



Mailing Date:
Friday, July 29, 2022

COMMUNITY DEVELOPMENT

FINDINGS AND DECISION

FILE NUMBER(S): 247-22-000431-LM

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: THORMAHLEN, STEVEN L
Map and Taxlot: 211106B002100
Account: 141311
Situs Address: 54735 HUNTINGTON RD, BEND, OR 97707

APPLICANT: David Thormahlen

REQUEST: A site plan review to establish a new single-family dwelling in the Landscape Management and Wildlife Area Combining Zones.

STAFF CONTACT: Caroline House, Senior Planner
Phone: 541-388-6667
Email: Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)

- Title 18, Deschutes County Zoning Ordinance
 - Chapter 18.60, Rural Residential Zone (RR10)
 - Chapter 18.84, Landscape Management Combining Zone (LM)
 - Chapter 18.88, Wildlife Area Combining Zone (WA)
 - Chapter 18.96, Flood Plain Zone (FP)
- Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: The subject property is a legal lot of record as it is platted Lot 17, Block 1 of the Lazy River subdivision.

SITE DESCRIPTION: The subject property is 1.42 acres in size, irregular in shape, and has frontage on Huntington Road. The eastern +/- 70 feet of the property is at a higher elevation than the other areas of the property and some gravel has been added to this area for vehicular access. This area is relatively level before the grade drops steeply down to the wetland areas of the property. The undisturbed areas of the property have vegetative cover consisting of Ponderosa Pine trees and wetland vegetation.

LAND USE HISTORY:

- 247-18-000032-TU: A Temporary Use Permit to establish an RV as a residence for six months in calendar year 2018.
- 247-19-000225-TU: A renewal of the Temporary Use Permit for calendar year 2019.
- 247-20-000037-TU: A renewal of the Temporary Use Permit for calendar year 2020.
- 247-20-000120-CU /247-20-000121-CU: A joint Conditional Use Permit with the adjacent property identified on Deschutes County Assessor's Map 21-11-06B, as tax lot 2000. The approval allowed limited amounts of earthen fill in a mapped floodplain and wetland area, and to allow limited vegetation removal in a mapped wetland area, to provide access to the river for residents with limited mobility. The applicant is also requested approval of solid fencing within a required clear vision area. Both requests were made as part of a "reasonable accommodation" and "reasonable modification" under the provisions and requirements of the Fair Housing Amendments Act (FHAA) and the Americans with Disabilities Act (ADA).
- 247-21-000696-TU: A renewal of the Temporary Use Permit for calendar year 2021.
- 247-21-000588-LM (*Withdrawn*): A nonvisible Landscape Management site plan review for a new single-family dwelling.

SURROUNDING LAND USES: Immediately surrounding properties to the south, north, west, and east are all Rural Residential (RR10) and Flood Plain zoned lots in similar sizes and shapes to the subject property. These surrounding properties are predominately developed with single-family dwellings. Large properties further to the east are zoned Forest Use and are located in the Deschutes National Forest and other federal ownership. Nearly all properties in the vicinity of the Little Deschutes River have large areas of mapped jurisdictional wetlands.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 1, 2022, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

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

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

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for 247-22-000431-LM to establish a single-family dwelling on a 1.42-acre parcel in the Rural Residential (RR-10), Landscape Management (LM), Wildlife Area (WA), and Flood Plain (FP) zones at 54735 Huntington Rd., aka County Assessor's Map 21-11-06B, Tax Lot 2100.

The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Handbook indicates a single-family residence (Land Use 210) generates an average of approximately nine daily weekday trips. Deschutes County Code (DCC) at 18.116.310(C)(3)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use will not meet the minimum threshold for additional traffic analysis.

The property currently accesses Huntington Road, a public road maintained by Deschutes County, which is functionally classified as a collector. The property has two driveway permits approved by Deschutes County (#247-SW9336 and #247-SW9337) and thus the subject property meets the access permit requirements of DCC 17.48.210(A).

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. County staff has determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore the applicable SDC is \$3,853 ($\$4,757 \times 0.81$). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2022. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

ON JULY 1, 2022, THE SDC RATE GOES UP TO \$5,080 PER PEAK HOUR TRIP WHICH WILL REMAIN IN EFFECT UNTIL JUNE 30, 2023. THE SINGLE-FAMILY SDC WOULD THUS INCREASE TO \$4,115 ($\$5,080 \times 0.81$).

La Pine Rural Fire Protection District, Mike Supkis:

The La Pine Rural Fire Protection District has received the County Planning Division request for a site plan review for a new single family dwelling at 54735 Huntington Road, Tax lot 2100 – 21-11-06B; 247-22-000431-LM.

The proposed project and property, although near the river corridor area, is also in a very high Wildland Fire Hazard Area. The District requests that the landscape planning use the Oregon Forestland – Urban Interface Fire Protection Act standards – OAR 629-044, as well as, FireWise and FireFree landscaping best practices criteria to design and maintain a safe landscape for this environment.

ONSITE WETLAND DETERMINATION REPORT
OREGON DEPARTMENT OF STATE LANDS – BEND OFFICE
1645 NE Forbes Rd., Suite 112, Bend, OR 97701 (541) 388-6112

WD#: 2021-0566

An onsite wetland determination has been conducted on the property described below.

County: Deschutes

City: Bend

Other Name & Address: Dave Thormahlen, 17364 Beaver Pl, Bend, OR 97707

Township: 21S

Range: 11E

Section: 06

Q/Q: B0

Tax Lot(s): 2100

Project Name: Thormahlen slope grading & single family dwelling

Date of Site Visit 10/07/2021

Site Address/Location: 54735 Huntington Rd, Bend, OR 97707

☐ There are no jurisdictional wetlands or waterways on the property. Therefore, no state removal-fill permit is required.
Notes: _____

☒ There are/may be wetlands or waterways on the property that are subject to the state Removal-Fill Law.

☒ A state permit is required for ≥ 50 cubic yards of fill, removal, or ground alteration in the wetlands or waterways.

☐ A state permit may be required for any amount of fill, removal, or ground alteration in the Essential Salmonid Habitat and hydrologically associated wetlands.

☐ A state permit may be required for any amount of fill, removal, or other ground alteration in a compensatory wetland mitigation site.

☐ A wetland determination or delineation is needed. If site development is planned, the delineation report should be submitted to the Department for review and approval.

