

**JEFFERSON COUNTY**  
Community Development Department

85 S.E. "D" St. • Madras, Oregon 97741 • Ph: (541) 475-4462 • FAX: (541) 475-4270



**Planning Commission Staff Report Casefile 23-A-01**  
**(Appeal of Decision – CDD File 23-MP-02)**  
**Staff Report 2 - Hearing Date: October 26, 2023**

- Appellant's Name:** 1) Jason Eckhoff on behalf of DPP-VJE, LLC;  
2) Michael Metke, M.D. successor trustee of the John Patrick and Ursula R. Metke Irrevocable Trust;  
3) L. Paden Prichard trustee of the Prichard Joint Trust.
- Appellant's Agent:** David C. Allen, Attorney at Law
- Appeal Date:** August 21, 2023
- Basis for Appeal:** Appeal statements attached as Exhibit A, B and C.
- 23-MP-02 decision:** August 3, 2023
- Appeal due date:** Prior to 5:00pm on August 21, 2023
- Applicant:** Brad and Shellie Souza, Co-Trustees  
Bradley Emile Souza and Shellie Ann Souza Revocable Trust  
PO Box 412  
Camp Sherman, OR 97730
- Applicant's Agent:** Stephanie Marshall  
Bennu Law, LLC  
147 NE Alpenview Lane  
Bend, OR 97701
- Request:** The applicant/owner is applying for a land partition which creates three lots.
- Map:** 13-09-16A-700
- Applicable criteria:** Jefferson County Zoning Ordinance (JCZO) Section 907 for casefile 23-A-01 and the applicable criteria found in 23-MP-02 in JCZO Sections 321, 343, 401, 409, 426, 703.1, 703.2, 704.5, 705.1 and 707.

Exhibit A:

Appeal form signed by Jason Eckhoff on behalf of DPP-VJE, LLC.

General staff summary of Exhibit A: Appeal form indicating JCZO (Sections 321, 703, 401, 105, 426, 705) and Jefferson County Code Title 12 regulatory concerns with qualifying statement (mailed notice per the 250' notice requirement) from David C. Allen, Attorney at Law.

**Finding 1:** Staff finds that per the appeal form Jason Eckhoff on behalf of DPP-VJE, LLC qualifies as an appellant. Staff also finds this staff report will respond to the JCZO Jefferson County Code concerns raised by the appellant.

Exhibit B:

Appeal form signed by Michael Metke, M.D. successor trustee of the John Patrick and Ursula R. Metke Irrevocable Trust.

General staff summary of Exhibit B: Appeal form indicating JCZO (Sections 321, 703, 401, 105, 426, 705) and Jefferson County Code Title 12 regulatory concerns with qualifying statement (mailed notice per the 250' notice requirement) from David C. Allen, Attorney at Law.

**Finding 2:** Staff finds that per the appeal form Michael Metke, M.D. successor trustee of the John Patrick and Ursula R. Metke Irrevocable Trust qualifies as an appellant. Staff also finds this staff report will respond to the JCZO Jefferson County Code concerns raised by the appellant.

Exhibit C:

Appeal form signed by L. Paden Prichard trustee of the Prichard Joint Trust.

General staff summary of Exhibit C: Appeal form indicating JCZO (Sections 321, 703, 401, 105, 426, 705) and Jefferson County Code Title 12 regulatory concerns with qualifying statement (mailed notice per the 250' notice requirement) from David C. Allen, Attorney at Law.

**Finding 3:** Staff finds that per the appeal form L. Paden Prichard trustee of the Prichard Joint Trust qualifies as an appellant. Staff also finds this staff report will respond to the JCZO Jefferson County Code concerns raised by the appellant.

Exhibit D:

A copy of the staff report for File 23-MP-02.

General staff summary of Exhibit D: Staff report and decision found in casefile 23-MP-02 that has been appealed to the Planning Commission.

**Finding 4:** Staff finds that the staff report attached as Exhibit D is the staff report and decision for casefile 23-MP-02.

**Finding 5:** Staff finds that per JCZO Section 902.3 (E.) that acceptance of the application does not waive further requests for information at a later date that serves to show compliance with applicable county or state standards. As such, staff finds additional information is being added to this record which is intended to show compliance with applicable county or state standards and at the same time responds to concerns raised by the appellant.

### Exhibit E

Paden and Norma Prichard email (plus 4 attachments - Exhibits F, G, H and I) received – 9/22/2023

General staff summary of Exhibit E: Request to enter Exhibits F, G, H and I into the record as addendums.

**Finding 6:** Staff finds this request is timely and per the request exhibits F, G, H and I are entered into the record.

### Exhibit F

Paden and Norma Prichard email attachment 1 received – 9/22/2023

General staff summary of Exhibit F: Introduction, concern with use of Metke Lane as access, area history, visual character, home clustering, wildlife, County Assessor action in 2015 and dedication as a local access road.

**Finding 7:** Staff finds that the concern for wildlife and home clustering is addressed in Findings 1, 2, 3, 4 and 5 of the staff report and decision for 23-MP-02.

**Finding 8:** Staff further finds that the JCZO does not provide land use regulatory authority for area history, visual character and County Assessor actions.

**Finding 9:** Staff also finds that Oregon’s land use program provides a notice and an opportunity to appeal during the land partition process.

**Finding 10:** Staff finds that if a timely appeal is not received, per JCZO 907.1, the decision becomes final.

**Finding 11:** Staff finds that the partition plat MJP-85-6 shown in Exhibit T shows the final plat for the 1985/1986 partition process whereby an opportunity to appeal was available and was not exercised and as such has made that decision final without an opportunity to appeal under the JCZO.

**Finding 12:** Staff finds in reviewing Exhibit T a Major Partition Plat MJP-85-6, that the final survey for the partition indicates the “existing 25’ private easement, dedicated to the public as a 30’ wide extension of Metke Lane” indicates Metke Lane is 30’ wide and dedicated to the public. Staff finds further as shown in in Finding 11 above, the land use decision for MJP-85-6 is final.

### Exhibit G

Paden and Norma Prichard email attachment 2 to Ray Soliz received – 9/22/2023

General staff summary of Exhibit G: Concern with Metke Lane dedicated public right-of-way process and being a local access road.

**Finding 13:** Staff finds in reviewing Exhibit T a Major Partition Plat MJP-85-6, that the final survey for the partition indicates the “existing 25’ private easement, dedicated to the public as a 30’ wide extension of Metke Lane” indicates Metke Lane is 30’ wide and dedicated to the public. Staff finds further as shown in in Finding 11 above, the land use decision for MJP-85-6 is final.

#### Exhibit H

Paden and Norma Prichard email attachment 3 comments on decision received – 9/22/2023

General staff summary of Exhibit H: The Pradens share their thoughts about the definitions found in JCZO Section 105 and the connection to the development request with an emphasis of their opinion on how Metke Lane does not provide a right of access and their opinion that Metke Lane is not a County local access road.

**Finding 14:** Staff finds in reviewing Exhibit T a Major Partition Plat MJP-85-6, that the final survey for the partition indicates the “existing 25’ private easement, dedicated to the public as a 30’ wide extension of Metke Lane” indicates Metke Lane is 30’ wide and dedicated to the public. Staff finds further as shown in in Finding 11 above, the land use decision for MJP-85-6 is final.

#### Exhibit I

Paden and Norma Prichard email attachment 4 comments on code received – 9/22/2023

General staff summary of Exhibit I: Comments from the Pradens sharing their thoughts about how the request does not meet development requirements found in JCZO Sections 321, 343, 401, 703, 704, 705 and 707.

**Finding 15:** Staff finds that Findings 1 through 32 in the staff report and decision for casefile 23-MP-02 show how staff find JCZO Sections 321, 343, 401, 703, 704, 705 and 707 requirements have been met.

#### Exhibit J

Paden and Norma Prichard follow-up email received - 9/25/2023

General staff summary of Exhibit J: Comments on previous email not being an addendum, but instead their personal comments.

**Finding 16:** Staff finds that this email is entered into the record.

#### Exhibit K

Magda Schay email received - 9/22/2023

General staff summary of Exhibit K: Comments about Metke Lane traffic impacts and water availability.

**Finding 17:** Staff finds that the concerns are addressed in accordance with the JCZO in Finding 9 of the staff report and decision for 23-MP-02 and water is addressed via wells as provided on the tentative plan.

#### Exhibit L

Debra Sturdevant email received - 9/28/2023

General staff summary of Exhibit L: Comments about Metke Lane family history and wildlife.

**Finding 18:** Staff finds that the concern for wildlife is addressed in Findings 1, 2, 3, 4 and 5 of the staff report and decision for 23-MP-02 and that there is no JCZO requirements about family history in an area.

#### Exhibit M

Jason Eckhoff email with Metke Lane powerpoint presentation photos received - 10/10/2023

General staff summary of Exhibit M: Comments about Metke Lane family history and photos showing points along the lane.

**Finding 19:** Staff finds that Exhibit M is entered into the record as requested.



### Exhibit N

David C. Allen Attorney at Law – Appellant’s Statement received - 10/10/2023

General staff summary of Exhibit N: Appellants written statement in support of the appeal from David C. Allen Attorney at Law representing the appellants. The appellants statement includes a 9 page letter to the Planning Commission and numerous exhibits including photos, copies of documents, etc. supporting the appellants written statement and requests the appeal be upheld and the application be denied.

**Finding 20:** Staff finds that Exhibit R is entered into the record.

**Finding 21:** Staff finds the appellant raised a concerns about lack of evidence in the record about Metke Lane from Public Works Director Matt Powlison. Staff finds that Exhibit X, which was received from Director Powlison, is a 2014 memorandum and attached exhibits from Rich Black, P.E. County Engineer, indicating that under Federal, State and Jefferson County Codes the general public has the right to unrestricted use of the SW Metke Lane right-of-way.

**Finding 22:** Staff finds the appellant raised concerns about the application not being complete due to not having a vicinity map, no north arrow on a map and there is no title report.

**Finding 23:** Staff finds a vicinity map is in the record as shown in Exhibit M and Exhibit P.

**Finding 24:** Staff also find that a north arrow is found on the applicant’s tentative plan found in the application with casefile 23-MP-02.

**Finding 25:** Staff finds that there was no title report submitted with the original application. However, staff finds that adequate information was provided to understand the request with a completeness review completed on July 27, 2023 and a decision completed on August 3, 2023.

### Exhibit O

Paden and Norma Prichard follow-up email comments received - 10/10/2023

General staff summary of Exhibit O: Summary of comments/opinions about the application from the Pradens pertaining to the application, access, building sites, right-of-way width, area history, aesthetics and ecology of the area.

**Finding 26:** Staff finds that the staff report and decision for 23-MP-02 under Findings 2, 3, 4, 6, 7, 8 and 9 and the application in the file provide information and staff review and response to the concerns.

**Finding 27:** Staff also finds that the JCZO does not provide regulatory authority for the history, aesthetics and ecology of the area.

### Exhibit P

Theresa Kempenich and Chris Dakan email received 10/11/2023

General staff summary of Exhibit P: Concern with wildlife protection and Metke Lane use.

**Finding 28:** Staff finds that the concern for wildlife are addressed in Findings 1, 2, 3, 4 and 5 of the staff report and decision for 23-MP-02.

**Finding 29:** Staff also find the Metke Lane use concern is addressed in Findings 9 and 10 of the staff report and decision found in 23-MP-02.

### Exhibit Q

William Johnson and Neva McCarty letter received 10/11/2023

General staff summary of Exhibit Q: Concern with 1986 partition (MJP-85-6).

**Finding 30:** Staff finds in reviewing Exhibit T a Major Partition Plat MJP-85-6, that the final survey for the partition indicates the “existing 25’ private easement, dedicated to the public as a 30’ wide extension of Metke Lane” indicates Metke Lane is 30’ wide and dedicated to the public. Staff finds further as shown in in Finding 11 above, the land use decision for MJP-85-6 is final.

### Exhibit R

Stephanie E Marshall – Bennu Law – Applicant’s Statement received - 10/12/2023

General staff summary of Exhibit R: Stephanie E Marshall – Bennu Law – Applicant’s written statement in support of affirming the staff decision in Casefile 23-MP-02 approving the proposed tentative partition plan with nine conditions and requesting the Planning Commission deny the appeal filed by the appellants. The applicant’s statement is a five page letter to the Planning Commission that speaks to how the applicant has met the requirements for the application found in the JCZO and respond to concerns raised by the appellants.

**Finding 31:** Staff finds that per the applicants request Exhibit R is entered into the record.

### Exhibit S

Jason and Cynthia Eckhoff (on behalf of DPE-VJE, LLC) email received - 10/12/2023

General staff summary of Exhibit S: Comments on uniqueness of Camp Sherman as mentioned in the County Comprehensive Plan and the appellant mentions the Area of Critical State Concern (ACSC).

**Finding 32:** Staff finds the Jefferson County Comprehensive Plan addresses this concern on page 3 in the second to last paragraph where the comprehensive plan says:

“residents immediately designed and implemented special protections through the legislative process for the Metolius Basin to maintain its character”... This has resulted in well-planned land management allocations with a variety of special land use zones”...

**Finding 33:** Staff finds the Jefferson County Comprehensive Plan is implemented through the Jefferson County Zoning Ordinance via the special land use zoning for Camp Sherman including but not limited to JCZO Sections 341 (Camp Sherman Rural Center Zone - CSRC), 342 (Camp Sherman Vacation Rental Zone - CSVR) and 343 (Camp Sherman Rural Residential Zone – CSRR-3 and CSRR-5) which are only found in Camp Sherman. Staff finds these zones were tailored specifically for the needs of the community as mentioned in the Comprehensive Plan.

### Exhibit T

David C. Allen – Copy of Major Partition MJP-85-6 received during hearing - 10/12/2023

General staff summary of Exhibit T: Photo copy of Major Land Partition MJP-85-6.

**Finding 34:** Staff finds Exhibit T was entered into the record during the hearing.

### Exhibit U

Paden Prichard drawn map received during hearing - 10/12/2023

General staff summary of Exhibit U: Proposed redevelopment plan for the Souza property from a Paden Prichard entered into the record during the hearing.

**Finding 35:** Staff finds Exhibit U was entered into the record during the hearing.

Exhibit V

Michael Metke letter and photos received during hearing - 10/12/2023

General staff summary of Exhibit V: Comments about submission of a 5 page document and on Metke Lane maintenance, trespass and bridge well being.

**Finding 36:** Staff finds that the document mentioned as submitted was submitted by the appellant via email to staff and was not received by staff on October 10, 2023 per the appellant. Staff followed up with the appellant whom submitted a copy in person in a timely manner on October 16, 2023 and is found as Exhibit W attached.

Exhibit W

Michael Metke letter received - 10/17/2023

General staff summary of Exhibit W: Personal introduction, family history, comments on neighbor contact and thoughts about Metke Lane right-of-way and road strength and safety.

**Finding 37:** Staff finds the staff report and decision for 23-MP-02 under Findings 9, 10, 12, 13 and 14 respond to the concern mentioned based on the requirements of the Jefferson County Zoning Ordinance.

Exhibit X

General staff summary of Exhibit X: 2014 Memorandum with exhibits from Rich Black, P.E. County Engineer about Metke Lane.

**Finding 38:** Staff finds the Memorandum and Exhibits indicate that under Federal, State and Jefferson County Codes the general public has the right to unrestricted use of the SW Metke Lane right-of-way.

**Potential Planning Commission motions:**

- 1.) I make a motion to **deny** the Appeal request from the appellants based on the staff report, application and all evidence entered into the record appearing to support the staff decision approving the partition as found in casefile 23-MP-02.
  
- 2.) I make a motion to **affirm** the Appeal request from the appellants based on the staff report, application and all evidence entered into the record appearing to not show adequate evidence supporting approval of the partition based on criteria as found in casefile 23-MP-02. More specifically for the following reasons:

---



---



---

Respectfully submitted,




---

Phil Stenbeck, Planning Director

10/19/23  
Date

C: Exhibits E through X attached

Planning Commission Staff Report Exhibits - October 26, 2023

*Exhibits E through X - File 23-A-01*

*(Exhibits A, B, C, and D are attached to the first staff report.)*

**Exhibit E**

Paden and Norma Prichard email plus 4 attachments received – 9/22/2023

**Exhibit F**

Paden and Norma Prichard email attachment 1 received – 9/22/2023

**Exhibit G**

Paden and Norma Prichard email attachment 2 to Ray Soliz received – 9/22/2023

**Exhibit H**

Paden and Norma Prichard email attachment 3 comments on decision received – 9/22/2023

**Exhibit I**

Paden and Norma Prichard email attachment 4 comments on code received – 9/22/2023

**Exhibit J**

Paden and Norma Prichard follow-up email received - 9/25/2023

**Exhibit K**

Magda Schay email received - 9/22/2023

**Exhibit L**

Debra Sturdevant email received - 9/28/2023

**Exhibit M**

Jason Eckhoff Metke Lane Photos received - 10/10/2023

**Exhibit N**

David C. Allen Attorney at Law – Appellant’s Statement received - 10/10/2023

**Exhibit O**

Paden and Norma Prichard follow-up email comments received - 10/10/2023

**Exhibit P**

Theresa Kempenich and Chris Dakan email received 10/11/2023

**Exhibit Q**

William Johnson and Neva McCarty letter received 10/11/2023

**Exhibit R**

Stephanie E Marshall – Bennu Law – Applicant’s Statement received - 10/12/2023

**Exhibit S**

Jason and Cynthia Eckhoff (on behalf of DPE-VJE, LLC) email received - 10/12/2023

**Exhibit T**

David C. Allen – Copy of Major Partition MJP-85-6 received during hearing - 10/12/2023

**Exhibit U**

Paden Prichard drawn map received during hearing - 10/12/2023

**Exhibit V**

Michael Metke letter and photos received during hearing - 10/12/2023

**Exhibit W**

Michael Metke letter received - 10/17/2023

**Exhibit X**

2014 Memorandum from Rich Black, P.E. County Engineer received - 10/19/2023

Exhibit E

Paden and Norma Prichard email plus 4 attachments received – 9/22/2023

Phil St

**From:** Tanya Cloutier  
**Sent:** Friday, September 22, 2023 2:41 PM  
**To:** Phil Stenbeck  
**Subject:** FW: CASEFILE 23-MP-02  
**Attachments:** letter to Tanya document 1 of 4 pdf.pdf; Letter to Assessor document 2 of 4.pdf; REBUTTAL AND COMMENTS re- CASEFILE 23-MP-02 doc. 3 of 4 pdf.pdf; Comments and or rebuttal document 4 of 4 pdf.pdf



Tanya Cloutier  
**Assistant Planner**  
p: 541.475.4462  
f: 541.325.5004  
a: 85 S.E. D Street, Madras, OR 97741  
w: [www.co.jefferson.or.us](http://www.co.jefferson.or.us) e: [tanya.cloutier@co.jefferson.or.us](mailto:tanya.cloutier@co.jefferson.or.us)



---

**From:** padenp@mac.com <padenp@mac.com>  
**Sent:** Friday, September 22, 2023 1:44 PM  
**To:** Tanya Cloutier <Tanya.Cloutier@co.jefferson.or.us>  
**Cc:** Jason Eckhoff <jason@pacaya.camp>; Mike Metke <mpmetke@mac.com>  
**Subject:** CASEFILE 23-MP-02

Tanya Cloutier  
Assistant Planner  
Jefferson County OR.

Re: CASEFILE 23-MP-02

Hello Tanya,  
Attached are pdf Documents 1, 2, 3 and 4 of 4.

While I realize we are in negotiation with the Applicant, no decisions or agreements have yet been made. I also understand the hearing may have been continued, but I have not yet been notified of that for certain. I am therefore adding these to the record as addendums to the Appeal filed by David Allen on our behalf.

Regards, Paden and Norma Prichard  
CC/Jason Eckhoff, Mike Metke

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Exhibit F**

**Paden and Norma Prichard email attachment 1 received – 9/22/2023**

September 20, 2023  
Letter to Tanya Cloutier  
Jefferson County Community Development  
Assistant Planner  
and Planning Commissioners,

Re: CASEFILE 23-MP-02. APPEAL

Dear Tanya and Commissioners,  
First ... Commissioners ... thank you for your service.

A bit about us. We have been coming to Camp Sherman since 1974 ... not counting when I visited as a kid. We started spending significant time here in the 1980's and in 1998 purchased our property which is the house Luther Metke built for himself in about 1965. I was a founding member of the Camp Sherman Historical Society and we have always been active in restoration projects here in Camp Sherman. We spent the first two years restoring and building a sensitive addition to Luther's house. Since then, we have spent an average of 150 days a year in Camp Sherman. So you can see that for 25 years we are truly committed to this place. I am a designer with 53 years experience designing custom homes, working with developers and land planning. Recently I served 4 1/2 years on the Lake Oswego Development Review Commission.

Noted here, but detailed on other attached documents is our statement why we have appealed this application to partition the adjacent property. You will see that our principal reasons stem around the use of the north-south portion of Metke Lane as the access to these new parcels. We recognize the Souza's have a large holding, which according to the zoning for this area could be divided into 3 acre parcels. We believe however, that they should obtain their access to any new parcels at the historic and original designated point of access to their property. We believe this is possible and is the only way to preserve the integrity of the neighborhood. The existing east-west section of Metke Lane is a substandard ROW, but the traveled way could be improved. Any new access into and thru the Souza property could meet County standards.

The four existing homes along the north-south portion of Metke Lane are part of a historic collection of properties. Actually tax lot 600 is also part of this unique collection. The rustic Lane, these 5 buildings and in actuality, the open meadow part of tax lot 700, are all part of this unique community which should be preserved intact. Metke Lane is the primary walking, biking and cross-country ski trail through this area. We believe the historic and visual character could, and should remain in its present state.

This can be achieved and still permit the Souza development. An east-west continuation of Metke Lane now exists in the typical manner for this area and privately serves tax lots 600, 700, 1200 and 1600. This is the legal and historic entrance to this property. This could connect to a new north-south ROW along the west side of tax lot 700 which could serve up to 4 new parcels using a similar partition pattern. The homes could be 'clustered', most of the open meadow could be retained, the wildlife corridor to the forest and creek would remain, and the historic character of Metke Lane could remain intact. Ultimately, when and if any of the mentioned tax lots are sold separately, this existing drive may have to be dedicated as a local access road.

Comments about the Application:

We believe there are some parts of their application which are mis-stated and are therefore incorrect.

We understand Metke Lane is a "local access road", not a County Road and are aware it does not meet any of the requirements or specifications even though the County has stated it is adequate.

The north-south portion of the Lane has only ever been maintained by the 4 adjacent property owners and while it is adequate for the original intended use, it would not serve 4\* more dwellings ... double the present use. (\*In conversation with Mike Metke, Brad Souza indicated he intended a similar partition of the remainder of tax lot 700, altho that is not part of this application.)

We believe the County Assessor in 2015 made an incorrect 'move' when the area of the ROW was without notification removed from our properties. We dispute this change. We do not believe this application can go forward until that is resolved.

This and the attached documents provide our reasons and statement of appeal to the Staff Approval of this Application.

Sincerely, Norma and Paden Prichard

17555 Gleason Drive apt 113  
Lake Oswego, OR. 97034  
and

26313 SW Metke Lane  
Camp Sherman, Or 97730

sent via email September 22, 2023. Document 1 of 4

Exhibit G

Paden and Norma Prichard email attachment 2 to Ray Soliz received – 9/22/2023

September 18, 2023

Ray Soliz  
[rsoliz@jeffco.net](mailto:rsoliz@jeffco.net)  
Jefferson County Assessor  
66 SE D Street, Suite D  
Madras, Oregon 97741

Dear Mr Soliz,

At a recent meeting (June 28) with the Community Planning Assistant Planner and the Public Works Director regarding CASEFILE 23-MP-02, I was given a copy of an 'Assessors Ledger Sheet' with the effective date 11-Aug-2015, transaction ID 707579, and a copy of the Assessors Map for our area dated 7/9/2019. On the ledger sheet there was a note: *"Size Change. It was just discovered that Metke Road was a dedicated ROW and not an easement. Size change is to take the appropriate acreage out of each tax lot for ROW purposes".....* The new 2019 Assessors map showed Metke Lane bounded by solid lines and the area (acreage) removed from our properties. Previous assessors maps (2001 for example) show the ROW as an easement with a typical dashed line and the listed acreage includes the area of the ROW.

WE DISAGREE AND TAKE EXCEPTION TO THE 2015 CHANGE.

1. The original dedication of the 30' wide by 208'+- east-west portion of Metke Lane along the south side of tax lot 1600 was clearly an easement granted to the Williams as shown on the Williams 1983 Record of Survey. This 1983 Record of Survey shows no access to tax lots 600 and 700 except at the SE corner of tax lot 600.
2. In 1986 when the Metke and Blann families partitioned the Metke property, originally known as tax lot 500, into 3 parcels, MJP-85-6, they delineated a ROW shown in typical dashed line mapping graphics as an easement over the southern portion mentioned above, and a 30' wide by 1115'+- long portion along the west boundary of the Metke property as an *"extension of Metke Lane R/W dedicated to the public"*. The written deed for the ROW calls this strip a *"public dedication for roadway and utility purposes"*. After the partition, the metes and bounds and acreage description of the lots over which this dedication was made included this 30' strip. The written deeds to each property describe the acreage of each parcel including this ROW strip. The property lines are shown as solid lines in typical mapping fashion. Property corners are shown.



3. The original intent of the ROW was to allow members of the extended families and/or their successors to access their property across each others property. While it did provide emergency through access and the occasional sight-see-er, this ROW was not dedicated for, nor intended to serve other private parcels.

4. An earlier subdivision to the east which formed the area known as The Pines, does show a "Metke Lane County Road" and the looping Pines road as a County ROW with the appropriate solid property line designations on both sides of the road. This designation clearly stops at the west boundary of The Pines and the east boundary of parcel 3 on the 1986 map.

5. The northern most extension of Metke Lane, even though not part of the Metke 1986 partition, but shown on the same map, crossed property originally in the Metke family, then Percival, now Eckhoff, and is clearly shown and labeled as a "30' private easement, dedicated to the public as a 30' wide extension of Metke Lane". The County Public Works Department defines Metke Lane as it crosses these 4 parcels as a "Local Access Road". The maintenance of the road is, and has always been done by the property owners, not the County.

6. We were not notified of this change.

7. We never agreed to this change.

8. There has never been a property transfer document which we have seen.

We hereby request the County retract this 2015 statement of change and restore our property to us.

Sincerely,

L. Paden and Norma Prichard

17555 Gleason Drive

Lake Oswego, Or 97034

and 26313 SW Metke Lane

Camp Sherman, OR 97730

CC/

Tanya Cloutier

Jefferson County Community Development

Assistant Planner,

Jason and Cynthia Eckhoff

Mike Metke and Family

Luther and Brian Metke

Sent via email September 22, 2023 (CASEFILE 23-MP-02 Document 2 of 4)

## Exhibit H

### Paden and Norma Prichard email attachment 3 comments on decision received – 9/22/2023

CASEFILE 23-MP-02

COMMENTS AND REBUTTAL TO APPROVAL OF APPLICATION

Jefferson County Zoning Ordinance

#### SECTION 105 B. DEFINITIONS:

**Access:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property. Based on the original designations and creation of the north-south portions of Metke Lane, ( not withstanding the declaration by the County in 2015 of which we were not notified ), we do not believe the applicant has the right of access from this easement.

According to information we have just received, in 2015 the Jefferson County Assessor determined the "ROW dedicated to the Public" running along the west side of 'our' properties is a "County Road." We understand and agree it is a "ROW dedicated to the Public", but **DO NOT AGREE** that it is a "County Road". We believe, according to 12.16.060 Definitions, this is a "Local access road". We were never officially notified of this decision by the County Assessor and are in the process of preparing to dispute this. We were only made aware of this during our meeting with the Community Development Director on 6/29/2023 regarding this application when we were handed an Assessors Ledger sheet dated 2015 which included a note. ( See Exhibit 1 attached.)

**Adjacent:** A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land. Our parcels do share a common lot line with another lot or parcel, as opposed to a separate road parcel of land.

