

## Kuhn v DesCo Assessor MD-150093D

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#### rebuttal

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This agreement made and entered into this 3rd day of August 1989, by and between MARK BURCHETT, hereinafter "seller" and JEFF DOWELL and PATTI DOWELL, hereinafter "purchaser", witnesseth that:

(I) "Seller" hereby agrees to sell to "purchaser" and "purchaser" agrees to purchase and pay for certain real property located in Deschutes County, Oregon and more particularly described as follows, to wit: A parcel of land located in the North 1/2 of Section 19, T.16 S., R. 11 E., W.M., Deschutes County, Oregon which is described as follows:

Commencing at the Northeast corner of said Section 19; thence N 89°11'47" W 1208.23'; thence S 00°48'13" W 200.00 feet to the TRUE POINT OF BEGINNING; thence S 89°11'47" E 946.35' to the Westerly right-of-way line of the Sisemore County Road; thence along said right of way line on a 153.80' radius curve right 77.43', the long chord of which bears S 29°07'55" W 76.62'; thence along said right of way line S 43°33'17" 117.24'; thence along said right of way line on a 194.18' radius curve right 81.01', the long chord of which bears S 55°30'22" W 80.42'; thence N 89°11'47" W 826.06'; thence N 00°48'13" E 200.00'; thence S 89°11'47" E 61.29' to the TRUE POINT OF BEGINNING containing 34.5 acres more or less.

(2) A parcel of land located in Section 19, T.16 S., R.11 E., W.M., Deschutes County, Oregon and described as follows:

Beginning at the Northeast corner of said Section 19; thence N 89°11'47" W 306.60 feet to the Westerly right-of-way line of Sisemore County Road and the true point of beginning; thence along said right-of-way line S 23°56'02" E, 66.67 feet; thence along said right-of-way line on a 233.88 foot radius curve right 114.47 feet, the long chord of which bears S 09°54'46" E, 113.33 feet; thence along said right-of-way line on a 153.80 foot radius curve right 28.46 feet; the long chord of which bears S 09°24'32" W 28.42 feet; thence N 89°11'47" W, 946.35 feet; thence N 00°48'13" E, 200.00 feet; thence S 89°11'47" E, 901.63 feet to the TRUE POINT OF BEGINNING, containing 4.3 acres more or less net.

II. The total purchase price of forty-two thousand dollars (\$42,000) is to be paid by "purchaser" to "seller" in a manner more particularly described as follows: (1) "Purchaser" pays twenty-five thousand dollars (\$25,000) upon acceptance of this agreement, (2) "Purchaser" pays remaining balance seventeen thousand dollars (\$17,000) over 15 years at a fixed interest rate of 9.5% with option to recalculate mortgage whenever a lump sum payment of five thousand dollars (\$5,000) or more is made. There are no penalties for paying off mortgage early and early payment is encouraged by both parties.

III. Conveyance of the real property by "seller" to the "purchaser" shall be made by warranty deed conveying marketable title in and to the subject property subject to all easements and incumbrances of record upon final payment of subject property.

IV. "Purchaser" shall be entitled to possession of said property upon acceptance of this agreement.

V. All ad valorem real property taxes and all governmental or other assessments levied against said property for the current tax year shall be divided equally between "seller" and "purchaser" (July 1st was approximate date of verbal agreement). "Purchaser" shall pay recording fees for recording the deed. "Seller" shall pay the recording fees for release of deed of trust.

- VI. "Purchaser" agrees to land use restrictions described as follows:
1. Owners or family members may not operate dirt bikes on the property.
  2. All telephone and electric lines must be underground.
  3. All fencing must be wood. Top rail may not be higher than 42", bottom rail may not be lower than 18". No barbed wire or straight wire may be used for fencing.
  4. Owner or family members may not take target practice with rifle or handgun on property.
  5. This contract carries with it the strongest encouragement to demonstrate sensitivity to living within the boundaries of the Tumalo Winter Deer Range, and urges the owners to adjust their lifestyle accordingly.

VII. This agreement is the entire, final and complete agreement of the parties to the sale and purchase of said property, and supersedes and replaces all prior existing written and oral agreements between both parties.

VIII. "Purchaser" accepts said property in its present condition, as is, including latent defects, without any representations or warranties, expressed or implied. "Purchaser" agrees that "purchaser" shall ascertain, from sources other than "seller", the applicable zoning, building, housing and other regulatory ordinances and laws and that "purchaser" accepts said property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of said property, and "seller" has made no representations with respect to such laws and ordinances. This instrument does not guarantee that any particular use may be made of the property described in this instrument. "Purchaser" should check with the appropriate county planning department to verify approved uses.

19890803 what the Dowell claimed in their Contract-Deed Binder.pdf

Mark Burchett  
Mark Burchett ("seller")

9/20/89  
date

Joyce A. Stran  
Notary Public for the "seller"



Jeff Dowell  
Jeff Dowell ("purchaser")

9/6/89  
date

Patti Dowell  
Patti Dowell ("purchaser")

9/7/89  
date

State of New York  
County of Monroe) SS.:

On this 7th day of September, 1989, before me personally appeared  
Jeff Dowell and Patti Dowell to me known and known to me to be the  
individual(s) described in and who executed the within instrument, and he/they  
acknowledged to me that he/they executed the same.



9-7-89  
date

Note: Please send all subsequent tax documents to:

Jeff Dowell  
422 Lakeshore Drive  
Hilton NY 14468

19890803 what the Dowell claimed in their Contract-Deed Binder.pdf

*MJP*

*[Faint signature]*

*[Faint signature]*

STATE OF OREGON )  
COUNTY OF DESCHUTES ) 55

I, MARY SUE PENHOLLOW, COUNTY CLERK AND  
RECORDER OF CONVEYANCES, IN AND FOR SAID  
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS RECORDED THIS DAY:

89 SEP 28 PM 2:32

MARY SUE PENHOLLOW  
COUNTY CLERK

MD-150093D Ex# 21 Pg# 4

✓  
*David Arntz*  
*18350 Skyline Rd*  
*Bend, OR 97701*

BY: *[Signature]* DEPUTY  
NO. 89-24952 FILE 25-  
DESCHUTES COUNTY OFFICIAL RECORDS

19890803 what the Dowell claimed in their Contract-Deed Binder.pdf

Legal Descriptions as described in the  
1989 First Deed Contract-Deed

19890928 Deschutes Co  
Clarke Records\_199-0075  
1989-024928 page 1 of Contract Deed

Parcel (1) is 4.30 Acres

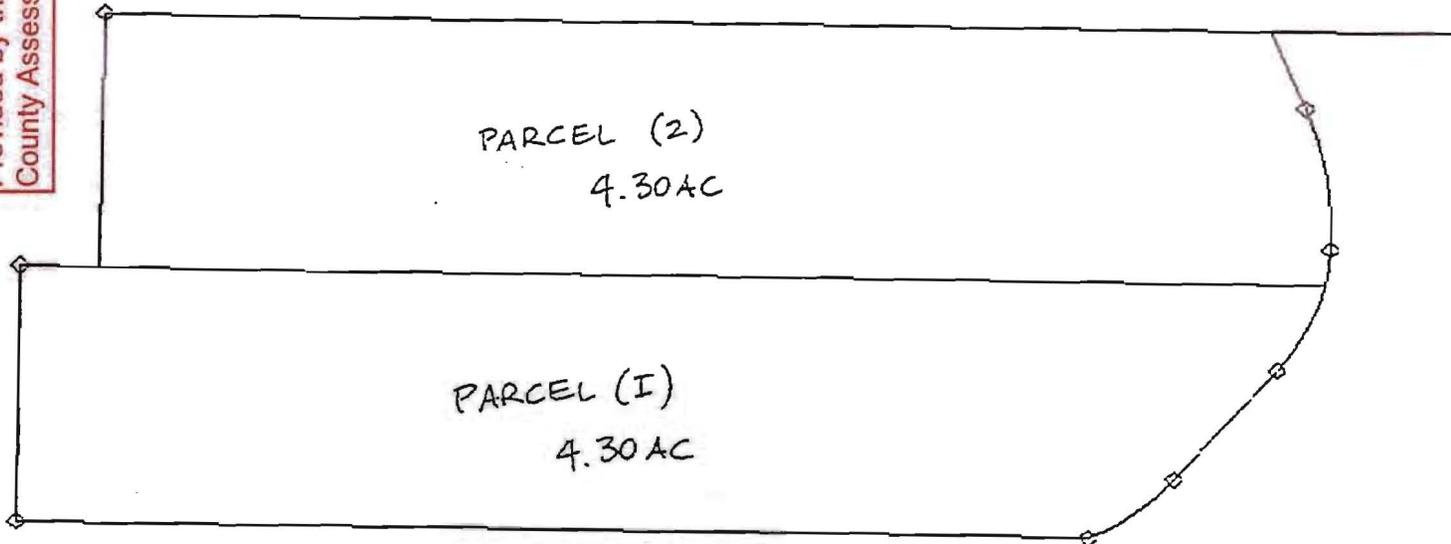
Parcel (2) is 4.30 Acres

Kuhn's here a title policy covering each of  
what is described as Parcel (1) from their  
1987 purchase with for the adjustment.

ARCEDIT

Pan/Zoom

Provided by the Deschutes  
County Assessor's Office

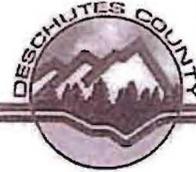


Produced by Deschutes County Cartography Department - John Cain from 3 August 1989 Contract.

This 3 August 1989 Contract is null and void based on contract recorded 11 July 1990 Document # 1990-020037 Book & Page 213-1074.

This document is saved as:  
19890803 Incorrect Acrea and Bound from 19890803 Dowell Contract-Deed - Cartographer John Cain  
19900711 Incorrect Acrea and Bound from 19890803 Dowell Contract-Deed - Cartographer John Cain  
20070419 Incorrect Acrea and Bound from 19890803 Dowell Contract-Deed - Cartographer John Cain

Deschutes County Assessor's Office  
1300 NW Wall St., Suite 200  
Bend, Oregon 97701  
Phone (541) 388-6508



John Cain,  
Cartographer's Office  
Assessor's  
Office

Scot Langton, Assessor

8:00 am to 5:00pm  
1300 NW Wall St. Suite 200 • Bend, Oregon 97701  
(541)388-6508 • Fax 330-1629  
Web Site: www.co.deschutes.or.us

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Thank  
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By PM

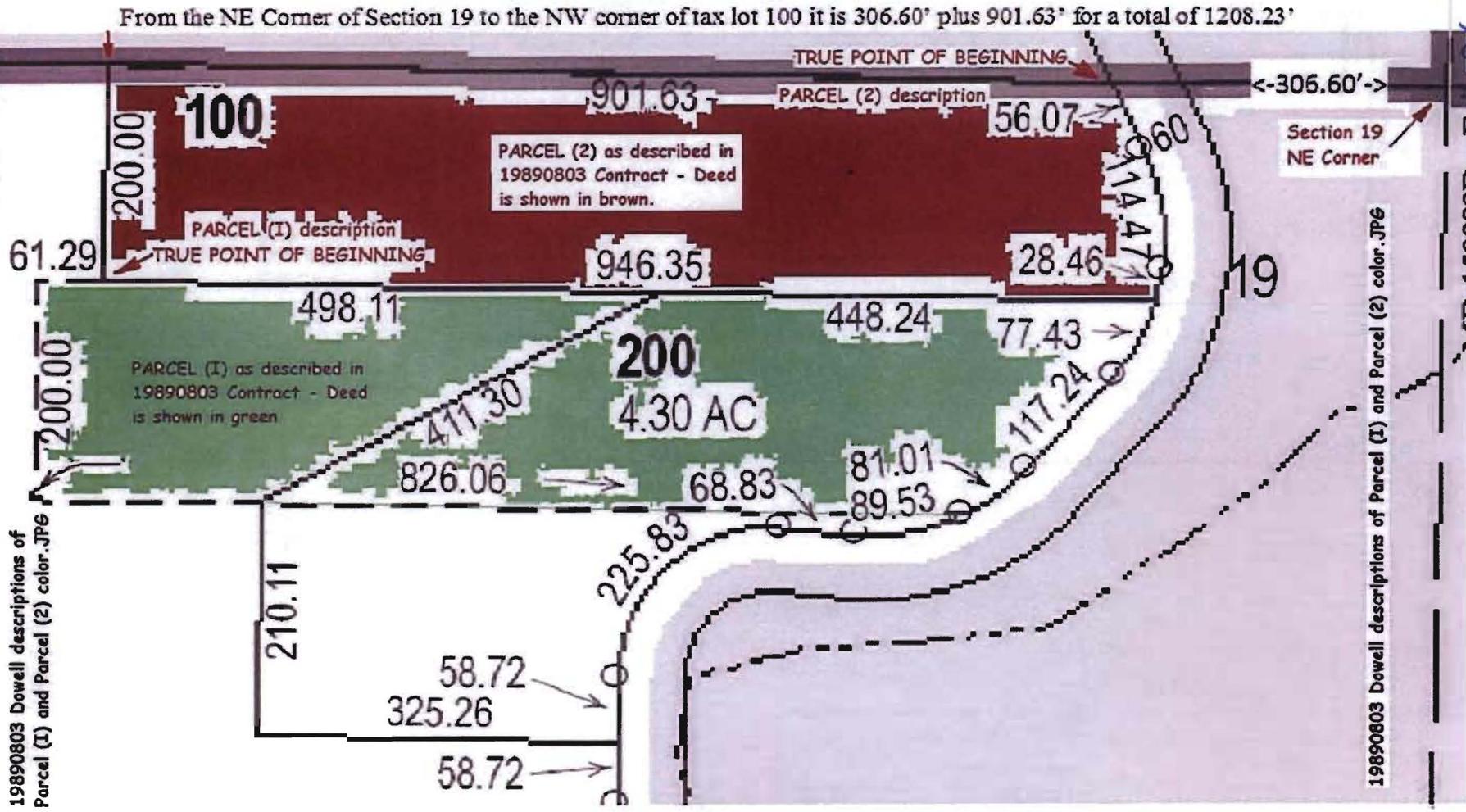
000111

4-19-07

Dollars \$ 4,000.00

MD-150093D Ex# 21 Pg# 5

MD-150093D Ex# 21 Pg# 5



89-24952  
Contract - Deed

This agreement made and entered into this 3rd day of August 1989, by and between MARK BURCHETT, hereinafter "seller" and JEFF DOWELL and PATTI DOWELL, hereinafter "purchaser", witnesseth that:

(I) "Seller" hereby agrees to sell to "purchaser" and "purchaser" agrees to purchase and pay for certain real property located in Deschutes county, Oregon and more particularly described as follows, to wit: A parcel of land located in the North 1/2 of Section 19, T.16 S., R. 11 E., W.M., Deschutes County, Oregon which is described as follows:

**The following is what the Dowells are describing to be the ~34.5 acres of land and that it is owned entirely by the Dowells.**

**The following is the Dowell created legal description with all the 'thence's lined up so they are easier to read.**

Commencing at the Northeast corner of said Section 19; thence N 89°11'47" W 1208.23';  
thence S 00°48'13" W 200.00 feet to the TRUE POINT OF BEGINNING;  
thence S 89°11'47" E 946.35' to the Westerly right-of-way line of the Sisemore County Road;  
thence along said right of way line on a 153.80' radius curve right 77.43',  
the long chord of which bears S 29°07'55" W 76.62';  
thence along said right of way line S 43°33'17" 117.24';  
thence along said right of way line on a 194.18' radius curve right 81.01',  
the long chord of which bears S 55°30'22" N 80.42';  
thence N 89°11'47" W 826.06';  
thence N 00°48'13" E 200.00';  
thence S 89°11'47" E 61.29' to the TRUE POINT OF BEGINNING  
containing 34.5 acres more or less.

**If you follow this on a partition plat map or on the tax map...**

The description begins at the 4 section corner of Sections 18, 17, 19, and 20. Measuring almost due West 1208.23 feet. (to the NW corner of the Dowell TL100) Then almost due South 200.00 feet to the TRUE POINT OF BEGINNING. Then we go almost due east 946.35 feet to get back to Sisemore Road. Then we go South along the arch of the road, 1st 77.43 feet, then strait 117.24 feet, then we take the arch of the road again for another 81.01' then we go West 826.06'; then we go North 200.00'; and then we go East again for 61.29' back to the TRUE POINT OF BEGINNING and this contains 34.5 acres more or less.

**In fact it describes 2/3's of the KUHN's parcel, and it describes 4.3 acres of land.**

**There is no mention of only 1/2 interest in what is supposed to be JOINT ownership.**

35

**The following is what the Dowells are describing to be the 4.3 acre building lot. The following is the Dowell created legal description with all the 'thence's lined up so they are easier to read.**

(2) A parcel of land located in Section 19, T.16 S., R.11 E., W.M., Deschutes County, Oregon and described as follows:

Beginning at the Northeast corner of said Section 19;  
thence N 89°11'47" W 306.60 feet to the Westerly right- of-way line of Sisemore County Road and the true point of beginning;  
thence along said right-of-way line S 23°56'02" E, 66.67 feet;  
thence along said right-of-way line on a 233.88 foot radius curve right 114.47 feet, the long chord of which bears S 09°54'46" E, 113.33 feet;  
thence along said right-of-way line on a 153.80 foot radius curve right 28.46 feet; the long chord of which bears S 09°24'32" W 28.42 feet;  
thence N 89°11'47" W, 946.35 feet;  
thence N 00°48'13" E, 200.00 feet;  
thence S 89°11'47" E, 901.63 feet to the TRUE POINT OF BEGINNING, containing 4.3 acres more or less net.

**NOTE: Price is for 2 parcels [ (1) 34.5 acres more or less; AND (2) 4.3 acres ]**

II. The total purchase price of forty-two thousand dollars (\$42,000) is to be paid by "purchaser" to "seller" in a manner more particularly described as follows: (1) "Purchaser" pays twenty-five thousand dollars (\$25,000) upon acceptance of this agreement, (2) "Purchaser" pays remaining balance seventeen thousand dollars (\$17,000) over 15 years at a fixed interest rate of 9.5% with option to recalculate mortgage whenever a lump sum payment of five thousand dollars (\$5,000) or more is made. There are no penalties for paying off mortgage early and early payment is encouraged by both parties.

**How much of the \$42,000 is for the 4.3 acres?  
How much for the 34.5 acres more or less?"**

III. Conveyence of the real property by "seller" to the "purchaser" shall be made by warranty deed conveying marketable title in and to the subject property subject to all easements and incumbrances of record upon final payment of subject property.

IV. "Purchaser" shall be entitled to possession of said property upon acceptance of this agreement.

V. All ad valorem real property taxes and all governmental or other assessments levied against said property for the current tax year shall be divided equally between "seller" and "purchaser" (July 1st was approximate date of verbal agreement). "Purchaser" shall pay recording fees for recording the deed. "Seller" shall pay the recording fees for release of deed of trust.

