

1                   BEFORE THE LAND USE BOARD OF APPEALS  
2                   OF THE STATE OF OREGON

3  
4                   CENTRAL OREGON LANDWATCH,  
5                                 *Petitioner,*

6  
7   vs.

8  
9                   DESCHUTES COUNTY,  
10                                 *Respondent,*

11  
12   and

13  
14                   CENTRAL OREGON IRRIGATION DISTRICT and  
15                   POHAKU FARMS DEVELOPMENT LLC,  
16                                 *Intervenors-Respondents.*

17  
18   LUBA No. 2024-080

19  
20   FINAL OPINION  
21   AND ORDER

22  
23                   Appeal from Deschutes County.

24  
25                   Rory Isbel filed the petition for review and reply brief and argued on behalf  
26 of petitioner.

27  
28                   Stephanie Marshall filed the respondent's brief and argued on behalf of  
29 respondent.

30  
31                   D. Adam Smith represented intervenors-respondents.

32  
33                   BASSHAM, Board Member; ZAMUDIO, Board Chair; WILSON, Board  
34 Member, participated in the decision.

35  
36                   REMANDED                                 04/13/2026

37  
38                   You are entitled to judicial review of this Order. Judicial review is

1 governed by the provisions of ORS 197.850.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

**NATURE OF THE DECISION**

Petitioner appeals a board of commissioners decision adopting, on reconsideration, an updated comprehensive plan.

**FACTS**

In 2011, the county adopted the 2010 Deschutes County Comprehensive Plan (2010 DCCP), which was acknowledged to comply with the Statewide Planning Goals. In 2022, the county began developing an update to the 2010 DCCP. The county planning commission held numerous meetings and gathered public input in various ways. On August 30, 2023, the county notified the Department of Land Conservation and Development (DLCD) that it proposed to “repeal and replace” the 2010 DCCP via the post-acknowledgment plan amendment (PAPA) process, at ORS 197.610(1).<sup>1</sup> Record 4865, 4953.<sup>2</sup> The planning commission conducted its first evidentiary hearing on the proposal on

---

<sup>1</sup> ORS 197.610(1) provides, in relevant part:

“Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of [DLCD]. \* \* \* [T]he proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. \* \* \*”

<sup>2</sup> We follow the parties in citing to the county’s original record filed December 6, 2024, as “Record,” to the Amended Record filed on October 31, 2025, following its decision on reconsideration, as “ReconRecord,” and to the Supplement filed October 31, 2025, as “SuppRecord.”

1 October 26, 2023, followed by other hearings. The planning commission  
2 recommended approval of the proposed updates. The board of commissioners  
3 held its first public hearing on April 10, 2024, followed by others. On October 2,  
4 2024, the board of commissioners adopted, via Ordinance 2024-007, the  
5 Deschutes County 2040 Comprehensive Plan (2040 DCCP), repealing and  
6 replacing the 2010 DCCP. Record 23.

7 Petitioner appealed the ordinance adopting the 2040 DCCP to LUBA, and  
8 filed a petition for review. The county thereafter withdrew the decision for  
9 reconsideration, pursuant to ORS 197.830(13)(b) and OAR 661-010-0021. On  
10 reconsideration, the board of commissioners conducted evidentiary hearings on  
11 April 23 and May 21, 2025, limited to the issues raised in the petition for review.  
12 SuppRecord 3; ReconRecord 27. The written record was held open until May 28,  
13 2025. On June 11, 2025, the board of commissioners deliberated and voted to  
14 adopt a revised version of the 2040 DCCP. The first reading of the ordinance to  
15 adopt the revised 2040 DCCP occurred on June 25, 2025. However, the second  
16 reading did not follow. On the following day, LUBA issued a decision in *Central*  
17 *Oregon Landwatch v. Deschutes County*, LUBA No 2025-015 (June 26, 2025)  
18 (*Destiny Court*). The *Destiny Court* decision concerned, in part, the interpretation  
19 and application of 2010 DCCP Policy 3.3.1. In response, on July 22, 2025, the  
20 board of commissioners re-opened the written record to accept testimony  
21 regarding DCCP provisions implicated by *Destiny Court*, and to address a new  
22 DCCP policy proposed by planning staff. ReconRecord 1311. The re-opened

1 record closed on August 1, 2025. Petitioner submitted testimony during the open  
2 record period.

3 On August 11, 2025, the board of commissioners held a meeting to  
4 deliberate. That meeting was not open to submission of evidence or testimony.  
5 During the meeting, county staff proposed new or amended comprehensive plan  
6 policies, Policies 10.1.1, 10.1.2, and 10.1.3, to respond to comments received  
7 during the re-opened record period.<sup>3</sup> The commissioners deliberated and voted to  
8 approve the 2040 DCCP, including the staff-recommended Policies 10.1.1,  
9 10.1.2, and 10.1.3. On August 27, 2025, the board of commissioners conducted  
10 a second reading of the ordinance, and issued the decision on reconsideration,  
11 adopting a revised version of the 2040 DCCP that included the three policies.  
12 That meeting was not open to submission of evidence or testimony. Petitioner  
13 then filed an amended notice of intent to appeal.

14 **FIRST ASSIGNMENT OF ERROR**

15 Petitioner contends that the county committed procedural error, by  
16 proposing and approving three DCCP policies at the August 11, 2025, board of  
17 commissioners meeting at which the commissioners deliberated on the proposed  
18 2040 DCCP, all without providing petitioner and other parties the notice required

---

<sup>3</sup> Policy 10.1.1 sets a 10-acre minimum for new rural residential parcels. Policies 10.1.2 and 10.1.3 set a minimum parcel size and average densities for cluster or planned unit development. Those policies are set out in full below. See n 11.

1 by ORS 197.610(6) and without conducting a hearing, as required under county  
2 code. *See* ORS 197.835(9)(a)(B) (LUBA shall reverse or remand a land use  
3 decision if the decision-making body “[f]ailed to follow the procedures  
4 applicable to the matter before it in a manner that prejudiced the substantial rights  
5 of the petitioner[.]”). As discussed below, ORS 197.610(6) requires in some  
6 circumstances that when a local government alters a PAPA proposal already  
7 under consideration, the local government must provide additional notice to  
8 DLCD, which in turn notifies interested parties of the proposed alteration.

9 **A. Waiver**

10 The county responds, initially, that petitioner failed to object to the alleged  
11 procedural error during the proceedings below, and thus the alleged error is  
12 waived and outside LUBA’s scope of review. Because the challenged decision is  
13 a legislative decision, traditional “raise-it-or-waive-it” obligations embodied in  
14 ORS 197.797(1) do not apply.<sup>4</sup> Nonetheless, the county argues that LUBA has  
15 long held that, even for legislative decisions, where a party has the opportunity  
16 to object to a procedural error, but fails to do so, the error cannot be advanced  
17 before LUBA. *Torgeson v. City of Canby*, 19 Or LUBA 511, 519 (1990); *Dobaj*  
18 *v. Beaverton*, 1 Or LUBA 237, 241 (1980).

---

<sup>4</sup> ORS 197.797(1) applies to quasi-judicial land use proceedings, and generally limits issues that can be raised at LUBA to issues that were raised during the proceedings below.

1           Petitioner responds that during the reconsideration proceedings it generally  
2 argued to the county that the alterations proposed on reconsideration require new  
3 notice to DLCD under ORS 197.610(6). ReconRecord 1952. As for the three  
4 policies proposed at the August 11, 2025 meeting and adopted at the August 27,  
5 2025 meeting, petitioner argues that the record had closed before those meetings,  
6 and petitioner had no opportunity to lodge any objections to those three policies  
7 at those meetings, which were not evidentiary hearings open to public comment.  
8 We agree with both responses. Petitioner's arguments at ReconRecord 1952 were  
9 sufficient to put the county on notice that petitioner believed that proposed  
10 alterations to the DCCP during reconsideration require new notice under ORS  
11 197.610(6). And petitioner had no fair opportunity to lodge specific objections to  
12 the proposal and adoption of the three policies at the August 11 and 27, 2025  
13 meetings, because those meetings were held after the evidentiary record closed  
14 and were not open to public testimony.

15           **B.     ORS 197.610(6) and OAR 660-018-0045**

16           As noted, ORS 197.610(1) requires that the county send initial notice of a  
17 proposed PAPA to DLCD at least 20 days prior to the first evidentiary hearing.  
18 The notice must include the information set out in ORS 197.610(3), including the  
19 text of the proposed change.<sup>5</sup> Based on the information provided, DLCD sends

---

<sup>5</sup> ORS 197.610(3) provides, as relevant:

1 notice of the proposed changes to persons that have requested such notice, as well  
2 as persons generally interested in such matters, via e-mail and other electronic  
3 forms of notice. ORS 197.610(4).<sup>6</sup> There is no dispute in the present case that in

---

“Submission of the proposed change must include all of the following materials:

“(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;

“\* \* \* \* \*

“(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;

“(d) The date set for the first evidentiary hearing;

“(e) The form of notice or a draft of the notice to be provided under ORS 197.797, if applicable; and

“(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.”

<sup>6</sup> ORS 197.610(4) provides:

“The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:

“(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and

1 August 2023 the county initially complied with ORS 197.610(1), by sending  
2 notice to DLCD at least 20 days prior to the initial evidentiary hearing before the  
3 planning commission. Record 4953.