**Boundary Line Agreement:** A contractual agreement between two abutting property owners establishing a surveyable common property boundary where no recorded surveyable boundary exists. A 1983 Record of Survey of the Williams property exists. This map shows a 30' wide easement granted by Metke for the legal access to the SE corner of the Williams, now Souza, property. This map also clearly shows there are no other access points to parcels 600 and 700 from the north-south portion of Metke Lane. Metke Lane is not defined as of 1983 and at this time existed as a private access road/driveway serving the Metke property which is not yet divided. This map does show the correct location of the North Fork. The northerly extension across the Eckhoff (then Percival) property is clearly defined as an easement.

**Driveway:** Physically developed access from a road, providing lawful ingress to and egress from a parcel. As noted above, we do not believe parcels 600 or 700 have the legal right to use the north-south portion of Metke Lane as their access.

**Easement:** A grant of the right to a person, government agency, public utility company or other legal entity to use public or private land owned by another for specific purposes, where ownership of the land is not transferred. We maintain that the original designation of the "ROW dedicated to the Public" from our collected parcels was and is in the form of an **easement**. It was not a grant to any of the legal entities mentioned above. Ownership of the land was **NOT** transferred. Our metes and bounds description of our properties describes our west property lines as common with the east property lines of parcels 600 and 700. The graphic description on the 1986 partition map shows as an easement. The assessors maps (after 1986) until 2001 show as an easement. The 30' ROW has never been transferred to the County by us.

**Flaglot:** NA ... except for flag back to forest service land. No recorded FS permit at this time.

Frontage: All property fronting on one side of a road right-of way, waterway, railroad or other feature. See discussions above re ROW.

Functional Classification: The system by which roads are categorized according to the level of service they provide and the construction standards that are required. Metke lane is a Local Access Road but does not meet any of the existing County standards.

Historic Resources: Buildings, districts, sites, structures and objects that have a relationship to events or conditions of the human past and are of local, regional, statewide or national historic significance. We believe the Metke homes and properties do have historic value and should be preserved without violation. This includes tax lot 600 and portions of 700.

Lawfully Created/Established: Any building, structure, use, lot or parcel that complied with land use laws and local standards, if any, in effect at the time of its creation or establishment whether or not it could be created or established under this Ordinance. Unknown

Lawfully Established Unit of Land: A lot or parcel created pursuant to ORS 92.010 to 92.190, or another unit of land created: Unknown Except ROW easement created in 1986 as access to private dwellings owned by same family.

A. In compliance with all applicable planning, zoning and subdivision or partition ordinances or regulations; or A variance was granted to Metke for the width of the 1983 easement to Williams from then 60' to 30'.

B. By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.

Does not include a unit of land created solely to establish a separate tax account.

Lot: A unit of land that is created by a subdivision of land. Except in relation to land divisions, "lot" is synonymous with "parcel" for purposes of this Ordinance.

Lot Line, Front: The lot line separating a lot from a road. (Does not apply as Metke Lane is not a road that has been accepted into the County Road System. It is an easement and is maintained by the properties it serves.)

Parcel: Includes a unit of land created:

A. By partitioning land as defined in ORS 92.010;

B. We do not believe this complies.

Partition Land: Means to divide land to create not more than three parcels of land within a calendar year but does not include:

A. and B. NA

C. We believe this land partition is really intended to be a subdivision and should be evaluated as such.

D. and E. NA

Property Line Adjustment: The relocation or elimination of a common property line between abutting properties, where no new lots or parcels are created. Also referred to as a lot line adjustment. NA, but could apply if this were to be evaluated properly as a subdivision.

Right-of-Way: A strip of land occupied or intended to be occupied by a road, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other special use designed and intended to benefit the public. A ROW can be an easement.

Road: The entire right-of-way of any public or private way that provides ingress to or egress from one or more lots, parcels, areas or tracts of land, or that provides travel between places by means of vehicles, including road related structures that are in the right-of-way such as tunnels, culverts or similar structures, and structures that provide for continuity of the right-of-way such as bridges. "Road" does not include bicycle paths, individual driveways, or a private way that is created to provide ingress or egress in conjunction with the use of land for forestry, mining or agricultural purposes. Types of roads include the following:

B. County Road: A public road under the jurisdiction of and maintained by a county that has been designated as a county road under ORS 368.016. The north-south portion of Metke Lane is not and has never been maintained by the County. Only snow-plow by RD 18.

C. Cul-de-sac: A short road having one end open to traffic and terminated by a vehicle turnaround at the opposite end. There is no turnaround at the north end of Metke Lane if the applicant has no access to FS lands.

D. Local Access Road: A public road that is not a county road, state highway or federal road. We believe this is the proper classification for Metke Lane.

E. Private Road: A private right-of-way for road purposes created by a recorded easement or other instrument and not dedicated to the public or a road district. A private road remains part of the acreage of the property it crosses. NA

F. Public Road: The entire right-of-way of any road over which the public has a right of use that is a matter of public record. NA. Metke Lane does not meet the criteria of a Public Road.

I. U.S. Forest Service Road: A Federally owned road easement or right-of-way maintained by the Forest Service, the primary purpose of which is to provide access to Federally owned land. This applicant does not hold a special use permit to access this property from Tamarack Lane through the extension of Metke Lane.

Subdivide Land: To divide an area or tract of land to create four (4) or more lots within a calendar year. We believe that since this owner has stated his intention to further divide the remainder of parcel 1, that this application should be reviewed under the subdivision rules.

Tentative Plan: A diagram or drawing of a proposed land division or site development, illustrating the proposed layout of lots, buildings, roads, easements, common areas and other site features. Was provided.

Tract: One or more contiguous lots or parcels under the same ownership. There are several other parcels under this same ownership.

Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels. The applicant's surveyor has incorrectly shown the location of the North Fork and the drainage pipe from the pond, which is shown. If shown correctly the Riparian area is on a part of parcel 1, but not addressed in the narrative.

Subdivide Land: To divide an area or tract of land to create four (4) or more lots within a calendar year. We believe this should be evaluated as a subdivision. See notes above.

Vacation Rental Units: A building or series of buildings having one or more rooms, with or without cooking facilities in each unit, which are available for rental for recreational or vacation purposes. A central kitchen and dining facilities designed for the preparation and serving of meals to unit occupants and the public may be included in the development. Currently the residence on parcel 1 is used for vacation rental.



Exhibit I

Paden and Norma Prichard email attachment 4 comments on code received – 9/22/2023

CASEFILE 23-MP-02

ADDITIONAL SPECIFIC COMMENTS AND/OR REBUTTAL TO STAFF FINDINGS  
and ORDINANCE REQUIREMENTS. DOCUMENT 4 of 4

Jefferson County Zoning Ordinance:

SECTION 321.5. B.

There is no evidence that ODFW has commented on this application. Nor is there a demonstration that habitat and other values would not be afforded better protection thru another development pattern which would somewhat cluster the houses and maintain a more open meadow and access to the creek and forest.

321.5. C.

1. New dwellings are not clustered.
2. Less impact and better access for wildlife to the primary water source, the North Fork Creek could be provided with an alternative development pattern.
3. All things considered, road and driveways could have less impact under a different development pattern. No alternate development pattern was submitted for evaluation. (We believe there is a better way to have shorter driveways, cluster the future homes and keep more open meadow area.)

SECTION 343 - Camp Sherman Rural Residential Zones

Finding 7: It should be noted parcel 1 will be 9.53 acres which can be further divided into 3 parcels. In conversation with Mike Metke, Brad Souza has said he plans further division of parcel 1. This could be considered serial partition, which is not permitted.

SECTION 401 - ACCESS

401.1. "Evidence of legal access" .....

Metke Lane is, as shown on the 1986 partition map, a "ROW dedicated to the public", making it a "Local Access Road" and NOT a "County Road" or any of the other entities indicated. This ROW is an easement located on private properties, which was originally created to serve just those private property owners and their successors.

Finding 9: This not correct. The parent parcel is served thru an easement dedicated in 1983 by Luther Metke to the Williams and serves the property only at the SE corner of their entire holdings including tax lot 700. The 1983 Record of Survey map shows there is NO other access to any of the Williams holdings from Metke Lane. The property consisting of the proposed parcels are not currently served with access to Metke Lane. In addition I have sent a letter to the Jefferson County Assessor in regards to a 2105 ruling about the ROW. The letter is attached explaining the disputed ruling. I do not see how this application can be processed until this dispute is resolved.

## SECTION 703 - Land Division Application Requirements

Finding 18: I submit that the applicant has not properly and accurately submitted all required material as noted below.

703.1. B. The access to parcel 1 of tax lot 700, the parent parcel, is not shown. The access point shown for parcel 2 is right through the significant tree grove and well location of tax lot 1400, (Metke).

703.1. C. Graphic depiction of easements of record on parcel 1 (tax lot 700) and tax lot 600 are not shown (The 1983 access easement.). (*Question ... If they don't exist, what is the legal access to parcel 1 and tax lots 2100 and 1600 ?*)

703.2. C. (and I.) The access to parcel 1 shown graphically as a 15' gravel drive does not conform to requirements as this becomes a separate parcel. What is the legal access to remainder of tax lot 700, parcel 1?

703.2. D. The location of the North Fork of Lake Creek and riparian area on parcel 1 is shown incorrectly as the creek crosses Metke Lane. The location of the overflow pipe from the pond is also shown incorrectly.

703.2. G. If improvements to Metke Lane are needed for the required access to parcels 2 and 3, they are not shown.

NOTE: The indication of the owners present residence is noted incorrectly as being on tax lot 1600. It is on tax lot 2100 which is adjacent to parcel 1, (tax lot 700). The other adjacent owned property, tax lot 1600 is not shown even though this can be developed in the future with access from the east-west extension of Metke Lane. No access to these parcels is shown.

## Section 704 - Land Division Procedures

Notice of an application for approval of a tentative plan will be sent to city, county, state and federal agencies and special districts that may be affected by the proposed division, asking for their comments and recommendations.

### 704.3 Review by Subdivision Committee

We believe this should be reviewed by the subdivision committee as is abundantly clear parcel 1 can be divided into 3 parcels. Further there is the possibility of divisions or re-plats of tax lots 1600 and 2100. There is no evidence that this has been reviewed. ....

## SECTION 705 - Standards and Criteria for Approval

705.1 C. A road (ROW) which may be required to access parcel 1 and other tax lots affected by this partition owned by this developer are not shown.

705.1 D. "All lots or parcels will have at least 50 feet of road frontage that will provide legal and physically practicable access that complies with the access standards in Section 401 and Title 12 of the Jefferson County Code. The frontage may be on a public road, a private road in a destination resort, an

existing nonconforming private road, or a federal road (Bureau of Land Management, US Forest Service). A variance to this standard may be requested if the property that is proposed to be divided does not have road frontage. When phased development is proposed, the access standards must be met for each phase, including adequate turnarounds at the end of the improved portion of any partially completed road, even if the road will later be extended to serve the next phase.” [We do not believe this criteria has been fully met.](#)

705.2 B. “Conditions may require that substandard roads leading to the land being divided be improved to the road standards in Chapter 12.18 of the County Code or applicable city standards if located within an urban growth boundary. Any requirement for road improvements or dedication of additional right-of-way will be based on a direct nexus between the level of road impacts that will be caused by the increased traffic generated by the new lots or parcels and the level of road improvements that are required.” [We do not believe this requirement has been considered or met. No improvements are indicated.](#)

705. 2. D. Conditions may include dedication of land for roads or other public improvements, in accordance with Section 706.

E. Conditions will require that the standards of Section 707.3 be met prior to approval of the final plat. [In all findings, conditions of approval are not stated. There is only the assumption they will apply and be implemented. In any case, they go with a building permit. Souza has stated he does not plan to build ... only sell lots. Therefore any future buyer would be the person agreeing, or not agreeing to any conditions. The result may or may not be binding.](#)

705.3. E. The plat contains a donation to the public of all common improvements that were required as a condition of the approval of the tentative plan. Public roads and easements for public utilities shall be dedicated without any reservation or restriction other than reversionary rights upon vacation. Land dedicated for public purposes may be provided by dedication on the final plat or by a separate dedication or donation document on a form provided by the county. [No statement or requirement of this provision have been made here.](#)

## SECTION 707 - Final Plats

707.2. Final Plat Procedures. [\(We realize the following comments may be premature, but no evidence has been submitted that Section 707 provisions have been reviewed.](#)

707.3. D. .... “Improvements include, but are not limited to, the construction of roads and repair of existing roads and any other public facilities damaged in the development of the partition or subdivision.” [No statement or requirement of this provision have been made here.](#)

Exhibit J

**Phil Stenbeck**      **Paden and Norma Prichard follow-up email received - 9/25/2023**

---

**From:** Tanya Cloutier  
**Sent:** Monday, September 25, 2023 9:04 AM  
**To:** Phil Stenbeck  
**Subject:** FW: Letter dated 9/22

Clarifying email regarding last weeks submittal.

Tanya Cloutier  
Assistant Planner  
p:  
541.475.4462  
f:  
541.325.5004  
a:  
85 S.E. D Street, Madras, OR 97741  
w:  
www.co.jefferson.or.us e: tanya.cloutier@co.jefferson.or.us

-----Original Message-----

**From:** padenp@mac.com <padenp@mac.com>  
**Sent:** Monday, September 25, 2023 8:53 AM  
**To:** Tanya Cloutier <Tanya.Cloutier@co.jefferson.or.us>  
**Cc:** David Allen <dallen@dalawco.com>  
**Subject:** Letter dated 9/22

Hello Tanya,

I realize I used the wrong word in describing the material I sent 9/22/23.

This is NOT an addendum to David's appeal on our behalf, but Norma and my personal comments regarding this application.

I sent this Friday, as after about noon today, I will not have much access to my 'desktop'.

CC/ David Allen

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



Exhibit K

Magda Schay email received - 9/22/2023

Phil Stenbeck

**From:** Tanya Cloutier  
**Sent:** Friday, September 22, 2023 2:41 PM  
**To:** Phil Stenbeck  
**Subject:** FW: Souza property land development



Tanya Cloutier

Assistant Planner

p: 541.475.4462

f: 541.325.5004

a: 85 S.E. D Street, Madras, OR 97741

w: [www.co.jefferson.or.us](http://www.co.jefferson.or.us) e: [tanya.cloutier@co.jefferson.or.us](mailto:tanya.cloutier@co.jefferson.or.us)



---

**From:** Magda and Pete Schay <[mp.schay@gmail.com](mailto:mp.schay@gmail.com)>  
**Sent:** Friday, September 22, 2023 10:59 AM  
**To:** Tanya Cloutier <[Tanya.Cloutier@co.jefferson.or.us](mailto:Tanya.Cloutier@co.jefferson.or.us)>  
**Subject:** Fwd: Souza property land development

Sent from my iPhone

Begin forwarded message:

**From:** Pete Schay <[mp.schay@gmail.com](mailto:mp.schay@gmail.com)>  
**Date:** September 22, 2023 at 10:53:49 AM PDT  
**To:** Magda and Pete Schay <[mp.schay@gmail.com](mailto:mp.schay@gmail.com)>  
**Subject:** Souza property land development

Jefferson County  
Community Development Department  
85 SE "D" St. Suite A  
Madras, Oregon 97741  
ph. 541-475-4462

To whom it may concern:

I, Magda Schay, am writing this letter in response to a received notification regarding the Souza property land development plan:

parcel #1 9.53 ac +/-

parcel #2 3.88 ac +/-

parcel #3 3.49 ac +/-

I understand that Mr. and Mrs. Souza are following the county rules of parcel size and septic size

evaluation, and that they have every right to develop their land in the above described sizes. I am, however, concerned about 2 issues: 1.) proposed Metke Lane access to the new parcels; and 2.) a lack of water availability evaluation.

1.) ACCESS

I have been a part-time (1972-2000) and full-time (2000-2023) resident of Camp Sherman and have enjoyed the Metke Lane walks and access to Forest Service and Deschutes Land Trust properties. Metke Lane is a narrow and undeveloped lane (indeed unmaintained except by the home owners along its route). These "maintainers" have been generous in letting people use the lane. (The primary use has been foot traffic.)

My concern is that Metke Lane will be desecrated by increased vehicle/truck/tractor traffic both during the building phase and following residential use (3+ acre owners tend not to limit their vehicle use to Priuses). There must be other possibilities to access these lovely parcels.

2.) WATER

In years past the meadow on which these properties lie used to have ample surface water. Today this is not so. I noticed that the pond on the far NW corner of parcel #3 (9-15-2023) is about 80% below normal level. This does not bode well for water availability!

I wish the Souzas well in their land division plan, but I hope that they will realize that 1.) Metke Lane is not a viable access to this development, and that 2.) there should be a water availability assessment prior to going forward with the plan.

Respectfully yours,

Magda Schay  
541-588-0649

Sent from my iPad

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Exhibit L**  
**Debra Sturdevant email received - 9/28/2023**



**MEMO:**

**Subject:** Comment on CASEFILE 23-MP-02

**To:** Tanya Cloutier and Jefferson County Planning Committion, Jefferson County Community Development Department

**From:** Debra Sturdevant, Camp Sherman resident

**Date:** September 27, 2023

Dear Tanya and Jefferson County Planning Commissioners,

Thank you for your service to the community and for considering my comments!

I am writing to express my concern about the development proposed on the Sousa property adjacent to Metke Lane in Camp Sherman. Metke Lane is a small and unique neighborhood and I ask the planning commission to ensure that this development be accomplished in a manner that allows the natural and historic character and charm of Metke Lane to remain intact.

I own property next door to one of the Luther Metke log cabins on Metke Lane and live here as a full-time resident. I have owned this property since 2007. My history in this special place is short compared to the Metke family and others who live in this neighborhood. Luther Metke built three log cabins on Metke Lane, two of which are still owned by his descendants. The cabins and the lane itself have maintained their character well. They have planted a grass strip in the middle of the road and use red cinder gravel to maintain the historic character of the road. It truly is a historic "corridor," as Luther's descendants have dubbed it.

Wildlife also enjoy the neighborhood, from many species of migratory and resident birds to our resident deer family, wild turkeys, coyotes, elk, frogs, and other critters. In the spring, my Merlin bird app picks up 5 to 10 species of birds singing in the morning, right from my window. There are also great horned owls, hawks and eagles and abundant hummingbirds. The birds and wildlife use the trees and shrubs that line Metke Lane and the branch of Lake Creek that flows across the properties and under Metke Lane on its way to the Metolius River. Lake Creek connects Suttle Lake to the Metolius River and is under restoration for salmon habitat.

Whenever guests come to visit, a walk on Metke Lane is a 'must do' and they are always charmed. I truly hope you will ensure that this development, particularly the road access to the new lots, occurs in a way that preserves the special natural and historic character of the Metke Lane corridor.

Respectfully,

Debra Sturdevant  
26231 SW Tamarack Lane.  
Camp Sherman, OR 97730



**Exhibit M**



**Tanya Jason Eckhoff Metke Lane Photos received - 10/10/2023**

**From:** jason@pacaya.camp  
**Sent:** Tuesday, October 10, 2023 1:52 PM  
**To:** Tanya Cloutier  
**Cc:** 'David Allen'  
**Subject:** Presentation for Planning Commission Meeting on 10/12/23 Re: Souza Partition Application  
**Attachments:** Metke Lane - 23-MP-02 .pdf

Tanya,  
Thanks for your time on the phone today. I am unable to email the power point version of this file, but attached is a PDF of the same presentation I plan to share at the meeting on Thursday. The only difference between this and the power point file is that there is a video on slide 4 that will not play from a PDF.

I will save the power point to a flash drive to present on Thursday and will leave behind a copy on a flash drive so that this can be included in the record.

Thank you,

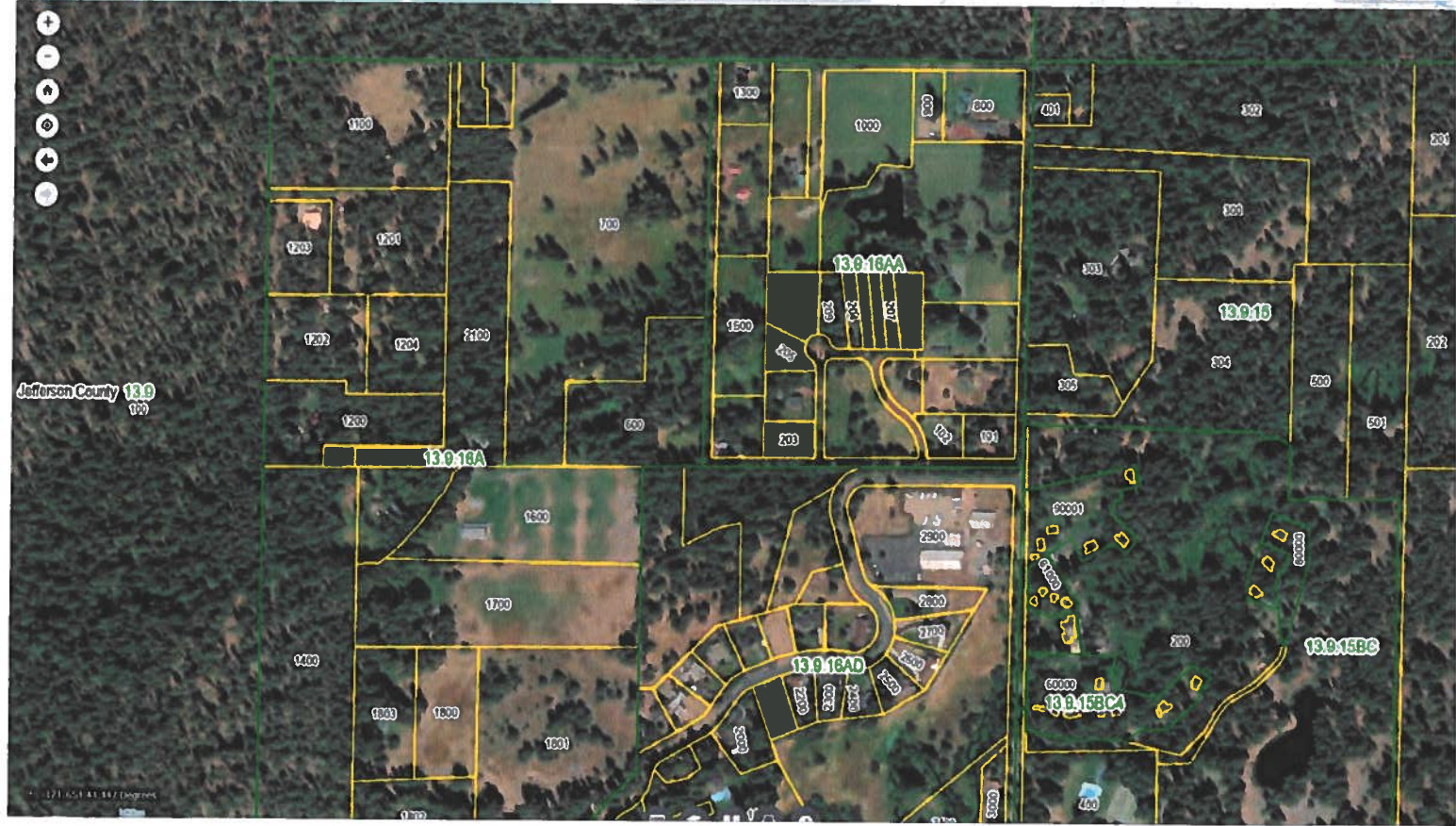
Jason Eckhoff

Jason L. Eckhoff  
[jason@pacaya.camp](mailto:jason@pacaya.camp)  
314.706.8660 – mobile

