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LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

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An Ordinance Amending Title 18 of *
the Deschutes County Code Regarding *
Landscape Management Zones and *
Declaring an Emergency *

MARY SUE PENNOLLOW
COUNTY CLERK

0111-0007

ORDINANCE NO. 92-034

WHEREAS, Deschutes County is engaged in periodic review of its comprehensive plan and zoning ordinance pursuant to ORS Chapter 197; and

WHEREAS, the County has been required by LCDC to review its landscape management zones as part of periodic review; and

WHEREAS, public hearings have been held in conformance with state law; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON ORDAINS AS FOLLOWS:

Section 1. ADOPTION OF AMENDMENTS TO CHAPTER 18.04. Chapter 19.04 is amended to add the following definition of "Agricultural Structure:"

"Agricultural Structure. Agricultural structures include any structure considered to be an agricultural structure under the building code."

Section 2. ADOPTION OF AMENDMENTS TO CHAPTER 18.84. Chapter 18.84 of Title 18 is amended to read as set forth in Exhibit A, attached hereto and by this reference incorporated herein.

Section 3. ADOPTION OF AMENDMENTS TO CHAPTER 18.116. Section 18.116.160 is amended to read as set forth in Exhibit B, attached hereto and by this reference incorporated herein.

Section 4. FINDINGS. This ordinance is supported by the findings set forth in Exhibit C, attached hereto and by this reference incorporated herein.

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KEYPUNCHED
APR 13 1992

Section 5. EMERGENCY. 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 on its passage.

DATED this 8th day of April, 1992.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Tom Throop
TOM THROOP, Commissioner

Nancy Pope Schlanger
NANCY POPE SCHLANGEN, Commissioner

Dick Maudlin
DICK MAUDLIN, Chairman

ATTEST:

Andrea L. Glum
Recording Secretary

Chapter 18.84

LANDSCAPE MANAGEMENT COMBINING - LM ZONE

In any LM Combining Zone, the requirements and standards of this Chapter shall apply in addition to those specified in this Title for the underlying zone. If a conflict in regulation or standards occurs, the provision of this chapter 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 and natural landscapes as seen from designated roads, rivers or streams. [important to the local economy.]

18.84.020 Application of Provision.

The provisions of this chapter shall apply to all areas within one quarter mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map. The Provisions of this chapter shall also apply to all areas [designated as] 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. [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.

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 this Chapter.

[In a zone with which the LM 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.

Uses permitted conditionally in the underlying zone with which the LM zone is combined shall be permitted as conditional uses in the LM zone, subject to the provisions in this Chapter.

[In a zone with which the LM 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]

18.84.050 Use Limitations.

1. [No] Any new structure or substantial alteration of a structure requiring a building permit, or [structure including] an agricultural structure[s,] within an LM Combining Zone shall obtain site plan approval in accordance with this Chapter and Chapter 18.124, Site Plan Review, prior to construction. As used in this chapter substantial alteration consists of an alteration which exceeds 25% in the size or 25% of the assessed value of the structure. [one-quarter mile (measured at right angles from centerline of any identified landscape management roadway or within 200 feet of the ordinary high water mark of any identified landscape management corridor along a river) without first obtaining the approval of the Planning Director or Hearings Body.]

2. Structures which are not visible from the designated roadway, river or stream and which are assured of remaining not visible because of vegetation, topography, or existing development are exempt from the provisions of Section 18.84.080 (Design Review Standards) and Section 18.84.090 (Setback Standards). An applicant for site plan review in the LM zone shall conform with the provisions of this Chapter, or may submit evidence that the proposed structure will not be visible from the designated road, river or stream. Structures not visible from the designated road, river or stream must meet setback standards of the underlying zone.

18.84.060 Dimensional Standards.

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

- A. M]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 recommendations from the Planning Director, the Planning Director or Hearings Body finds the established setbacks are 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.]

18.84.07[8]0 Application [Design Review].

0111-0011

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

A. Height, width, color, bulk and texture of the 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 to retain as much as possible the natural character of the area.]

[C.] (Moved to Section 18.84.080(9))

[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.] (Moved to Section 18.84.090(3))

An application for site plan approval for development in the Landscape Management zone shall be submitted to the Planning Division. The site plan application shall include the following:

1. A plot plan, drawn to scale, showing:

a. Location and dimensions of existing and proposed structures.

b. Setbacks from lot lines (and river and rimrock, if present).

c. Existing and proposed access.

d. Existing and proposed exterior lighting.