☒ A state permit will not be required for the existing grading area or the proposed single family home provided that on-site grading and construction activities remain within the existing footprint and the area identified as upland by DSL (see attached Figure 1).

☐ A permit may be required by the Army Corps of Engineers: (503) 808-4373

Note: This report is for the state Removal-Fill Law only. City or County permits may be required for the proposed activity.

Comments: Based on discussions with the property owner's father (Dave Thormahlen), the proposed home footprint will remain within the existing gravel area, except for the deck footings, which will extend into wetland. As long as the ground disturbance for the deck remains less than 50 cubic yards, a state permit will not likely be required for this activity.

Determination by: J. Salgado PR Date 10/21/2021

☒ This jurisdictional determination is valid for five years from the above date, unless new information necessitates a revision. Circumstances under which the Department may change a determination and procedures for renewal of an expired determination are found in OAR 141-090-0045 (available on our web site or upon request). The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months from the above date.

☐ This is a preliminary jurisdictional determination and is advisory only

Copy To: ☒ Other Email: dave.gerri@yahoo.com ☒ Enclosures: Figure 1

☒ Caroline House, Deschutes County Planning Department (caroline.house@deschutes.org)

☒ Bethany Harrington, Department of State Lands (bethany.harrington@dsl.oregon.gov)

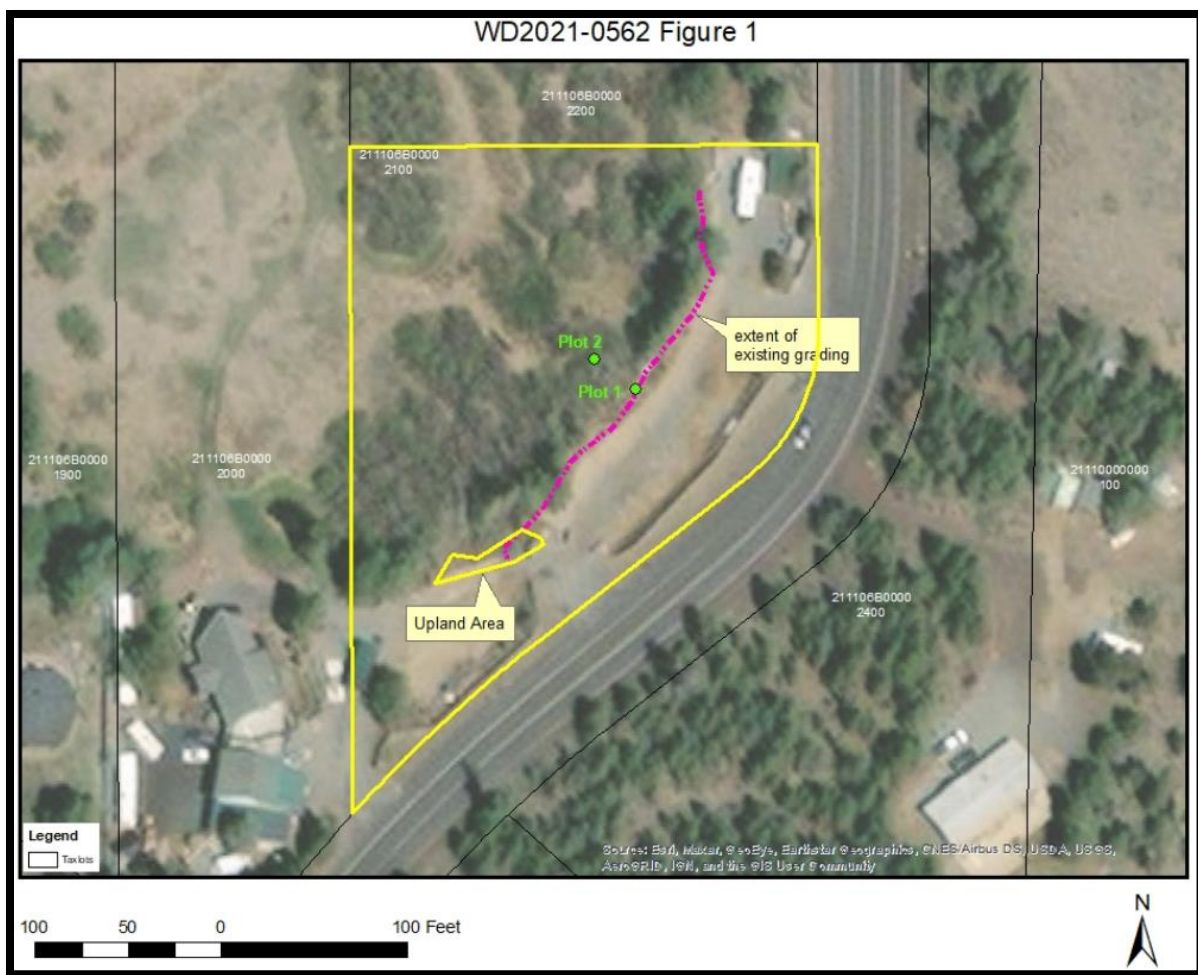
☒ Steven Thormahlen, Property Owner (endzonefan@comcast.net)

FOR OFFICE USE ONLY

Entire Lot(s) Checked? ☒ Yes ☐ No Waters Present? ☒ Yes ☐ No ☐ Maybe Request Received: 09/02/2021 ☐ For ENF.
LWI Area: South Deschutes County LWI Code: PSSE, PEME Latitude: 43.788607 Longitude: -121.458059 Related DSL File #: WN2021-0692
Has Wetlands? ☒ Yes ☐ No ☐ Unknown ESH? ☐ Yes ☒ No Wild & Scenic? ☐ Yes ☒ No State Scenic? ☐ Yes ☒ No
Adjacent Waterbody: Little Deschutes River, floodplain wetland

WD20210566 Agency Decision

<http://www.oregonstatelands.us/>



July 28, 2022:

Thanks for the follow up with this project change. Feel free to include this email in your file as our comment.

Based on the revised site plan attached, it appears that no impacts are proposed to the jurisdictional wetlands on-site. The deck footings appear to have been revised to remain above the break in slope, outside the wetland. Therefore, a state Removal-Fill permit will not likely be required for this activity.

Please be advised that any additional slope grading in this area would likely impact wetland. 50 cubic yards of cumulative fill or removal activities are allowed before a Removal-Fill permit is required. It is recommended that the applicant keep the building footprint outside the extent of existing grading (as shown on the map attached to WD2021-0566).

