



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005

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<http://www.deschutes.org/cd>

### APPEAL APPLICATION

FEE: \$13,102.80

#### EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and *de novo* review is desired, a request for *de novo* review by the Board, stating the reasons the Board should provide the *de novo* review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.

Appellant's Name (print): Central Oregon LandWatch Phone: (541) 647-2930

Mailing Address: 2843 NW Lolo Drive City/State/Zip: 97703

Land Use Application Being Appealed: 247-23-000293-CU, 294-CU, 295-CU / 737, 738, 739-SMA

Property Description: Township 15S Range WM 20E Section \_\_\_\_\_ Tax Lot 7700, 7800, 7900

Appellant's Signature: /s/ Carol Macbeth

**EXCEPT AS PROVIDED IN SECTION 22.32.024, APPELLANT SHALL PROVIDE A COMPLETE TRANSCRIPT OF ANY HEARING APPEALED, FROM RECORDED MAGNETIC TAPES PROVIDED BY THE PLANNING DIVISION UPON REQUEST (THERE IS A \$5.00 FEE FOR EACH MAGNETIC TAPE RECORD). APPELLANT SHALL SUBMIT THE TRANSCRIPT TO THE PLANNING DIVISION NO LATER THAN THE CLOSE OF THE DAY FIVE (5) DAYS PRIOR TO THE DATE SET FOR THE DE NOVO HEARING OR, FOR ON-THE-RECORD APPEALS, THE DATE SET FOR RECEIPT OF WRITTEN RECORDS.**

(over)

10/15

## NOTICE OF APPEAL

LandWatch appeals the amount of the appeal fee charged. The correct appeal fee is no more than \$ 4367.60. This a single appeal of a single hearings officer's decision. ORS 215.422.

Because the County's position that this appeal is not of a single hearings officer's decision is not well-founded in law, LandWatch will seek attorney's fees for the hours spent recuperating the amount over \$4367.60 charged at the rate of \$398 per hour.

Grounds for appeal on the merits:

\*the challenged decision erroneously found the proposed uses will not materially alter the stability of the overall land use pattern of the area. ORS 215.284.

\* the decision erroneously found the property is not suited to the production of farm crops and livestock. ORS 215.284.

\* the decision misinterpreted and missapplied DCC 18.88.060 regarding wildlife habitat protection.

\* the decision misinterpreted and misapplied ORS 215.284(2)(c) restricting dwellings to parcels created before January 1, 1993. ORS 215.284(2)(c); DCC 18.16.050(G)(1)(a)(v).

\* the decision misinterpreted and misapplied OAR 660-033-0020(4), date of creation and existence.

\* the decision is not based on substantial evidence; relevant evidence is ignored on multiple issues including maps, roads, suitability for the production of farm crops and livestock, parcel creation, land use history, use in conjunction. ORS 197.835(9)(a)(C).

\* the decision erroneously found the land cannot be used in conjunction with the tens of thousands of acres of irrigated and nonirrigated farm uses surrounding the subject property in every direction, including irrigated lands in the same ownership.

Moreover the property qualified for a farm dwelling on the basis that these properties were used in conjunction with the irrigated farmlands in the same ownership for farm use. The applicant is estopped from now claiming the properties cannot be

put to farm or forest use in conjunction with those lands. ORS 215.284(2)(b).

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