



Mailing Date:
Tuesday, March 30, 2021

COMMUNITY DEVELOPMENT

**REVISED
FINDINGS AND DECISION**

On March 18, 2021, the Planning Division mailed a Findings and Decision that did not completely reflect the required conditions of approval to complete the proposed road dedication. The correct conditions of approval are reflected below.

FILE NUMBER: 247-20-000795-RD

**SUBJECT PROPERTIES/
OWNERS:**

Mailing Name: BREWER, JONATHAN D & ANN S
Map and Taxlot: 1411180000100
Account: 155590
Situs Address: 17550 WILT RD, SISTERS, OR 97759

Mailing Name: DESCHUTES COUNTY
Map and Taxlot: 1411070000700
Account: 150288
Situs Address: 17668 WILT RD, SISTERS, OR 97759

APPLICANT: Jonathan & Ann Brewer

REQUEST: Road dedication and construction for realignment of Blazer Lane, a public road.

STAFF CONTACT: Matthew Martin, Associate Planner
Phone: 541-330-4620
Email: matt.martin@deschutes.org

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov and <http://dial.deschutes.org>

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)
Title 17, Subdivision and Partition Ordinance
Chapter 17.52, Road Dedications

Title 18 of the Deschutes County Code, the County Zoning Ordinance

Chapter 18.16, Exclusive Farm Use Zones (EFU)
Chapter 18.88, Wildlife Area Combining Zone (WA)
Chapter 18.116, Supplementary Provisions

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: Tax Lot 100 on Tax Map 14-11-18 (“Brewer Property”) is recognized as a lot of record as it is Lot 10, Block 1 of the Fremont Canyon subdivision. Tax Lot 700 on Tax Map 14-11-7 (“Deschutes County Property”) is a lot of record as determined in lot of record verification file no. LR-00-13.

SITE DESCRIPTION: The Brewer Property is 40 acres. The property has an existing dwelling and a detached pole barn. The property has a vegetative cover of a few scattered pine and juniper trees, grasses, and scrub brush in the undeveloped areas on the property. The property slopes up from east to the west.

The Deschutes County Property is 160 acres, undeveloped. The topography is undulating topography. The property has a vegetative cover of a few scattered pine and juniper trees, grasses, and scrub brush.

