BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

WILLIAM KUHN and LEIGH KUHN,
Petitioners,

vs.

DESCHUTES COUNTY,
Respondent,

and

JEFF DOWELL and PAT DOWELL,
Intervenors-Respondents.

LUBA No. 2010-020

FINAL OPINION
AND ORDER

Appeal from Deschutes County.

Pamela Hardy, Bend, filed the petition for review and argued on behalf of petitioners.

Laurie Craghead, Deschutes County Counsel, Bend, filed the response brief and argued on behalf of respondent.

Robert S. Lovlien, Bend, filed the response brief and argued on behalf of intervenors-respondents. With him on the brief was Bryant, Lovlien and Jarvis, PC.

HOLSTUN, Board Chair; BASSHAM, Board Member; RYAN, Board Member, participated in the decision.

AFFIRMED 10/22/2010

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Holstun.

NATURE OF THE DECISION

The county hearings officer reversed a planning department decision that approved a building permit and land use compatibility statement that allow an existing dwelling to be remodeled. On appeal, the board of county commissioners affirmed the hearings officer's decision, but adopted a different legal theory for doing so. In this appeal, petitioners challenge the board of county commissioners' decision.

FACTS

A. Introduction

Petitioners and intervenors-respondents (intervenors) own adjoining 4.3-acre parcels and have had a number of disputes over the years. The current dispute concerns a building permit and land use compatibility statement (LUCS) for a remodel of the garage on intervenors' parcel. The parties' dispute concerning the building permit and LUCS has been to LUBA once before. *Kuhn v. Deschutes County*, 58 Or LUBA 483 (2009). At the heart of the parties' dispute is whether intervenors' parcel was "lawfully created," and whether their home was "lawfully established," as required by county law.[1] As currently framed by the parties and the decision that is before us in this appeal, the answers to those questions turn on (1) whether transfer of the parcel now owned by intervenors before there was a recorded agreement between the two parcel owners for maintenance of a commonly owned parcel violated a prior condition of land use approval (and thus violated DCC 15.04.150), and (2)

[1] The county land use laws that underlie the parties' arguments are Deschutes County Code (DCC) 15.04.150 and DCC 18.40.020(M). DCC 15.04.150 provides: "[n]o building permit or mobile home placement permit shall be issued if the parcel of land upon which the building or mobile home is to be erected or located on, or is located on, would be in violation of DCC Title 17, the subdivision title or DCC Title 18, the zoning title." The subject property is zoned F-2 and DCC 18.40.020 sets out the uses permitted outright in the F-2 zone. Alteration of a dwelling is permitted, but under DCC 18.40.020(M) the dwelling must have been "lawfully established."

whether intervenors' dwelling was constructed in violation of a 400-foot maximum setback limitation (thus precluding a building permit under DCC 18.40.020(M)).[2]

Although LUBA typically endeavors to set out a complete description of the factual and procedural context for a decision on appeal, doing so here would greatly complicate this case and serve no useful purpose. Suffice it to say there have been a number of twists and turns in this case, with the result that a number of legal questions that could have been raised or were raised at one time are no longer at issue.[3]

B. The 1980 Conditional Use Permit and Partition

Petitioners' and intervenors' predecessor in interest (Barton) created two 4.3-acre parcels and a commonly owned 34-acre open space parcel in 1980 as a cluster development. A map showing the two 4.3-acre parcels, the 34-acre open space parcel and Sisemore Road, which provides access, is attached to this opinion as Appendix A. Record 633. In approving the cluster development, the county issued two decisions. The first decision, a conditional use permit dated April 3, 1980, imposed conditions of approval. Two of those conditions of approval are set out below:

> "1. The applicant shall receive an approved partition for two residential lots, with the remaining lot to be held in joint ownership prior to the sale of any lots.
>
> "2. Prior to the sale of any lot a written agreement shall be recorded which establishes an acceptable homeowners association or agreement assuring the maintenance of common property in the partition."

---

[2] In the more typical case a street setback is a minimum setback, and a 400-foot minimum setback would require that a dwelling be set back at least 400 feet from the street. As we explain later in this opinion, the setback in this case is a maximum setback to limit intrusion into wildlife habitat. Under a maximum 400-foot setback, the dwelling can be no more than 400 feet from the street.

[3] For example, intervenors complain that the county changed its earlier position that there is no 400-foot setback requirement and that the issue of whether their dwelling violates a 400-foot setback was resolved in their favor by a 2002 circuit court decision. However, intervenors did not appeal the board of county commissioners' decision, which concludes that there is a 400-foot setback requirement and rejects intervenors' contention that the issue was resolved by the circuit court. Neither have intervenors assigned error to the county's determinations on those questions in this appeal. Accordingly, those questions are no longer at issue.

The conditional use permit says nothing about the 400-foot setback that is at issue in this appeal. The genesis of the 400-foot setback and the disagreement concerning that setback is the partition decision discussed immediately below. However, the meaning of condition 2 of the conditional use permit and whether condition 2 has been satisfied is one of the issues presented in this appeal.

The second 1980 decision was a partition approval. A copy of that partition is included as Appendix B to this opinion.[4] Record 298. That plat shows a setback line roughly parallel to and 400 feet west of the portion of Sisemore Road that is adjacent to the 4.3-acre parcels' east (front) parcel line. The plat includes the following descriptive text regarding the setback: "MAX BLDG SETBACK 400' FROM SISEMORE RD." *Id*.