**NOTE: the Dowells had NOT YET met the Kuhns. The Dowells introduced themselves to the Kuhns on the long July 4th weekend of 1989.**

**This contract was drawn up by the Dowells and claims ownership of a large portion of the Kuhn property, as well as full ownership of the joint parcel.**

**Also note: the Dowells, through this 'Contract - Deed' are attempting to remove the 'No-Dog' deed restriction which was recorded for the cluster on 20 July 1987.**

VI. "Purchaser" agrees to land use restrictions described as follows:

1. Owners or family members may not operate dirt bikes on the property.
2. All telephone and electric lines must be underground.
3. All fencing must be Wood. Top rail may not be higher than 42", bottom rail may not be lower than 18" . No barbed wire or straight wire may be used for fencing.
4. Owner or family members may not take target practice with rifle or handgun on property.
5. This contract carries with it the strongest encouragement to demonstrate sensitivity to living within the boundaries of the Tumalo Winter Deer Range, and urges the owners to adjust their lifestyle accordingly.

VII. This agreement is the entire, final and complete agreement of the parties to the sale and purchase of said property, and supersedes and replaces all prior existing written and oral agreements between both parties.

VIII. "Purchaser" accepts said property in its present condition, as is, including latent defects, without any representations or warranties, expressed or implied. "Purchaser" agrees that "purchaser" shall ascertain, from sources other than "seller", the applicable zoning, building, housing and other regulatory ordinances and laws and that "purchaser" accepts said property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of said property, and "seller" has made no representations with respect to such laws and ordinances. This instrument does not guarantee that any particular use may be made of the property described in this instrument. "Purchaser" should check with the appropriate county planning department to verify approved uses.

Note the missing number one restriction shown below from the recorded deed restrictions.

Covenants and Restrictions.

1. Owners or family members may not acquire additional dogs other than the dog(s) they may own when they purchase the property. All dogs must be kept in such a way that they do not run loose in the area. Dogs allowed to "run" will disrupt deer habitat.
2. Owners or family members may not operate "dirt bikes" on the property.
3. All telephone and electric lines must be underground.
4. All fencing must be wood. Top rail may not be higher than 42"; bottom rail may not be lower than 18". No barbed wire or straight wire may be used for fencing.
5. Owners or family members may not take "target" practice with rifle or hand gun on property.
6. This contract carries with it the strongest encouragement to demonstrate sensitivity to living within the boundaries of the Tumalo Winter Deer Range, and urges the owners to adjust their life style accordingly.

[http://recordings.deschutes.org/Detail.asp?INSTRUMENT\\_ID=133399](http://recordings.deschutes.org/Detail.asp?INSTRUMENT_ID=133399)



Deschutes County Clerks Office  
Recording System Web Query

MD-150093D Ex# \_\_\_ Pg# 10

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DOCUMENT #: 1989-024952  
 DOCUMENT TYPE: D - DEED  
 DOC SUBTYPE: CON - Contract Records  
 RECORDING DATE: 9/28/1989 2:32:00 PM  
 RECORDING FEES:  
 BOOK & PAGE: 193-75  
 CONSIDERATION: \$42,000  
 DESCRIPTION: D-C 1 - Contract of Sale  
 INDEXED: Yes  
 VERIFIED: Yes  
 ARCHIVE DATA: [View Additional Information](#)  
 IMAGE: [View Document Image as TIF](#)  
[View Document Image as PDF](#)

Return To

NAME	ADDRESS	ADDRESS 2	CITY	STATE	ZIP

Parties

PARTY TYPE	LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
DIRECT	BURCHETT	MARK		
INDIRECT	DOWELL	JEFF		
INDIRECT	DOWELL	PATTI		

Legal Descriptions

SUBDIVISION	LOT	BLOCK	DIRECTION	PART	PART TYPE	TWN	RNG	SECT			
QQ	TAXLOT	PARCEL	LEGAL DESCRIPTION								
						16	11	19			S19 T16 R11 N1/2
						16	11	19			S19 T16 R11
						16	11	19	00	001	

[http://recordings.deschutes.org/ArchiveData.asp?INST\\_ID=133399](http://recordings.deschutes.org/ArchiveData.asp?INST_ID=133399)



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LOCATION	193-75
NOTES	SEE DOCUMENT FOR COMPLETE LEGAL
NOTES	CONTRACT DEED
RECEPTION NUMBER	89-24952

MD-150093D Ex# 21 Pg# 10

**Kuhn**  
**vs**  
**Deschutes County Assessor Scot Langton**

**MD-150093D Ex# 21 ~Pgs# 10**

**19890803 what the Dowell claimed in  
their Contract-Deed \_Binder.pdf**

**2 - 3 November 2015**



**Kuhn**  
**vs**  
**Deschutes County Assessor Scot Langton**

**MD-150093D Ex# 22-24 ~Pgs# 67**

**Dowell 1992 LM-92-9 \_\_\_\_\_**

**22 19920204\_Draft-1\_LM-Supporting Doc with map Dowell to Cibelli with notes added .pdf \_\_\_\_\_**

**23 19920210 Blikstad to Dowell with MP map and Sight map attached \_\_\_\_\_**

**24 19920129\_LM-92-9\_Complete.pdf Does not include the discovery documents**

**2 - 3 November 2015**



2/4/92

(1st of two cover letters/versions sent)

Frank Cibelli  
1972 N.E. 3rd St.  
Bend OR 97701

This letter from Dowell to Cibelli written on 4 Feb 1992 was before CDD's Paul Blikstad's letter to Jeff Dowell on 10 Feb 1992.

This shows that the Dowells knew about, and originally planned for their structure to be in front of the maximum building line as shown on the final partition plat map.

Dear Frank,

I had a long talk with Brian Harrington at the planning commission shortly after we spoke yesterday. He is the same contact that is currently processing/approving Thommy's application. We spoke at great length about how similar my application was going to be to Thommy's and he pointed out a couple of things that he wanted to see different on mine, and I've made note of them below.

I've also attached little yellow post-it notes to key areas of some of the documentation that I've enclosed. For your reference, I'll make mention of them in my dialog and call them out by number.

To take things from the beginning, on 12/31/91, I had my parents go down and pick up from Brian Harrington what he described as 'everything I needed' to submit my application. What I got was #1, #2, #3 & #4. In talking with Brian yesterday on the phone, he confirmed that the important elements of the application had been highlighted in yellow. I also made some notes on comments he made to me over the phone next to a few of the highlighted areas.

I have enclosed a separate document, "Supporting Documentation, which addresses all of these to what I hope will be Brian's and the Planning Boards satisfaction. You might want to run this document by him early on in the process, just in case there are any major changes that need to be made to it. As a matter of fact, you might want to take a look at it yourself and make sure I didn't put anything in there that would raise a flag or is better left unsaid. If you or Brian have suggested changes, just give me a call. I've got it all on the computer here so it's a snap to edit it as much as necessary.

I have also enclosed the copies of Bartons Site Map and responses to the "regulations," as well as an overall topographical map to the area. I assume you are already familiar with them as it's my understanding that you worked with he and JB very closely on his recent submission. These documents are labeled #5 & #6 respectively.

For your reference, and for submittal with the application, I draw your attention to the "Acreage Overview" and Appendix III & IV of the "Supporting Documentation." These give you a good idea of the location, type and shape of the house I have in mind.

Please give me a call after you get this information and have a chance to go over it. I need to know that I gave you everything that you/we need to get this application submitted, approved and on-file. Can you give me an idea as to how long you think it will take to the work you need to do, and of equal importance, when you'll have a chance to start working on it. My concern is obviously that it gets in ahead of the fast approaching zone change which started all this frenzied activity a little more than a month ago.

Thanks again for your assistance. I owe you one and will obviously pick up an out of pocket expenses you incur as well as pay you whatever you feel is fair for your time and efforts on my behalf.

Respectfully,

Jeff T Dowell  
422 Lakeshore Drive  
Hilton NY 14468  
Day: 800 888 7860 EST  
Eve: 716 392 7271 EST

The "Acreage Overview" map shows the proposed structure between the maximum building line and the road.

Mr. Dowell is feeling rushed because of the New WA 18.88 using 300 ft maximum building line will restrict where he can build even more than the static hard coded maximum building line on the final partition plat map. Also, F-3 18.44 goes away. Must use F-2 18.40.

Mr. Dowell is willing to pay Cibelli for his "time and efforts on my behalf", but refuses to compensate those who have tended to his half of the joint property since he bought in 1989.

This letter from Dowell to Cibelli written on 4 Feb 1992 was before CDD's Paul Blikstad's letter to Jeff Dowell on 10 Feb 1992.

This shows that the Dowells knew about, and originally planned for their structure to be in front of the maximum building line as shown on the final partition plat map.

2/7/92

*(2nd of two cover letters/versions sent. This was approved by the planning board on 2/9/92. Done deal as I understand it. We're supposed to be getting written confirmation shortly and have one year to get building started)*

Frank Cibelli  
1972 N.E. 3rd St.  
Bend OR 97701

Dear Frank,

I've made some additions to the parts of the application as we talked about this weekend. If there needs to be further elaboration, let me know and I'll add some more.

I'll be in Chicago the next 3 days so if you need to get a hold of me, leave word here at the office and I'll call you from there.

Thanks,

Respectfully,

Jeff T Dowell  
422 Lakeshore Drive  
Hilton NY 14468  
Day: 800 888 7860 EST  
Eve: 716 392 7271 EST

## Supporting Documentation

Forest Use

18.44.010

Purpose

Understanding the purpose of F-3 Zoning, following paragraphs address the burden of proof required, as well as carefully outline the intent and level of awareness and sensitivity of the people who already live in the properties immediately adjacent to mine.

Perhaps the single most important point to bring to light in substantiating my case for allowing a house to put on this land is the fact that a precedent has already been set which deemed the properties immediately adjacent to this one, not suitable for forest use, and thus, not posing any threat or negative impact to the Purpose stated in 18.44.010. There is no irrigation or running water of any type in the area, thus no opportunity for crop or forest management and the soil content is predominantly sand and pumice dust, with a consistency barely sufficient to support patches of sage brush and a small number of juniper trees. The only way to get water is amounts sufficient for use is to drill a well, an even then, the amount available would support a single household. It would be nothing which could support forest or agriculture harvesting.

To further support the above statement, it should be noted that within the last 18 months, a new residence has been erected on the tax lot 200 (see enclosed map labeled "Acreage Overview") immediately adjacent to my lot, a conditional use permit application very similar to this one has been granted for a house to be constructed on tax lot 500, and there has been a residence on tax lot 400 for the last 10+ years.

Additionally, the following were conditions incorporated into a legally binding contract that I approved when I signed the purchase contract on this property:

1. Owners or family members may not operate dirt bikes on the property.
2. All telephone and electric lines must be underground.
3. All fencing must be wood. Top rail may not be higher than 42", bottom rail may not be lower than 18" . No barbed wire or straight wire may be used for fencing.
4. Owner or family members may not take target practice with rifle or handgun on the property.
5. This contract carries with it the strongest encouragement to demonstrate sensitivity to living within the boundaries of the Tumalo Winter Deer Range, and urges the

owners to adjust their lifestyle accordingly.

I can assure you that every precaution will be taken with respect to the actual building of the house and the required modifications to the area immediately surrounding the house.

Forest Use                      18.44.040                      Limitations on Conditional Uses

As was detailed in 18.44.010, Purpose, above, this land has already been designated as not suitable for forest use, and as such, the conditions stated in 18.44.040, are all met as follows:

- A. This use is consistent with existing farm and forest uses as set forth in the stated articles.
- B. Establishment of this residence would in no way interfere with farm or forest use on adjacent lands because as noted above, none of the adjacent lands are suitable for such purposes, or are being used for such purposes.
- C. This proposed use in no way alters the stability of the overall land use pattern of the area, and further, is very consistent with the immediately surrounding properties, as detailed in 18.44.010 above.
- D. This property is not suitable for timber production since the soil is very rocky and sandy and is covered by sparse scrub juniper, not to mention the fact that water is not present in sufficient amounts to support forest or agriculture management of any type. The precedent now in effect is that this area is generally known as being unsuitable for timber production and the production of farm crops and livestock, particularly when one considers the terrain, and adverse soil and water conditions. The top soil is too thin and void of the necessary nutrients for good alfalfa or grass production or harvesting.

Forest Use                      18.44.050                      Limitations on Non-Forest Residential & Recreational Uses

- A. This use is consistent with these distance and proximity considerations and regulations.
- B. This stipulation does not apply, as there are no such surrounding uses or areas.
- C. This proposed use will in no way negatively impact the current public services, existing road systems or traffic demands and/or fire protection support mechanisms. All of these mechanisms are now in place for the existing residences in the area and will not be affected by the addition of one more house. Relating specifically to fire protection, a pond on tax lot 400 was recently used for helicopter water-refilling during the "delicious road" fire and will always be accessible for public use.

- in fire emergency.
- D. Nothing in my proposed use of the land will in any way tax or affect the capacity of the soil type, or in any significant way alter it from it's current state. My proposed building site, and for that matter, the majority of my lot, is rock base, with minimal soil of any type.
  - E. There is no forest production in the area. The nearest known forest production is at least 20 miles away.
  - F. My proposed home site is on a very gradual down slope, in an existing clearing, almost completely obscured from view on Sisemore Rd. With the possible exception of one or two 3-4 ft scrub junipers, no trees will be cut to accommodate my homesite or driveway.
  - G. This proposal is consistent with the Comprehensive Plan.
  - H. A well will be dug similarly to those on tax lot 200 and 400 and it is assumed that it will produce the necessary quantity and quality of water to support my residence. The sanitary disposal systems and solid waste disposal will be handled by leech fields extending westward away from the proposed building site, all in accordance with established code.
  - I. The house site is situated so as to maximize the exposure to the southern sun during the winter. The existing house plans also call for a passive solar design, with the potential addition of active solar cells in the near future, particularly as the costs associated with such alternative energy sources continue to drop.
  - J. Refer to "C" above
  - K. The effects on natural resources, habitats and wildlife will be minimized. As mentioned earlier, the entire 'community' has been developed with the utmost emphasis on the existing natural habitat and the conditions outlined in the purchase contract for the property further assure that such will always be a top priority. This proposed house site will be very difficult to see from the road or the immediately surrounding area, as it sits at the base of a long gradual slope with trees and brush surrounding the clearing. The pond on lot 400 also serves to draw in and support a wide variety of wild-life which might not otherwise be present in such density in this area.
  - L. J. Refer to "C" above

Forest Use

18.44.060

Dimensional Standards

- A. Please refer to the attached "Acreage Overview" for the approximate location and size of the lot. The overall lot itself is 40 acres in size, but it divided into three distinct parcels. The first is a parcel of approximately 3.4 acres owned by Bill and Leigh Kuhn (Map and Tax Lot # 16 11 19 00 00200). The second is a parcel of the same approximate 3.4 acres, owned by me (Lot 100). The remaining parcel, lot 300 is one which is shared in ownership by the two of us and is approximately

33.2 acres in size. This joint property is to be 'forever wild' and cannot, by contractual agreement, be built upon or altered in any way. Such was done to ensure a sufficient buffer zone to maintain the natural state of the habitats of the surrounding area.

Wildlife Area Combining Zone 18.88.060      Dimensional Stds.

A. Please refer to Forest Use, 18.44.060, Dimensional Standards, "A" above.

Respectfully submitted,

Jeff T Dowell  
422 Lakeshore Drive  
Hilton NY 14468

Day: 716 247 7860  
Eve: 716 392 7271

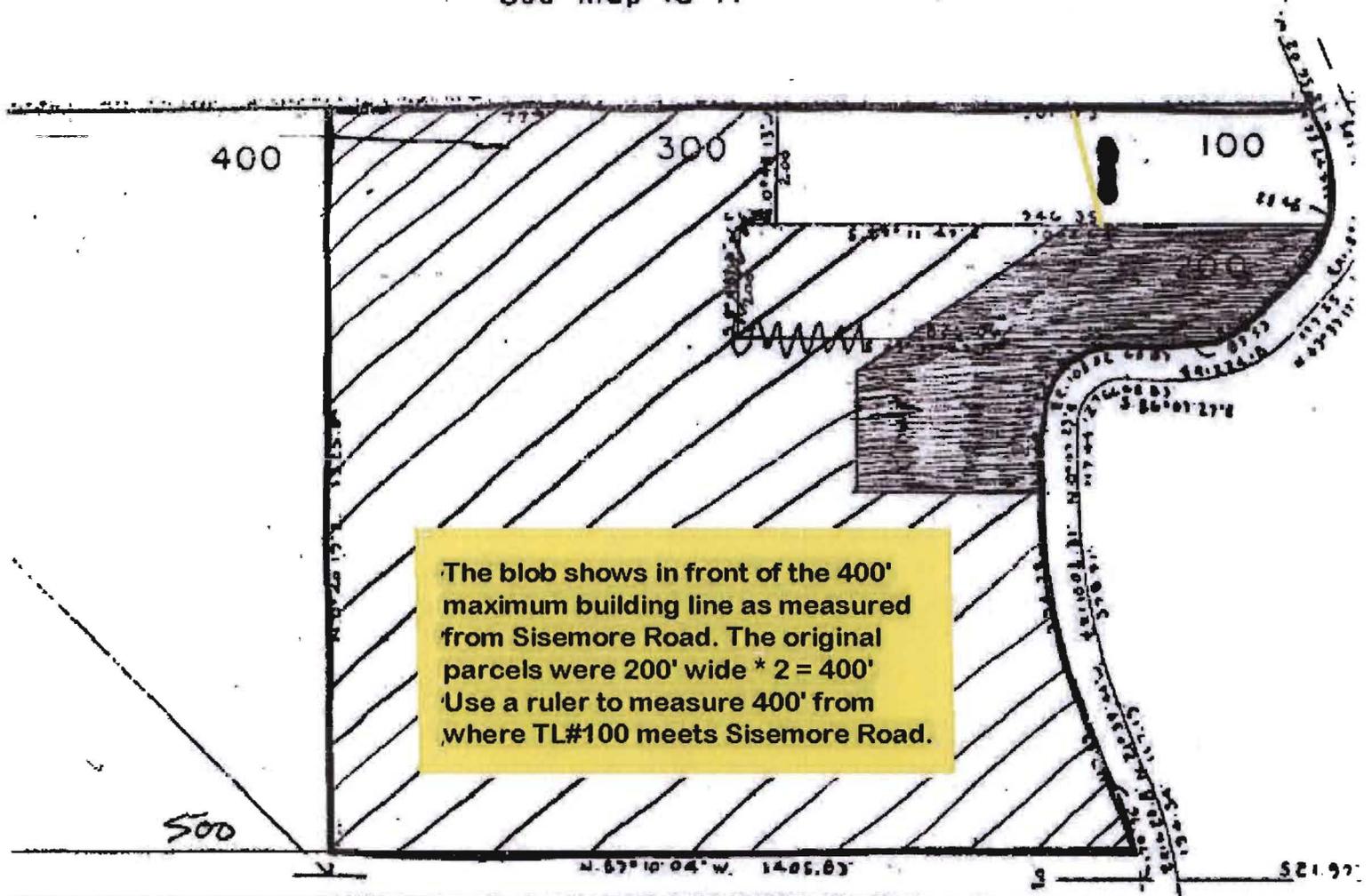
R.I.E.W.M.  
COUNTY



# "ACREAGE OVERVIEW"

-  3.4 acres (approx) owned by me (Jeff Dowell)
-  Shared ownership of 39.2 acres (approx)
-  3.4 (approx) owned by Bill & Leigh Kuhn

See Map 16 11



The blob shows in front of the 400' maximum building line as measured from Sisemore Road. The original parcels were 200' wide \* 2 = 400' Use a ruler to measure 400' from where TL#100 meets Sisemore Road.