The following agencies did not respond to the notice: Army Corps of Engineers, Deschutes County Code Enforcement, Deschutes County Road Department, Deschutes National Forest, Oregon Parks & Recreation Department, Oregon Department of Fish and Wildlife, Upper Deschutes Watershed Council, and Watermaster – District 11.

PUBLIC COMMENTS: The Planning Division mailed notice the application to all property owners within 250 feet of the subject property on June 1, 2022. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on May 31, 2022. No public comments were received.

REVIEW PERIOD: The subject application¹ was submitted on May 27, 2022 and deemed complete by the Planning Division on June 26, 2022. The 150th day on which the County must take final action on this application is November 23, 2022.

III. **FINDINGS & CONCLUSIONS**

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.60, Rural Residential Zone (RR-10)

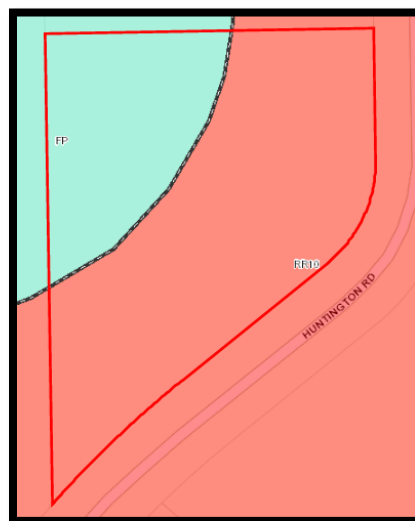
Section 18.60.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright.

A. A single family dwelling, or a manufactured home subject to DCC 18.116.070.

FINDING: The southeasterly two-thirds of the subject property is zoned RR10 (see *Figure 1* below). The proposed dwelling will be sited in this area. Therefore, the proposed use is permitted outright. The application materials indicate the proposed dwelling may be a manufactured home. Therefore, the requirements of DCC 18.116.070 apply.

Figure 1 – Zoning Designation (Red = Rural Residential / Blue = Flood Plain)



¹ Staff notes the applicant previously applied for a non-visible Landscape Management review (ref. File No. 247-21-000588-LM). However, the subject application was initiated as the proposed building site can be seen from the Little Deschutes River. For this reason, the non-visible application was withdrawn.

Section 18.60.030 Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

N. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270

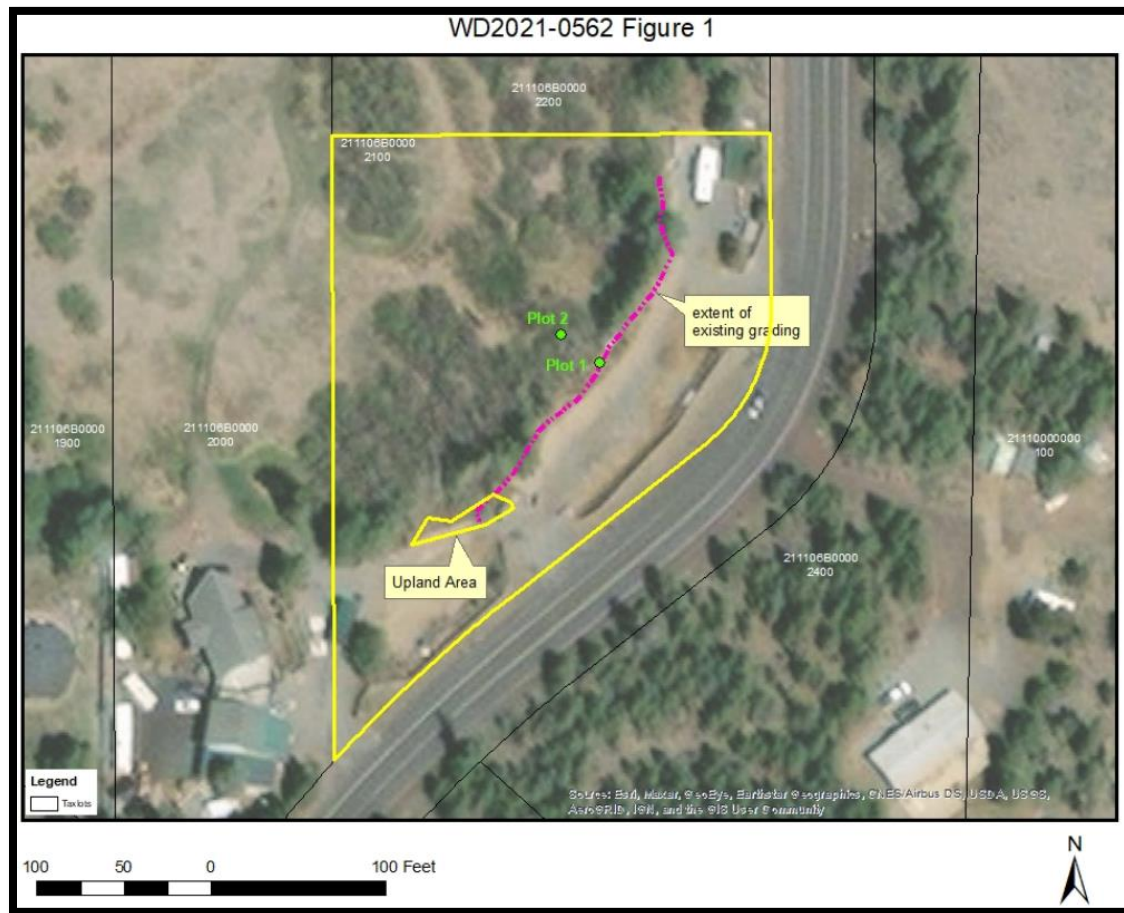
FINDING: The subject property and project footprint include areas mapped as wetlands on the Local Wetland Inventory.

Figure 2 – DIAL Wetland Mapping on Property



However, based on a figure and corresponded from the Department of State Lands (DSL), wetlands are less extensive than as mapped on the State Wetland Inventory.

Figure 3 – Department of State Lands Wetland Figure



As a condition of approval, no excavation, grading, fill, or removal (including removal of any vegetation regardless of the amount) is requested or approved under this permit in wetlands.

Section 18.60.040. Yard and Setback Requirements.

In an RR 10 Zone, the following yard and setbacks shall be maintained.