4 If during the course of the proceedings on a PAPA the proposal changes  
5 “to such an extent that the materials submitted no longer reasonably describe the  
6 proposed change,” then ORS 197.610(6) requires the county to send a new notice  
7 to DLCD and to “provide a summary of the alterations along with any alterations  
8 to the proposed text or map” to DLCD “at least 10 days before the final  
9 evidentiary hearing on the proposal.”<sup>7</sup> Upon receiving such notice, DLCD then

---

“(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.”

<sup>7</sup> ORS 197.610(6) provides:

“If, after submitting the materials described in subsection (3) of this section, the proposed change is altered to such an extent that the materials submitted no longer reasonably describe the proposed change, the local government must notify [DLCD] of the alterations to the proposed change and provide a summary of the alterations along with any alterations to the proposed text or map to the director *at least 10 days before the final evidentiary hearing on the proposal*. The director shall cause notice of the alterations to be given in the manner described in subsection (4) of this section. Circumstances requiring resubmission of a proposed change may include, but are not limited to, a change in the principal uses allowed under the proposed change or a significant change in the location at which the principal uses would be allowed, limited or prohibited.” (Emphasis added.)

1 sends notice of the alteration to interested parties. OAR 660-018-0045  
2 implements ORS 197.610(6) and elaborates on the statutory requirements.<sup>8</sup> That

---

<sup>8</sup> OAR 660-018-0045 provides, as relevant:

“(1) If, after initially submitting the notice and accompanying materials under OAR 660-018-0020, a proposed change to an acknowledged comprehensive plan or land use regulation is altered to such an extent that the materials submitted no longer reasonably describe the proposed change, the local government must, *at least 10 days before the final evidentiary hearing on the proposal*:

“(a) Notify the department of the alterations to the proposed change, and

“(b) Provide a summary of the alterations along with any alterations to the proposed text or map and other materials described in OAR 660-018-0020.

“\* \* \* \* \*

“(3) Circumstances requiring resubmission of a proposed change to a comprehensive plan or land use regulation under this rule may include, but are not limited to:

“(a) Alteration of the proposed principal uses that would be allowed under the proposed change to the comprehensive plan or land use regulations;

“(b) A significant change in the location at which the principal uses would be allowed, limited or prohibited; or

“(c) A significant change in the conditions or restrictions that would be applied to a proposed use.” (Emphasis added.)

1 statute and administrative rule require the county to provide notice of the  
2 alteration at least ten days before the final evidentiary hearing on the PAPA. The  
3 notice and timing requirement together allow interested parties to participate and  
4 address the alterations that triggered the PAPA re-notice requirement.

5 In the present case, the final evidentiary hearing occurred on May 21, 2025  
6 and the re-opened record closed on August 1, 2025. Petitioner is correct that, after  
7 the re-opened evidentiary record closed to all parties, county staff presented to  
8 the board of commissioners at the August 11, 2025 meeting a revised 2040 DCCP  
9 with three proposed new or revised policies, 10.1.1, 10.1.2, and 10.1.3. At that  
10 same meeting, the commissioners deliberated and voted to adopt the 2040 DCCP,  
11 including the three policies proposed by staff. Understanding how the county got  
12 to these proposed policies requires some additional background.

13 As noted, LUBA's *Destiny Court* decision, issued on June 26, 2025,  
14 required the county to interpret the 2010 DCCP, specifically 2010 DCCP policy  
15 3.3.1.<sup>9</sup> *Destiny Court* was a quasi-judicial zone change decision, but the county

---

<sup>9</sup> 2010 DCCP Policy 3.3.1 was part of 2010 DCCP section 3.3, Rural Housing Policies, and provided:

“Except for parcels in the Westside Transect Zone, the minimum parcel size for new rural residential parcels shall be 10 acres.”

As originally proposed in 2023 and approved in 2024, the 2040 DCCP eliminated the Rural Housing policies section and, as far as we can tell or the parties advise, did not carry forward the 10-acre minimal parcel size requirements of 2010 DCCP Policy 3.3.1 into any 2040 DCCP policies.

1 apparently felt that the interpretative issue in that case was relevant to the present  
2 legislative proceedings to amend the DCCP, on reconsideration. As discussed  
3 below, 2010 DCCP policy 3.3.1 is related to the three 2040 policies – 10.1.1,  
4 10.1.2, and 10.1.3 – at issue in this appeal, and in fact 2040 Policy 10.1.1 as  
5 adopted is essentially a renumbered version of 2010 DCCP Policy 3.3.1.

6 On July 21, 2025, the commissioners adopted Order 2025-030, which  
7 ordered that the record in the 2040 DCCP proceedings be re-opened to allow new  
8 testimony and evidence regarding the *Destiny Court* decision, minimum lot size  
9 for rural residential areas, and cluster and planned unit development provisions.  
10 ReconRecord 1314. The next day, July 22, 2025, county staff sent a “notice of  
11 re-opened record” via email to interested parties on record with the county.  
12 ReconRecord 1310-1326. The staff notice stated that staff proposed a new DCCP  
13 policy 10.1.1, as follows:

14 “Policy 10.1.1. Except for parcels in the Westside Transect Zone,  
15 the minimum lot or parcel size for new residential parcels shall be  
16 10 acres. Notwithstanding, for cluster or planned unit development,  
17 the minimum lot or parcel size for new residential parcels shall be  
18 no less than 2 acres and must demonstrate compliance with  
19 applicable provisions of OAR 660-004.” ReconRecord 1311.

---

That 10-acre minimal parcel size was apparently resurrected in 2040  
DCCP Policy 10.1.1, discussed below.

1 That July 22, 2025 email notice was not, apparently, intended to constitute or  
2 function as a notice of an altered PAPA under ORS 197.610(6).<sup>10</sup> Nonetheless,  
3 both petitioner and a DLCD representative received copies of the notice or  
4 otherwise learned of the re-opened record, as both petitioner and the DLCD  
5 representative submitted comments on the proposed Policy 10.1.1, during the  
6 open record period ending August 1, 2025. ReconRecord 809-11, 821-23.

7 At the board of commissioners August 11, 2025 meeting, staff presented a  
8 revised version of the draft 2040 DCCP that included new and revised policies  
9 10.1.1, 10.1.2, and 10.1.3.<sup>11</sup> The commissioners voted to adopt this version of the

---

<sup>10</sup> As we understand it, providing notice to DLCD under ORS 197.610(1) and (6) is currently accomplished in one of three ways: by (1) mailing a hard-copy of a DLCD paper form with supporting materials, (2) emailing digital copies of the DLCD notice form with supporting materials, or (3) uploading the notice and supporting materials to the DLCD website, via a special portal called “PAPA Online.” The county does not argue, and the record does not reflect, that the county provided DLCD with notice under ORS 197.610(6) using any of these methods, regarding the text of proposed policies 10.1.1, 10.1.2, or 10.1.3.

<sup>11</sup> As proposed and then adopted, 2040 DCCP Policies 10.1.1, 10.1.2, and 10.1.3 provide:

“Policy 10.1.1. Except for parcels in the Westside Transect Zone, the minimum lot or parcel size for new rural residential parcels shall be 10 acres.

“Policy 10.1.2. Notwithstanding Policy 10.1.1, for cluster or planned unit development on property in a rural residential area as of October 4, 2000, the minimum lot or parcel size for new residential parcels shall be no less than 2 acres, with the option of having average densities of less than 10 acres when factoring the

1 2040 DCCP, including the three policies. The text of the three policies differs  
2 significantly from any policy revisions proposed in the county’s initial notice to  
3 DLCD under ORS 197.610(1), in August 2023, or the initially adopted version  
4 in October 2024. The revised text even differs from the text of draft Policy 10.1.1  
5 that staff set out in the July 22, 2025 notice, which did not include provisions to  
6 allow cluster or planned unit development on non-resource land.

7 As explained above, under ORS 197.610(6) and OAR 660-018-0045(1),  
8 whether alteration of a PAPA requires new notice depends on whether “the  
9 proposed change is altered to such an extent that the materials submitted no  
10 longer reasonably describe the proposed change.” OAR 660-018-0045(3) sets out  
11 a nonexclusive list of circumstances that require the county to provide DLCD a  
12 new PAPA notice, including “[a]lteration of the proposed principal uses that  
13 would be allowed under the proposed change” and a “significant change in the  
14 location at which the principal uses would be allowed, limited or prohibited[.]”

---

open space tract, in compliance with OAR 660-004-0040(4)(b),  
(6)(a), and (8).

“Policy 10.1.3. Notwithstanding Policy 10.1.1, for cluster or  
planned unit development on property not in a rural residential area  
in effect as of October 4, 2000, and limited to properties that have  
received a Goal 3 exception, Goal 4 exception, or a non-resource  
land designation per OAR 660-004-0005(3), the minimum lot or  
parcel size for new residential parcels shall be no less than 2 acres  
with average densities of no less than 10 acres when factoring the  
open space tract, subject to OAR 660-004-0040(8) and OAR 660-  
004-0040(3)(c)(F).” ReconRecord 122.