See Map 16 11

920129\_LM-92-9\_AcreageOverviewMap.gif

MD-150093D Ex# 2 Pg# 8

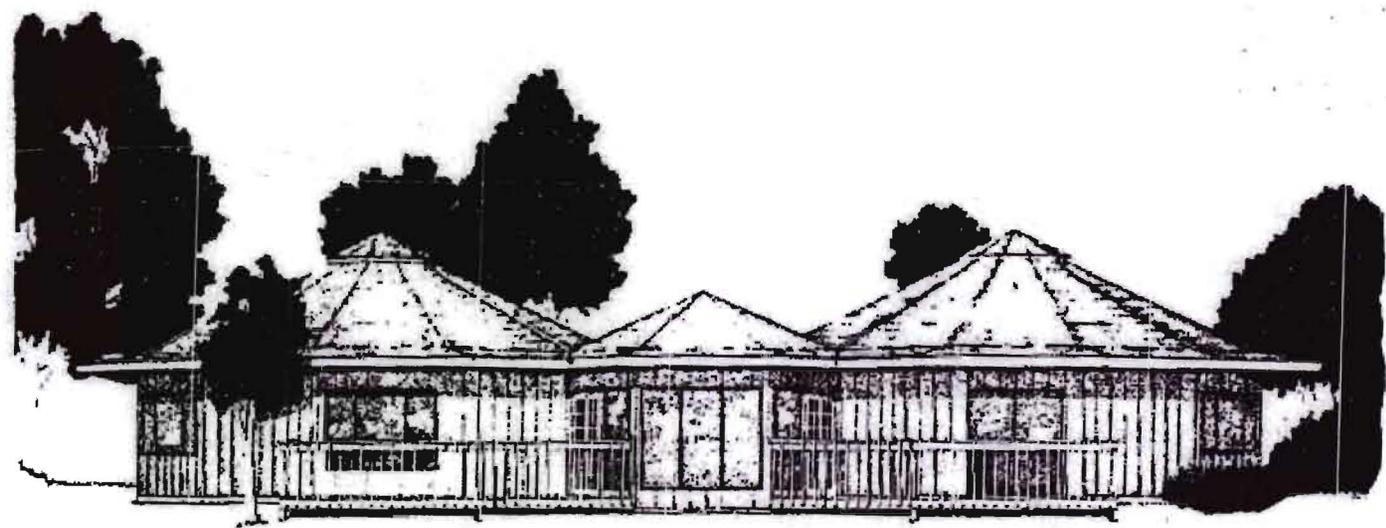
The above sketch is made solely for the purpose of assisting in

SISEMORE

920129\_LM-92-9\_ProposedFloorPlan-2.gif

# Appendix IV

## Proposed Home - Diamond Level View



920129\_LM-92-9\_ProposedFloorPlan-2.gif

# Deltec 800-C

MD-150093D Ex# 22 Pg# 9

ery foyer  
o Deltec units  
ue design of the  
design features  
in kitchen and a  
g-dining area as  
pacious family  
placement of the  
fover allows for

Kitchen and a dining area as a separate family room. The layout allows for a view from a large adjacent

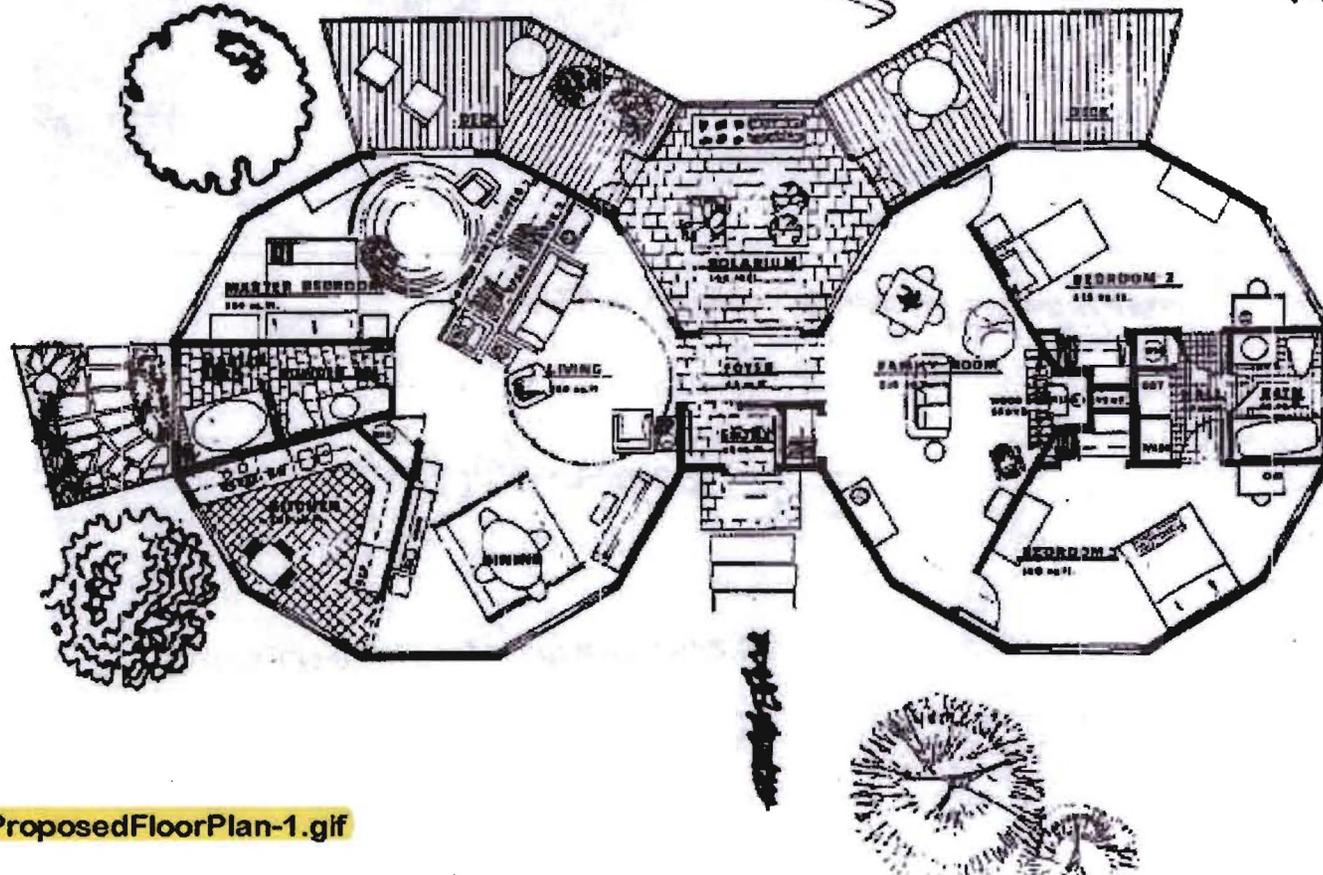
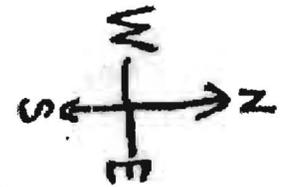
# Appendix III

920129\_LM-92-9\_ProposedFloorPlan-1.gif

## Proposed Home Lay Out - Floor Plan

34" Diameter (each)

1568 Sq Ft



(Each)

MD-150093D Ex# 22 Pg# 10

920129\_LM-92-9\_ProposedFloorPlan-1.gif

19920204\_Draft-1\_LM-Supporting Doc with map Dowell to Cibelli with notes added .pdf



## Community Development Department

Administration Bldg. / 1130 N.W. Harriman / Bend, Oregon 97701

(503) 388-6575

February 10, 1992

Planning Division  
Building Safety Division  
Environmental Health Division

Jeff Dowell  
422 Lakeshore Drive  
Hilton, New York 14468

Dear Mr. Dowell:

The property you own adjacent to Sisemore Road, described as 16-11-19, tax lot 100, was created by a Conditional Use (CU-80-22) and Minor Partition (MP-79-232) for two non-forest dwelling sites on the 43.1-acre total parcel. These land use approvals established the two parcels for building sites, and consequently a new conditional use permit will not be required.

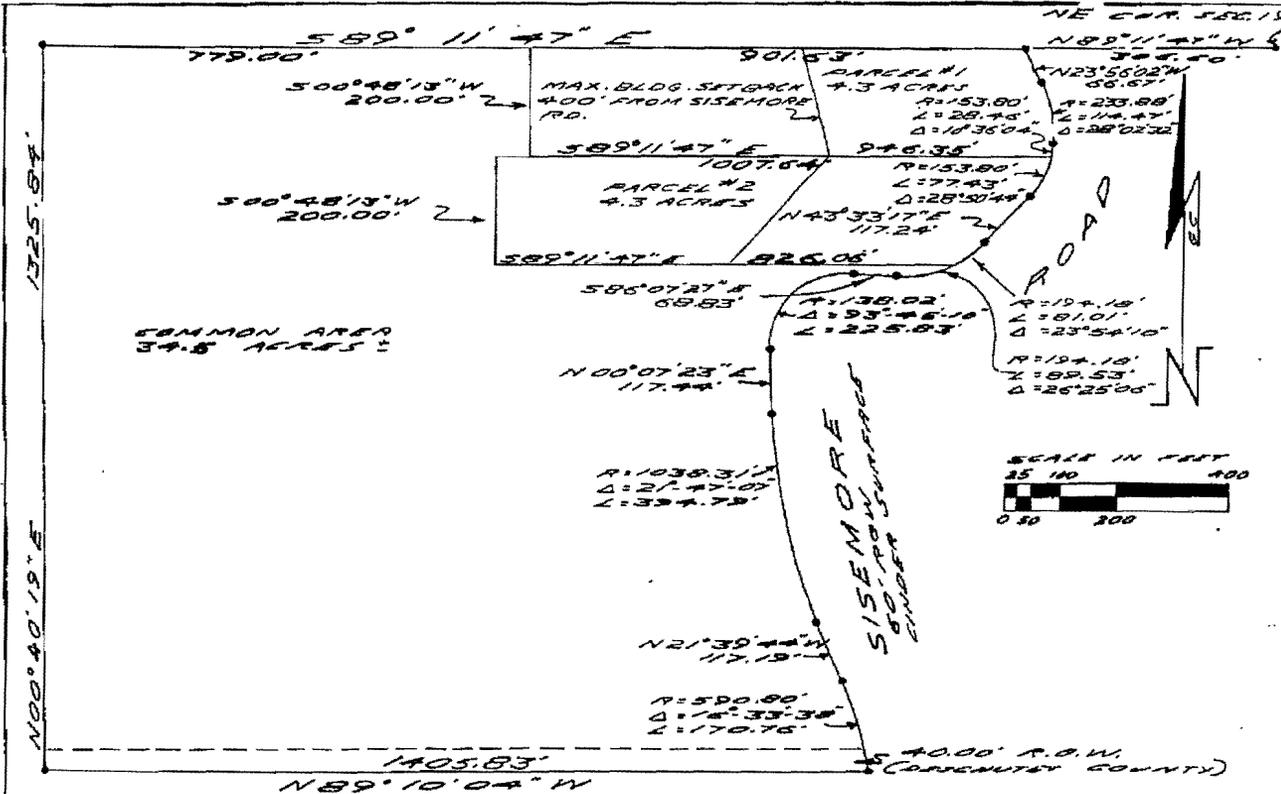
The approvals did however, establish a maximum setback from Sisemore Road of 400 feet. I am sending you a copy of the official partition drawing which established this restriction. Frank Cibelli has submitted a Landscape Management Plan application on your behalf which changed the location of the dwelling site to meet this 400-foot restriction. The intent of this restriction was for preservation and protection of wildlife in the area.

If you should have any questions, feel free to contact me at this office.

Sincerely,

DESCHUTES COUNTY PLANNING DIVISION  
George J. Raad, Planning Director

Paul Blikstad, Associate Planner



COMMON AREA  
34.5 ACRES ±

BEARINGS ARE BASED ON PREVIOUS  
BY G. COLVIN.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*George W. Colvin, Jr.*

OREGON  
FEBRUARY 11, 1975  
GEORGE W. COLVIN, JR.  
1970

MINOR LAND PARTITION  
AP- 79 - 232 DATE: 12-10-79

TWNSHIP 16 S RNGE 11 E SEC 19 T. 14 N  
DEED OWNER DESCHUTES COUNTY

PARTITIONER JOHN BARTON  
17671 SNOW CR. RD.  
BEND, ORE.

SURVEYOR EDWIN E. MORNING  
ENGINEER 942 N.W. HILL, BEND

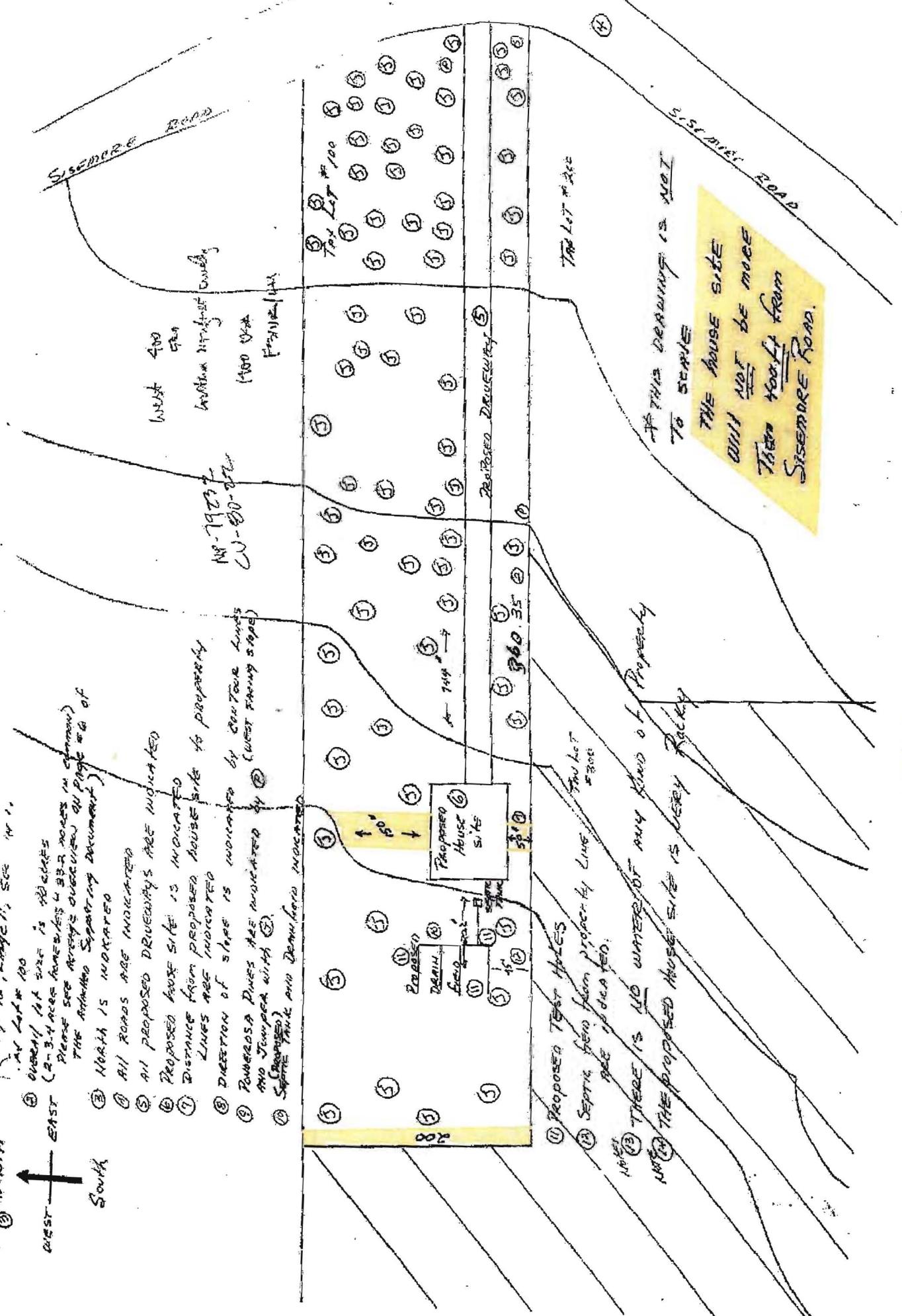
SEWAGE DISPOSAL SYSTEM  
 SEPTIC TANK  
 CITY SEWER  
 COMMUNITY SEWER  
 ZONE F-3

WATER SOURCE  
 WELL  
 CISTERN  
 COMMUNITY WATER  
 P.U.W. SYSTEM  
 DESCHUTES COUNTY  
 PLANNING DEPARTMENT

APPROVALS:

<i>Edward W. Groves</i>	10/2/80
COUNTY COMMISSIONER	DATE
<i>Albert A. Long</i>	11-12-80
COUNTY COMMISSIONER	DATE
<i>Robert C. Patterson</i>	11-12-80
COUNTY COMMISSIONER	DATE
<i>George W. Colvin, Jr.</i>	11-21-80
COUNTY COMMISSIONER	DATE
<i>John K. Moore</i>	11-12-80
COUNTY PLANNING DIRECTOR	DATE
<i>John K. Moore</i>	11-12-80
COUNTY SANITARIAN	DATE

- ① Boundary 16, Range 11, Sec 14 1/2, 1/2
- ② Overall lot size is 10.0 acres (2-3 places marked with BBA notes in column) please see Agency's overview on page 16 of the Admitta Separating document)
- ③ North 15 indicated
- ④ All roads are indicated
- ⑤ All proposed driveway's are indicated
- ⑥ Proposed house site is indicated
- ⑦ Distance from proposed house site to property lines are indicated
- ⑧ Direction of slope is indicated by contour lines (west facing slope)
- ⑨ Powerosa Pines are indicated by ② and ③ (west facing slope)
- ⑩ Same Pines and Demolition indicated



- ⑪ Proposed Test Holes
- ⑫ Septic field from property line
- ⑬ THERE IS NO WATER OF ANY KIND ON PROPERTY
- ⑭ THE PROPOSED HOUSE SITE IS VERY ROCKY

FINDINGS AND DECISION

FILE NUMBER: LM-92-9  
APPLICANT: Jeff Dowell  
PROPERTY OWNER: Mark Burchett  
REQUEST: The applicant is requesting approval of a land use permit to construct a single family dwelling in a Landscape Management Combining Zone.  
REVIEWER: Brian Harrington

APPLICABLE STANDARDS AND CRITERIA:

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

- Section 18.44, Forest Use Zone - F3.
- Section 18.84, Landscape Management Combining Zone.
- Section 18.88, Wildlife Area Combining Zone - WA.
- Section 18.124, Site Plan Approval Criteria.

