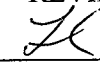




REVIEWED  LEGAL COUNSEL
REVIEWED  CODE REVIEW COMMITTEE

**DESCHUTES COUNTY OFFICIAL RECORDS**  
**NANCY BLANKENSHIP, COUNTY CLERK**  
**COMMISSIONERS' JOURNAL**

**CJ 2005-13**  
**01/05/2005 04:43:37 PM**



2005-13

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18 of the Deschutes County Code and Declaring an Emergency. \*  
\* ORDINANCE NO. 2005-002

WHEREAS, Jim Johnson applied for a text amendment to Title 18 of the Deschutes County Code, Chapter 18.84, (file number TA-04-3); and

WHEREAS, the Deschutes County Planning Commission, conducted a public hearing in accordance with applicable law on August 26, 2004 that continued to September 9, 2004, and September 23, 2004, on the proposed text amendment; and

WHEREAS, a motion made by a Planning Commissioner of the Deschutes County Planning Commission, to approve the text amendment failed and the Planning Commission forwarded no recommendation to the Board, and

WHEREAS, notice was given and hearing conducted on November 30, 2004, that continued to December 8, 2004, before the Board of County Commissioners ("Board") in accordance with applicable law; and

WHEREAS, the Board conducted independent site visits with staff to the applicant's property in River Bend Estates subdivision and discussed their observations on the record at the December 8, 2004 hearing; and

WHEREAS, the Board considered the proposed text amendment and made several changes;

WHEREAS, with the changes to the proposed text, the Board finds the text amendment is consistent with the Comprehensive Plan, Chapter 23.96, Open Spaces, Areas of Special Concern, and Environmental Quality, Policy 23.96.030(7) addressing rimrock setbacks and the Statewide Planning Goal 5 open space, scenic and historic and natural resources implemented through the 1986 Deschutes River Study ESEE as the text amendment only applies to small lots where existing development already occurs along the river and the visual impacts of existing structures when viewed from the river or stream already exist; now, therefore,

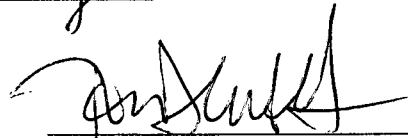
THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

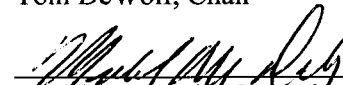
Section 1. AMENDMENT. DCC 18.84.090, Setbacks, Landscape Management Combining Zone, is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

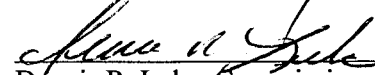
Section 2. Attached as Exhibit "B" is an illustration showing the orientation and slope of roofline as described in Exhibit "A."


Section 3. 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.

APPROVED this 5<sup>th</sup> day of January 2005 for the Deschutes County Board of Commissioners.

  
\_\_\_\_\_  
Tom DeWolf, Chair

  
\_\_\_\_\_  
Michael M. Daly, Commissioner

  
\_\_\_\_\_  
Dennis R. Luke, Commissioner

ATTEST:  
  
\_\_\_\_\_  
Recording Secretary


Date of 1<sup>st</sup> Reading: 5<sup>th</sup> day of January, 2005.

Date of 2<sup>nd</sup> Reading: 5<sup>th</sup> day of January, 2005.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Tom DeWolf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael M. Daly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 5<sup>th</sup> day of January, 2005.

ATTEST:  
  
\_\_\_\_\_  
Recording Secretary

**Chapter 18.84. LANDSCAPE  
MANAGEMENT  
COMBINING ZONE -  
LM**

**\*\*\* (Denotes text not being amended.)**

**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.
- 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 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.

- 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.

- 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 ~~to as close as 20 feet of the rimrock~~ pursuant to the provisions of DCC 18.84.090(E).
- E. 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:
  - 1. An exception shall be granted when the Planning Director or Hearings Body finds that:
    - a. A lesser setback will make the structure less visible or completely screened from the river or stream; or
    - b. The subject lot or parcel was a lot of record prior to the adoption of this ordinance; or
    - c. 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
    - d. Adherence to the 50-foot setback would prevent the structure from being sited on the lot.
  - 2. A dwelling qualifying for a rimrock setback exception under the criteria set forth above shall be located as follows:
    - a. 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

EXHIBIT "A"

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.

- b. Existing trees and shrubs which reduce the visibility of the proposed structure shall be retained.
- c. The height of the structure shall not exceed the setback from the edge of the rimrock, except as described in the exception section (f), below.
- d. 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, except as described in the exception section (f), below.
- e. Where multiple nonagricultural 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 percent open space along rimrocks within subject lots or parcels.
- f. Exception: For vacant lots or parcels less than one-half acre, existing prior to the adoption of Ordinance 92-034, with undulating rimrock, and where there are lawfully established residences within 100 feet of the lot line on the subject property on both of the abutting lots with rimrock setbacks less than the depth required in section (d) above, the residential structure setback shall meet the following criteria:

- 1) The setback shall be the average distance between the abutting houses as measured from the subject lot's front yard line to the furthest point of each abutting home facing the river or stream.
- 2) The height of the structure shall not exceed the height of the tallest abutting residence and in no case shall exceed 24 feet high, except for chimneys.
- 3) The highest ridgeline shall slope up and away from, and run parallel with, the river or stream
- 4) Dormers are prohibited on the riverside or streamside of the residence and allowed on the street-side of the residence with the height not exceeding the height of the ridgeline.
- 5) The setback for decks on the rimrock side of the dwelling shall be the average of the decks on the abutting lots or parcels as measured from the front yard line of the subject property and in no case shall extend and protrude over the rimrock.

(Ord. 2005-002; Ord. 2000-033 § 3, 2000; Ord. 92-034 § 2, 1992)