

HEARINGS OFFICER DECISION

FILE NUMBERS: 247-18-000105-CU and 247-18-000164-SP

HEARING DATE: June 12, 2018, 6:00 p.m. & July 17, 2018

APPLICANT/OWNER: Bend Metropolitan Park and Recreation District
799 SW Columbia Street
Bend, Oregon 97702

PROPOSAL: Conditional use and site plan review to expand Big Sky / Luke Damon Sports Complex in the Exclusive Farm Use Zone.

STAFF CONTACT: Cynthia Smidt, Associate Planner

HEARINGS OFFICER: Dan R. Olsen

I. APPLICABLE CRITERIA:

Deschutes County Comprehensive Plan

Chapter 3, Rural Growth Management
Section 3.8. Rural Recreation

Oregon Revised Statutes

Chapter 195, Local Government Planning Coordination

Oregon Administrative Rules

Division 33, Agricultural Land
Division 34, State and Local Park Planning

Title 18, Deschutes County Zoning Ordinance

Chapter 18.16. Exclusive Farm Use Zone
Chapter 18.80. Airport Safety Combining Zone
Chapter 18.128. Conditional Uses
Chapter 18.124. Site Plan Review
Chapter 18.116. Supplementary Provisions

Title 22, Deschutes County Procedures Ordinance

This decision generally incorporates the Staff Report, with edits, except as noted by the heading "Hearings Officer".

II. BASIC FINDINGS:

A. LOCATION: The property is identified on Deschutes County Assessor's Map No. 17-12-25, as Tax Lot 200 and has an address of 21690 Neff Road, Bend. The parcel is shown in the following map:



B. LOT OF RECORD: Deschutes County has recognized this subject property as a legal lot of record because it is Parcel 2 of partition MP-79-223 and based on subsequent land use permits. The property was also reconfigured through property line adjustment LL-04-2.

C. ZONING: Exclusive Farm Use – Tumalo/Redmond/Bend Subzone (EFU-TRB). The property is also within the Airport Safety (AS) Combining Zone and is designated Agriculture on the Deschutes County Comprehensive Plan.

D. SITE DESCRIPTION: The property is approximately 95.31 acres and irregular in shape. The property has varying terrain and is developed with the Big Sky / Luke Damon Sports Complex, which includes play fields (e.g. soccer), BMX track, off-leash dog park, and other park-related facilities. The site also includes a former fire station building in the southwest corner of the property and a cell tower in the same location. Vegetation includes introduced landscaping throughout the property mixed with native vegetation of juniper trees, shrubs, and grasses. An irrigation canal and access road cross the property in the northern half of the parcel and forms the southeastern boundary in the southern half. As indicated below by Central Oregon Irrigation District (COID), the property also includes another canal right-of-way and access road in the eastern side of the property. According to COID, the subject park has 9.09 acres

of water rights that appear to be specifically assigned to the three southernmost play fields. Neff Road is adjacent to the southern property boundary. Hamby Road is adjacent some areas along the western boundary. Primary access to the property is from Neff Road to the south. There are three¹ other minor access points in the southwestern corner, near the intersection of Hamby Road and Neff Road, for the former fire station and the existing cell tower. According to the Flood Insurance Rate Map for Deschutes County and the National Wetlands Inventory, the subject property is not located in the 100-year flood plain nor does it contain wetlands.

- E. SURROUNDING LAND USES:** The area surrounding consists of a mix of uses including farm-zoned parcels, rural residential properties, an elementary school and fire station, and a newly established solar energy facility. Two residential subdivisions are in the area including Eastmont Estates to the north and Quail Ridge to the west. The Bend urban reserve area is approximately 0.25 miles to the west. The Urban Growth Boundary and city limits for Bend are both approximately 0.35 miles to the west. The closet farm use in the area appears to be occurring on a parcel that abuts the park's northwest corner. To the east approximately 0.20 miles is an approved horse and dog training and testing trial facility. Zoning in the area is a mixture of Exclusive Farm Use, Multiple Use Agricultural (MUA10), Urban Area Reserve (UAR10), and a zoning district – Residential Standard Density – within the City of Bend.
- F. SOILS:** According to Natural Resources Conservation Service (NRCS) maps of the area, there is one soil unit mapped on the subject property.

Unit 59C, Gosney-Rock outcrop-Deskamp Complex, 0 to 15 percent slopes. This soil complex is composed of 50 percent Gosney soil and similar inclusions, 25 percent rock outcrop, 20 percent Deskamp soil and similar inclusions, and 5 percent contrasting inclusions. Gosney soils are somewhat excessively drained and have rapid permeability and available water capacity of about 1 inch. Deskamp soils are somewhat excessively drained, have rapid permeability, and about 3 inches of available water capacity. The major use of this soil type is livestock grazing. The agricultural capability rating for 59C Gosney soil is 7e when not irrigated and 4e when irrigated and the Deskamp soil is 6e when not irrigated and 3e when irrigated. This soil is not considered high-value when irrigated. According to Central Oregon Irrigation District's water rights map, the property has 9.09 acres of water rights located in the southern region of the property and are related specifically to the three southernmost play fields in the park. The entire property of 95.31 acres is made up of this soil type.

- G. LAND USE HISTORY:** The property has the following land use and development permit history related to the proposed modification:

MP-79-223

Approval of a two-lot partition

¹ Two of these access points are taken from Neff Road along the south boundary and one is taken from Hamby Road along the western boundary.

CU-91-117 SP-91-138	Approval of a “youth sports complex” (park)
CU-96-84 DR-97-1	Approval to expand the park to include BMX bicycle track facility
SP-02-50	Approval to construct two small open-air picnic structures
CU-03-14 SP-03-11	Approval to expand the park to include three additional soccer fields, parking, restroom, and shelter
SP-04-33	Approval to expand the park to include an off-leash dog park
SP-05-54	Approval to establish a wireless telecommunications facility

H. PROPOSAL:

Hearings Officer: The applicant clarified and adjusted some aspects of its proposal primarily in response to public comments and I understand the proposal to consist of the following:

- New drive aisles and parking spaces (250) that will approximately double the amount of off-street parking currently available.
- New shared driveway access to Hamby Rd.
- Additional new soft surface pedestrian circulation path on the perimeter of the site
- New dirt trails of approximately 2.5 miles in length that can double as a high school cross country running course and cyclocross course. This is typically a narrow single-track natural surface or aggregate course with some wider passing areas.
- A bike park area that can include but not be limited to facilities such as a pump track, trials course, flow track and jumps, kid’s bike trail, etc.
- Supporting amenities for the bike park including a plaza area, picnic shelter, power and water for events, concrete porta potty pads, etc.
- A new radio-controlled (R/C) vehicle track would be developed in a designated area. The track would be for electric-powered vehicles only.
- A new “naturehood” area with a path and gathering space(s) that could be utilized by local schoolchildren and teachers for outdoor education and interpretation opportunities.
- Designate the old fire station and the area on the southeast side of the park as future park maintenance support facility locations.
- New irrigation system cistern.
- Outdoor lighting for the sport fields, pedestrian paths, parking areas, roadways.
- A new 20’ tall fence in the outfield of Field 3

- A proposed maintenance/storage building
- New sidewalks.
- Wayfinding/Direction signage for field identification
- Expanding fields 1&6 to accommodate recreational needs
- Expand the existing dog park by either 2-acres or 5 acres, entirely fenced.
- No “permanent” amplification system.

I. PUBLIC AGENCY COMMENTS: The Planning Division mailed notice to several agencies and received the following comments:

1. Central Oregon Irrigation District: The submitted comments together with a water rights map of the property were provided by Daniel Downing, GIS/Operations Technician, on March 3, 2018.

COID FACILITIES:

- *Subject property has the A-24 Sub lateral that runs through a portion of it.*
 - *It has a 40' canal right of way along with an additional 20' road right of way along the west side of the canal*
 - *No crossings of COID facility is allowed without obtaining a crossing license*
 - *Subjects property also has the A-24-8 delivery ditch that runs through it.*
 - *It has a canal right of way of 20' along with a 20' canal road*

COID WATER RIGHTS:

- *Subject property has 9.09 acres of COID water rights*
- *COID requests a site plan*
- *Please contact COID concerning use of water rights*

COID GUIDELINE STATEMENT:

- *none*

2. Deschutes County Building Safety Division: Randy Scheid, Building Safety Director, submitted the following comments on February 26, 2018.

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

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

3. Deschutes County Environmental Soils Division: On February 27, 2018, Todd Cleveland, Environmental Health Supervisor, submitted the following comments.

Based on the proposal, it appears the expansion of areas of this part may result in potential increases in the necessary restroom facilities and use. A septic review may be necessary to determine if upgrades or new systems are warranted.

4. Deschutes County Road Department & Transportation Planner:

Hearings Officer: Originally, the Road Department and the Transportation Planner expressed numerous concerns and highlighted inadequacies in the applicant's transportation related information. The applicant submitted additional information and the Road Department responded on July 16, 2018. Transportation related issues are discussed below.

5. The following agencies did not respond or had no comments: Bend Fire Department, Bend Municipal Airport, Bend / La Pine School District #1, City of Bend Planning Department, Deschutes County Assessor, Deschutes County Fire Protection District, and Oregon Department of Aviation (ODA).

J. NOTICE REQUIREMENT: The applicant complied with the posted notice requirements of Section 22.24.030(B) of Deschutes County Code (DCC) Title 22. The applicant submitted a Land Use Action Sign Affidavit, dated February 23, 2018, indicating the applicant posted notice of the land use action on February 23, 2018.

K. HEARING:

Hearings Officer: The hearing originally was scheduled for June 12, 2018. The applicant requested a continuance and granted a waiver of the 150-day clock. To avoid having to re-notice, Stephanie Hicks, Hearings Officer, stepped in, opened the hearing, took testimony from those present and continued the hearing to July 17.

On July 17, I opened the continued hearing. I provided the statutorily required notices. I indicated that I had received no ex parte contacts, had not conducted a site visit and had no conflicts of interest. I indicated that I had reviewed the video of the initial proceeding and read the materials in the record.

At the end of testimony, the applicant requested that the record be kept open as follows:

July 24, 2018 New evidence and argument
July 31, 2018 Rebuttal to evidence and argument during first open record period
Aug. 7, 2018 Final applicant rebuttal. No new evidence

I noted that all submittals had to actually be received by Community Development before the close of business on each deadline. Staff indicates that some comments were received after the deadline. I have not considered any such comments.