Title 22, the Deschutes County Procedures Ordinance.

PL-20, the Deschutes County Comprehensive Plan, Year 2000.

BASIC FINDINGS:

1. LOCATION: The subject property is located approximately 1/2 mile south of the intersection of Kohfield Road and Sisemore Road, and is further identified on the Deschutes County Assessors Map #16-11-19 as tax lot 100.
2. ZONING: The property is zoned F3/WA/LM, Forest Use, Wildlife Area Combining Zone, and Landscape Management, and is designated Agricultural and Landscape Management on the Deschutes County Comprehensive Plan.

1992 03 10.2

3. **SITE DESCRIPTION:** The subject property contains approximately 3.4 acres with the predominant vegetation being juniper trees and sagebrush. The terrain slopes moderately to the north and contains rocky soils with some scattered natural clearings. According to the applicant, and confirmed by a Staff site visit, visibility from the designated scenic road, Sisemore Road is screened by the existing vegetation and topography.

The subject parcel was created by a Conditional Use Permit (CU-80-22), and Minor Partition (MP-79-232) for two nonforest dwelling sites on the 43.1 acre total parcel. These approvals established the two parcels for building sites which required a maximum 400' setback from Sisemore Road retaining approximately 33 acres for the protection and preservation of wildlife in the area.

4. **PROPOSAL:** The applicant is requesting approval of a Landscape Management Plan to construct an approximate 1568 square foot dwelling residence within 1/8 of a mile of the designated scenic road, Sisemore Road. The applicant has submitted a Burden of Proof Statement, site plan and construction design in support of their application.
5. **SURROUNDING PROPERTY:** The surrounding property to the south contains the second parcel approved for a nonforest dwelling in 1980, (CU-80-22, and MP-79-232). The parcels to the west also contain two nonforest dwellings approvals on 20 acre parcels of similar rocky terrain. Surrounding the subject parcel and the parcels to the west are public lands managed by the Bureau of Land Management. All surrounding property is zoned F3/WA/LM.
6. The parcel is a legal Lot of Record created by an approved Minor Partition in 1979, (MP-79-232).

CONCLUSIONARY FINDINGS:

Conformance with Title 18, the Deschutes County Zoning Ordinance.

1. Section 18.84, Landscape Management Zone.

Subsection 18.84.080, Design Review, states that in reviewing applications the Planning Director and Hearings Officer shall consider the following:

- A. "Height, width, color, bulk and texture of the proposed building or structure to assure that the building or structure is visually compatible with the surrounding natural landscape and does not unduly generate glare or other distracting conditions."

The Planning Division finds that according to the

plans submitted, the proposed dwelling will be a single story structure containing approximately 1568 square feet. The structure will have a pitched composition roof, colored natural weather wood, and the exterior cedarwood siding will be natural earthtone colors. Planning Staff finds the proposed addition will be compatible with the surrounding landscape and will not generate any distracting conditions.

- B. "Retention of existing plant materials and natural features so as to retain as much as possible the natural character of the area."

The Planning Division finds that according to the plans submitted, the applicant indicates there will be no substantial alteration in the existing landscape. Staff finds that the proposal meets this criteria.

- C. "Establishment of introduced landscape materials to assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation and enhance the overall appearance of the development while not interfering with the views of oncoming traffic at access points or views of mountain, forests, and other open and scenic areas as seen from the proposed site."

The applicant indicates that there will be no substantial alteration in the existing landscape.

- D. "Nothing in this section shall be construed to prevent the use of accepted agricultural practices, crops or equipment or restrict the construction of innovative residences, i.e. 'dome' houses, except where their design or siting unduly diminishes the aesthetic qualities of the area."

Staff finds that the proposed structure will not unduly diminish the aesthetic qualities of the area.

3. Section 18.124.060, Site Plan Approval Criteria.

- (1). "The elements of the site plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site."

The Planning Division finds that the proposed structure will be compatible with other structures in the surrounding area.

- (7). "In the Landscape Management zone, emphasis shall be placed on maintaining the existing landscape close to travel routes as well as any view of distant vistas."

The applicant has proposed a building site which is partially screened from Sisemore Road by the existing topography and vegetation and is located as far from the road as possible, given the existing site plan and conditions of approval requirements of CU-80-22. The Planning Division finds that the proposal meets this criteria.

CONCLUSION:

It appears the applicant can meet all necessary criteria for approval if the following conditions are met.

DECISION:

APPROVAL

CONDITIONS OF APPROVAL:

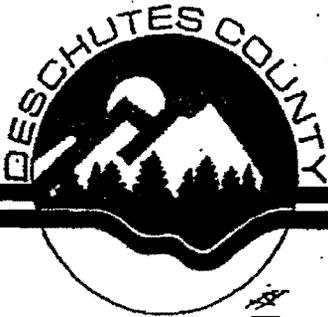
1. The applicant shall obtain a Building Permit from the County Building Division prior to construction.
2. The applicant shall obtain approval for a method of sewage disposal from the Deschutes County Environmental Health Division prior to construction.
3. Any substantial change in the location of the addition shall require a new application.
4. The applicant shall meet all conditions of this approval and construct the addition on the property within one (1) year following the date of this mailing or this approval shall be void.

This decision shall become final ten (10) days following the date of this mailing unless appealed by a party of interest.

DESCHUTES COUNTY PLANNING DIVISION

George J. Read, Planning Director

BJH:mic



# Community Development Department

Administration Bldg. / 1130 N.W. Harriman / Bend, Oregon 97701  
(503) 388-6575

FEE: 110.00 <sup>#</sup> 50.00

### APPLICATION FOR A PERMIT IN A LANDSCAPE MANAGEMENT ZONE

APPLICANT'S NAME JEFF DOWELL PHONE 716 247 7860  
 MAILING ADDRESS 422 Lakeshore Dr. Hilton NY 14468 ZIP \_\_\_\_\_  
 PROPERTY DESCRIPTION T 16 R 11 S 19 TAX LOT 100  
 PROPERTY ADDRESS WILL BE ASSIGNED (65575 NE.T) ZIP \_\_\_\_\_  
 ZONING LM/ \_\_\_\_\_ PROPOSED USE \_\_\_\_\_

#### DESCRIPTION OF PROPOSED STRUCTURE(S) AND LANDSCAPING:

Type of exterior material? CEDER / LAP Color? EARTH TONE  
 Type of roofing material? Asph Sh (WOODSHAKE) Color? WEATHER WOOD!  
 Describe vegetation to be removed and proposed landscaping for the site:  
 \_\_\_\_\_  
 \_\_\_\_\_

#### SUBMIT THE FOLLOWING WITH THIS APPLICATION FORM:

- (1) A plot plan, drawn to scale, showing:
  - \* Location and dimensions of existing and proposed buildings, access, septic system, well and other improvements.
  - \* Location, size and species of existing vegetation six (6) inches in diameter or greater.
  - \* Setbacks from lot lines (and river and rimrock, if present).
- (2) A drawing of the proposed building elevations showing exterior appearance, height and size.
- (3) A landscape plan, if introduced landscaping will be used.
- (4) A vicinity map showing directions to the property from the nearest highway.

APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_  
 (Signature)  
 PROPERTY OWNER Jeff Dowell DATE 1/29/92  
 (If other than applicant) (Signature)

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED!**

# Supporting Documentation

## Forest Use

## 18.44.010

## Purpose

Understanding the purpose of F-3 Zoning, following paragraphs address the burden of proof required, as well as carefully outline the intent and level of awareness and sensitivity of the people who already live in the properties immediately adjacent to mine.

Perhaps the single most important point to bring to light in substantiating my case for allowing a house to put on this land is the fact that a precedent has already been set which deemed the properties immediately adjacent to this one, not suitable for forest use, and thus, not posing any threat or negative impact to the Purpose stated in 18.44.010. There is no irrigation or running water of any type in the area, thus no opportunity for crop or forest management and the soil content is predominantly sand and pumice dust, with a consistency barely sufficient to support patches of sage brush and a small number of juniper trees. The only way to get water is amounts sufficient for use is to drill a well, an even then, the amount available would support a single household. It would be nothing which could support forest or agriculture harvesting.

To further support the above statement, it should be noted that within the last 18 months, a new residence has been erected on the tax lot 200 (see enclosed map labeled "Acreage Overview") immediately adjacent to my lot, a conditional use permit application very similar to this one has been granted for a house to be constructed on tax lot 500, and there has been a residence on tax lot 400 for the last 10+ years.

Additionally, the following were conditions incorporated into a legally binding contract that I approved when I signed the purchase contract on this property:

1. Owners or family members may not operate dirt bikes on the property.
2. All telephone and electric lines must be underground.
3. All fencing must be wood. Top rail may not be higher than 42", bottom rail may not be lower than 18". No barbed wire or straight wire may be used for fencing.
4. Owner or family members may not take target practice with rifle or

handgun on the property.

- 5. This contract carries with it the strongest encouragement to demonstrate sensitivity to living within the boundaries of the Tumalo Winter Deer Range, and urges the owners to adjust their lifestyle accordingly.

I can assure you that every precaution will be taken with respect to the actual building of the house and the required modifications to the area immediately surrounding the house.

Forest Use                      18.44.040                      Limitations on Conditional Uses

As was detailed in 18.44.010, Purpose, above, this land has already been designated as not suitable for forest use, and as such, the conditions stated in 18.44.040, are all met as follows:

- A. This use is consistent with existing farm and forest uses as set forth in the stated articles.
- B. Establishment of this residence would in no way interfere with farm or forest use on adjacent lands because as noted above, none of the adjacent lands are suitable for such purposes, or are being used for such purposes.
- C. This proposed use in no way alters the stability of the overall land use pattern of the area, and further, is very consistent with the immediately surrounding properties, as detailed in 18.44.010 above.
- D. This property is not suitable for timber production since the soil is very rocky and sandy and is covered by sparse scrub juniper, not to mention the fact that water is not present in sufficient amounts to support forest or agriculture management of any type. The precedent now in effect is that this area is generally known as being unsuitable for timber production and the production of farm crops and livestock, particularly when one considers the terrain, and adverse soil land and water conditions. The top soil is too thin and void of the necessary nutrients for good alfalfa or grass production or harvesting.

Forest Use                      18.44.050                      Limitations on Non-Forest Residential & Recreational Uses

- A. This use is consistent with these distance and proximity considerations and regulations.
- B. This stipulation does not apply, as there are no such surrounding uses or areas.

- C. This proposed use will in no way negatively impact the current public services, existing road systems or traffic demands and/or fire protection support mechanisms. All of these mechanisms are now in place for the existing residences in the area and will not be affected by the addition of one more house. Relating specifically to fire protection, a pond on tax lot 400 was recently used for helicopter water-refilling during the "delicious road" fire will always be accessible for public use in fire emergency.
- D. Nothing in my proposed use of the land will in any way tax or affect the capacity of the soil type, or in any significant way alter it from it's current state. My proposed building site, and for that matter, the majority of my lot, is rock base, with minimal soil of any type.
- E. There is no forest production in the area. The nearest known forest production is at least 20 miles away.
- F. My proposed home site is on a very gradual down slope, in an existing clearing, almost completely obscured from view on Sisemore Rd. With the possible exception of one or two 3-4 ft scrub junipers, no trees will be cut to accommodate my homesite or driveway.
- G. This proposal is consistent with the Comprehensive Plan.
- H. A well will be dug similarly to those on tax lot 200 and 400 and it is assumed that it will produce the necessary quantity and quality of water to support my residence. The sanitary disposal systems and solid waste disposal will be handled by leech fields extending westward away from the proposed building site, all in accordance with established code.
- I. The house site is situated so as to maximize the exposure to the southern sun during the winter. The existing house plans also call for a passive solar design, with the potential addition of active solar cells in the near future, particularly as the costs associated with such alternative energy sources continue to drop.
- J. Refer to "C" above
- K. The effects on natural resources, habitats and wildlife will be minimized. As mentioned earlier, the entire 'community' has been developed with the utmost emphasis on the existing natural habitat and the conditions outlined in the purchase contract for the property further assure that such will always be a top priority. This proposed house site will be very difficult to see from the road or the immediately surrounding area, as it sits at the base of a long gradual slope with trees and brush surrounding the clearing. The pond on lot 400 also serves to draw in and support a wide variety of wild-life which might not otherwise be present in such density in this area.
- L. J. Refer to "C" above

Forest Use

18.44.060

Dimensional Standards

A. Please refer to the attached "Acreage Overview" for the approximate location and size of the lot. The overall lot itself is 40 acres in size, but it divided into three distinct parcels. The first is a parcel of approximately 3.4 acres owned by Bill and Leigh Kuhn (Map and Tax Lot # 16 11 19 00 00200). The second is a parcel of the same approximate 3.4 acres, owned by me (Lot 100). The remaining parcel, lot 300 is one which is shared in ownership by the two of us and is approximately 33.2 acres in size. This joint property is to be 'forever wild' and cannot, by contractual agreement, be built upon or altered in any way. Such was done to ensure a sufficient buffer zone to maintain the natural state of the habitats of the surrounding area.

Wildlife Area Combining Zone

18.88.060

Dimensional Stds.

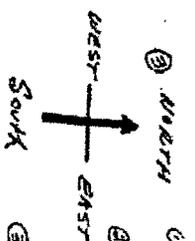
A. Please refer to Forest Use, 18.44.060, Dimensional Standards, 'A' above.

Respectfully submitted,

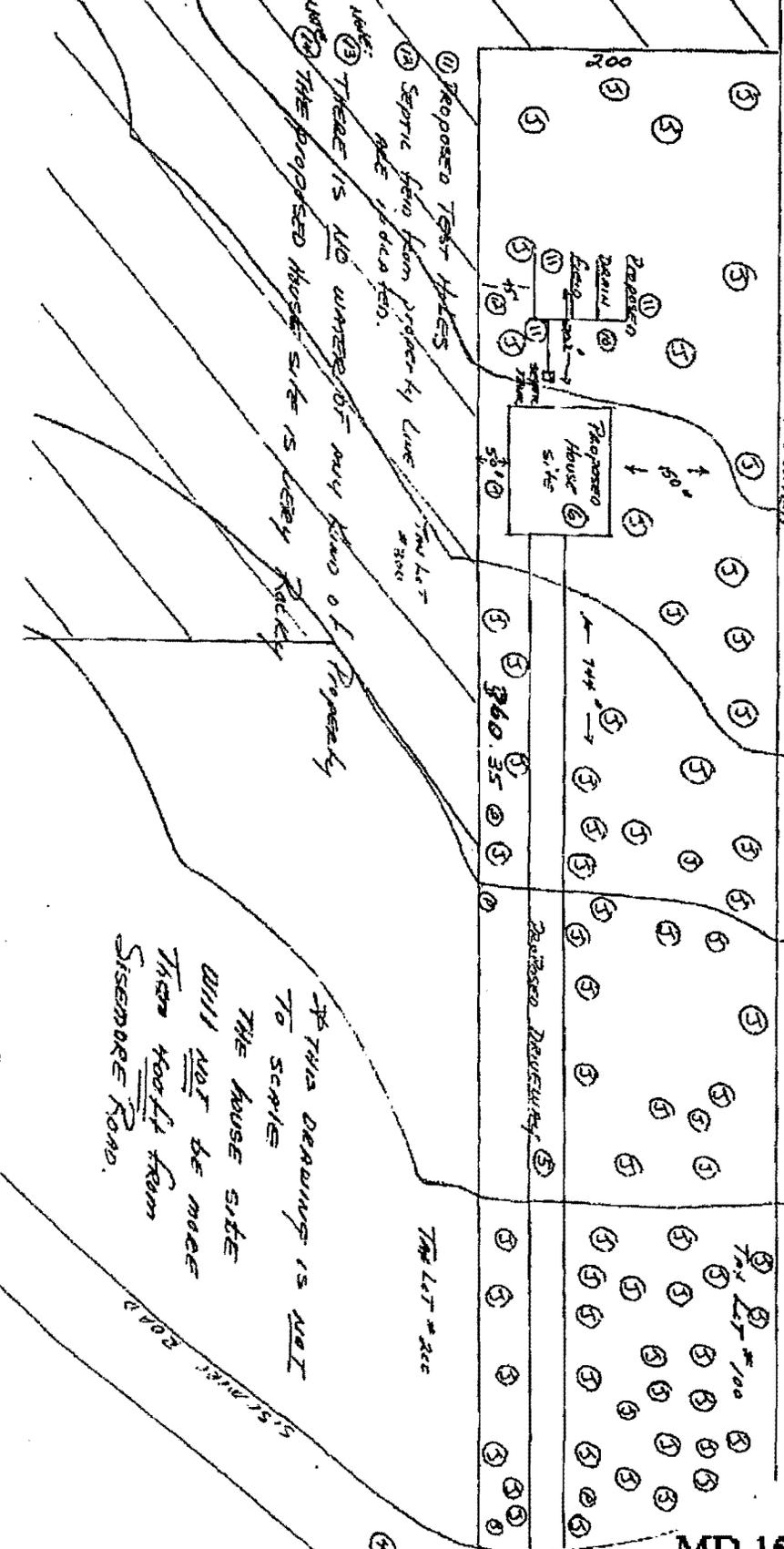
Jeff T Dowell  
422 Lakeshore Drive  
Hilton NY 14468

Day: 716 247 7860  
Eve: 716 392 7271

MD-150093D Ex# 24 Pg# 5



- ① Boundary 16, Range 11, Sec 14, T. 1 N. R. 10 W.
- ② Overall lot size is 40 acres (2-3/4 acre home site is 9377 sq ft approx. in plan) Please see average elevations on page 6 of the final Surveying document.
- ③ North is indicated
- ④ All roads are indicated
- ⑤ All proposed driveway's are indicated
- ⑥ Proposed house site is indicated
- ⑦ Distances from proposed house site to property lines are indicated
- ⑧ Direction of slope is indicated by contour lines and shown with ② (contour facing slope)
- ⑨ Runways are indicated by ② (contour facing slope)
- ⑩ Septic tank and basement indicated



⑪ Proposed Test Holes

⑫ Septic flow from property line

⑬ THERE IS NO WATER OF ANY KIND ON PROPERTY

⑭ THE PROPOSED HOUSE SITE IS VERY ROCKY

THIS DRAINING IS NOT TO SCALE

THE HOUSE SIDE WILL NOT BE MADE THAN 100' FROM SISEMORE ROAD.