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

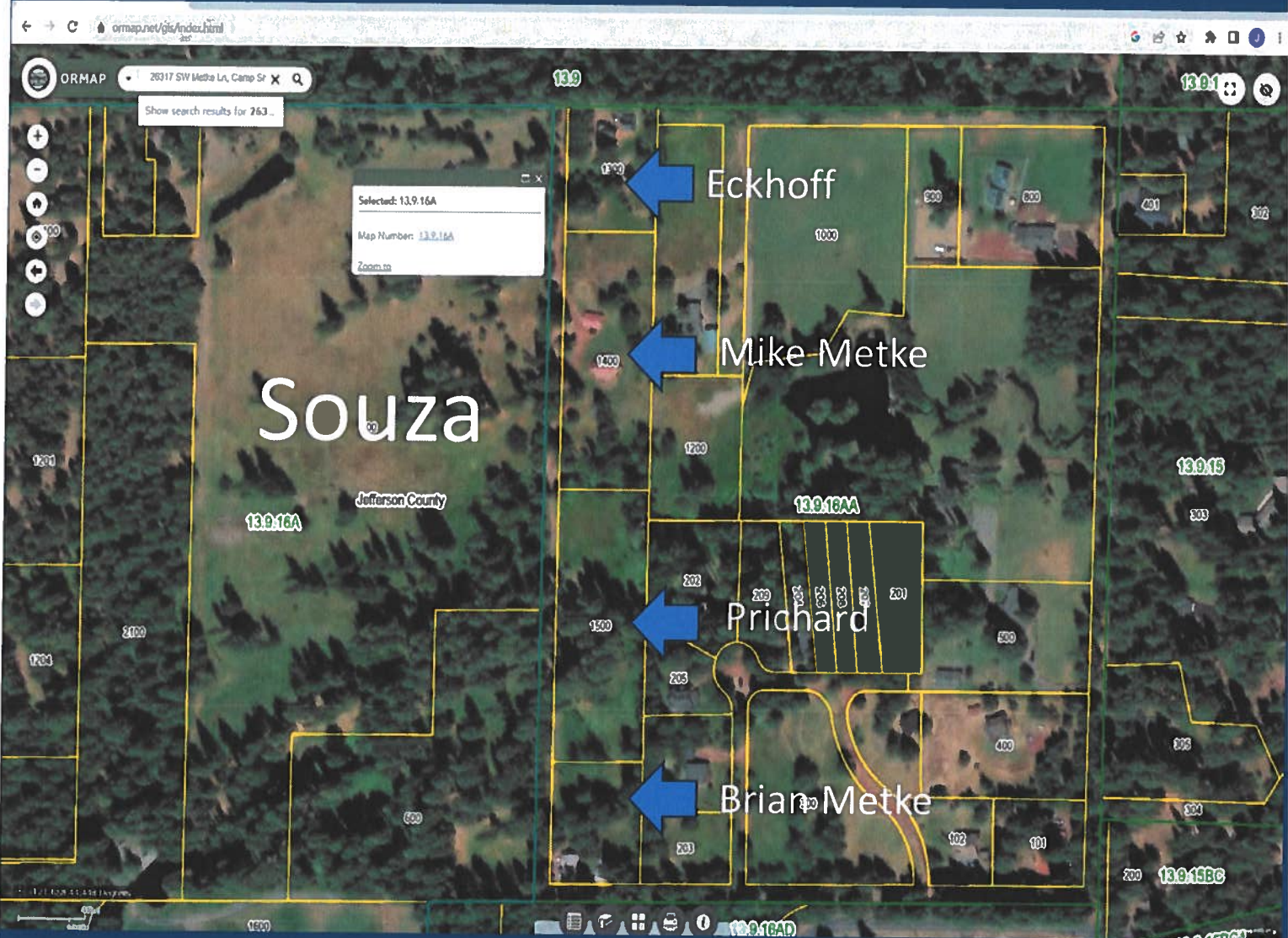


# Metke Lane - Camp Sherman, Oregon



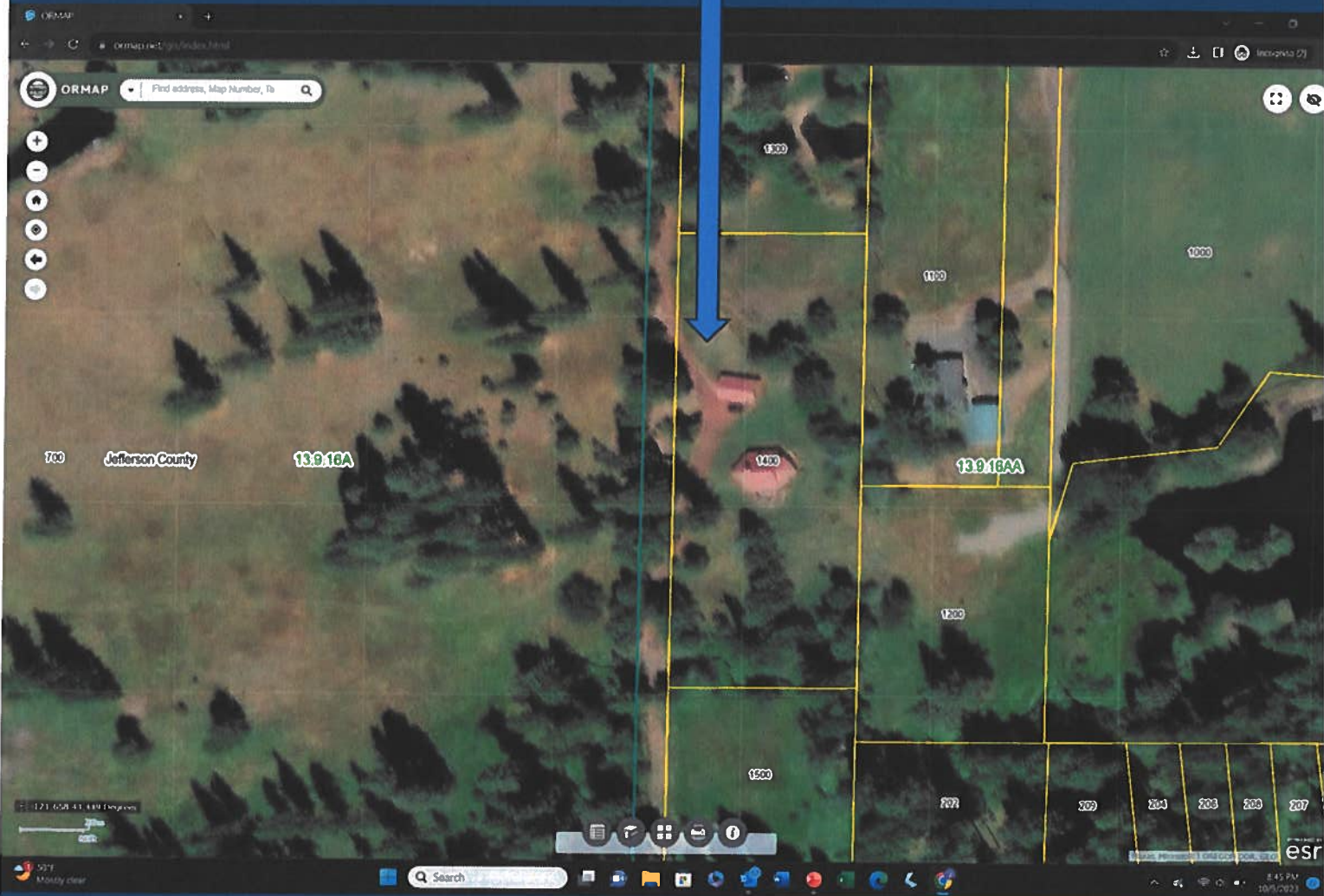


# Property Owners - Metke Lane, Camp Sherman, OR 97730





# Metke Lane Enlarged - Actual Course of Road (Note significant deviation from Dedicated ROW)



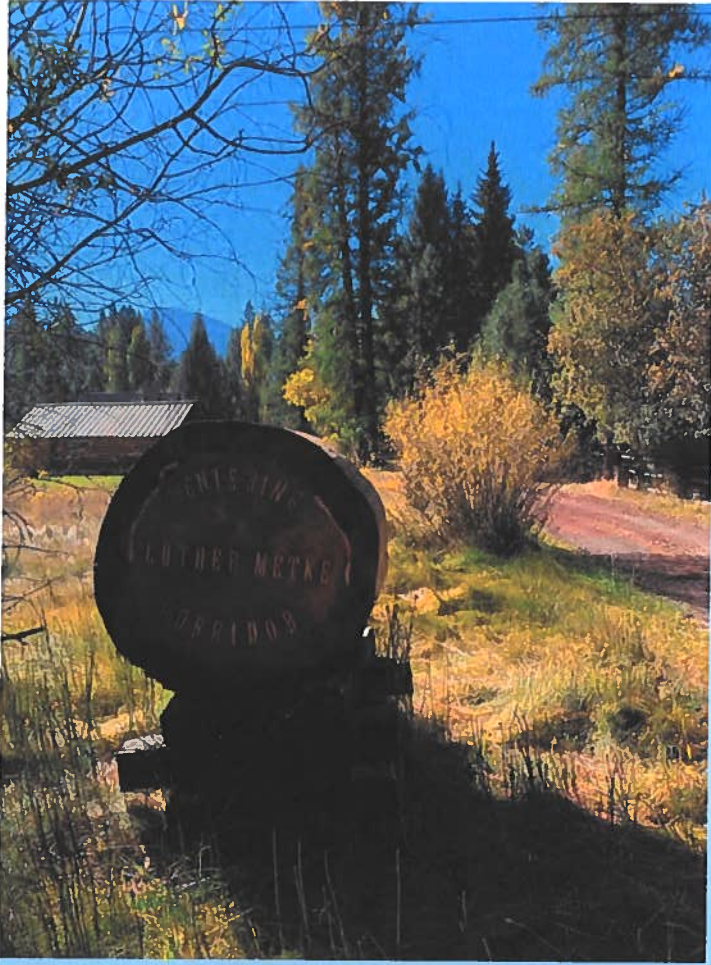


# The Luther Metke Corridor





# The Luther Metke Corridor Honorary Monuments





## Right-of-Way Connection from Tamarack Lane to Metke Lane



Metke Lane as it intersects  
with Tamarack Lane on  
Deschutes National Forest –  
Road access by Special Use  
Permit from USFS

15' wide x 375' long section  
Special Use Permit Access from  
Tamarack Lane to 26317 SW  
Metke Lane



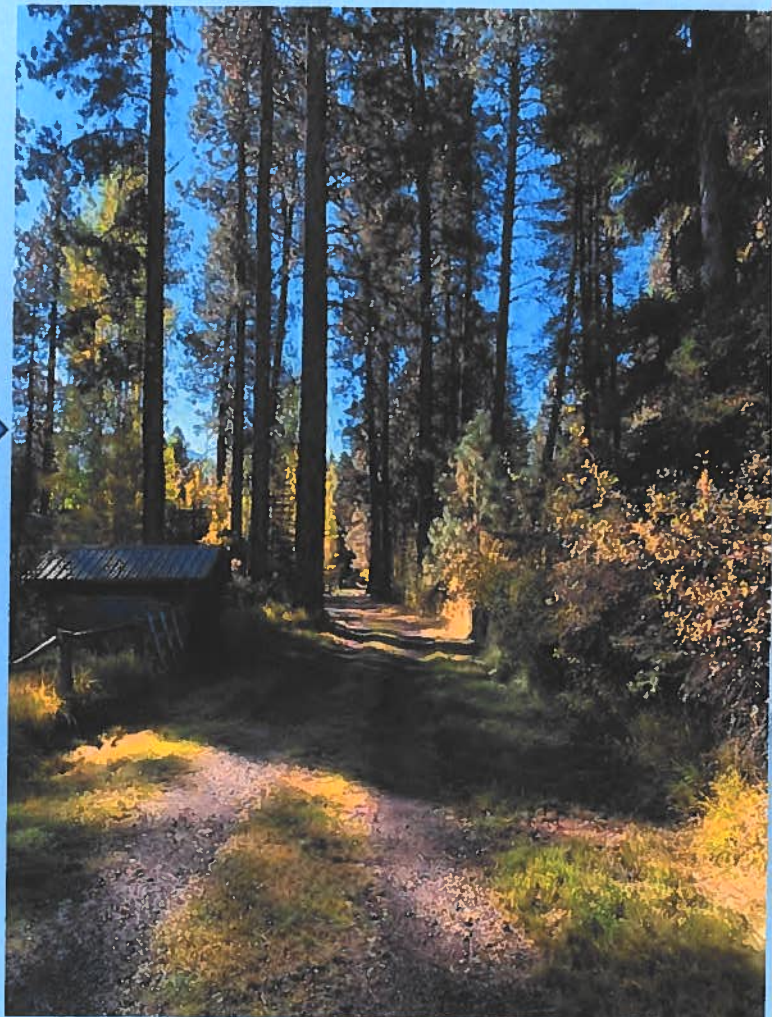


## North-South section of Metke Lane



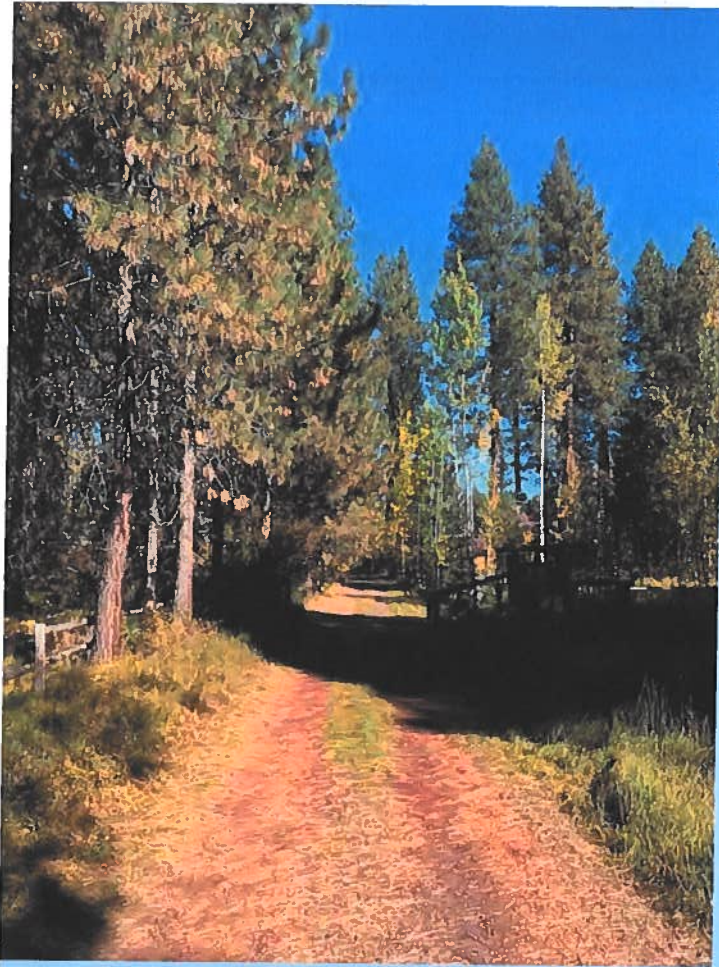
Culvert over North Fork of  
Lake Creek (North-South  
Portion of Metke Lane)

North-South Portion of Metke  
Lane taken from Culvert toward  
Prichard Residence





**SW Corner of Metke Lane as it makes the turn  
to the North**



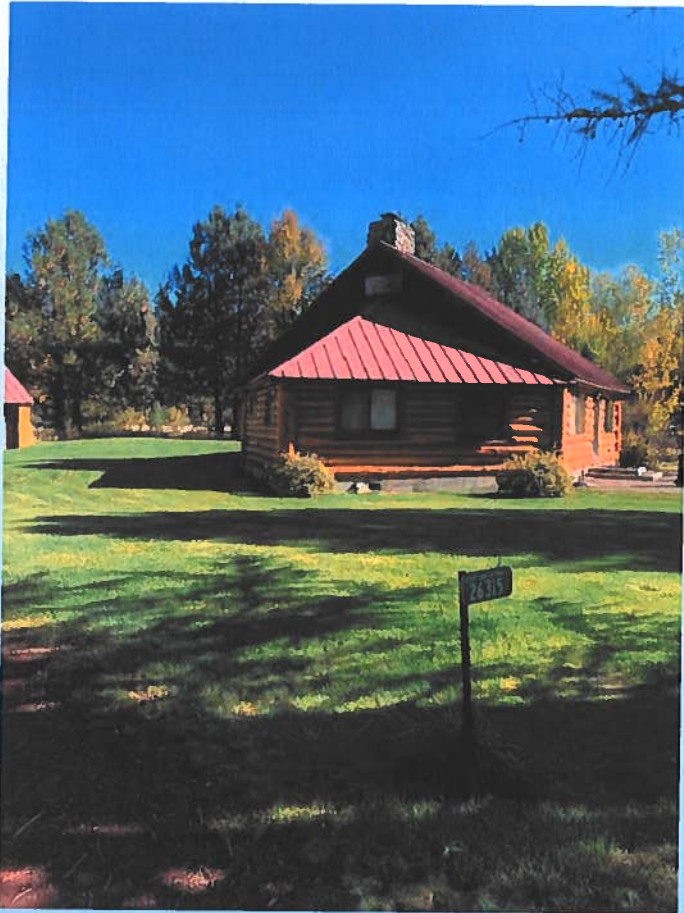
← Metke Lane – Facing North  
Prichard Residence in background

Gated Entrance to Souza  
Property off of East-West  
Section of Metke Lane



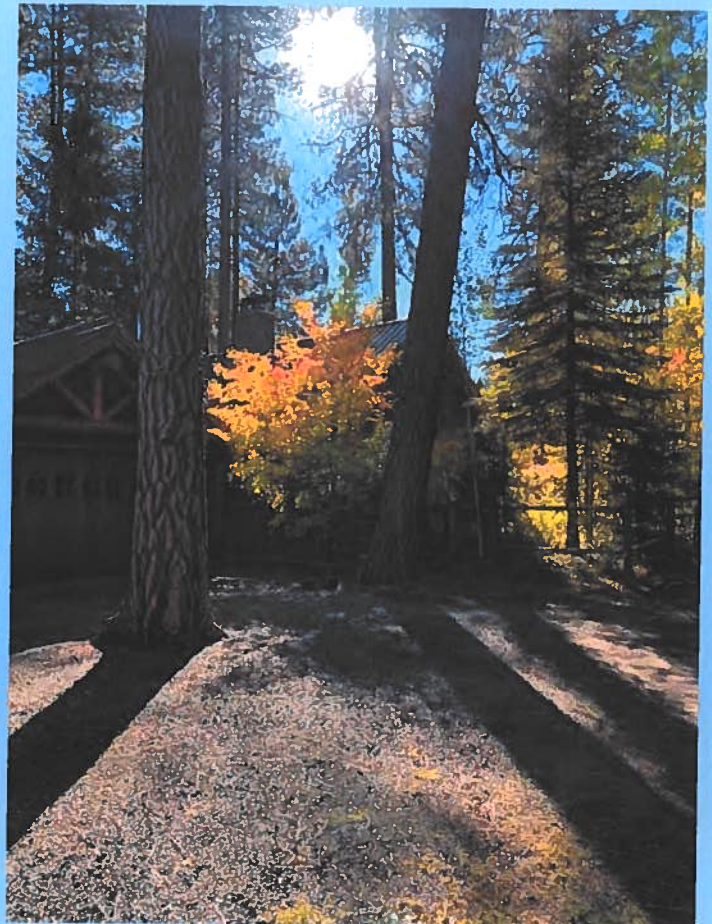


○ Luther Metke built cabins  
on Metke Lane



Mike Metke's Home –  
Constructed by Luther Metke

Prichard Home – Constructed  
by Luther Metke



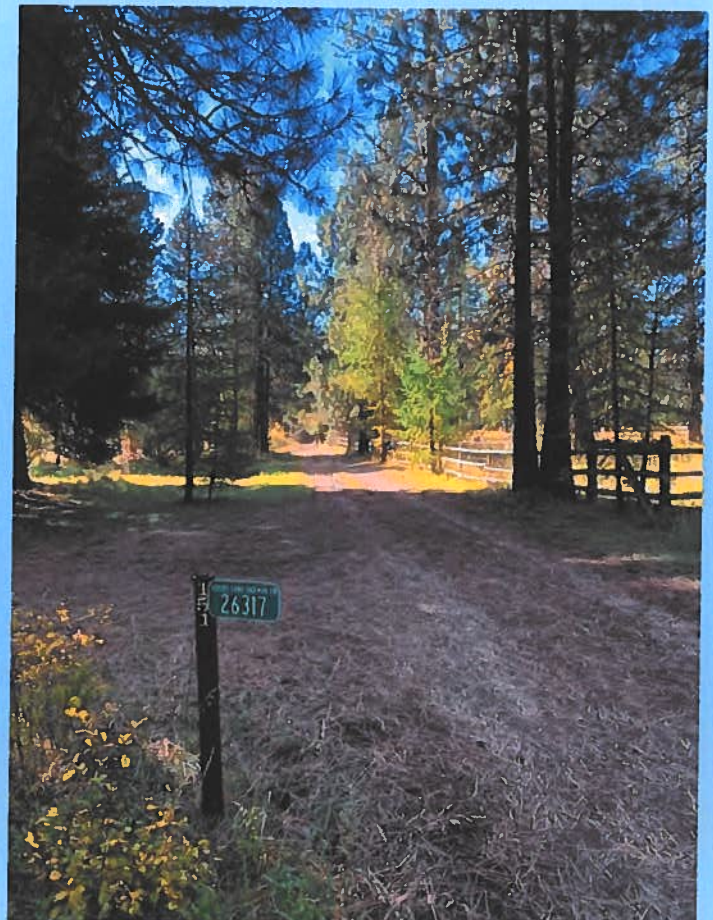


26317 SW Metke Lane



Eckhoff Home – Constructed by Walter Metke

Entrance to Eckhoff Home Via Special Use Permit from USFS





**Luther Metke** (February 20, 1885 – April 7, 1985<sup>1</sup>) was an American folk poet and early central Oregon pioneer who served in the Spanish-American War. He was the subject of Jorge Preloran's documentary [\*Luther Metke at 94\*](#).<sup>1</sup> Metke moved to Central Oregon in 1907 and built nearly every bridge between Bend and Crescent and over 30 log cabins.

In 1949, Metke was a key builder of the [Camp Sherman Community Hall](#) located in Camp Sherman, Oregon, and in February 2003 it was listed as a [National Register of Historic Places](#) due to its rustic architecture highlighting late 19th and early 20th-century American movements: [Bungalow/Craftsman](#) and Western Stick architecture.<sup>[1]</sup> Metke later built three more log cabins in the Camp Sherman area – all located on SW Metke Lane.

*Luther Metke at 94* was produced by [Jorge Preloran](#) and was an [Oscar](#)-nominated short documentary.<sup>[4]</sup> It won six film festival awards including first place at the [Atlanta Film Festival](#). It was funded by the [National Endowment for the Arts](#). ***Luther Metke at 94* documents Metke building his last log cabin, in Camp Sherman (on Metke Lane) at the age of 94.**

**Exhibit N**

**David C. Allen Attorney at Law – Appellant’s Statement received - 10/10/2023**



**DAVID C. ALLEN**  
**ATTORNEY AT LAW**  
THE HARRIMAN BUILDING  
212 S.W. 4<sup>TH</sup> STREET, SUITE 304  
P.O. Box 577  
MADRAS, OREGON 97741  
(541) 610-9171  
dallen@dalawco.com

October 10, 2023

Jefferson County Planning Commission  
c/o/ Jefferson County Community Development Department  
85 S.E. “D” Street  
Madras, OR 97741

**SENT VIA EMAIL ONLY TO AVOID DELAY**  
**Tanya.Cloutier@co.jefferson.or.us**

**RE:** Appellant’s Written Statement In Support of Appeal  
Casefile: 23-MP-02

Applicants: Brad and Shellie Souza, Co-Trustees of the Bradley Emile Souza  
and Shellie Ann Souza Revocable Trust

Appellants: DPP-VJE, LLC (Jason Eckhoff)  
L. Paden and Norma Prichard, Trustees of the Prichard Joint Trust  
Michael P. Metke, M.D., Successor Trustee of the John Patrick and  
Ursula R. Metke Irrevocable Trust

Subject Property: 26308 SW Metke Lane, Camp Sherman, OR  
Township 13 South, Range 9 East, Section 16A, Taxlot 700

Dear Planning Commission:

This office represents Jason Eckhoff (Authorized Agent of DPP-VJE, LLC)(hereinafter “Eckhoff”), L. Paden and Norma Prichard (Trustees of the Prichard Joint Trust)(hereinafter “Prichard”), and Michael P. Metke, M.D. (Successor Trustee of the John Patrick Metke and Ursula R. Metke Irrevocable Trust)(hereinafter “Metke”) (collectively the “Appellants”). The Appellants have appealed the August 4, 2023 administrative approval of a partition in Jefferson County Casefile 23-MP-02. Appellants respectfully request this statement be entered into the record and considered by the Commission in support of Appellants’ appeal.



## APPELLANTS' STANDING

Appellants have standing to appeal because all of them received mailed notice of the decision and they are all within 250 feet of the proposed development. Appellant Eckhoff owns taxlot 1300, Metke owns taxlot 1400 and Prichard owns taxlot 1500. Please see Exhibit #1.

## EXHIBITS

<u>Exhibit #</u>	<u>Description</u>
1	ORMAP Aerial showing ownership of neighboring parcels
2	Assessor's taxmap of Applicant's parcels
3	Assessor's taxmap of Appellants' parcels
4	1986 Partition plat Jefferson County No. MJP-85-6
5	Declaration of Dedication Jefferson County Deed No. 862077
6	ORMAP Aerial photo (color) showing deviation
7	Enlarged ORMAP Aerial showing Metke Lane deviation
8	Email from County Roadmaster Powlison
9	Applicant's Tentative Plan for Land Partition (Clint Ward Surveyor)
10	Eckhoff Special Use Permit for Tamarack Lane
11	Photographs of current conditions of Metke lane (____ pictures)

## BACKGROUND AND OVERVIEW OF APPEAL

Appellants are submitting their own individual written statements and will provide oral testimony about the history and character of this serene and largely undeveloped area of Camp Sherman. The subject parcel and immediate surrounding area have been largely undeveloped over the years. According to the Applicant, tax lot 700 was created in its current configuration by deed in 1973. (Application footnote 3). The Appellants' parcels were created by partition in 1986. See Exhibit # 4. Recently, The Pines subdivision was approved to the east which shows the increasing development pressure on this extremely rural and secluded area.

The issues raised in this appeal can be categorized into three main categories: 1) Access; 2) Wildlife; and 3) Technical.

## ISSUES ON APPEAL

The proposed application does not satisfy the applicable standards and criteria of this land use decision in the following particulars:

### *1. Access Issues*

Jefferson County Zoning Ordinance (JCZO), Section 105 defines "Road" as:  
"Road": *The entire right-of-way of any public or private way that provides ingress to or egress from one or more lots, parcels, areas or tracts of land, or that provides*

*travel between places by means of vehicles, including road related structures that are in the right-of-way such as tunnels, culverts or similar structures, and structures that provide for continuity of the right-of-way such as bridges. "Road" does not include bicycle paths, individual driveways, or a private way that is created to provide ingress or egress in conjunction with the use of land for forestry, mining or agricultural purposes. Types of roads include the following:*

*B. County Road: A public road under the jurisdiction of and maintained by a county that has been designated as a county road under ORS 368.016.*

...

*D. Local Access Road: A public road that is not a county road, state highway or federal road.*

...

*F. Public Road: The entire right-of-way of any road over which the public has a right of use that is a matter of public record."<sup>1</sup>*

The applicable standard and criteria for access to a parcel is found at JCZO Section 401.1 which states:

*401.1 Minimum Access Requirement*

*Evidence of legal access providing physical ingress and egress that meets the emergency vehicle access standards of Section 426.2(E) is required prior to issuance of building or septic permits. Access shall be provided by one of the following means:*

*A. A driveway connecting via direct parcel frontage to a public road, a nonconforming private road or private road in a destination resort, a Bureau of Land Management (BLM) road, or U. S. Forest Service (USFS) road.*

According to the Jefferson County Public Works Director, Matt Powlison, SW Metke Lane is a local access road. See **Exhibit 7**. Director Powlison references a Declaration of Dedication #862077 which is included herewith as **Exhibit 5**. Director Powlison states "**All of SW Metke Ln** located within T13S, R09E, Section 16, NE1/4 of the NE ¼ is located either on a public right of way or has a dedication to the public". He goes on to state "The portions of the alignment on the private parcels each have a declaration of dedication."

The Application mistakenly states "tax lot 700 is served by a gravel road<sup>2</sup>, SW Metke Lane, which also serves tax lots 600 and 1200." While it is technically true that TL 600 enjoys access to SW Metke Lane at the point where it turns to the north, tax lot 700 (the subject "Property") is NOT served by direct access to SW Metke Lane. Rather, TL 700 is served by a private drive/easement across TL 600<sup>3</sup>. There is no existing access for the subject property (TL 700) off of SW Metke Lane.

---

<sup>1</sup> Jefferson County Code, Section 12.16.060 contains identical definitions for these terms.

<sup>2</sup> Metke Lane is not a gravel road but actually composed of crushed and packed red cinder. See **Exhibit 11**.

<sup>3</sup> The Application mentions a 30' x 30' easement as an exclusive private easement across a portion of the southern boundary of TL 600.

*a. SW Metke Lane Deviates from the Dedicated Right of Way*

As an initial matter, it is unclear from the Application whether the access will be from SW Metke Lane as it turns North at the corner of tax lot 600 or from the north off of Tamarack Lane, a United States Forest Service Road. It appears the Application proposes access from the south because the Application attempts to establish SW Metke Lane is a public road over its entire north-south length. In either case, the proposed access off of SW Metke Lane fails to meet the applicable standards and criteria as discussed below.

**Exhibits 6 and 7** shows the historical and current location of the “traveled way” of SW Metke Lane. The “traveled way” is seen as the brown areas (cinder) on the aerial map with the boundary of the dedicated right of way appearing as a green/yellow line. The “traveled way” frequently escapes the boundary of the dedicated right of way, particularly at the southern portion of TL 1500 and significantly as it crosses TL 1400. **Exhibit 7** clearly shows the “traveled way” leaving the dedicated right of way as it crosses TL 1400. The “traveled way” which Applicant’s propose to utilize as access to their development is not within the “Road” as that term is defined in JCZO Section 105. **This flaw is fatal to the Application.** Access to TL 700 cannot be granted along the southern two-thirds of SW Metke Lane because the “traveled way” is not within the dedicated right of way. Accordingly, any travel on the “traveled way” would constitute a trespass across TL 1500 and TL 1400. **Without the lawful right to travel across the entire length of the “traveled way” of SW Metke Lane, the Application fails to satisfy the access requirements of JCZO 401.1, 705.1(D) and Chapter 12 of the Jefferson County Code.**

*b. No Evidence In Record To Establish Entire Length of SW Metke Lane Is Dedicated to Public*

There is no evidence in the record before the Commission to support Director Powlison’s statement that “all of SW Metke Lane... is located either on a public right of way or has a dedication to the public”. Nor is their evidence in the record to support a finding that “the portions of the alignment on the private parcels each have a declaration of dedication”. The only evidence in the record, other than the statement of the public works director, is the Declaration of Dedication, **Exhibit 5**. However, this dedication does not cover the entire length of SW Metke Lane. The dedication runs a distance of 1,115.39 feet. The entire length of SW Metke Lane is 1,323.3 feet. See **Exhibit 3**. The difference of 208 feet is the exact length of tax lot 1300, the Eckhoff parcel. So the referenced dedication is 208 feet shy of running the entire length of SW Metke Lane. This is vitally important because at least one, if not both, of the Application’s proposed access points are off this portion of SW Metke Lane.

It may very well be there are other documents which establish dedication along the entire length of SW Metke Lane<sup>4</sup>, however, they are not in the record before this Commission. ORS 368.106(1) requires any “interest in real property for public road purposes” be recorded. The lack of any recorded document in the record creates the presumption no such dedication has occurred.

***c. Any Purported Dedication of SW Metke Lane Right of Way Was Ineffective and In Violation of ORS 368.106***

ORS 368.106 states:

***“ORS 368.106 Records and survey of property acquired for road. If a county governing body acquires an interest in real property for public road purposes, the county governing body shall cause:***

- (1) Any order or resolution enacted and deed or other document establishing an interest in the property for public road purposes to be recorded;*
- (2) The road right of way to be surveyed and monumented;*
- (3) The survey to be prepared in compliance with ORS 209.250; and*
- (4) The survey to be recorded with the county surveyor. [1981 c.153 §16]”*

This law, in effect at the time of the purported 1986 dedication of right of way, requires the road right of way to be surveyed and monumented, with the survey then recorded. There is no evidence in the record before the Commission that such a survey was ever conducted, let alone recorded.

