



50 SW Bond St., Ste. 4 | Bend, OR 97702

Phone: (541) 647-2930

www.centraloregonlandwatch.org

February 24, 2015
SB 359 Support

Dear Chair Prozanski and Members of the Senate Judiciary Committee:

My name is Paul Dewey and I am testifying today on behalf of Central Oregon LandWatch as its Executive Director and attorney. LandWatch was organized in the mid-1980s and has operated for over 25 years in Central Oregon working to protect neighborhoods and encourage conservation of both private and public lands. Our mission is to achieve a balanced and integrated approach to land use planning in Central Oregon that will safeguard our natural resources and environment and foster socially and economically thriving communities.

Thank you for this opportunity to comment on SB 359 which we fully support. At its heart, this bill is about guaranteeing the right of the public to have access to the land use system, to be able to appeal decisions to elected officials, and not to be excluded from public processes by unaffordable fees.

There has been a growing problem over the past several years of a few counties and cities making appeal fees to county commissions and city councils so high that the public cannot afford to engage in the process. Permit me to give you a few examples.

Currently before a Deschutes County hearings officer are five related subdivision proposals that would result in 50 houses being built in the Wildland Urban Interface ("WUI") west of Bend. This is a highly controversial project because it would be built in a high fire risk and hazard area. Part of these lands already burned in the Awbrey Hall Fire in the 1990s and other lands are very close to the 2014 Two Bulls Fire. Of concern to the public is not only the safety of future residents and fire fighters, but also the local, state and national cost of defending homes from wildfires. See the recent article in the *The Bend Bulletin* on Oregon potentially losing wildfire insurance because of the high cost of fighting fires. (Attached as Exhibit A.)

If the hearings officer approves the subdivisions, the public will not be able to appeal the decisions to the Deschutes County Board of Commissioners unless they pay \$23,240, or \$4,648 for each subdivision. (See Exhibit B.) Where the issues involved in the five separate applications are so similar, there is simply no justification for this high appeal fee.

A few years ago a large destination resort was proposed for northern Klamath County. Consisting of thousands of acres and proposing thousands of homes, it was the equivalent of a small city. Arguably, it would be the most impactful development in the history of the county. Yet the public could not get the elected county officials to review the decision because they could not afford the appeal fee which was over \$10,000. No one from the public could afford that fee. Accordingly, the approval of the resort by the unelected planning commission was not appealed to or reviewed by the Klamath County Board of Commissioners.



Note that a handful of counties, including Deschutes, Jefferson, Crook and Klamath, use a formula of a base appeal fee plus 20% of whatever the original land use application cost. Deschutes County, for example, has a base appeal fee of \$2,940. Every appeal costs at least that much to appeal to the Board of Commissioners. Where the fee for a destination resort is \$13,635, 20% of that amount is \$2,727 for a total appeal fee of \$5,667. See Exhibit C, an excerpt of the 2015 Deschutes County Proposed Fee Schedule showing current fees. Note that Klamath County does place a maximum limit on appeal fees at \$11,850.

Even for a smaller land use application, such as a simple partition, the base appeal fee is the same. Recently, Central Oregon LandWatch had to pay a \$3,457 appeal fee to challenge a partition of land for which the original fee was only \$2,585. Attached as Exhibit D is an email showing the County's calculation of the appeal fee, the staff report on the appeal and the County Commissioner's decision not to hear the appeal. In that instance where the County Commission chose not to hear the appeal, the County returned 75% of the fee and kept 25%.

Coming up with \$3,500 was not easy for LandWatch, but the issue was important. What was being proposed was a partition of forest land for residential development outside of the West Bend Fuel Break. This was the equivalent of proposing development on the ocean side of a levy in New Orleans. The proposal involved substantial fire risk for whoever would inhabit the area as well as for fire and other emergency personnel who would be responsible for fighting fires and evacuating people from the area. This forest area is at a high risk of catastrophic wildfire and all firefighting resources should go to protecting the forest, not to protect dwellings that shouldn't be there. The location of residences in this area would have been completely irresponsible. On appeal to the Land Use Board of Appeals, Central Oregon LandWatch prevailed on virtually every appeal issue. The case was remanded back to the County where the Hearings Officer then ruled against the application. The house would have been located in the path of the 2014 Two Bulls Fire.

In another case involving a Declaratory Ruling, where the application fee was \$1,230, the appeal fee was \$2,736, over twice the application fee. In that instance, the Board of Commissioners again ended up not hearing the appeal, returned \$2,052 of the appeal fee and kept nearly \$700. It is difficult to imagine how the Staff or the Commissioners could have spent even an hour considering the appeal to warrant keeping the \$700.