1 One of the alterations proposed on August 11, 2025, policy 10.1.3, purports to  
2 authorize cluster and planned unit development on non-resource lands, which no  
3 previous version of the draft 2040 DCCP had proposed. We address petitioner's  
4 substantive challenges to those policies under the second assignment of error. For  
5 purposes of this procedural challenge, we agree with petitioner that that alteration  
6 alone seems to allow different principal uses than earlier versions, as well as  
7 change the location where principal uses could be allowed, namely, to include  
8 non-resource lands. That single alteration alone seems to trigger application of  
9 either OAR 660-018-0045(3)(a) or (b).

10 The county argues that the text of policies 10.1.1, 10.1.2, and 10.1.3  
11 proposed and approved at the August 11, 2025 meeting are not substantively  
12 different than the text of the draft version of policy 10.1.1 proposed by staff in  
13 the July 22, 2025 notice. However, the version of policy 10.1.1 proposed by staff  
14 on July 22, 2025, did not propose to extend cluster and planned unit development  
15 to non-resource lands. In any case, we note that what is compared under ORS  
16 197.610(6) and OAR 660-018-0045(1) is the text or map of the proposed PAPA  
17 as *originally submitted* to DLCD, or at least the most recently submitted, against  
18 later proposed alterations. The point of comparison is not *intermediate* versions  
19 that were *not* noticed to DLCD under ORS 197.610(1) or (6). The county does  
20 not contend, and it does not appear to be the case, that the county ever sent DLCD  
21 notice of the draft version of policy 10.1.1 proposed on July 22, 2025 (or any  
22 other intermediate version), pursuant to ORS 197.610(1) or (6).

1           The initial notice to DLCD pursuant to ORS 197.610(1) was sent August  
2 30, 2023, prior to the first evidentiary hearing before the planning commission.  
3 Record 4953 (receipt of notice), 4954-5064 (text of proposed amendment). The  
4 draft version of the 2040 DCCP that was submitted to DLCD on August 30, 2023,  
5 may well have been altered before the planning commission, as well as before  
6 the board of commissioners before the board adopted the final version a year  
7 later, on October 2, 2024. As discussed, the county withdrew the adopted version  
8 for reconsideration, to address issues raised in petitioner’s initial petition for  
9 review to LUBA. On reconsideration, the county conducted multiple evidentiary  
10 proceedings on a revised proposal, and the board voted to adopt an amended  
11 version of the 2040 DCCP in response to the issues raised in the petition for  
12 review and the testimony on reconsideration. As far as we are informed, the  
13 county did not, over the course of two years of proceedings on the PAPA, ever  
14 provide notice to DLCD under ORS 197.610(6) of any proposed individual, or  
15 cumulative, alteration.<sup>12</sup>

16           In any case, we agree with petitioner that at least the last alteration  
17 described above, the introduction of policies 10.1.1, 10.1.2, and 10.1.3 on August

---

<sup>12</sup> County staff did advise DLCD by email that the county had withdrawn the record on reconsideration, and asked DLCD whether the county should send DLCD “new proposal information.” SuppRecord 11 (March 6, 2025 email). DLCD staff replied in the affirmative. SuppRecord 10-11. However, if the county thereafter ever sent DLCD any “new proposal information,” the record does not reflect that such submissions were made pursuant to ORS 197.610(6).

1 11, 2025, constituted an alteration to allowed uses or a change in the location of  
2 allowed uses, compared to the original version noticed on August 30, 2023, thus  
3 triggering the requirements for new notice to DLCDC under OAR 660-018-0045  
4 and ORS 197.610(6). *See Save TV Butte v. Lane County*, 80 Or LUBA 422 (2019)  
5 (altering a proposed PAPA on remand from LUBA to reduce the geographic  
6 extent of the PAPA from 107 acres to 46 acres was significant enough to require  
7 new notice under ORS 197.610(6)). As far as we are informed, the original PAPA  
8 noticed to DLCDC did not include a minimum 10-acre parcel size in rural  
9 residential areas, or include any provisions authorizing cluster or planned unit  
10 developments in rural residential exception areas, on lots as small as two acres.  
11 Importantly, neither the original PAPA submittal, nor any intermediate version  
12 cited to us, purported to authorize cluster or planned unit developments on non-  
13 resource lands. As discussed above, that alteration alone seems to allow different  
14 principal uses than the original submitted version, as well as to change the  
15 location where principal uses could be allowed, to include non-resource lands.<sup>13</sup>

16 In sum, we agree with petitioner that the modifications proposed at the  
17 August 11, 2025 meeting altered the proposed PAPA “to such an extent that the  
18 materials submitted” in the August 30, 2023 notice “no longer reasonably

---

<sup>13</sup> As discussed below under the second assignment of error, allowing cluster or planned unit development on non-resource lands is not authorized by the administrative rules implementing Statewide Planning Goal 14 (Urbanization).

1 describe the proposed change[.]” ORS 197.610(6). Accordingly, the county erred  
2 in failing to provide DLCD with the notice required by ORS 197.610(6).

3 **C. ORS 197.610(6) and Prejudice to Petitioner**

4 Finally, the county argues that even if petitioner establishes that the county  
5 committed procedural error in failing to send notice under ORS 197.610(6),  
6 petitioner has not demonstrated that the alleged procedural error prejudiced  
7 *petitioner’s* substantial rights. The county argues that petitioner participated in  
8 public hearings and submitted testimony at several points, including during the  
9 open record period ending August 1, 2025. The county contends that petitioner  
10 has not demonstrated that any procedural error regarding notice to DLCD or the  
11 three policies proposed and approved on August 11, 2025 prejudiced petitioner’s  
12 substantial rights to participate in the reconsideration proceedings.

13 We agree with petitioner that the record establishes prejudice to petitioner.  
14 As discussed, the county proposed substantive modifications to the 2040 DCCP  
15 at the August 11, 2025 meeting, and the board of commissioners approved those  
16 modifications at the same meeting. That meeting occurred after the evidentiary  
17 record closed and without any opportunity for petitioner to participate or provide  
18 testimony. ORS 197.610(6) and OAR 660-018-0045 require the county to  
19 provide notice of the alternation at least 10 days before the final evidentiary  
20 hearing on the PAPA. That did not occur here. The fact that petitioner was  
21 permitted to provide earlier testimony with respect to a substantially different  
22 PAPA proposal does not obviate the prejudice resulting from the adoption of the

1 three policies at the August 11, 2025 meeting. This part of the first assignment of  
2 error is sustained. On remand, the county must provide the required notice and  
3 hold a final evidentiary hearing.

4 **D. Deschutes County Code (DCC) 22.12.010**

5 DCC 22.12.010 provides that:

6 “No legislative change shall be adopted without review by the  
7 Planning Commission and a public hearing before the Board of  
8 County Commissioners. Public hearings before the Planning  
9 Commission shall be set at the discretion of the Planning Director,  
10 unless otherwise required by state law.”

11 In addition to arguments under ORS 197.610(6), petitioner argues that the board  
12 of commissioners action in adopting the three policies that were proposed at the  
13 August 11, 2025 meeting, without first reviewing those proposed amendments as  
14 part of the public evidentiary hearings and proceedings, also violated DCC  
15 22.12.010.

16 The county offers no response to petitioner’s arguments under DCC  
17 22.12.010. In the absence of any response, we agree with petitioner that, on  
18 remand to correct the errors described above with respect to ORS 197.610(6), the  
19 county should also address the requirements of DCC 22.12.010, and ensure that  
20 its proceedings on remand are consistent with that code provision.

21 **E. Repeal and Replace**

22 Petitioner also argues that the initial notice of the proposed PAPA  
23 submitted in August 2023 describes the PAPA as a proposal to “Repeal and

1 Replace 2010 Comprehensive Plan with Deschutes County 2040 Comprehensive  
2 Plan Update.” ReconRecord 1956, 1961. Petitioner contends that on  
3 reconsideration county staff took the position that the PAPA was not a full repeal  
4 and replacement of the 2010 DCCP, but rather a less comprehensive “update” of  
5 the 2010 DCCP, with many 2010 DCCP provisions carried forward unchanged  
6 or with minimal changes. Petitioner argues that this re-characterization of the  
7 2040 DCCP from “repeal and replace” to a mere “update” was apparently  
8 intended to limit the scope of petitioner’s challenges to the 2040 DCCP under  
9 Goal 14.

10 According to petitioner, this recharacterization changed the nature of the  
11 PAPA to such an extent that, for that reason alone, it should be viewed as an  
12 alteration for purposes of ORS 197.610(6), requiring the county to submit a  
13 notice to DLCD under that statute.

14 The county responds, and we agree, that the staff description of the PAPA  
15 during the reconsideration proceedings as an “update” does not represent an  
16 “alteration” for purposes of ORS 197.610(6). Notably, petitioner does not attempt  
17 to fit the supposed alteration into any of the three categories of qualifying  
18 alterations described at OAR 660-018-0045(3)(a) through (c), or argue why the  
19 supposed alteration is similar to any of the non-exclusive categories listed in the  
20 rule. Moreover, the staff characterization of the PAPA as an “update” did not  
21 change any actual text in the PAPA, or refer to any textual or graphic change. As  
22 discussed above, the county made significant changes to the text of the 2040

1 DCCP on reconsideration, but petitioner has not established that any of those  
2 textual changes reflect a substantive difference between a “replacement” and a  
3 comprehensive “update.” We agree with the county that whether the PAPA is  
4 described as a replacement or update to the 2010 DCCP is a distinction that, as  
5 far as petitioner has established, does not make a difference, for purposes of ORS  
6 197.610(6). Petitioner’s arguments on this point do not establish procedural error.