- A. The front setback shall be a minimum of 20 feet from a property line fronting on a local street right of way, 30 feet from a property line fronting on a collector right of way and 50 feet from an arterial right of way.***
- B. There shall be a minimum side yard of 10 feet for all uses, except on the street side of a corner lot the side yard shall be 20 feet.***
- C. The minimum rear yard shall be 20 feet.***
- D. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.***
- E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.***

FINDING: The proposed structure complies with the setbacks in sections (A) through (D). As a

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

Section 18.60.050. Stream Setbacks

To permit better light, air, vision, stream or pollution control, protect fish and wildlife areas and to preserve the natural scenic amenities and vistas along streams and lakes, the following setback shall apply:

- A. All sewage disposal installations, such as septic tanks or septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.***
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.***

FINDING: All sewage disposal installations, structures, buildings or similar permanent fixtures will be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

Section 18.60.060. Dimensional Standards.

In an RR 10 Zone, the following dimensional standards shall apply:

- A. Lot Coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of 30 percent of the total lot area.***

FINDING: The proposed structure will not cover in excess of 30 percent of the total lot area.

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

FINDING: The elevation drawings submitted with the application indicate the overall height of the structure(s) will be 30 feet or less in height. As a condition of approval, no building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.

Section 18.60.080. Rimrock Setback.

Setbacks from rimrock shall be as provided in DCC 18.116.160.

FINDING: There is no rimrock in the project vicinity.

Chapter 18.84, Landscape Management Combining Zone (LM)

Section 18.84.020. Application of Provisions.

The provisions of DCC 18.84 shall apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map. The provisions of DCC 18.84 shall also apply to all areas within the boundaries of a State scenic waterway or Federal wild and scenic river corridor and all areas within 660 feet of rivers and streams otherwise identified as landscape management corridors in the comprehensive plan and the County Zoning Map. The distance specified above shall be measured horizontally from the center line of designated landscape management roadways or from the nearest ordinary high water mark of a designated landscape management river or stream. The limitations in DCC 18.84.20 shall not unduly restrict accepted agricultural practices.

FINDING: The Deschutes River is identified on the County Zoning Map as the landscape management feature. The subject property falls within the Landscape Management Combining Zone for this feature, therefore, the provisions of this chapter apply.

Section 18.84.030. Uses Permitted Outright.

Uses permitted in the underlying zone with which the LM Zone is combined shall be permitted in the LM Zone, subject to the provisions in DCC 18.84.

FINDING: As discussed herein, the proposed use is allowed outright in the underlying zone.

Section 18.84.050. Use Limitations.

- A. *Any new structure or substantial exterior alteration of a structure requiring a building permit or an agricultural structure within an LM Zone shall obtain site plan approval in accordance with DCC 18.84 prior to construction. As used in DCC 18.84 substantial exterior alteration consists of an alteration which exceeds 25 percent in the size or 25 percent of the assessed value of the structure.***

FINDING: The proposed structure requires a building permit. For this reason, the applicant has requested site plan approval in accordance with DCC 18.84 prior to construction.

Section 18.84.080. Design review standards.

The following standards will be used to evaluate the proposed site plan:

- A. *Except as necessary for construction of access roads, building pads, septic drainfields, public utility easements, parking areas, etc., the existing tree and shrub cover screening the development from the designated road, river, or stream shall be retained. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act, or agricultural***

use of the land.

FINDING: The proposal, as conditioned, will comply with this criterion.

- B. It is recommended that new structures and additions to existing structures be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site.***
- C. No large areas, including roofs, shall be finished with white, bright or reflective materials. Roofing, including metal roofing, shall be non-reflective and of a color which blends with the surrounding vegetation and landscape. DCC 18.84.080 shall not apply to attached additions to structures lawfully in existence on April 8, 1992, unless substantial improvement to the roof of the existing structure occurs.***

FINDING: The applicant has proposed a green or green-gray metal roof and “Jojoba” (light green) and “Split Rail” (light brown) exterior finishes as part of the application. Staff finds that the proposed muted earth tone colors blend with and reduce contrast with the surrounding vegetation and landscape of the building site, and that no large areas, including roofs, will be finished with white, bright, or reflective materials.

- D. Subject to applicable rimrock setback requirements or rimrock setback exception standards in DCC 18. 84.090(E), all structures shall be sited to take advantage of existing vegetation, trees and topographic features in order to reduce visual impact as seen from the designated road, river or stream. When more than one nonagricultural structure is to exist and no vegetation, trees or topographic features exist which can reduce visual impact of the subject structure, such structure shall be clustered in a manner which reduces their visual impact as seen from the designated road, river, or stream.***

FINDING: The proposed structure will be sited to take advantage of existing vegetation, trees and topographic features in order to reduce visual impact as seen from the designated road, river or stream.

- E. Structures shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream. Within the LM Zone along a state scenic waterway or federal wild and scenic river, the height of a structure shall include chimneys, antennas, flag poles or other projections from the roof of the structure. DCC 18.84.080(E) shall not apply to agricultural structures located at least 50 feet from a rimrock.***

FINDING: Staff includes this requirement as a condition of approval.

- F. New residential or commercial driveway access to designated landscape management roads shall be consolidated wherever possible.***

FINDING: No new residential or commercial driveway access to designated landscape

management roads is proposed.

- G. *New exterior lighting, including security lighting, shall be sited and shielded so that it is directed downward and is not directly visible from the designated road, river or stream.***

FINDING: Staff includes this requirement as a condition of approval.

- H. *The Planning Director or Hearings Body may require the establishment of introduced landscape material to screen the development, assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation or 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 designated landscape management road, river or stream. Use of native species shall be encouraged. (Formerly section 18.84.080 (C))***

FINDING: No introduced landscape material is required under this criterion.

- I. *No signs or other forms of outdoor advertising that are visible from a designated landscape management river or stream shall be permitted. Property protection signs (No Trespassing, No Hunting, etc.,) are permitted.***

FINDING: No signs or other forms of outdoor advertising that are visible from a designated Landscape Management river or stream are proposed.

- J. *A conservation easement as defined in DCC 18.04.280 "Conservation Easement" and specified in DCC 18.116.220 shall be required as a condition of approval for all landscape management site plans involving property adjacent to the Deschutes River, Crooked River, Fall River, Little Deschutes River, Spring River, Whychus Creek and Tumalo Creek. Conservation easements required as a condition of landscape management site plans shall not require public access.***

FINDING: The subject property is not adjacent to a listed waterway.

Section 18.84.090. Setbacks.