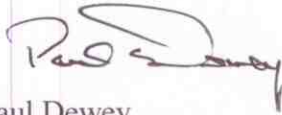
The counties claim that such high appeal fees are justified by their high costs associated with appeals. Yet there are no out-of-pocket expenses with the appeal to the local governing body and the Staff has already become familiar with the application and the issues by that point. They have already fully assessed the application and evidence and there has already been a hearings officer's or planning commission's decision assessing the appeal issues. All that happens on appeal to the governing body is a hearing in front of the governing body, usually a brief staff report and then deliberations by the governing body. Findings and a decision are then usually drafted by the applicant's attorney, not the county's attorney. I have seen appeals involving destination resorts where the staff was almost completely passive. The applicant's attorney did virtually everything. Even with county legal counsel review, the county's time expense is limited.



The counties and cities claim that this bill will impose a new fiscal obligation on them that they cannot afford. We dispute their estimate of the financial obligation, but in any event the city or county can totally avoid the cost by simply not deciding to hear the appeal. The City of Bend, for example, has a policy of not hearing appeals from a hearings officer or its planning commission unless it is a special case involving important public policy issues. Once the governing body decides not to hear an appeal, the lower body's decision stands unless it is appeal to LUBA.

Thank you again for this opportunity to testify today. We respectfully request your support for this very necessary measure.

Very truly yours,



Paul Dewey,
Executive Director

50 SW Bond St., Ste. 4 | Bend, OR 97702
Phone: (541) 647-2930
www.centraloregonlandwatch.org



Paul Dewey

From: Gail Snyder <aussiegail@gmail.com>
Sent: Monday, February 23, 2015 9:44 AM
To: Paul Dewey; Gail Snyder
Cc: Moey Newbold (moeynewbold@gmail.com)
Subject: Bulletin Feb 23, 2015: Oregon might lose wildfire insurance

- Oregon might lose wildfire insurance | State, private timberlands owners wait and see after consecutive bad fire seasons



Ryan Brennecke / The Bulletin

Smoke fills the air as the Two Bulls wildfire burns near Tumalo Reservoir in June.

[Click here for image slideshow](#)

Oregon might lose wildfire insurance

State, private timberlands owners wait and see after consecutive bad fire seasons

By [Taylor W. Anderson \(@taylorwanderson\)](#) and [Dylan J. Darling \(@DylanJDarling\)](#) / The Bulletin

Published Feb 23, 2015 at 12:11AM

SALEM — Private timberland owners and the state officials charged with protecting those lands are both in the dark over how consecutive bad fire seasons will change the way Oregon pays to fight catastrophic wildfires.

For nearly four decades, Oregon has purchased an [insurance policy that kicks in](#) when wildfires are catastrophic. It's a unique setup similar to car insurance.

The state has paid a premium of around \$1 million and a \$25 million deductible before the company chips in. The policy has saved the state as much as \$46 million since 1973.

With a month left before spring, the only thing that is certain is that the state and landowners most likely will have to pony up if they want the insurance this year, [if Oregon gets a policy at all](#).

The state sent its top forester, Doug Decker, across the Atlantic to meet face to face with brokers from Lloyd's of London early this month.

Even now, Decker says, the future is uncertain.

"They'll be asking themselves the question what can they afford to provide, and we'll be asking the question what can we afford to pay," Decker said.

Lloyd's officials said they don't comment on individual policies, but Decker said about a dozen brokers are crunching numbers and other factors to see whether the company still finds Oregon worth insuring.

They're likely to take into account what the state says is its ability to extinguish about 95 percent of fires before they grow larger than 10 acres. They'll consider the cameras Oregon places in remote areas to scout for fires.

But there's another factor Lloyd's may consider that is working against the state: snowpack. Right now, there isn't much.

"It's abysmal," said Kathie Dello, deputy director of the Oregon Climate Service. "The outlook of the next few months is warmer than normal. It looks pretty, it doesn't look good for recovery in terms of snowpack."

Mountains in the Northwest that are typically well-coated by snow are bare, and [snow levels](#) are close to record lows throughout the Cascades. Precipitation levels are near normal, but it's been too warm to snow.

Snowpack provides moisture and ground coverage in summer months as temperatures rise. It doesn't look like much of the West will get that buffer this year.

There are other factors that go into whether land is vulnerable to wildfires, such as soil moisture and midsummer rain, but those are hard to predict.

Decker described his trip to London as absolutely necessary to even give Oregon a shot at insurance coverage for this fire season. Even so, it may be April before the state knows whether it's on the hook if Oregon has yet another bad fire season.

"We just have to remember that we've had two catastrophic (fire seasons) here, and I would say that it's not a sure thing that we will be successful in finding that sweet spot," Decker said.

