



# MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918 Phone (541)473-5185 Fax (541)473-5140

March 6, 2020

Jeffrey B. & Amber L. Downie  
PO Box 246  
Adrian, OR 97901  
jefedownie@yahoo.com

SENT VIA EMAIL & USPS

RE: Informal Request for Replacement Dwelling (Map:22S46E03; Tax lot: 800; County Reference Number: 10890)

Mr. Downie,

For the past several months, we have been in communication regarding your desire for a replacement dwelling (of a non-existent structure) on the above referenced parcel. As part of your request, a property line adjustment will separate the existing home from the replacement dwelling. During our conversations, I referenced Oregon Revised Statute (ORS) 215.283 as the guiding document for replacement dwellings. The 2019 legislative session provided an amendment to the applicable portion of ORS 215.283 which took effect on January 1, 2020, through House Bill 3024. A copy of the House Bill was provided to you. ORS 215.283(1)(p) now reads:

- (1) *A lawfully established dwelling may be altered, restored or replaced under 215.283(1)(p) if the county determines that:*
  - (a) *The dwelling to be altered, restored, or replaced has, or formerly had:*
    - (A) *Intact exterior walls and roof structure;*
    - (B) *Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;*
    - (C) *Interior wiring for interior lights; and*
    - (D) *A heating system; and*
  - (b) (A) *If the dwelling was removed destroyed or demolished:*
    - (i) *The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and*
    - (ii) *Any removal, destruction or demolition occurred on or after January 1, 1973;*
  - (B) *If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or*
  - (C) *A dwelling not described in subparagraph (A) or (B) of this paragraph was assessed as a dwelling for the purposes of ad valorem taxation:*

- (i) For the previous five property tax years; or*
- (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.*

On February 24, 2020, you provided my office with the following 4 documents:

1. Affidavit of Jeffrey B. Downie
2. Affidavit of Amber L. Downie
3. Affidavit of Marsha Spiers
4. Affidavit of Keith Spiers

The intent was for these documents to satisfy the requirements of ORS 215.283(1)(p), and show the home “has or formerly had” a roof and walls, indoor plumbing, interior wiring, and a heating system as required by ORS 215.283.

At this time, this office has not received any formal application for this proposed project (for a property line adjustment or replacement dwelling). In order to make a final determination and to start the quasi-judicial land use process, an application for both the property line adjustment and the replacement dwelling must be submitted.

The property line adjustment will be easily doable. In regards to the replacement dwelling, upon a completed application, the process would include an Administrative Decision from my office determining if it meets the criteria of all applicable state law and county code. Informally, and at this time based upon all information to date, I have determined that there is not substantial evidence in the record to support your request.

As part of the quasi-judicial land use process, per Malheur County Code 6-13, an applicant can appeal any formal decision made by the Planning Director. The appellate authority of a decision of the Planning Director is the Malheur County Planning Commission.

Thank you,



Eric Evans, REHS  
Planning Director

Cc: Judge Dan Joyce