- A. *Except as provided in DCC 18.84.090, minimum setbacks shall be those established in the underlying zone with which the LM Zone is combined.***

FINDING: Compliance with the setbacks established in the underlying zone with which the LM Zone is combined is reviewed herein.

- B. *Road Setbacks. All new structures or additions to existing structures on lots fronting a designated landscape management road shall be set back at least 100 feet from the edge of the designated road right-of-way unless the Planning Director or***

Hearings Body finds that:

- 1. A location closer to the designated road would more effectively screen the building from the road; or protect a distant vista; or**
 - 2. The depth of the lot makes a 100-foot setback not feasible; or**
 - 3. Buildings on both lots abutting the subject lot have front yard setbacks of less than 100 feet and the adjacent buildings are within 100 feet of the lot line of the subject property, and the depth of the front yard is not less than the average depth of the front yards of the abutting lots.**
- If the above findings are made, the Planning Director or Hearings Body may approve a less restrictive front yard setback which will be appropriate to carry out the purpose of the zone.**

FINDING: The subject property does not front on a designated Landscape Management road.

- C. River and Stream Setbacks. All new structures or additions to existing structures shall be set back 100 feet from the ordinary high water mark of designated streams and rivers or obtain a setback exception in accordance with DCC 18.120.030. For the purpose of DCC 18.84.090, decks are considered part of a structure and must conform with the setback requirement.**
- The placement of on-site sewage disposal systems shall be subject to joint review by the Planning Director or Hearings Body and the 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**

FINDING: The application materials indicate the new structure, sewage disposal systems, and decks will be set back at least 100 feet from the ordinary high water mark of designated streams and rivers.

- D. Rimrock Setback. New structures (including decks or additions to existing structures) shall be set back 50 feet from the rimrock in an LM Zone. An exception to this setback may be granted pursuant to the provisions of DCC 18.84.090(E).**

FINDING: There is no rimrock in the project vicinity.

Section 18.84.095. Scenic waterway.

Approval of all structures in a State Scenic Waterway shall be conditioned upon receipt of approval of the Oregon Department of Parks and Recreation.

FINDING: The proposed structure is not located in a State Scenic Waterway.

Chapter 18.88, Wildlife Area Combining Zone (WA)

Section 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.

FINDING: As discussed above, the proposed use is allowed outright in the underlying zone.

Section 18.88.060. Siting Standards.

- A. *Setbacks shall be those described in the underlying zone with which the WA Zone is combined.***
- B. *The footprint, including decks and porches, for new dwellings shall be located entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of August 5, 1992 unless it can be found that:***
 - 1. *Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern; or,***
 - 2. *The siting within 300 feet of such roads or easements for vehicular access would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least possible impact on wildlife habitat considering browse, forage, cover, access to water and migration corridors, and minimizing length of new access roads and driveways; or,***
 - 3. *The dwelling is set back no more than 50 feet from the edge of a driveway that existed as of August 5, 1992.***
- C. *For purposes of DCC 18.88.060(B):***
 - 1. *A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to August 5, 1992 if the applicant submits any of the following:***
 - a. *A copy of an easement recorded with the County Clerk prior to August 5, 1992 establishing a right of ingress and egress for vehicular use;***
 - b. *An aerial photograph with proof that it was taken prior to August 5, 1992 on which the road, easement or driveway allowing vehicular access is visible;***
 - c. *A map published prior to August 5, 1992 or assessor's map from prior to August 5, 1992 showing the road (but not showing a mere trail or footpath).***
 - 2. *An applicant may submit any other evidence thought to establish the existence of a private road, easement for vehicular access or driveway as of August 5, 1992 which evidence need not be regarded as conclusive.***

FINDING: Setbacks are those described in the underlying zone with which the WA Zone is combined. The proposed dwelling complies with applicable siting standards.

Section 18.88.070. Fencing Standards.

The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.

- A. New fences in the Wildlife Area Combining Zone shall be designed to permit wildlife passage. The following standards and guidelines shall apply unless an alternative fence design which provides equivalent wildlife passage is approved by the County after consultation with the Oregon Department of Fish and Wildlife:***
 - 1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.***
 - 2. The height of the fence shall not exceed 48 inches above ground level.***
 - 3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.***
- B. Exemptions:***
 - 1. Fences encompassing less than 10,000 square feet which surround or are adjacent to residences or structures are exempt from the above fencing standards.***
 - 2. Corrals used for working livestock.***

FINDING: No new fencing is included in this proposal. As a condition of approval, all new fences shall comply with DCC 18.88.070.

Chapter 18.96, Flood Plain (FP) Zone

Section 18.96.020, Designated Areas.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Deschutes County, Oregon and Incorporated Areas" revised September 28, 2007, with accompanying Flood Insurance Rate Maps is hereby adopted by reference and incorporated herein by this reference. The Flood Insurance Study is on file at the Deschutes County Community Development Department.

The Flood Plain Zone shall include all areas designated as "Special Flood Hazard Areas" by the Flood Insurance Study for Deschutes County. When base flood elevation data has not been provided in the Flood Insurance Study, the Planning Director will obtain, review and reasonably utilize any base flood elevation or floodway data available from federal, state or other sources, in determining the location of a flood plain or floodway.

FINDING: The Deschutes County Flood Plain Zone includes all areas designated as "Special Flood Hazard Areas" on the Federal Flood Insurance Rate Maps (FIRM). Special Flood Hazards Areas are lands that would be inundated by a 100-year flood event, that are at or below the base flood elevation (BFE). The flood map for this property is FIRM No. 41017C1140D, Effective Date: September 28, 2007. The proposed development will be out of the mapped 100-year flood plain. As

such, the proposed development is located outside the floodplain and is not subject to the standards of the Flood Plain (FP) Zone.

As a condition of approval, no excavation, grading, fill, or removal is requested or approved under this permit in the FP zone.