There was no requirement under county law for the 400 foot setback at the time of the 1980 CUP and partition approval. In a February 19, 1980 letter to the planning department, Barton explained that the limitations proposed in the cluster development were to respond to the recommendations and interests of the Oregon Department of Fish and Wildlife (ODFW). Record 156. That letter includes the following statements:

> "* * * The two home sites on the 4.3 acre parcels must be kept within 400 ft. of Sisemore Road. This restriction assures the plot plan will be effective in maintaining the desired cluster effect. * * *" *Id*.

C. Petitioners' Property Line Adjustment and Dwelling

In 1987, petitioners sought approval for a property line adjustment between their parcel and the common open space parcel. The stated reason for the property line adjustment was allow petitioners' house to be sited to improve solar exposure. The property line adjustment application was signed by intervenors' predecessor in interest. The property line adjustment was approved in 1987, and petitioners' house was later constructed. A map

[4] LUBA has added oversized text and a large arrow to Appendix B to more clearly identify the location of the 400-foot setback shown on that plat.

showing the new configuration of the petitioners' parcel is attached as Appendix C. Record 296. The house that is constructed on petitioners' parcel is closer than 400 feet to the section of Sisemore Road that runs from east to west and continues south but petitioners' house is constructed slightly beyond the 400-foot maximum setback shown on the plat.

D. Intervenors Purchase Their Parcel and Build Their Dwelling

In 1989, intervenors purchased their parcel. Although no additional land use permits were required to build a dwelling on the parcel, intervenors were advised of the 400-foot setback and given a copy of the partition plat. Record 73. Intervenors submitted a hand-drawn landscape management plan. Petition for Review Appendix K. Although the drawing shows the proposed house site set back 744 feet west from the parcel's eastern boundary with Sisemore Road, the drawing also includes a note that states "This drawing is not to scale. The house site will not be more than 400 ft. from Sisemore Road." *Id*. The county decision approving the landscape management plan does not include a specific condition of approval requiring that the house be sited no more than 400 feet from Sisemore Road, but does include the following text:

> "The subject parcel was created by a Conditional Use Permit * * * and Minor Partition * * * for two nonforest dwelling sites on the 43.1 acre total parcel. These approvals established the two parcels for building sites which required a maximum 400' setback from Sisemore Road retaining approximately 33 acres for the protection and preservation of wildlife in the area." Record 662.

Intervenors subsequently constructed their home. As far as we can tell, that home is located more than 400 feet from Sisemore Road, if the distance from Sisemore Road is measured exclusively from the segment of Sisemore Road that adjoins intervenors eastern property line. However, Sisemore Road turns west after it passes intervenors and petitioners' front property line. As far as we can tell, it is also undisputed that intervenors' dwelling is set back less than 400 feet from Sisemore Road, if the distance from Sisemore Road is measured from the east/west section of Sisemore Road that borders petitioners' parcel. A map illustrating the different results is attached to this opinion as Appendix D.

E. The Hearings Officer's Decision

In the prior appeal, we remanded the hearings officer's initial decision that dismissed petitioners' appeal. In her decision following our remand, the hearings officer first concluded that sale of intervenors' parcel without a recorded "written agreement * * * which establishes an acceptable homeowners association or agreement assuring the maintenance of common property in the partition," did not violate condition 2 of the 1980 conditional use permit. The HO reasoned that "Condition 2 made the homeowners' agreement a condition precedent to the sale of the cluster development parcels, not to their development with dwellings." Record 544.

Regarding the 400-foot setback, the hearings officer concluded the 400-foot setback shown on the partition plat applies and that intervenors' dwelling was sited in violation of that setback. Based on that violation, the hearings officer concluded the intervenors' dwelling was not "lawfully established," within the meaning of DCC 18.40.020(M), and the building permit and LUCS should not have been issued for the remodel of intervenors' dwelling. On the basis of her finding that intervenors' dwelling was not "lawfully established," within the meaning of DCC 18.40.020(M), the hearings officer reversed the planning department's decision to grant the building permits and LUCS.

F. The Board of County Commissioners' Decision

The hearings officer's decision was appealed to the board of county commissioners. Although the board of county commissioners also concluded that the planning department's decision to grant the building permit and LUCS must be reversed, the board of commissioner's rejected the hearings officer's legal reasoning in reaching that result. First, the board of county commissioners concluded that the transfer of intervenors' parcel without a recorded agreement between the owners of the two parcels for maintenance of the commonly owned parcel violated condition 2, and therefore the parcel was created in violation of the subdivision title of the DCC. We understand the board of commissioners to

have concluded that under DCC 15.04.150 that violation precludes issuance of a building permit.

However, turning to the 400-foot setback requirement, the board of county commissioners first agreed with the hearings officer that the 400-foot setback requirement applies to intervenors' property. However, the board of county commissioners concluded that the 400-foot setback did not have to be measured exclusively from the segment of Sisemore Road that borders the eastern property line of the two parcels, as was done on the plat. The board of county commissioners concluded that the underlying purpose of the setback is to protect the areas of the three parcels that are farther than 400 feet from Sizemore Road for wildlife habitat and since intervenors' house is closer than 400 feet to the east/west section of Sisemore Road that adjoins petitioners' parcel to the south, the 400-foot setback is satisfied in this case.