III. FINDINGS AND CONCLUSIONS:

Deschutes County Comprehensive Plan

A. CHAPTER 3. RURAL GROWTH MANAGEMENT

1. Section 3.8. Rural Recreation.

Goal and Policies

Goal 1 *Promote a variety of passive and active park and recreation opportunities through a regional system that includes federal and state parks and local park districts.*

Policy 3.8.1 *Cooperate with public agencies and local park districts to provide park and recreation lands, facilities and opportunities.*

FINDING: Although Bend Park and Recreation District may have an overarching master for the district and/or specific parklands within the district, the County has not adopted such plan(s) into its Comprehensive Plan. Nevertheless, according to the above policy, working together with a local park district is encouraged within the County's goals and thus includes acknowledging such plans as presented by the district.

Oregon Revised Statutes

1. ORS 195.120. Rules and planning goal amendments for parks required; allowable uses; application of certain land use laws.

(1) *The Legislative Assembly finds that Oregon's parks are special places and the protection of parks for the use and enjoyment of present and future generations is a matter of statewide concern.*

(2) *The Land Conservation and Development Commission ... shall adopt rules and land use planning goal amendments as necessary to provide for:*

(a) Allowable uses in state and local parks that have adopted master plans;

(b) Local government planning necessary to implement state park master plans....

(3) *Rules and goal amendments adopted under subsection (2) of this section shall provide for the following uses in state parks:*

(a) Campgrounds, day use areas and supporting infrastructure, amenities and accessory visitor service facilities designed to meet the needs of park visitors;

(b) Recreational trails and boating facilities;

(c) Facilities supporting resource-interpretive and educational activities for park visitors;

(d) Park maintenance workshops, staff support facilities and administrative offices;

(e) Uses that directly support resource-based outdoor recreation; and

(f) Other park uses adopted by the Land Conservation and Development Commission.

(4) *A local government shall not be required to adopt an exception under ORS 197.732 from a land use planning goal protecting agriculture or forestry resources to authorize a use identified by rule of the Land Conservation and Development Commission under this section in a state or local park.*

(5) *A local government shall comply with the provisions of ORS 215.296 for all uses and activities proposed in or adjacent to an exclusive farm use zone described in the state or local master plan as adopted by the local government and made a part of its comprehensive plan and land use regulation. [1997 c.604 §3]*

2. ORS 215.283. Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

DIVISION 33. AGRICULTURAL LAND

1. Section 660-033-0090. Uses on High-Value and Non-High-Value Farmland.

(1) Uses on land identified as high-value farmland and uses on land not identified as high-value farmland shall be limited to those specified in OAR 660-033-0120....

2. Section 660-033-0120. Uses Authorized on Agricultural Lands.

The specific development and uses listed in the following table are allowed or may be allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

...

(2) R — Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

Parks/Public/Quasi-Public (from Section 660-033-0120 Table 1)

Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

3. Section 660-033-0130. Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses.

(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

DIVISION 34. STATE AND LOCAL PARK PLANNING

1. Section 660-034-0035. Park Uses on Agricultural and Forest Lands.

- (2) ***The park uses listed in subsection (a) through (i) of this section are allowed in a state park subject to the requirements of this division, OAR chapter 736, division 18, and other applicable laws....***
- (a) ***Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;***
 - (b) ***Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;***
 - (c) ***Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;***
 - (d) ***Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;***
 - (e) ***Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;***
 - (f) ***Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;***
 - (g) ***Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging;***

2. Section 660-034-0040. Planning for Local Parks.

- (1) ***Local park providers may prepare local park master plans, and local governments may amend acknowledged comprehensive plans and zoning ordinances pursuant to the requirements and procedures of ORS 197.610 to 197.625 in order to implement such local park plans. Local governments are not required to adopt a local park master plan in order to approve a land use decision allowing parks or park uses on agricultural lands under provisions of ORS 215.213 or 215.283 or on forestlands under provisions of OAR 660-006-0025(4), as further addressed in sections (3) and (4) of this rule. If a local government decides to adopt a local park plan as part of the local comprehensive plan, the adoption shall include:***
- (a) ***A plan map designation, as necessary, to indicate the location and boundaries of the local park; and***
 - (b) ***Appropriate zoning categories and map designations (a "local park" zone or overlay zone is recommended), including objective land use and siting review criteria, in order to authorize the existing and planned park uses described in local park master plan.***
- (2) ***Unless the context requires otherwise, this rule does not require changes to:***
- (a) ***Local park plans that were adopted as part of an acknowledged local land use plan prior to July 15, 1998; or***

- (b) Lawful uses in existence within local parks on July 15, 1998.*
- (3) All uses allowed under Statewide Planning Goal 3 are allowed on agricultural land within a local park and all uses allowed under Statewide Planning Goal 4 are allowed on forest land within a local park, in accordance with applicable laws, statewide goals, and rules.*
- (4) Although some of the uses listed in OAR 660-034-0035(2)(a) to (g) are not allowed on agricultural or forest land without an exception to Goal 3 or Goal 4, a local government is not required to take an exception to Goals 3 or 4 to allow such uses on land within a local park provided such uses, alone or in combination, meet all other statewide goals and are described and authorized in a local park master plan that:*
- (a) Is adopted as part of the local comprehensive plan in conformance with Section (1) of this rule and consistent with all statewide goals;*
 - (b) Is prepared and adopted applying criteria comparable to those required for uses in state parks under OAR chapter 736, division 18; and*
 - (c) Includes findings demonstrating compliance with ORS 215.296 for all uses and activities proposed on or adjacent to land zoned for farm or forest use.*

Section 18.16.030. Conditional Uses Permitted -High Value and Nonhigh Value Farmland.

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

...

- H. Public park² and playground consistent with the provisions of ORS 195.120, and including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.***

Hearings Officer: Although the applicant has adopted a parks master plan, the County has not. Various opponents argue that the following components of the proposal are not permitted on EFU land:

- Expansion of public parks generally
- The bike park/pump track
- Remote Controlled Vehicle track
- Field Lighting

Big Sky Park originally was approved in 1991 as a “youth sports complex”. The BMX facility was approved in 1996/1997. Additional sports fields, parking, restrooms and a shelter were

² DCC 18.04.030 defines “Public Park” as the following:

“Public park” means an area of natural or ornamental quality for outdoor recreation that provides the resource base for the following activities: picnicking, boating, fishing, swimming, camping and hiking or nature oriented recreation such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above.

approved in 2003. Those approvals did not address the applicable statutes and OAR's despite that fact that the statutes or administrative rules existed in some form during much of that time.

The applicant candidly acknowledges this situation, stating that "to the extent any of the decisions concerning Big Sky Park issued after July 15, 1998 are inconsistent with the subsequently adopted regulations for local park (sic) on EFU lands, those decisions are final and not subject to collateral attack as part of these proceedings." Fn.3, First Supplemental Burden of Proof. *See also*, OAR 660-034-0040 (Unless the context provides otherwise, this rule does not require changes to: ...(b)Lawful uses in existence within local parks on July 15, 1998.)

Although some opponents have complaints about how various aspects of the park impact them, no one has argued that the existing park components and uses are unpermitted or unlawful. The previous failure to address the statutes and OAR's is unfortunate, however, as that would have provided important context for evaluating the components at issue rather than being an issue of first impression with, as noted below, little guidance.

The Brown's, through counsel, argue that the express reference to "expansion of an existing private park" in DCC 18.16.030 (G) and the absence of such reference in (H) for public parks indicates an intent to allow the former but not the latter. I disagree. DCC 18.16.030 (G) is as much or more a limitation as an authorization. Its primary purpose appears to be to not permit new private parks and to limit "expansion" of a private park to the same lot as the existing park. It also suggests that "expansion" means enlargement of the physical area rather than the addition of new components. The statutes and OAR's treat new components as "uses" not expansions. Finally, a reference to "expansion" is unnecessary when it comes to uses that are allowed, such as public parks in part because it would not make sense to allow a new park but allow expansion only by creating a separate new park adjacent to the existing one. I find that the proposal is a modification of an existing park and not an expansion and even if it is an expansion, expansions are not prohibited per se.

In *Linn County Farm Bureau v Linn County*, LUBA No. 2010-006 (2010) (referenced in the record as "Koos"), LUBA several times expressed its frustration with the OAR's, labeling 660-034-0035 as "profoundly ambiguous" regarding which park uses require an exception and which do not and noting that there is a "lack of guidance". Nothing has improved since then.

The opponent's position is simple - pump tracks (and related facilities), remote control vehicle parks and field lighting are not listed in the statutes or OAR's. Therefore, absent a County master plan, an exception to Goal 3 is required.

The applicant notes that public parks and playgrounds are permitted conditionally under ORS 215.283, so components that fit within those terms do not require an exception. Further, the applicant cites *Rural Thurston Inc., v Lane County*, LUBA No. 2007-104 (2007) in which LUBA found that, by implication, some of the uses listed in OAR 660-034-0035(2)(a)-(g) do not require a goal exception. The applicant further contends that the OAR list is not exclusive. The applicant argues that there is an important distinction between a "use" and an "improvement". The former consists only of the remote-control car track and the bike course. The balance, including field

lighting, are simply improvements supporting approved or approvable uses. Further, since the Park, including the sports fields, is an approved use that is permitted to continue, improvements that expand the intensity of those uses are permitted.

Rural Thurston involved a 10-acre park with trails, benches, signs, doggy bag dispensers and landscaping. The applicant proposed to add a restroom, tables and benches, a gathering area with a pergola, informational kiosk and children's play area. LUBA concluded that these do not require an exception because they are on the less intensive end of the spectrum of uses listed in OAR 660-034-0035(2) and are "passive, low intensity uses similar to those allowed in campgrounds in resource zones."

Koos involved a 175-acre EFU tract on which the County sought to create a new park with 196 RV campsites each with sewer, water and electric hookups, five restroom/shower buildings, a camp store, one or two 1200 sq. ft. enclosed shelters, a caretaker dwelling, and administrative/shop/storage building., plus a large day use area with trails, picnic shelters and restrooms. LUBA first concluded that it is inappropriate to transfer the restrictions on private campgrounds (e.g. no swimming pools, tennis courts, retail stores) in part because "LCDC has chosen to treat public parks more favorably" but that those restrictions provide some context to delineate what uses in the rule are allowed without an exception. Consistent with *Rural Thurston*, LUBA concluded that the uses requiring an exception are those on the "more developed, intensive end of the spectrum." To draw that line, LUBA looked to Goal 3, i.e. to preserve and maintain agricultural land for farm use and related guidelines. Thus, "the scope of permanent development, services and infrastructure should be minimized". If there is more than one way to provide a park development or service, local governments are encouraged to choose the less permanent, intense option. LUBA found that full individual hook-ups went too far in creating "urban-like" development and that centralized facilities were a relatively common and feasible option. Similarly, the clubhouse and the retail store were rejected. But the administrative office and staff lodging were allowed, noting that such facilities are allowed on forest lands.³

1. Bike park/pump track. "Bike park west" proposes a tower no higher than 30' for self-directed starts onto various trails with varying degrees of difficulty. There also would be a starter mound, a skills course, sessions area and trials area. Unlike the BMX facility, there would be no starting gate or similar features. See, Sheet TD-100.