There is reason to believe the survey required by ORS 368.160 was never conducted or recorded. **Exhibit 9**, Applicant’s Tentative Plan survey, shows monuments located at the southeast corner of tax lot 600 and northeast corner of tax lot 700. But these are corner monuments for the parcels, not monuments for a dedicated right of way that would have also located the eastern boundary of the purported dedication. The lack of any monumentation of the eastern boundary of the purported dedicated right of way leads to the conclusion no such survey was ever performed. It also stands to reason a survey would not have been prepared in 1986 because the dedication was required by the County as part of the 1986 partition. Without a specific requirement by the County to prepare such a survey, the owners likely would have avoided the expense and hassle of preparing such a survey.

With no evidence in the record to show compliance with ORS 368.106, the purported dedication of right of way of SW Metke Lane relied upon by the Applicant is ineffective and therefore NOT a lawfully established access.

***d. Access Cannot Be From Tamarack Lane***

---

<sup>4</sup> Exhibit #3 shows a dashed line at 20 feet as it crosses TL 1400 (Metke parcel) and 25 feet across TL 1300 (Eckhoff parcel). There is no supporting reference on the map, however, dashed lines usually indicate an easement, not a right of way dedication.

Applicant may argue it will obtain its access onto SW Metke Lane from the North, off of Tamarack Lane and thereby avoid the encroachment issues of the southern two-thirds of SW Metke Lane discussed in subsection (b) above. Tamarack Lane is a United States Forest Service (USFS) road. Access from Tamarack Lane is only as allowed by special use access permit, over a right-of-way 375 feet in length and 15 feet in width, similar to the permit Eckhoff TL 1300 has obtained. See **Exhibit 10**. There is nothing in the record before the Commission to support a finding the Applicant has lawful access off of Tamarack Lane.

*e. Traffic Impacts Not Addressed 705.1(E)*

The traffic impacts from the proposed development are not addressed anywhere in the Application. Nonetheless, staff finds JCZO 705.1(E) is satisfied because “the creation of two new parcels will not increase traffic volumes in that area”. This finding is insufficient to show compliance with the requirements of JCZO 705.1(E). The simple fact is new development will of course generate new traffic volumes. The question, not addressed by Applicant or Staff, is how much traffic will be generated.

Further, neither Applicant or Staff address the impacts of **construction traffic** on the performance standards of the transportation facility. There are absolutely no findings or evidence in the record that the current public facility (SW Metke Lane) can support the rigor and weight of heavy machinery driving up and down this cinder road without seriously damaging and reducing the performance standards of the facility. There are also no findings about the current condition of the facility. The photos at **Exhibit 11** shows the current condition of the “traveled way” of SW Metke Lane. The photos make abundantly clear the current condition of the facility does not meet any of the minimum design standard requirements for a local access roads as established in Jefferson County Code 12.18.150 and Table A – Minimum Road Design Standards. For instance, Table A requires a local access road with low volume to have 3 foot shoulders on each side, “pavement” width of 30 feet, 2” surface type, and a base depth of 8”. Jefferson County Code 12.18. Table A. Appellants are rightfully concerned there will be significant damage to this primitive cinder road (basically their unimproved driveways) from the construction traffic associated with development of these parcels. Applicant has not met its burden to address, with substantial evidence in the record, compliance with JCZO 705.1(E).

*f. Current Culvert*

Related to the concerns of damage to the road, Appellants are also concerned the existing culvert for the North Fork of Lake Creek will be crushed or seriously damaged by the weight of heavy construction equipment. There are photos of the current condition of the culvert in **Exhibit 11**. Jefferson County Code Section 12.18.210(E) requires “a minimum of one foot of cover for all culverts”. The current condition of the culvert has nowhere near one foot of cover. Further, the “traveled way” over the culvert is only 9 feet wide, well short of the 30 feet of pavement required by Jefferson County Road Standards. Finally, a portion of the culvert is not within the dedicated right of way

creating the same problem as described in subsection (a) above. This is no small matter. Failure of the culvert due to Applicant's construction activity, in addition to being an actionable trespass, would deprive the Appellant's access to their properties until the culvert were replaced or repaired. It would also create significant contamination and pollution concerns for Lake Creek which would likely involve working with the Oregon Department of Fish and Wildlife and Department of State Lands.

**2. Wildlife**

***a. Proposed Dwellings Are Not Clustered With Each Other Or Existing Structures***

The purpose of clustering is to minimize the impacts of development within a wildlife overlay zone. JCZO 321.5(C). True clustering envisions a cul-de-sac or shared driveway configuration whereby the houses are close to each other or "clustered". While the proposed home locations appear to be near each other on the Tentative Plan, they are actually approximately 180 feet from one another. In a typical urban setting, where density is important, rear and side yard setbacks are ordinarily 10-20 feet. The proposed development pattern is well in excess of these ordinary setbacks and cannot in any meaningful way be considered "clustered" with one another.

Further, the proposed home locations are not clustered with existing development on the subject and adjoining parcels. Currently, there are three houses on property owned by Applicant. There is an existing house on TL 600 in close proximity to the existing well, there is a house on TL 700 (the subject property) and there is a house on TL 2100. All of these existing houses are the southern-most portions of the parcels. The proposed partition would plop two new houses on the northern-most portion of the parcel. This is not clustering. True clustering would propose a parcel configuration and home locations whereby the new houses and parcels would be created on the southern most portion of the parcel. (See discussion of Apparent Plan or Scheme to Avoid Subdivision Requirements below).

The proposed configuration also does not provide the minimum driveway necessary to support the use. Such a configuration would, again, be located off of the existing private access easement along the southern portion of the parcel.

Finally, the proposed configuration actually disrupts the most important wildlife function of the subject parcel. The northern portion of the parcel is actually a large meadow where deer routinely forage and drink from the pond. The southern portion of the parcel is heavily wooded and not used nearly as much by the deer. The proposed development pattern actually disrupts the most valuable forage and access to water that exists on the subject property.

***b. Proposed Dwellings Not Entirely Within 300 feet of public road JCZO 321.5(A)(2)***

The Tentative Plan shows the location of the proposed house on newly created Parcel 2. Utilizing the scale provided in the Tentative Plan, the proposed location is not “entirely” within 300 feet of the road.

### **3. Technical Issues**

The Application fails to meet several technical requirements for partitions under Jefferson County Code Section 16.32.020, 16.32.030 (Partitions and Boundary Line Adjustments) and Jefferson County Zoning Ordinance Section 703.1 (Land Division Application Requirements) and Section 705.1 (Standards and Criteria For Tentative Plan Approval) in the following ways:

- a. *Application Appears To Be Part of a Plan or Scheme To Create More Than Three Parcels Without Subdividing.* Jefferson County Code 16.32.030(B). The proposed configuration with the newly created parcels all on the north end creates a development pattern whereby the remainder of the parcel will be 10.89 acres. This remaining acreage would allow the Applicant to apply for another partition next year to create two more parcels, for a total of five parcels. Such a development pattern would create more than three parcels and frustrate the purposes of the more rigorous subdivision plat approval process. Further, because the Applicant owns at least two neighboring parcels, future boundary line adjustments could be made to further divide the property by “borrowing” acreage from the neighboring parcels.
- b. *Tentative Plan does not contain a vicinity map* locating the proposed partitioning in relation to adjacent subdivisions, roadways, and adjoining land use and ownership patterns. The map must include names of all existing roadways shown therein. Jefferson County Code 16.32.020(B)(1)
- c. *Tentative Plan does not contain a North arrow, scale, data of map, identify adjacent property by tax lot (section, township, range)* 16.32.020(B)(5).
- d. *Tentative Plan does not contain proposed access rights-of-way, location, width, name, degree of curve and approximate grade.* 16.32.020(B)(10).
- e. All parcels less than forty (40) acres shall be *surveyed and monumented.* 16.32.020(C).
- f. *No title report submitted* JCZO 703.1(C).
- g. *No statement of potable water supply* other than a brief mention water will be provided by well. There is no evidence in the record the Applicant has the right to apply for or receive a well or there is any evidence to establish a well will provide sufficient water for the proposed development. JCZO 703.1(D)

- h. *Illegal flaglot created JCZO 705.1(F). To the extent Applicant is proposing access to parcel 3 off Tamarack Lane (USFS) parcel 3 would be an impermissible flaglot that not at least 50 feet in width or at least 75 feet from any other existing driveway.*
- i. *Applicant's Tentative Plan Is Incorrect In Its Location of North Fork of Lake Creek and the Current Culvert/Crossing. Applicant's Tentative Plan carries forward the Jefferson County Assessor's incorrect location of North Fork Lake Creek and the current location of the culvert where the creek crosses SW Metke Lane.*
- j. *Tentative Plan Acreage is 18.26 acres vs. Assessor's 16.9 acres with no explanation for the significant discrepancy. This not a minor discrepancy. If the total acreage is 16.9 acres only five total lots could be created. If it is 18.26 six lots could be created.*

### CONCLUSION

For the reasons stated above and as more fully developed at hearing on this matter, Appellants respectfully request the Application be denied and the Appeal upheld.

Sincerely,



David C. Allen  
Attorney at Law

Attachments: Exhibits 1-11



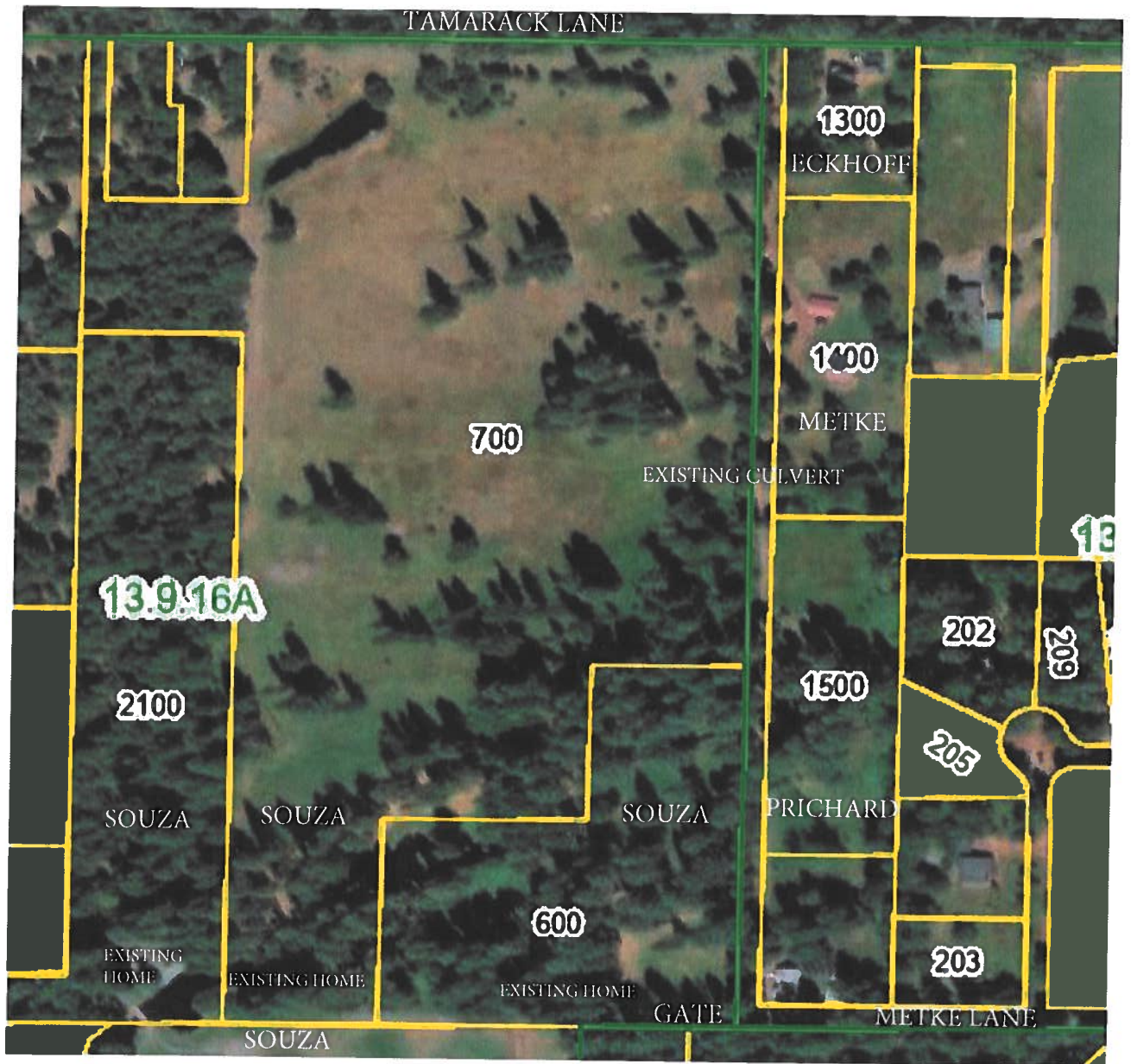


EXHIBIT 1

N.E. 1/4 SEC. 16 T.13S. R.9E. W.M.  
JEFFERSON COUNTY

13 09 16A

ACCT	MAP ID
8358	130916A000600
8359	130916A000700
8360	130916A000800
8361	130916A000900
8362	130916A001100
8363	130916A001200
8364	130916A001201
8365	130916A001202
11630	130916A001203
11638	130916A001204
8366	130916A001300
8172	130916A001400
8367	130916A001500
8368	130916A001600
8369	130916A001700
8370	130916A001800
8371	130916A001801
8372	130916A001802
8373	130916A001803
11792	130916A002100

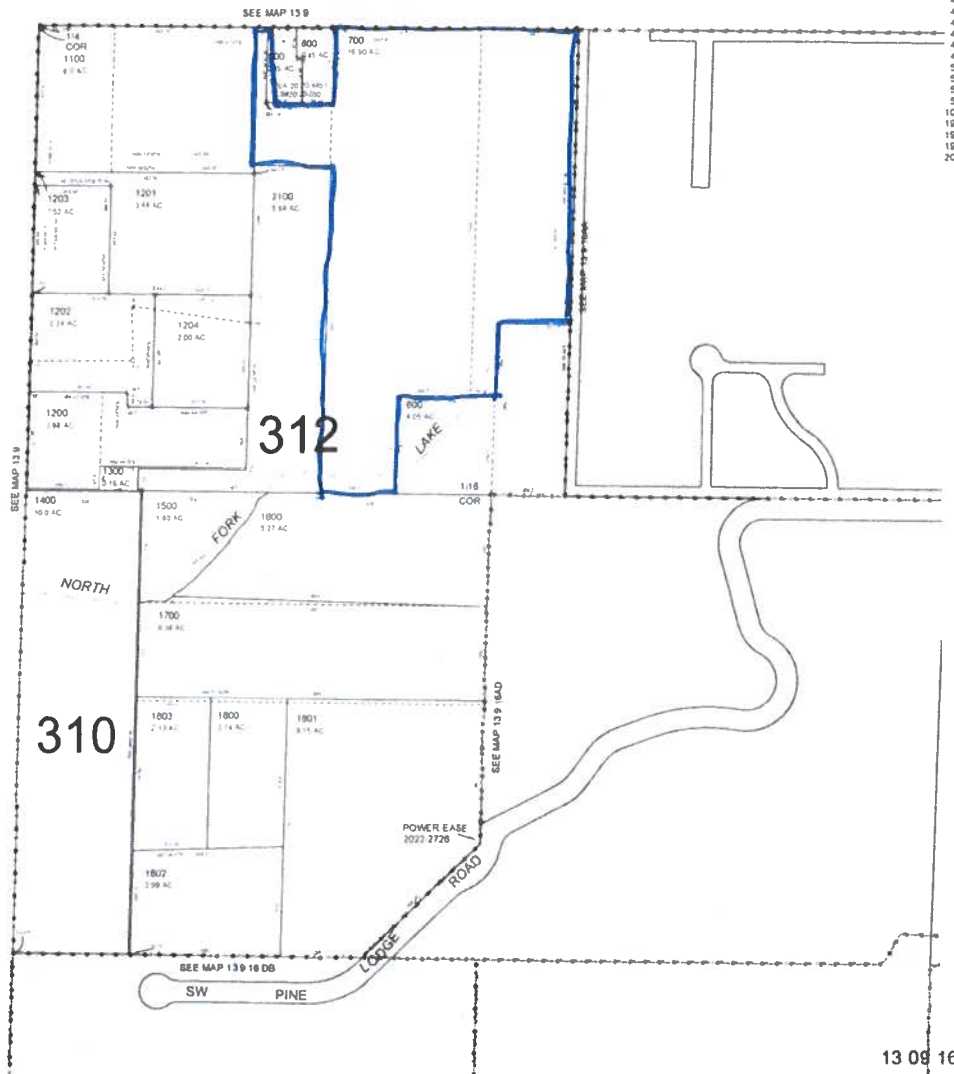
THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



1" = 200'

CANCELED

100
101
200
300
301
302
304
305
400
401
402
403
404
405
406
500
501
502
503
1000
1900
1901
1902
2000



Map Produced  
3/14/2023

13 09 16A

EXHIBIT 2

EXHIBIT 2

ACCT	MAP ID
8374	130916AA00100
8375	130916AA00101
8376	130916AA00102
8377	130916AA00200
8378	130916AA00201
8379	130916AA00202
8380	130916AA00203
8381	130916AA00204
8382	130916AA00205
8383	130916AA00206
8384	130916AA00207
8385	130916AA00208
11254	130916AA00209
8386	130916AA00300
8351	130916AA00400
8350	130916AA00500
8349	130916AA00700
8347	130916AA00800
8348	130916AA00900
8352	130916AA01000
12059	130916AA01100
12060	130916AA01200
8356	130916AA01300
8357	130916AA01400
11220	130916AA01500
8355	130916AA01600

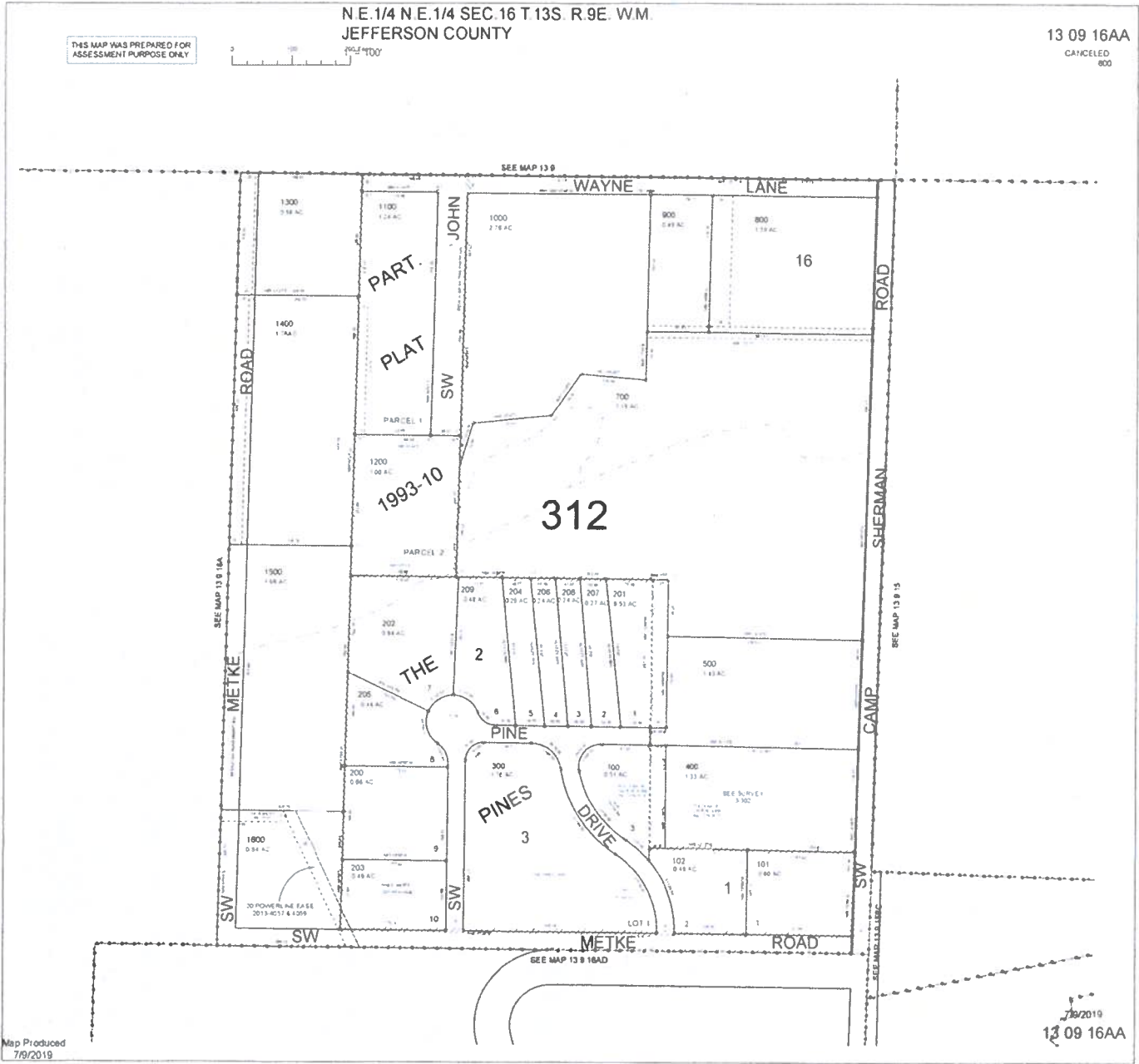


EXHIBIT 3





862077

David Blann do/does hereby dedicate to the public for roadway and utility purposes the following described real property:

The West 30 feet and the South 30 feet of a parcel located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 16, T.13S., R.9E., W.M., Jefferson County, Oregon, described as follows:

Commencing at the Southwest corner of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 16, T.13S., R.9E., W.M., Jefferson County, Oregon, thence N 89° 42' 53" E, along the South line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$ , a distance of 208.70 feet to the true point of beginning; thence N 00° 40' 48" E, along the East line of that tract conveyed to Lonnie D. & Carol J. Williams recorded in Jefferson County Deed Book 67, Page 511, a distance of 1115.39 feet to the Southwest corner of that tract conveyed to Glenn R. & Ruth A. Percival in Jefferson County Deed Book 59, Page 287; thence N 89° 43' 47" E, along the South line of said Percival tract, 208.70 feet; thence S 00° 40' 48" W, 1115.32 feet to the South line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$ ; thence S 89° 42' 53" W, along said South line, 208.70 feet to the point of beginning.

IN WITNESS WHEREOF, this document is executed this 22<sup>nd</sup> day of July, 1986.

[Signature]  
(signature)

[Signature]  
(signature) Notary Public for Arizona

STATE OF Arizona )  
County of Coconino ) ss.  
The forgoing instrument was acknowledged before me by David Blann this 22<sup>nd</sup> day of July 1986.

Notary Public for ARIZONA  
My Commission Expires: 7-10-86

Jefferson County, acting by and through its Board of Commissioners, does hereby accept the above dedication as a public road pursuant to ORS 92.014.

DATED this 6<sup>th</sup> day of August, 1986.

BOARD OF COUNTY COMMISSIONERS  
OF JEFFERSON COUNTY  
Herschel Read  
Judge  
[Signature]  
Commissioner  
Robert C. Haller  
Commissioner

ATTEST:  
[Signature]  
Recording Secretary

STATE OF OREGON )  
County of Jefferson ) ss.

Before me, a Notary Public, personally appeared Herschel Read, Gordon Showen, Helmer Williams, the above named Board of County Commissioners of Jefferson County, Oregon, acknowledged the foregoing instrument, on behalf of Jefferson County, Oregon.

DATED this 16 day of August, 1986.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 1-12-87



Metke Lane Deviation from ROW



EXHIBIT 6





EXHIBIT 7



Stephanie Marshall &lt;stephanie@bennulaw.com&gt;

**Fwd: SW Metke Lane**

5 messages

**Brad Souza** <bsouzamail@yahoo.com>  
To: Stephanie Marshall <stephanie@bennulaw.com>

Wed, Jun 14, 2023 at 6:00 PM

Hi Stephanie-a recent phone conversation I had with Jefferson County community development Tanya ??? who we would be submitting application for lots mentioned to me that she was or had a concern as to if access off Metke Lane was permissible for the lots. I told her that I spoke with Matt Powlison with Jefferson County public works specifically about that and if there was an issue for anyone who would want to access their property from Metke Lane. He looked into it and gave me verbal confirmation the following day that it was fine to have access off Metke Lane to obtain the access for the Lots. In today's conversation with Tanya, she raised the concern again, but said that they at the community development department rely solely on the public works department for direction on as to if access is possible or not. I called Matt again and asked him if he recalled the conversation which he did and he said he would put it in writing which is what I am forwarding to you. Tanya said if I did that it would help speed up the application process since they would have that piece of information already taken care of. I just thought I would share Matt's email he sent today to me which indicates that access is permissible half Metke Lane for the Lots. Hope this is of some value. Thank you – Brad.

Sent from my iPhone

Begin forwarded message

**From:** Matt Powlison <Matt.Powlison@co.jefferson.or.us>  
**Date:** June 14, 2023 at 3:25:30 PM PDT  
**To:** bsouzamail@yahoo.com  
**Subject:** SW Metke Lane

Hi Brad.

Thank you for the call about SW Metke Lane. I looked up the road records we have for Metke Lane and found a few interesting things about the road. I have attached the Declaration of Dedication #862077.

All of SW Metke Ln located within T13S, R09E, Section 16, NE ¼ of the NE ¼ is located either on a public right of way or has a dedication to the public of record at the office of the Jefferson County Clerk.

The portion of the alignment located along the southerly edge of The Pines subdivision is dedicated on the subdivision plat.

The portions of the alignment located on the private parcels each have a declaration of dedication. The road has not been adopted into the County, State, or Federal road systems. This makes SW Metke Lane a local access road as defined in Oregon Revised Statute Chapter 368, section .001(3)&(5). The County jurisdiction over local access road is stated in ORS 368.031. There is a private access and utility easement on 13-09-16-A-600 that is a 30'x30' easement described as an exclusive private easement not a public dedication.

Chapter 12 of the Jefferson County Codes establishes the local standards for the regulation and use of public roads. Under Federal, State and Jefferson County Codes the general public has the right to unrestricted use of the SW Metke Lane right-of-way.



Hope this helps!

**Matt Powlison**

**Public Works Director**

Jefferson County Public Works Department

715 SE Grizzly Road, PO box 709

Madras, OR 97741

Office: (541) 475-4459

Cell: (503) 899-7248

[mpowlison@jeffco.net](mailto:mpowlison@jeffco.net)

---

 **Dedication #862077.pdf**  
442K

---

**Stephanie Marshall** <stephanie@bennulaw.com>  
To: Brad Souza <bsouzamail@yahoo.com>

Wed, Jun 14, 2023 at 6:14 PM

Hi Brad,

Thank you - this is helpful to have the information and I will use the public works director's email to support the application. This will be attached as an exhibit.

I should be able to get you the revised burden of proof for your review tomorrow. I am waiting on confirmation of service from Central Electric co-op and the fire district, which are the final pieces.

I am going to email the application form via Docusign to both you and Shellie at your separate email addresses so you can sign that. Then, I will send you a detailed email with the entire package and instructions as to how many copies and what to include when you go into the County.

Thank you for all your support and follow up!