The insurance question doesn't only cover public land. Central Oregon's timberland owners chip in \$1.70 per acre under the policy, and they're waiting to hear how much they'll be charged this year.

"I have no idea what the dollar figures will be," said Chris Johnson, vice president of timber operations for Fidelity National Timber Resources, a company based in Whitefish, Montana, that has an office in Bend.

A subsidiary of the company, Cascade Timberlands, just sold most of the forestland that burned last June in the 6,908-acre Two Bulls Fire near Bend. The fire was just one in what ballooned into a big year that is likely to have soaked up the entire \$25 million insurance deductible for a second straight season when the state finishes counting costs.

Cascade Timberlands sold about 200,000 acres of timberland in Central Oregon — in areas northwest of Bend, near La Pine and Gilchrist and by Chemult and Chiloquin.

While the wildfire insurance helped the Oregon Department of Forestry last year cover some costs, it didn't help Cascade Timberlands and other private timber holders recoup their losses.

Johnson said Cascade Timberlands was able to salvage about two-thirds of the acreage burned in the Two Bulls Fire, but the fire changed the timing of when to harvest. It will be another 80 years until the trees growing there will be merchantable again.

"It set the clock back quite a ways," Johnson said.

The situation in Oregon represents larger changes to how the state and federal government are approaching wildfire funding in the wake of record-setting wildfires.

A group of senators largely from the West proposed a bill last month that would change the way Congress funds fire suppression.

Currently, when the fire budget is depleted, the federal government then takes money for fighting fires from areas of the budget that would prevent wildfires by treating forests and reducing fuels. A bill sponsored by Sen. Ron Wyden, D-Ore., and Sen. Mike Crapo, R-Idaho, would change that.

"Catastrophic wildfires threaten homes and lives across Oregon and the West year after year," Wyden said. "The money to fight those fires falls short nearly every time."

Wyden and Crapo's bill would allow big wildfires in federal jurisdiction to be funded through a separate disaster account.

In Oregon, lawmakers are offering new ways to look at the damage caused by some large wildfires.

Sen. Doug Whitsett and Rep. Gail Whitsett, a Klamath Falls Republican couple representing rural south and central stretches of Oregon, have a bill that would require the Department of Forestry to file a report on property losses for any fire 1,000 acres and larger.

The hope, they say, is that the reports would put attention on actual losses endured in a blaze.

“I think we have a disconnect with a lot of people in urban areas that have no comprehension of what a wildfire really is,” Doug Whitsett said.

— Reporter: [406-589-4347](tel:406-589-4347), tanderson@bendbulletin.com

[541-617-7812](tel:541-617-7812), ddarling@bendbulletin.com

<http://www.bendbulletin.com/localstate/environment/2899295-151/oregon-might-lose-wildfire-insurance?referrer=fpblob>

COL Ex. A, p. 4
2015 SB 359

Paul Dewey

From: Anthony Raguine <Anthony.Raguine@deschutes.org>
Sent: Monday, February 23, 2015 11:19 AM
To: Paul Dewey
Subject: Miller Tree Farm - Appeal Fee

Hi Paul. As we discussed, below is the appeal fee for each subdivision application.

Base appeal fee to BOCC: \$2,640
20% of CU: \$5,020 x .20 = \$1,004
20% of TP: \$5,020 x .20 = \$1,004

Total appeal fee for each subdivision is \$4,648

Let me know if you need anything else.

Anthony Raguine
Senior Planner
Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

Deschutes County Fee Schedule
FY 2015 (Proposed)