ORS 195.120 and OAR 660-034-0035 (2) (c) list recreational trails, including biking and "trail staging areas" as permitted in state parks without a goal exception. I also think that trails are inherent in use of the term "parks and playgrounds" in ORS 215.283(2)(d). While this bike park has several trails in a relatively small area and clearly is intended for active and fairly intense use, it fundamentally is a bike trail system and appears to me to be on the less intensive side of the spectrum of uses analyzed by LUBA. Neither the trails or starting tower are inherently permanent features that would preclude the (unlikely) reconversion to agricultural use. Similarly, I think the tower falls within the rubric of a "play structure". It is modest in size and

³ LUBA also addressed Goals 11 and 14, neither of which were raised in this proceeding.

does not have the accouterments found in the BMX facility. In short, the proposed use is a bike “playground” that may be more involved than the typical playground but is not so much as to place it into a category requiring an exception.

2. R/C vehicle track. The applicant notes that “off-road” vehicle trails are permitted without an exception in state parks. It argues that this essentially is an off-road vehicle trail that is much less noisy and intense than one for motorcycles or ATV’s. Alternatively, it is a play structure. The applicant contends that it is an “extremely low impact use”. It is proposed to be located between the fire station and the BMX track. Few other details are provided. Presumably, it is unpaved with no significant permanent features. It is unclear whether “off-road vehicle” trails for ATV’s would be permitted in a local park without an exception. Certainly, a relatively small track for battery powered remote control vehicles would be much less impactful. It is not an urban use. I cannot see how a relatively small, non-permanent facility such as this would trigger an exception.

3. Lighting. The applicant notes that uses that have been recognized as not needing an exception, or likely would not require an exception if tested, frequently have lighting. These include trails, restrooms, parking areas and group shelters. I agree, and no one has contested such lighting.

Field lighting is very different, however, notwithstanding the technological advances made to reduce impacts. Such lighting involves relatively permanent, tall poles. They make possible a much greater intensity and duration of use. Nighttime games and practices are more urban or at least suburban. On the other hand, there is very little conversion of farm land in the lights themselves. Further, the applicant argues that lighting is not a use but rather is an improvement that supports an approved use, e.g. the developed sports fields. Since the fields were originally approved in 1991, prior to the OAR’s, they should be allowed to be modified or improved.

The application for the original sports complex stated that it “will not have exterior lighting for the ball fields.” CU-91-117. The expansion application similarly did not seek sports field lighting, although the approval states, “However, if exterior lighting is installed’ it must meet DCC Chapter 165.1- Outdoor Lighting Control. CU-03-14, SP-03-33.

“Open play fields” are permitted in state parks without an exception. OAR 660-034-0035 (2)(b). The OAR’s also reference “amenities related to park use” some of which LUBA has recognized as not requiring an exception for county parks such as restrooms and staff lodging. The OAR’s specify allowed “support facilities” such as sewer, water and electrical. In *Koos*, LUBA denied individual campsites facilities but permitted centralized support facilities.

This categorization belies applicant’s argument that field lighting simply is an allowed improvement in support of a use and not a regulated use. The same could be said for electrical, sewer, water and similar items that the OAR’s call “facilities”. They also are support items similar to lighting. There would be no reason for the OAR’s to list such items if they are merely support improvements not subject to Goal 3.

Further, and more importantly, the OAR's list only "open play fields". "Open play fields" are defined as "a large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ball fields, golf courses or courts for racquet sports." OAR 660-034-0010. This is not a matter of whether a use not listed may be approved, it is specific limitation. Thus, it appears that the developed ball fields proposed to be lighted would be not approvable today without an exception.

OAR 660-034-0040 (2) states that it "does not require changes to...lawful uses in existence within local parks on July 15, 1998." Some fields were approved prior to that date and some after, but as discussed above are not subject to collateral attack. Therefore, the exact legal status of the ball fields is somewhat unclear. *See generally, Pioneer Asphalt, Inc. v Umatilla County*, 71 Or LUBA 65 (2015) (Batch plan that received a conditional use permit under then applicable criteria is not a non-conforming use.); *Tolbert v Clackamas County*, 70 Or LUBA 388 (2014) (Issues arguably relevant to a modification that could have been, but were not, raised as part of original approval are not required to be addressed.)

The applicant has not provided me with rationale for why adding field lighting resulting in a more "developed ball field" is permissible when I cannot approve a developed ball field in the first place without an exception. Lighting is being proposed to significantly increase the hours of operation and use of the fields. Thus, it moves the fields even farther along the spectrum of intensity or urban/suburban style use when developed fields apparently were considered by LCDC to be too intense of a use to obtain a new approval if starting fresh. Installation would further preclude (the admittedly unlikely) future conversion back to agricultural. If a ball field with lighting could not be approved at a state park without an exception, I cannot see how I can approve a conditional use for lighting to an existing ballfield at a local park.

For these reasons, the field lighting component of the application is denied.

Title 18, Deschutes County Zoning Ordinance

A. CHAPTER 18.16. EXCLUSIVE FARM USE ZONES

Hearings Officer: Although I have denied the field lighting component, I include it in the analysis under this and subsequent code standards in case the Board of Commissioners or other authority disagrees with my conclusion.

The entire property includes one soil type, Unit 59C, Gosney-Rock outcrop-Deskamp Complex. High value farmland, as defined in DCC 18.04, is land predominantly comprised of specific soil units that are irrigated. The definition of high-value farmland does not include soil type 59C. For this reason, the subject property is not high-value farmland.

2. Section 18.16.040. Limitations on Conditional Uses.

A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body that the proposed use:

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and**
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and**

FINDING: The lands surrounding the subject property include a mix of uses consisting of farm-zoned parcels, rural residential properties, an elementary school, a fire station, and a newly established solar energy facility. The residential subdivision of Eastmont Estates is adjacent to the park property along its north boundary, with Quail Ridge subdivision located to the west and across Hamby Road. The urban reserve area associated with the City of Bend is located approximately 0.25 miles to the west while the Urban Growth Boundary and city limits are just beyond that at approximately 0.35 miles. To the east approximately 0.20 miles is an approved horse and dog training and testing trial facility located at 21700 Neff Road. The newly established solar energy facility is adjacent to the park's northeastern boundary at 21580 Neff Road. The closest farm use in the area is to the north at 21699 Eastmont Drive and 62650 Hamby Road, two abutting parcels (approximately 50 acres total area) under one ownership. These parcels are located between Eastmont Estates and Hamby Road, with the southern parcel touching the park property at the park's northwest corner. The next closest farm uses appear to be occurring at least 0.25 miles to the east, west, and south, beyond the residential subdivisions and the solar energy facility. There are no observable forest practices occurring in the surrounding area. The predominant tree species in the area is juniper, which have no commercial value.

Hearings Officer: Several parties contend that some of the modifications will increase dust, traffic and otherwise adversely impact farm operations but few, if any, specifics are provided. As far as I can tell no one who farms has expressed concerns. Most comments are from rural residential property owners which, in the aggregate, generate much the same impacts as the park and are as likely, if not more so, to impact farm practices. The applicant has proposed trail treatments to mitigate dust. There is no evidence that existing use of the park has adversely impacted farming. As discussed below, the applicant provided supplemental traffic information and no impacts on farming are identified. There was no evidence that the noise or lighting would interfere with livestock. This criterion is met.

- 3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.**

FINDING: The proposed park expansions will be located throughout the property in areas not cultivated or irrigated. The entire property is within the soil type 59C, which is not considered high-value farmland. Approximately 9.09 acres of water rights are assigned to the park property and, based on the COID water rights map, are specifically located on the three southernmost play fields in the park. For areas not irrigated, the soil type has an agricultural classification of 7e. The soil type will not support the production of farm crops without irrigation. The soil unit may support large acreage livestock grazing. However, the subject property has been dedicated to park use since 1991, when the park

use was approved by the County. Agricultural production has not occurred since about the time the park was established, based on staff's review of historic aerial photos. Based on this information, staff believes the proposed park expansion areas are located in the least suitable areas since it is devoid of irrigation and agricultural use. Furthermore, staff believes that the historic use of the property as a park is well established and thus less likely that the property will be suitable for or converted to a farm use.

Hearings Officer: I concur. This criterion would be more relevant if the park was expanding its boundary, but the more significant proposed modifications are internal - wedged between the school, fire station, Hamby Road and the ball fields. The only improvements that are arguably in a location that might have some potential for agriculture are the pedestrian/bike trails that have minimal if any impact on the unlikely future conversion of this property to agricultural use.

3. Section 18.16.060. Dimensional Standards.

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

FINDING: The proposed park expansion includes some structures such as restroom buildings, shade structures, and slope style starter tower. The applicant submitted photo examples of the proposed one-story structures. Staff recommends that, if the application is approved, a condition of any approval be added to ensure compliance.

Hearings Officer: As noted above, I have denied the field lighting. It also is argued that the field lighting improperly exceeds the 30' height limit for structures. DCC 18.04.030 broadly defines "structure" as "something constructed or build having a fixed base on, or fixed connection to, the ground or another structure." It clearly is different from and broader than a "building". Without conceding that the height limit applies, the applicant notes that an exception up to 36' is available under DCC 18.120.040 C. I find that lighting higher than 30' is not permitted under this section but as discussed below, an exception to 36' likely could be justified if lighting were to be approved.

4. Section 18.16.070. Yards.

A. The front yard shall be a minimum of 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.

FINDING: The property has frontage on Neff Road and Hamby Road to the south and west, respectively. Both Neff Road and Hamby Road are classified as rural arterial roads. The required front yard setback from both roads is 100 feet. According to the applicant, any new structures and the trails proposed as part of the park modification will be setback over 100 feet from property lines adjacent to the two roadways. The proposal complies with the setback standards of the EFU Zone.