2. A drawing of the proposed structure elevations showing:

a. Exterior appearance.

b. Height, dimensions.

c. Siding and roofing material and color.

d. Location and size of windows including skylights.

3. A landscape plan drawn to scale, showing:
- a. Location, size and species of existing trees six inches in diameter or greater, or existing shrub vegetation higher than 4 feet, between the proposed development and the designated landscape management road, river or stream. Where a significant amount of vegetation exists a landscape plan may be accepted which generalizes and explains how the existing trees and shrubs provide screening.
 - b. Proposed location and species of introduced vegetation which will screen the proposed development from the designated landscape management road, river or stream.

18.84.080 Design Review Standards.

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

1. Except as necessary for construction of access roads, building pads, septic drain fields, 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.
2. 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.
3. No large areas, including roofs, shall be finished with white, bright or reflective materials. Metal roofing material is permitted if it is non-reflective and of a color which blends with the surrounding vegetation and landscape.
4. Subject to applicable rimrock setback requirements or rimrock setback exception standards in section 18.084.090, 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 non-agricultural 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.

5. 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. This section shall not apply to agricultural structures located at least 50 feet from a rimrock.
6. New residential or commercial driveway access to designated landscape management roads shall be consolidated wherever possible.
7. New residential 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.
8. 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 [and] 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 area as seen [from the proposed site] from the designated landscape management road, river or stream. Use of native species shall be encouraged. (Formerly Section 18.84.080(c))
9. 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.
10. A conservation easement as defined in Section 18.04.030 "Conservation Easement" and specified in Section 18.116.2[1]20 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, Squaw Creek and Tumalo Creek. Conservation easements required as a condition of landscape management site plans shall not require public access.

18.84.085 Imposition of Conditions.

The standards of this chapter may be met by the imposition of conditions drawn to ensure that the standards will be met.

18.84.090 Setbacks.

1. Except as provided in this Section, minimum setbacks shall be those established in the underlying zone with which the LM Zone is combined.
2. 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 unless the Planning Director or Hearings Body finds that:
 - a. A location closer to the designated road would more effectively screen the building from the road; or protect a distant vista; or
 - b. The depth of the lot makes a 100 foot setback not feasible; or
 - c. 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.

3. River and Stream Setbacks. All new structures or additions to existing structures shall be set back 100 feet from the ordinary high watermark of designated streams and rivers or obtain a setback exception in accordance with section 18.120.030. For the purpose of this section, 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 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. (Formerly Section 18.84.08(E))

4. 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 to as close ~~to~~ 20 feet of

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the rimrock pursuant to the provisions of subsection 5 of this section.

5. Rimrock Setback Exceptions. An exception to the 50-foot rimrock setback may be granted by the Planning Director or Hearings Body, subject to the following standards and criteria:

a. An exception shall be granted when the Planning Director or Hearings Body finds that: [In all cases the structure shall meet all standards and criteria established in this chapter and Section 18.116.160 of this Title.]

(1) A lesser setback will make the structure less visible or completely screened from the river or stream; or

(2) The subject lot or parcel was a lot of record prior to the adoption of this ordinance; or

(3) Dwellings (including decks) on both lots or parcels abutting the subject lot within 50 feet of the rimrock and the adjacent buildings are within 100 feet of the lot line of the subject property; or

(4) Adherence to the 50-foot setback would prevent the structure from being sited on the lot.

b. A dwelling qualifying for a rimrock setback exception under the criteria set forth above shall be located as follows:

(1) The structure shall be designed and sited to minimize the visual impact when viewed from the ordinary high water mark on the far side of the river. This shall be determined by viewing the property from the ordinary high water mark immediately across from the center of the river frontage on which the structure is proposed with like evaluations being made 300 feet upstream and downstream on either side of that point over the entire length of river frontage on which the structure is proposed.

(2) Existing trees and shrubs which reduce the visibility of the proposed structure shall be retained.

(3) The height of the structure shall not exceed the setback from the edge of the rimrock.

(4) No structure (including decks) shall be located closer than 20 feet from the edge of

the rimrock unless the planning director or hearings body finds that the lesser setback will make the structure less visible or the structure is completely screened from the river or stream.