7 The first assignment of error is sustained, in part.

8 **SECOND ASSIGNMENT OF ERROR**

9 Under the second assignment, petitioner argues that 2040 DCCP policy  
10 10.1.3 conflicts with state law at OAR 660-004-0040, as well as zoning code  
11 provisions at DCC 18.32, DCC 18.60, and DCC 18.128. We have sustained  
12 petitioner’s procedural first assignment of error, which requires remand for the  
13 county to provide statutorily required notice and evidentiary hearing before its  
14 consideration and adoption of policy 10.1.3. Because new issues could be raised  
15 regarding policy 10.1.3 on remand, and the text of that policy might change in  
16 response, it might be prudent to decline resolving the merits of an assignment of  
17 error that challenges the current text of policy 10.1.3. However, this legislative  
18 decision already has a lengthy multi-year history, both initially and on  
19 reconsideration. Time is of the essence in reaching final decisions in matters  
20 involving land use. ORS 197.805. In furtherance of that policy, ORS  
21 197.835(11)(a) directs LUBA to decide all issues that are sufficient for review  
22 when reversing or remanding a decision. In our view, the legislative policy of

1 finality, as well as judicial efficiency, would likely be better served in this  
2 instance by addressing petitioner’s facial challenges to the current text of policy  
3 10.1.3, notwithstanding that remand is necessary for new evidentiary hearing to  
4 allow the parties to present testimony regarding the text of policy 10.1.3.

5 **A. OAR 660-004-0040**

6 OAR 660-004-0040 is an administrative rule implementing Goal 14. Goal  
7 14 is “[t]o provide for an orderly and efficient transition from rural to urban land  
8 use, to accommodate urban population and urban employment inside urban  
9 growth boundaries, to ensure efficient use of land, and to provide for livable  
10 communities.” Generally, converting rural land to urban uses is not consistent  
11 with Goal 14, and requires taking an exception to the goal. *1000 Friends of*  
12 *Oregon v. LCDC (Curry Co.)*, 301 Or 447, 477, 724 P2d 268 (1986) (*Curry*  
13 *County*). However, the court in *Curry County* noted that there is no controlling  
14 definition of what constitutes an “urban” or “rural” residential use. The terms  
15 “rural” and “urban” have not been defined in statute, goal, or rule. The court  
16 concluded that residential development at a density of one dwelling per 10 acres  
17 is generally not an urban use, while half-acre residential lots served by  
18 community water and sewer clearly are urban uses. However, between these two  
19 extremes there was no bright line. *Id.* at 504-06. The court concluded that, absent  
20 guidance from the Land Conservation and Development Commission (LCDC)  
21 on this point, any determination whether uses allowed under land use legislation

1 are “urban” or “rural” will depend greatly on the context, including the locale and  
2 the factual situation at a specific site. *Id.* at 504 n 33.

3 Subsequently, in *Shaffer v. Jackson County*, 17 Or LUBA 922 (1989),  
4 LUBA elaborated on the *Curry County* test, concluding that, in the absence of  
5 LCDC guidance, determining whether use of rural land is impermissibly “urban”  
6 will depend on a multi-factor analysis of the specific circumstances, including  
7 parcel size, intensity of use, necessity of urban facilities, and proximity to an  
8 urban growth boundary. 17 Or LUBA at 928.

9 In 2000, LCDC adopted OAR 660-004-0040, which specifies how Goal  
10 14 “applies to rural lands in acknowledged exception areas planned for residential  
11 uses.” OAR 660-004-0040(1). The rule applies explicitly only to “rural  
12 residential areas,” which are defined in relevant part as lands for which an  
13 exception to Statewide Planning Goal 3 (Agricultural Lands), Statewide Planning  
14 Goal 4 (Forest Lands), or both, have been taken. OAR 660-004-0040(3)(a); OAR  
15 660-004-0040(2)(f). In this opinion, we refer to these lands as “exception areas.”  
16 OAR 660-004-0040(3)(c) excludes various other types of land from the scope of  
17 sections (1) through (9) of the rule, including “non-resource land, as defined in  
18 OAR 660-004-0005(3).” OAR 660-004-0040(3)(c)(F). In turn, OAR 660-004-  
19 0005(3) defines “non-resource land” as land that is “not subject to any of the  
20 statewide planning goals listed in OAR 660-004-0010(1)(a) through (g), except  
21 subsections (c) and (d).”

1           Within rural residential exception areas, OAR 660-004-0040(8) specifies  
2 densities, minimum lot or parcel sizes, and types of residential development that,  
3 if it complies with certain standards, LCDC has deemed to be consistent with  
4 Goal 14. In relevant part OAR 660-004-0040(8)(e) allows clustered development  
5 and planned unit developments within exception areas, subject to certain  
6 standards.<sup>14</sup>

---

<sup>14</sup> OAR 660-004-0040(8)(e) provides:

“A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new single-family dwellings in a rural residential area only if all conditions set forth in paragraphs (A) through (H) are met:

“(A) The number of new single-family dwellings to be clustered or developed as a PUD does not exceed 10;

“(B) The number of new lots or parcels to be created for new single-family dwellings does not exceed 10;

“(C) None of the new lots or parcels will be smaller than two acres;

“(D) The development is not to be served by a new community sewer system;

“(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community;

“(F) The overall density of the development will not exceed one single-family dwelling for each unit of acreage specified in the local government’s land use regulations on October 4, 2000 as the minimum lot size for the area;

1 As discussed, 2040 DCCP policy 10.1.1 imposes a minimum parcel size  
2 of 10 acres for rural residential development. Policy 10.1.1 is a renumbered  
3 version of 2010 DCCP policy 3.3.1. 2040 DCCP policy 10.1.2 is a new policy  
4 that addresses rural residential exception areas that existed on October 4, 2000,  
5 the date LCDC adopted OAR 660-004-0040. The rule provides different  
6 standards for rural residential uses in exception areas that existed on October 4,  
7 2000 and those created after that date. In this assignment of error, petitioner  
8 directs no focused challenge to 2040 DCCP policies 10.1.1 and 10.1.2.

9 The focus of petitioner's challenges under this assignment of error is 2040  
10 DCCP policy 10.1.3, which provides that, notwithstanding the 10-acre minimum  
11 parcel size imposed by policy 10.1.1:

12 "[F]or cluster or planned unit development on property not in a rural  
13 residential area in effect as of October 4, 2000, and limited to

---

“(G) Any group or cluster of two or more single-family dwellings will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there; and

“(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.”

1 properties that have received a Goal 3 exception, Goal 4 exception,  
2 *or a non-resource land designation per OAR 660-004-0005(3)*, the  
3 minimum lot or parcel size for new residential parcels shall be no  
4 less than 2 acres with average densities of no less than 10 acres when  
5 factoring the open space tract, subject to OAR 660-004-0040(8) and  
6 OAR 660-004-0040(3)(c)(F).” (Emphasis added).

7 Petitioner argues that 2040 DCCP policy 10.1.3 is inconsistent with OAR  
8 660-004-0040, because it purports to authorize on non-resource land cluster and  
9 planned unit development pursuant to OAR 660-004-0040(8), even though OAR  
10 660-004-0040(8) expressly applies only to exception areas, and expressly does  
11 not apply to non-resource land. *See Sommer v. Josephine County*, 49 Or LUBA  
12 134, 157, *aff'd*, 201 Or App 528, 120 P3d 927 (2005) (OAR 660-004-0040 does  
13 not apply to non-resource land); *Rogue Advocates v. Jackson County*, 60 Or  
14 LUBA 392, 408-09 (2010) (a county errs in interpreting its rural residential zone,  
15 which implements OAR 660-004-0040, to apply to non-resource lands); *1000*  
16 *Friends of Oregon v. Josephine County*, LUBA No 2021-116 (June 2, 2022) (a  
17 county errs in relying on OAR 660-004-0040 to conclude that designation of land  
18 as non-resource land to allow five-acre residential lots is consistent with Goal 14)  
19 (slip op at 22-23). Petitioner argues that to amend its land use legislation to  
20 authorize cluster or planned unit development on non-resource land, the county  
21 must demonstrate that that authorization is consistent with Goal 14, that is, would  
22 not allow urban use of rural land, and cannot rely upon OAR 660-004-0040 to  
23 either make or avoid that demonstration.

1           The county offers two main arguments in response. First is that, while  
2 OAR 660-004-0040 may not apply to non-resource land, and thus does not  
3 authorize the county to allow relatively dense cluster and planned unit  
4 development on non-resource land, it is permissible for the county to invoke  
5 OAR 660-004-0040 as a “safe harbor.” Respondent’s Brief 22. By this we  
6 understand the county to argue that because LCDC has deemed that potentially  
7 dense cluster and planned unit development in exception areas is consistent with  
8 Goal 14, it follows that the same type of development on other lands, including  
9 non-resource land, is also necessarily consistent with Goal 14.