- B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.**
- C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.**

FINDING: Based on the shape of the property and the adjacent roadways, staff finds the northerly eastern property boundary is considered the rear property line and thus the remaining property boundaries to the east, west, and north are considered side property lines. The County Code requires minimum yards of 25 feet from side and rear property lines. According to the applicant, any new structures proposed as part of the park expansion will be setback over 100 feet from property lines. The proposal complies with the setback standards of the EFU Zone.

- D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.**

FINDING: Staff is not aware of any greater setback required by applicable building or structural codes. However, the Building Division will determine if any greater setbacks are required during building permit review.

B. CHAPTER 18.80. AIRPORT SAFETY COMBINING ZONE

1. Section 18.80.020. Application of Provisions.

The provisions of DCC 18.80.020 shall only apply to unincorporated areas located under airport imaginary surfaces and zones, including approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and runway protection zones. While DCC 18.80 identifies dimensions for the entire imaginary surface and zone, parts of the surfaces and/or zones do not apply within the Redmond, Bend or Sisters Urban Growth Boundaries. The Redmond Airport is owned and operated by the City of Redmond, and located wholly within the Redmond City Limits.

Imaginary surface dimensions vary for each airport covered by DCC 18.80.020. Based on the classification of each individual airport, only those portions (of the AS Zone) that overlay existing County zones are relevant.

Public use airports covered by DCC 18.80.020 include Redmond Municipal, Bend Municipal, Sunriver and Sisters Eagle Air. Although it is a public-use airport, due to its size and other factors, the County treats land uses surrounding the Sisters Eagle Air Airport based on the ORS 836.608 requirements for private-use airports. The Oregon Department of Aviation is still studying what land use requirements will ultimately be

applied to Sisters. However, contrary to the requirements of ORS 836.608, as will all public-use airports, federal law requires that the FAA Part 77 surfaces must be applied. The private-use airports covered by DCC 18.80.020 include Cline Falls Airpark and Juniper Airpark.

FINDING: The subject property lies within the Conical Surface of the Bend Municipal Airport. Therefore, the provisions of this chapter apply.

2. Section 18.80.028. Height Limitations.

All uses permitted by the underlying zone shall comply with the height limitations in DCC 18.80.028. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control. [ORS 836.619; OAR 660-013-0070]

A. Except as provided in DCC 18.80.028(B) and (C), no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface. [ORS 836.619; OAR 660-013-0070(1)]

B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.

FINDING: The subject property is situated under the Conical Surface associated with the Bend Municipal Airport. This surface is at least 100-feet above the subject property and no penetrations of this surface are included in this proposal. This criterion is met.

C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA (for Redmond, Bend and Sunriver.)

FINDING: No height exceptions or variances are sought by this application; therefore, this criterion does not apply.

3. Section 18.80.044. Land Use Compatibility.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or

expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body. [ORS 836.619; ORS 836.623(1); OAR 660-013-0080]

A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]

FINDING: The proposed project is not within the noise impact boundary of the Bend Municipal Airport. This criterion is not applicable.

B. Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

FINDING: The applicant is proposing to expand the existing public park, which is a recreational use, on the subject property. The proposal does include exterior lighting. The applicant indicates the outdoor lighting “will be designed to minimize generation of ambient light and trespass onto adjacent properties.” Furthermore, the park facility is approximately two (2) miles southwest of the existing runway and 1.4 miles west of the closest airport approach surface. A condition of any approval will be added to ensure compliance.

C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

FINDING: Based on the materials submitted, the proposed structures will be open-air shade structures with wood support posts and beams and metal roofing finished in an earth tone colored. Although the structures will minimize visual impacts and will not

include glare-producing material, staff recommends, and I agree that a condition of any approval be added to ensure compliance.

D. Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

FINDING: The proposal is a recreational use, and does not include any industrial, mining, or similar use.

E. Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.

FINDING: The proposed development will not cause or create electrical interference with navigational signals or radio communications between an airport and aircraft.

F. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.

FINDING: The proposed development will be located under the Conical Surface and not within the RPZ, Approach Surface, Airport Direct, or Secondary Impact Areas. This criterion is not applicable.

4. Section 18.80.054. Conditional Uses.

Uses permitted conditionally shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.

FINDING: The applicant is proposing an expansion of the existing public park on the subject property. Public parks are permitted conditionally in the EFU Zone. Therefore, the applicant's proposal is also permitted conditionally in the AS Zone. In addition, DCC 18.80.044 does not prohibit the proposed use.

C. CHAPTER 18.128. CONDITIONAL USE

1. Section 18.128.015. General Standards Governing Conditional Uses.

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

A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:

1. Site, design and operating characteristics of the use;

FINDING: The applicant is proposing to expand an existing park on the subject property. The property is approximately 95.31 acres and has level to varying topography. Vegetation includes introduced landscaping throughout the property mixed with native vegetation consisting of juniper trees, shrubs, and grasses. The existing park is developed with play fields, BMX track, off-leash dog park, and other park-related facilities. Located in the southwestern region of the property is a former fire station building, which is proposed to be converted into a park maintenance facility, and a cell tower. An irrigation canal and its access road cross the property in the northern half of the parcel and then form the southeastern boundary in the southern half. The property also includes another canal right-of-way and access road in the eastern side of the property. Neff Road and Hamby Road are adjacent to the southern and parts of the western boundary, respectively. Primary access to the property is from the south and Neff Road. There are three other minor access points in the southwestern corner, near the intersection of Hamby Road and Neff Road, for the former fire station and the existing cell tower.

The park modifications are proposed throughout the property but be primarily in the middle and northern regions of the park. The proposed expansion will include several park facilities such as pedestrian and bicycle trails, R/C vehicle track, "naturehood" area, support facilities, additional parking areas, and new entrance along Hamby Road. Removal of vegetation will only occur within the development area. Otherwise, mature juniper trees and other vegetation and existing topography throughout the property will be retained. The project will include establishing a parking and maneuvering area adjacent to the BMX

and R/C tracks. Introduced landscaping beds will also be provided around and throughout the park and parking areas. A new shared access from Hamby Road will be established for both the park and neighboring school. Two minor access points to the former fire station and cell tower will be abandoned or removed along Neff Road. According to the applicant, the park use will occur at a variety of times but no later than 10 p.m.

The areas proposed for expansion are currently undeveloped. There is sufficient area for parking, pedestrian access, and adherence to setbacks for each proposed use. The design of the expansion will allow convenient access to new parking areas and provide pedestrian walkways to the new uses. For these reasons, the proposed site under consideration is suitable for the proposed park expansion considering its size, design, and the operating characteristics of the use.

2. Adequacy of transportation access to the site; and

FINDING: The property is adjacent to Neff Road to the south and Hamby Road to the west. Currently, the primary access to the park is taken from Neff Road. Three minor access points to the former fire station and cell tower are located along Neff Road and Hamby Road, two of which will be abandoned or removed with this proposal. The applicant is proposing to establish a new access on Hamby Road that will be shared with the neighboring elementary school⁴ (the southernmost access to the school will then be removed or abandoned).

Hearings Officer: The County Road Department and Senior Transportation initially determined that the transportation report was incomplete and sought additional information. After a series of communications, County staff concluded that the analysis provided by the applicant was complete and proposed several conditions of approval to which the applicant does not object.

Opponents raised general concerns about the potential additional traffic generated by expanded park uses. Some suggested that tying access into the existing school site would be better than a new shared access. Several alleged that the intersection of Hamby and Highway 20 already is a problem. Concerns were raised about noncompliance with speed limits. Questions were raised about sight distances, including park for visitors southbound on Hamby turning into the new entrance. No expert testimony was presented contesting the traffic engineer reports or staff's analysis of those reports.

The applicant initially relied on the current ITE Manual to conclude that no significant number of new trips would be generated. Staff, correctly challenged that and ultimately settled on more realistic assumptions, including actual counts coinciding with a large weekend event. The July 5,

⁴ Staff noted that a similar example of this type of shared access is the Pine Nursery Park located at 63100 Purcell Boulevard, Bend in which the park and neighboring elementary school share a primary access off Purcell Boulevard. Both the park and school also have separate access points from Yoeman Road. The County originally approved Pine Nursery Park in 2006, through file nos. CU-06-61 and SP-06-23 and received a subsequent approval in 2015 (file nos. 247-14-000438-SP and 247-15-000058-MA) before becoming part of the Urban Growth Boundary in 2017.

2018 Transight Consulting report indicates no significant crash history and concludes that no safety or operational issues are identified. Staff recommended conditions closing certain accesses and limiting one access on Neff Road to service access only. The expert analysis is credible and appears reasonably thorough. In the absence of any comparable contrary evidence, I find that this criterion is met subject to the conditions recommended by staff.

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

FINDING: The proposed park expansion, including any structures and parking and maneuvering areas, will be in an area that has relatively level terrain. Vegetation on-site includes native grasses and shrubs with a few juniper trees. In addition, non-native landscaping has been established throughout the park. The property is developed with an existing public park including access driveway, parking areas, and support facilities. There are no known natural hazards, except for wildfire, or distinguishing natural resource values on property. Based on this information, the site suitable based on those features listed in this criterion.

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

FINDING: The existing uses on surrounding properties are a mix of uses consisting of farm-zoned parcels, rural residential properties, an elementary school and fire station, and a newly established solar energy facility. The urban reserve area associated to the City of Bend is located approximately 0.25 miles to the west while the Urban Growth Boundary and city limits are just beyond that at approximately 0.35 miles. Adjacent to the south and west property boundaries is Neff Road and Hamby Road, respectively. The closest residential development is adjacent to the park's northern boundary in the Eastmont Estates subdivision. Across Hamby Road to the west is the Quail Ridge residential subdivision. The closest farm use is located to the north on a parcel that touches the park's northwest property corner. To the east are developed farm-zoned properties but do not appear to be in active farm use. However, one property has an approved horse and dog training and testing trial facility. Adjacent to the northeastern boundary is a newly established solar energy facility. The vegetation and topography on the subject property is similar throughout the surrounding area with native and introduced vegetation. The projected land uses based on the current zoning will likely be similar to those already established such as single-family dwellings, agricultural uses, public and utility facilities, and urban density development. Big Sky / Luke Damon Sports Complex is a well-established use in the area as it has been in existence since approximately 1991.

Hearings Officer: Although not referenced by staff, it should be noted that County hearings officers generally have concluded that this criterion is intended to address whether the proposal would preclude or substantially interfere with the continuation of existing uses or development of projected uses on surrounding lands. Its focus does not include impacts limited to the "enjoyment" or "quality" of those uses. Terms such as "compatible" are notoriously subjective and

difficult to apply consistently. While one can argue that the historic interpretation is too crabbed, it provides a relatively clear guidepost and has not been repudiated by the Board of Commissioners. It also provides a basis to distinguish this criterion from the “relate harmoniously” criterion addressed below.

