation into the Comprehensive Plan allows CDD to share it with property owners and interested parties on Deschutes County Property Information.<sup>4</sup> As shown in Table 1, there are 1,492 rural tax lots affected by critical habitat. Table 1 also identifies the number and acreage of tax lots affected by critical habitat in rural Deschutes County and the Bend and La Pine UGBs. In Deschutes County, Oregon spotted frog habitat extends along the Upper Deschutes and Little Deschutes rivers, terminating in Bend at the Old Mill District.

*Table 1 –Critical Habitat for Oregon Spotted Frog / Affected Deschutes County Tax Lots<sup>5</sup>*

Jurisdiction	Federal Properties		Private Properties		Total Acres of Critical Habitat
	Tax Lots	Acres	Tax Lots	Acres	
Bend UGB	0	0	13	3.70	3.70
La Pine UGB	0	0	91	135.05	135.05
Rural Deschutes County	26	1,062.33	1,492	4,230.96	5,293.79
<b>Total</b>	<b>26</b>	<b>1,062.33</b>	<b>1,596</b>	<b>4,369.71</b>	<b>5,432.54</b>

### Public Outreach

If Option 2 is selected, public outreach announcing a Planning Commission work session and public hearing would consist of press releases to the *Bulletin*, *Newberry Eagle*, and *Sunriver Scene* and correspondences to community organizations in the Upper Deschutes basin. A Measure 56 notice is **not** required since Deschutes County is not “adopting or amending an ordinance in a manner that limits or prohibits uses previously allowed in the affected zone.”<sup>6</sup> If there is interest in a courtesy mailing to property owners affected by the federal critical habitat designation, the cost is approximately \$1,000.

Below is a *tentative schedule* if the BOCC supports Option 2 to initiate a Comprehensive Plan amendment:

- July 28, 2016 – Planning Commission work session (Bend)
- September 8, 2016 – Planning Commission public hearing (Sunriver or La Pine)

<sup>4</sup> <https://dial.deschutes.org/>

<sup>5</sup> Data listed in Table 1 excludes water bodies and rights-of-way.

<sup>6</sup> ORS 215.503(9).

- October 3, 2016 – BOCC public hearing (Bend)

#### 4. Zoning Code Amendment Allowing Existing Buildings for Hardship Dwellings in EFU

The BOCC supported initiating this project as an element of CDD's Annual FY 2016-17 Work Plan. County Code is currently more restrictive than state law and only allows manufactured homes and RVs.

Below is a *tentative schedule*:

- July 28, 2016 – Planning Commission work session (Bend)
- September 8, 2016 – Planning Commission public hearing
- October 3, 2016 – BOCC public hearing (Bend)

#### 5. Zoning Code Amendment Clarifying Surface Mining

Recent development projects, proposals and public inquiries have raised questions regarding the amount of material that may be excavated and/or removed from a property in order for the activity to qualify as surface mining.

The Deschutes County Code definition of surface mining is below. The section with ***emphasis added*** raises questions regarding the amount of material that may be excavated from a property for the primary purpose of construction. For example, how much material may be excavated to build a house or a pond?

"Surface mining" means

A. Includes:

1. All or any part of the process of mining by removal of the overburden and extraction of natural mineral deposits thereby exposed by any method including, open pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits, except those constructed for access roads; and
2. Mining which involves more than 1,000 cubic yards of material or excavation prior to mining of a surface area of more than one acre.

B. Does not include:

1. The construction of adjacent or off-site borrow pits which are used for access roads to the surface mine;
2. ***Excavation and crushing of sand, gravel, clay, rock or other similar materials conducted by a landowner, contractor or tenant on the landowner's property for the primary purpose of construction*** [emphasis added], reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction and other on-site construction, or non-surface impacts of underground mines; and
3. Batching and blending of mineral and aggregate into asphaltic concrete or Portland cement concrete.

A project previously on the CDD Work Plan, but not initiated, was "...to investigate the potential benefits and drawbacks of adopting a County Grading Ordinance. This will entail examining the ICC model Grading Code, along with local adaptations utilized by other jurisdictions. Present a decision framework to the Board of County Commissioners."



Options to provide clarity:

1. Interpret this definition during an applicant initiated quasi-judicial land use application or complaint-initiated code enforcement action.
2. Initiate a code amendment to the definition of surface mining to clarify the amount of material in cubic yards that may be excavated (i.e., removed from the property) with/without a land use permit to provide certainty to landowners, contractors, tenants, and surrounding/nearby property owners. This project could be initiated immediately and simultaneously with the zoning code amendment to allow existing buildings for hardship dwellings in the EFU Zone (it would be a separate amendment).
3. Initiate the project previously on the CDD Work Plan.
4. Other.



Deschutes County Board of Commissioners  
1300 NW Wall St., Bend, OR 97703-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

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## WORK SESSION AGENDA

### DESCHUTES COUNTY BOARD OF COMMISSIONERS

**1:30 P.M., WEDNESDAY, JULY 13, 2016**

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*Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be addressed at the meeting. This notice does not limit the ability of the Board to address additional subjects. Meetings are subject to cancellation without notice. This meeting is open to the public and interested citizens are invited to attend.*

*Work Sessions allow the Board to discuss items in a less formal setting. Citizen comment is not allowed, although it may be permitted at the Board's discretion. If allowed, citizen comments regarding matters that are or have been the subject of a public hearing process will NOT be included in the official record of that hearing. Work Sessions are not normally video or audio recorded, but written minutes are taken for the record.*

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1. Discussion of CDD Work Plan Update – Clarification – *Nick Lelack*
2. Discussion of Extension of Brightside Animal Center Loan – *Erik Kropp*
3. Other Items

Executive Session: Real Estate Negotiations – *James Lewis*

*These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.*

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*Meeting dates, times and discussion items are subject to change. All meetings are conducted in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.*

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Deschutes County encourages persons with disabilities to participate in all programs and activities. To request this information in an alternate format, please call (541) 617-4747, or email [ken.harms@deschutes.org](mailto:ken.harms@deschutes.org).

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*At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.*

#### 4. Adjourn

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