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REVIEWED
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LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Ordinance *
No. PL-15, the Deschutes County *
Zoning Ordinance of 1979, as *
Amended, Revising Criteria for *
Setback Exception Along Rivers and *
Lakes, Revising Landscape Manage- *
ment Combining Zone Criteria, *
Declaring an Emergency and Setting *
an Effective Date. *

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90 JUN -7 PM 3:00
MARY SUE PENHOLLON
COUNTY CLERK

ORDINANCE NO. 90-020

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,
OREGON, ORDAINS as follows:

Section 1. Section 4.180, Landscape Management Combining
Zone, is amended to read as follows:

"Section 4.180. LANDSCAPE MANAGEMENT COMBINING
ZONE. LM. 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.

- "1. 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 local
economy.
- "2. Application of Provision. The provision of this
section shall apply to all areas identified as
landscape management corridors in the Comprehen-
sive Plan or the County zoning map. The limita-
tions in this section shall not unduly restrict
accepted agricultural practices.
- "3. 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
subsection (5) of this section.
- "4. 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 com-
bined, subject to subsection 5 of this section.

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- "5. 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 mean high-water mark of any identified landscape management corridor along a river) without first obtaining the approval of the Planning Director.
- "6. 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 Hearings Officer finds the established setbacks inappropriate to carry out the purpose of the LM Zone, he may require more or less restrictive dimensions.
- "7. 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.
- "8. 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.
 - 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.

"9. 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."

Section 2. Section 6.040(5), Exceptions to Yard Requirements, is amended to read as follows:

- "5. Dwellings on parcels created prior to November 1, 1979, may be granted an exception to the 100-foot setback from the high-water line or mark along a stream or lake subject to Ordinance No. 82-011 and the following criteria:
 - A. An application shall be filed which includes:
 - a. A detailed explanation of the planned development.
 - b. An explanation of why an exception is necessary.
 - c. A site plan, drawn to scale, and accompanied by such drawings, sketches and descriptions necessary to describe and

illustrate the proposed development. The site plan shall, at a minimum, include:

- i. An inventory of existing vegetation, including trees on the lot located within 200 feet of the ordinary high-water line or mark along the stream or lake. The inventory shall be in sufficient detail to allow the review and evaluation of the impacts of the proposed development.
 - ii. Proposed modifications of the vegetation on the lot within 200 feet of the ordinary high-water line or mark along the stream or lake, including the size, species and approximate locations of existing vegetation to be retained and new vegetation proposed to be placed upon the site.
 - iii. Existing and proposed site contours.
 - iv. The locations and dimensions of all structures, property lines, easements, high-water lines or marks, utilities and uses.
 - v. Other site elements and information that will assist in the evaluation of the proposed development.
- d. An explanation of how the proposed development will satisfy each of the exception criteria set forth in subsection 5(B).
- B. An exception may be granted only upon findings that:
- a. The structure to be sited is a dwelling that is no greater than 40 feet in depth (including garages, carports and decks);
 - b. Adherence to the 100-foot setback would create a hardship, as defined in subsection (C) below, preventing such a dwelling from being sited on the lot;

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- c. The site plan protects and enhances the vegetative fringe between the dwelling and the stream or lake to the degree necessary to meet the requirements set forth in the applicable goals and policies of the Comprehensive Plan; and
 - d. A conservation easement providing that the elements of the Site Plan will be carried out and maintained as approved, in perpetuity, for the area between the ordinary high water line or mark and the dwelling has been conveyed to the county.
- C. a. For the purposes of this section, a hardship exists only in one of the following situations:
- i. Adherence to setbacks required by the zoning ordinance in effect at the time of the application made under this section would prevent the dwelling from being sited on the lot, if the 100-foot setback were observed;
 - ii. The siting of a legal on-site disposal system, placed on the lot prior to November 1, 1979 makes it impossible for the dwelling to meet the 100-foot setback;
 - iii. Any approved initial on-site sewage disposal system and replacement system other than a sand filter system cannot be sited on the lot in a manner that will allow the dwelling to meet the 100-foot setback requirement;
 - iv. If the only initial on-site sewage disposal system for which approval can be obtained is a sand filter system and such a system and its replacement system cannot be sited on the lot in a manner that will allow the dwelling to meet the 100-foot setback requirement; or
 - v. Dwellings exist on both adjoining lots that are closer to the stream or lake than the proposed dwelling and such existing dwellings are located within 40 feet of the proposed dwelling.
- b. If utilization of a sand filter system as a replacement system will allow such a dwelling

to meet the 100-foot setback, no exception shall be granted for reasons of on-site sewage disposal constraints.

- D. Dwellings qualifying for a setback exception under the criteria set forth above shall be located as follows:
- a. Except as set forth in subsection (b) of this section, the dwelling must be located as far as possible from the ordinary high water line of the stream or lake, allowing for the hardship constraints identified for the property.
 - i. In instances where use of a sand filter system for a replacement system would allow the dwelling to be located further from the stream or lake than if another type of replacement system were utilized, the dwelling shall be sited in a manner to allow only enough room for a the approved initial on-site sewage disposal system and a sand filter system as a replacement system.
 - b. Where a dwelling qualifies for a setback by virtue of subsection (C)(a)(v), the dwelling may be set back at a distance from the ordinary high water mark consistent with the adjoining houses, but in no case shall any part of such dwelling be located closer to the ordinary high water line than a line extending between the points of the adjoining houses that are closest to the river."

Section 3. EMERGENCY CLAUSE AND EFFECTIVE DATE. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect July 9, 1990.

DATED this 6th day of June, 1990.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Lois Bristow Prante
LOIS BRISTOW PRANTE, Commissioner

Tom Throop
TOM THROOP, Chair

Dick Maudlin
DICK MAUDLIN, Commissioner

ATTEST:

Andrea L. Chen
Recording Secretary