10           However, the county cites no authority for its “safe harbor” argument. As  
11 discussed below under the fourth assignment of error, the county has worked with  
12 DLCD over a number of years to demonstrate that the county’s rural industrial  
13 and commercial zones are consistent with Goal 14, in part by allowing only  
14 industrial and commercial uses that are limited in scope and intensity well below  
15 the scope and intensity allowed by rule in unincorporated rural communities. But  
16 in the present case, the county does not cite to any similar history of legislative  
17 efforts to demonstrate that allowing higher-density residential uses on non-  
18 resource lands is consistent with Goal 14.

19           In addition, we note that the “safe harbor” approach advocated by the  
20 county depends upon the allowed uses being significantly less intense than the  
21 uses allowed under the inapplicable administrative rule that is invoked. Here,  
22 policy 10.1.3 purports to authorize on non-resource lands cluster and planned unit

1 development at the *maximum* density and intensity that is otherwise allowed  
2 under OAR 660-004-0040(8) for exception areas. In adopting OAR 660-004-  
3 0040, LCDC presumably balanced a number of competing policy considerations,  
4 and compromised as needed to reach the ultimate policy balance embodied in the  
5 rule. For whatever reason, LCDC expressly chose *not* to include non-resource  
6 lands within the scope of the rule, or to deem cluster and planned unit  
7 development on non-resource lands to be consistent with Goal 14. To the extent  
8 that it is a permissible approach to invoke an expressly inapplicable rule such as  
9 OAR 660-004-0040 as a “safe harbor,” in order to demonstrate that a new  
10 comprehensive plan policy is consistent with Goal 14, we do not believe that  
11 policy can authorize uses at the maximum intensity allowed by the rule. LCDC  
12 may be legislatively authorized to walk that tightrope, but not the county.

13         Second, the county argues that policy 10.1.3 does not authorize any  
14 development at all, much less cluster and planned unit development on non-  
15 resource lands. According to the county, to authorize such development, a  
16 landowner must seek approval of site-specific comprehensive plan and zoning  
17 amendments that allow cluster and planned unit development. The county argues  
18 that during these quasi-judicial PAPA proceedings, the applicant will be required  
19 to demonstrate that the proposed PAPA is consistent with Goal 14. The county  
20 argues that petitioner can challenge such quasi-judicial decisions, and argue that  
21 those PAPAs are inconsistent with Goal 14. We understand the county to argue  
22 that in the present legislative proceeding adopting policy 10.1.3, the county is not

1 obligated to show that policy 10.1.3 is facially consistent with Goal 14, but may  
2 defer all considerations of Goal 14 to quasi-judicial PAPAs that propose rural  
3 residential development.

4 Both the present legislative decision and any future quasi-judicial PAPAs  
5 to allow development of non-resource lands are subject to compliance with the  
6 Statewide Planning Goals, including Goal 14. But the focus of the Goal 14  
7 inquiry is different between a legislative PAPA and a quasi-judicial PAPA. In  
8 challenging a legislative decision such as the present one, the petitioner may  
9 advance arguments that the adopted text facially conflicts with an applicable  
10 statute, goal, administrative rule, or other legal standard, *i.e.*, is categorically  
11 incapable of being applied consistently with controlling legal standards. *Rogue*  
12 *Valley Assoc. of Realtors v. City of Ashland*, 158 Or App 1, 4, 970 P2d 685, *rev*  
13 *den*, 328 Or 594 (1999); *Landwatch Lane County v. Lane County*, 81 Or LUBA  
14 279, 280 (2020); *Okray v. City of Cottage Grove*, 47 Or LUBA 297, 301 (2004).  
15 If consistency with a goal turns on site-specific facts, such as location or  
16 proximity of property to an urban growth boundary, then such challenges can be  
17 practicably advanced only in the context of a quasi-judicial PAPA.

18 In the present cases, we understand petitioner to present a facial challenge  
19 to policy 10.1.3, that in all circumstances in which it would be applied to  
20 authorize cluster or planned development on non-resource lands, the policy  
21 would conflict with Goal 14. We disagree with the county that that facial

1 challenge cannot be advanced in the present appeal of the legislative decision  
2 adopting policy 10.1.3.

3 The county offers two additional arguments. The county argues that a  
4 DLCD representative commented on the version of 2040 DCCP policy 10.1.1  
5 that staff proposed in July 2025, and concluded that that version is consistent with  
6 OAR 660-004-0040. ReconRecord 811. The county argues that DLCD testimony  
7 with respect to that earlier proposal is some evidence that the finally adopted  
8 version is consistent with Goal 14. However, as noted, the version of policy  
9 10.1.1 proposed in July 2025 did not authorize cluster and planned unit  
10 development on non-resource lands. That proposal did not surface until the  
11 August 11, 2025 meeting. Neither DLCD, nor any party, had the opportunity to  
12 comment on that proposal.

13 Second, the county cites a recent line of cases ending in *Redside*  
14 *Restoration v. Deschutes County*, 344 Or App 383, 581 P3d 501 (2025), *rev den*,  
15 \_\_\_ Or \_\_\_ (2026), for the proposition that the county may approve on non-  
16 resource lands the same intensity of development that OAR 660-004-0040 allows  
17 on rural residential exception lands, provided such decision is made after a quasi-  
18 judicial review. However, the county offers no pin cite, and *Redside* does not  
19 support that proposition. *Redside* involved quasi-judicial designation of non-  
20 resource land, along with a PAPA to allow 10-acre residential parcels, but did  
21 not involve either cluster or planned unit development, or the application of OAR  
22 660-004-0040.

1           On the merits, we agree with petitioner that 2040 DCCP policy 10.1.3  
2           facially conflicts with OAR 660-004-0040 and Goal 14, in that it purports to  
3           authorize cluster and planned unit development on non-resource land “subject to”  
4           OAR 660-004-0040, even though LCDC expressly and intentionally chose not to  
5           extend to non-resource lands the policy choices embedded in the rule. Because  
6           policy 10.1.3 invokes the rule as authority contrary to its LCDC-determined  
7           scope, the policy is facially inconsistent with the rule and hence with Goal 14.

8           We have examined some of the legislative history leading to LCDC’s  
9           adoption of OAR 660-004-0040. Two conclusions are readily discernible from  
10          that history. The first confirms our facial reading of the rule that LCDC  
11          deliberately chose to exclude non-resource lands from the rule. The second is that  
12          LCDC understood that the designation, zoning and development of non-resource  
13          lands would continue to be subject to a demonstration of consistency with Goal  
14          14, pursuant to the *Curry County/Shaffer* test.

15          Accordingly, we agree with petitioner that in redesignating and rezoning  
16          non-resource land, a county cannot rely upon OAR 660-004-0040 to either make  
17          or avoid a demonstration of compliance with Goal 14. The rule simply does not  
18          apply to non-resource lands, and therefore the required Goal 14 analysis must be  
19          conducted as if the rule does not exist. In the absence of the rule, the county’s  
20          only option is to demonstrate consistency with Goal 14 using the full multi-factor  
21          evaluation described in *Curry County* and *Shaffer*. In expressly invoking the rule  
22          to allow cluster and planned unit residential development on non-resource lands,

1 policy 10.1.3 erroneously suggests that consistency with Goal 14 could be  
2 demonstrated by simply conforming to the rule, rather than by applying a full  
3 site-specific *Curry County/Shaffer* Goal 14 analysis.

4 In addition, we generally agree with petitioner that a full *Curry*  
5 *County/Shaffer* analysis is necessary when a quasi-judicial PAPA on non-  
6 resource land involves cluster or planned unit development. By their nature,  
7 cluster and planned unit residential development are inherently more intensive  
8 than traditional rural residential development on large individual lots, and  
9 therefore have greater potential to tip the scale toward urban use of rural land,  
10 contrary to Goal 14. That general concern may be even more elevated in the  
11 context of the county's land use legislation. As discussed below, policy 10.1.3  
12 would be implemented by rural residential zones and land use regulations  
13 governing cluster and planned unit development, which could potentially allow  
14 cluster and planned unit development on non-resource lands at densities and  
15 intensities that exceed that contemplated by OAR 660-004-0040 for exception  
16 areas.

17 **B. Conflict with Deschutes County Code**

18 Petitioner also argues that policy 10.1.3 conflicts with the two county  
19 zones that allow rural residential development.<sup>15</sup> Petitioner cites the seminal case

---

<sup>15</sup> We repeat the text of 2040 DCCP policy 10.1.3:

1 of *Baker v. City of Milwaukie*, 271 Or 500, 514 (1975), for the proposition the  
2 comprehensive plan is controlling over conflicting zoning or land use regulations.  
3 While zoning can be more restrictive than applicable plan policies and  
4 designations, petitioner argues that zoning cannot be less restrictive, that is, allow  
5 development that is more intense than allowed under the applicable plan policies  
6 and designations. *Alliance For Responsible Land Use v. Deschutes County*, 33  
7 Or LUBA 12, 16, *rev'd on other grounds*, 149 Or App 259, 942 P2d 836 (1997).