As staff notes, the proposed expansion will not change the public park use of the property. But it does add uses and intensifies others. In particular, opponents raise concerns about noise, dust, traffic, lighting, trespass and general interference with the rural character of the area.

None of the objections provide substantial evidence that any of the modifications, with the proposed mitigation measures, will preclude or substantially interfere with the use of nearby properties for uses allowed in their respective zones. Many of the alleged potential impacts could adversely affect the current level of enjoyment of their properties to some degree but there is no indication that those properties would not be able to continue to be used for their existing uses or would not be purchased or improved for allowed uses. Setbacks are greater than the required minimums. Traffic impacts are within acceptable norms and mitigated by conditions. The lighting proposed is modern technology that is dark sky compliant and will not spill onto other properties. Some testimony indicated that the park is an amenity for nearby residents in some respects such as dog walking, hiking and biking that would be lost if the park property was in agricultural production or otherwise developed.

I find that this criterion is met for the entire proposal, including field lighting. But see discussion under DCC 18.120.060A.

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

Hearings Officer: To the extent compatibility is an issue, the conditions imposed or recommended adequately mitigate impacts.

3. Section 18.128.040. Specific Use Standards.

A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370.

FINDING: The use as proposed complies with the requirements of the EFU Zone as discussed above. The use is subject to the standards and conditions contained in DCC 18.128.060 that are discussed below.

4. Section 18.128.090. Medical Clinic, Veterinary Clinic, Club, Lodge, Fraternal Organization, Community Center, Grange Hall, Golf Course, Horse Stable and Horse Events Requiring Conditional Uses, Grounds and Buildings For Games or Sports, Country Club, Swimming, Boating, Tennis Clubs and Similar Activities, Government Structures and Land Uses, ***Parks***, Playgrounds.

In considering the above, the Planning Director or Hearings Body may authorize the conditional use after it has been determined that the following will be provided:

A. Access from principal streets subject to Deschutes County Road Department standards.

Hearings Officer: Big Sky / Luke Damon Sports Complex has direct access from Neff Road, a designated arterial. The applicant is proposing a new access from Hamby Road that will be shared by the neighboring elementary school. Neff Road and Hamby Road are built to County standards. Existing accesses will be closed and the access on Neff Rd 375' east of Hamby will be limited to service use only. The County Road Department has identified a need for additional right-of-way along the property's frontage to Neff Road and Hamby Road to provide the minimum standard arterial right-of-way width of 40 feet from centerline pursuant to DCC 17.48, Design and Construction Specifications, and DCC 18.124.080 and recommended further conditions. The applicant has agreed to these conditions. See July 16, email from Cody Smith. This criterion is met with conditions of approval.

B. Off-street parking subject to DCC 18.116.030.

FINDING: The applicant proposes approximately 250 new parking spaces, maneuvering area. Existing and proposed roads are designed for either one-way or two-way traffic. The proposed expansion will have enough space to accommodate expected vehicle usage to the site. The off-street parking standards are addressed in more detail below.

C. Building and site design provisions, including landscaping, that will effectively screen neighboring uses from noise, glare, odor and other adverse impacts.

FINDING: The proposed expansions will be throughout the property but primarily in the middle of the park near the existing BMX track and in the northern region. The property is approximately 95.13 acres with native vegetation consisting of trees, shrubs, and grasses and introduced landscaping. It may be necessary to remove vegetation within the development footprint only; otherwise, all other vegetation will be retained thus preserving the landscape and existing topography. The design and materials used for the building will match existing structures in the park. The proposed park expansion will meet or exceed the EFU Zone setback requirements.

Hearings Officer: This criterion also is addressed under Section 18.124.060 A, below.

D. Playgrounds, recreation facilities and community centers in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.

FINDING: The subject property is not within the WA zone. This criterion is not applicable.

D. CHAPTER 18.124. SITE PLAN REVIEW

1. Section 18.124.030. Approval Required.

- A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.**
- B. The provisions of DCC 18.124.030 shall apply to the following:**
- 1. All conditional use permits where a site plan is a condition of approval;**
 - 2. Multiple family dwellings with more than three units;**
 - 3. All commercial uses that require parking facilities;**
 - 4. All industrial uses;**
 - 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and**
 - 6. As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).**

FINDING: The proposed use is a park that serves the public. The provisions of this chapter are applicable.

2. Section 18.124.060. Approval Criteria.

Approval of a site plan shall be based on the following criteria:

- A. The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.**

FINDING: The subject property is approximately 95.13 acres. The site has relatively level topography. The park includes a mixture of native and introduced landscaping. An irrigation canal crosses the property in the northern half of the parcel and forms the southeastern boundary in the southern half. Neff Road and Hamby Road abut the property to the south and west, respectively. Currently, access to the property is taken from Neff Road.

The area surrounding the subject property consists of a mix of uses including farm-zoned parcels, rural residential properties, an elementary school and fire station, and a newly established solar energy facility. Rural residential properties are to the north and west of the property, including Eastmont Estates and Quail Ridge, respectively. The urban reserve area, Urban Growth Boundary, and city limits associated to the City of Bend are located approximately 0.25 to 0.35 miles to the west. An approved horse and dog training and testing facility is located to the east approximately 0.20 miles and the newly established solar energy facility is adjacent to the park's northeastern boundary. The closest farm use in the area abuts the park property at the park's northwestern corner, near Eastmont Estates.

Hearings Officer: The proposed expansion includes a bike starter tower and bike tracks in the western portion of the site, south of the school and across Hamby Road from Quail Ridge. A significant network of pedestrian and bicycle trails is proposed including near the perimeter in the northeast area. The R/C vehicle track would be between the fire station and existing BMX track. Most parking is located between the fields and the BMX track. As conditioned, two existing access points would be eliminated and one access to Neff Rd. limited to service use only. The existing school access from Hamby Rd will be shifted and shared with the park. The applicant is proposing to remove native vegetation in the development footprint only and introduce landscaping in and around the parking area and other areas. Native vegetation will be retained throughout the property. No other impacts to landscape and existing topography are proposed. The applicant proposes exterior lighting for some play fields, if funding allows. According to the applicant, the park use will occur at a variety of times but no later than 10 p.m.

Several nearby residents raised concerns about adverse impacts. The Browns, who live to the east across from the tower and pump track express concerns about dust, noise, lighting and traffic. They are concerned about illumination of the slope tower. They also are concerned about noise from the R/C vehicle track. Similarly, Jeffrey Druitman objects to the 30 tower "directly across the street" from his residence, together with lighting and amplified sounds. There was mixed testimony regarding amplified sound with some persons indicating that previous issues largely had been resolved and others indicating amplified sound at the BMX track remains an issue.

Ms. Henry lives in Eastmont to the north expresses concerns about lighting and trespass from the new bike trails near her property. Mr. Less lives in the same vicinity and shares those concerns, together with amplified noise. Mr. Rupprecht, stating that is speaking for several neighbors north of Big Sky Park, objects to an "unsupervised CycleCross Racing Course" within what is alleged to be a 250' natural buffer area. He states that the course will include competitions and fans. Other commenters also state that they were led to believe that there would be an undisturbed natural area in the northern portion of the park.

There also were concerns raised about dogs running at large and dogs in the COID pond.

"Relate harmoniously" is not defined. It has been described as "highly subjective" and hearings officers, including me, find it difficult to apply. In general, I have concluded that it imposes a somewhat higher burden than "compatibility". It generally means a "minimum of conflict, discord or similar impacts on existing development and the environment". In most cases, the primary, but not exclusive, focus is on layout, design, location and similar factors.

1. R/C vehicle track. The primary allegation is that this use will create noise impacts. The applicant did not include this use in its noise study and there is very little information about this use in the record. The closest point appears to be about 300' east of Hamby Road, and farther still to residential uses. This is a significant distance for what, logically, would seem to be a fairly low impact use. The problem I have is that there is so little information in the record. Accordingly, given that the applicant has the burden, I think I must err on the side of the objectors. This does not mean that the use should be denied, however. Rather, it seems clear that a fence along the

western boundary of the track area should be adequate to minimize any disruption caused by noise. The fence must be a minimum of 6' feet and constructed of wood or other material forming a solid face to reduce sound. No details as to the size or exact location of the track were provided so it is difficult to know exactly how much fence is needed. I think that a fence that extends at least 20' in both directions (NE/SW) beyond any area where R/C cars are operated should be sufficient, up to a maximum of 120' which appears to be the approximate western boundary of the R/C area.

2. Starting tower/bike park/pump track/trials course. The tower is proposed to be no higher than 30'. It is located approximately 250' from the nearest residence. The applicant clarified that it will have no starting gate, amplified sound or lighting. It will not be used for organized events. I have analogized it to a large play structure which are common uses in parks. The closest bike trail heading from the tower is well over 200' from Hamby Road and the trails are internal to the site. It certainly has fewer potential impacts than the existing BMX track. Given the clarifications from the applicant, which shall be imposed as conditions of approval, I find that the applicant has met its burden and this criterion is met.

3. Single-track trail/bike park east. As noted above, the applicant provided little detail about the proposed use of these trails. Generally, they are described as biking and hiking trails. But there is a reference to use by high school cross-country teams and the application references a "bike park with cyclocross/running trails. The noise, traffic and similar studies reference the BMX area and ball field events but not events associated with these trails.

The applicant states that there are many user generated trails in the area and the hope is that developed trails will minimize those impacts. It notes that the perimeter trail will be 103 feet from the property line with Eastmont and 172 ft from Quail Ridge. The single bike trail will be 121 ft. from Eastmont. All of these exceed the minimum setbacks.

Opponents contend that a portion of the bike park is within a buffer area that they were guaranteed would not be developed. As the applicant notes, however, the cited references to the 250' buffer and limit of 425' of expansion are not conditions of approval. Rather, they are cited in support of the staff determination that the uses proposed in CU-03-14/SP-03-11 would be compatible with nearby residential uses. Similarly, the 1996 letter from Paul Stell is not a permanent commitment much less binding. On the other hand, the discussion in CU-03-14/SP-03-11 provides historical context for evaluating how the park relates to nearby uses.

Testimony and photos submitted by opponents in the Eastmont area show that bicyclists clearly are visible and can be heard from their properties. See, e.g. photos from Ronald and Gayle Rupprecht.