Chapter 18.116, Supplementary Provisions

Section 18.116.050. Manufactured Homes

Manufactured Home Classes. For purposes of these regulations, manufactured homes are divided into the following types:

A. A Class A manufactured home shall:

- 1. Have more than 1,000 square feet of occupied space in a double section or larger multi-section unit;***
- 2. Be placed on a foundation or support system, as specified by the manufacturer. Skirting shall be required;***
- 3. Have wheels, axles and hitch mechanisms removed;***
- 4. Have utilities connected subject to the requirements of the Building Codes Agency and manufacturer's specifications;***
- 5. Bear an insignia of compliance with the Manufactured Housing and Construction and Safety Standards Code as of June 15, 1976;***
- 6. Have roofing materials of a type customarily used on site constructed residences, including wood shakes or shingles, asphalt or fiberglass shingles, corrugated mat finish colored metal and tile materials, but not including high gloss corrugated aluminum or fiberglass panels. The roof pitch shall be a minimum of two over 12; and***
- 7. Have siding materials of a type customarily used on site-constructed residences such as clapboard, horizontal vinyl or aluminum lap-siding, cedar or other wood siding, brick or stone, and not including high gloss finished material, corrugated metal or fiberglass, or metal or plastic panels.***

FINDING: If the single-family dwelling is a manufactured home it must comply with the Class A requirements above. A condition of approval has been added to ensure compliance.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. County staff has determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore the applicable SDC is \$4,115 (\$5,080 X 0.81). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final. The SDC applies to the new dwellings.

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30TH. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1ST. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT APPLICATION IS SUBMITTED.

IV. CONCLUSION

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

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

V. DECISION

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D.** In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- E.** Except as necessary for construction of access roads, building pads, septic drainfields, public utility easements, parking areas, etc., the existing tree and shrub cover screening the development from the designated road, river, or stream shall be retained. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act, or agricultural use of the land.

- F. Structures shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream.
- G. New exterior lighting, including security lighting, shall be sited and shielded so that it is directed downward and is not directly visible from the designated road, river or stream.
- H. All new fences shall comply with DCC 18.88.070.
- I. If the single-family dwelling is a manufactured home it must comply with the DCC 18.116.050 Manufactured Home Class A standards.
- J. All conditions of approval for file nos. 247-20-000120-CU / 247-20-000121-CU remain in effect.
- K. No excavation, grading, fill, or removal (including removal of any vegetation regardless of the amount) is requested or approved under this permit in wetlands.
- L. No excavation, grading, fill, or removal is requested or approved under this permit in the Flood Plain zone.

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

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

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 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.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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

DESCHUTES COUNTY PLANNING DIVISION

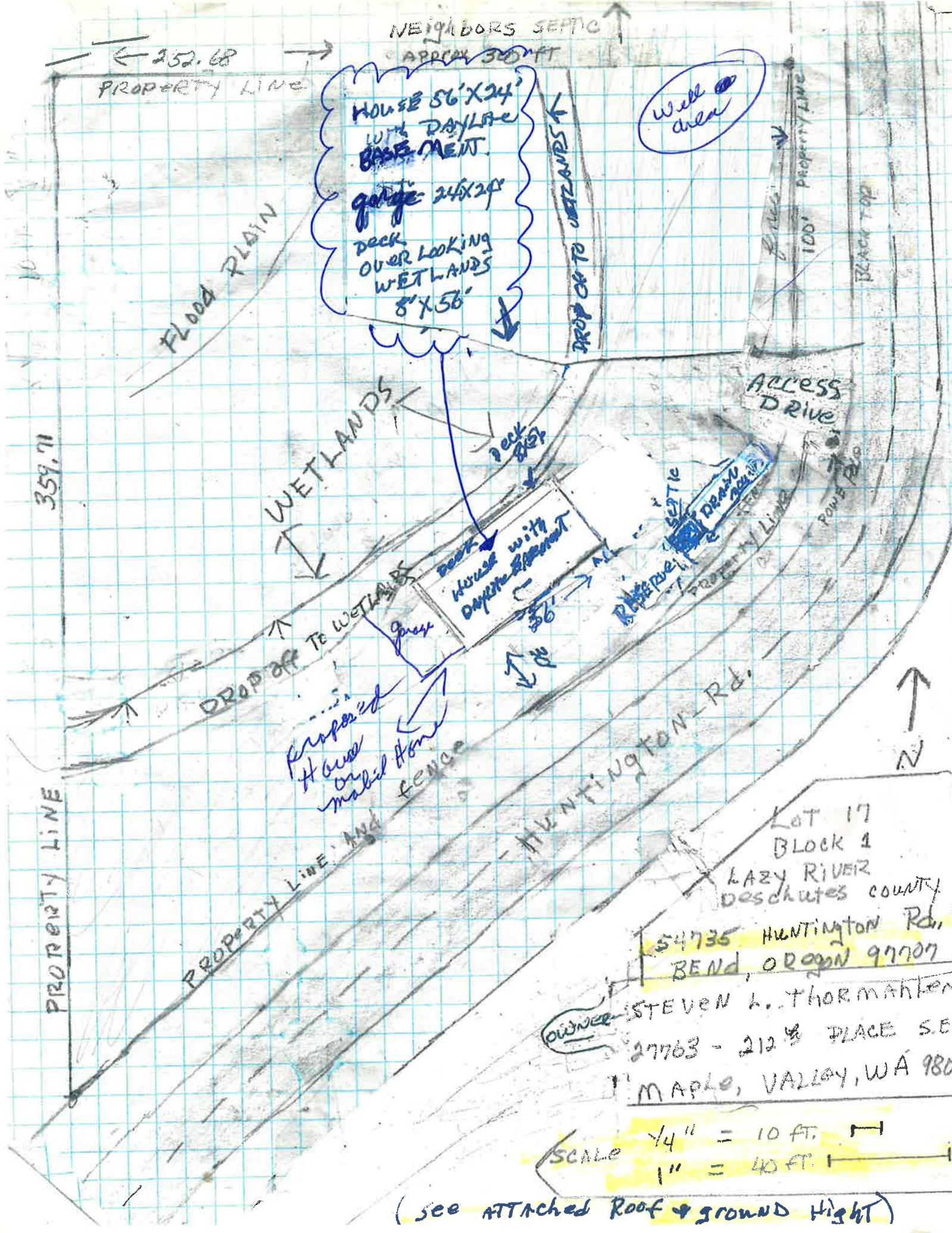
A handwritten signature in black ink, appearing to read 'Caroline House', written in a cursive style.

Written by: Caroline House, Senior Planner

A handwritten signature in black ink, appearing to read 'Will Groves', written in a bold, cursive style.

Reviewed by: Will Groves, Planning Manager

Attachment(s): Site Plan
DSL Onsite Wetland Determination Report (WD#: 2021-0566)



Lot 17
Block 1
LAZY RIVER
Deschutes County
54735 HUNTINGTON Rd.
BEND, OREGON 97707
owner STEVEN L. THORMANTEN
27763 - 212 1/2 PLACE S.E.
MAPLE, VALLEY, WA 980

SCALE 1/4" = 10 FT.
1" = 40 FT.