8 In the present case, petitioner argues that rural residential development is  
9 allowed in two county zones, the Multi-Use Agriculture (MUA) and Rural  
10 Residential 10-acre (RR-10) zones, at DCC 18.32 and 18.60, respectively.  
11 Petitioner argues that both zones specify a nominal minimum lot size of 10 acres,  
12 but allow a “density bonus” for cluster and planned unit development at an  
13 equivalent density of one unit per 7.5 acres or, if the property is located within  
14 one mile of an urban growth boundary, one unit per five acres.<sup>16</sup> DCC

---

“Policy 10.1.3. Notwithstanding Policy 10.1.1, for cluster or planned unit development on property not in a rural residential area in effect as of October 4, 2000, and limited to properties that have received a Goal 3 exception, Goal 4 exception, or a non-resource land designation per OAR 660-004-0005(3), the minimum lot or parcel size for new residential parcels shall be no less than 2 acres with average densities of no less than 10 acres when factoring the open space tract, subject to OAR 660-004-0040(8) and OAR 660-004-0040(3)(c)(F).”

<sup>16</sup> As we understand it, “equivalent density” is an average unit density that includes acreage devoted to open space in a cluster or planned unit development.

1 18.32.040(A); DCC 18.60.060(C).<sup>17</sup> Petitioner argues that the “density bonus”  
2 allowing an equivalent density of one unit per 7.5 or 5 acres facially conflicts  
3 with the ten-acre “average density” imposed by policy 10.1.3.

4 The cluster and planned unit development provisions of the MUA and RR-  
5 10 zones are implemented by the conditional use standards at DCC 18.128.200  
6 and 18.128.210, which set out specific standards for cluster and planned unit  
7 development. Petitioner argues that policy 10.1.3 creates an additional conflict  
8 with DCC 18.128.210(D)(3), which provides that no minimum lot area applies  
9 within a planned unit development.<sup>18</sup> According to petitioner, DCC

---

It appears to be the same concept as “average density,” the phrase used in Policy 10.1.3.

<sup>17</sup> On July 1, 2025, the board of commissioners adopted Ordinance 2025-009, which significantly amended the DCC. In relevant part, Ordinance 2025-009 deleted from DCC 18.32 and 18.60 the provisions allowing cluster and planned unit development in the MUA and RR-10 zones, respectively, and moved those provisions to what appears to be a new land use regulation, DCC 18.116.400. Neither party discusses Ordinance 2025-009 or DCC 18.116.400, and both consistently cite to the deleted language of *former* DCC 18.32.040(A) and DCC 18.60.060(C). As far as we can tell, DCC 18.116.400 does not substantively differ from *former* DCC 18.32.040(A) and DCC 18.60.060(C), and in this opinion we will continue to refer to the former provisions.

<sup>18</sup> DCC 18.128.210(D)(3) provides:

“The minimum lot area, width, frontage, and setback requirements otherwise applying to individual structures in the zone in which a planned development is proposed do not apply within a planned development. An equivalent overall density factor may be utilized in lieu of the appropriate minimum lot area.”

1 18.128.210(D)(3) would allow individual lot sizes below two acres,  
2 notwithstanding that policy 10.1.3 specifies a minimum individual lot size of two  
3 acres.

4 For these reasons, petitioner argues that remand is necessary for the county  
5 to resolve the two apparent conflicts it created between policy 10.1.3 and the  
6 implementing DCC regulations regarding cluster and planned unit development.

7 The county responds that petitioner's arguments are impermissible  
8 collateral challenges to DCC 18.32.040(A), 18.60.060(C), 18.120.200, and  
9 18.128.210, none of which were amended in the challenged decision. The county  
10 also argues that petitioner's arguments are premature, and any alleged conflict  
11 can be challenged and resolved in an appeal of a future quasi-judicial PAPA or  
12 conditional use application authorizing cluster or planned unit development at  
13 equivalent densities that exceed policy 10.1.3.

14 We disagree with the county that petitioner's arguments are collateral  
15 attacks on the cited DCC provisions, or that it is premature or impermissible to  
16 challenge the alleged conflict in an appeal of the legislative PAPA that creates  
17 the alleged conflict. Statewide Planning Goal 2 (Land Use Planning) requires that  
18 zoning regulations be consistent with the comprehensive plan. Where a  
19 legislative PAPA amending the comprehensive plan allegedly creates a plan/zone  
20 conflict, we are cited to no authority suggesting that the alleged conflict cannot  
21 be challenged in an appeal of that PAPA, and potentially resolved in a remand of

1 that PAPA, by either conforming the plan to the zone, or the zone to the plan, if  
2 such conformance is otherwise consistent with applicable law.

3 ORS 197.835(6) provides that LUBA shall reverse or remand an  
4 amendment to a comprehensive plan if the amendment is not in compliance with  
5 the goals. As the Court of Appeals has observed:

6 “An amendment to one provision can affect the way in which  
7 another provision operates or affect the land uses upon which it  
8 operates, and the new or changed operation of the unamended  
9 provision may be inconsistent with the goals. Those ‘secondary’  
10 effects are goal compliance problems, and they are as much the  
11 product of the plan amendment as are any goal violations that the  
12 amendment introduces into the provision which it changes directly.”  
13 *1000 Friends of Oregon v. Jackson Co.*, 79 Or App 93, 98, 718 P2d  
14 753, *rev den*, 301 Or 445 (1986).

15 As we understand it, the county adopted 2040 DCCP policies 10.1.1,  
16 10.1.2, and 10.1.3 specifically to affect the operation of cluster and planned unit  
17 development within the MUA and RR-10 zones, in response to LUBA’s *Destiny*  
18 *Court* decision. Adoption of those policies were presumably intended to change,  
19 or least clarify, how those zones and those provisions operate, and to change the  
20 legislative context and support for those zones and provisions. If as petitioner  
21 alleges the 2040 DCCP amendments created facial conflicts with the code  
22 provisions those amendments were intended to affect, then it seems entirely  
23 appropriate to address challenges regarding the alleged conflicts in an appeal of  
24 the 2040 DCCP amendments, rather than address such challenges piecemeal in

1 quasi-judicial land use decisions that approve cluster and planned unit  
2 developments.

3         On the merits, the county argues that the density bonuses of the MUA and  
4 RR-10 zones and the “no minimum lot size” provisions of the county planned  
5 unit development standards are, as a matter of law, are acknowledged to comply  
6 with Goal 14. That is true, but not responsive to petitioner’s argument, which  
7 concerns alleged conflicts between 2040 DCCP policy 10.1.3 and the land use  
8 regulations that the policy was intended to affect. We also understand the county  
9 to argue that if a PAPA for a specific quasi-judicial cluster or planned unit  
10 development allowed average or individual lot sizes that are inconsistent with  
11 Goal 14 and not authorized by OAR chapter 660, division 4, the county would  
12 have to adopt an exception to Goal 14. That is also true, but also not responsive  
13 to petitioner’s *Baker* conflict argument.

14         We agree with petitioner that policy 10.1.3’s provision for two-acre  
15 individual minimum lot size and 10-acre “average density” appear to facially  
16 conflict with the cited code provisions. The code provisions at issue arguably  
17 allow more intensive cluster or planned unit development than is authorized by  
18 policy 10.1.3. We agree with petitioner that remand is appropriate for the county  
19 to determine in the first instance whether the 2040 DCCP created the two  
20 apparent plan/zone conflicts regarding cluster and planned unit development and  
21 equivalent densities and minimum lot sizes, and either demonstrate why no such  
22 conflicts actually exist, or resolve any conflict.

1           The second assignment of error is sustained.

2       **THIRD ASSIGNMENT OF ERROR**

3           2040 DCCP policy 3.3.6.a provides that it is county policy to:

4           “Allow comprehensive plan and zoning map amendments, *including*  
5           *for those that qualify as non-resource land*, for individual  
6           [Exclusive Farm Use (EFU)] parcels as allowed by State Statute,  
7           Oregon Administrative Rules and this Comprehensive Plan.”  
8           (Emphasis added.)

9           2040 DCCP policy 3.3.6.a was formerly numbered policy 2.2.3 in the 2010  
10          DCCP. In 2016, it was amended to its current language, by adding the italicized  
11          language including non-resource land within the scope of the policy. That  
12          amended version was carried forward into the 2040 DCCP and renumbered  
13          3.3.6.a, but without any textual changes from the 2016 version.

14          In three subassignments of error, petitioner argues that policy 3.3.6.a is  
15          inconsistent with Goal 14 because the policy allows, or at least could be  
16          interpreted to allow, the county to apply plan designations and zoning to land to  
17          authorize residential use of non-resource land without applying the site-specific,  
18          multi-factor Goal 14 analysis required by *Curry County* and *Schaffer* to  
19          determine whether an exception to Goal 14 is necessary. Petitioner contends that  
20          in at least one recent quasi-judicial PAPA, to redesignate and rezone land to non-  
21          resource and to allow industrial and residential uses, the county took the position,  
22          based on 2010 DCCP policy 2.2.3, which LUBA ultimately affirmed, that such  
23          PAPAs require no analysis under Goal 14, and that as a matter of law the county’s

1 acknowledged residential zones do not allow urban uses of rural land. *Central*  
2 *Oregon Landwatch v. Deschutes County*, LUBA Nos 2023-006/009 (July 28,  
3 2023) (*710 Properties*), *aff'd* 330 Or App 321, 543 P3d 736 (2024).