ITEM NO.	DESCRIPTION	FY 2014 Fee (\$)	UNIT	ENACTMENT AUTHORITY	FY 2015 Fee (ONLY if different from FY 2014)
CDD - Environmental Soils Division (continued)					
	<p>Surcharges: In order to offset a portion of the administrative and program oversight costs of the statewide on-site sewage disposal program, a surcharge of \$60.00 of each site evaluated, for each construction installation permit and for all other activities for which an application is submitted, shall be levied by the Department and by each Agreement County has set forth in the following schedule. Proceeds from surcharges collected by the Department and Agreement Counties shall be accounted for separately. Each Agreement County shall forward the proceeds to the Department as negotiated in the memorandum of agreement (contract) between the County and the Department.</p> <p>TO</p> <p>Surcharges: 340-071-0140 Onsite System Fees</p> <p>(10) DEQ surcharge. (a) To offset a portion of the administrative and program oversight costs of the statewide onsite wastewater management program, DEQ and contract counties must levy a surcharge for each site evaluation, report permit and other activity for which an application is required in this division. The surcharge fee is listed in Table 9F as determined by DEQ. This surcharge does not apply to pumper truck inspections, annual report evaluation fees, or certification of installers or maintenance providers. Proceeds from surcharges collected by DEQ and contract counties must be accounted for separately. Each contract county must forward the proceeds to DEQ in accordance with its agreement with the DEQ.</p>				
	Activity	Surcharge			
	Site evaluation, for each site examined, based on a projected flow of:				
CDES 41	A. 1,000 gallons or less	60.00			100.00
CDES 42	B. to 2,000 gallons	60.00			100.00
CDES 43	C. 2,001 to 3,000 gallons	60.00			100.00
CDES 44	D. 3,001 to 4,000 gallons	60.00			100.00
CDES 45	E. 4,001 gallons or more	60.00			100.00
CDES 46	Construction - installation permit	60.00			100.00
CDES 47	Renewal permit	60.00			100.00
CDES 48	Alteration permit	60.00			100.00
CDES 49	Authorization notice	60.00			100.00
CDES 50	Existing system evaluation report	60.00			100.00
	*(There is no surcharge for pumper truck inspection.)				
CDD - Planning Division					
CDPN 1	Administrative determination with notice - Major	1,305.00			1,330.00
CDPN 2	Administrative determination with notice - Minor	835.00			850.00
CDPN 3	Appeals to Board of Commissioners	2,640.00	+20% of original fee		2,640.00
CDPN 4	Appeals to Board of Commissioners - not accepted	75% refund			
CDPN 5	Appeals - Administrative	250.00		ORS 215.416(11)	
CDPN 6	Appeals - LUBA Remand Hearing	3,000.00			
CDPN 7	Conditional Use	2,320.00			2,365.00
CDPN 8	Conditional Use (non-farm dwelling)	3,135.00			3,200.00
CDPN 9	Conditional Use (golf course)	5,485.00			5,595.00
CDPN 10	Conditional Use (P.U.D. or cluster development)	4,920.00			5,020.00
CDPN 11	Conditional Use (new destination resort)	13,370.00	or ACS		13,635.00
CDPN 12	Conditional Use (schools with 100 students or more)	3,670.00	or ACS		3,670.00
CDPN 13	Conditional Use (power transmission line and communication tower or pole)	4,050.00	or ACS		4,131.00

*ACS=Acutal Cost of Services

Red: Indicates Fees or Text to be changed
Blue: Indicates New Text or Fees

2015 SB 359 COL EX C, P. 1

Deschutes County Fee Schedule
FY 2015 (Proposed)

ITEM NO.	DESCRIPTION	FY 2014 Fee (\$)	UNIT	ENACTMENT AUTHORITY	FY 2015 Fee (ONLY if different from FY 2014)
CDD - Planning Division (continued)					
CDPN 14	Conditional Use (Home Occupation - Type 1 for EFU or F Zone)	855.00			870.00
CDPN 15	Conditional Use (Home Occupation - Type 2)	1,305.00			1,330.00
CDPN 16	Conditional Use (Home Occupation - Type 3)	2,320.00			2,365.00
CDPN 17	Condominium Plan Review	975.00	+ \$15 per lot		995.00
CDPN 18	Consultant Fee (for consultant or expert retained by County and paid for by applicant)	ACS			
CDPN 19	Declaratory Ruling (status determined under Chap. 22.40)	1,305.00			1,330.00
CDPN 20	Expedited Land Divisions	4,050.00	or ACS		4,131.00
CDPN 21	Extension Request	330.00			335.00
CDPN 22	Filming Activities	2,940.00			3,000.00
CDPN 23	Final Plat Review (all plats)	115.00	+ \$55 per lot		120.00
	*****\$35 of the \$55/lot fee is for long range planning*****				
CDPN 24	Hearings Officer Deposit	3,000.00	Deposit/ACS		
CDPN 25	Hearings Officer Deposit - Complex application	5,000.00	Deposit/ACS		
	Historic Landmarks Commission Public Hearing and Review:				
CDPN 26	Exterior alteration - major	375.00			
CDPN 27	Moving a Historic Landmark Structure	375.00			
CDPN 28	Demolish a Historic Landmark Structure	1,695.00			
CDPN 29	Delete Historic Site/Building from Goal 5 Inventory	1,695.00			
CDPN 30	Add historic structure/site to Goal 5 Inventory	530.00			
CDPN 31	National Register Nomination Hearing	375.00			
CDPN 32	Appeal of Landmarks Commission Decision to Board	795.00			
	Historic Administrative Review (Staff)				
CDPN 33	Exterior alteration - minor	265.00			
CDPN 34	Appeal of Administrative Decision	265.00			
CDPN 35	Improvement Agreement	1,305.00			1,330.00
CDPN 36	Land Use Verification Letter and/or Information Sheet	60.00			
CDPN 37	Landscape Management Review (not visible from road or stream)	475.00			485.00
CDPN 38	Landscape Management Review (river)	1,190.00			1,215.00
CDPN 39	Landscape Management Review (road)	835.00			850.00
CDPN 40	Landscape Management Review (and less than 50 feet from rimrock)	1,565.00			1,595.00
CDPN 41	Limited Land Use Decision	4,050.00	+ \$25 per lot		4,130.00
	Limited Use Permit (Agri-tourism & other events in EFU zone)				485.00
CDPN 42	Type 1	455.00			465.00
CDPN 43	Type 2 & 3	855.00			870.00
CDPN 44	Lot of Record Verification	475.00			485.00
CDPN 45	Property Line Adjustment	475.00			485.00