- (5) Where multiple non-agricultural structures are proposed on a lot or parcel, the structures shall be grouped or clustered so as to maintain a general appearance of open landscape for the affected area. This shall require a maintenance of at least 65% open space along rimrocks within subject lots or parcels.

6. Scenic Waterways. Approval of all structures in a State Scenic Waterway shall be conditioned upon receipt of approval of the State Parks Department.

18.84.100[090] Septic Permits.

Prior to the issuance of a permit for any on-site sewage disposal system [permit] that is to be located within 200 feet of a river or stream in a landscape management corridor a Landscape Management Site Plan shall be approved in accordance with this Chapter. (Ord.90-020 § 1, 1990).

Chapter 18.116

Supplementary Provisions

18.116.160 Rimrock Setbacks outside of LM Combining Zone.

All structures, including decks, within 50 feet from the edge of a rimrock, as defined in Section 18.04.[040]030 of this Title, shall be subject to site review if visible from the river or stream. Prior to approval of any structure within 50 feet of a rimrock the Planning Director or Hearings Body shall make the following findings:

- A. All structures, including decks, shall be set back a minimum of 20 feet from the edge of the rimrock. [as defined in Section 18.04.030. "Rimrock".]
- B. The height of the structure shall not exceed the setback from the edge of the rimrock. [The 20-foot rimrock setback shall not apply to decks so long as the railing or other man-made border around the deck does not exceed four feet in height and is not of solid construction. However, no deck shall be set back less than three feet from any rimrock.]
- [C. If there is more than one rimrock ledge or outcrop within the river or stream canyon, the 20-foot setback requirement shall be measured from the rimrock which is furthest from the river or stream.]
- D. Existing trees and shrubs which reduce the visibility of the proposed structure shall be retained. [If the 20-foot rimrock setback is within 100 feet of the ordinary high water line of the river or stream, the structure may be granted an exception to the 100-foot river or stream setback as provided under Section 18.120.030 for structures meeting the criteria of Section 18.120.030(E)(b)(2). However, under no circumstances shall the structure be set back less than 20 feet from the rimrock.]
- E. Where multiple structures are proposed on a parcel of land the structures shall be grouped or clustered so as to maintain a general appearance of open landscape for the effected area. This shall require a maintenance of at least 65% open space along all rimrocks.

(Ord. 91-020 § 1, 1991; Ord. 86-053 § 21, 1986; Ord. 82-013 § 2, 1982)

(Section 5.250, Lands Adjoining SM or SMR Zones, repealed by Ord. 88-004 § 1, 1988; Ord. 85-016 § 2, 1985; Ord. 81-015 § 1, 1981)

**OPEN SPACE AREAS OF SPECIAL CONCERN AND ENVIRONMENTAL
QUALITY FINDINGS FOR
LANDSCAPE MANAGEMENT COMBINING ZONES**

BACKGROUND:

The County Comprehensive Plan section on open spaces, areas of special concern, and environmental quality is the guiding policy document for the Landscape Management Combining Zone (LMCZ) and rimrock setback provisions. Areas included in the LM zone consist of numerous roads and highways, identified in the comprehensive plan, and all area within 200 feet of either side of designated rivers and streams.

In 1986, to implement the findings of the City of Bend and Deschutes County River Study, the Board of County Commissioners adopted Ordinance 86-019 which amended comprehensive plan policies relating to landscape management areas along certain rivers and streams. Ordinance 86-006, by operation, deleted the Deschutes River Combining Zone from the County Zoning Ordinance.

The Department of Land Conservation and Development review of the Deschutes County proposed periodic review order, dated August 27, 1990 reviewed and made comments and recommendations on the proposed periodic review order. The County segmented the comments into related areas in order more reasonably to deal with the large amount of work involved. Factors relating to Goal 5 open space issues were separated into two parts. Part 1 involved the landscape management combining zone (LMCZ) resources and State and Federal Scenic Waterways. Part 2 includes adoption of the changes proposed in the periodic review order as well as several more minor changes recommended in DLCD's review. This package deals with part 1, LMCZ's.