Supporting Document



Kitchen and a  
dining area as  
a common family  
gathering area. The  
placement of the  
kitchen allows for  
easy access from a  
patio or adjacent

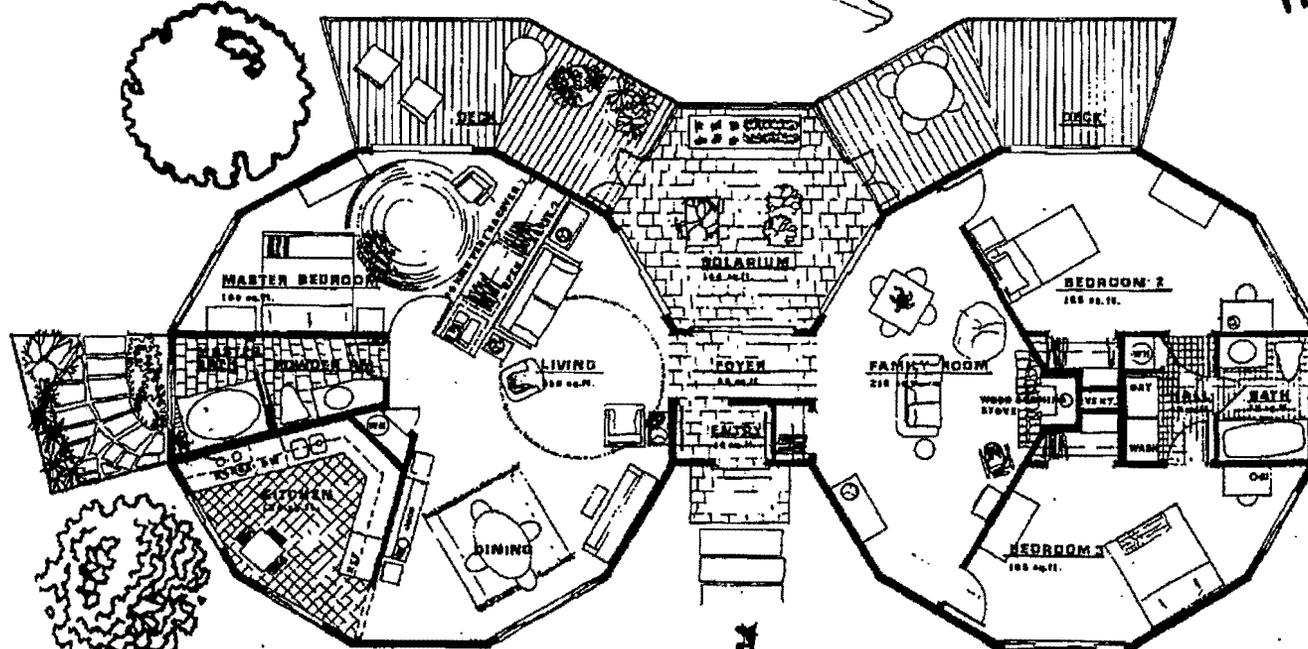
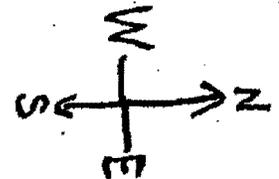
# Appendix III

19920129\_LM-92-9\_Complete.pdf

## Proposed House Lay Out - Floor Plan

34' Diameter (each)

1568 Sq Ft



(Each)

DE

03

# Appendix IV

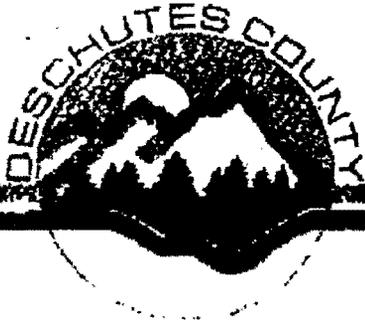
## Proposed House - Ground Level View



**Deltec 800-C**

ry foyer  
o Deltec units  
ue design of the  
design features  
in kitchen and a  
g-dining area as  
pacious family  
placement of the  
foyer allows for

9



## Community Development Department

Administration Bldg. / 1130 N.W. Harrison / Bend, Oregon 97701

(503) 388-6575

February 10, 1992

Planning Division  
Building Safety Division  
Environmental Health Division

Jeff Dowell  
422 Lakeshore Drive  
Hilton, New York 14468

Dear Mr. Dowell:

The property you own adjacent to Sisemore Road, described as 16-11-19, tax lot 100, was created by a Conditional Use (CU-80-22) and Minor Partition (MP-79-232) for two non-forest dwelling sites on the 43.1-acre total parcel. These land use approvals established the two parcels for building sites, and consequently a new conditional use permit will not be required.

The approvals did however, establish a maximum setback from Sisemore Road of 400 feet. I am sending you a copy of the official partition drawing which established this restriction.

Frank Cibelli has submitted a Landscape Management Plan application on your behalf which changed the location of the dwelling site to meet this 400-foot restriction. The intent of this restriction was for preservation and protection of wildlife in the area.

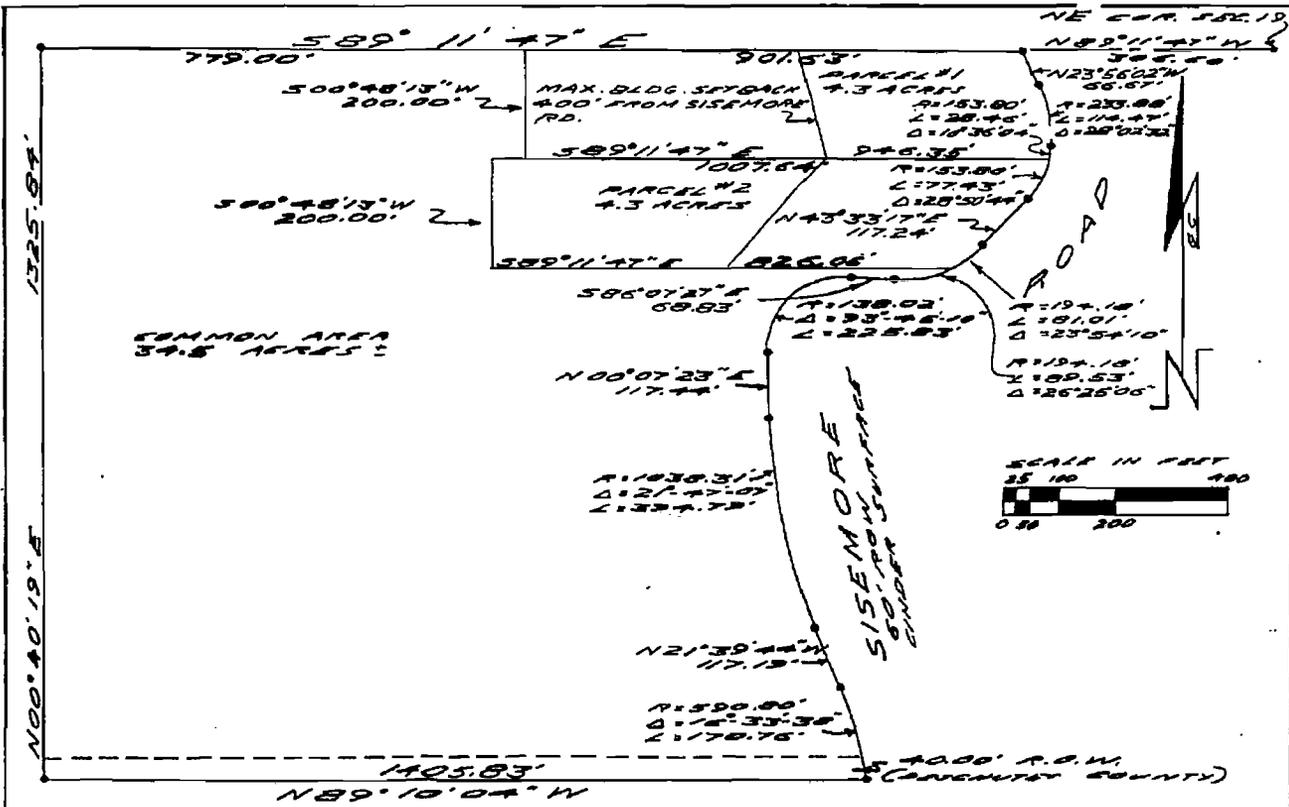
If you should have any questions, feel free to contact me at this office.

Sincerely,

DESCHUTES COUNTY PLANNING DIVISION  
George J. Read, Planning Director

Paul Blikstad, Associate Planner

MD-150093D Ex# 24 Pg# 10



MINOR LAND PARTITION  
MP-79 - 232 DATE: 12-10-79

TWSP 155 RGE 11E SEC 19 T. 14.14  
DEED OWNER DESCHUTES COUNTY

PARTITIONER JOHN BARTON  
17671 SNAW CR. RD.  
BEND, OR.

SURVEYOR GOLVIN & MORNING  
ENGINEER 942 N.W. HILL, BEND

SEWAGE DISPOSAL SYSTEM  
 SEPTIC TANK  
 CITY SEWER  
 COMMUNITY SEWER  
 ZONE F-3

WATER SOURCE  
 WELL  
 CISTERN  
 COMMUNITY WATER  
 P.U.W. SYSTEM  
 DESCHUTES COUNTY

APPROVALS:  
 COUNTY CLERK Edna W. Grove 11/2/80  
 COUNTY COMMISSIONER Albert A. Long 11-12-80  
 COUNTY COMMISSIONER Robert C. Peterson 11-12-80  
 COUNTY COMMISSIONER Raymond L. ... 11/2/80  
 COUNTY PLANNING DIRECTOR John C. ... 11-12-80  
 COUNTY SANITARIAN John K. ... 11-12-80

BEARINGS ARE BASED ON PREVIOUS  
BY G. COLVIN.

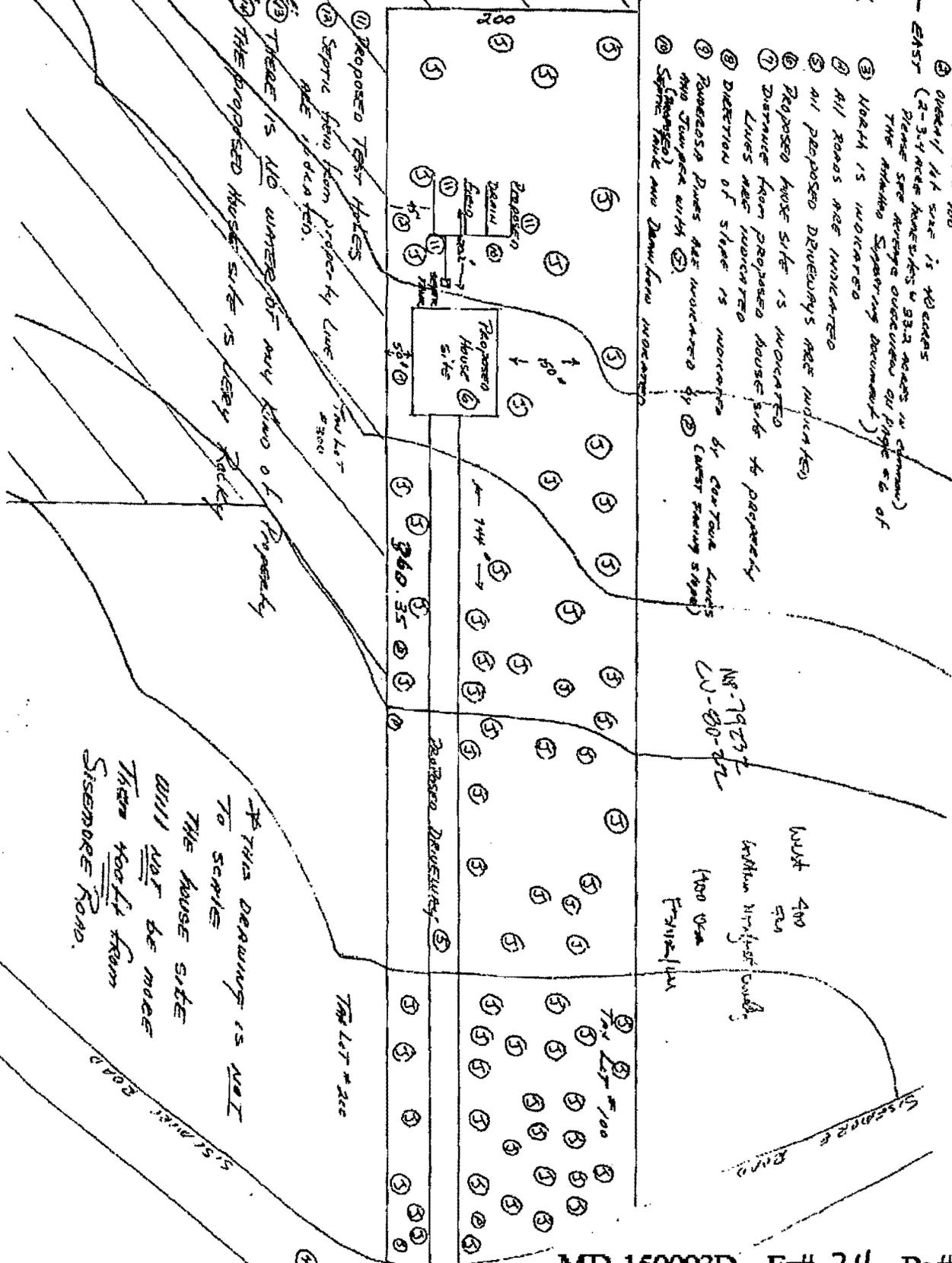
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
FEBRUARY 22, 1975  
GEORGE W. COLVIN, JR.  
1970

MD-150093D Ex# 24 Pg# 11

11

- ① North 16, Range 11, Sec 11, Twp 100  
 ② OVERLY 1/4 size is 40 acres  
 (2-3/4 acre house site is 33.2 acres in common)  
 Please see average overcutted on page 66 of  
 The Amherst Surveying Document.)
- WEST  
 EAST  
 SOUTH
- ③ North 15 is indicated  
 ④ All roads are indicated  
 ⑤ All proposed driveway's are indicated  
 ⑥ Proposed house site is indicated  
 ⑦ Distances from proposed house site to property  
 lines are indicated  
 ⑧ Direction of slope is indicated by contour lines  
 and stumps with (S) (East facing slope)  
 ⑨ Proposed Pines are indicated by (P) (East facing slope)  
 and (S) (Stumps)  
 ⑩ Same fence and boundary locations



Supporting Document for

FINDINGS AND DECISION

FILE NUMBER: LM-92-9  
APPLICANT: Jeff Dowell  
PROPERTY OWNER: Mark Burchett  
REQUEST: The applicant is requesting approval of a land use permit to construct a single family dwelling in a Landscape Management Combining Zone.  
REVIEWER: Brian Harrington

APPLICABLE STANDARDS AND CRITERIA:

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

Section 18.44, Forest Use Zone - F3.

Section 18.84, Landscape Management Combining Zone.

Section 18.88, Wildlife Area Combining Zone - WA.

Section 18.124, Site Plan Approval Criteria.

Title 22, the Deschutes County Procedures Ordinance.

PL-20, the Deschutes County Comprehensive Plan, Year 2000.

BASIC FINDINGS:

1. LOCATION: The subject property is located approximately 1/2 mile south of the intersection of Kohfield Road and Sisemore Road, and is further identified on the Deschutes County Assessors Map #16-11-19 as tax lot 100.
2. ZONING: The property is zoned F3/WA/LM, Forest Use, Wildlife Area Combining Zone, and Landscape Management, and is designated Agricultural and Landscape Management on the Deschutes County Comprehensive Plan.

3. **SITE DESCRIPTION:** The subject property contains approximately 3.4 acres with the predominant vegetation being juniper trees and sagebrush. The terrain slopes moderately to the north and contains rocky soils with some scattered natural clearings. According to the applicant, and confirmed by a Staff site visit, visibility from the designated scenic road, Sisemore Road is screened by the existing vegetation and topography.

The subject parcel was created by a Conditional Use Permit (CU-80-22), and Minor Partition (MP-79-232) for two nonforest dwelling sites on the 43.1 acre total parcel. These approvals established the two parcels for building sites which required a maximum 400' setback from Sisemore Road retaining approximately 33 acres for the protection and preservation of wildlife in the area.

4. **PROPOSAL:** The applicant is requesting approval of a Landscape Management Plan to construct an approximate 1568 square foot dwelling residence within 1/8 of a mile of the designated scenic road, Sisemore Road. The applicant has submitted a Burden of Proof Statement, site plan and construction design in support of their application.
5. **SURROUNDING PROPERTY:** The surrounding property to the south contains the second parcel approved for a nonforest dwelling in 1980, (CU-80-22, and MP-79-232). The parcels to the west also contain two nonforest dwellings approvals on 20 acre parcels of similar rocky terrain. Surrounding the subject parcel and the parcels to the west are public lands managed by the Bureau of Land Management. All surrounding property is zoned F3/WA/LM.
6. The parcel is a legal Lot of Record created by an approved Minor Partition in 1979, (MP-79-232).

CONCLUSIONARY FINDINGS:

Conformance with Title 18, the Deschutes County Zoning Ordinance.

1. Section 18.84, Landscape Management Zone.

Subsection 18.84.080, Design Review, states that in reviewing applications the Planning Director and Hearings Officer shall consider the following:

- A. "Height, width, color, bulk and texture of the proposed building or structure to assure that the building or structure is visually compatible with the surrounding natural landscape and does not unduly generate glare or other distracting conditions."

The Planning Division finds that according to the

plans submitted, the proposed dwelling will be a single story structure containing approximately 1568 square feet. The structure will have a pitched composition roof, colored natural weather wood, and the exterior cedarwood siding will be natural earthtone colors. Planning Staff finds the proposed addition will be compatible with the surrounding landscape and will not generate any distracting conditions.

- B. "Retention of existing plant materials and natural features so as to retain as much as possible the natural character of the area."

The Planning Division finds that according to the plans submitted, the applicant indicates there will be no substantial alteration in the existing landscape. Staff finds that the proposal meets this criteria.

- C. "Establishment of introduced landscape materials to assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation and enhance the overall appearance of the development while not interfering with the views of oncoming traffic at access points or views of mountain, forests, and other open and scenic areas as seen from the proposed site."

The applicant indicates that there will be no substantial alteration in the existing landscape.

- D. "Nothing in this section shall be construed to prevent the use of accepted agricultural practices, crops or equipment or restrict the construction of innovative residences, i.e. 'dome' houses, except where their design or siting unduly diminishes the aesthetic qualities of the area."

Staff finds that the proposed structure will not unduly diminish the aesthetic qualities of the area.

3. Section 18.124.060, Site Plan Approval Criteria.

- (1). "The elements of the site plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site."

The Planning Division finds that the proposed structure will be compatible with other structures in the surrounding area.

- (7). "In the Landscape Management zone, emphasis shall be placed on maintaining the existing landscape close to travel routes as well as any view of distant vistas."