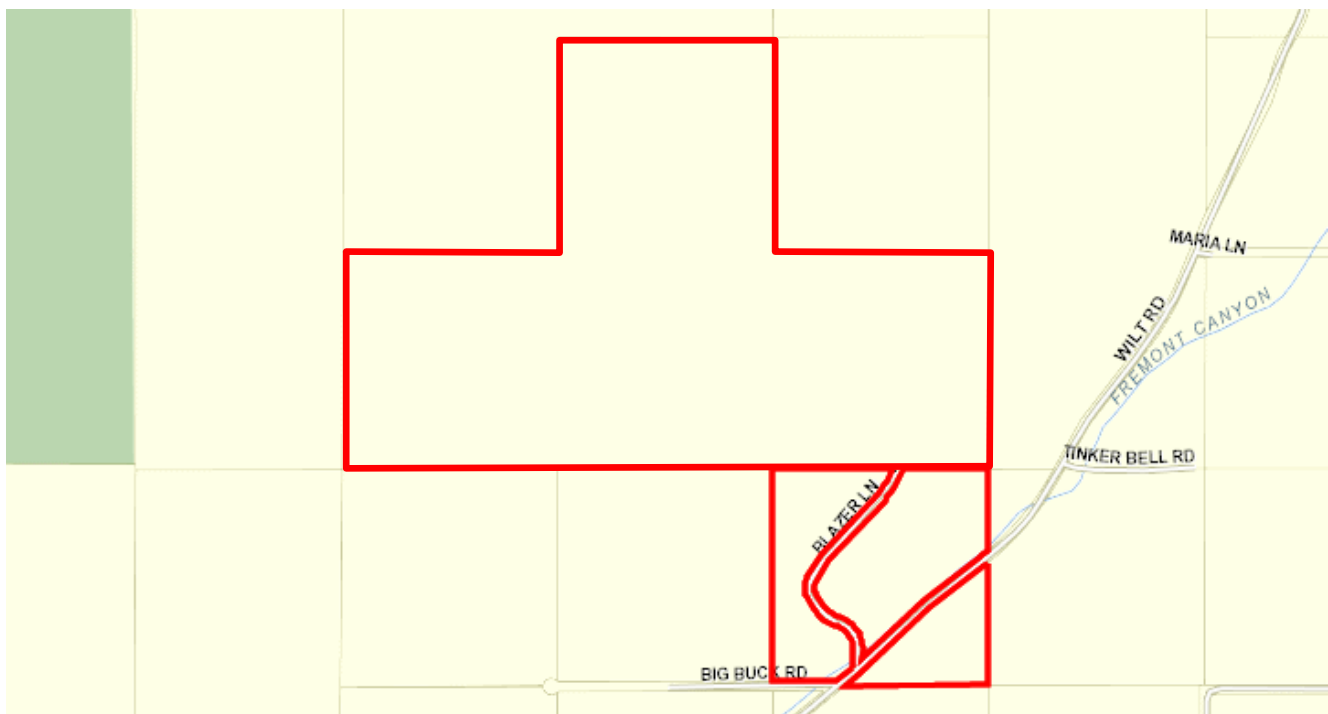


Figure 1. Street view map of subject properties. (Source: Deschutes DIAL)

PROPOSAL DETAILS: The applicant proposes to dedicate right of way for the relocation and construction of Blazer Lane right of way on the Brewer Property and a segment on the Deschutes County Property. The proposed realignment of Blazer Lane will connect Wilt Road to an existing public

road across the Deschutes County Property established by Document No. 2018-04422 in the Deschutes County Official Records. The applicant has expressed intent to submit a corresponding road vacation for the portion of Blazer Lane on the Brewer Property that is being replaced by the newly dedicated road alignment.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on December 15, 2020, 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 Road Department Engineer, Cody Smith

I have reviewed the application materials for the above-referenced file number, proposing the dedication of a public right of way to provide for the realignment of Blazer Lane, a public road, across Tax Lot 100 in 14-11-18 (owned by Applicant) and Tax Lot 700 in 14-11-07 (owned by Deschutes County). The proposed realignment of Blazer Lane will connect Wilt Road to an existing public road across Tax Lot 700 established by Document No. 2018-04422 in the Deschutes County Official Records. The Applicant has expressed their intent to vacate the existing portion of Blazer Lane across Tax Lot 100 coincidentally with the proposed dedication. The proposed vacation would proceed upon approval of this proposed road dedication under a separate process administered by the Road Department under the provisions of ORS 368.326 to 368.366.

Please note that the application materials currently on file should be deemed incomplete, as the Applicant will need to provide supplemental materials indicating consent by the owner of Tax Lot 700 (Deschutes County) to the application and identifying the proposed road dedication over Tax Lot 700 in the burden of proof narrative.

Deschutes County Road Department requests that approval of the proposed road dedication be subject to the following conditions:

- Applicant shall complete road improvements along proposed alignment, which shall include a 20 ft.-wide by 5 in.-depth aggregate road surface pursuant to DCC 17.48.170 and 17.48A conforming to the alignment requirements of DCC 17.48.070 and 17.48.080. Additionally, Applicant shall cause for the installation of a new road name sign for Blazer Lane at the new intersection with Wilt Rd in accordance with applicable Road Department standards.*
- Upon approval of the completed road improvements by the Road Department, all parties with an ownership interest in the property subject to the road dedication shall execute a dedication deed pursuant to DCC 17.52.090(A). The dedication shall be granted to the public and shall include a 60 ft.-wide right of way centered on the improved road centerline pursuant to DCC*

17.48.070 and 17.48.100. The dedication deeds shall be in a form acceptable to the Deschutes County Road Department pursuant to DCC 17.52.040 and shall include a legal description and exhibit map prepared by a licensed professional land surveyor.