A. DLCD recommendations for periodic review requiring changes in the LMCZ:

1. "The County did not include an analysis of the cumulative effects of a development decisions on the protection of Goal 5 resources. At a minimum the County must assess the cumulative effects of implementing actions on Goal 5 resource which are currently being protected under the (1) Landscape Management Combining Zone; (2) Wildlife Area Combining Zone; (3) Deschutes River Combining Zone; and (4) Floodplain Zone. The County developed these zones to protect several significant Goal 5 resources. A finding that individual decisions have been made consist with acknowledged Goal 5 standards is not adequate. The County must assess (cumulative effects) of development decisions since

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acknowledgement. The purpose of this analysis is to test whether the original assumption upon, which the 1980 plan was based, continue to comply with Goal 5. Discretionary review criteria can also be tested. If the County finds that cumulative effects of implementation actions have resulted in a significant lose of habitat areas or resource values, amendments to these regulations will be necessary to satisfy periodic review (OAR 660-19-055(1))."

2. Potential and Approved Federal Wild and Scenic Rivers and State Scenic Waterways

"The proposed order identified, as a Goal 5 resource, "the Upper Deschutes River within Deschutes County and all land within 1/4 mile of each bank, beginning at Wickiup Dam and extending downstream to Lake Billy Chinook, excluding approximately 12 miles within the Bend Urban Growth Boundary." Conflicting uses and the ESEE consequences analysis is discussed in the Deschutes County/City of Bend River Study, April 1986. Implementing measures which carry out the proposed "3C" designation is set forth in the Deschutes River Combining Zone (Zoning Ordinance, section 4.195) (See below, Implementing Measures, for discussion of the Deschutes River Combining Zone).

The proposed order does not discuss the Deschutes River from Little Lava Lake downstream to Crane Prairie Reservoir as a designated state scenic waterway under Ballot Measure No. 7. The proposed order does not discuss other portions of the Deschutes Rive designated as a federal Wild and Scenic River and their classification under the Omnibus Oregon Wild and Scenic Rivers Act of 1988 are also not discussed. The federal Wild and Scenic River section of Squaw Creek is also not discussed. To comply with Goal 5, the county needs to address these resources under Goal 5 and explain how its resource protection program under Goal 5 coordinates with state and federal agencies responsible for managing these river segments".

3. Goal 5 Implementing Measures

"The county's proposed periodic review order contain ESEE consequences analyses for several Goal 5 resources. The Deschutes County/City of Bend River Study, April 1986 is a major component of the county's plan and provides most of the analyses required under Goal 5. No amendments to the county's Goal 5 implementing measures are proposed under periodic review.

The following standards do not comply with the requirements for clear and objective standards and

conditions under OAR 660-16-010(3) because they provide too much discretion and not enough certainty:

Landscape Management Combining Zone

1. Subsection (6)(B). "If upon...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."
2. Subsection (8)(A): "visually compatible" and "unduly generate glare"; and (8)(D): "unduly diminishes the aesthetic qualities...".

B. CUMULATIVE IMPACTS:

In conducting a cumulative effects analysis of development decisions in LM zones the County encountered a great deal of difficulty. It is extremely difficult to quantify impacts on aesthetic resources. It was found to be impractical to assess and quantify the impacts of hundreds of land use and building permits issued in a Landscape Management Combining Zones. For this reason the County chose to have an evaluation conducted by the County Planning Commission. The Planning Commission serves as the county's citizen involvement program. The Planning Commission, assisted by the planning staff analyzed impacts in the landscape management corridors of the county by individually considering the impacts structures which effected view corridors. The Planning Commission evaluated impacts in a subjective manner considering the relevant zoning ordinance standards and criteria and the comprehensive plan policies. The findings were discussed by the Planning Commission at regular Planning Commission meetings. Several staff reports were prepared to discuss the various issues. The problem issues identified and agreed to by the Planning Commission were as follows:

1. The design review standards in the Landscape Management Zone were not clear and objective.
2. Properties which were not visible from the river or road were subject to requirements of the zoning ordinance to file site plans and pay related fees for review.
3. The ordinance did not specify that vistas to be protected are those as seen from the river or road.
4. The Landscape Management Combining Zone width of 200 feet was not adequate to protect the visual corridors along rivers and streams.
5. The standards of the LM zone were inconsistent with the State Scenic Waterway standards in some respects.

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6. The State Scenic Waterway includes review of development within 1/4 mile on either side of designated sections of a river compared to 200 feet by the County.
7. The 20 feet rimrock setback standard was not adequate to comply with the purpose of the zone to maintain scenic and natural resources of the zone. The rimrock setback does not accomplish the comprehensive plan policy to minimize the visual impact of structures as viewed from the river.