Stephanie  
[Quoted text hidden]



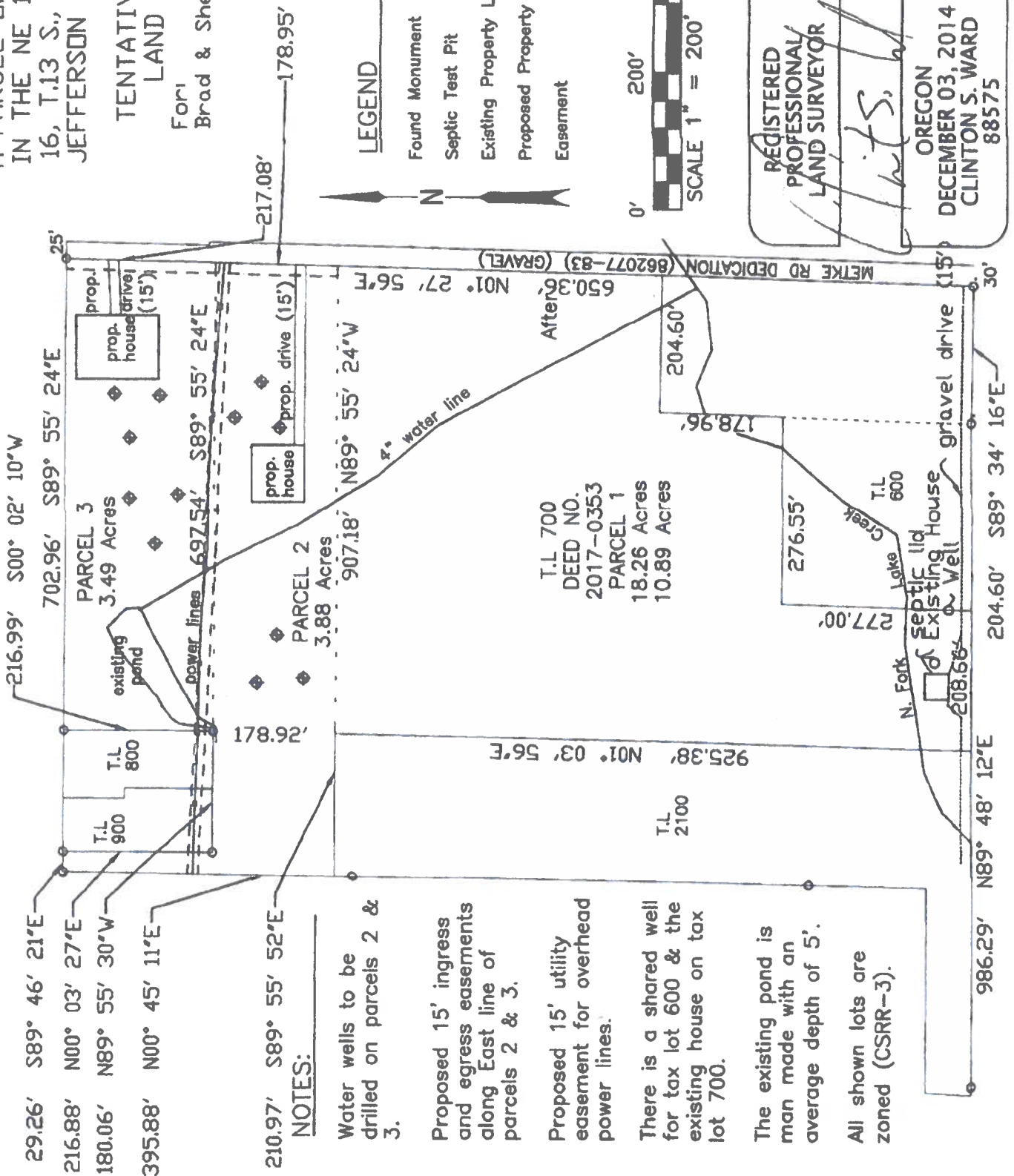
**Stephanie Marshall** | Senior Attorney  
stephanie@bennulaw.com

**Bennu Law, LLC**  
(541) 390-7590  
147 NE Alpenview Lane  
Bend, OR 97701

A PARCEL OF LAND LOCATED IN THE NE 1/4, OF SECTION 16, T.13 S., R09 E., W.M., IN JEFFERSON COUNTY, OREGON

TENTATIVE PLAN FOR LAND PARTITION

For: Brad & Shellie Souza



NOTES:

- Water wells to be drilled on parcels 2 & 3.
- Proposed 15' ingress and egress easements along East line of parcels 2 & 3.
- Proposed 15' utility easement for overhead power lines.
- There is a shared well for tax lot 600 & the existing house on tax lot 700.
- The existing pond is man made with an average depth of 5'.
- All shown lots are zoned (CSRR-3).

LEGEND

- Found Monument (represented by a circle)
- Septic Test Pit (represented by a diamond)
- Existing Property Line (represented by a solid line)
- Proposed Property Line (represented by a dashed line)
- Easement (represented by a long-dashed line)



REGISTERED PROFESSIONAL LAND SURVEYOR

*Whitsell*

OREGON  
DECEMBER 03, 2014  
CLINTON S. WARD  
88575

Ward Surveying, LLC  
(841)489-1108  
10000 SE Oregon Street  
Salem, Oregon 97302  
Bend, Or. 97702

Brad & Shellie Souza  
20000 SE 10th Lane  
Clatsop, Oregon, Oregon  
97130

1

Scale: 1" = 200'



Auth ID: SIS751

Contact ID: 802499010602

Expiration Date: 12/31/2025

Use Code: 753

FS-2700-4c (10/09)  
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
PRIVATE ROAD SPECIAL USE PERMIT**

**AUTHORITY:  
FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976**

**DPP-VJE, LLC, 61158 RIVERBLUFF TRAIL, C/O JASON L. ECKHOFF (the holder) BEND, OR 97702**

(hereafter called the Holder) is hereby authorized to use National Forest lands for the maintenance and use of a road within the Deschutes National Forest, Sisters Ranger District for the following purposes:

**Private Access Road for ingress/egress to private property, 26317 SW Metke Lane, Camp Sherman, OR.**

The lands covered by this permit are located in the County of Jefferson, State of Oregon and are described as follows:

Sec. 9, T. 13 S., R. 9 E., WILLAMETTE MERIDIAN

This permit covers a right-of-way 375 feet in length, 15 feet in width, containing approximately .13 acres, and is located upon the ground according to the survey line, figures, measurements, widths, and other references shown on the map or plat attached hereto as Exhibit A and made a part hereof.

**This permit is made subject to the following terms, provisions, and conditions:**

1. This permit is subject to all existing easements and valid rights existing on this date.
2. The Holder in exercising the privileges granted by this permit shall comply with all applicable State and Federal laws, Executive Orders, and Federal rules and regulations, and shall comply with all State standards for public health and safety, environmental protection, and siting construction, operation, maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards.
3. The Holder shall cut no timber except as authorized by construction stipulations or maintenance agreements.
4. The Holder shall provide maintenance so that no damage occurs on adjacent National Forest land. The Holder shall construct and maintain lead-off drainage and water barriers as necessary to prevent erosion.
5. Holder shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with Federal and State laws.
6. Holder shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the Holder's use or occupancy under this permit.
7. Holder shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use authorized by this permit. The initial payment is set at \$110.00 or the remainder of the calendar year. Payments for each

subsequent calendar year shall be the amount of \$110.00 adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fair market value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. Failure of the Holder to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.

8. Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any fee amount not paid within 30 days from the date the fee or fee calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquency will be assessed.

A penalty of 6 percent per annum shall be assessed on the total amount delinquent in excess of 90 days and shall accrue from the same date on which interest charges begin to accrue.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

Disputed fees are due and payable by the due date. No appeal of fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments, if necessary, will be made in accordance with settlement terms or the appeal decision.

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

If no security or collateral is provided, the authorization will terminate and the holder will be responsible for delinquent fees as well as any other costs of restoring the site to its original condition including hazardous waste cleanup.

Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. Delinquencies may be subject to any or all of the following conditions:

Administrative offset of payments due the holder from the Forest Service.

Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).

The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, et seq.)

9. All construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the Forest Service prior to beginning such construction or reconstruction.

10. The Holder shall repair fully all damage to National Forest roads and trails caused by the exercise of the privileges granted by this permit.

11. The United States may use the roads without cost for all purposes deemed necessary or desirable in connection with the protection and administration of the lands or resources of the United States, provided that it will use the road for commercial hauling purposes, other than the removal of timber cut in construction or maintenance of the road or other occasional incidental use, only after arranging to pay or perform its pro rata share of road maintenance.

12. The Forest Service alone may extend rights and privileges for use of the road constructed on the premises to other non-Federal users provided that such users shall pay a fair share of the current replacement cost less depreciation of the road to the holder, and reconstruct the road as necessary to accommodate their use.

13. The Forest Service retains the right to occupy and use the right-of-way and to issue or grant rights-of-way for land uses, for other than road purposes, upon, over, under, and through the permit area provided that the occupancy and use do not interfere unreasonably with the rights granted herein.

14. The Forest Service shall have the right to cross and re-cross the premises and road at any place by any reasonable means and for any purpose in such manner as does not interfere unreasonably with use of the road.

15. The Holder shall maintain the right-of-way clearing by means of chemicals only after the Forest Supervisor has given specific written approval. Application for such approval must be in writing and must specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

16. Unless sooner terminated, or revoked by the Regional Forester, this permit shall expire and terminate on 12/31/2025. At that time, if the holder still needs the road for the purposes for which this permit is granted, the permit will be reissued for a period of 10 years (or the estimated remaining life of the project, whichever is less). At the time of reissuance, the terms and conditions may be modified and new conditions or stipulations added at the discretion of the Forest Service.

17. This permit may be terminated or suspended upon breach of any of the conditions herein, or revoked at the discretion of the Issuing Officer.

18. Upon termination or revocation of this special-use authorization, the Holder shall remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the Holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but this does not relieve the Holder from liability for the removal and site restoration costs.

19. Nonexclusive Use and Public Access. Unless expressly provided for in additional terms, use of the permit area is not exclusive. The Forest Service reserves the right to use or allow others to use any part of the permit area, including roads, for any purpose, provided, such use does not materially interfere with the holder's authorized use. A final determination of conflicting uses is reserved to the Forest Service.

20. Forest Service Right of Entry and Inspection. The Forest Service has the right of unrestricted access of the permitted area or facility to ensure compliance with laws, regulations, and ordinances and the terms and conditions of this permit.

21. Liability. For purposes of this section, "holder" includes the holder's heirs, assigns, agents, employees, and contractors.



A. The holder assumes all risk of loss to the authorized improvements.

B. The holder shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the holder's use or occupancy of the property. The holder's indemnification of the United States shall include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this permit. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this authorization, regardless of cause.

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

D. In the event of any breach of the conditions of this authorization by the holder, the Authorized Officer may, on reasonable notice, cure the breach for the account at the expense of the holder. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional fees hereunder and shall be due from the holder to the Forest Service on the first day of the month following such election.

E. With respect to roads, the holder shall be proportionally liable for damages to all roads and trails of the United States open to public use caused by the holder's use to the same extent as provided above, except that liability shall not include reasonable and ordinary wear and tear.

F. The Forest Service has no duty to inspect the permit area or to warn of hazards and, if the Forest Service does inspect the permit area, it shall incur no additional duty nor liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

22. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

23. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

24. Assignability. This authorization is not assignable or transferable. If Holder, through death, voluntary transfer, enforcement of contract, foreclosure, or other valid legal proceeding shall cease to be owner of the above-described real property accessed by the authorized road, this authorization will terminate.

25. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

26. NOXIOUS WEED AND EXOTIC PLANT PREVENTION AND CONTROL (D-10). The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by the State of Oregon. The holder shall follow prevention and control measures required by the State of Oregon. When determined to be necessary by the authorized officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the authorized officer and, upon approval, shall be attached to this permit as an appendix.

In Witness Whereof, the parties hereto have caused this authorization to be duly executed on this day \_\_\_ of \_\_\_\_\_.

Holder

USDA - Forest Service

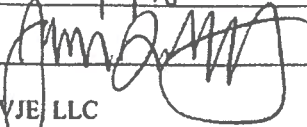
Date:

2/1/18

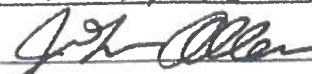
Date:

3-19-18

By:



By:



DPP-VJE LLC  
C/O Jason L. Eckhoff  
Permit Holder

John Allen  
Forest Supervisor  
Deschutes National Forest

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one (1) hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

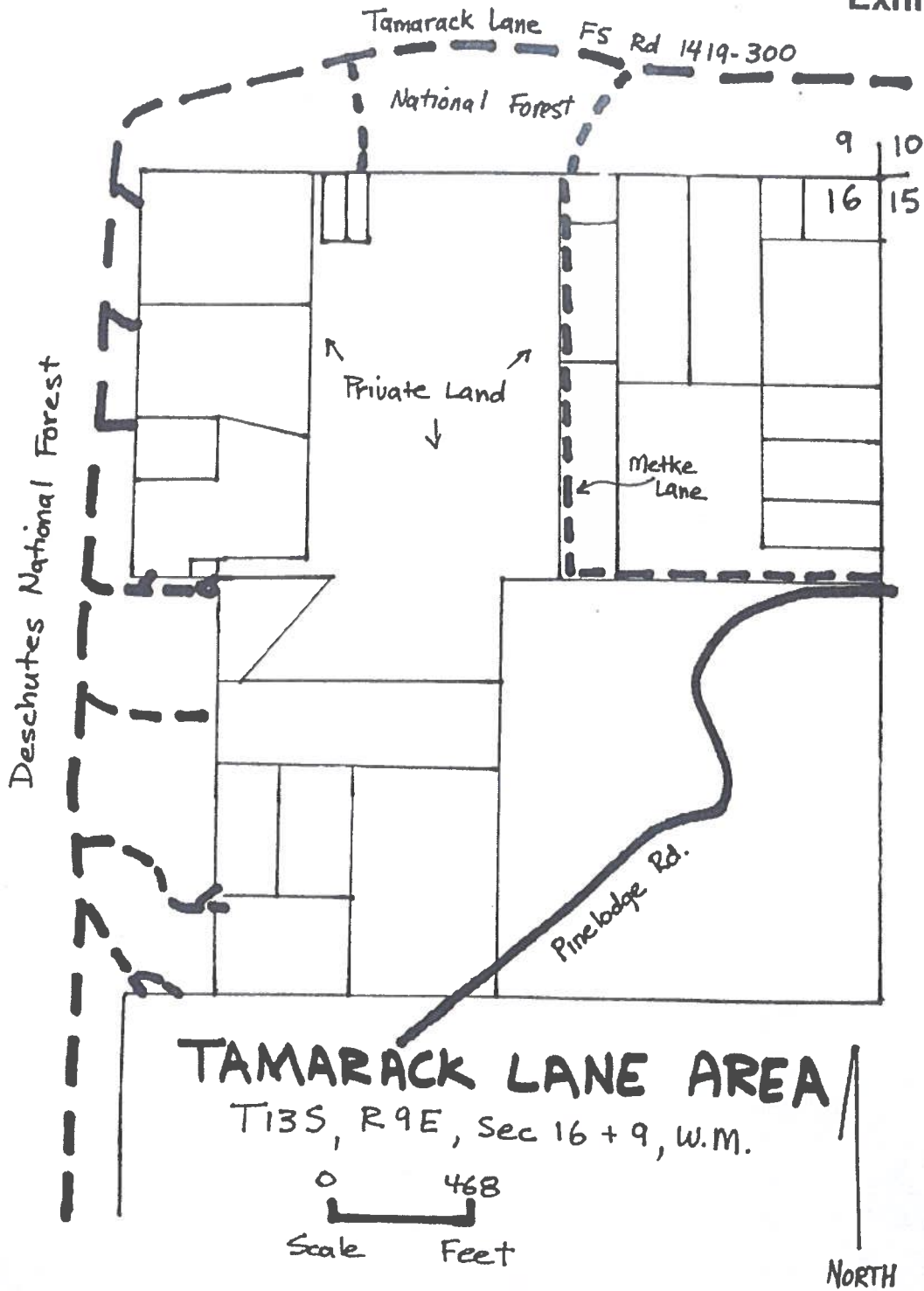
The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.



Location Map  
Forest Road Special Use Permit

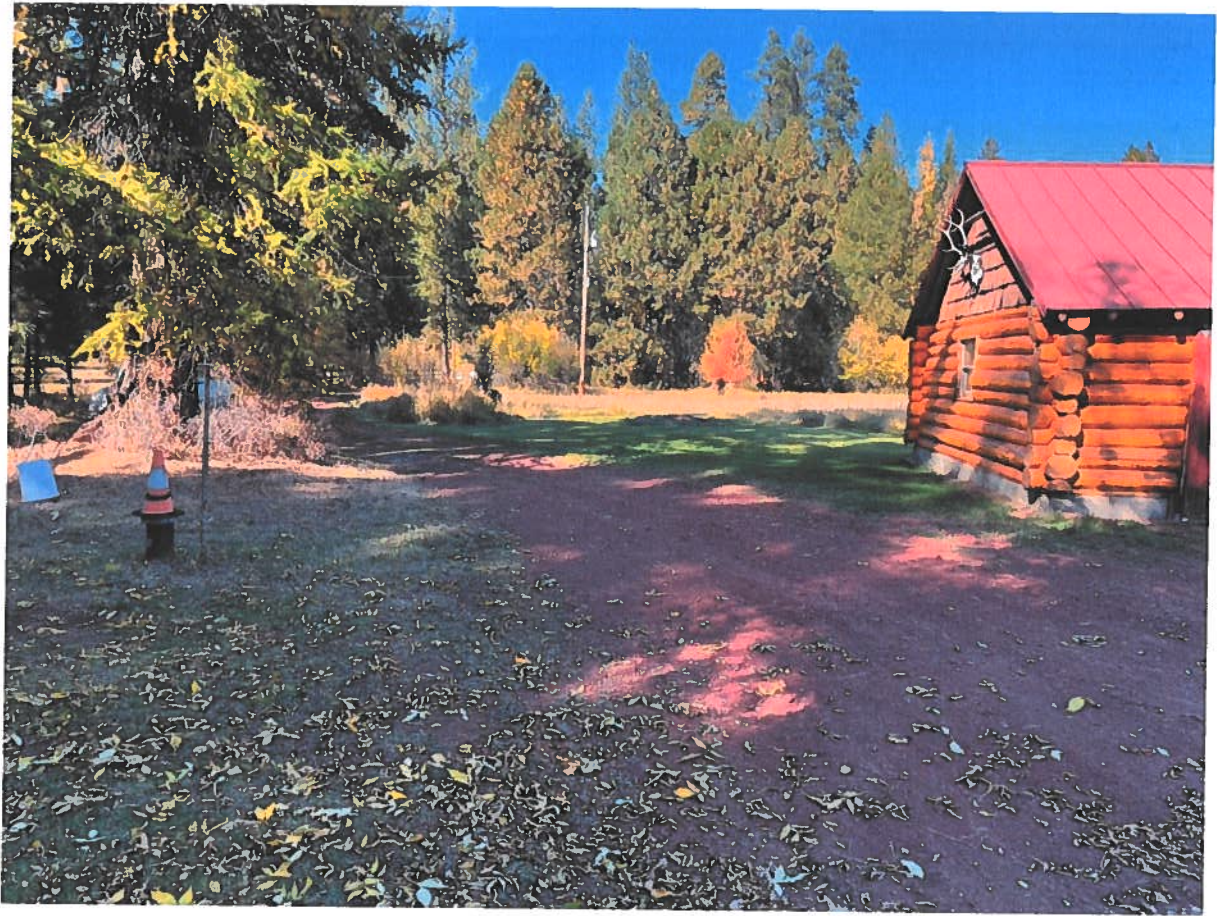
Deschutes National Forest  
Sisters Ranger District