COL EX. C, P. 2
2015 SB 359

Deschutes County Fee Schedule
FY 2015 (Proposed)

ITEM NO.	DESCRIPTION	FY 2014 Fee (\$)	UNIT	ENACTMENT AUTHORITY	FY 2015 Fee (ONLY if different from FY 2014)
CDD - Planning Division (continued)					
CDPN 46	Property Line Adjustment (consolidation)	365.00			370.00
CDPN 47	Master Plan (including final master plan for destination resort)	4,980.00			5,080.00
CDPN 48	Master Plan (Statutorily defined)	10,000.00			
CDPN 49	Modification of Conditions	1,305.00			1,330.00
CDPN 50	Modification of Submitted Application	835.00			850.00
CDPN 51	Noise Ordinance Variance/Permit	1,305.00			1,330.00
CDPN 52	Non-Conforming Use Alteration	1,720.00			1,755.00
CDPN 53	Minor code changes	5,000.00			
CDPN 54	Major Code Change (applicant will be billed for M56 Notice)	10,000.00	ACS (Notice)		
CDPN 55	Outdoor Mass Gathering/Extended Outdoor Mass Gathering	2,640.00			2,690.00
CDPN 56	Outdoor Mass Gathering Renewal	330.00			335.00
CDPN 57	Extended Outdoor Mass Gathering Renewal	475.00			485.00
CDPN 58	Partition	2,765.00	+ \$35 per lot		2,820.00
CDPN 59	Partition - Financial	1,305.00			1,330.00
	Permit sign-off for other agency (Role change, Land Use Compatibility Statement, DMV, Water Resources, etc.)				
CDPN 60	New	55.00			75.00
CDPN 61	Renewal	30.00			30.00
CDPN 62	Plan Amendment (without goal exception)	5,175.00			5,280.00
CDPN 63	Plan Amendment (including goal exception/UGB expansion)	10,350.00	ACS		10,555.00
CDPN 64	Pre-application meeting	ACS			
CDPN 65	Reconsideration by Hearing Officer	1,030.00			1,050.00
CDPN 66	Quadrant Plan(s) (Planning Commission)	4,330.00	+ \$35 per lot		Delete
CDPN 67	River Setback Exception	2,190.00			2,235.00
CDPN 68	Rimrock Setback Site Plan (within 50 feet of rim)	835.00			850.00
CDPN 69	Road Dedication	835.00			850.00
CDPN 70	Road Name Change	1,350.00			1,375.00
CDPN 71	Sign Permit	475.00			485.00
CDPN 72	Sign Permit Variance	1,825.00			1,390.00
CDPN 73	Similar Use Ruling	1,215.00			1,240.00
CDPN 74	with another application	320.00			325.00

COL for C, P-3
2015 SB 354

Red: Indicates Fees or Text to be changed
Blue: Indicates New Text or Fees

*ACS=Actual Cost of Services

Deschutes County Fee Schedule
FY 2015 (Proposed)