The Planning Commission held work sessions on March 27th, July 10th and August 14th 1991. Public Hearings were held by the Planning Commission on September 4th and October 23rd and additional work sessions were held October 9th and November 13th with a recommendation to the Board of County Commissioners. The Board of County Commissioners held a public hearing on January 15, 1991. The Board concurs with the findings of the Planning Commission that the cumulative effects of implementation actions have resulted in development which did not carry out the intent of the comprehensive plan. The Board finds that amendments are necessary to satisfy the requirements for periodic review established by OAR 660-19-055(1).

C. SUMMARY OF AMENDMENTS TO TITLE 18.84 OF THE COUNTY CODE:

1. Section 18.84.010 is amended to specify that the vistas and natural landscapes to be protected are those as seen from the stream, river or road.
2. Section 18.84.020 is amended to expand the landscape management corridors to include all areas within the boundaries of a State Scenic Waterway of Federal Wild and Scenic River Corridor and all area within 660 feet of rivers and streams identified as landscape management corridors in the comprehensive plan. The inclusion of the State and Federal Scenic Waterway's will require that all structures will be subject to a land use permit involving public notice. This will improve coordination with other governmental agencies by insuring adequate time and notice to address issues of mutual concern.

The expansion of other landscape management corridors along rivers and streams to 660 feet will improve visual resource management along streams and rivers. This will satisfy the deficiency identified in the cumulative impact analysis of the Planning Commission. This also is consistent with the current comprehensive plan, Deschutes River Corridor Open Space, policy #1. This policy requires inclusion of the "areas" along certain rivers and streams, in the LMCZ. This distance is not

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defined but may include all riparian areas, wetlands and canyons.

3. Section 18.84.050 requires site plan review for structures within the LM zone, clarifies the amount of alteration allowed without site plan review and exempts structures which will not be and will remain invisible from a designated roadway, river or stream from the provisions of site plan review.
4. Section 18.84.070 establishes more clearly the type of site plan needed to apply for a structure in the LM Combining Zone.
5. Section 18.84.080 establishes design review standards which are more clear and objective than previous standards. It is very difficult to develop clear and objective standards for aesthetic purposes. Clear and objective standards reduce flexibility and do not allow consideration of site specific features and characteristics. For this reason site plan review requires some discretionary standards which will be subject to land use permits involving public notice.

The Board has chosen not to mandate specific colors but to make them a recommendation. This was a particularly controversial issue in the public hearings and the Board finds that requirements for colors which blend into the surrounding landscape are subjective and not clear and objective. Further, the Board finds that the recommendation of the Planning Commission to allow traditional red barns and white farmhouses, though clear and objective, creates certain inequities since these colors would not blend with the surrounding landscape.

There was much controversy over the county's requirements for conservation easements as a condition of approval of a landscape management site plan. The Board finds that there is not a reasonable nexus between a LM review for a permitted use and public access to streams. For this reason public access will not be required as a condition of approval of a landscape management site plan. The Board finds that conservation easements do promote the purposes of the LM zone and should be required, as they are for all other land use permits.

6. Section 18.84.090 establishes setback standards in Landscape Management Combining Zones. These are clear and objective standards which did not previously exist in the Landscape Management Combining Zone. The 100 foot setback is consistent with requirements for structures which currently exist from all streams and river in the county. This section expands this setback

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to include areas along roadways in the LM Combining Zone. This section allows exceptions to setback standards for situations that would be severely restricted by the new setbacks.

By far the most controversial issue in the Landscape Management Combining Zone review is the rimrock setback standards. The county comprehensive plan goals and policies on open space, amended by Ordinance 86-019, adopting the requirements of the Deschutes River Study, states "Deschutes County shall modify its existing rimrock setback ordinance to assure that visual impacts of structures viewed from rivers or streams are minimized". The cumulative impact analysis indicates that the current 20 foot rimrock setback is not adequate, in all cases, to protect the visual resource values along rivers and streams.