Exhibit A













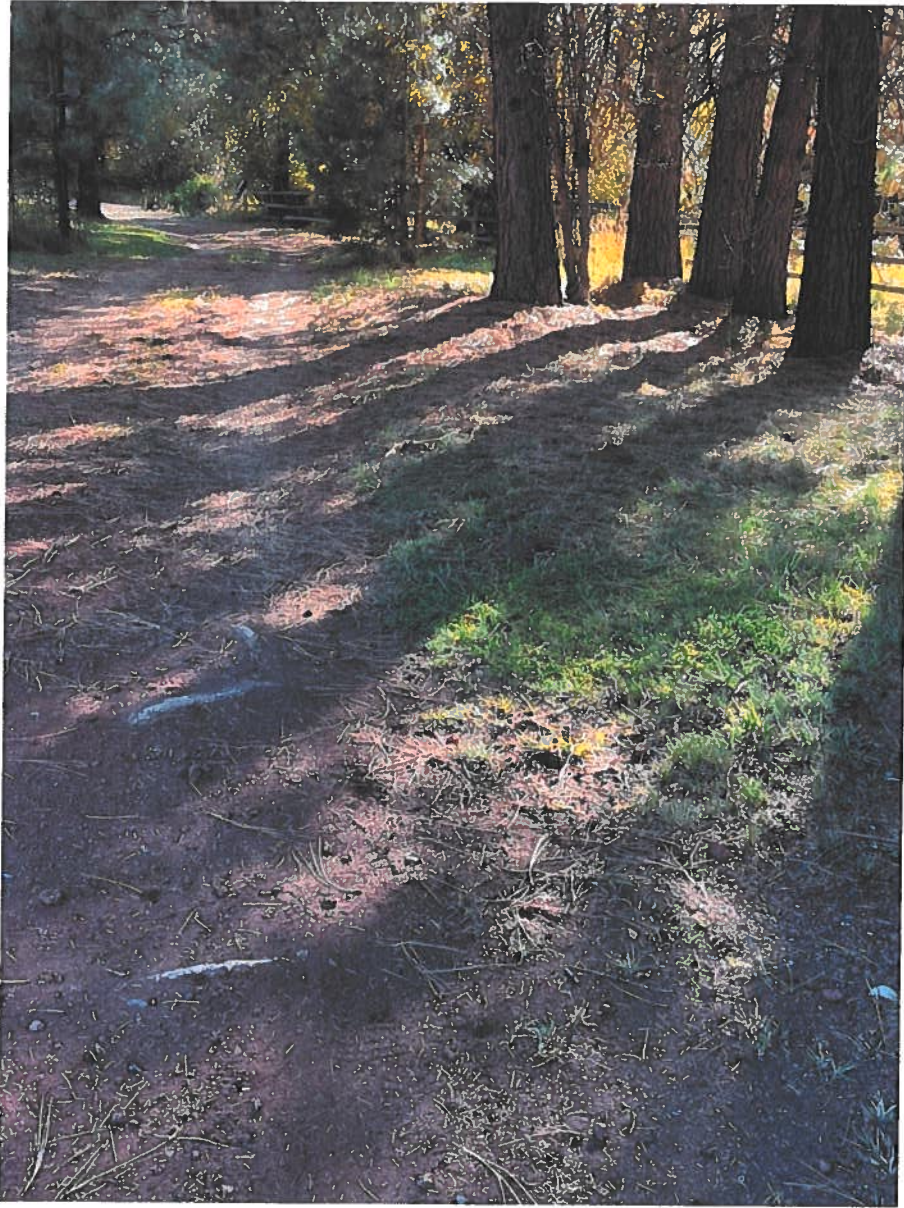








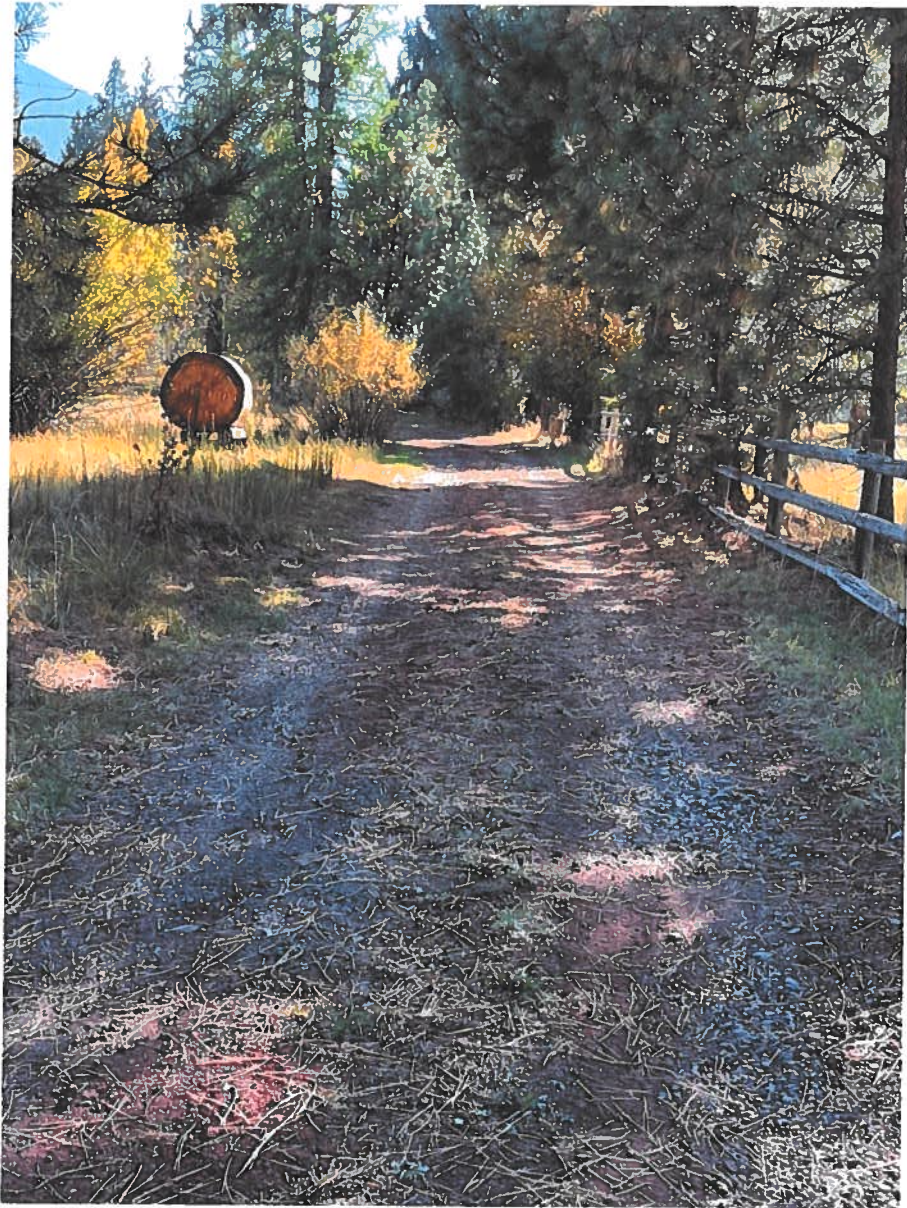




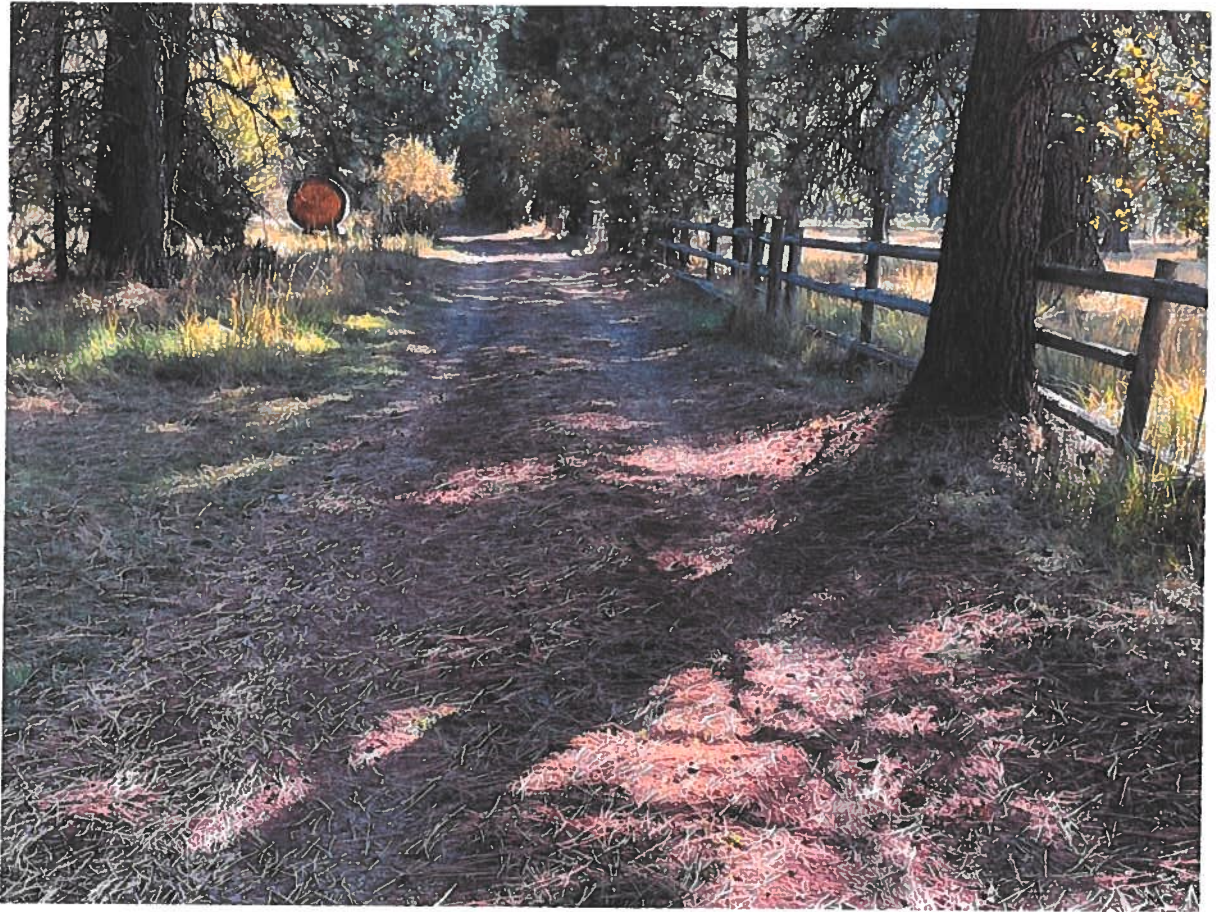








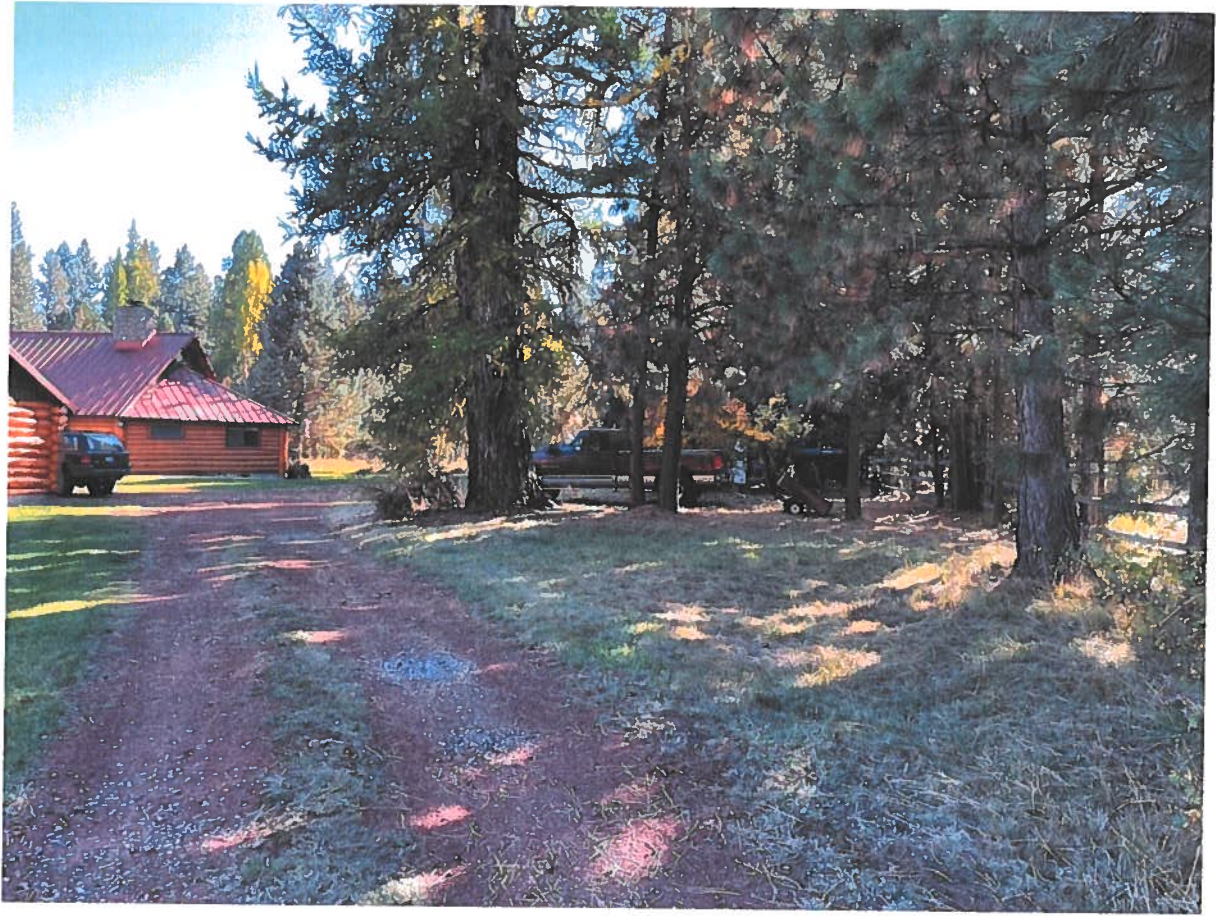




















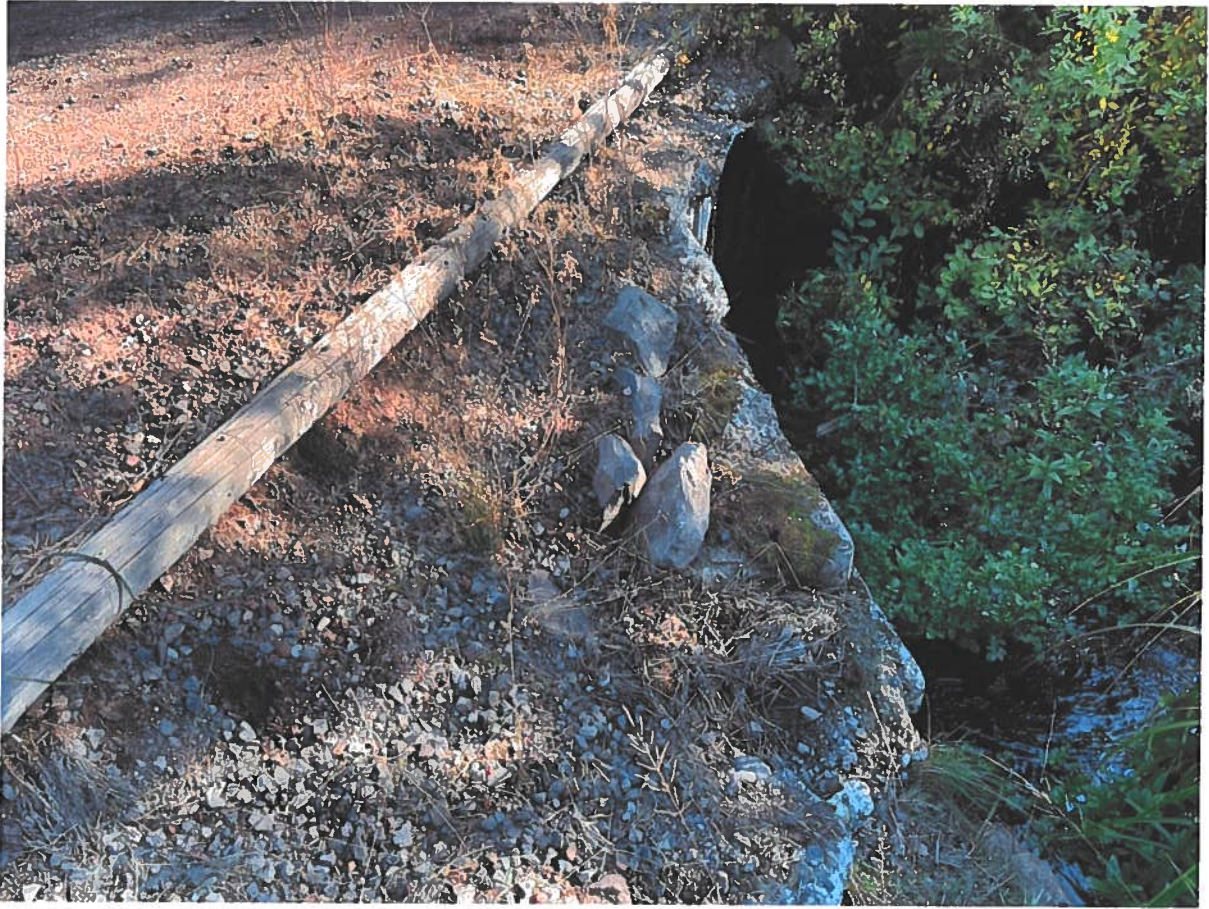


























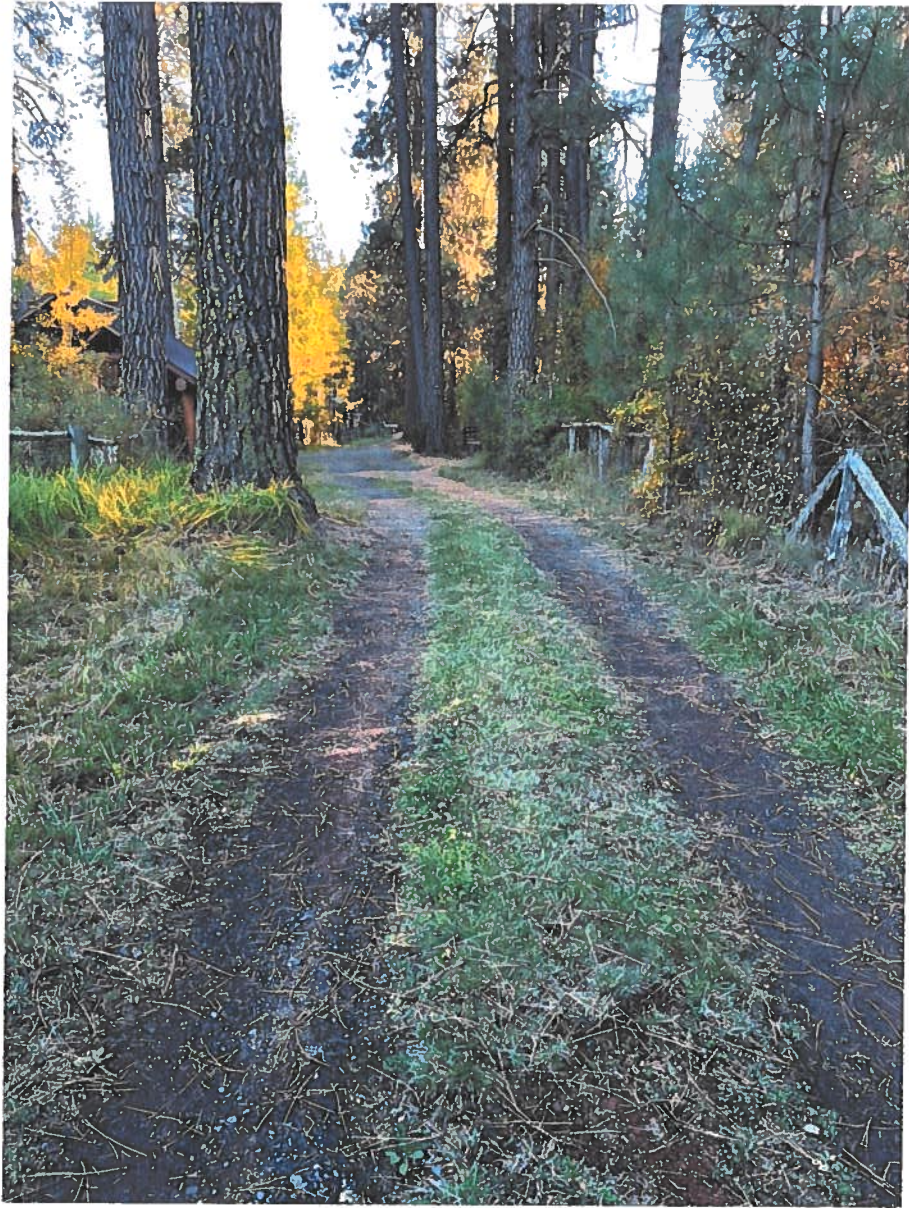




Exhibit O

Paden and Norma Prichard follow-up email comments received - 10/10/2023

SUMMARY OF Norma and Paden Prichard COMMENTS and REBUTTAL to APPROVAL OF APPLICATION CASEFILE 23-MP-02

OSWEGO COUNTY  
COMMUNITY DEVELOPMENT  
OCT 11 2023  
RECEIVED

Good afternoon Tanya and  
Planning Commissioners ... thank you for your service.

A bit about us. We have been coming to Camp Sherman since 1974 ... not counting when I visited as a kid. We started spending significant time here in the 1970's, and in 1998 purchased our property which is the house Luther Metke built for himself in about 1965. I was a founding member of the Camp Sherman Historical Society and we have always been active in restoration projects here in Camp Sherman. We spent the first two years restoring and building a sensitive addition to Luther's house. Since then, we have spent an average of 150 days a year in Camp Sherman. So you can see that for 25 years we are truly committed to this place. I am a designer with 53 years experience designing custom homes, working with developers and land planning. Recently I served 4 1/2 years on the Lake Oswego Development Review Commission.

THERE ARE SOME SIGNIFICANT ERRORS IN THIS APPLICATION:

1. The existing easements of record on the Souza properties are not shown.
2. That part of the North Fork of Lake Creek as it crosses Metke Lane is not shown in its correct location on their survey.
3. The overflow pipe from the pond is also not shown in its correct location.
4. Parcel 1600 is listed as the Souza residence. Their residence is on parcel 2100.
5. The width, location and conditions of Metke Lane which will affect their proposed driveway locations are not shown.

WE BELIEVE THIS APPLICATION should be withdrawn and a proper "subdivision" application be submitted in its place. This developer has stated (*in conversation with Mike Metke*) that he plans to further divide parcel 1 of tax lot 700, which would make this in effect, a "Serial Partition", which is not permitted

THE SOUZA PROPERTY is zoned for minimum 3 acre parcels and we understand they may have the right to develop their property. (*There is a potential for 9 parcels*). However, to develop this as proposed, would be at the definite expense and degradation of the historic, aesthetic, and ecological aspects of this part of Camp Sherman.

There is a better way to develop this property, both for the environment and the enjoyment of any new and existing owners.

Presently their four parcels, (*Tax lots 600, 700, 1600 and 2100*) including their own home, are served.... **and in the future, will need to be served** .... by the east-west extension of Metke Lane. Their existing driveway/roadway which is in good condition, serves those parcels and is about half of any roadway that would be needed to serve any new parcels. New parcels could be served with a new north-south extension from the existing driveway.

THE BUILDING SITES COULD BE CLUSTERED (*as required*) along the west side of these new parcels, keeping the majority of the meadow preserved as the primary wildlife habitat. This would preserve open and unhindered access from the National Forest to the North Fork Creek Riparian Area which meanders through tax lots 600 and 700. Deer, Elk and Coyote are frequent visitors to this open grazing area.

THE NORTH-SOUTH PORTION OF METKE LANE was built in 1950 +- as a two-track cinder driveway which served the Metke and Percival (then also Metke) parcels. By the 1980's there were 4 houses on one lot. This driveway is still in pretty much the same condition as when it was built. The Williams 1983 Record of Survey shows an easement at the Southeast corner of tax lot 600 which was granted to obtain access to this corner of their property.

***(This has always been their ONLY access. The Williams {and Souza} have never used the north-south portion of Metke Lane for access to their property.)***

In 1986 the Metke parcel was divided by and for the family into three parcels, but there was no change to the driveway except to formally create an easement; a 30' wide ROW dedicated to the public, across these parcels.

METKE LANE is a two-tire-track with grass-in-the-middle, traveled way, that meanders in and out of the ROW, some places by more than 30'.

There are no turnouts in the 1500' of privately maintained traveled way. Even though there are some grass verges, they are soft and a heavy vehicle will sink.

There is no real base rock, only built up gravel and cinder. The ROW is 30' wide, not 50' as required. There are as many as 50 or 60 major trees in the ROW. In most places the traveled way is to the east side of the ROW, basically in our front yards. Even if the developer were to add an additional 20' so the ROW would meet the 50' requirement, the traveled way would not change. In any event, about 350' of that would be in the North Fork Riparian Area so could not be added or used. The culvert was privately installed by Pat Metke.



We have not seen anything that indicates the County has ever inspected the north-south portion of Metke Lane, including the culvert, for adherence to the minimum standards as a Local Access Road. It has only EVER been maintained in its original condition and appearance by the four property owners which it serves. This has been done with a conveyor truck laying gravel in the two tracks, raking the gravel by hand to even the gravel, and then 'track rolling' it. The traveled way has been adequate for the present needs of emergency vehicles and the residents. *It is **NOT** adequate to support 2 or 4 more parcels.*

-----

METKE LANE IS THE CONTINUATION OF A TRAIL which serves as the primary walking, bicycling and cross country skiing route from Metolius Meadows to the Forest Service land which again stresses the need for the preservation of the aesthetic, historical and ecological nature of this area. With the rustic two track drive, the Luther Metke log homes, and a portion of the open meadow, it has become known as the "Luther Metke Corridor".

For these reasons and many more, the north-south portion of Metke Lane is just not suitable for use as access to two and possibly four more residential properties.

PLEASE DENY THIS APPLICATION.

WE BELIEVE THE SOUZAS SHOULD SUBMIT A PROPER SUBDIVISION APPLICATION WHICH MEETS THE SPIRIT AND INTENTION OF THE CODE AND WHICH THEIR NEIGHBORS COULD SUPPORT.

THANK YOU for your time and consideration,  
Norma and Paden Prichard  
10/09/2023

Exhibit P

**Tanya Cloutier** Theresa Kempenich and Chris Dakan email received 10/11/2023

**From:** Theresa Kempenich <tkempenich@gmail.com>  
**Sent:** Wednesday, October 11, 2023 3:11 PM  
**To:** Tanya Cloutier  
**Subject:** Souza partition proposal in Camp Sherman



To Jefferson County Planning Commission

We own one of the ten cabins in The Pines, which borders Metke Lane, at 26080 SW Pine Drive. The maps attached show property that Bradley Souza wants to partition, with proposed access via Metke Lane, portions of which are a local access road and portions of which are a substandard, not maintained County road or a County right of way. The County does not maintain Metke Lane. How will the partitioned property be developed when heavy machinery is likely to damage the Lane? We object to access via Metke Lane to this partition and feel that access should be made through Tamarack Lane and Forest property to the north boundary of the proposed partitioned property.

Although the current partition is for two lots, the Sousa's apparent intent is to create additional lots and thereby avoid being subject to subdivision requirements. Although the County claims that serial partitions are disallowed, how will the County prevent serial partitions? If a large lot is sold, will subsequent owners have a right to additional partitions?

What provisions are being made to preserve the Wildlife Overlay on the subject property? What provisions will protect the North Fork of Lake Creek?

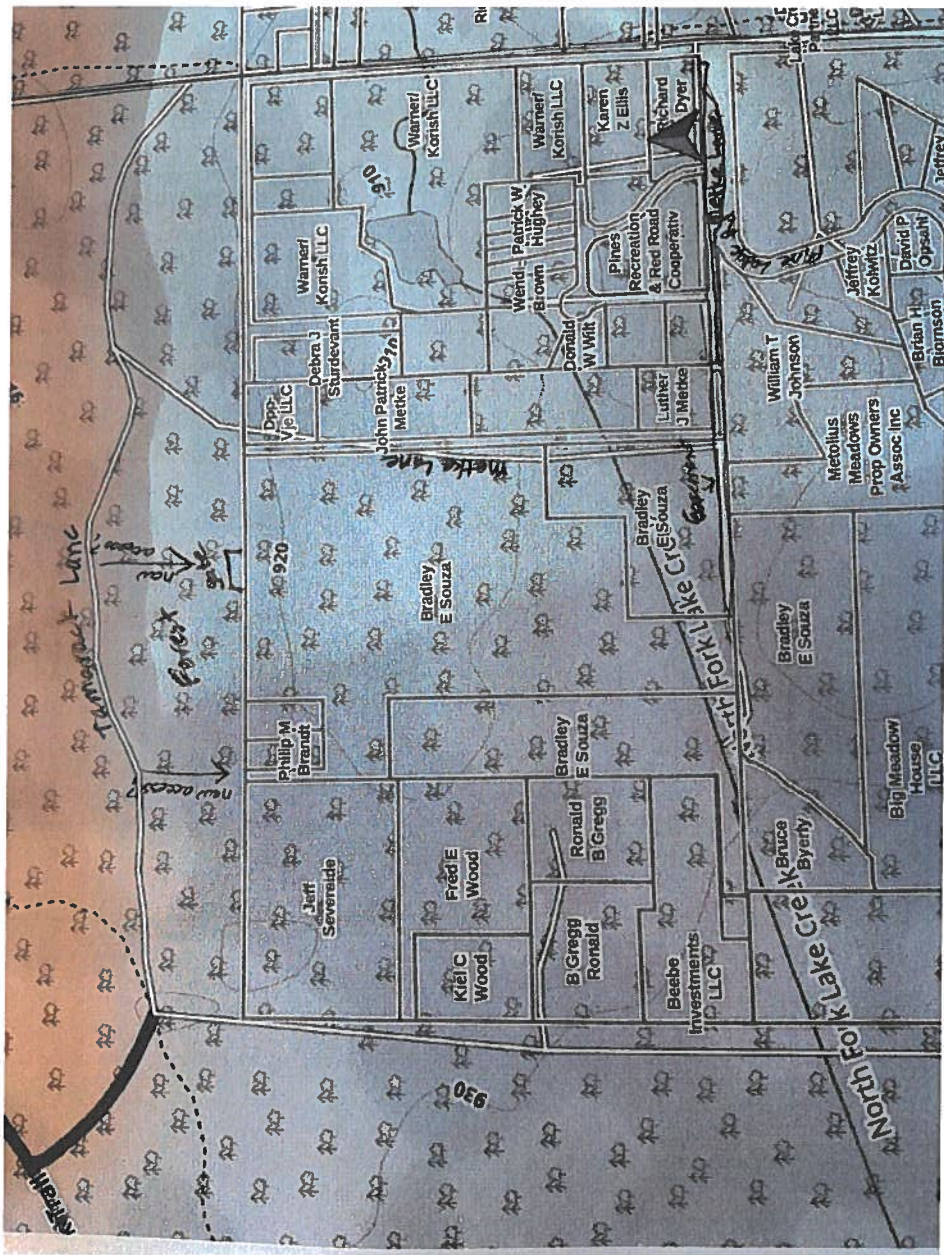
Thank you.  
Theresa Kempenich and Chris Dakan  
117 SW Pine Drive  
Portland, OR 97239  
and  
26080 SW Pine Lodge Road  
Camp Sherman, OR 97239

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.











**Exhibit Q**

**William Johnson and Neva McCarty letter received 10/11/2023**

SUBJECT: CASEFILE 23-MP-02 COMMENTS AND REBUTTAL TO APPROVAL OF APPLICATION FOR SOUZA LAND PARTITION

TO: Jefferson County

FROM: William Johnson & Neva McCarty – PO Box 474

26200 SW Pine Lodge Road, Camp Sherman, OR 97730



Our full-time residence is located on a 3-acre property identified as tax lot 100.

The property borders the south side of the east-west portion of Metke Lane for 655 feet. We purchased our property in 1982.

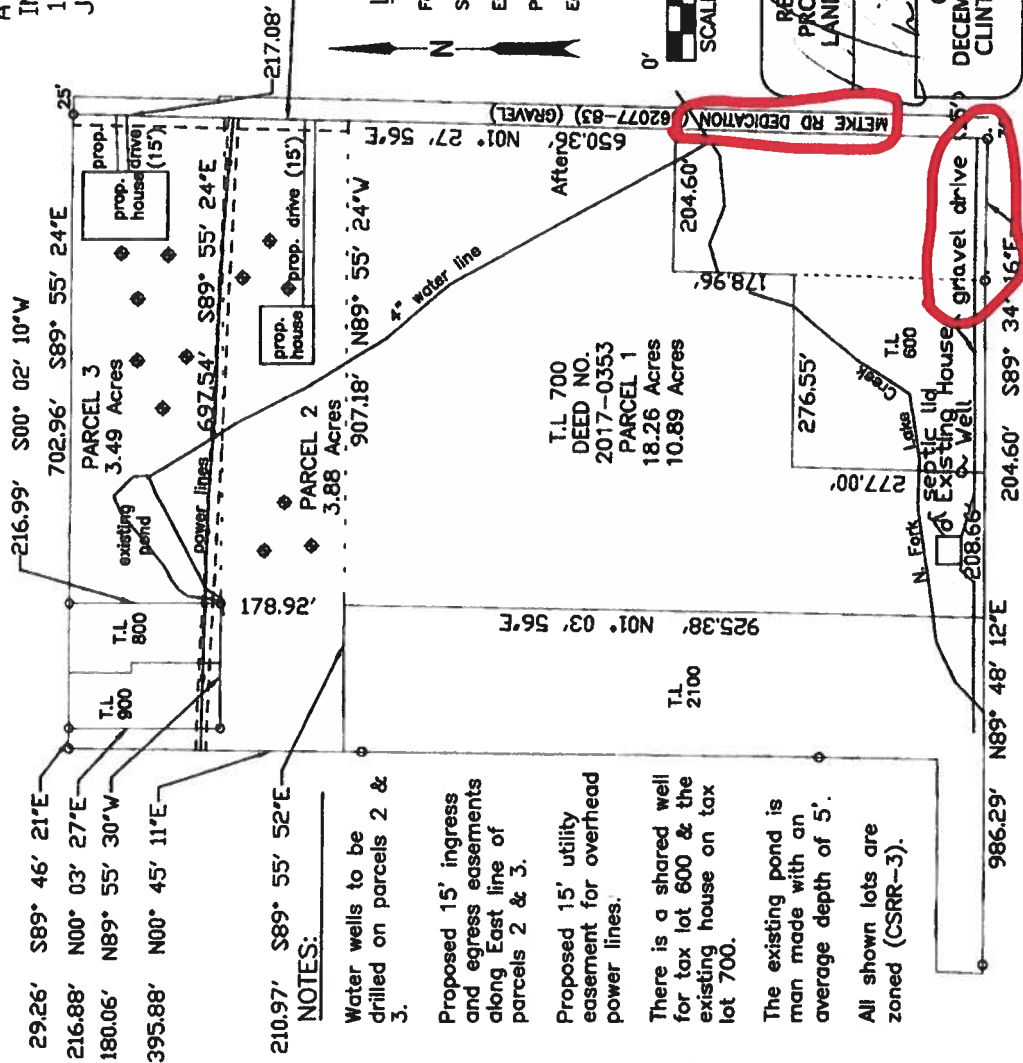
We support the appeal to deny the approval of the Souza land partition for the following reasons:

1. The Land Partition Survey Map identifies Metke Lane as “Metke RD Dedication” which implies a public road on County owned property. The original Metke Lane Major Partition MJP-85-6 survey identifies Metke Lane as a public easement on privately owned land. The confusion regarding the public/private status of Metke Lane has implications for how access, use, maintenance, and overall management is governed by County ordinances. Clarification of the public/private status is needed.
2. The Land Partition Survey Map neglects to show the 30-foot wide and 208.7-foot easement as indicated on the 1983 Williams Survey of Record and the 1986 Metke Lane Major Partition MJP-85-6.
3. An updated accurate survey that indicates the existing Metke Lane roadway, easements and access point is needed for this application to move forward.