- Applicant shall submit the executed dedication deeds and a current preliminary title report for the proposed dedication to the Deschutes County Community Development Department pursuant to DCC 17.52.090(A) and (C). Upon final review and approval of the dedication deeds by the Road Department, the Community Development Department shall present the dedication deeds to the Board of County Commissioners for acceptance pursuant to DCC 17.52.090(B).
- Upon acceptance of the dedication deeds by the Board of County Commissioners, Applicant shall immediately cause for the recording of the dedication deeds in the Official Records at the Deschutes County Clerk's Office pursuant to DCC 17.52.090(D).
- Upon recording of the dedication deeds, Applicant shall immediately cause for survey and monumentation of the new road right of way by a licensed professional land surveyor in accordance with ORS 209.250 and ORS 368.106.

STAFF COMMENT: The applicant responded to an incomplete letter and request for additional information related to the road dedication on the Deschutes County Property as specified in comments from the Deschutes County Road Department.


Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for 247-20-000795-RD to dedicate and construct a public road (Blazer Lane) in a newly proposed right of way along with the vacation of the existing Blazer Lane right of way on the subject property. The subject property is a 5.0-acre parcel in the Exclusive Farm Use (EFU) and Wildlife Area (WA) zones at 17550 Wilt Rd., aka County Assessor's Map 14-11-18, Tax Lot 100.


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 current Blazer Lane is a public road not maintained by Deschutes County, aka a Local Access Road (LAR), which is functionally classified as a local. Staff assumes the relocated Blazer Lane will also be a LAR. Staff concurs with the Road Department's comments.


Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,488 per p.m. peak hour trip. Given the proposed land use will not consume any road capacity as that term is commonly understood, no transportation SDC is triggered.

Wetland/Waterway/Other Water Features 


There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

Your Activity 

A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.

Applicable Oregon Removal-Fill Permit Requirement(s) 

A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information 

Additional Comments

Based on a review of the available information, relocating the road on the Brewer property, as shown on the attached site map, appears to avoid impacts to jurisdictional wetlands or waters.

The roadside ditch is identified as a stream and may be jurisdictional.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

The following agencies did not respond to the notice: Deschutes County Assessor, Deschutes County Environmental Soils Division, Oregon Department of Fish and Wildlife, US Fish and Wildlife Service, and Sisters-Camp Sherman Rural Fire Protection District.

PUBLIC COMMENTS: The Planning Division mailed notice of the subject application to all property owners within 750 feet of the subject property on December 15, 2020. No public comments were received.

REVIEW PERIOD: The subject application(s) were submitted on November 24, 2020. Because the application was missing essential information, staff mailed the applicant a letter on December 23, 2020, notifying them that their application was incomplete and requested the necessary items. The Planning Division received the requested items and deemed the application complete on January 11, 2021. The 150th day on which the County must take final action on this application is June 10, 2021.

III. FINDINGS & CONCLUSIONS

Title 17, Deschutes County Subdivision Ordinance

Chapter 17.52. Road Dedications

Section 17.52.010. Purpose.

The purpose of DCC 17.52.010 is to establish procedures for the dedication of more than minor amounts of road right of way to the public where the dedication will not be reviewed as part of another land use application. Minor amounts of road right of way means rights of way no greater than those required for modernization, traffic safety improvement, maintenance or repair of an existing road or street. DCC 17.52.010 applies to road dedications which occur outside of urban growth boundaries in Deschutes County. DCC 17.52.010 requires that road dedications be reviewed for consistency with the Transportation Policies for new roads or major road modifications of the Comprehensive Plan.

FINDING: Staff has reviewed the proposal for consistency with the Transportation Policies for new roads or major road modifications of the Comprehensive Plan in subsequent findings.

Section 17.52.030. Application.

Any person proposing the dedication of more than minor amounts of road right of way, where the proposed dedication will not be reviewed as part of another land use application, shall submit a written application for a land use permit to the Planning Director. The land use permit application shall include a completed request form, a written burden of proof statement which indicates the proposal complies with the applicable criteria, a map showing the location of the land to be dedicated, a preliminary title report covering the land to be dedicated, and the appropriate filing fee.

FINDING: Staff finds the proposed dedication of the roadway constitutes more than a minor amount of road right-of-way. The applicant has submitted a map showing the location of the land to be dedicated and the land to be vacated, a preliminary title report covering the land to be dedicated, and the appropriate filing fee in support of this application.