G. Issues

No party challenges the board of commissioners' conclusion that the transfer of intervenors' property without the homeowners agreement that was required by Condition 2 of the 1980 conditional use permit means the building permit and LUCS are precluded by DCC 15.04.150 until such an agreement is reached and recorded. In their second assignment of error, petitioners only challenge an interpretation of Condition 2 that the board of county commissioners adopted. We reject petitioners' second assignment of error below.

In their first assignment of error, petitioners challenge the board of county commissioners' finding that intervenors' dwelling complies with the 400-foot setback requirement. Because the board of county commissioners' decision to reverse the planning department's decision is not based on that finding, LUBA arguably need not address petitioners' first assignment of error which challenges that finding. However, that issue is sure to arise again in the future if it is not resolved here, and the parties have fully briefed the question. All parties request that we reach and decide that question. We therefore address

and resolve petitioners' first assignment of error after we resolve the second assignment of error.

SECOND ASSIGNMENT OF ERROR

As explained earlier in this opinion, Condition 2 of the 1980 conditional use permit imposed the following requirement:

> "Prior to the sale of any lot a written agreement shall be recorded which establishes an *acceptable* homeowners association or agreement assuring the maintenance of common property in the partition." (Emphasis added.)

Unlike the hearings officer, the board of county commissioners found that the conveyance of intervenors parcel before the agreement required by Condition 2 of the 1980 conditional use permit was entered and recorded violated that condition and under DCC 15.04.150 that violation bars the county from issuing the disputed building permit.[5] Although neither petitioners nor intervenors assign error to that finding, petitioners do assign error to the following additional findings that were adopted by the board of county commissioners:

> "The Board finds that it must also determine the meaning of 'acceptable.' In this case, 'acceptable' means acceptable to the County. That is not to say that the County will enforce the agreement. The County will review the agreement to determine that it 'assures the maintenance of the common property.'" Record 5.

Petitioners contend the above finding was unnecessary to the board of county commissioners' decision, since there is no agreement there is no issue presented regarding who the agreement must be acceptable to. We understand petitioners to contend that issue

---

[5] The board of commissioners findings are set out in part below:

> "[T]he Board finds that [intervenors'] parcel violates DCC Title 18 because of the lack of the existence [of] acceptable homeowner's association regulations or agreement between both property owners for the maintenance of the open space parcel. Because the parcel violates DCC Title 18, the issuance of the remodeling permit was also in error. Moreover, the Board finds that any existing building permits within the partition were issued unlawfully." Record 5.

will not be presented until there is an agreement and it was error for the county of county commissioners to resolve the issue in the decision that is the subject of this appeal.

Petitioners are no doubt correct that the finding regarding who the agreement must be acceptable to is not actually presented in this case, need not have been answered by the board of commissioners, and need not be addressed by LUBA in this appeal. But while it may be improper for a judicial court to decide hypothetical questions, the board of county commissioners is not a judicial court, and it was not improper for the board of county commissioners to reach and decide a question that it felt was likely to arise in reaching the required agreement or arise after that agreement is reached.

The board of county commissioners' interpretation is also obviously correct. The agreement that is required by Condition 2 will only be entered if it is acceptable to both intervenors and petitioners. The only other entity that has any direct interest in the agreement is the county. Viewed in this context, the requirement that the agreement be "acceptable" could only mean it must be acceptable to the county.

Petitioners' second assignment of error is denied.

FIRST ASSIGNMENT OF ERROR

It is readily apparent that the person who prepared the plat that appears as Appendix B to this decision was attempting to show a setback line that is approximately 400 feet from the section of Sisemore Road that adjoins the eastern property line of intervenors' and petitioner's parcels. We say "approximately," because the road curves and the setback lines are straight. Therefore at least parts of the line shown on the plat could not be exactly 400 feet from Sisemore Road. In addition, it is readily apparent that the setback shown on the plat is much less than 400 feet from the section of Sisemore Road that continues west and then south along the remainder of the original property's eastern boundary.

As we have already indicated, that plat also includes text that states "MAX BLDG SETBACK 400' FROM SISEMORE RD" and an arrow pointing to the setback line on

intervenors' and petitioners' property. The board of county commissioners determined that intervenors' are subject to a 400-foot setback from Sisemore Road, but that there are at least three ways that setback could be measured. First, it could be that the line shown on the plat is the required setback. Second, the setback could be measured from the generally north/south section of the Sizemore Road frontage of intervenors' and petitioners' parcels.[6] Third, the setback could be measured along the entire frontage of the two parcels along Sisemore Road. Appendix D shows the setback produced under the first option (petitioners' choice) and the setback produced under the third option (the option ultimately selected by the board of county commissioners). We set out the board of commissioners' analysis of the 400-foot maximum setback requirement below:

> "As for the issue * * * of the maximum setback from Sisemore Road for building the dwelling, no code provision existed in the 1980 that established a maximum set back on the subject property.
>
> "The record indicates, however, that Mr. Barton proposed a 400-foot maximum building setback from Sisemore Road in order to address the Oregon Department of Fish and Wildlife's (ODFW) concerns about protecting the Tumalo Deer Winter Range that was about to be, but had not yet been, designated on the county's comprehensive plan and protected through adoption of the WA Zone (which later included a 300-foot maximum setback from roads). It is uncertain whether or not Mr. Barton proposed the maximum setback from the road, and showed it on the partition plat, in order to secure the county's approval of the partition and cluster development or merely as a gesture to ODFW.
>
> "Thus, it is doubtful that the 400-foot designation on the 1980 plat, by itself, would have been enforceable by the County. The Dowells, however, are now bound by that maximum setback because, in 1992, the Dowells submitted a Landscape Management (LM) site plan containing a notation that the dwelling would not be built beyond the 400-foot road setback in order to obtain site plan approval for their dwelling. Additionally, in that LM site plan approval decision, Deschutes County planner, Paul Blikstad found that the 400-foot designation was applicable to the property and that decision was not appealed.

[6] This would produce a curved setback line (to match the curve in Sisemore Road) in the approximate location of the straight lines shown on the plat.

"The record, however, includes a number of theories regarding which portions of the subject property fall with this 400-foot, maximum setback:

"1) The area between the line shown in Partition Plat 2004-80 labeled "Max. Bldg. Setback 400' from Sisemore Rd." and Sisemore Road.

"2) All areas on the subject property within 400 feet of Sisemore Road, as measured from the subject property's frontage along Sisemore Road.

"3) All areas on the subject property within 400 feet of Sisemore Road, as measured from all points on Sisemore Road, regardless of frontage.

"The Board finds that the establishment of [petitioners'] dwelling * * * within the subject partition set a clear precedent for using measurements other than the line shown in Partition Plat 2004-80 as a basis of complying with the 400-foot maximum setback. The Board also notes that the purpose of a maximum road setback within a Wildlife Area is to minimize wildlife habitat fragmentation by keeping new residential development adjacent to existing roads. The Board finds that this goal is not advanced by arbitrarily tying the measurement of the 400-foot maximum setback to a specific segment of road frontage. Therefore, the Board finds that the 400-foot maximum setback includes all areas on the subject property within 400 feet of Sisemore Road, as measured from all points on Sisemore Road, regardless of frontage.

"The record indicates that the Dowell dwelling falls within 400 feet of Sisemore Road, as measured from all points on Sisemore Road. Therefore, the board finds that the Dowell dwelling complies with the 400-foot maximum setback." Record 6-7.

A. Petitioners' Dwelling as Precedent

We do not agree with petitioners that the construction of their dwelling beyond the maximum setback shown on the plat provides no precedent for the board of county commissioners' decision in this case. Petitioners contend intervenors' predecessor joined in the application for the property line adjustment for intervenors' parcel. That property line adjustment created a parcel that is entirely within 400 feet of Sisemore Road and, according to petitioner, had the legal effect of eliminating the setback on petitioners' lot.

Although the dwelling on petitioners' reconfigured parcel may be entirely within 400 feet of Sisemore Road, it apparently lies slightly beyond the setback line that is shown on the plat. See Appendix D. The stated reason for the requested property line adjustment was to

add land from the common open space parcel to provide a better "southern exposure for a solar designed home" and to have "less impact on the Tumalo Winter Deer Range." Petition for Review, Appendix I. The application says nothing about the 400-foot maximum setback shown on the plat. Although we need not and do not decide the question here, it seems highly doubtful to us that a property line adjustment for a parcel that says nothing about a setback shown on the plat that originally created the parcel could have the legal effect of extinguishing that setback. Based on the record that is before us, we simply do not know why the county approved petitioners' dwelling despite its location partially past the setback shown on the plat. It may be as petitioners allege that the county believed the property line adjustment extinguished the setback line on petitioners' parcel. But it may also be that the county erroneously believed that petitioners' dwelling complies with the setback shown on the plat. Or the county may have believed, consistent with the view adopted in the present decision, that the plat does not provide a definitive location for the setback, and the setback can be satisfied by locating petitioners' dwelling within 400 feet of any portion of the road. All we know is that at least a portion of petitioners' dwelling is located beyond the 400 foot maximum setback shown on the plat. That is some precedent for the county's decision in this matter, albeit not much precedent because we do not know whether the county even considered the setback on the plat at the time it approved petitioners' dwelling.

B. The Setback Cannot be Unilaterally Altered

Citing *Bloomfield v. Weakland*, 224 Or App 433, 199 P3d 318 (2008), petitioners contend the maximum building line shown on the plat is "the functional equivalent of an easement" and the maximum building line "cannot be unilaterally and substantially changed without the consent of all the affected property owners * * *." Petition for Review 14.

In *Bloomfield*, the issue was whether a subdivision plat that showed a "Private Walk Way" to the beach as a dashed line across defendant's lot created beach access easement for plaintiff and other subdivision lot owners, where the deeds in plaintiff's chain of title

included no reference to an easement. Citing earlier cases holding that deeds and plats must be read together, the Court of Appeals concluded that the subdivision plat did create an access easement in favor of plaintiff and other subdivision lot owners. 224 Or App 446-49. The holding in *Bloomfield* concerning access easements would have to be extended to find that petitioners have a protected property interest in the disputed 400-foot setback. But even if we assume such an extension would be appropriate, the question would remain whether the 400-foot setback is the line depicted on the plat or whether the line shown on the plat was intended to represent the more general requirement for a 400-foot setback from Sisemore Road without necessarily establishing the line that is actually depicted on the plat as that 400-foot setback. We turn to that question.