ITEM NO.	DESCRIPTION	FY 2014 Fee (\$)	UNIT	ENACTMENT AUTHORITY	FY 2015 Fee (ONLY if different from FY 2014)
CDD - Planning Division (continued)					
	Site Plan:				
CDPN 75	Change of Use (site conforms with all existing standards)	475.00			485.00
CDPN 76	Alteration or Enlargement of 25% or less (if site conforms with all existing standards)	835.00			850.00
CDPN 77	Change of Use (site does not conform with all existing standards)	1,020.00			1,040.00
CDPN 78	Minor Alteration (alteration or enlargement of less impact than existing use)**	1,995.00			2,035.00
CDPN 79	Major Alteration**	2,765.00			2,820.00
CDPN 80	Site Plan with New Development**	3,135.00			3,200.00
	**All new site plans and major and minor alterations are subject to the following additional fees:				
CDPN 81	Per 1,000 sq. feet of structure	50.00			
CDPN 82	Per developed acre (over 1 acre)	125.00	over 1 acre		
CDPN 83	Per open space acre if impacted by development	40.00	over 1 acre		
CDPN 84	Site Plan/Wildlife Review	835.00			850.00
CDPN 85	Site Plan/Wind Energy	835.00			850.00
CDPN 86	Site Plan/Surface Mining	4,920.00			5,020.00
	Site Plan/Surface Mining Combining Zone (SMIA):				
CDPN 87	1/4 mile from mining site and two dwellings closer	475.00			485.00
CDPN 88	1/8 mile from mining site	745.00			850.00
CDPN 89	Closer than 1/8 mile from mining site	1,365.00			1,390.00
CDPN 90	Partition/subdivision SMIA review		of site plan for each lot		
CDPN 91	Solar Access Permit	745.00			760.00
CDPN 92	Solar Shade Exemption	1,455.00			1,485.00
CDPN 93	Solar Variance	835.00			850.00
CDPN 94	Special operating permit	2,340.00			2,385.00
CDPN 95	Subdivision Name Change	835.00			850.00
CDPN 96	Subdivision (cemetery)	2,340.00			2,385.00
CDPN 97	Subdivision Replat	2,340.00	+ \$35 per lot		2,385.00
CDPN 98	Subdivision (Tentative Plat)	4,920.00	+ \$35 per lot		5,020.00

CAL EX. C, p. 4
2015 SB 35F

Deschutes County Fee Schedule
FY 2015 (Proposed)

ITEM NO.	DESCRIPTION	FY 2014 Fee (\$)	UNIT	ENACTMENT AUTHORITY	FY 2015 Fee (ONLY if different from FY 2014)
	CDD - Planning Division (continued)				
	Temporary Use:				
CDPN 99	Medical Hardship	475.00			485.00
CDPN 100	Medical Hardship EFU or Forest	835.00			850.00
CDPN 101	Land Use Permit	835.00			850.00
CDPN 102	RV as Residence	315.00			
CDPN 103	RV Renewal	100.00			
CDPN 104	Manufactured Home Storage	315.00			
CDPN 105	All other	835.00			850.00
CDPN 106	Variance	2,340.00			2,385.00
CDPN 107	Variance Type II (variance from less than 25% of the standards in urban area/less than 10% of standards in the county)	1,365.00			1,390.00
CDPN 108	Wireless Communication Facility Site Plan	2,940.00			3,000.00
CDPN 109	Zone Change	4,920.00	ACS (Notice)		5,020.00
	Note: Where ACS is noted, applicant may be required to pay an advance deposit reflecting the estimated cost of service.				

2015 SB 359
COL Ex. C, p. 5

*ACS=Actual Cost of Services

Red: Indicates Fees or Text to be changed
Blue: Indicates New Text or Fees

Paul Dewey

From: William Groves <William_Groves@co.deschutes.or.us>
Sent: Tuesday, August 24, 2010 4:44 PM
To: Paul Dewey
Subject: Whitman appeal fee

2,940+20% original fee (\$2,585)

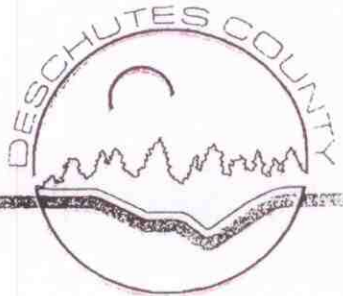
Total \$3,457

Will Groves
Senior Planner

Deschutes County Community Development Department ASFPM Certified Floodplain Manager ph# (541) 388-6518 fax# (541) 385-1764

Web: www.co.deschutes.or.us/cdd

2010-052



Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

September 7, 2010

To: Deschutes Board of County Commissioners
From: Will Groves, Senior Planner
Subject: Board consideration to hear or not hear an appeal of a Hearings Officer decision approving of a minor partition to divide a 1,306-acre parcel in the F-1 Zone west of Bend into three parcels. (File numbers: MP-10-3, MA-10-4, and A-10-4)

BACKGROUND

Bank of Whitman requested approval of a minor partition to divide a 1,306-acre parcel in the Forest Use (F-1) Zone west of Bend into three parcels. The Hearings Officer approved this application on August 20, 2010. Central Oregon Landwatch filed a timely appeal requesting de novo review on August 31, 2010. The Board needs to decide whether or not to hear this appeal.