Section 17.52.050. Approval Criteria.

- A. Applications for road dedications in zones where Class I or II road projects, as defined by DCC 18.04.030, are permitted outright shall address the criteria in DCC 18.116.230. Such applications shall also address any applicable criteria in the zone in which the road dedication is proposed.***
- B. Applications for road dedications in zones where Class I or II road projects defined by DCC 18.04.030, or public road or highway projects defined by ORS 215.283(2)(p) through (r) and 215.283(3), are permitted as conditional uses shall address the***

criteria in DCC 18.116.230 and 18.128.015. Such applications shall also address any applicable criteria in the zone in which the road dedication is proposed.

FINDING: The applicant is proposing to dedicate right-of-way for an existing road, Blazer Lane. The applicant is not proposing a road project. Class I projects are major roadway projects such as the construction of a four-lane road. This application clearly does not propose such a project. Class II projects involve widening of a road by more than one lane, safety or intersection improvements that change local traffic patterns, system changes that have significant land use implications or the construction of a new road where none existed before. Based on this information, staff finds the proposed dedication and concurrent vacation do not constitute Class I or II road projects as defined by DCC 18.04.030. As such, the provisions of DCC 18.116.230 and 18.128.015 do not apply to the subject application.

Section 17.52.090. Board Action on Road Dedication.

- A. Once an application is approved by the Planning Director or Hearings Body, the applicant shall satisfy all conditions of the land use approval prior to submitting a declaration of dedication for final action. The declaration of dedication shall include a legal description of the land to be dedicated. Upon receipt of the declaration of dedication, the Planning Director shall forward the declaration of dedication to the Board for acceptance or rejection.***
- B. Except as otherwise provided under the Deschutes County Code, the Board shall take final action on the road dedication within 120 days after the application is deemed complete.***
- C. Upon the meeting of the Board to take final action on the road dedication, the applicant shall provide the Board with a supplemental or amended report to the preliminary title report submitted with the application. The supplemental or amended report shall show changes in the condition of title of the relevant property from the date of the preliminary title report up to and including the time immediately preceding the Board meeting.***
- D. If the road dedication is accepted by the Board, the declaration of dedication shall be immediately recorded with the County Clerk.***

FINDING: The applicant will be required to submit a declaration of dedication and legal descriptions for the proposed road dedication, which must be signed by the property owner(s), and include a title report. If the road dedication is accepted by the Board, the declaration of dedication must be recorded with the County Clerk's Office. The declaration of dedication for the proposed road shall be completed and recorded with the County Clerk's Office within 120 days of the application being deemed complete. Staff calculates this day to be May 11, 2021. To ensure compliance, staff has added these actions as Conditions of Approval.

Section 17.52.100. Maintenance of Dedicated Roads.

Any public road created in conjunction with the dedication of public road right of way under DCC 17.52 shall be designated as a Local Access Road, as defined by ORS 368.001(3), which

shall not be maintained by the County unless and until that road right of way is established as a County road, as defined by ORS 368.001(1), by order or resolution of the County governing body as authorized by ORS 368.016(2)(c).

FINDING: The proposal does not include the creation of a public road in conjunction with the dedication of public road right of way. Rather, the proposal consists of realigning the right-of-way and reconstruction of the exiting Blazer Lane, a local access road that will remain a local access road.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.16, Exclusive Farm Use Zones (EFU)

Section 18.16.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

...

- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.***

FINDING: The applicant is proposing to relocate and reconstruct a segment of Blazer Lane to the east of the existing location of the road on the Brewer Property and to the north on the Deschutes County Property. The segment of Blazer Lane will be constructed County standard for a gravel road (20 feet wide, with 5 inches of gravel). Along with the road dedication, the applicant will be submitting a road right of way vacation for the existing Blazer Lane right of way. The proposed dedication and road improvement are considered a modification.

Section 18.16.070. Yards.