A PARCEL OF LAND LOCATED  
IN THE NE 1/4, OF SECTION  
16, T.13 S., R09 E., W.M., IN  
JEFFERSON COUNTY, OREGON

TENTATIVE PLAN FOR  
LAND PARTITION

For:  
Brad & Shettle Souza



29.26' S89° 46' 21"E  
216.88' N00° 03' 27"E  
180.06' N89° 55' 30"W  
395.88' N00° 45' 11"E

210.97' S89° 55' 52"E  
178.96' N00° 02' 10"W  
702.96' S89° 55' 24"E

216.99' S00° 02' 10"W  
702.96' S89° 55' 24"E

217.08' N01° 03' 56"E  
178.95'

204.60' N89° 48' 12"E  
208.66' N89° 55' 24"E

204.60' S89° 34' 16"E  
276.55' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

204.60' N89° 55' 24"W  
277.00' N01° 03' 56"E

NOTES:

- Water wells to be drilled on parcels 2 & 3.
- Proposed 15' ingress and egress easements along East line of parcels 2 & 3.
- Proposed 15' utility easement for overhead power lines.
- There is a shared well for tax lot 600 & the existing house on tax lot 700.
- The existing pond is man made with an average depth of 5'.
- All shown lots are zoned (CSRR-3).

T.L. 700  
DEED NO.  
2017-0353  
PARCEL 1  
18.26 Acres  
10.89 Acres

T.L. 2100  
925.38' N01° 03' 56"E

T.L. 600  
277.00'  
N Fork Lewis Creek  
SEPTIC LIQ. HOUSE  
& WELL

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Clinton S. Ward*  
OREGON DECEMBER 31, 2014  
CLINTON S. WARD  
88575

WARD SURVEYING, LLC  
(503) 688-1188  
1000 N. WASHINGTON ST.  
PORTLAND, OREGON 97228

RENEWALS: 06-30-2024



U. S.

75 TAMARACK LA. N 89° 43' 47" E  
FOREST ROAD 1418-1400

FD. 1<sup>st</sup> E. BY P. 257  
9 16  
FD. 1<sup>st</sup> E.C. 1637.54' 700 208.70' 501 400 911.41' 9 16 10  
FD. 1<sup>st</sup> E.C. IN CONC. IN EAST SHOULDER OF ROAD.

EXISTING 35' PRIVATE EASEMENT, DEDICATED TO THE PUBLIC AS A 30' WIDE EXTENSION OF METKE LAKE

91EN R. & BETH S. PERSONAL

BARBARA LESLIE MANN

LOUIS D. & CAROL J. WILLIAMS

PARCEL 1  
2.06 ac.

OVER PROP. LINE BY 5' 1"

BARBARA LESLIE MANN

N 00° 40' 48" E  
429.80'  
429.80'  
429.80'

429.80'  
N 00° 40' 48" E

N 89° 43' 47" E  
208.70'

600 E. & KATHY M. WARRER

202 13-9-16 AA  
FD. ALMS GAP IN CONC. BY TENSIDEON EXP.

PARCEL 2  
2.17 ac.

KARL & ELSA POLESNY

600  
483.00'  
483.00'

483.00'  
300'

LOUIS D. & CAROL J. WILLIAMS

EXTENSION OF METKE LAKE 30' WIDE DEDICATED TO THE PUBLIC

ROBERT W. & VERONICA S. WILF

N 89° 43' 47" E  
208.70'

PAMEL J. GEMSTER

PARCEL 3  
1.11 ac.

THE CHINA WATER SYSTEM  
FD. 5<sup>th</sup> E.

NE 1/4 COR. FD. 1/4" L.S.

208.70'

METKE LA. COUNTY ROAD (CONCRETE) 30' WIDE ROAD 64. PAGE 823

200 12-9-18 AD  
METOLUS M... PROPERTY  
OWNERS ADDR.

FD. SPICE IN TREE

308.70'

100  
BU. T. JOHNSON

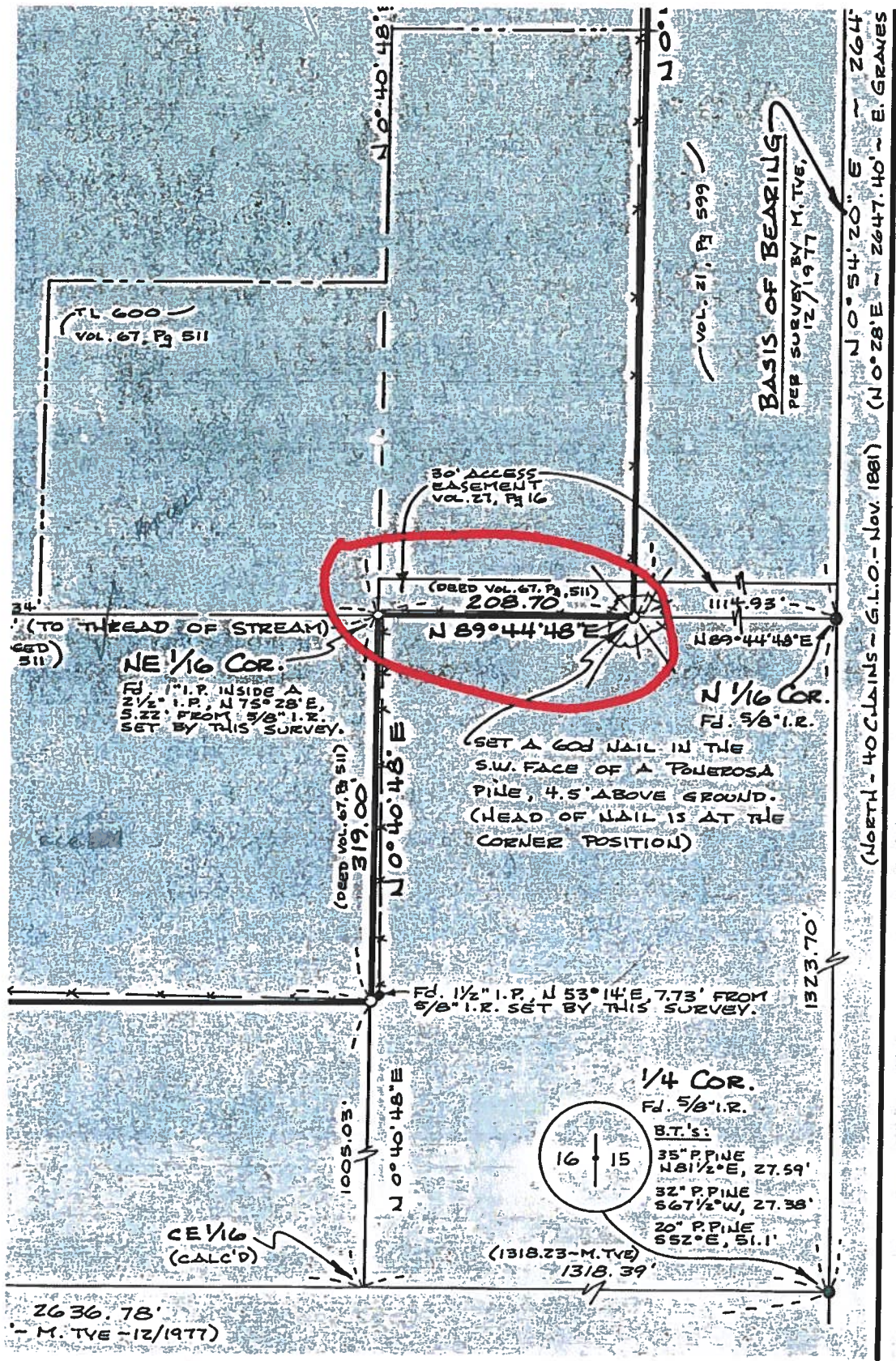
908.56'

RANKIN-EDGARS COUNTY ROAD (PAVED)

N 00° 54' 20" E  
1323.76'

FD. 6<sup>th</sup> E. IN PAVE

















# BENNU LAW

October 12, 2023

Jefferson County Planning Commission  
c/o Jefferson County Community Development Department  
85 S.E. “D” Street  
Madras, OR 97741

**VIA EMAIL**

re: Applicant’s Statement in Support of Tentative Partition Plan Approval, Casefile 23-MP-02

Applicants: Brad and Shellie Souza, Co-Trustees of the Bradley Emile Souza and Shellie Ann Souza Revocable Trust

Appellants: DPP-VJE, LLC; Prichard Joint Trust; and John Patrick and Ursula R. Metke Irrevocable Trust

Dear Planning Commissioners:

This office and the undersigned represent Brad and Shellie Souza,<sup>1</sup> the owners of an approximately 17 acre parcel of property in the Camp Sherman area of Jefferson County, located at 26308 SW Metke Lane in Camp Sherman, Oregon (the “Property”). We request that this letter be entered into the record and considered by the Planning Commissioners in your decision on the pending appeal. For the reasons set forth herein, we request that the Planning Commission: (a) affirm the Staff Decision in Casefile 23-MP-02 approving the proposed tentative partition plan approval with nine (9) conditions; and (b) deny the appeal filed by the appellants referenced above. The proposed partition meets all applicable criteria as conditioned and is consistent with the Jefferson County Comprehensive Plan.

The Souzas are both the owners of the Property and the applicant for tentative partition plan approval (hereinafter the “Applicant”) to divide the Property into three lots. The map and tax lot identification for the Property is 130916A000700 (APN 8359) (tax lot 700). The Property is zoned Camp Sherman Rural Residential (“CSRR-3”) and is currently developed with a single-family home (cottage). The Camp Sherman area is an unincorporated community, which exempts the property from the 160-acre minimum lot size in the Metolius Deer Winter Range. Jefferson County Zoning Ordinance (JCZO) Section 321.3(C); Staff Report at p. 2. The parcels meet the minimum three-acre lot size required in the CSRR-3 zone. JCZO Section 343.D.1. Staff Report at 2.

---

<sup>1</sup> Mr. and Mrs. Souza are co-trustees of the Bradley Emile Souza and Shellie Ann Souza Revocable Trust, in which name the Property is owned.

The crux of the appellants' appeal can be summarized as follows: they want things to stay as they are. The appellants own neighboring property and, despite the zoning of the area, which allows division of property into 3-acre parcels, they would prefer the character of the surrounding area to remain frozen in time. It is worth pointing out that all of the appellants are part-time, seasonal residents. They do not live in the area full time, as the Applicant does, but visit their second homes on occasion. These neighbors simply think that they can secure greater enjoyment of their own vacation properties at the expense of other property owners by shutting down the Applicant from pursuing their own property rights. There is no mechanism in this quasi-judicial process to prevent land division and possible future development. Nor is that the purpose or intent of the Jefferson County Zoning Ordinance, the Jefferson County Comprehensive Plan or the state of Oregon Land Use system. If the neighbors want to preclude future development in the area, they may apply for a legislative code amendment to change the zoning and comprehensive plan designation and "shut the door" to any future partitions or development.

By casting aspersions on an entirely different and unrelated subdivision approved to the east, the appellants appear to ask the Planning Commission to consider facts that are not related to any applicable approval criterion. Appellants show that their appeal is not actually based on any alleged failure to meet partition criteria, but instead is founded on their desire to shut down and preclude any future development that could result in change. They ask the Planning Commission to make a decision based solely on speculation and self-serving statements, to ignore the public road classification of SW Metke Lane and essentially close the public traveled way to use by two future property owners, and to set aside the three-acre minimum lot size in the CSSR-3 district.

The Planning Commission is well aware that it cannot make a decision that precludes the Souzas from using and enjoying their property in a manner that is consistent with all applicable land use regulations. Its authority is granted and constrained by JCZO 903.5. Its decision on the application in this appeal proceeding will be a land use decision, defined as "a final decision or determination that concerns the adoption, amendment or application of: (1) the statewide planning Goals; (2) a Comprehensive Plan provision; (3) an existing or new land use regulation; or (4) a decision of the Planning Commission made under ORS 433.763." JCZO Section 105(B).

Legislative decisions made by the Jefferson County Board of Commissioners in enacting the zoning regulations for the area and establishing criteria for partition approval cannot be collaterally challenged in this proceeding, and cannot be set aside by the Planning Commission based on generalized opposition to change and development. The Souzas enjoy protected property rights which include the right to rely on existing code provisions, to follow the prescribed process and to obtain approval to divide their Property. The Planning Commission cannot introduce, "amend by interpretation," or rely on any factors other than those of which all property owners have notice – the criteria that were individually analyzed and found to have been met in the 16-page Staff Decision approving the minor partition with 9 conditions of approval.

#### ACCESS AND SURROUNDING AREA

The Property, tax lot 700, is served by a gravel road, Metke Lane, which also serves tax lots 600 and 2100, which are in concurrent ownership with the Applicant.<sup>2</sup> The Applicant also owns tax lot 1600, which is to the east of the Property, across Metke Lane. Tax lot 600 is developed with a cabin and tax lot 1600 is developed with a single-family home in which the Applicant resides. SW Metke Lane, a gravel road, runs parallel to the Property along the east boundary. All of SW Metke Lane is located within T13S, R09E, Section 16, NE ¼ of the NE ¼ and is located either on a public right of way or has a dedication to the public of record at the office of the Jefferson County Clerk.

Minimum Access Requirements are set forth in JCZO Section 401.1:

*Evidence of legal access providing physical ingress and egress that meets the emergency vehicle access standards of Section 426.2(E) is required prior to issuance of building or septic permits. Access shall be provided by one of the following means:*

- A. *A driveway connecting via direct parcel frontage to a public road, a nonconforming private road or private road in a destination resort, a Bureau of Land Management (BLM) road or U.S. Forest Service (USFS) road.*
- B. *A recorded, exclusive easement for ingress and egress.*

<sup>2</sup> As shown on the attached Official Record of Descriptions of Real Property, tax lot 700 was created by deed in 1973. Subsequent transfers of TL 700, 600, 2100 and others are collectively described as separate parcels in a collective legal description, and the four parcels have one assigned street address, which is not uncommon per title company.



Staff properly found that the two new proposed parcels, like the parent parcel, will have frontage on and access from the portion of SW Metke Lane that runs parallel on the eastern boundary of the proposed parcels. Staff Report p. 5.<sup>3</sup> Prior to submitting the application, Mr. Souza confirmed with Matt Powlison, Jefferson County Public Works Director, that access to the lots was both permissible and appropriate from Metke Lane. Mr. Souza was also informed that the Community Development Department relies on comments from the Public Works Department on the application, and that CDD follows Public Works' direction as to whether minimum access requirements are met.

The appellants have not introduced any evidence from a transportation engineer or consultant to rebut or counter Director Powlison's findings regarding adequacy of access from SW Metke Lane, or the findings in Casefile 23-MP-02 at page 5 that the Applicant meets minimum access requirements of Section 401.1.

As Director Powlison explained, the portions of the SW Metke Lane alignment located on the private parcels each have a declaration of dedication. Because the road has not been adopted into the County, State, or Federal road systems, it is a local access road as defined in ORS 368.001(3)&(5). The County jurisdiction over local access roads is stated in ORS 368.031. Under Federal, State and Jefferson County Codes, the public has the right to unrestricted use of the SW Metke Lane right-of-way.

Appellants acknowledge Director Powlison's conclusion that "All of SW Metke Lane located within T13S, R09E, Section 16, NE1/4 of the NE ¼ is located *either* on a public right of way or has a dedication to the public," referencing Declaration of Dedication No. 862077. Appellants then try to argue that the dedication is only 1,115.39 feet, while the entire length of Metke Lane is 1,323.3 feet, leaving 208 feet of Metke Lane as somehow not a public road. This argument fails utterly because it ignores the statement of Director Powlison that all of SW Metke Lane is located *either on a public right of way or has a dedication to the public*. Obviously, if 1,115 feet of Metke Lane exists via dedication to the public, the remaining 208 feet is the public right of way portion of Metke Lane referred to by Director Powlison. There is clearly no error in the Director's finding and no evidence presented by the appellants to support their unfounded assertions.

Appellants argue that aerial photographs show that an alleged "traveled way" is not within the boundary of the dedicated right of way. Notably, appellants introduce no surveys or other evidence to support these allegations. Aerial photographs taken from above show tree cover that clearly overhangs and obscures views of portions of the road as it travels past TL 1500, 1400 and 1300. There is no evidence that what appears to be cleared areas on TL 1400 adjacent to Metke Lane are anything other than that property owner's private driveways or areas frequently used by the property owner. Appellants have not offered any persuasive evidence to show an actual deviation from Metke Lane onto TL 1400 and TL 1500 or evidence of vehicles exiting the dedicated right of way onto such properties. Appellants' bald accusations are not sufficient to rebut Director Powlison's educated and informed conclusions. See JCZO Section 105(B) (definition of "evidence").

Appellants offer nothing but a call for speculation and conjecture, which is not evidence on which the Planning Commission may rely. See *Cusma v. City of Oregon City*, 92 Or. App. 1, 7, 757 P.2d 433 (1988); JCZO Section 105(B). Recognizing the unrestricted use of SW Metke Lane (whether by future owners of two new lots created by the partition, any other property owner, or the general public) cannot be precluded by the Planning Commission for the purposes of denying the Souzas' application. Even if appellants had viable claims for "trespass" or "violation of ORS 368.106," as an "ineffective" dedication, the proper forum in which to determine appellants' rights vis-à-vis the public with respect to SW Metke Lane is in court. Such determinations cannot be made by the Planning Commission in the context of a quasi-judicial land use application and the Planning Commission lacks the jurisdiction to do so. JCZO Section 903.5; see also ORS 201.020 and ORS 215.030.

Similarly, to the extent appellants ask the Planning Commission to prohibit use of SW Metke Lane by the Applicant or their successors in interest, appellants' arguments are nothing more self-serving allegations that the road is substandard. Appellants offer no expert testimony or reports to support their argument that ordinary traffic for access to two new residential parcels, or construction traffic will damage "performance standards" of the road. Nor is there any evidence – just mere speculation – that a culvert would be damaged by heavy equipment if the partition is approved. Notably, the proposal in this case is merely for division of the parent parcel (TL 700) into two additional lots. No development is proposed; no construction will occur as a result of land partitioning. If there was any evidence to support a determination that construction traffic at some future date

---

<sup>3</sup> Without citation to any evidence, appellants declare that the applicant and Public Works Director are wrong in concluding that TL 700 is served by SW Metke Lane. It is indisputable that TL 700 directly fronts and abuts SW Metke Lane. Whether TL 700 is currently accessed from Metke Lane by a private drive/easement across TL 600 is immaterial. Nonetheless, such circumstance still meets the minimum access requirements in Section 401.1(B) cited above.

resulting from approval of the partition (keeping in mind the fact that *any other property owner in the area could engage in construction-related activities on their properties and could not be restricted from using SW Metke Lane* because it is a public road), the Planning Commission could consider a narrowly-tailored condition of approval. Any condition of approval would have to have a nexus to and be roughly proportionate to proven, established impacts of applicant's partition.<sup>4</sup> JCZO 905.1.

## WILDLIFE

Staff's analysis of compliance with JCZO Section 321 (Wildlife Overlay Zone) is set forth at pages 2-4 of the decision. As is typical and appropriate in the context of a partition application, staff finds that the criteria in Section 321.4 (fencing) and Section 321.5 (approval criteria for dwellings) will be met at the time any new development is proposed on the newly created parcels and includes conditions of approval to ensure compliance. Staff also finds that dwellings will be within 300 feet of the existing road, SW Metke Lane. Condition of Approval #7 requires the Applicant to comply with all Wildlife Area Overlay requirements per Section 321 as listed in the decision. This includes, but is not limited to, siting any future home within 300 feet of a public road, SW Metke Lane.

Appellants' arguments concerning wildlife impacts are premature and speculative. Their assertions regarding "clustering" of dwellings and the reference to "typical urban settings" make no sense given the fact that the minimum lot size is three acres and this is a rural, not an urban area. As with their general approach in this appeal, the basis for appellants' claims appears to be the fact they enjoy looking at the northern portion of the applicants' property in its current undeveloped state. There is no evidence from any wildlife biologist or other expert to support the claim that the northern portion of the property contains the "most important wildlife function" of the parcel. This is just pure conjecture and is entirely unsupported. Even if there was such evidence, Section 321.3(C) specifically allows property owners within unincorporated communities like Camp Sherman to partition their property without having to comply with the minimum lot sizes of the Wildlife Area Overlay Zone.

## ADDITIONAL CLAIMS OF APPELLANTS

Appellants include a laundry list of ten additional items characterized as "technical requirements" for partitions under Jefferson County Code Section 16.32.030, 16.32.030 and JCZO Section 703.1 and 705.1. The Applicant responds as follows:

The current minor partition application stands on its own. If any additional partition application is submitted in the future by the Applicant, such partition would be subject to review for compliance with JCC 16.32.030(B). Once again, appellants' speculation and conjecture is not evidence.

To the extent the Planning Commission finds that the Tentative Plan is deficient based on its vicinity map, or any other requirement of JCC 16.32.020(B) and/or (C), a condition(s) of approval may be imposed to ensure compliance. Similarly, a condition of approval to submit a title report can be imposed. If the Planning Commission agrees that the location of North Fork of Lake Creek and the culvert crossing is incorrectly shown on the Tentative Plan, a condition of approval can be required to make a correction on a submitted Final Plan. JCZO 905.1. None of these requirements are a basis on which to deny the application. Based on court decisions, a denial is inappropriate unless conditions cannot ensure standards are, or can be, met.

No flag lot will be created by approval of the application. because the Applicant is not proposing access to Parcel 3 from Tamarack Lane. With respect to water, the Applicant complied with the requirement to include a statement of the "proposed method of obtaining a potable water supply." Water will be provided by well. Nothing more is required under JCZO 703.1(D). The Planning Commission cannot add to or vary from adopted, applicable criteria.

It is unclear the point that appellants are trying to make in their allegation that the acreage of the property varies from the assessor's acreage. It matters not whether 5 or 6 lots could be created from the parent parcel. The applicant is only proposing a total of 3 lots in this partition. The proposed acreage of each of the three parcels is shown on the Tentative Plan.

---

<sup>4</sup> Evidence in the record must be such that a reasonable person would conclude that considering the impacts of the proposed development, there is a need for the condition to further a legitimate planning purpose. See *Wastewood Recyclers v. Clackamas County*, 22 Or LUBA 258, 263 (1991); *Olson Memorial Clinic v. Clackamas County*, 21 Or LUBA 418, 421-22 (1991); *Sellwood Harbor Condo Assoc. v. City of Portland*, 16 Or LUBA 505, 522 (1988).



## CONCLUSION

For all the foregoing reasons, the Applicant requests the Planning Commission to affirm approval of the proposed tentative partition plan application and to deny the appeal.

Sincerely,

*/s/ Stephanie Marshall*

Stephanie E. Marshall  
cc: clients

## Exhibit S

**Jason and Cynthia Eckhoff (on behalf of DPE-VJE, LLC) email received - 10/12/2023**

October 12, 2023

Jefferson County Planning Commission  
c/o/ Jefferson County Community Development Department  
85 S.E. "D" Street  
Madras, OR 97741

RE: Appellant's Written Statement In Support of Appeal  
Casefile: 23-MP-02

Applicants: Brad and Shellie Souza, Co-Trustees of the Bradley Emile Souza and Shellie Ann Souza Revocable Trust

Appellant: DPP-VJE, LLC (Jason and Cynthia Eckhoff)  
26317 SW Metke Lane  
Camp Sherman, Oregon 97730

Subject Property: 26308 SW Metke Lane, Camp Sherman, OR  
Township 13 South, Range 9 East, Section 16A, Tax lot 700

Dear Planning Commission:

Thank you for your service and for the opportunity to provide comments on this proposed land partition. While this may appear to be a rather simple application to divide an 18.26 acre parcel into three distinct parcels, we believe this application has many flaws and should be denied.

To quote the Jefferson County Comprehensive Plan, "The Camp Sherman rural community is unique within Jefferson County." In 2009 the Metolius Basin and Camp Sherman were identified as an Area of Critical State Concern ("ACSC"). The ACSC, among other things, serves to provide a higher level of review of proposed development plans affecting this area. We kindly ask this Commission to exercise its powers to provide such a comprehensive review and to deny this application.

Metke Lane, and the historic homes along its North-South course ("The Luther Metke Corridor") are a part of Camp Sherman history. Our home was constructed in the late 1930's by Walter Metke. The other four homes along this stretch were all constructed by the celebrated log home builder Luther Metke and have been maintained by their current owners to retain their historic character. The Luther Metke Corridor was "*constructed*" around 1950 as a two-track dirt drive which served the multiple Metke historic homes along its course. This driveway is still in much the same condition in which it was built. This primitive drive has always been maintained by the four homeowners of the historic cabins along its course. It serves as a safe path for bikes, dogs, and pedestrians for our neighbors to the south and east to access the adjacent National Forest. We believe this historic corridor should be protected and maintained in its current form.



We understand the applicants desire to subdivide their property and reap the economic value of their land. We simply are asking the applicant to propose a development plan that meets the requirements of Jefferson County's Comprehensive Plan, the ACSC, and one that fits with the existing pattern of development in this special corridor of Camp Sherman.

The Applicants' proposed subdivision plan has several flaws that we believe have been adequately addressed in our appeal. However, we would like to draw attention to one relatively simple issue. The North-South segment of Metke Lane fails on multiple levels as a proposed access to lots created by this land division. Substantially, it does not meet county road standards for access to newly created lots.

We believe this application should be denied and that any future applications for this property should provide access to newly created lots from the applicants' own property. Tax lot 700, the property subject to this application, has never had access from the North-South portion of Metke Lane. Tax lot 700 currently has legal access from the existing driveway servicing this lot and the applicant's other adjacent properties (lots 600, 1600 and 2100). It seems only fair and reasonable that any future lots created by the division of tax lot 700 be served by this existing access on the applicants' own property.

We respectfully ask this Commission to deny the proposed application and that the Planning Staff consider these issues for any future applications for this property.

Thank you,

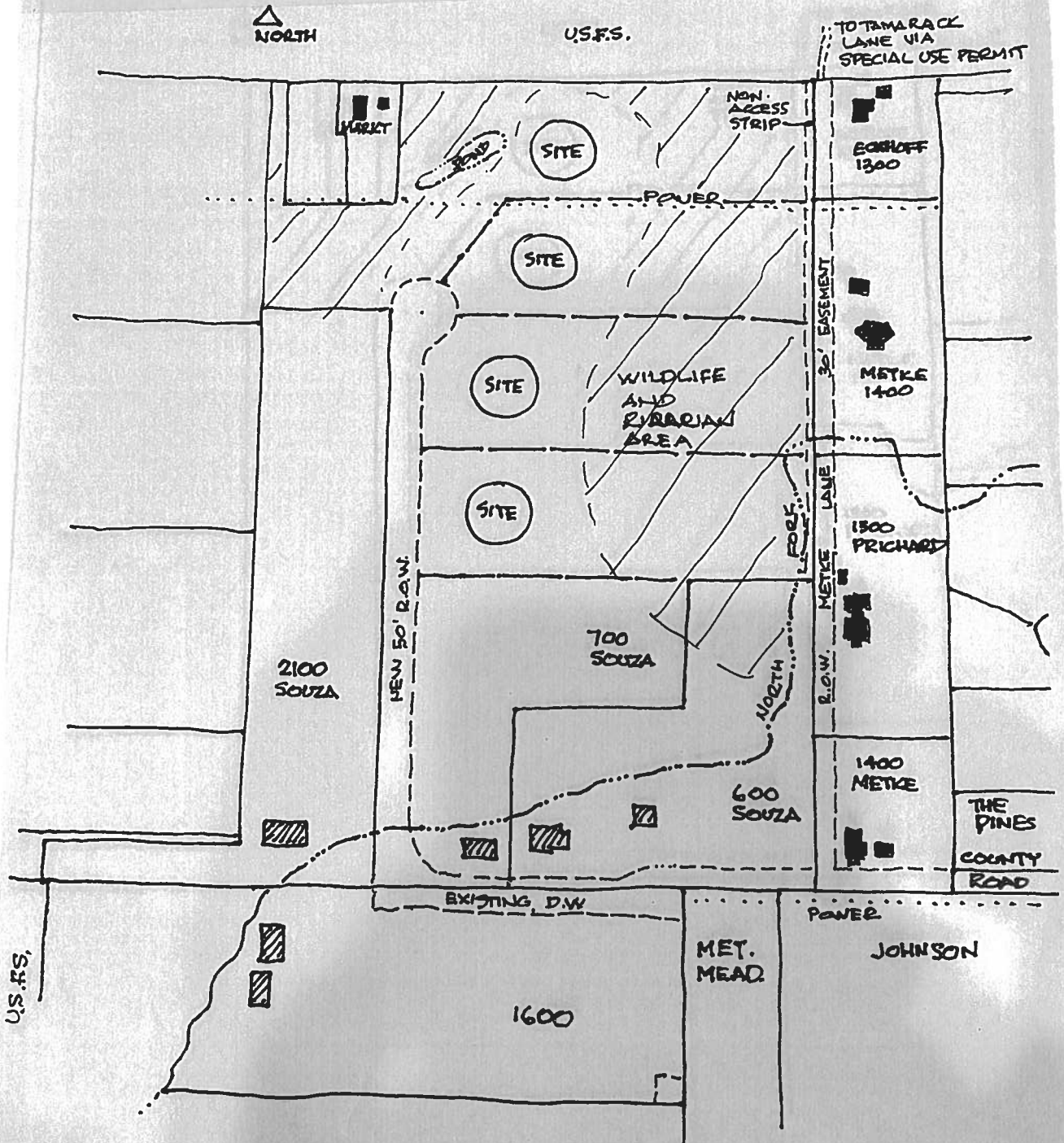
Jason and Cynthia Eckhoff, on behalf of DPE-VJE, LLC





Exhibit U

Paden Prichard drawn map received during hearing - 10/12/2023



SUGGESTED DEVELOPMENT PATTERN  
1" = 200' ±

## Exhibit V

### Michael Metke letter and photos received during hearing - 10/12/2023

Thank You Commissioners and Administrative Staff for the opportunity to speak

I submitted a 5 page document which I presume was made available to you in the past 2 days.