4 *710 Properties* involved a PAPA to redesignate as non-resource land a  
5 710-acre parcel and rezone it from EFU to RR-10, in order to allow development  
6 of 71 10-acre parcels. The applicant prepared a *Curry County/Shaffer* evaluation  
7 concluding that the proposed residential development at 10-acre densities would  
8 not constitute the urban use of rural land. The county relied in part upon that  
9 evaluation to conclude that the PAPA complied with Goal 14. But the county also  
10 took the position that no *Curry County/Shaffer* evaluation was necessary at all,  
11 that as a matter of law the county's acknowledged DCCP policies, its  
12 acknowledged rural residential plan designation, and the acknowledged RR-10  
13 zone, do not allow urban use of rural land. LUBA affirmed the latter alternative,  
14 and accordingly did not address the petitioners' challenges to the *Curry*  
15 *County/Shaffer* analysis. *710 Properties*, LUBA Nos 2023-006/009 (slip op at  
16 76-85). LUBA ultimately remanded the decision on other grounds involving Goal  
17 3. The applicants appealed LUBA's remand to the Court of Appeals, which  
18 affirmed, addressing on the merits only one of the applicants' assignments of  
19 error regarding Goal 3.

20 In the present case, we understand petitioner to argue that the county's  
21 reliance on its acknowledged DCCP provisions and acknowledged rural  
22 residential zones to avoid any evaluation under Goal 14 or application of the

1 *Curry County/Shaffer* test is called into question by *DLCD v. Clackamas County*,  
2 335 Or App 205, 558 P3d 64 (2024), *rev den*, 373 Or 305 (2025).

3 *DLCD v. Clackamas County* involved a 111-acre parcel within a rural  
4 residential exception area, which was zoned for 10-acre rural residential  
5 development. The applicant sought to upzone the property to a different rural  
6 residential zone that allows two-acre lots, thus significantly increasing the  
7 potential density, pursuant to an acknowledged county comprehensive plan  
8 policy that allows such upzoning without a comprehensive plan amendment and  
9 without requiring any evaluation under Goal 14. The case turned on the  
10 interpretation and application of OAR 660-004-0040(7).<sup>19</sup> LUBA rejected the  
11 county’s position that prior acknowledgement of the county’s plan and rural  
12 residential zones meant that a quasi-judicial PAPA that upzones land from a low-  
13 density rural residential zone to higher density rural residential zone is not subject  
14 to Goal 14 and evaluation under the *Curry County/Shaffer* test. *DLCD v.*  
15 *Clackamas County*, LUBA No 2023-078 (May 31, 2024) (slip op at 33-34). The  
16 court affirmed LUBA’s holding that, at least where OAR 660-004-0040(7)

---

<sup>19</sup> OAR 660-004-0040(7) provides:

“After October 4, 2000, a local government’s requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR chapter 660, division 14, and applicable requirements of this division.”

1 applies, the county was required to evaluate the PAPA for consistency with Goal  
2 14, including application of the *Curry County/Shaffer* test.

3 In the present appeal of a legislative decision that adopts, or re-adopts,  
4 DCCP policy 3.3.6.a, we understand petitioner to argue that the county must  
5 demonstrate that the policy, along with its implementing rural residential  
6 exception area plan designation and the associated rural residential zones, will be  
7 applied consistently with Goal 14. We understand petitioner to argue that, in  
8 order for the text of policy 3.3.6.a to be consistent with Goal 14, the policy must  
9 expressly acknowledge that all PAPAs rezoning rural land to allow residential  
10 uses are subject to evaluation for consistency with all applicable statewide  
11 planning goals, including Goal 14, pursuant to the site-specific, locational  
12 analysis required by *Curry County* and *Shaffer*. Petitioner argues that the  
13 application and evaluation of Goal 14, including the *Curry County/Shaffer* test,  
14 is even more compelling when it comes to quasi-judicial redesignation and  
15 rezoning of *non-resource lands*, because non-resource lands are not subject to the  
16 same protections of OAR 660-004-0040 and OAR 660-004-0018, that are  
17 afforded to exception areas.

18 The county does not dispute petitioner's initial thesis that all quasi-judicial  
19 PAPAs redesignating and rezoning rural land must demonstrate consistency with  
20 Goal 14. The county also does not dispute that prior acknowledgement of the  
21 county DCCP and rural residential zones does not necessarily immunize future  
22 quasi-judicial PAPAs from challenges under Goal 14, under the reasoning in

1 *DLCD v. Clackamas County*. Respondent’s Brief 32. However, the county  
2 argues, and we agree, that in this appeal of a legislative decision updating the  
3 DCCP, the only challenge petitioner can advance is that 2040 DCCP policy  
4 3.3.6.a is facially inconsistent with an applicable law. Petitioner cannot advance  
5 in this appeal challenges based on speculation that the policy might be interpreted  
6 or applied to future site-specific quasi-judicial PAPAs in a manner inconsistent  
7 with Goal 14. As discussed above, any such challenges can be practicably  
8 advanced only in an appeal of the quasi-judicial decisions in which the policy is  
9 interpreted or applied.

10 In the present case, petitioner’s arguments fail to demonstrate that 2040  
11 DCCP policy 3.3.6.a is facially inconsistent with applicable law, by authorizing  
12 PAPAs without application of Goal 14. Policy 3.3.6.a does not state or even  
13 necessarily imply that quasi-judicial PAPAs need not demonstrate compliance  
14 with Goal 14. On the contrary, the policy explicitly states that quasi-judicial  
15 PAPAs are subject to “State Statute, Oregon Administrative Rules and this  
16 Comprehensive Plan.” Goal 14 is an Oregon administrative rule. OAR 660-015-  
17 0000(14). Because the text of the policy expressly calls for application of Goal  
18 14 in rendering quasi-judicial PAPAs, petitioner is incorrect that the policy  
19 facially authorizes the county to avoid application of Goal 14.

20 In addition, we note that the county adopted staff findings addressing the  
21 applicability of Goal 14 to quasi-judicial decisions under at least 2040 DCCP

1 policy 10.1.3.<sup>20</sup> The findings take the position that all applications for rezoning  
2 rural land to MUA-10 or RR-10 after October 4, 2000, will subject to review  
3 under the *Curry County/Shaffer* test. Petitioner does not discuss the import of  
4 these findings, which undercut petitioner's speculation that, in future quasi-  
5 judicial PAPAs, the county might take the position that redesignating and  
6 rezoning land to MUA-10 or RR-10 can be accomplished without applying the  
7 *Curry County/Shaffer* test.

8 The third assignment of error is denied.

---

<sup>20</sup> The staff findings state:

“Policy 10.1.[3] stipulates that cluster and planned unit developments for properties that were rezoned to MUA-10 or RR-10 after October 4, 2000, shall be permissible on lots no less than 2 acres in size, with average densities of no less than 10 acres, when factoring in the open space tract. Such applications will also be subject to review under the ‘*Curry County*’ and ‘*Shaffer*’ factors to ensure the proposed cluster or planned unit development does not require a Goal 14 exception for an ‘urban’ use. In the *Destiny Court* decision, LUBA cited *1000 Friends of Oregon v. LCDC (Curry County)*, 301 Or 447, 477, 724 P2d 268 (1986). That court concluded that, absence guidance from [LCDC] on this point, any determination whether uses allowed under land use legislation are ‘urban’ or ‘rural’ will depend on the context, including the locale and the characterizations of that specific site. In *Shaffer v. Jackson County*, 17 Or LUBA 922 (1989), LUBA held that, in the absence of LCDC guidance, determining whether proposed use of rural land is impermissibly ‘urban’ will depend on a multi-factor analysis of the specific circumstances, including parcel size, intensity of use, necessity of urban facilities, and proximity to an urban growth boundary. 17 Or LUBA at 928.” ReconRecord 225-26.

1 **FOURTH ASSIGNMENT OF ERROR**

2 The 2040 DCCP carried forward unchanged four 2010 DCCP policies  
3 concerning industrial and commercial uses of rural land, which were renumbered  
4 2040 DCCP policies 9.1.12, 9.1.16, 9.1.26, and 9.1.39.<sup>21</sup> In three subassignments

---

<sup>21</sup> The four 2040 DCCP Policies are:

“9.1.12. Rural Commercial designated lands located outside of urban growth boundaries shall allow uses less intense than those allowed in unincorporated communities as defined by OAR 660-22 or its successor. Rural Commercial zoning shall be applied to any new properties that are approved for Rural Commercial designations as allowed by State Statute, Oregon Administrative Rules, and this Comprehensive Plan.”

“9.1.16. Zoning in the area shall ensure that the uses allowed are rural as required by Goal 14, Urbanization, and less intensive than those allowed for unincorporated communities as defined in OAR 660-22. New commercial uses shall be limited to those that are intended to serve the surrounding rural area or the travel needs of people passing through the area.”

“9.1.26. To assure that urban uses are not permitted on rural industrial lands, land use regulations in the Rural Industrial zones shall ensure that the uses allowed are less intensive than those allowed for unincorporated communities in OAR 660-22 or any successor.”

“9.1.39. Properties for which a property owner has demonstrated that Goals 3 and 4 do not apply may be considered for Rural Industrial designation as allowed by State Statute, Oregon Administrative rules and this Comprehensive Plan. Rural Industrial zoning shall be applied to a new property that is approved for the Rural Industrial Plan designation.”