Bike and hiking trails are common features of parks, including rural parks. I find nothing that indicates that maintained trails for normal, causal pedestrian and biking use in their proposed location is disharmonious with rural residences. The distance from the residences is significant and some sightings of bicyclists or runners does not create disharmony.

But use of the trails for organized events with many runners or bikers, perhaps noisy fans and dust from hard use creates a significant likelihood of adversely impacting normal enjoyment of rural residential uses. Having a competitive race track near one's property may be an accepted norm in urban or suburban settings but is inconsistent with the intent and purpose of EFU and rural residential zones. The applicant has done little to assuage those concerns, largely not providing information about the number, size, management or other aspects of such events or how impacts would be addressed. The applicant in its final rebuttal opened the door to fencing but I do not have enough information about where that would go or how long it needs to be to be effective. Depending on placement it could adversely impact views of adjoining properties. The effectiveness of fencing also is unclear on this record.

Like the decision on the BMX park, I find that a significant buffer is needed to minimize the impacts from organized events, races and similar uses associated with cyclocross.

Accordingly, I find that the same considerations present in the prior conditional use approval warrant continued implementation of a buffer, with some modification. The perimeter and single-track trails as outlined in sheet TD-100 are allowed, provided, however, that no trail within 250' of the northern boundary of the subject property may be used for organized events, including but not limited to cross-country team practices or competitions and organized cyclocross practices or competitions. The applicant may prohibit such use of the trail system as laid out in the plans or the applicant may redesign the connections and layout so that any trail to be used for organized events is no less than 250' from the northern boundary. Further, there shall be no direct connection between the cyclocross trail and the perimeter trail along the northern boundary adjacent to Eastmont Estates.

Further, to help minimize trespass, the applicant must post signs, at least every 100' demarcating the park boundary and directing persons to not enter onto private property.

To avoid future confusion, I want to stress that this is not necessarily a guaranteed permanent buffer. The applicant may in the future submit further modifications and seek approvals for uses in that area based on compliance with the standards then in effect.

4. Lighting. The applicant has stated that it no longer proposes lighting for the BMX track, tower, bike parks or R/C track. It proposes typical lighting for the parking areas, restrooms and so on to which there is no significant objection. I have denied the field lighting and limited it to 30'.

It would seem likely that the applicant could justify an exception under 18.120.040 C as lower lights probably would have fewer impacts than the 60'-80' lights proposed but there is nothing in the record to substantiate that assumption. The applicant did not seek an exception or address this standard for 36' high lights.

This criterion is met for all other lighting, such as for the parking areas and restrooms. No lighting of the BMX track, bike parks or, R/C vehicle track is permitted.

5. Dust. Concerns were raised about dust emanating from various proposed uses. The applicant states that it will use clay or other materials for dust suppression. There is little if anything in the record about current dust problems. Moving event use of trails to 250' away from the northern boundary also should mitigate any dust impacts.

6. Amplified noise. The applicant states that no "permanent" amplified sound will be permitted. I have addressed noise from the R/C vehicle track. Mr. Brown testified that sound has not been an issue since the noise enforcement proceeding relating to the BMX track. Others testified that it is an on-going issue or expressed concerns about future problems. I do find anything in the code that authorizes me to regulate portable sound equipment that is associated with uses that already have been approved, e.g. the BMX track and ball fields. I am not evaluating those uses for whether they are harmonious, only the newly proposed uses. Installation of any permanent amplified sound system, however, is a modification and within my purview. Consistent with the applicant's statements, a condition is imposed barring installation of any permanent amplified sound system.

The applicant indicates it has no plans to use any form of amplified sound for the new uses such the pump track and related facilities or the R/C track. It is less clear whether the applicant proposes to use portable amplified sound for cyclocross, cross-country or similar events on the single-track trails. If so, there is no explanation as to how, when or where such equipment would be used. I find that the applicant has not met its burden of demonstrating that use of amplified sound, whether permanent or not, in association with any of the new uses is harmonious with surrounding residential uses. Accordingly, a condition prohibiting use of any amplified associated with the tower, pump track, R/c vehicle track and bike park east is imposed.

Nothing in this decision, however, prohibits use of amplified sound in case of an emergency.

Related to noise is the issue of operating hours for organized events. The applicant states that lights out will be at 10:00 p.m. with the intent that this would give people time to leave before then. But I find that ambiguous, especially in the absence of field lighting. I think it appropriate to impose a condition that all organized events, games, matches etc. end no later than 9:30 p.m. so that disturbances associated with people leaving games and events should be over by 10:00 p.m. I acknowledge that this is slightly more restrictive than provided in DCC 8.08 Noise, DCC 18.16.020 Events and DCC 5.10 Lighting, but I think that is appropriate under the Code standards and given that this is a park in the rural area.

7. Dogs. It is not clear that expansion of the dog park is a regulated use. Dog parks basically are just off leash areas that may or may not be fenced. The existing issues with dogs in the pond, trespass, running at large are enforcement issues largely appear to be beyond the scope of my review. The applicant submitted a proposal, Exhibit 13 to First Supplemental Burden of Proof, for either a 4.86-acre total or 7.91-acre total fenced dog park. No specific objections were raised. To the extent the expansion is at issue, however, it seems clear that the proposal to fence a fairly large area represents a significant positive step toward containing dogs and minimizing the identified impacts. Accordingly, enlarging the fenced dog area is approved and the applicant may choose which size to implement.

8. Transportation, access and parking. Transportation impacts and access are addressed above and, as conditioned, do not violate this criterion. The applicant is proposing approximately 250 additional parking spots. Staff's analysis indicates that this should address even heavy-use days, such as during special events. It certainly will help mitigate existing problems. Several commenters suggested that Hamby and/or Neff be marked no parking. I can find nothing from the county, which has jurisdiction over those roads, consenting to such signage and am not willing to impose it as the ultimate responsibility falls on the county not the applicant. It may be that the county will implement such a program, but I cannot impose it based on this record.

None of the other proposed improvements generated any significant comments or concerns and all seem relatively minor normal and customary accouterments to the previously approved uses or those approved by this decision.

B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.

FINDING: The applicant is proposing to expand the existing park on the property. The site includes varying topography with introduced landscaping throughout the property mixed with native vegetation of juniper trees, shrubs, and grasses. The applicant indicates that those areas intended to be developed consist of native sandy soils with surface rock and rock outcroppings with juniper tree cover. The proposal includes removal of vegetation will only occur within the development area. Otherwise, mature juniper trees and other vegetation, including the native vegetation buffer surrounding the park, and existing topography throughout the property will be retained. No other impacts to landscape and existing topography are proposed. This criterion will be met.

C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.

FINDING: Big Sky / Luke Damon Sports Complex, with its day use areas and trails, is a park and recreation facility that serves the public. The proposed expansion of the park will also serve the public. The proposed site plan design provides a safe environment while offering appropriate opportunities for privacy and transition from public to private spaces. This includes setbacks and landscaping that will lend to a safe transition from public to private spaces. The design provides a good separation between automobiles and pedestrians based on the submitted site plan. The applicant proposes a pedestrian walkway for access to and from the parking area and proposed recreation areas and to Neff Road and Hamby Road. This criterion is satisfied.

Submitted comments from residents in the Eastmont Estates subdivision to the north expressed concern over trespass to/from park property and Eastmont Estates properties via the COID canal access road. Although not a typical design standard reviewed when looking at appropriate opportunities for privacy and transition from public to private

spaces, staff understands the correlation and presents the comments in this section. The applicant noted that the access road for the canal is an easement in which the park district "cannot gate or otherwise inhibit access to that road." However, the park district could post a no trespassing sign at the park boundary with the potential to mitigate the impacts.

Hearings Officer: I concur with staff. Some degree of trespass is inevitable with a park but moving the event use of trails farther from the northern boundary, fencing the dog park and posting signs will mitigate those problems.

D. When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.

FINDING: According to the site plan, approximately 10 ADA accessible parking spaces will be provided as part of the expanded parking area. The County Building Safety Division will review specific ADA requirements during building permit review. Staff recommends, and I concur, this be made a condition of any approval if the application is approved.

E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.

FINDING: Existing access to the property is taken from Neff Road, which is adjacent to the southern property boundary. There are three other minor access points in the southwestern corner, near the intersection of Hamby Road and Neff Road, for the former fire station and the existing cell tower. The proposal includes maintaining the existing park entrance from Neff Road. In addition, the applicant proposes a new access from Hamby Road, which will be shared by the neighboring elementary school. The shared access along Hamby Road will result in the school removing or abandoning the southernmost access on their property. Regarding the minor access points to the former fire station and cell tower, the proposal includes maintaining the access point from Hamby Road but removing or abandoning the two points along Neff Road.

On the property, the proposed location and design of the pedestrian walkways will provide adequate separation between pedestrians and moving and parked vehicles. The drive aisles will provide adequate vehicular circulation on-site and convenient access to the many park facilities. Furthermore, the proposed setbacks and landscaping allow for the parking areas, buildings, and walkways to be sufficiently buffered and screened such that they will be harmonious with neighboring buildings and structures. The proposed improvements as discussed have been designed to be harmonious with proposed and neighboring buildings and structures.

Hearings Officer: I concur that this criterion is met with the conditions recommended by County staff.

F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets or surface and subsurface water quality.

FINDING: The proposed expansion of the park will not significantly increase impervious surface area on the subject property. The submitted site plan shows the subject property has been designed, graded, and improved to direct the flow of stormwater to landscaped areas located throughout the property. Additionally, many of the new features will not be paved, which will allow stormwater to infiltrate on-site. The existing and proposed design prevents adverse impacts on the neighboring properties, streets, and surface and subsurface water quality.

G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.

FINDING: The submitted site plan illustrates that accessory areas have been designed and will be located to minimize adverse impacts on the site and neighboring properties. The proposal includes an additional enclosed refuse/garbage area and a storage building in the park. The design and materials used for the maintenance building will match the existing development on the subject property. Additional landscaping will be introduced around the proposed development to minimize impacts from the road and neighboring properties. No adverse impacts are anticipated on the site or adjoining properties. This criterion is met.

H. All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.

FINDING: Utilities necessary for this project, including sewer, water, and electricity will be located underground or otherwise screened to minimize adverse visual impacts.

I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.)

FINDING: Each zone affecting the subject property is identified in this decision. The applicable criteria for each zone are addressed in the findings above.

J. All exterior lighting shall be shielded so that direct light does not project off-site.

FINDING: The applicant states that any new lighting will be shielded so that direct light does not project off-site and this approval is so conditioned.