- A. The front yard shall be a minimum of 40 feet from a properly line fronting on a local street, 60 feet from a properly line fronting on a collector street and 100 feet from a properly line fronting on an arterial street.***
- B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on properly with side yards adjacent to a properly currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.***
- C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on properly with a rear yard adjacent to a properly currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.***
- D. The setback from the north property line shall meet the solar setback requirements in Section 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 chapter 15.04 of this title shall be met.**

FINDING: The proposed road dedication will not cause either of the two structures on the Brewer Property to violate the above the required minimum setbacks, which are 60 feet front (Wilt Road is rural collector road), 25 feet sides, and 25 feet rear. The Deschutes County Property is undeveloped.

Section 18.16.080. Stream Setbacks.

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and 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: The proposed right of way is not in an area where there is a stream or lake present.

Section 18.16.090. Rimrock Setback.

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.

FINDING: The proposed right of way is not in an area where there rimrock is present.

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 EFU zone. Therefore, the proposed use is also allowed outright within the WA Combining Zone.

Title 23, Deschutes County Comprehensive Plan

Chapter 3, Rural Growth Management.

Section 3.7 Transportation

FINDING: In the County Comprehensive Plan, Blazer Lane is considered a local access road. The proposed relocation and dedication of 1,075 feet right of way for Blazer Lane will remain a local access road. Staff has reviewed the Transportation Element of the Comprehensive Plan in conjunction with this proposal. Staff finds the dedication of this road will be consistent with the policies and goals of said section. Additionally, staff finds there are no mandatory approval criteria contained in this chapter which must be addressed by the applicant.

The impacts posed to the surrounding properties have been considered and addressed in the findings above. Consideration has been given to the impact to adjacent land use patterns. The fact that Blazer Lane is already in existence in the area proposed to be relocated provides a strong indication that the relocation of a segment of the road will have minimal, if any, impacts on the surrounding properties. Staff finds the applicants' proposal is consistent with the County Comprehensive Plan.

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 complete road improvements along proposed alignment, which shall include a 20 ft.-wide by 5 in.-depth aggregate road surface pursuant to DCC 17.48.170 and 17.48A conforming to the alignment requirements of DCC 17.48.070 and 17.48.080. Additionally, the applicant shall cause for the installation of a new road name sign for Blazer Lane at the new intersection with Wilt Rd in accordance with applicable Road Department standards.
- C.** Upon approval of the completed road improvements by the Road Department, all parties with an ownership interest in the property subject to the road dedication shall execute a dedication deed pursuant to DCC 17.52.090(A). The dedication shall be granted to the public and shall include a 60 ft.-wide right of way centered on the improved road centerline pursuant to DCC 17.48.070 and 17.48.100. The dedication deeds shall be in a form acceptable to the Deschutes County Road Department pursuant to DCC 17.52.040 and shall include a legal description and exhibit map prepared by a licensed professional land surveyor.
- D.** Applicant shall submit the executed dedication deed and a current preliminary title report for the proposed dedication to the Deschutes County Community Development Department pursuant to DCC 17.52.090(A) and (C). Upon final review and approval of the dedication deed by the Road Department, the Community Development Department shall present the dedication deed to the Board of County Commissioners for acceptance pursuant to DCC 17.52.090(B).
- E.** Upon the meeting of the Board to take final action on the road dedication, the applicant shall provide the Board with a supplemental or amended report to the preliminary title report submitted with the application. The supplemental or amended report shall show changes in the condition of title of the relevant property from the date of the preliminary title report up to and including the time immediately preceding the Board meeting.
- F.** Upon acceptance of the dedication deed by the Board of County Commissioners, the applicant shall immediately cause for the recording of the dedication deed in the Official Records at the Deschutes County Clerk's Office pursuant to DCC 17.52.090(D).
- G.** Upon recording of the dedication deeds, the applicant shall immediately cause for survey and monumentation of the new road right of way by a licensed professional land surveyor in accordance with ORS 209.250 and ORS 368.106.

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

The declaration of dedication for the proposed road shall be completed and recorded with the County Clerk's Office within 120 days of the application being deemed complete. Staff calculates this day to be June 10, 2021.

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



Written by: Matthew Martin, Associate Planner



Reviewed by: Peter Gutowsky, Planning Manager

Attachment: Conceptual drawing of road dedication location



250 +/-' of road on Deschutes County Property connecting existing easement to Brewer Property

New Rd Dedication location on Brewer Property