The applicant has proposed a building site which is partially screened from Sisemore Road by the existing topography and vegetation and is located as far from the road as possible, given the existing site plan and conditions of approval requirements of CU-80-22. The Planning Division finds that the proposal meets this criteria.

CONCLUSION:

It appears the applicant can meet all necessary criteria for approval if the following conditions are met.

DECISION:

APPROVAL

CONDITIONS OF APPROVAL:

1. The applicant shall obtain a Building Permit from the County Building Division prior to construction.
2. The applicant shall obtain approval for a method of sewage disposal from the Deschutes County Environmental Health Division prior to construction.
3. Any substantial change in the location of the addition shall require a new application.
4. The applicant shall meet all conditions of this approval and construct the addition on the property within one (1) year following the date of this mailing or this approval shall be void.

This decision shall become final ten (10) days following the date of this mailing unless appealed by a party of interest.

DESCHUTES COUNTY PLANNING DIVISION

George J. Read, Planning Director

BJH:mic

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**Chapter 18.44**

**FOREST USE - F-3 ZONE**

**Sections:**

- 18.44.010 Purpose
- 18.44.020 Uses Permitted Outright
- 18.44.030 Conditional Uses Permitted
- 18.44.040 Limitations on Conditional Uses
- 18.44.050 Limitations on Non-Forest Residential and Recreational Uses
- 18.44.060 Dimensional Standards
- 18.44.070 Yards and Setbacks
- 18.44.080 Stream Setbacks
- 18.44.090 State Law Controls
- 18.44.100 Rimrock Setback

In an F-3 Zone, the following regulations shall apply:

**18.44.010 Purpose.**

The purposes of the F-3 Zone are to conserve and protect designated forest lands for small commercial woodlot operations; to conserve and protect watersheds, wildlife habitats, and other forest associated uses; to protect scenic values; to provide for agricultural uses; to assure orderly and planned development of public and private recreational and other uses which are compatible with forest use and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

**18.44.020 Uses Permitted Outright.**

The following uses and their accessory uses are permitted outright:

- A. Farm use, as defined in ORS 215.203(2).
- B. Management, propagation or harvesting of a forest product.
- C. Utility facilities necessary for public service, except landfills or commercial facilities for the purpose of generating power for public use by sale.

[D. Dwellings and other buildings, including manufactured homes in accordance with Section 18.116.070, customarily provided in conjunction with forest uses set forth in paragraph (B), above, upon approval by the Planning Director of a forest management plan.] (Ord. 91-005 § 26, 1991)

E. Dwelling, including manufactured home in accordance with Section 18.116.070, and other buildings customarily provided in conjunction with forest uses as specified in paragraph (B), above, upon approval by the Planning Director or Hearings Body of a forest management plan. [Dwellings and other buildings customarily provided in conjunction with forest uses set forth in paragraph (B), above.]

F. Exploration for minerals. (Ord. 91-002 § 10, 1991)

**18.44.030 Conditional Uses Permitted.**

A. Manufactured home as a secondary accessory farm or forest use dwelling, subject to the provisions of Section 18.116.070. (Ord. 91-005 § 27, 1991)

B. Operations conducted for exploration, mining and processing of geothermal resources as defined by ORS 522.005; exploration and extraction of natural gas or oil; surface mining mineral and aggregate resources exclusively for on-site personal, farm or forest use, or in conjunction with maintenance of irrigation canals. (Ord. 90-014 § 30, 1990)

C. Private parks, playgrounds, hunting and fishing preserves, campgrounds and other commercial recreational facilities serving the general public.

D. Parks, playgrounds, campgrounds, group camping or community centers owned and operated by a governmental agency or non-profit community organizations.

E. Personal-use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. [A personal-use landing strip as used in this section means as airstrip restricted except for aircraft emergencies to use by the owner

Post-it® Fax Note	7671	Date	3/22	# of pages	4
To	Bill	From	Damen		
Co./Dept.		Co.	Deschutes County		
Phone #		Phone #	385 1709		
Fax #	383-8883	Fax #	385 1764		

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and on an infrequent and occasional basis by his invited guests, and by commercial aviation activities in connection with agricultural or forestry operations. No aircraft may be based on a personal-use landing strip other than those owned or controlled by the owner of the airstrip. Exception to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.]

F. Commercial utility facilities for the purpose of generating power for public use by sale.

G. Home occupations carried on by residents as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm or forest use.

H. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with other forest and farming practices and is compatible with forest and farm uses. Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

I. Stables and the boarding of horses for profit., stables and dude ranches.]

J. Single-family dwelling, including [or] manufactured home subject to [in accordance with] Section 18.116.070, not provided in conjunction with forest or farm use.]; partitions, planned developments and subdivisions in accordance with the terms of this ordinance and County Ordinance PL-14, and policies set

forth by the Comprehensive Plan.] (Ord. 91-005 § 28, 1991)

K. Destination resorts.

L. Cluster developments.

M. Landfills when a written tentative approval by the DEQ of the site is submitted with the conditional use application.

N. Time-share unit or the creation thereof. (Ord. 83-033 § 4, 1983)

O. Hydroelectric facility, in accordance with Sections 18.116.130 and 18.128.040(V). (Ord. 86-018 § 10, 1986)

P. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways. (Ord. 90-014 § 37, 1990)

Q. Dude ranch.

R. Partition, planned development or subdivision in accordance with the terms of this ordinance; Deschutes County Code Title 17, the Subdivision/Partition Ordinance and the Comprehensive Plan.

#### 18.44.040 Limitations on Conditional Uses.

Conditional uses permitted by this section may be established on non-productive timber lands upon findings by the Planning Director or Hearings Body that each such use: [The following limitations shall apply to conditional uses permitted by this section.

A. Conditional uses permitted by this section may be established on non-productive timber lands upon a finding by the Hearings Officer that each such use:]

A[a]. Is consistent with farm and forest uses, and is consistent with the intent and purposes set forth in the State Forest Practices Act, the Comprehensive Plan and this ordinance.

B[b]. Does not interfere with accepted forest management practices and farming uses on adjacent lands devoted to farm and forest use.

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C[c]. Does not alter the stability of the overall land use pattern of the area.

D[d]. Is situated upon generally unsuitable land for timber production and the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and location and size of tract.

#### 18.44.050 Limitations on Non-Forest Residential and Recreational Uses.

In addition to other standards and conditions set forth in this chapter, the following factors shall be considered [limitations shall be applied] in the evaluation of an application for a use permitted by Section 18.44.030(J), above.

A. The dwelling shall not be located within one mile of a primary forest product processing facility or within one-quarter mile of commercial forest or agricultural lands not owned by the applicant.

B. Provision is made for a buffer between commercial forest or agricultural lands and the proposed use.

C. Immediate and future impact on public services, existing road systems and traffic demands and fire protection systems.

D. Soil type and its development limitations, including susceptibility to slides, erosion, flooding and drainage and provisions to minimize possible adverse effects resulting therefrom.

E. Effects on forest or timber and forage agricultural productivity including the production of any other usable forest or agricultural product which requires open space and a non-urban environment.

F. Density of development shall be designed to minimize adverse effects on terrain, slope and ground cover and shall be in compliance with applicable Comprehensive Plan policies.

G. Development and density shall be compatible with the existing land use pattern providing the Comprehensive Plan does not

indicate a future zone change for the existing pattern.

H. An adequate quantity and quality of water, either subsurface or other sanitary disposal systems and adequate provisions for solid waste disposal.

I. Provisions to conserve energy or to become energy self-sufficient, considering the application of current and readily available technologies for alternate forms of energy and power generation and recycling, in the structural designs.

J. Provisions for fire safety measures.

K. Effects on natural resources, habitats and wildlife.

L. Factors set forth in the guide published by the Northwest Inter-Agency Fire Prevention Group entitled "Fire Safety Considerations for Development in Forested Areas."

(A mobile home shall not be permitted as a non-farm or non-forest residence. . . repealed by Ord. 91-005 § 29, 1991)

#### 18.44.060 Dimensional Standards.

In an F-3 Zone, the following dimensional standards shall apply:

A. Lot Area. 20 acres, except that destination resorts shall be allowed to proceed according to the density standard contained in Section 18.128.040(S)(d).

B. Minimum average lot width shall be 150 feet.

C. Density Factor. Planned and cluster developments shall be allowed an equivalent density of one unit per 15 acres.

D. Except as otherwise required by this section, minimum lot sizes for uses permitted in paragraph (C), above, shall be as determined by the Planning Director or Hearings Body [Officer] to be necessary for the protection of public health, safety and welfare, the objectives of this section and applicable state and Comprehensive Plan policies.

#### 18.44.070 Yards and Setbacks.

A. The front yard setback shall be 40 feet from a property line [from the property

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line shall be 40 feet for property] fronting on a local street, 60 feet from a property line fronting on a collector right-of-way and 100 feet from a property line fronting on an arterial.

B. Each side yard setback shall be a minimum of 25 feet, except a parcel or lot with a side yard adjacent to forest land shall have a minimum side yard of 100 feet. [and for parcels or lots with side yards adjacent to forest lands, the adjacent side yard shall be a minimum of 100 feet.]

C. Rear yards shall be a minimum of 25 feet, except parcels or lots with rear yards adjacent to forest land shall have a minimum rear yard of 100 feet. [for parcels or lots with rear yards adjacent to forest lands, said rear yard setback shall be a minimum of 100 feet.]

D. The setback from the north lot line shall meet the solar setback requirements in Section 18.116.180. (Ord. 83-037 § 12, 1983)

#### 18.44.080 Stream Setbacks.

All sewage disposal installations, such as outhouses, septic tanks and drainfield systems, shall be set back from the ordinary high water [line or] mark along all streams and lakes a minimum of 100 feet, measured at right angles to the ordinary high water [line or] mark. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water [line or] mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water [line or] mark.

#### 18.44.090 State Law Controls.

A. Whenever a use allowed by this section conflicts with or is prohibited by the Oregon Forest Practices Act or regulations promulgated thereunder, State law shall control.

B. Every permit application shall be accompanied by a letter of compliance from the state Board of Forestry indicating that the proposed use conforms to Board regulations for the affected use.

#### 18.44.100 Rimrock Setback.

Setbacks from rimrock shall be as provided in Section 18.116.160. (Ord. 86-053 § 9, 1986)

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**Deschutes County Oregon  
Community Development Department**

**FAX**

**Date** 6-19-02

**Number of pages including cover sheet** 3

**TO:** Bill Kuhn

**FROM:** Paul Blikstad

**Phone**  
**Fax Phone**

**Bend, Ore. Phone:**  
**Bend Fax Phone:** 541-385-1764  
**Redmond, Ore. Phone:**  
**Redmond Fax Phone:** 541-923-3097

**CC:**

- Urgent
- For your review
- Reply ASAP
- Please Comment

**REMARKS:**

LM zone in 1991

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## Chapter 18.84

**LANDSCAPE MANAGEMENT  
COMBINING - LM ZONE**

## Sections:

18.84.010	Purpose
18.84.020	Application of Provisions
18.84.030	Uses Permitted Outright
18.84.040	Uses Permitted Conditionally
18.84.050	Use Limitations
18.84.060	Dimensional Standards
18.84.070	Zoning Permits
18.84.080	Design Review
18.84.090	Septic Permits

In any LM Combining Zone, the requirements and standards of this section shall apply in addition to those specified in this ordinance for the underlying zone. If a conflict in regulation or standards occurs, the provision of this section shall govern.

**18.84.010 Purpose.**

The purposes of the Landscape Management Combining Zone are to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas important to the local economy.

**18.84.020 Application of Provision.**

The provisions of this section shall apply to all areas identified as landscape management corridors in the Comprehensive Plan or the county zoning map. The limitations in this section shall not unduly restrict accepted agricultural practices.

**18.84.030 Uses Permitted Outright.**

In a zone with which the LM Zone is combined, the uses permitted shall be those permitted outright by the underlying zone with which the LM Zone is combined, subject to Section 18.84.050, below.

**18.84.040 Uses Permitted Conditionally.**

In a zone with which the LM Zone is combined, the uses permitted shall be those

permitted conditionally by the underlying zone with which the LM Zone is combined, subject to Section 18.84.050, below.

**18.84.050 Use Limitations.**

No structure, including agricultural buildings, shall be erected or substantially altered externally within one-quarter mile (measured at right angles from centerline of any identified landscape management roadway or within 200 feet of the ordinary [mean] high water mark of any identified landscape management corridor along a river) without first obtaining the approval of the Planning Director or Hearings Body.

**18.84.060 Dimensional Standards.**

In an LM Zone, the following dimensional standards shall apply:

A. Minimum lot size shall be as established in the underlying zone with which the LM Zone is combined.

B. Setbacks shall be those established in the underlying zone with which the LM Zone is combined. If upon written recommendation from the Planning Director, the Planning Director or Hearings Body [Officer] finds the established setbacks inappropriate to carry out the purpose of the LM Zone, he may require more or less restrictive dimensions.

**18.84.070 Zoning Permits.**

All buildings or structures covered by this section not requiring a building permit shall be required to obtain a zoning permit before beginning construction.

**18.84.080 Design Review.**

In reviewing an application, the Planning Director or Hearings Body shall consider the following:

A. Height, width, color, bulk and texture of the proposed building or structure to assure that the building or structure is visually compatible with the surrounding natural landscape and does not unduly generate glare or other distracting conditions.

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B. Retention of existing plant material and natural features [so as] to retain as much as possible the natural character of the area.

C. Establishment of introduced landscape materials to assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation and enhance the overall appearance of the development while not interfering with the views of oncoming traffic at access points or views of mountains, forests and other open and scenic areas as seen from the proposed site.

D. Nothing in the section shall be construed to prevent the use of accepted agricultural practices, crops or equipment or restrict the construction of innovative residences, i.e. "dome" houses, except where their design or siting unduly diminishes the aesthetic qualities of the area.

E. The placement of on-site sewage disposal systems shall be subject to joint review by the Planning Director or Hearings Body and Deschutes County Environmental Health Division. The placement of such systems shall minimize the impact on the vegetation along the river and shall allow a dwelling to be constructed on the site as far from the stream or lake as possible. Sand filter systems may be required as replacement systems when this will allow a dwelling to be located further from the stream or to meet the 100-foot setback requirement.

#### 18.84.090 Septic Permits.

Prior to the issuance of any on-site sewage disposal permit that is to be located in the Landscape Management Corridor along a stream or lake, a Landscape Management Plan shall be approved in accordance with this section. (Ord. 90-020 § 1, 1990)

## Chapter 18.88

WILDLIFE AREA COMBINING  
WA ZONE

## Sections:

- 18.88.010 Purpose
- 18.88.020 Application of Provisions
- 18.88.030 Uses Permitted Outright
- 18.88.040 Uses Permitted Conditionally
- 18.88.050 Use Limitation
- 18.88.060 Dimensional Standards
- 18.88.070 Additional Requirements

In any zone which is a Wildlife Area Combining Zone (WA), the requirements and standards of this chapter shall apply in addition to those specified in this title for such underlying zone. If a conflict in regulations or standards occurs, the provisions of this section shall govern except that the larger minimum lot size shall always apply.

**18.88.010 Purpose.**

The purpose of the Wildlife Area Combining Zone is to conserve important wildlife areas in Deschutes County; to protect an important environmental, social, and economic element of the area; and to permit development compatible with the protection of the wildlife resource.

**18.88.020 Application of Provisions.**

The provisions of this section shall apply to all areas identified in the Comprehensive Plan as a winter deer range, antelope range or riparian area.

**18.88.030 Uses Permitted Outright.**

In a zone with which the WA Zone is combined, the uses permitted outright shall be those permitted outright by the underlying zone with which the WA Zone is combined.

**18.88.040 Uses Permitted Conditionally.**

In a zone with which the WA Zone is combined, the conditional uses permitted shall be those permitted conditionally by the

underlying zone with which the WA Zone is combined.

**18.88.050 Use Limitation.**

All residential, commercial or industrial developments within the WA Zone shall be a cluster development (residential only), a planned development, or a destination resort and shall conform to the provisions of Sections 18.128.040(P), (Q) or (R).

**18.88.060 Dimensional Standards.**

In a WA Zone, the following dimensional standards shall apply:

A. Minimum lot size shall be 40 acres in the Metolius and North Paulina and Tumalo deer winter ranges, except that planned developments in these areas shall be allowed to conform to the density of the underlying zone.

B. Planned or cluster developments shall have a minimum area of 160 acres. Parcels existing under single ownership at the time of adoption of this title that are at least 40 acres in size which may also be considered for planned or cluster development status.

C. In the Tumalo deer winter range, the minimum acreage shall be as designated in the Tumalo winter range study. Planned or cluster developments in this area shall be at least 160 acres in size unless a 40 acre or larger parcel existed under single ownership at the time of the adoption of this title, in which case the parcel may be considered for planned or cluster development status.

D. In the antelope range, the minimum lot size shall be 320 acres. Planned or cluster developments shall be 320 acres unless a 40 acre or large parcel existed under single ownership at the time of the adoption of this title, in which case the parcel may be eligible for planned or cluster development status.

E. In riparian areas, the minimum parcel size shall be that determined by the County Sanitarian and Planning Director or Hearings Body, with advice from the Oregon Fish & Wildlife Department, necessary to protect the health and safety of the public as well as fish

and wildlife resources. (Ord. 91-020 § 1, 1991)

F. Setbacks shall be as described in the underlying zone with which the WA Zone is combined.

**18.88.070 Additional Requirements.**

Fencing in a Wildlife Area Combining Zone shall be to design standards which provide for safe migration of protected animals. (Ord. 91-038 § 3, 1991)

Chapter 18.124

SITE PLAN REVIEW

Sections:

- 18.124.010 Purpose
- 18.124.020 Elements of Site Plan
- 18.124.030 Approval Required
- 18.124.040 Contents and Procedure
- 18.124.050 Decision on Site Plan
- 18.124.060 Approval Criteria
- 18.124.070 Required Minimum Standards

18.124.010 Purpose.

This section provides for administrative review of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.

18.125.020 Elements of Site Plan.

The elements of a site plan are: the layout and design of all existing and proposed improvements, including, but not limited to, buildings, structures, parking, circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures and street furniture.

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 this section, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to Deschutes County Code Title 22, the Uniform Development Procedures Ordinance. (Ord. 86-032 § 1, 1986)

B. The provisions of this section shall apply to the following:

a. All conditional use permits where a site plan is a condition of approval;

b. Multiple-family dwellings with more than three units;

c. All commercial uses that require parking facilities;

d. All industrial uses;

e. 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

f. As specified for Landscape Management Combining Zones (LM), Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).

C. Non-compliance with a final approved site plan shall be a zoning ordinance violation.

D. As a condition of approval of any action not included in subsection (B) of this section, the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits. (Ord. 91-038 § 1, 1991; Ord. 91-020 § 1, 1991)

18.124.040 Contents and Procedure.

A. Any site plan shall be filed on a form provided by the Planning Department and shall be accompanied by such drawings, sketches and descriptions necessary to describe the proposed development. A plan shall not be deemed complete unless all information requested is provided.