K. Transportation access to the site shall be adequate for the use.

- 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.**
- 2. Mitigation for transportation-related impacts shall be required.**
- 3. Mitigation shall meet applicable County standards in DCC 17.16 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.**

Hearings Officer: Transportation impacts have been addressed by multiple professional studies submitted by the applicant. County staff have obtained additional information, evaluated the proposal and proposed conditions of approval. As discussed above, with those conditions, this criterion is met.

3. Section 18.124.070. Required Minimum Standards.

B. Required Landscaped Areas.

- 1. The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:**
 - a. A minimum of 15 percent of the lot area shall be landscaped.**
 - b. All areas subject to the final site plan and not otherwise improved shall be landscaped.**

FINDING: The proposed park is not considered commercial, industrial, or multi-family development. Therefore, these criteria are not applicable.

- 2. In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:**
 - a. A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**

FINDING: The proposed park expansion will add 250 new parking spaces, as noted below in this decision. Therefore, the parking area shall be required to be improved with an additional 6,250 square feet of landscaping to meet this criterion ($250 * 25 = 6,250$). The applicant proposes to retain native and existing vegetation throughout the property and in other areas not intended for development. In addition, the applicant proposes at least 2.4 acres of landscaping throughout the parking area. This exceeds the 6,250 square foot requirement and thus meets this criterion.

- b. In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least five feet in width.**

FINDING: The proposal does not include a parking area adjacent to a roadway. Nevertheless, the landscape plan shows landscaping areas over 10 feet in width adjacent to roadways and other property lines. The plan shows the landscaping strip containing proposed vegetation. This criterion is met.

- c. A landscaped strip separating a parking or loading area from a street shall contain:***
 - 1) Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.***
 - 2) Low shrubs not to reach a height greater than three feet zero inches, spaced no more than eight feet apart on the average.***
 - 3) Vegetative ground cover.***

FINDING: According to the landscape plan, the proposed landscape strips will include retained trees, shrubs, and vegetative ground cover. This criterion will be met.

- d. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.***
- e. The landscaping in a parking area shall have a width of not less than five feet.***

FINDING: Based on staff's review of the landscape plan, the landscaped areas will be in defined areas that are uniformly distributed throughout the parking area. All landscaped areas will be at least five feet in width. These criteria will be met.

- f. Provision shall be made for watering planting areas where such care is required.***
- g. Required landscaping shall be continuously maintained and kept alive and attractive.***

FINDING: The applicant is proposing to remove native vegetation in the development footprint and introduce landscaping around the parking area. Some areas of the property will maintain native vegetation. The existing landscaped areas are in either naturally or defined areas and are uniformly distributed throughout the property. Care for the native landscaping is a naturally occurring process and is continuously maintained and kept alive and attractive. Care for the introduced landscaping is and will be provided by the park district. Staff recommends, and I concur, that a condition of approval be imposed requiring the applicant to maintain continuously and keep alive and attractive all landscaping on the subject property.

- h. Maximum height of tree species shall be considered when planting under overhead utility lines.***

FINDING: The applicant is not proposing to plant trees under overhead utility lines. Therefore, this criterion is not applicable.

C. Nonmotorized Access.

- 1. Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.**

FINDING: Bicycle parking standards are addressed in DCC 18.116.031, below. Staff believes that the proposal met the exception criteria and thus no bicycle parking is required.

Hearings officer: I concur and note that some bike parking is proposed.

- 2. Pedestrian Access and Circulation:**

- a. Internal pedestrian circulation shall be provided in new commercial, office and multi-family residential developments through the clustering of buildings, construction of hard surfaced walkways and similar techniques.**

FINDING: The existing park together with proposed expansions related to the park is not commercial, office, or multi-family development. This criterion does not apply.

- b. Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. Onsite walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi-family, public or park use.**

FINDING: The applicant proposes to expand the existing walkways throughout the park, which will connect buildings, parking areas, and other park facilities. There are no pedestrian walkways along the roads or adjacent to the site. No pedestrian or bicycle connections exist on adjacent properties, and staff is unaware of any are planned connections on adjacent properties. This criterion is met.

- c. Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.**

FINDING: The proposed pedestrian walkways will be at least five feet in paved unobstructed width. Those walkways adjacent to parking spaces will be eight feet wide and will be separated from parking spaces by wheel stops. This criterion is met.

- d. Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkways**

must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.

FINDING: The proposal includes walkways that cross driveways and parking areas. The applicant proposes to have these crossings clearly identifiable using striping or other similar method. This criterion is satisfied with a condition of approval.

e. To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted but are treated as ramps with special standards for railings and landings.

FINDING: Any required accommodations to comply with ADA standards will be addressed during building permit review. This criterion will be met.

D. Commercial Development Standards...

FINDING: The proposed park expansion is not a commercial development. These criteria do not apply.

4. Section 18.124.090. Right of Way Improvement Standards.

Any dedications or improvements to the road right of way required under DCC 18.124 shall meet the standards for road right of way improvements set forth in DCC Title 17 and any standards for right-of-way improvements set forth in DCC Title 18 for the particular zone in question.

FINDING: Big Sky / Luke Damon Sports Complex takes direct access from Neff Road. In addition, the applicant is proposing a new access from Hamby Road that will be shared with the neighboring elementary school. Although the two roads are built to County standards, the County Road Department requests that applicant dedicate additional right-of-way along the property's frontage to Neff Road and Hamby Road. The additional road right-of-way will provide the minimum standard arterial right-of-way width of 40 feet from centerline. The applicant has agreed to this dedication in the supplemental materials submitted April 23, 2018 and is conditioned accordingly.

E. CHAPTER 18.116, SUPPLEMENTARY PROVISIONS

1. Section 18.116.020. Clear vision areas.

A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb, or,

where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.

B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B)(1) and (2). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the County:

- 1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet or at intersections including an alley, 10 feet.**
- 2. In all other zones, the minimum distance shall be in relationship to street and road right-of-way widths as follows:**

Right-of-Way Width	Clear Vision
80 feet or more	20 feet
60 feet	30 feet
50 feet and less	40 feet

FINDING: Based on the submitted site plan, no clear vision area will be obstructed by this proposal. This criterion is met.

2. Section 18.116.030. Off Street Parking and Loading.

A. Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18

FINDING: The applicant is proposing to expand the existing park use, which includes both structural (e.g. maintenance/storage buildings, restrooms, picnic structures) and non-structural facilities (e.g. pathways, bike park, R/C track). In addition, the expansion includes adding 250 parking spaces to the park. According to the site plan data, the total parking on-site, existing and proposed, will be 511 spaces. The off-street parking requirements for the proposed use are addressed below.

B. Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials

or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:

...

- 2. Restaurants, office buildings, hotels, motels, hospitals and institutions, schools and colleges, public buildings, recreation or entertainment facilities and any similar use which has a gross floor area of 30,000 square feet or more shall provide off-street truck loading or unloading berths subject to the following table:**

Sq. Ft. of Floor Area	No. of Berths Required
Less than 30,000	0
30,000-100,000	1
100,000 and Over	2

- 3. A loading berth shall contain space 10 feet wide, 35 feet long and have a height clearance of 14 feet. Where the vehicles generally used for loading exceed these dimensions, the required length of these berths shall be increased.**

FINDING: A park is considered a recreation facility and, therefore, is subject to the off-street loading requirements detailed above. As indicated in a previous finding, the proposed park expansion includes both structural and non-structural facilities. The structures proposed will have a cumulative floor area of less than 30,000 square feet, which does not meet the size requirement for a loading berth based on the above noted table. For this reason, staff finds a loading berth is not required.

- C. Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.**
- D. Number of Spaces Required. Off-street parking shall be provided as follows:**

...

- 4. Places of Public Assembly.**

Use	Requirements
Library, reading room, museum, art gallery	1 space per 400 sq. ft. of floor area plus 1 space per 2 employees
Other auditorium or meeting room	1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 sq. ft. of floor space.

5. Commercial Amusements.

Use	Requirements
Stadium, arena or theater	1 space per 4 seats or 8 feet of bench length
Bowling alley	6 spaces per lane, plus 1 space per 2 employees
Dance hall or skating rink	1 space per 100 sq. ft. of floor area, plus 1 space per 2 employees.

9. Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.

FINDING: The County Code includes several use categories for places of public assembly, as detailed above. However, none of these categories adequately captures a public park use. For this reason, staff addresses parking under subsection 9. The applicant is proposing to expand the existing park, which will include 250 additional parking spaces. The applicant indicates, and staff concurs, the county code does not have a specific parking requirement for the proposed expansion. Therefore, the applicant based the parking necessary for the expansion on current park usage. The submitted site plan provides the following analysis of existing, proposed, and redeveloped parking spaces (including ADA spaces):

- Existing total parking space = 352
- Existing parking spaces to remain = 306
- Proposed parking spaces = 205
- Total parking spaces post-development = 511

The applicant provides the following analysis (footnotes removed) regarding the required parking spaces necessary for the park expansion. As noted above, some of the existing spaces will be redesigned with the proposed expansion.

The County's parking table does not include a parking requirement for parks. Parking requirements for unidentified uses are governed by DCC 18.116.030(D)(8), which provides that the hearings body determines the appropriate amount of parking. In CU-96-84/DR-97-1, CU-03-14/SP-03-11, and SP-04-33, the County determined that 27 spaces for the BMX facility, 35 parking spaces per field, and 30 stalls for the off-lease dog area would satisfy the parking requirements for Big Sky Park respectively. With six fields, the required number of parking spaces for existing uses is 267. Applying Staff's preliminary finding that 140 additional spaces would be required for the new uses results in a parking requirement of 407 spaces.

There are a total of 511 parking stalls proposed for the site as shown on the Parking Stall Data table in the Overall Site Plan. As noted above, the 35 spaces per field covers 95% of anticipated uses. However, applicant is intentionally seeking to accommodate the parking needs of a worst-case scenario. Specifically, youth sport teams generally have 12-18 players per team, plus coaches, referees, field marshals, spectators, etc. Under a worst-case scenario (full use of fields without any carpooling) 45-50 cars per field is a reasonable estimate of parking demand. The proposed parking provides enough parking to accommodate all other uses in the park while still providing at least 50 spaces per field. While worst-case scenarios are infrequent, because of schedule management and because carpooling is common, the proposed parking is specifically proffered to avoid issues identified during periods of peak demand such as vehicles parking in the right-of-way and unauthorized parking within the park.

Staff concurs with the applicant's analysis and I agree. This criterion is met.