In the typical case, setbacks are required by land use regulations and there is some express or implied guidance on how to measure the setback. That is not the case here. Here, the 400-foot maximum setback was agreed to by petitioners' and interevenors' predecessor Barton, to address ODFW concerns before ODFW and the county adopted the necessary measures to impose a maximum building setback. In other words, the setback was a voluntary accommodation by Barton to governmental entities that were in the process of establishing setback regulations and the required evidentiary support for those regulations. More importantly, there is absolutely no evidence that ODFW requested or that Barton agreed to measure the 400-foot setback in any particular way from Sisemore Road or from any particular segment of Sisemore Road. Given the lack of any evidence that the agreed to setback was to be measured from only the north/south segment of the parcels' Sisemore Road frontage, as opposed to the entire road frontage, we do not believe it is appropriate to assign the line shown on the plat the definitive status that petitioners argue is appropriate. We believe it was appropriate for the board of county commissioners to decline to give the plat maximum setback line definitive status and to consider the likely purpose for the 400-foot setback in the first place. The board of county commissioners' conclusion that the goal

of minimizing wildlife habitat fragmentation by keeping houses close to existing roads "is not advanced by arbitrarily tying the measurement of the 400-foot maximum setback to a specific segment of the frontage" seems entirely reasonable to us.

The county argues that the board of county commissioners is entitled to the highly deferential standard of review described in *Siporen v. City of Medford*, 231 Or App 585, 599, 220 P3d 427 (2009), *rev allowed* 348 Or 13 (2010). Under that standard of review, LUBA is required to defer to certain local government interpretations if the interpretation is plausible. Applying that standard of review, the county argues the board of county commissioners' interpretation is plausible and therefore LUBA must defer. Neither ORS 197.829(1) nor *Siporen* apply here.[7] The additional deference that is required under ORS 197.829(1) and *Siporen* only applies where the governing body that enacted local land use legislation is interpreting that legislation. In this case, the board of county commissioners is interpreting land use applications, permits and a plat, not land use legislation.

But even without the additional deference that is required under *Siporen*, we have already concluded that the board of commissioners' interpretation is entirely reasonable. We decline petitioners' invitation to second guess that interpretation and require that the board of county commissioners interpret the plat to definitively establish the location of the 400-foot maximum setback.