That prepared presentation is essentially a repeat presentation of ideas already and clearly expressed by our counsel Mr David Allen, ESQ .

In summary I wrote of: 1 The frailty of Metke Lane

2 The deviation of the traveled way off the dedicated Right of Way into our backyard and how it serves as a driveway for us and having the risk of neighborly trespass and other risks

3 The concern for the well being of the bridge across the North Fork of Lake Creek

I introduced the idea of "The Metke Spirit"

I have been blessed with four adult children and one step son.

All have repeatedly shared with me the Value spending summer time with their friends at our Cabin on Metke Lane. That experience over the past 40 years, according to them, has been highly impactful on what they have chosen to do and how they do it. They have all been highly successful in their own chosen fields. Camp Sherman has played an incredible role in the Growth and Development of their lives.

If time permits, please forgive me for my family pride, you can see what potential lies ahead for young people exposed to the good that Camp Sherman has to offer.

My daughter is Corporate Marketing and Communication Director of a 19 Hospital group Ballad Health. She muscled her health system thru COVID and produced many data driven reports about real time outcomes that were released on national television networks. Simultaneously she completed her Masters Degree in her field at Georgetown University in Washington D.C. She has been asked to be a guest lecturer many times at Georgetown.



Two sons have served in the Army Special Forces. They are Green Beret and Ranger School trained. They have been actively involved in combat roles in Iraq, Afghanistan and more recently Syria. My eldest retired after 23 years as a Lieutenant Colonel responsible for personally informing high level generals, our current and past Secretaries of Defense as well as President Biden. My son is an excellent leader with excellent battlefield judgement, first fine tuned in the mountainous area of Central Oregon. My second Green Beret continues to serve as a Medic in an Army Special Ops Group. He served as a Medic at Bagram Airforce Base in Iraq serving on many missions throughout the country. He is currently completing training as a Physicians Assistant.

My third son is a successful New York artist doing commission work for many clients in New York and Long Island. He is known for his gold plated Wasp Nests. Beyonce' has one mounted near her kitchen breakfast nook. The new Federal Reserve Bank building in Washington DC purchased a collection of about 20 gold nests for display. He has collected Beaver stumps from near the North Branch of Lake Creek to fashion a new sculpture which should be available quite soon. The collage painting he did for Mom is remarkable. The single canvas showing multiple features: the Cabin, Mom on her lawnmower in the front yard, a giant hummingbird flying over the yard, Mom barbecuing on the back deck, a deer prancing thru the yard, and the big tall stately Tamarack in the front yard which speaks to me metaphorically about Mom the stalwart she was. All this on one canvas. Typical of his work. It is an incredible work that epitomizes all that Camp Sherman has to offer. I can't wait to hang it in our Cabin wall.

Camp Sherman and the ever present Metke Spirit has done much to nurture the Growth and Development of my kids. Kathie and I have been here only slightly longer than this Appeal process and are anxious to bring our 10 grand children here to bathe in the Metke Spirit. They range from 2 to 14 years of age. The timing is right. We must continue to Grow Camp Sherman in a good healthy direction and abide by what my Dad always used to say " We must use our God given, good old human intelligence." I believe there are better ways to extend access to Mr and Mrs Souza's property.

Thank You Members of the Planning Commission for your time Listening.

Respectfully submitted,

Michael P Metke MD  
October 12, 2023



View NW

Metke Lane in Foreground



View West Metke Lane in Foreground

Original Luther Metke Cabin. Picture circa 1960's  
as seen on 1984 Maps showing 3' extension across  
Williams Property Line



Exhibit W  
Michael Metke letter received - 10/17/2023

Oct 10, 2023



Jefferson County Planning Commission  
% Jefferson County Community Development Department  
85 S.E. "D" Street  
Madras, OR 97741

Sent VIA EMAIL TO AVOID DELAY  
[tanya.Cloutier@co.jefferson.or.us](mailto:tanya.Cloutier@co.jefferson.or.us)

RE: Casefile 23-MP-02

Members of the Jefferson County Planning Commission:

I am the Successor Trustee of the John P and Ursula R Metke's survivor Trust and together with my sister, Mary Ellen Metke and brother J Mark Metke are willed to inherit the cabin at 26315 SW Metke Lane, tax lot1400.

As a surgeon working with peoples lives I was invested in the long term outcome of their lives. Surviving surgery was not the only goal but rather living a long and productive life after heart and lung surgery was paramount. My Dad stressed to me and his Dad before him Luther Metke felt similarly, love was a key element. Strange, I realize,

someone had taken the time to conceive a project that would be more of a win-win proposition.

The project as proposed creates hardship for many neighbors including myself and I believe for Jefferson County as well. Metke Lane the access point for these two properties looks attractive with beautiful red cinders and a sodded median with rich dirt beneath the grass on both sides. It looks ready for photographs by an advertising company. And indeed this segment of Metke Lane in question was featured in a national clothing company advertisement. However without proper drainage and infrastructure reinforcement I fear for it's durability under the expected stresses.

Metke Lane exists because my Grandfather Luther drove it's length as he built the connecting family properties and built two large cabins for his daughters and one small one for himself. He did not build one for either son. He thought they could fend for themselves. His corner cabin served as a protective observatory for traffic. This allowed him to observe activity proceeding into future partitions of his property. Metke Lane served as a private drive for family members to access their homes. Because of the benevolence and Good Will of my parents Pat and Polly Metke and other relatives a 30' portion bordering the West property lines was deeded to the public in an effort to aid emergency, fire and ambulance service and as a bonus allowing nature lover's a pedestrian and cyclist pathway to the beauty that is Camp Sherman. It was never intended to serve as a



development tool to satisfy the would-be owners of a neighboring land development.

Four days after arriving here to make Oregon our home I received the Appeal notification about the granting of approval for the Souza development. I was at a loss what to do. I knew no-one with specialized expertise. I called the Jefferson County Planning Commission Office. Tanya encouraged me to call Mr Brad Souza. Fortunately, he kindly offered to walk the property and show me what he anticipated doing. He showed me survey markers and described where driveways might arise. He said the County Road Department had decided not to invest any upgrades to Metke Lane with this development aside from increasing road turning radii. He also shared with me that further development would require a 3 acre surrounding plot of land. Thus limiting the number of building sites. He stated he had 5-6 additional acres along with a guest house and another Luther Metke log cabin property that could be partitioned off. He anticipated proceeding with these plans in the next one to two years. I asked if he had made plans for accessing these locations. He walked to show me another survey stake without responding.

Another important issue relates to Metke Lane as one turns South out of the approved access point for the southern Partition. A short distance down Metke Lane it turns directly to the South East and into my private property which I think of as my back yard, driveway, and parking lot. Metke Lane does not return back to the West and enter the easement for 100 to 150 feet. The easement devoid of road is

populated by at least 10 mature trees ranging from 18" to 24" in diameter and 75' to 100' tall. They would fill two old fashion log trucks full of logs ready for shipping overseas. There is also a pump house, a well, and plumbing supplying the water source to the main cabin. The water supply passes beneath the private drive portion of Metke Lane. Relocation of the well, relocation of the pump-house, capping of the old well and redoing the underground plumbing is highly likely. This to avoid potential damage or interruption of water supply.

A third issue of concern and distress is the presence of the North Fork of Lake Creek which passes thru a culvert just after Metke Lane returns to the deeded easement. At present this culvert appears to be functioning at it's maximum potential. Weight and lateral clearance are of concern. Danger exists if any construction equipment were asked to traverse this 9 foot wide drive over the bridge. The 2 foot distance between the West edge of the roadway and the West cut edge of the culvert along with the 4 foot drop to the Creek surface serve as a "Tipping Point".

I am not in any way trying to position myself as an adversary to the Planning Commission but rather the contrary. I see that much needs to be done to rectify action that has gone before us. I have always enjoyed most what we called in surgery "re-operations". They were the most challenging and also the most rewarding. Making good of bad operations or ill conceived ones is a difficult task but when experts from all levels work together and with a like minded spirit

much can be accomplished for the happiness and well being of all the neighbors.

Respectfully,

Michael P Metke MD

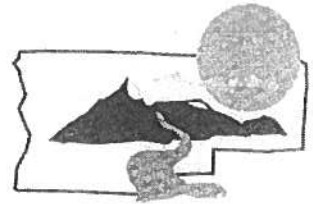


Exhibit X

2014 Memorandum from Rich Black, P.E. County Engineer received - 10/19/2023

**JEFFERSON COUNTY**

Community Development Department



85 S.E. D St. Madras, Oregon 97741 ♦ Ph: (541) 475-4462 ♦ Ph: (541) 475-4453 ♦ Fax (541) 325-5004

**OFFICE OF THE COUNTY ENGINEER**

From: Rich Black, P.E.  
County Engineer

To: Brian Metke  
Owner

Date: 4/17/14

Subject: SW Metke Ln Road Dedication

You have been in contact with this office regarding a number of issues involving your parcel and/or the use and maintenance of SW Metke Ln. The trespass across the portion of your parcel laying outside the limits of the road and utility dedication and the shot gun shells found on your property are civil issues between you and the trespassers. This department has no jurisdiction in those matters.

The issues involving the use and maintenance of the public dedication are answered below.

1. SW Metke Lane public dedication:

All of SW Metke Ln. located within T13S, R09E, Section 16, NE ¼ of the NE ¼ is located either on a public right-of-way or has a dedication to the public of record at the office of the Jefferson County Clerk.

The portion of the alignment located along the southerly edge of The Pines subdivision is dedicated on the subdivision plat.

The portions of the alignment located on the private parcels each have a declaration of dedication. The declaration of dedication for portion of the alignment involving your parcel is deed record 862081 on 7/09/86. It describes the dedication of the southerly and westerly 30' of your parcel to the public for road and utility purposes.

The road has not been adopted into the County, State, or Federal road systems.

This makes SW Metke Ln. a local access road as defined in Oregon Revised Statute Chapter 368, section .001(3)&(5). The County jurisdiction over local access roads is stated in ORS 368.031.

Chapter 12 of the Jefferson County Codes establishes the local standards for the regulation and use of public roads.

Under Federal, State and Jefferson County Codes the general public has the right to un-restricted use of the SW Metke Lane right-of-way. It is my understanding that the permit you recently acquired from the Public Works department was for filling potholes, not for re-aligning or restricting the traveled way of the road. Anything that restricts the publics use of the travelled way is not permitted.

The owner of any parcel fronting on the right-of-way or any parcel having an easement connecting to the right of way may apply to this department for an access permit. As long as the proposed access meets the criteria set forth in section 12.18 of the Jefferson County Codes, the permit will be granted. The existing access points, with the exception of the informal access from Mr.

Johnson's parcel to the south, are valid. If Mr. Johnson were to apply for an access permit, the permit would be granted, provided minor alterations to the access were completed.

2. Vacation of Right of Way:

It is my understanding that you intend to initiate vacation proceedings for the SW Metke Lane Rights of way. As noted in previous discussions, the process for initiating the vacation of right of way is established in ORS 368.341.

A petition signed by 60 percent of the owners or owners representing 60 percent of the parcels abutting the proposed vacation is one of the requirements of the application.

Section 368.346 requires a report by the county road official. Part of that report is a determination of whether the proposed vacation is in the public interest. I have discussed the issue with Mike McHaney, Jefferson County Public Works Director as well as with members of the fire department and the sheriff's department who are familiar with the road. I do not believe the finding in a report by either county road official would be in favor with the vacation.

If you decide to proceed with the vacation, you will need to submit the required documentation along with the vacation fees to the Jefferson County Public Works Department. Their phone number is (541) 475-4459.

3. Addressing on SW Metke Ln

As noted in previous discussions the department is working in cooperation with the Camp Sherman Fire Department and the Sheriff's department to resolve road name and address conflicts in the area. The authority and criteria for the naming of a road and the assignment of an address for a parcel is defined in Jefferson County Code 12.03. As the current addressing official, I will be resolving any addressing and road naming conflict. Under 12.03, only the addresses assigned in accordance with that code may be posted.

4. Private Access and Utility Easement on 13-09-16-A-600:

The 30'x30' easement described on the above parcel is an exclusive private easement not a public dedication. As such, the location of the gate in that area is a civil issue between the underlying land owner and the benefactor of the private easement.

As long as emergency services can open the gate in an emergency, it is in compliance with Jefferson County Code 12.18.

Unless the benefactor of that easement has an issue with the gate, the access is in compliance with 12.18. The civil issue does not fall under the county's jurisdiction.

Please feel to contact me if you have any further questions.

Sincerely;



Rich Black, P.E.  
County Engineer

CC: Mike McHaney, Jefferson County Public Works Director  
Dave Blann, Jefferson County Sheriff Deputy  
Gary Marshall, Sisters Fire Department

# JEFFERS County Assessor's Summary Report

## Real Property Assessment Report

FOR ASSESSMENT YEAR 2013

April 1, 2014 11:08:53 am

Account # 8355	Tax Status ASSESSABLE
Map # 130916-AA-01600	Acct Status ACTIVE
Code - Tax # 0312-8355	Subtype NORMAL
Legal Descr See Record	
Mailing Name METKE, BRIAN RICHARD	Deed Reference # See Record
Agent	Sales Date/Price See Record
In Care Of	Appraiser RAY SOLIZ
Mailing Address 26311 SW METKE LN CAMP SHERMAN, OR 97730	
Prop Class 401 MA SA NH Unit	
RMV Class 401 03 17 000 6498-1	

Situs Address(s)	Situs City
ID# 1 26311 SW METKE LN	CAMP SHERMAN

Value Summary						
Code Area	AV	RMV	MAV	RMV Exception	CPR %	
0312 Land	79,030	213,280	79,030	Land	0	
Impr.	81,829	101,210	81,829	Impr.	0	
<b>Code Area Total</b>	<b>160,859</b>	<b>314,490</b>	<b>160,859</b>		<b>0</b>	
<b>Grand Total</b>	<b>160,859</b>	<b>314,490</b>	<b>160,859</b>		<b>0</b>	

Land Breakdown											
Code Area	ID#	RFD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Irr Class	Irr Size
0312	1	R		CSRR	Market	100	A	1.07			
0312					OSD - AVERAGE	100					
<b>Grand Total</b>								<b>1.07</b>			<b>0.00</b>

Improvement Breakdown										
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex%	MS Acct #	Trended RMV	
0312	1	1971	153	Two story or more	108	1,536			101,210	
<b>Grand Total</b>						<b>1,536</b>			<b>101,210</b>	

Appr Maint: 2013 - OTHER NEW CONSTRUCTION (GARAGE/OUTBUILDINGS)



# JEFFERSON COUNTY ASSESSOR'S NAME LEDGER

4/1/2014 11:08:46 AM

**Account ID** 8355    **Township** 13    **Range** 09    **Section** 16    **1/4** A    **1/16** A    **Taxlot** A    **Special Interest** 01600

**Effective Date** 08-Aug-1996 12:00 AM    **Transaction ID** 130976    **Entry Date** 08-Aug-1996    **Recorded Date** 08-Aug-1996    **Sale Date** 08-Aug-1996

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	To/From Map
1	129655	1997	HISTORICAL - BOR	U	1900	29553	1	971356		CONVERSION NAME CHANGE	

DISOLUTION MARRIAGE

Name Changes	Status	Name	Name Type	Ownership Type	Ownership %
D		METKE, BRIAN RICHARD	OWNER		

Size Totals	Code	Acres	Sqft	Alternate Size

**Effective Date** 15-Sep-2005 12:00 AM    **Transaction ID** 96979    **Entry Date** 15-Sep-2005    **Recorded Date** 15-Sep-2005    **Sale Date** 15-Sep-2005

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	To/From Map
1	90600	2005	ASSESSOR'S FILE		2005	6698	1	CONVERSION-8355		CONVERSION	

Size Changes	Code	+ / - Size	Alternate Size	Code Area Deleted	Move to Acct	Move To Code
	0312	1.07 Acres				

Size Totals	Code	Acres	Sqft	Alternate Size
	0312	1.07		

**Effective Date** 25-Mar-2014 10:31 AM    **Transaction ID** 675414    **Entry Date** 21-Mar-2014    **Recorded Date** 20-Mar-2014    **Sale Date**

US DISTRICT COURT, ST OR OREGON, PORTLAND DIVISION, CASE NO. 3:12-CV-00384-HZ

Seq	Voucher ID	Tax Year	Document Source	Type	ID #1	ID #2	PID	Source ID	PT	Operation	To/From Map
1	981728	2014	CLERK - BOR	U	2014	820	1			TLC	

Size Totals	Code	Acres	Sqft	Alternate Size
	0312	1.07		

**OFFICIAL RECORD OF DESCRIPTIONS  
OF REAL PROPERTY  
COUNTY ASSESSOR'S OFFICE**

13	9	16	A	A	1600			31-2
TWP.	RGE.	SEC.	1/4	1/16	PARCEL NUMBER	Type	Spec. Int. In	CODE AREA NUMBER
MAP NUMBER					REAL PROP.			
TAX LOT NUMBER								

FORMERLY PART OF 13-09-16A 500

Incident each new course to this point	DESCRIPTION AND RECORD OF CHANGE	Page 1	Date of entry on this card	Deed Record		Acres Remaining
				Vol.	PG.	
	TWP. 13S., R. 9E., WM.; Sec. 16					
	PARCEL 3					
	Comm at the SW cor of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 16, T. 13S., R. 9E., WM, Jeff Cty, OR; TH N 89° 42' 53" E, alg the S ln of sd NE $\frac{1}{4}$ NE $\frac{1}{4}$ , a dist of 208.70', to the tr POB;					
	TH N 00° 40' 48" E alg the E ln of that tract cony to Lonnie D & Carol J Williams record <sup>d</sup> in Jeff Cty Deed book 67, Page 511, a dist of 232.79'; TH N 89° 43' 47" E, 208.70'; TH S 00° 40' 48" W, 232.62' to the S ln of sd NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; TH S 89° 42' 53" W alg sd S ln, 208.70' to the true POB. Containing 1.11 acres M/L.					
	Subject to a 30' wide road dedication alg the S and W lns of the above desc parcel.					6.30
	Burnes to Metke	WD	2/16/50	21-599		
	EXCEPT: T.L. 501 1 AC Seg Request		10/30/67			5.30
	FIRE DISTRICT CODE CHANGE 31-2		7/11/73			
	ALSO EXCEPT: T.L. 502 2.06	WD	2/28/83	146966		3.24
	BLANN to Public for Road	Declar of Ded	7/22/86	862077		
	BLANN to Public for Road	Declar of Ded	7/29/86	862078		
	BLANN to Public for Road	Declar of Ded	7/16/86	862080		
	Metke to Public for Road	Declar of Ded	7/ 9/86	862081		
	Monris to Public for Road	Declar of Ded	7/11/86	862082		
	Metke to Public for Road	Declar of Ded	7/14/86	862083		
	ALSO EXCEPT: T.L. 503 2.17 AC	Divorce Dec	11/12/86	J-1497		1.07
	MOP85-6 Major Partition		7/ /86	862076		
	Metke to Metke, ET AL	WD	12/15/86	863299		
	NOTICE TO TAXING DIST		3/15/89	ORS 808.225		
	MAP REVISION PARTITION PLAT #1993-10					

(0V-1)

**OFFICIAL RECORD OF DESCRIPTIONS  
OF REAL PROPERTY  
COUNTY ASSESSOR'S OFFICE**

13	9	16	A	A	1600			31-2
TWP.	RGE.	SEC.	1/4	1/16	PARCEL NUMBER	Type	Spec. Int. In REAL PROP.	CODE AREA NUMBER
MAP NUMBER					TAX LOT NUMBER			
FORMERLY PART OF _____								

Indent each new course to this point	8355	DESCRIPTION AND RECORD OF CHANGE	Date of entry on this card	Deed Record		Acres Remaining
				Vol.	PG.	
		POWER LINE EASE. CENTRAL ELEC. CO-OP	EA 12-2-92	923	551	
		Metke, SA to Metke, BR (INCORRECT LEGAL DESCRIPTION)	BS 4-11-97	971	356	
		Metke, SA to Metke, BR (RERECORDED TO CORRECT LEGAL DESCRIPTION)	BS 6-10-97	972	192	



DECLARATION OF DEDICATION

I, Patrick Hatcher, A. B. 1946, B. 1910, do/does hereby dedicate to the public for roadway and utility purposes the following described real property:

The West 30 feet and the South 30 feet of a parcel located in the NE1/4 NE1/4 of Section 16, T. 13S., R. 4E., W.M., Jefferson County, Oregon, described as follows:

Commencing at the Southwest corner of the NE1/4 NE1/4 of Section 16, T. 13S., R. 4E., W.M., Jefferson County, Oregon, thence N 89° 42' 53" E, along the South line of said NE1/4 NE1/4, a distance of 208.70 feet to the true point of beginning; thence N 00° 40' 48" E, along the East line of that tract conveyed to Lonnie D. & Carol J. Williams recorded in Jefferson County Deed Book 67, Page 511, a distance of 1115.39 feet to the Southwest corner of that tract conveyed to Glenn R. & Ruth A. Percival in Jefferson County Deed Book 59, Page 287; thence N 89° 42' 57" E, along the South line of said Percival tract, 208.70 feet; thence S 00° 40' 48" W, 1115.32 feet to the South line of said NE1/4 NE1/4; thence S 89° 42' 53" W, along said South line, 208.70 feet to the point of beginning.

IN WITNESS WHEREOF, this document is executed this 3 day of July, 1985.

Patrick Hatcher  
(signature)

[Signature]  
(signature)

STATE OF OREGON )  
County of Deschutes ) ss.

The foregoing instrument was acknowledged before me by L. D. Harker and Ursula P. Harker this 9<sup>th</sup> day of July, 1985.

Notary Public for Deschutes County  
My Commission Expires: 7/13/87

Jefferson County, acting by and through its Board of Commissioners, does hereby accept the above dedication as a public road pursuant to ORS 92.014.

DATED this 6<sup>th</sup> day of August, 1986.

BOARD OF COUNTY COMMISSIONERS  
OF JEFFERSON COUNTY

Herschel Reed  
Judge  
[Signature]  
Commissioner  
William C. Jackson  
Commissioner

ATTEST:  
[Signature]  
Recording Secretary

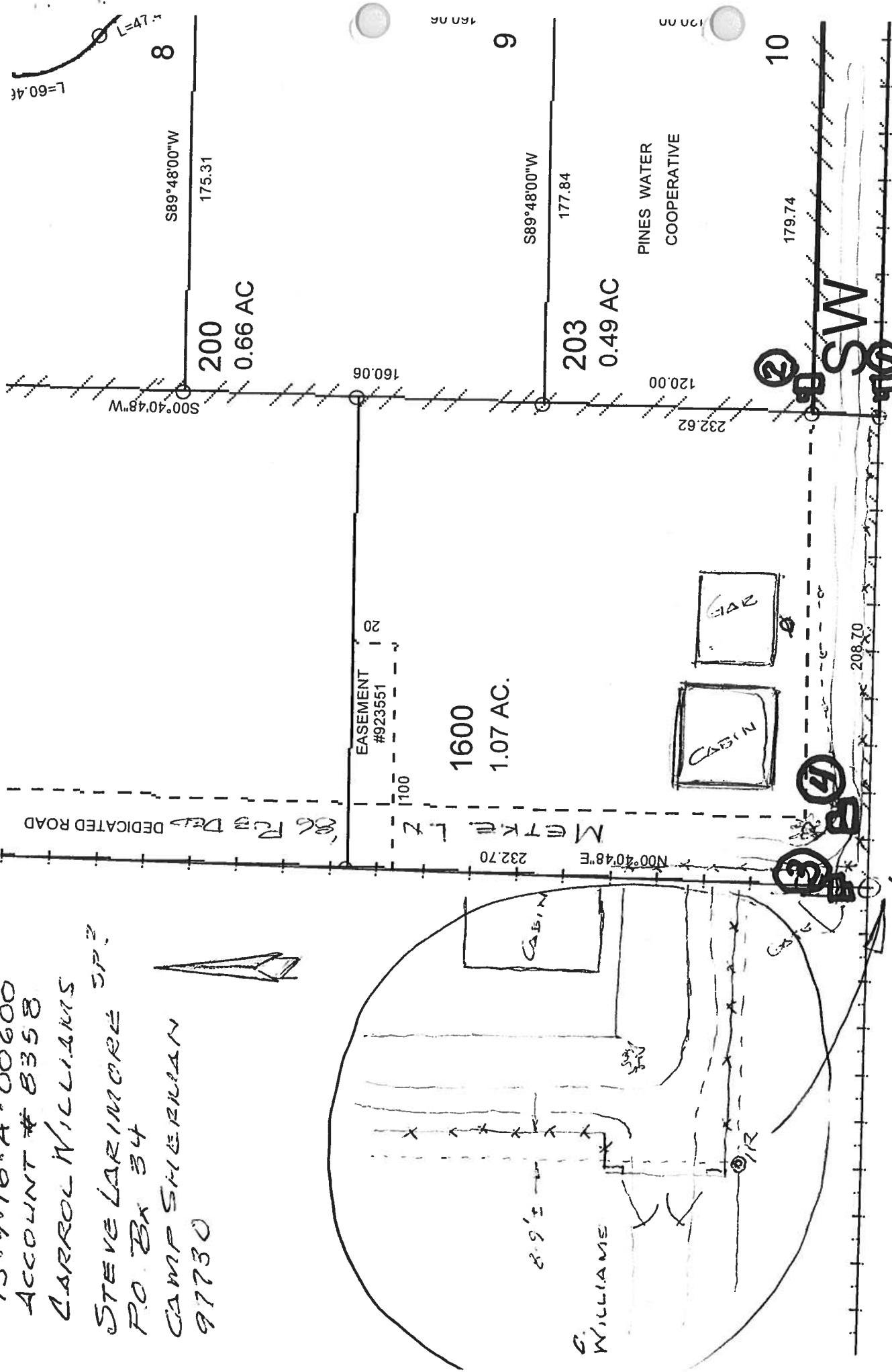
STATE OF OREGON )  
County of Jefferson ) ss.

Before me, a Notary Public, personally appeared Herschel Reed, William C. Jackson, Helmer Walker, the above named Board of County Commissioners of Jefferson County, Oregon, acknowledged the foregoing instrument, on behalf of Jefferson County, Oregon.

DATED this 6<sup>th</sup> day of August, 1986.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 7-11-87

00710A-00600  
 ACCOUNT # 8358  
 CARROL WILLIAMS  
 STEVE LARIMORE SR.  
 P.O. Bx 34  
 CAMP SHERMAN  
 97730



P. 13.9.16 AD-00100  
 ACCT # 8387  
 BILL JOHNSON &  
 NEVA McCARTY  
 P.O. Bx 474  
 PROP CORP  
 H.R.

MSW  
 2  
 3  
 4



1951  
1031  
P.P.P. 001