The Board finds that increasing the setback to 50 feet will satisfy the comprehensive plan policy to minimize impacts along rivers. However considerable testimony, in the record indicates that the 50 foot setback creates a significant burden on some existing parcels. Testimony in the record indicates that significant loss of property value can occur with the increase in setback from 20 to 50 feet. For this reason a structures within 50 feet of a rimrock will be allowed on existing lots when certain criteria are met. These criteria allow dwellings when compliance with the setback standards would be completely screened from the river, houses on both abutting lots are located closer than 50 feet or adherence to the 50 foot setback would prevent a structure from being located on the lot. Additionally, structures located closer than 50 feet of a rimrock are allowed if they satisfy certain site plan criteria to minimize visual impact when viewed from the river or stream. Trees and shrubs are retained to screen the structure, the height of the structure can not exceed the setback from the edge of the rim, and no visible portion of the structure is located within 20 feet of the rimrock. The Board finds that these provisions minimize the impacts of structures on the scenic values of the area while recognizing setback expectations of property owners and the value of rimrock views. This balancing is consistent with the treatment of other conflicting values in the county's Goal 5 element of the comprehensive plan. This represents a "3C" decision as identified in the "Goal 5 Rule".

The Board finds that the acknowledged ESEE analysis and findings relating to open space and recreation consequences contained in the Deschutes River Study and incorporated into the comprehensive plan are adequate to support this decision.

7. Section 18.84.090(6) State and Federal Scenic Waterways. The goals and policies of the comprehensive plan enacted by the Deschutes River Study in 1986 encourage the designation of appropriate segments of the Deschutes River, Fall River, Little Deschutes River and Crooked River under the Federal Wild and Scenic River program and the State Scenic Waterways program. Since that time certain areas have been so designated. DLCD required the County to address these resources and explain how its resource protection program under Goal 5 coordinates with State and Federal agencies responsible for managing these river segments.

All State Scenic and Federal Wild and Scenic Waterway designations are included in the comprehensive plan in order to satisfy included the periodic review requirements, under Factor 2, new or amended goals or rule adopted since the date of acknowledgement. The LMCZ requires that structures in the State Scenic Waterway meet all standards of the State. For this reason no building permit would be issued until the applicant obtains approval from the State of Oregon to build in the State Scenic Waterway. The County has attempted to make its standards as consistent as possible with the State Scenic Waterway standards. It should be noted that the rule making process in adopting specific land management standards for the State Scenic Waterways in Deschutes County took into consideration local ordinances. The State adopted many of the county land use development standards in an effort to balance the protection of the rivers special attributes with the local planning regulations. State parks has submitted a letter in the record which indicates that it supports the proposed changes. This letter also indicates that the State will make every effort to revise the administrative rule to be consistent with the new county standards.

The Federal Wild and Scenic Waterway standards are currently being developed. The letter in the record from the Deschutes National Forest states that the proposed changes are consistent with the Wild and Scenic River requirements. The County is currently working to coordinate planning efforts with the Bureau of Land Management and Forest Service for the standards being developed within the Wild and Scenic River designations.

8. Section 18.116.160 of the County Code is being amended to regulate development along rimrocks outside of a LM Combining Zone. Rimrock setback outside of a LM zone have been regulated since the county's comprehensive plan was adopted in November of 1979. The subject changes would require site plan review for all

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structures within 50 foot of a rimrock. The changes would require that all structures visible from the protected view corridor of a designated river would be required to be setback a minimum of 20 feet from the edge of the rimrock. The height of a structure shall not exceed the setback from the edge of a rimrock. Existing trees and shrubs which reduce visibility of the proposed structure would be required to be retained. These changes are made to maintain consistency with the rimrock standards in LM zone.

D. SUMMARY OF AMENDMENTS TO THE COMPREHENSIVE PLAN:

1. The Board finds that the with few exceptions subject Landscape Management Combining Zone requirements are consistent with all existing comprehensive plan goals and policies.

Changes to the comprehensive plan include:

- a. Recognition of appropriate segments of the Deschutes River and Squaw Creek as Federal Wild, Scenic or Recreational River and State Scenic Waterways and expansion of the LMCZ to include these areas.
- b. Expansion of LM corridors along certain rivers and streams from 200 feet to 660 feet to include them in the LMCZ.
- c. Listing of Landscape Management Corridors along highways and roads currently designated only on zoning and comprehensive plan maps.
- d. Housekeeping clarifications to improve plan readability and increase plan consistency with the LMCZ.

All of these changes are consistent with and supported by the acknowledged ESEE analysis, findings, and supporting documentation adopted by the Board in the Deschutes River Study or currently existing in the acknowledged county comprehensive plan.

2. Other comprehensive plan amendments specified in the proposed periodic review order and necessitated by the DLCDC review of the proposed periodic review order of August 27, 1990 will be adopted as part of the final periodic review order.

/mjz