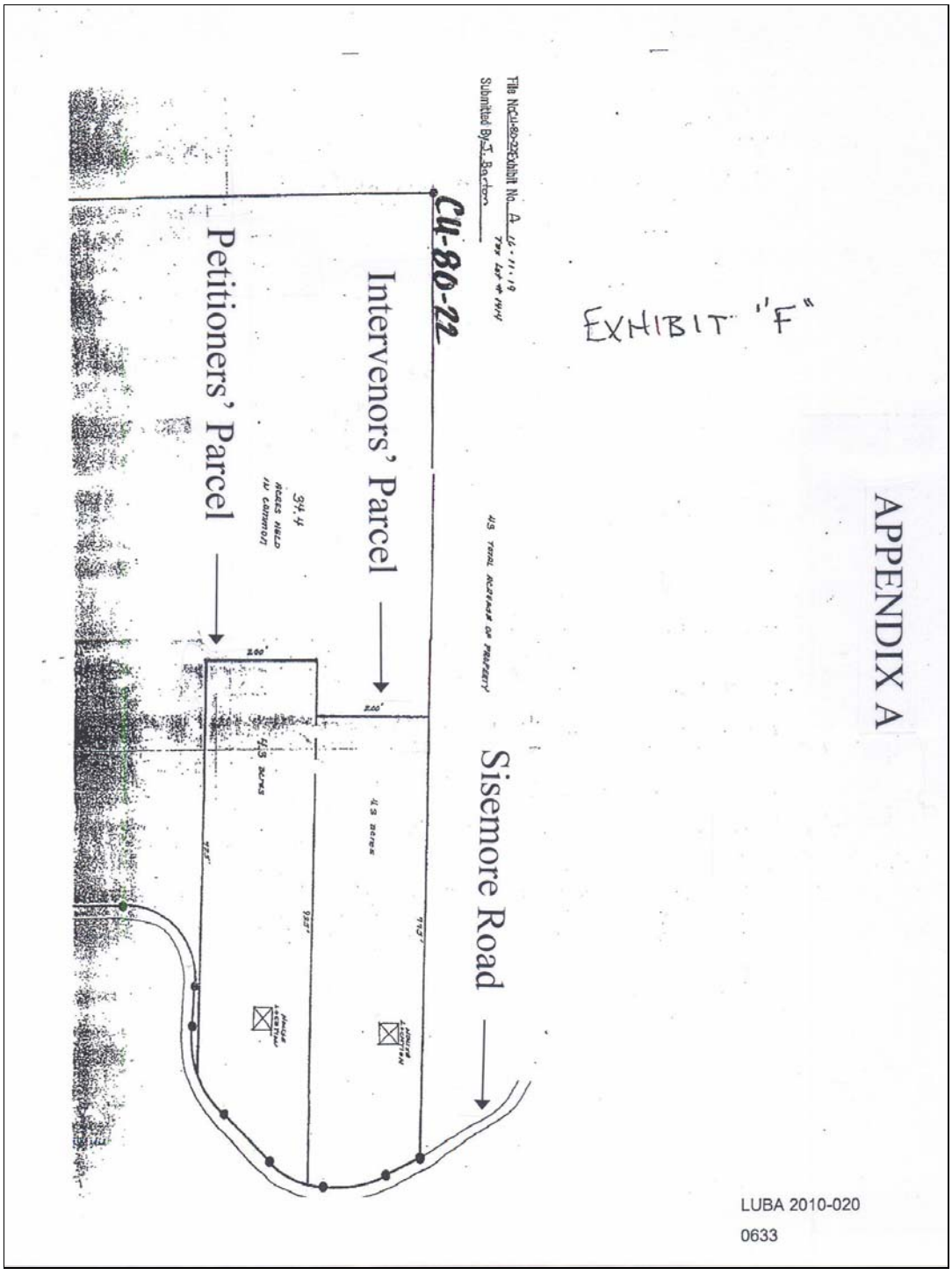
---

[7] ORS 197.829(1) provides, in relevant part:

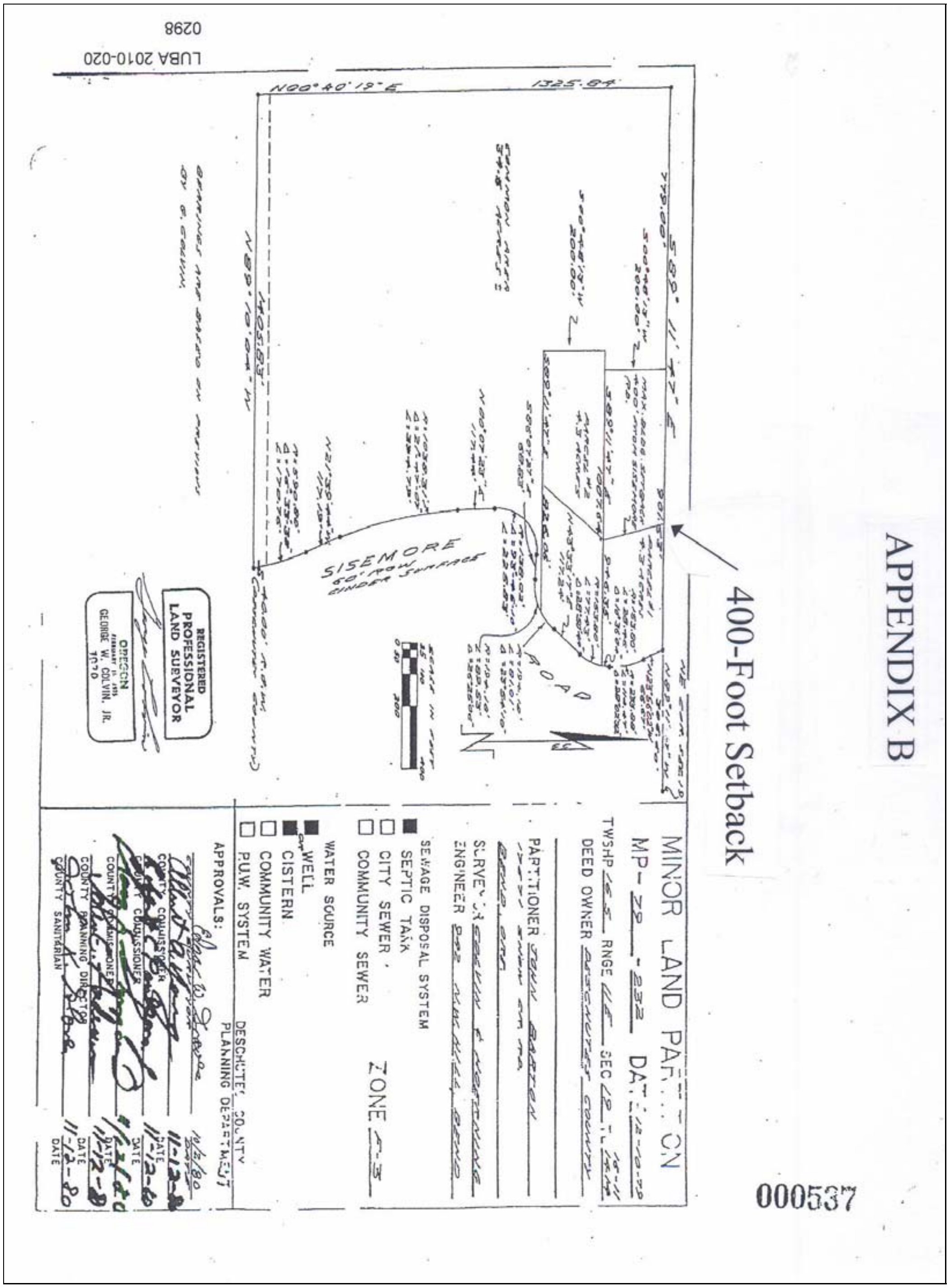
> "[LUBA] shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:
>
> "(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
>
> "(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
>
> "(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation[.]"