B. Prior to filing a site plan, the applicant shall confer with the Planning Director or his representative concerning the requirements for formal application. (Ord. 91-020 § 1, 1991)

C. After the pre-application conference, the applicant shall submit a site development plan, an inventory of existing plant materials including all trees six inches in diameter or greater and other significant species, a landscape plan and architectural drawings including floor plans and elevations. (Ord. 91-020 § 1, 1991)

D. The site development plan shall indicate the following: (Ord. 91-020 § 1, 1991)

- a. Access to site from adjacent rights-of-way, streets and arterials.
- b. Parking and circulation areas.
- c. Location, dimensions (height and bulk) and design of buildings and signs.
- d. Orientation of windows and doors.
- e. Entrances and exits.
- f. Private and shared outdoor recreation spaces.
- g. Pedestrian circulation.
- h. Public play areas.
- i. Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery.
- j. Areas to be landscaped.
- k. Exterior lighting.
- l. Special provisions for handicapped persons.
- m. Existing topography of the site at intervals appropriate to the site, but in no case having a contour interval greater than 10 feet.
- n. Signs.
- o. Public improvements.
- p. Drainfield locations.
- q. Other site elements and information which will assist in the evaluation of site development.

E. The landscape plan shall indicate:

- a. The size, species and approximate locations of existing natural plant materials proposed to be retained and new plant materials proposed to be placed on site.
- b. Proposed site contouring.
- c. An explanation of how drainage and soil erosion is to be dealt with during and after construction.

F. Residential and agricultural buildings located within the Landscape Management Zone shall be required to furnish only the following information:

- a. Locations and dimensions of buildings and property lines.

b. Location, size and species of existing vegetation six inches in diameter or greater. (Ord. 91-020 § 1, 1991)

c. Building elevations of the proposed structure.

d. A drawing of the proposed exterior appearance and a description of materials to be used.

#### 18.124.050 Decision on Site Plan.

A. The Planning Director or Hearings Body may deny the site plan or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or the criteria and standards listed in this title.

B. The Planning Director or Hearings Body as a condition of approval may require that the applicant file with the county a performance bond or other security approved by the governing body to assure full and faithful performance of any required improvements. The bond shall be for the dollar amount plus 10% of the estimated cost of the improvements.

C. Planning Director or Hearings Body review shall be subject to Deschutes County Code Title 22, the Uniform Development Procedures Ordinance. (Ord. 91-020 § 1, 1991; Ord. 86-032 § 1, 1986)

#### 18.124.060 Approval Criteria.

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

A. The elements of the site plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

B. Each element of the site plan shall effectively and efficiently serve its function. The elements shall be on a human scale, interrelated and shall provide spatial variety and order.

C. 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. (Ord. 91-020 § 1, 1991)

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

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

F. In the Landscape Management Zone, emphasis shall be placed on maintaining the existing landscape close to travel routes as well as any view of distant vistas.

G. 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.

H. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality. (Ord. 91-020 § 1, 1991)

I. 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.

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

K. The location, texture, lighting, movement and materials of all exterior signs, graphics or other information or directional features shall be compatible with the other elements of the site plan and surrounding properties.

L. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.). (Ord. 91-038 § 1, 1991)

#### 18.124.070 Required Minimum Standards.

A. Private or shared outdoor recreation areas in residential developments.

a. Private Areas. Each ground-level living unit in a residential development subject to site plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.

b. Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:

1. Units with one or two bedrooms: 200 sq. ft. per unit.

2. Units with three or more bedrooms: 300 sq. ft. per unit.

c. Storage. In residential developments, convenient areas shall be provided for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.

#### B. Required Landscaped Areas.

a. The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:

1. A minimum of 15% of the lot area shall be landscaped.

2. All areas subject to the final site plan and not otherwise improved shall be landscaped.

b. In addition to the requirement of subsection (B)(a)(1) of this section, the following landscape requirements shall apply to parking and loading areas:

1. A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 sq. ft. per parking space. (Ord. 91-020 § 1, 1991)

2. In addition to the landscaping required by subsection (B)(b)(1) of this section, 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.

3. A landscaped strip separating a parking or loading area from a street shall contain:

i. Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average. (Ord. 91-020 § 1, 1991)

ii. Low shrubs not to reach a height greater than 3' 0," spaced no more than 8 feet apart on the average.

iii. Vegetative ground cover.

c. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

d. The landscaping in a parking area shall have a width of not less than five feet.

e. Provision shall be made for watering planting areas where such care is required.

f. Required landscaping shall be continuously maintained and kept alive and attractive.

g. Maximum height of tree species shall be considered when planting under overhead utility lines.

## Chapter 22.28

## LAND USE ACTION DECISIONS

## Sections:

- 22.28.010 Decision.
- 22.28.020 Notice of decision.
- 22.28.030 Decision on plan amendments and zone changes.
- 22.28.040 Reapplication limited.
- 22.28.050 Review by planning commission and board.
- 22.28.060 Proposed order.
- 22.28.070 Compliance with ORS 215.418.

## 22.28.010 Decision.

1. Approval or denial of a land use action shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards, and facts set forth.

2. Any portion of an application not addressed in a Hearings Body's decision shall be deemed to have been denied.

## 22.28.020 Notice of decision.

A Hearings Body's decision shall be in writing and mailed to all parties; however, one person may be designated by the Hearings Body to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants.

## 22.28.030 Decision on plan amendments and zone changes.

1. Except as set forth herein, the Hearings Officer shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the Board of County Commissioners.

2. In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has au-

thority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer's decision. No argument or further testimony will be taken by the Board.

3. Plan amendments requiring an exception to the goals or concerning lands designated for forest or agricultural use shall be heard de novo before the Board of County Commissioners without the necessity of filing an appeal, regardless of the determination of the Hearings Body below. Such hearing before the Board shall otherwise be subject to the same procedures as an appeal to the Board under this title.

4. Notwithstanding subsection (3) of this section, when a plan amendment subject to a subsection (3) hearing before the Board of County Commissioners has been consolidated for hearing before the Hearings Officer with a zone change or other application not requiring a hearing before the Board any party wishing to obtain review of the Hearings Officer's decision on any of those other applications shall file an appeal. The plan amendment shall be heard by the Board consolidated with the appeal of those other applications.

## 22.28.040 Reapplication limited.

If a specific application is denied, no reapplication for substantially the same proposal may be made for six (6) months following the date of the final decision.

## 22.28.050 Review by planning commission and board.

1. Review of an administrative action or a Hearings Body's decision may be initiated by not less than two members of either the Planning Commission or the Board of County Commissioners.

2. The review shall be initiated in writing within ten (10) days of the date of the mailing of the final written decision of the Planning Director or lower Hearings Body.

3. Review shall be conducted in the same manner provided for in appeals, except that an appeal fee and transcript shall not be required.



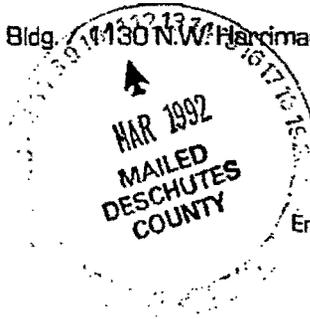
## Community Development Department

Administration Bldg. 1130 N.W. Hardiman / Bend, Oregon 97701

(503) 388-6575

Planning Division  
Building Safety Division  
Environmental Health Division

March 10, 1992



**Subject:** Approval of Landscape Management Permit for Jeff Dowell; File #LM-92-9.

Dear Property Owner:

The Deschutes County Planning Division has approved a Landscape Management Permit which allows the applicant to construct a single family dwelling on property zoned F3/LM/WA. The subject property has not been assigned an address to date, however it is located approximately 1/2 mile south of the intersection of Kohfield Road and Sisemore Road, and is identified on Deschutes County Assessor's Map #16-11-19 as tax lot 100.

The application was reviewed for compliance against criteria contained in Sections 18.44, 18.84, 18.88, and 18.124, the Deschutes County Zoning Ordinance, as well as against the procedural requirements of Title 22 of the Deschutes County Code. Staff found that the application satisfied all applicable criteria, and approval has been granted subject to the following conditions:

1. Approval is based upon the submitted plan. Any substantial change in the plan will require a new application.
2. The applicant shall obtain a building permit from the County Building Official prior to commencing construction on the structures.
3. The applicant shall install a method of sewage disposal that meets the approval of the County Environmental Health Division prior to construction.

Property Owner  
LM-92-9  
March 10, 1992  
Page 1

MD-150093D Ex# 24 Pg# 31

920310.2

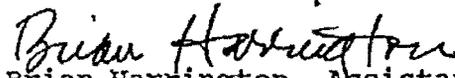
4. If a building permit for the proposed structure has not been issued within one (1) year from the date this decision is mailed, this permit shall be void.

This decision becomes final ten (10) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$290.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

A copy of the application, all documents and evidence relevant to this decision are available for inspection at no cost. Copies can be purchased for a reasonable cost. For further information, contact Brian Harrington at 388-6575.

Sincerely,

DESCHUTES COUNTY PLANNING DIVISION  
George J. Read, Planning Director

  
Brian Harrington, Assistant Planner

BJH:mic

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

Property Owner  
LM-92-9  
March 10, 1992  
Page 2

MD-150093D Ex# 24 Pg# 32



508 385 1764

8/13/92, 1:43 PM EDT

Ms. Catherine Morrow  
Administration Building  
Deschutes Cnty. Planning Commission  
1130 Harriman St. Bend, OR 97701

Dear Catherine,

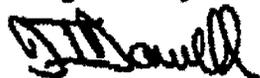
We spoke yesterday about the property immediately adjacent to that of Tommy Barton out on Seismore Rd. and I wanted to forward these documents on to you for your review.

What I understood you to say over the phone sounded too good to be true and I just wanted to make sure such was really the case. If I'm hearing you correctly, we can get an extension of 6-12 months no problem, and further, could even extend the time we actually had to build something out much further than that by simply putting a small trailer out on the property in a appropriate spot. Yet, when I read through the letters of approval we've been granted, I think it specifically mentions something about no extensions, no structures for building except the 1800 sq ft plans we submitted with the application, etc.

Could you please take a moment to look this all over and then give me a call and let me know where we stand. I would normally be able to wait until we are out in Bend in a couple of weeks, but the prefabricated house builder/designer is having a price increase effective end of this month and if I am going to have to build, I want to get in with him at the lower price.

Thank you for your time and consideration. You can call me anytime this afternoon or tomorrow at our toll free number of 800 800 7860.

Respectfully,



Jeff T Dowell

MD-150093D Ex# 24 Pg# 34  
920813



FAX

From the Desk of

Inter-ad Inc., 52 Marway Circle, Roches

WELL

247 7860



To: Ms. Catherine Morrow  
Deschutes County, Building Dept.  
1130 Harriman St  
Bend OR 97701

2 Round pods  
of 800 sq ft

have been increased  
to 1200 sq ft.

400' setback

8/30/92, 8:53 PM

Dear Catherine,

I'm writing to thank you for taking the time to meet with my wife and myself regarding our Seismore Rd. property as well to tell you that we very much appreciate the personal interest you've taken in our situation. I also wanted to let you know what the outcome of our visit(s) to our Seismore site were.

First of all, please accept my apologies for not getting back to you while we were in town, as we'd originally planned to do. It turned out that once we got out to the property and discovered where the building site had to be located to meet the 400 ft. Seismore Rd offset restriction, we found ourselves faced with a much greater task at hand than we'd anticipated. Thus, we spent all day every day from the time we met on Tues. AM until the time we left Thursday eve to fly home staking out the property, working with different house plan options and talking with the contractor about the feasibility and implications of our ideas, etc. In the end, we came up with the following:

- The house plan will remain almost exactly as it was submitted with two minor modifications (the side by side pods will be 1200 sq. ft. instead of 800 sq. ft. each, and there will be a 500 sq. ft. garage that will be added off of the northern most pod)
- The contractor (Frank Cibelli) is going to begin work on the septic approval process now (once that approval is obtained, we will likely have him clear the driveway and the building site itself)

A couple of questions did come up that I wanted to pose to you.

- #1) What do we need to do to start the application process for an extension that would allow us to extend our current deadline from March of '93 to March of '94? I know there is a fee of roughly \$80, but do we need to submit the request on any type of 'formal' application form or document?
- #2) Relating to that same subject, assuming an extension is granted, does that mean a house needs to be completed by March of '94' or simply started? If only started, how long do we have to complete the structure (i.e. how long is a building permit good for?)
- #3) Does the septic drainage as well as the house have to be within 400 feet of the road, or is it simply the house itself? We've laid things out with the assumption that the restriction applies to the house structure itself, and not the 'front lawn/septic drainage' area. Please let us know immediately if such is not the case.

That's about all I can think of for now. Please give me a call at 800 800 7860 anytime Tuesday or later of this week and let me know where we stand and what we need to do next.

Again, thank you for your help and consideration. I look forward to hearing from you.

*J. Maxwell*

920830

MD-150093D

Ext#

24

Pg#

35



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## Community Development Department

Administration Bldg. • 1130 N.W. Harriman • Bend, Oregon • 97701  
(503) 388-6575

September 1, 1992

Planning Division  
Building Safety Division  
Environmental Health Division

Jeff Dowell  
Inter-ad Inc.  
52 Marway Circle  
Rochester NY 14624

Dear Jeff Dowell:

I received your letter dated 8/30/92 regarding your property at 65595 Siesemore Road (16-11-19-100). I will include it in the file for your property. In your letter you asked three questions which I will answer below.

1. I am enclosing the application for an extension. The fee is \$80.00. As we discussed you may submit the application now, but it might be more appropriate to submit it closer to the actual date your permit expires.
2. If an extension is granted, you must purchase a building permit a building permit prior to the expiration date of the extension. The house does not need to be completed. Once a building permit is issued you must commence the structure within 6 months and have an inspection. Within every 6 months you must complete enough work to require an inspection in order to prove progress on the job. The building permit remains active as long as progress is being made and inspections are completed every 6 months.
3. The requirement to be within the 400 feet applies to the residence and not to the septic drain field. The purpose of the condition requiring the house to be located within 400 feet of Siesemore Road is to protect the deer winter range habitat. The septic drain field does not need to be within 400 feet of the road because it is underground and will not infringe on the openspace habitat.

I hope this answers your questions. Please call if you need

L.DOWELL.9/1/92  
01 SEP 1992  
Page 1

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920901

further clarification.

19920129\_LM-92-9\_Complete.pdf

Sincerely,  
DESCHUTES COUNTY PLANNING DIVISION

*Catherine Morrow*

Catherine Morrow, Associate Planner

cc: File 65595 Siesemore Rd, LM-92-09

L.DOWELL.9/1/92  
01 SEP 1992  
Page 2

MD-150093D Ex# 24 Pg# 37

RECEIVED  
DEC 21 1992



19920129\_LM-92-9\_Complete.pdf

Community Development Department

Administration Bldg. / Bend, Oregon 97701  
(503) 388-6575

Planning Division  
Building Safety Division  
Environmental Health Division

APPLICATION FOR AN EXTENSION OF A LAND USE PERMIT

\*\*\*\*\*

APPLICANT'S NAME: JEFF T DOWELL

ADDRESS: 422 LAKEHORE DRIVE HILTON NY 14468 ZIP 14468 PHONE: 716 392 7271

PROPERTY DESCRIPTION: T 16S R 11E WMS 19 TAX LOT: 100

NATURE OF APPLICATION: LAND USE PERMIT EXTENSION

DESCHUTES COUNTY APPLICATION NUMBER: LM-92-9

DATE OF APPROVAL: MARCH 11, 1992 PERMIT EXPIRATION DATE: 3/11/93

PRESENT ZONE: F-3/WA/LM ZONING WHEN APPLICATION WAS APPROVED F-3  
WA/LM

On a separate sheet of paper, please address the following:

1. Describe any action that has been taken to fulfill any or all conditions of approval.
2. The reason for requesting the extension.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED!

DATE: 12/19/92 APPLICANT: [Signature]  
(signature)

AGENT: \_\_\_\_\_  
(signature)

\*\*\*\*\*

Office Use Only

DATE FILED: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

FEE PAID: \_\_\_\_\_

FILE NO.: \_\_\_\_\_

RECEIPT NO.: \_\_\_\_\_

MD-150093D Ex# 24 Pg# 38

THIS APPLICATION MUST BE PROCESSED WITHIN THE 120 DAY DEADLINE

921219

Addendum to: Application for and Extension of a Land Use Permit

Our original intention in purchasing this property three years ago was to simply hold it for a number of years and then slowly begin to put together the pieces for our retirement home. Having been born and raised in Bend and lived there for 21 years, I've always known that someday I would return to live there permanently. When the opportunity to get this lot came up, my wife and I jumped at it, even though it was a bit premature. Everything was working out great until we got a phone call 11 months ago informing us that we had to begin construction on the property within a year or forfeit our building rights forever! Since then, it's obviously been a mad scramble to try to put all the necessary pieces together (securing funding, hiring a contractor, determining house plans, filing for the required permits, etc.)

1) Actions taken to fulfill conditions of the approval: 7 92 10 17

- On October 17, we entered into a formal agreement with Frankansons Construction to begin work on the above referenced property on our behalf.
- On November 1st we had had test holes dug for a sewage disposal system evaluation, had the proposed building site and lot lines staked off, and also staked off the proposed driveway leading from Seismore Rd. to the proposed building site. 1992 11 01
- On November 17th, we received notification from Tom Sloan of the Sanitary Department, that the drainage field site adjacent to the proposed building site was not acceptable and that if the building site was to remain the same, the sewage would have to be pumped uphill some 300 feet to an 'approveable' drainage area.
- On December 8th, we requested a site evaluation for the proposed building site in order to confirm that it was not going to have to be changed as well.

2) Our reasons for requesting the extension:

- We are in the process of gathering supporting data and formulating our case to request a variance through the Dept. of Environmental Quality in order to get reconsideration on the denial ruling for our sewer drainage. We anticipate that the data gathering and case formulation will take another 10 days. Once our request for variance is submitted to the DEQ's, it's our understanding that their hearing process will take an additional 2-4 weeks before a ruling (for or against) is issued.
- We have also begun the process of having the proposed building site confirmed before proceeding. Though the proposed site was approved for the Land Use permit, we feel it's necessary to confirm the proposed site once again, particularly with the basis for the denial of the sewer drainage being potential water run-off considerations. We fear the proposed house site could meet with similar concerns and want to make sure that will not be the case before proceeding further. The contractor has informed us that the process of getting the proposed house site confirmed will likely take 3-4 weeks to complete.

The circumstances detailed above likely necessitate another trip to Bend in mid to late February to tie all of these loose ends down. Such being the case, we find ourselves with little or no margin for error or alternate strategies. Not a good situation, as I'm sure you can understand. As stated on the front page of this application, our LM permit expires on March 11, 1993.