The Central Oregon Landwatch appeal addresses the following issues:

Access: The proposed parcel configuration includes 'flag' lots with 'flagpoles' up to a mile in length to meet the DCC 17.36.180(A) frontage requirements. The applicant has not proposed to take actual access from these 'flagpoles' and would instead use other travel surfaces in the area. Central Oregon Landwatch argues that the frontage and access standards of 17.36.180(A), 17.22.020(A)(3), and 17.36.260 together require actual, safe access can be taken from a public road. Central Oregon Landwatch also argues that 17.36.260 requires that two points of access be required for resident evacuation and that access roads be improved to county required widths.

Suitability: DCC 17.22.020(A)(5) requires that, "Each parcel is suited for the use intended or offered, considering the size of the parcels, natural hazards, topography and access." Central Oregon Landwatch argues that residences are one of the offered uses and that the applicant has not demonstrated that the proposed parcels are suitable for residential use, given the fire hazards in the area.

The 150-day period expires on September 30, 2010. It appears that, at this point, the Board's calendar would allow sufficient time to hear this matter.

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STAFF DISCUSSION

The Hearings Officer's decision and the appeal both make reference to the *Thomas* partition (MP-02-12) affecting property northeast of the subject property (Tax Lots 4300, 4303 and 4304 on Assessor's Map 17-11). The Hearing Officer's and Board's decisions in this previous matter are attached for your reference.

The Board may decline to hear this appeal or agree to hear this appeal. If the Board agrees to hear this appeal, it may hear the matter de novo, or limit the scope of the hearing to the issues on appeal. Staff recommends that, if the Board accepts the appeal, that the Board hear the entire matter de novo, as requested by the appellant. Limiting testimony to specific issues may significantly complicate the hearing.

SCHEDULE

This matter is scheduled for the Board's afternoon meeting on September 8, 2010. Please contact me with any questions.

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0012

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Accepting Review of Hearings Officer's
Decision in File no. A-10-4 (MP-10-3 and MA-10-4)

*
*

ORDER NO. 2010-052

WHEREAS, Applicants, the Bank of Whitman, requested a minor partition to divide a 1,306-acre parcel in the F-1 Zone west of Bend into three parcels, which was approved by the Hearings Officer's in application numbers MP-10-3 and MA-10-4 on August 20, 2010; and

WHEREAS, Appellant, Central Oregon Landwatch, appealed the Hearings Officer's decision in application number A-10-4 on August 31, 2010; and

WHEREAS, Section 22.32.027 of the Deschutes County Code allows the Board of County Commissioners (Board) discretion on whether to hear appeals of Hearings Officer's decisions; and

WHEREAS, the Board has given due consideration as to whether to review this application on appeal; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. That the Board will not hear on appeal application no. A-10-4 (MP-10-3 and MA-10-4).

Section 2. The appellants shall be granted a refund of some of the appeal fees, according to County Procedures.

Dated this _____ of _____, 2010

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

DENNIS R. LUKE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

(2013) Central Oregon LandWatch Review of County Land Use Appeal Fees to County Governing Body

NOTES:

- Benton** The required fee is a deposit in the amount of the fee of the original application (or \$200 in a case where the application fees were waived). Costs of processing the appeal will be tracked and any portion of the deposit not expended in the appeal will be returned to the appellant together with an accounting of the costs.
- Clatsop** If the actual costs of processing a permit processed as a certain Type decision exceeds the amount of the fee by more than 20% because of the detailed nature of the proposal or the number of hearings that are required, the applicant shall be responsible for paying the full amount of the actual cost.
- Gilliam** Nonrefundable fee, plus \$25 per page for verbatim transcript, plus \$1 per page for all other record material.
- Lane** Fee for appeal of HO to BCC (not to hear) \$250.
Fee for appeal of HO to BCC: Step 1: HO reconsiders decision \$1,242
Step 2: BCC considers whether to hear the appeal \$1,584.80
Step 3: BCC hears appeal \$2,227.20
Total due at time appeal is submitted: \$3,812
Refunds for BCC appeals: Step 1: HO reconsiders decision \$2,570 refund
Step 2: BCC decides not to hear the appeal \$2,377.20 refund
Step 3: BCC hears appeal no refund
Remand from the BCC to the HO \$3,300

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SB 3087 (2013) Central Oregon LandWatch Review of County Land Use Appeal Fees to County Governing Body