(see ATTACHED Roof & ground Height)

ONSITE WETLAND DETERMINATION REPORT
OREGON DEPARTMENT OF STATE LANDS – BEND OFFICE
1645 NE Forbes Rd., Suite 112, Bend, OR 97701 (541) 388-6112

WD#: 2021-0566

An onsite wetland determination has been conducted on the property described below.

County: Deschutes

City: Bend

Other Name & Address: Dave Thormahlen, 17364 Beaver Pl, Bend, OR 97707

Township: 21S

Range: 11E

Section: 06

Q/Q: B0

Tax Lot(s): 2100

Project Name: Thormahlen slope grading & single family dwelling

Date of Site Visit 10/07/2021

Site Address/Location: 54735 Huntington Rd, Bend, OR 97707

- ☐ There are no jurisdictional wetlands or waterways on the property. Therefore, no state removal-fill permit is required.
Notes: _____
- ☒ There are/may be wetlands or waterways on the property that are subject to the state Removal-Fill Law.
- ☒ A state permit is required for ≥ 50 cubic yards of fill, removal, or ground alteration in the wetlands or waterways.
- ☐ A state permit may be required for any amount of fill, removal, or ground alteration in the Essential Salmonid Habitat and hydrologically associated wetlands.
- ☐ A state permit may be required for any amount of fill, removal, or other ground alteration in a compensatory wetland mitigation site.
- ☐ A wetland determination or delineation is needed. If site development is planned, the delineation report should be submitted to the Department for review and approval.
- ☒ A state permit will not be required for the existing grading area or the proposed single family home provided that on-site grading and construction activities remain within the existing footprint and the area identified as upland by DSL (see attached Figure 1).
- ☐ A permit may be required by the Army Corps of Engineers: (503) 808-4373

Note: This report is for the state Removal-Fill Law only. City or County permits may be required for the proposed activity.

Comments: Based on discussions with the property owner's father (Dave Thormahlen), the proposed home footprint will remain within the existing gravel area, except for the deck footings, which will extend into wetland. As long as the ground disturbance for the deck remains less than 50 cubic yards, a state permit will not likely be required for this activity.

Determination by: *J. Salgado* *PR* Date 10/21/2021

- ☒ This jurisdictional determination is valid for five years from the above date, unless new information necessitates a revision. Circumstances under which the Department may change a determination and procedures for renewal of an expired determination are found in OAR 141-090-0045 (available on our web site or upon request). The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months from the above date.
- ☐ **This is a preliminary jurisdictional determination and is advisory only**

Copy To: ☒ Other Email: dave.gerri@yahoo.com ☒ Enclosures: Figure 1
☒ Caroline House, Deschutes County Planning Department (caroline.house@deschutes.org)
☒ Bethany Harrington, Department of State Lands (bethany.harrington@dsl.oregon.gov)
☒ Steven Thormahlen, Property Owner (endzonefan@comcast.net)

FOR OFFICE USE ONLY

| | | | | | | | | | |
|--|--|--|--|--|--|---|--|--|--|
| Entire Lot(s) Checked? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | Waters Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Maybe | | Request Received: <u>09/02/2021</u> | | <input type="checkbox"/> For ENF. | | | |
| LWI Area: <u>South Deschutes County</u> | | LWI Code: <u>PSSE, PEME</u> | | Latitude: <u>43.788607</u> | | Longitude: <u>-121.458059</u> | | Related DSL File #: <u>WN2021-0692</u> | |
| Has Wetlands? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown | | ESH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Wild & Scenic? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | State Scenic? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | |
| Adjacent Waterbody: <u>Little Deschutes River, floodplain wetland</u> | | | | | | | | | |

Legend
Tax lots

Upland Area

Plot 1

Plot 2

extent of existing greening

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



| owner | address | cityStZip | Type | CDD ID |
|----------------------|-----------------|------------------------|------|-----------|
| DAVID THORMAHLEN | 17364 BEAVER PL | BEND, OR 97707 | FD | 22-431-LM |
| THORMAHLEN, STEVEN L | 27763 212TH PL | MAPLE VALLEY, WA 98038 | FD | 22-431-LM |



Mailing Date:
Friday, July 29, 2022

COMMUNITY DEVELOPMENT

NOTICE OF DECISION

The Deschutes County Planning Division has approved the land use application(s) described below:

FILE NUMBER(S): 247-22-000431-LM

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: THORMAHLEN, STEVEN L

Map and Taxlot: 211106B002100

Account: 141311

Situs Address: 54735 HUNTINGTON RD, BEND, OR 97707

APPLICANT: David Thormahlen

REQUEST: A site plan review to establish a new single-family dwelling in the Landscape Management and Wildlife Area Combining Zones.

STAFF CONTACT: Caroline House, Senior Planner
Phone: 541-388-6667
Email: Caroline.House@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance

Chapter 18.60, Rural Residential Zone (RR10)

Chapter 18.84, Landscape Management Combining Zone (LM)

Chapter 18.88, Wildlife Area Combining Zone (WA)

Chapter 18.96, Flood Plain Zone (FP)

Title 22, Deschutes County Development Procedures Ordinance

DECISION: Staff finds the application(s) meets applicable criteria and approval is being granted subject to the following conditions:

CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D.** In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- E.** Except as necessary for construction of access roads, building pads, septic drainfields, public utility easements, parking areas, etc., the existing tree and shrub cover screening the development from the designated road, river, or stream shall be retained. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act, or agricultural use of the land.
- F.** Structures shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream.
- G.** New exterior lighting, including security lighting, shall be sited and shielded so that it is directed downward and is not directly visible from the designated road, river or stream.
- H.** All new fences shall comply with DCC 18.88.070.
- I.** If the single-family dwelling is a manufactured home it must comply with the DCC 18.116.050 Manufactured Home Class A standards.
- J.** All conditions of approval for file nos. 247-20-000120-CU / 247-20-000121-CU remain in effect.
- K.** No excavation, grading, fill, or removal (including removal of any vegetation regardless of the amount) is requested or approved under this permit in wetlands.
- L.** No excavation, grading, fill, or removal is requested or approved under this permit in the Flood Plain zone.