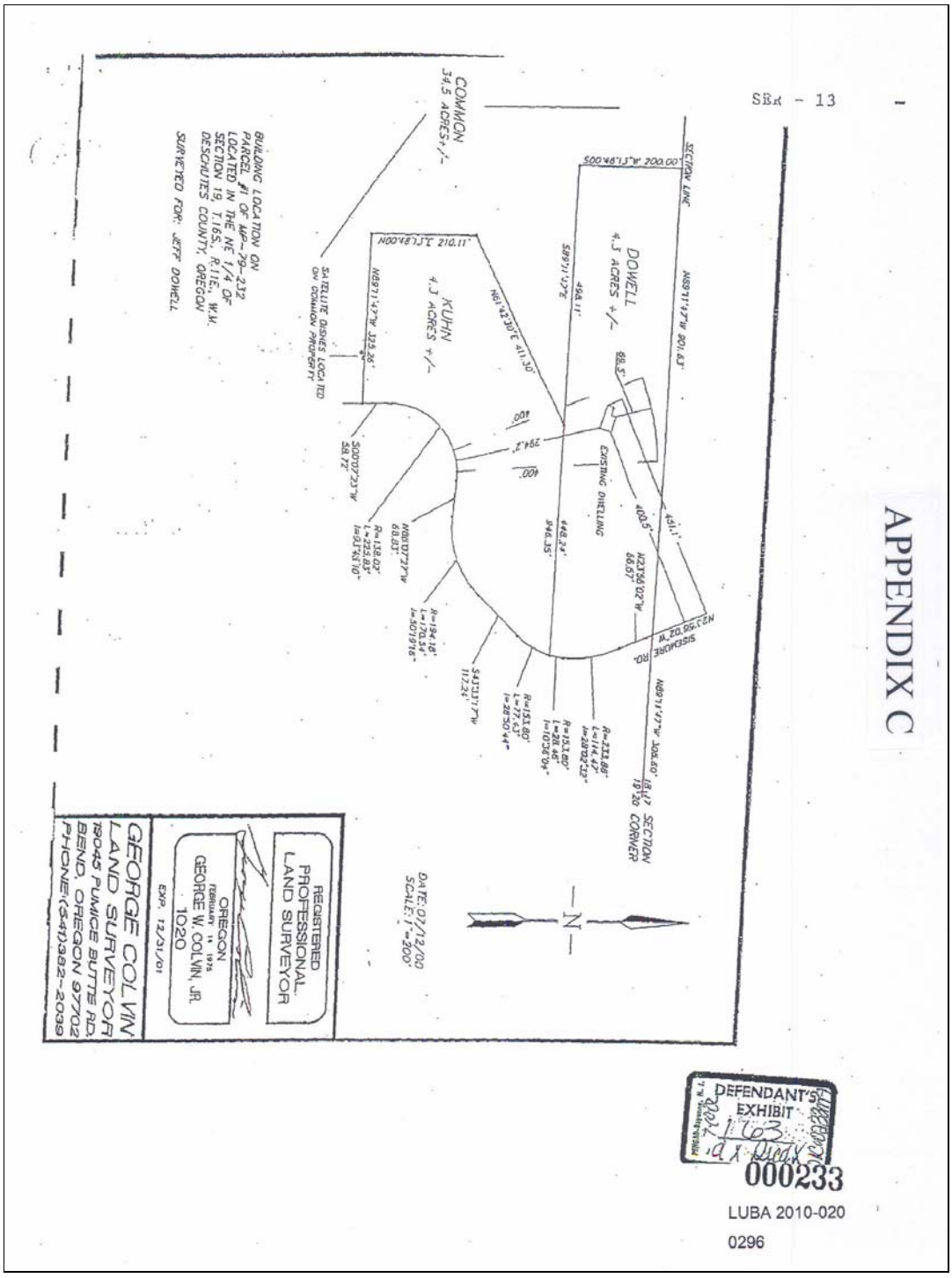
The first assignment of error is denied.