E. General Provisions. Off-Street Parking.

- 1. More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.**
- 2. Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.**

FINDING: The only use on the site will be public park use and its accessory uses. No other uses or businesses will be sharing the proposed off-street parking spaces. Therefore, these criteria are not applicable.

- 3. Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.**

FINDING: The parking and maneuvering areas for the proposed park expansion will be located on-site and within 500 feet of that particular park facility for which it is intended. The parking and maneuvering areas are located in a safe and functional manner, designed for operable passenger vehicles made available for service personnel only.

- 4. Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.**

FINDING: To ensure compliance, staff recommends it be made a condition of approval that parking spaces are not used for storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.

- 5. Parking, Front Yard. Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the Sunriver UUC Business Park (BP) District and the La Pine UUC Business Park (LPBP) District and the La Pine UUC Industrial District (LPI), but such space may be located within a required side or rear yard.**

FINDING: The proposed park is not considered commercial, industrial, or multi-family development. Therefore, this criterion is not applicable.

- 6. On-Street Parking Credit. Notwithstanding DCC 18.116.030(G)(2), within commercial zones in the La Pine Planning Area and the Terrebonne and Tumalo unincorporated communities, the amount of required off-street parking can be reduced by one off-street parking space for every allowed on-street parking space adjacent to a property up to 30% of the required off-street parking....**

FINDING: The applicant is not requesting off-street parking credit and therefore, this criterion is not applicable.

- F. Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:**

- 1. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.**

FINDING: The subject property is adjacent to residentially zoned lots and uses to the north. However, the proposed parking is over 900 feet south of the north boundary. For reference, the residential uses (Quail Ridge subdivision) to the west of the property but are not adjacent because they are separated from the park property by Hamby Road. The proposal includes removal of vegetation will only occur within the development area including the pedestrian and bike trails proposed in the northern region of the property. However, mature juniper trees and other vegetation, including the native vegetation buffer surrounding the park, and existing topography throughout the property will be

retained. The existing landscaping on the property contributes to screening the existing and proposed development and thus no new fencing is required.

- 2. Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.**

FINDING: The applicant is proposing lighting to illuminate off-street parking and maneuvering areas. The applicant indicates that the proposed lighting will not project onto any adjoining property in a residential zone. Several comments were received regarding proposed play field lighting. These concerns are addressed above. To ensure compliance, staff recommends this be made a condition of any approval if the application is approved and I concur.

- 3. Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.**

FINDING: The area of the site that will accommodate parking and maneuvering of vehicles is located over 100 feet from Hamby Road and Neff Road. For this reason, vehicles will not be required to back onto a street or right-of-way. This criterion is met.

- 4. Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:**
 - a. A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or**
 - b. The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or**
 - c. The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.**

FINDING: According to the applicant, the areas of the property proposed for standing and maneuvering of vehicles will be paved surfaced with all-weather materials and will be sloped to allow for surface water drainage on-site to designated stormwater infiltration basins and landscape beds. This criterion is met.

- 6. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or**

markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

FINDING: The proposed parking area, including service drives, has been designed to meet the design standards of the DCC 18.116. Access to the subject property is currently provided from Neff Road. The applicant is proposing another access along the western boundary from Hamby Road. The new access, along with all proposed drive aisles will have a width of 24 feet, allowing for two-way traffic. The existing service drive has been clearly marked with either split rail fencing or concrete curbing. The proposed service drive from Hamby Road will be designed in the same manner. The applicant also proposes landscaping in this area. The design of the existing and proposed drives and parking areas, with proper signage, will facilitate the safe flow of traffic and serve anticipated traffic. The design will also prevent vehicle-backing movements onto the road right-of-way. This criterion has been met.

7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.

FINDING: The primary access to the Big Sky/Luke Damon Sports Complex is currently provided from Neff Road. The applicant is proposing another access from Hamby Road along the western boundary, which will be shared with the neighboring elementary school. As proposed, the driveway will have a minimum vision clearance area that is formed by the intersection of the driveway and Hamby Road. This criterion is satisfied.

8. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.

FINDING: The proposed parking and maneuvering areas are located over 100 feet from the closest property boundary or right-of-way associated with Neff Road and Hamby Road. This criterion is not applicable.

G. Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table:

(SEE TABLE 1 AT END OF CHAPTER 18.116)

- 1. For one row of stalls use "C" + "D" as minimum bay width.**
- 2. Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right of way.**
- 3. For estimating available parking area, use 300-325 square feet per vehicle for stall, aisle and access areas.**
- 4. For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls do not exceed 30 percent of the**

total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.

FINDING: The County standards for stalls and aisles as set forth in Table 1. As designed, the parking lot and all parking spaces will satisfy the standards set forth in Table 1, including stall dimensions of 10 feet wide by 20 feet long for the related 90-degree parking angle.

3. Section 18.116.031. Bicycle Parking.

New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.

A. Number and Type of Bicycle Parking Spaces Required.

1. General Minimum Standard.

- a. All uses that require off-street motor vehicle parking shall, except as specifically noted, provide one bicycle parking space for every five required motor vehicle parking spaces.***
- b. Except as specifically set forth herein, all such parking facilities shall include at least two sheltered parking spaces or, where more than 10 bicycle spaces are required, at least 50 percent of the bicycle parking spaces shall be sheltered.***
- c. When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:***
 - i The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.***
 - ii. The proposed use generates less than 50 vehicle trips per day.***
 - iii. No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.***
 - iv. The size, weight, or dimensions of the goods sold at the site makes transporting them by bicycle impractical or unlikely.***
 - v. The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.***

FINDING: The subject property is located outside of an unincorporated community. In addition, the property is accessed by Neff Road, which does not contain bikeways such as designated bike lanes. The proposal includes a new access from Hamby Road, which also does not contain bikeways. The applicant states the following regarding required bike parking:

While the park "is located outside of an unincorporated community, a destination resort, or a rural commercial zone"; estimating bike parking requirements for this community park is an inexact science. Much of the new development planned for the park is bicycle oriented, however, the remote location and lack of bicycle facility infrastructure on roads leading to the park makes it likely that a majority of users will continue to arrive by private vehicle. An exception to the bicycle parking standards is warranted since access to the site is via roads with no bikeways and bicycle use by customers or employees is unlikely.

Based on this information, compliance with the exceptions criteria is met and no bicycle parking is required. Notwithstanding this exception, because the proposed park expansion includes bike staging areas and bike shelters, there is adequate bicycle parking on-site, if needed.

IV. CONCLUSION AND RECOMMENDATION:

Based on the findings and conclusions set forth above and the record herein, applications 247-18-000105-CU and 247-18-000164-SP are APPROVED except that the proposed modification /expansion to install field lighting is DENIED. These approvals are subject to the following conditions of approval:

1. No building or structure, including the start tower, shall be erected or enlarged to exceed 30' in height.
2. All lighting on the subject property shall be required to comply with Chapter 15.10 of the Deschutes County Code, the Outdoor Lighting Control Ordinance. All exterior lights shall be sited and shielded so that no direct light projects off-site. All lighting shall be designed to minimize generation of ambient light and shall be shielded or otherwise designed and installed so that light does not trespass onto adjacent properties and shall be "dark sky" compliant. Bike park west, including the start tower, the R/C track area and bike park east shall not include lighting except to the extent required, if any, to comply with adopted building, fire, life or safety codes.
3. All lighting on the property shall comply with Chapter 15.10 of the Deschutes County Code, the Outdoor Lighting Ordinance. All exterior lights shall be sited and shielded so that no direct light projects off site. Bike park west, including the start tower, the R/C track area and bike park east shall not include any lighting except typical path exit/entrance and additional lighting as may be required to comply with building, fire, life or safety codes.
4. The applicant shall obtain driveway access permits for any new or existing unpermitted driveway accesses to Neff Rd or Hamby Rd. pursuant to DCC 12.28.050, 17.48.210(A) and 18.124.060(K).
5. The existing access to Hamby Rd, located approximately 70 ft. north of the intersection with Neff Rd., and the existing westerly access to Neff Rd, located approximately 150 ft. east of the intersection shall be severed and removed from the public right of way.

6. The existing access to Neff Rd. located approximately 375 ft. east of the intersection with Hamby Rd may be used as a service access road only. Applicant will post signs at the access indicating that the access is service only and not a public access. Further, applicant shall ensure that park visitor traffic on interior roads is restricted from using the access for egress by means of a gate, landscaping or other physical barriers.
7. Prior to commencing construction, the applicant shall dedicate to the public additional right of way along the subject property frontages on Neff and Hamby Roads to provide the minimum standard arterial right-of-way width of 40' from centerline.
8. Neither bike park west nor the R/C vehicle track shall be used for organized events, including races or competitions.
9. No trail closer than 250' from the northern boundary adjacent to Eastmont Estates shall be used for organized events, including but not limited to cross-country team practices or competitions and cyclocross races. No direct trail access from the single-track trails to the perimeter trail is permitted within the area adjacent to Eastmont Estates. The applicant may reconfigure the trails outlined in Sheet TD-100 to accommodate this condition.
10. The applicant shall install and maintain signs notifying of the park boundary along Eastmont Estates and directing that private property not be entered. The signs shall be a minimum of every 100' and shall comply with any applicable Code requirements.
11. There shall be no use of permanent amplified sound systems. No sound amplification shall be permitted for uses associated with bike park west or the R/C vehicle track. To the extent any other amplification is permitted under prior approvals or County Code, it shall comply with applicable DEQ and County standards and be used only as reasonably necessary to start and manage events (e.g. no play by play, promotional use). Nothing in this condition restricts or prohibits use of amplification in case of emergency.
12. All organized events, including but not limited to team practices and competitions shall end by 9:30 p.m.
13. At least the minimum number of ADA parking spaces shall be provided based on review by the County Building Safety Division (estimated at 10).
14. All required landscaping shall be maintained continuously and kept alive and attractive.
15. All walkways that cross driveways and parking areas shall be clearly identifiable using striping or similar method.
16. Required parking spaces shall not be used for storage of vehicles or materials or for parking trucks used in conducting park operations.

17. Prior to use of the R/C vehicle track, the applicant shall erect a minimum 6' high solid fence that extends at least 20' in each direction (NE/SW) beyond the area in which such vehicles will operate to a maximum of 120', to provide a noise buffer for uses to the west of the park.

Done and Dated this 28th day of August 2018



Dan R. Olsen
Hearings Officer

THIS DECISION BECOMES FINAL TWELVE DAYS AFTER MAILING UNLESS TIMELY APPEALED