County	Appeal to Governing Body	Fee	
Baker	BOC	\$450	http://www.bakercounty.org/planning/2009-10_Fee_Schedule.pdf
Benton	Planning Commission	Cost of Original Application (see note)*	http://www.co.benton.or.us/cd/planning/
Clackamas		\$250	http://www.clackamas.us/planning/fees.html
Clatsop		\$250 - \$2356 or more*	http://co.clatsop.or.us/page/139?deptid=12
Columbia	BOC or Planning Comm.	\$250	http://www.co.columbia.or.us/files/lids/fees/2012%20LDS%20Fees.pdf
Coos		\$1,600	http://www.co.coos.or.us/Portals/0/Planning/Adopted%202012.pdf
Crook	County Court	\$1850 + 20% of initial application fee	http://co.crook.or.us/Portals/0/2012-2013_Crook_County_Fee_Schedule.pdf (p. 24)
Curry			http://www.co.curry.or.us/publicservices/publicservices.htm
Deschutes	BOC	\$2,500 + 20% of original fee	http://www.deschutes.org/Community-Development/FY-2012-13-Fee-Schedule.aspx
Douglas	BOC	\$500	http://www.co.douglas.or.us/planning/

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(2013) Central Oregon LandWatch Review of County Land Use Appeal Fees to County Governing Body

Gilliam	BOC or court?	\$300*	http://www.co.gilliam.or.us/departments/planning/index.html
Grant	County Court	\$1,080	http://www.gcoregonlive2.com/svc_display.php/652
Harney		\$250	http://www.co.harney.or.us/planning.html
Hood River	BOC	\$2,033	http://www.co.hood-river.or.us/index.asp?Type=B_BASIC&SEC={464D86AC-EA0F-44BD-9D71-AECE98E8B6E5}
Jackson		Cost + HO w/ \$4,479 deposit	http://www.co.jackson.or.us/SectionIndex.asp?SectionID=145
Jefferson		\$2,300 + 20% of original fee	http://www.co.jefferson.or.us/LinkClick.aspx?fileticket=oqTpxjmrmaU%3d&tabid=5467&mid=10451&language=en-US
Josephine		\$2,000	http://www.co.josephine.or.us/files/Feeschedule%207107.pdf
Klamath		Same as original fee; Resort master plan: \$2,158.00 + 20% of App Fee, max of \$11,850.00	http://www.klamathcounty.org/depts/cdd/planning/fees.asp
Lake	To BOC	\$250 (plus actual cost up to \$500.00 and 1/2 of actual costs over \$500.00)	http://www.lakecountyor.org/lakecounty/government/uploads/Ordinance_52_123_Planning.pdf
Lane		Total due at time appeal is submitted \$3,812*	http://www.lanecounty.org/Departments/PW/LMD/LandUse/Documents/Gr and_Fee_Schedule%204_1_2010_WEBSITE.pdf
Lincoln	BOC	\$435	http://www.co.lincoln.or.us/pdf/FeeSchedule.pdf

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(2013) Central Oregon LandWatch Review of County Land Use Appeal Fees to County Governing Body

Linn		the greater of: either \$2,000 or half of original fee	http://www.co.linn.or.us/index.php?content=planning
Malheur		\$200	http://www.malheurco.org/planning
Marion	to BOC	\$500 (\$300 refunded if Board denies taking appeal) Hearing Requested: \$700	http://www.co.marion.or.us/PW/Planning/fees.htm
Morrow	County Ct	\$250 + \$1.50/pg for transcripts	http://morrowcountyoregon.com/planning/zoning/feeschedule.pdf
Multnomah		\$250	https://multco.us/
Polk		\$990	http://www.co.polk.or.us/cd/planning/planning-division
Sherman	County Court	\$200	http://www.sherman-county.com/documents/Planning-LandUseFeeSchedule8.09.pdf
Tillamook	BOC	BOC: same as original fee minimum \$909 maximum \$2183	<a href="http://www.co.tillamook.or.us/gov/ComDev/documents/planning/TILLAMO
OKCOUNTYFEES_2012.pdf">http://www.co.tillamook.or.us/gov/ComDev/documents/planning/TILLAMO OKCOUNTYFEES_2012.pdf
Umatilla		\$800	http://www.co.umatilla.or.us/planning/pdf/Appeal_Notice.pdf
Union		\$500 flat fee, not refundable (had to call)	http://www.union-county.org/
Wallowa		\$250	http://www.co.wallowa.or.us/community_development/land_use_planning/docs/Article07R.pdf

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HB 2007 (2013) Central Oregon LandWatch Review of County Land Use Appeal Fees to County Governing Body

Wasco		\$571	http://co.wasco.or.us/planning/feesched_09_Amended02-01-10.pdf
Washington	BOC; urban appeals only	\$1660 to BOC for urban apps only; ave case can't be appealed to BOC	http://www.co.washington.or.us/LUT/Divisions/CurrentPlanning/loader.cfm?csModule=security/getfile&PageID=342291
Wheeler			http://www.wheelercounty-oregon.com/planning.html
Yamhill	BOC	\$250	http://www.co.yamhill.or.us/plan/planning/FeeSched/LU_Fees_calc-2011.pdf

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