E 92-68

19920129\_LM-92-9\_Complete.pdf



**From: Jeff Dowell**  
*Jeff Dowell*



If you have problems receiving this document,  
please call 716 247 7860. Thank you.

52 Marway Circle  
Rochester NY 14624

**To: Catherine Morrow, Deschutes Cty Planning Dept.**

Catherine,

Any word/feedback on the extension filing for our Seismore Rd. property? I spoke with Thommy Barton (who file within a few days of me) and he received his approval some time ago. Are there problems with our application or is it simply going through the paper mill? Please advise by either faxing me at 716 247 3629 or calling me at 800 800 7860. Thanks. Jeff Dowell

*Brian Please  
call Jeff about  
this application*

*E-92-68*

930126



## Community Development Department

Administration Bldg. • 1130 N.W. Harriman • Bend, Oregon • 97701  
(503) 388-6575

February 1, 1993

Planning Division  
Building Safety Division  
Environmental Health Division

Jeff Dowell  
422 Lake Shore Drive  
Hilton, New York 14468

RE: Extension of File #LM-92-9 (E-92-68)

Dear Mr. Dowell:

The Planning Division has reviewed your request for an extension of the Landscape Management Permit, File #LM-92-9, and hereby approves the extension based on the following findings:

1. The original conditions of approval are still applicable.
2. Progress in the development of the property is being made.

This extension is valid for one year from the expiration date of File #LM-92-9 (March 21, 1993). Be advised that you are not eligible for any more extensions for the completion of your Landscape Management Permit. Therefore, you must submit an application for a building permit by March 21, 1994 in order to utilize your Landscape Management Permit.

You should also be advised that a building permit is valid for six months. If progress is made towards the completion of the residence, the permit is automatically extended. If your building permit expires, your land use permit expires with it.

If you have any questions regarding this matter, please feel free to call this office.

Sincerely,

DESCHUTES COUNTY PLANNING DIVISION  
George J. Read, Planning Director

*Brian Harrington*  
Brian Harrington, Assistant Planner

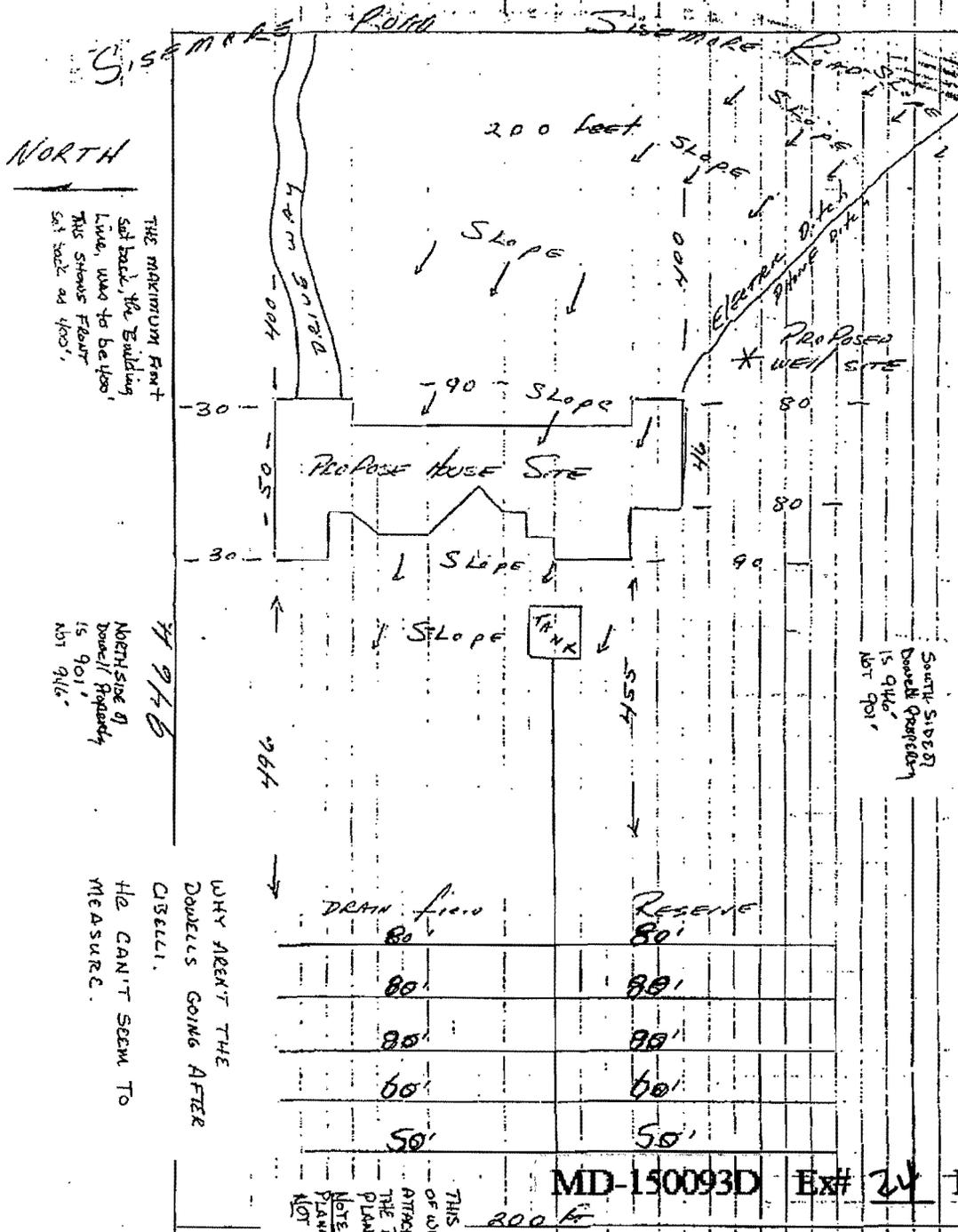
BJH:mic

MD-150093D Ex# 24 Pg# 41

930201

Township 16S Range 11EUM SECTION 19 T41 lot #100  
 65595 SISEMORE ROAD, BEND, OR 97701  
 OWNERS: JEFF AND PATI DOWELL  
 CONTRACTORS: FRANK ANSON'S CONSTRUCTION Co

19920129\_LM-92-9\_Complete.pdf



THE MAXIMUM FRONT SETBACK, THE BUILDING LINE, AND TO BE 100'. THIS SHOWS FRONT SETBACK AS 100'.

NORTH SIDE OF DOWELL PROPERTY IS 901' NOT 946'

WHY AREN'T THE DOUBLES GOING AFTER CIBELLI. HE CAN'T SEEM TO MEASURE.

THIS IS A COPY OF WHAT WAS ATTACHED TO THE BUILDING PLANS.  
 NOTE: PLANNING DID NOT SIGN OFF.

1001 6-26-00  
 6-26-00  
 6-26-00  
 6-26-00  
 6-26-00  
 6-26-00

CONTRACTOR: FRANK ANSON'S CONSTRUCTION Co  
 PLANNING DATE: 3-18-00  
 ENV. HEALTH DATE: 3-18-00  
 BUILDING DATE: 3-18-00

MD-150093D Ex# 24 Pg# 42

Address: 65595 Sisemore Road  
 Sub Parcel #: 34821  
 Scale: 3/3200 (Final 2)

REAMLINE INFORMATION SHEET

CDD - 1130 NW HARRIMAN ST. - BEND, OR. 97701 (503) 388-6575

Property Address: 65595 Sycamore Road Bend

Owner's Name: Jeffrey Paul Powell Owner's Phone #: 716 392-7271

Mailing Address: 422 LANSHIRE ROAD Contractor: FRANKANSON'S

Contact Person: FRANK COBELL Phone #: 503-389-6245

Mailing Address: 1972 NE 3RD ST Suite #206 Bend OR

WHEN APPLYING FOR A BUILDING PERMIT, PLEASE PROVIDE THE FOLLOWING INFORMATION:

Energy Path: # ONE

I. Electrical Contracting Firm: JIM SIZEN Unknown  
Is this residence for sale, rent or lease? N/A  
Square footage of residence: 2731  
Square footage of attached garage: (53) 613  
Detached Garage service: 100-200 amps  201-400 amps  
How many circuit breakers to be installed? (1 to 42) # 27  
REMODEL: Number of circuits: (1 to 42) #  
Or are you installing a new service or sub-panel? # amps

II. Mechanical (Heating) Contracting Firm: SINTERA  
What will be your heat source? Gas  Electric  Both  Other   
If gas, list all gas appliances:  
Type of heat source:  
Forced Air:  
More than 100,000 BTU: Radiant Floor Heat less than 100,000 BTU:   
Heat Pump:  
More than 100,000 BTU: less than 100,000 BTU:  
Baseboard/Electric Wall Heaters? Yes  No   
Woodstove/Pellet/Zero Clearance Fireplace: How many? 1

REMODEL: What will be the heat source in your remodel?  
Will this be an extension of your existing system or a new installation?  
Will you be adding a Woodstove, Pellet, Gas Fireplace or Zero Clearance Fireplace?  
Will you be adding any gas connections? to what appliances?

III. Plumbing Contracting Firm: JDL 92421  
Is your septic/sewer connection more than 100' from source? NO  
Is you water connection more than 100' from source? NO  
Number of bathrooms? 3

REMODEL: Number of each:  
Kitchen Sink Bath Sink Disposal Laundry Sink  
Tub & Shower Dishwasher Bar Sink Toilet  
Shower (separate) Washing Machine Water Heater  
Other - Specify:

*This had to have been after 9210 because of date of bottom*

OFFICE USE ONLY Plans Examiner: Permit Tech:

Building Permit No. 34821 Environmental Health No.

Electrical: Fund Code: # <u>1</u> <u>1</u>	Mechanical: Fund Code: # <u>0</u> <u>1</u>	Plumbing: Fund Code: # <u>30</u> <u>1</u>
Permit # <u>E27820</u>	Permit # <u>M9309</u>	Permit # <u>P8445</u>
Sub Total 5% <u>207</u>	Sub Total 5% <u>11.48</u>	Sub Total 5% <u>207.10</u>
Total \$ <u>207</u>	Total \$ <u>11.48</u>	Total \$ <u>207.10</u>

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Additional Notes:

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3/25/94

RECEIVED  
APR 4 1994  
COMM. DEV. DEPT.

Mr. Damian Syrnrk  
Community Development Department  
Deschutes County  
1130 NW Harriman  
Bend OR 97701

Dear Mr. Syrnrk,

The purpose of this letter is to confirm with you in writing our house building methodology on our property for which a building permit was recently filed.

Other pertinent information regarding this correspondence is:

Owners of Record: Jeff and Pat Dowell  
422 Lakeshore Drive  
Hilton NY 14468

Residence Mailing Address: 65595 Seismore Rd  
Bend OR 97701

Contractor: Frankansons Construction  
Receipt #: 139803  
Transit #: B 34821

My wife and I are the owners of the property and have initially designed the house to have two kitchen facilities for the simple reason that we intend to build the 'guest house' portion of the place first, and live there, while we're working on completing the larger portion of the house. Once the full kitchen and residence are in place, the kitchen part of the guest house will be removed and replaced with cupboards and storage space.

If you have any additional questions and/or concerns, please feel free to contact me directly at:

(W) 716 247 7860  
(H) 716 392 7271

Respectfully,



Jeff T. Dowell

12/12/94

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RECEIVED

DEC 15 1994

COMM. DEV. DEPT

Mr. Brian Harrington  
Deschutes County Planning Dept.  
1130 Harriman St  
Bend, OR 97701

Dear Brian,

I'm writing to follow-up on our meetings of last week and to summarize my understanding of what we agreed to:

- 1) We are to begin construction immediately and call for our first inspection as soon as possible in order to avoid the expiration of our building permit on 1/20/95.
- 2) The guest house and garage portion of the structure will be completed as soon as the weather allows, with the County granting 'partial' inspections throughout that phase of the construction.
- 3) The county will not impose any restrictions on us being able to complete the remaining part of the structure at some point in the future under our current building permit.

With the County's written confirmation of the above, we would have the guest house and garage facilities to live in while doing much of the remaining construction work ourselves. Additionally, we would also have the opportunity to live on the property for while and get a first hand feel for such things as sun angles, lot layout, access, etc., prior to finishing the structure.

Above all else, what we're obviously trying to avoid here is any situation which will invalidate or cause to expire, our current building permit. As a native of Bend, I place a very high priority on being able to come back here and live at some point in the future. We've tried very hard to work with the County from day one to conform to the latest round of land use management restrictions, and frankly, it's required a significant investment of capital which was not anticipated, and certainly not desired at this point in our lives. With that in mind, we're asking for your understanding and acceptance of the parameters on our building permit, as outlined above.

With the ability to build the guest house and garage now, with partial inspections as the work is being done, and then complete the rest of the work on the house at the first feasible point in our (financial) future, we could accomplish our goals, and comply with with county's land use management goals - thus creating a true 'win - win' scenario.

I anxiously await your reply as we need to have the County's written assurances that we can proceed as outlined above before any work starts.

Let me close my saying that I very much appreciate all the time you've spent working on this project with us. I hope all of our efforts don't end up being in vain. Thank you.



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# Community Development Department

Administration Bldg., 1130 N.W. Harriman, Bend, Oregon 97701

(503) 388-6575

Planning Division

Building Safety Division

Environmental Health Division

February 3, 1995

*Where are the "plans"  
for the Garage Guesthouse.*

Jeff Dowell  
422 Lakeshore Drive  
Hilton, NY 14468

RE: Building Permit status, File #LM-92-9.

Dear Mr. Dowell:

*Dec 12th and received on*

You have requested by letter, dated December 15, 1994 regarding the status of your building permit on the subject property located at 65595 Sisemore Road. In review of County records, you received Landscape Management permit approval via File #LM-92-9, and by extension via File #E-92-68. The conditions of approval required you to submit a building permit for the residence by March 21, 1994. A building permit (#B-34821) was applied for on March 18, 1994 in a timely manner.

Enclosed is a copy of notations with respect to the status of your building permit. Staff has noted that the residence will be built in phases with the garage portion and living space as phase I, considered to be the residence at this time for land use purposes.

Please be advised that timely progress must be made with respect to your building permit (#B-34821). If for any reason this building permit expires, your land use permit will be void. If there are substantial alterations to the submitted plans, a new land use application may be required.

Please keep in contact with the Deschutes County Building Division for the necessary requirements to ensure your building permit remains active.

If you should have any further questions, please call me at 388-6575.

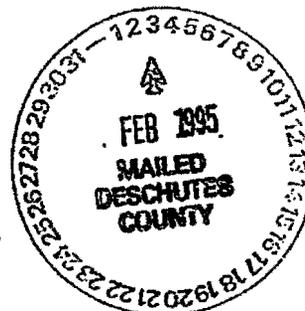
Sincerely,  
DESCHUTES COUNTY PLANNING DIVISION

*Brian J. Harrington*  
Brian J. Harrington, Assistant Planner

BJH:slr

MD-150093D Ex# 24 Pg# 46

cc: Dennis Perkins, Building Official



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DESCHUTES COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
ADMINISTRATION BUILDING, 1130 NW HARRIMAN ST  
BEND, OREGON 97701  
(541) 388-6575

Please complete this form if you would like to apply for a one-time 180 day extension for the permits listed on the attached letter.

Name: JEFF DOWELL  
Address: 139 NW ST HELENS PLACE  
BEND OR 97701  
Phone #: 360 574 7115 or 503 241 9315

Property address: 65595 SISEMORE RD - BEND  
Permit #'s: SEE ATTACHMENT SERIAL #163466  
WITH YOUR #S SHOWN

In the space below, please list the reason(s) for this extension request (i.e. financial, weather, etc.):

FINANCIAL DIFFICULTIES REQUIRE ME TO  
MAKE THIS REQUEST. PLEASE GRANT  
IT, AS I TRULY HAVE NO OTHER  
ALTERNATIVES

THANK YOU

Jeff Dowell

If you have made progress and ready for a progress inspection, please call the inspection request line at (503) 388-6575.

Please return to:

Deschutes County Community Development Department  
Attn: Lori Lassley  
1130 NW Harriman St  
Bend, Oregon 97701

19960415.1

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# MRI

**Multimedia Resources, Inc.**

1631 S.W. Columbia, Portland, OR, 97201

P: 503.241.9315 Fax: 503.241.8466

Internet: [jtd@mresources.com](mailto:jtd@mresources.com)

<http://www.mresources.com>



4/15/96 9:59 AM

**TO: Lori Lassley @ Desch. Cty Comm Dev.**

**RE: One Time Extension Request**

Lori,

Per the attached paperwork, please accept this filing for a one-time extension on our currently active building permit.

PLEASE CALL ME as soon as possible to confirm the arrival of this fax and to let me know that the extension has been granted.

Thanks

DESCHUTES COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
ADMINISTRATION BUILDING, 1130 NW HARRIMAN ST  
BEND, OREGON 97701  
(541) 388-6575

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04/16/96

DOWELL, JEFF & PAM  
422 LAKESHORE DR  
HILTON, NY 14468

Dear Permit Holder:

In response to your request, we are extending the expiration date for permit number B34821 at 65595 SISEMORE RD, BEND. This extension gives you 180 days to show progress on this project. To prevent this permit from expiring, you will need to schedule an inspection before 10/13/96.

Please feel free to contact me if you have any additional questions or concerns. I can be reached weekdays from 8:00 AM to 5:00 PM (Wednesdays from 9:00 AM to 5:00 PM) at (541) 388-6575.

Sincerely,

Lori Lassley  
Lead Permit Technician

LEL:sys

DESCHUTES COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
ADMINISTRATION BUILDING, 1130 NW HARRIMAN ST  
BEND, OREGON 97701  
(541) 388-6575

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09/16/96

DOWELL, JEFF  
139 NW ST HELENS PLACE  
BEND, OR 97701

RE: EXPIRATION OF PERMITS

County records indicate you are the owner of property at 65595 SISEMORE RD, BEND, serial # 163466. The following permit(s) are nearing an expiration date:

B34821, 04/16/96; E27821, 07/22/94; E27820, 07/22/94; M9309, 07/22/94; P8445, 06/15/95

Oregon State Building Code requires that progress shall be made during each 180 day period. If notable progress has not been made and recorded, permits will expire and become null and void. Once expired, permits must be renewed prior to any further work or inspections being accomplished. Permits may be renewed for half of the permit fee provided that renewal is accomplished within one year and no change is made to the original permit.

Our records indicate that the last recorded progress was on 04/16/96.

To insure that the permits remain active, please call our inspection line at 317-3174 and request a progress check for the permit(s) referenced in this letter to be completed prior to 10/13/96. Failure to have an inspection and to have made progress by 10/13/96 will cause all the permit(s) to automatically expire. A one-time 180 day extension can be applied for by completing the enclosed form and returning.

PLEASE NOTE: This letter does not refer to any permits for on-site sewage disposal systems. Septic permits are valid for one year from date of issuance. If you have any questions regarding the septic permit please contact Environmental Health at 388-6575.

Sincerely,

Lori Lassley  
Lead Permit Technician

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