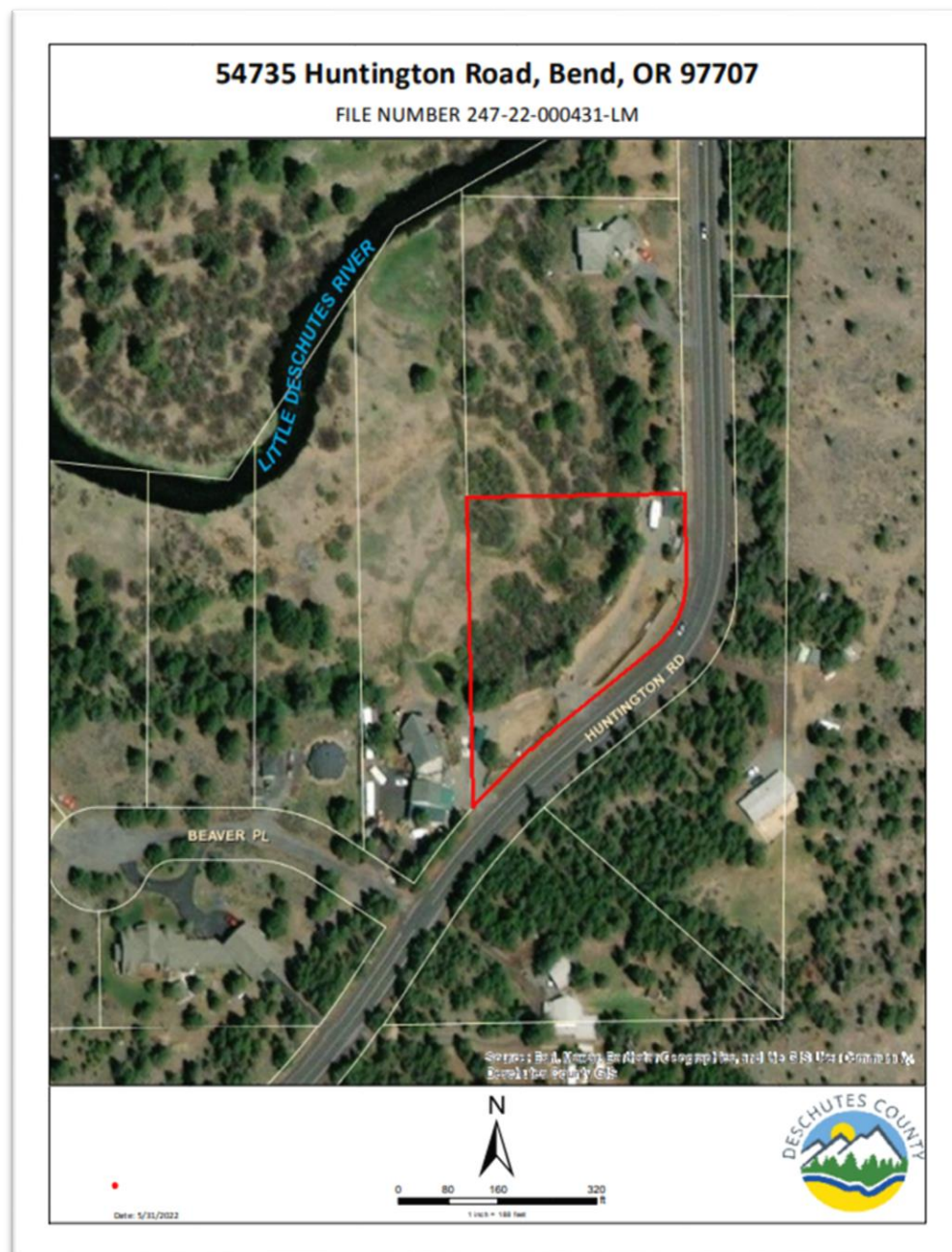
This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a

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. Pursuant to Ordinance 2021-014 and Deschutes County Code Section 22.32.015(B), appeals must be received by 4:00 pm.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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

This Notice was mailed pursuant to Deschutes County Code Chapter 22.24.



| owner | agent | address | cityStZip | Type | CDD ID |
|--|----------------------------------|---------------------|------------------------|------|-----------|
| DAVID & GERALDINE THORMAHLEN TR | THORMAHLEN, DAVID L ET AL TTEES | 17364 BEAVER PL | BEND, OR 97707 | NOD | 22-431-LM |
| DESCHUTES CO. ASSESSOR | | ELECTRONIC | | NOD | 22-431-LM |
| DESCHUTES CO. ENVIRONMENTAL SOILS DIV. | | ELECTRONIC | | NOD | 22-431-LM |
| DESCHUTES CO. ROAD DEPT. | CODY SMITH | ELECTRONIC | | NOD | 22-431-LM |
| DESCHUTES CO. SR. TRANS. PLANNER | PETER RUSSELL | ELECTRONIC | | NOD | 22-431-LM |
| ENGDAHL FAMILY LIVING TRUST | ENGDAHL, ERIK H & BRENDA L TTEES | 17365 BEAVER PL | BEND, OR 97707 | NOD | 22-431-LM |
| HEIGH, JAMES & JESSICA | | 54761 HUNTINGTON RD | BEND, OR 97707 | NOD | 22-431-LM |
| KRAFT,JUNE I | | 54820 HUNTINGTON RD | BEND, OR 97707 | NOD | 22-431-LM |
| MACPHERSON, ERICKA B | | PO BOX 4792 | SUNRIVER, OR 97707 | NOD | 22-431-LM |
| MATZKE,DORIS E | | 3425 6TH AVE S | SALEM, OR 97302 | NOD | 22-431-LM |
| STRAUSBAUGH, VICKI DALE | PENZENIK, PETER B (LE) | 15961 BURGESS RD | LA PINE, OR 97739 | NOD | 22-431-LM |
| THORMAHLEN, STEVEN L | | 27763 212TH PL | MAPLE VALLEY, WA 98038 | NOD | 22-431-LM |
| BLM, PRINEVILLE DIST. - DESCHUTES FIELD MGR. | JEFF KITCHENS | 3050 N.E. THIRD ST. | Prineville, OR 97754 | NOD | 22-431-LM |
| WATT, ADRIAN | | 17299 WHITE OAK PL | BEND, OR 97707 | NOD | 22-431-LM |
| WHITEHALL, TJ WAYNE & SHAENEEA | | 54732 HUNTINGTON RD | BEND, OR 97707 | NOD | 22-431-LM |