1 of error, petitioner argues that these four policies conflict with Goal 14 because  
2 they allow redesignation and rezoning of rural land for industrial and commercial  
3 use, without any evaluation under Goal 14, particularly any site-specific  
4 locational analysis under *Curry County* and *Shaffer*. In addition, petitioner argues  
5 that these policies are inconsistent with Goal 14 because they authorize  
6 application of the county's Rural Commercial (RC) and Rural Industrial (RI)  
7 zones to non-resources lands. Petitioner argues that the RC and RI zones were  
8 designed to be applied to exception areas, which are subject to a host of regulatory  
9 protections. Petitioner contends that in all circumstances application of RC and  
10 RI zones to non-resource land, land that is not within an exception area, requires  
11 evaluation of compliance with Goal 14 and likely an exception to Goal 14.

12 The arguments under the fourth assignment of error are similar to those  
13 raised under the third assignment of error, and the county offers similar  
14 responses. Petitioner faults the county for failing to clarify, in adopting (or re-  
15 adopting) DCCP policies 9.1.12, 9.1.16, 9.1.26, and 9.1.39 that in redesignating  
16 rural land for commercial and industrial uses, the county must demonstrate  
17 compliance with Goal 14. However, as with the rural residential policies, the text  
18 of the cited DCCP commercial and industrial policies expressly provide that  
19 redesignation and rezoning of rural land for commercial and industrial uses is  
20 subject to "State Statute, Oregon Administrative Rules, and this Comprehensive  
21 Plan." As noted, Goal 14 is an administrative rule. Because the cited policies  
22 expressly call for application of Goal 14, petitioner has not demonstrated that the

1 policies facially conflict with applicable law by failing to require application of  
2 Goal 14.

3 It is true, as both petitioner and the county note, that in a recent line of  
4 quasi-judicial decisions LUBA and the Court of Appeals have held that in  
5 redesignating and rezoning rural land to allow commercial and industrial uses,  
6 the county can satisfy its Goal 14 obligations by application of the 2010 DCCP  
7 policies that were precursors to 2040 DCCP policies 9.1.12, 9.1.16, 9.1.26, and  
8 9.1.39, without necessarily *also* conducting a *Curry County/Shaffer* analysis.  
9 *Central Oregon Landwatch v. Deschutes County*, LUBA No 2022-075 (Dec 6,  
10 2022), *aff'd*, 324 Or App 655, 525 P3d 895 (2023) (*Aceti V*); *Central Oregon*  
11 *Landwatch v. Deschutes County*, LUBA No 2025-034 (Sept 22, 2025), *aff'd*, 347  
12 Or App 287, \_\_\_ P3d \_\_\_ (2026) (*Last Ranch*). That conclusion was based on  
13 the peculiar legislative history of the 2010 DCCP policies, in which over several  
14 years the county engaged with DLCD to craft and gain acknowledgement for  
15 DCCP policies and implementing zones that would ensure that commercial and  
16 industrial development on rural lands would be consistent with Goal 14, primarily  
17 by limiting such development to intensities significantly less than allowed under  
18 administrative rule for similar development within rural unincorporated  
19 communities.

20 We understand petitioner to argue that – now that the county has chosen to  
21 replace the 2010 DCCP policies with new 2040 DCCP policies 9.1.12, 9.1.16,  
22 9.1.26, and 9.1.39 that are not acknowledged to comply with Goal 14 – LUBA

1 should revisit its holdings in *Aceti V* and *Last Ranch*. Specifically, we understand  
2 petitioner to argue that LUBA should conclude as a matter of law that in all  
3 circumstances quasi-judicial application of the new 2040 DCCP policies would  
4 not be sufficient to demonstrate compliance with Goal 14, that in all cases  
5 compliance with Goal 14 also requires a *Curry County/Shaffer* analysis.

6 However, the task before us is to review petitioner's facial challenges to  
7 the text of the DCCP policies adopted in this legislative decision, not to revisit  
8 the holdings of quasi-judicial decisions that applied superseded, albeit identically  
9 worded, plan policies to a specific factual circumstance. It may be that, in a future  
10 quasi-judicial decision applying 2040 DCCP policies 9.1.12, 9.1.16, 9.1.26, and  
11 9.1.39, the county may again conclude that application of those policies suffices  
12 to demonstrate compliance with Goal 14, without the necessity for a site-specific  
13 *Curry County/Shaffer* analysis. It may also be the case that, given the locational  
14 or other site-specific circumstances that apply in a particular future quasi-judicial  
15 decision, the county may conclude that mere application of the 2040 DCCP  
16 policies would be insufficient in itself to demonstrate compliance with Goal 14,  
17 and a *Curry County/Shaffer* analysis is also required. Speculating how these  
18 policies might be applied or interpreted in particular circumstances in specific,  
19 future quasi-judicial decisions, or how LUBA might rule in appeals of such  
20 decisions, is beyond the scope of this appeal. For present purposes, the salient  
21 point is that petitioner has not demonstrated in this appeal that the text of 2040  
22 DCCP policies 9.1.12, 9.1.16, 9.1.26, and 9.1.39 facially conflicts with Goal 14.

1 The fourth assignment of error is denied.

2 **FIFTH ASSIGNMENT OF ERROR**

3 Goal 2 requires that legislative decisions be supported by an adequate  
4 factual base. An “adequate factual base” is equivalent to the requirement  
5 commonly applied to quasi-judicial decisions to be supported by substantial  
6 evidence. *1000 Friends of Oregon v. LCDC*, 244 Or App 239, 268, n 11, 259 P3d  
7 1021 (2011). Under both standards, a decision is supported by an adequate factual  
8 base or substantial evidence if, viewing the record as a whole, a reasonable person  
9 could make the disputed finding. *Restore Oregon v. City of Portland*, 301 Or App  
10 769, 778, 458 P3d 703 (2020).

11 In the challenged legislative decision, the county adopted a finding that  
12 2040 DCCP policies 10.1.1, 10.1.2, and 10.1.3 are “consistent with Goal 14 and  
13 that uses on rural land will remain [rural] in nature[.]” ReconRecord 225.  
14 Petitioner contends, however, that the record includes no factual information  
15 whatsoever supporting that finding. In particular, petitioner argues that the record  
16 includes no evidence supporting a conclusion that cluster and planned unit  
17 development on non-resource land under the density bonuses and densities  
18 allowed under the policies, pursuant to the MUA and RR-10 zones, will not lead  
19 to urban levels of density.

20 Petitioner also argues no evidence in the record supports a conclusion that,  
21 in the absence of a locational *Curry County/Shaffer* analysis, development  
22 located near urban growth boundaries that is allowed under 2040 DCCP policy

1 3.3.6.a, and under DCCP policies 9.1.12, 9.1.16, 9.1.26, and 9.1.39, would not  
2 undermine the effectiveness of those urban growth boundaries, contrary to Goal  
3 14.

4 However, as discussed, the scope of petitioner's challenges to the county's  
5 legislative decision is limited to facial challenges, that is, challenges arguing that,  
6 in all circumstances in which the amended DCCP text is applied, the text will  
7 cause conflict with applicable law. For the reasons set out in resolving the third  
8 and fourth assignments of error, petitioner has not demonstrated that the cited  
9 amended DCCP policies facially conflict with Goal 14 or other applicable law.  
10 As discussed, the text of the relevant DCCP policies expressly call for application  
11 of and findings of consistency with Goal 14 in making quasi-judicial decisions  
12 pursuant to those policies. The county's supporting findings state that the county  
13 intends to subject quasi-judicial PAPAs under at least 2040 DCCP policy 10.1.3  
14 to a full Goal 14 analysis, including application of the *Curry County/Shaffer* test.  
15 ReconRecord 225. Petitioner's speculation that in approving quasi-judicial  
16 PAPAs pursuant to these policies the county will misapply those policies and  
17 violate Goal 14 is not within the scope of our review. That the record does not  
18 include evidence evaluating whether application of these policies in future quasi-  
19 judicial PAPAs would violate Goal 14 does not mean that the county's legislative  
20 decision is not supported by an adequate factual base, as required by Goal 2.

21 The fifth assignment of error is denied.

1    **DISPOSITION**

2           For the reasons set out in the first assignment of error, remand is necessary  
3    for the county to provide the notice required by ORS 197.610(6) and OAR 660-  
4    018-0045, and to conduct proceedings on remand in accordance with those  
5    provisions. In addition, the county should ensure that its remand proceedings  
6    correct any inconsistency with DCC 22.12.010.

7           For the reasons set out under the second assignment of error, on remand  
8    the county should amend the text of 2040 DCCP policy 10.1.3 as necessary to  
9    remove invocation of OAR 660-004-0040 as authority to allow cluster and  
10   planned unit development on non-resource lands. In amending 2040 DCCP  
11   policy 10.1.3, the county should consider whether that policy conflicts with  
12   implementing DCC provisions regarding cluster and planned unit development  
13   and, if so, resolve any conflicts.

14           The county’s decision is remanded.

## Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2024-080 on April 13, 2026, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

D. Adam Smith  
Schwabe, Williamson & Wyatt, PC  
360 SW Bond Street, Suite 500  
Bend, OR 97702

David Doyle  
Deschutes County Counsel's Office  
1300 NW Wall Street, 2nd Floor  
Bend, OR 97701

Rory Isbell  
Central Oregon LandWatch  
2843 NW Lolo Drive, Suite 200  
Bend, OR 97703

Dated this 13th day of April, 2026.



---

Erin Pence  
Executive Assistant

---

Hannah Barkemeyer Baker  
Executive Support Specialist