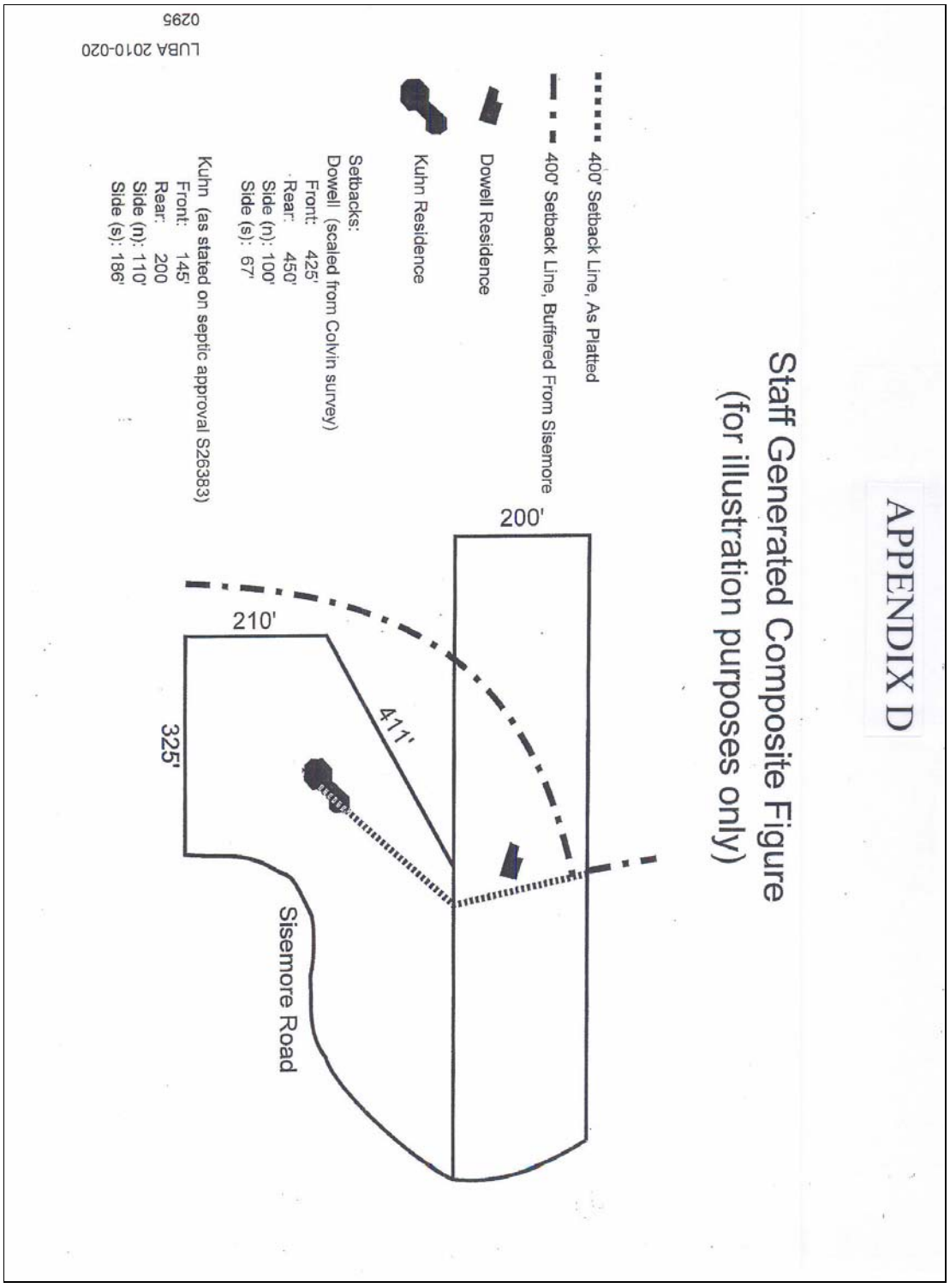
The county's decision is affirmed.


APPENDIX A
EXHIBIT "F"
CU-80-22
Intervenors' Parcel
Petitioners' Parcel
Sisemore Road
LUBA 2010-020
0633

Page 16


APPENDIX B
400-Foot Setback
000537
LUBA 2010-020
0298
SISEMORE
ROAD
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
GEORGE W. COLVIN, JR.
MINOR LAND PARTITION
TWSHP
RNGE
SEC
DEED OWNER
PARTITIONER
SURVEYOR
ENGINEER
SEWAGE DISPOSAL SYSTEM
SEPTIC TANK
CITY SEWER
COMMUNITY SEWER
ZONE
WATER SOURCE
WELL
CISTERN
COMMUNITY WATER
PUB. SYSTEM
APPROVALS:
DESCHUTES COUNTY PLANNING DEPARTMENT
COUNTY COMMISSIONER
COUNTY PLANNING DIRECTOR
COUNTY SANITARIAN
DATE


APPENDIX C
SEE - 13
BUILDING LOCATION ON PARCEL #1 OF MP-79-232 LOCATED IN THE NE 1/4 OF SECTION 19, T.16S., R.11E., W.M. DESCHUTES COUNTY, OREGON
SURVEYED FOR: JEFF DOWELL
COMMON 34.5 ACRES +/-
DOWELL 4.3 ACRES +/-
KUHN 4.3 ACRES +/-
EXISTING DWELLING
SISEMORE RD.
SECTION CORNER
SECTION LINE
DATE: 02/13/00
SCALE: 1" = 200'
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JANUARY 14, 1975
GEORGE W. COLVIN, JR.
1020
EXP. 12/31/01
GEORGE COLVIN
LAND SURVEYOR
19045 PUMICE BUTTE RD.
BEND, OREGON 97702
PHONE (541)382-2039
DEFENDANT'S EXHIBIT
000233
LUBA 2010-020
0296


APPENDIX D
Staff Generated Composite Figure
(for illustration purposes only)
400' Setback Line, As Platted
400' Setback Line, Buffered From Sisemore
Dowell Residence
Kuhn Residence
Setbacks:
Dowell (scaled from Colvin survey)
Front: 425'
Rear: 450'
Side (n): 100'
Side (s): 67'
Kuhn (as stated on septic approval S26383)
Front: 145'
Rear: 200
Side (n): 110'
Side (s): 186'
LUBA 2010-020
0295
200'
210'
411'
325'
Sisemore Road