

VOL: 1999 PAGE: 18249
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

I hereby certify that the attached instrument was
received and duly recorded in Deschutes County
records:

DATE AND TIME: Apr. 14, 1999; 3:22 p.m.

RECEIPT NO: 4650

DOCUMENT TYPE: Covenants,
 Conditions & Restrictions

FEE PAID: \$95.00

NUMBER OF PAGES: 14

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK



99-18249-1

CKS

209084-7N

RECORDED BY
VES TRN TITLE & ESCROW CO.

Declaration of South Barclay Properties

THIS DECLARATION is made this 13 day of April
1999, by Theodore Lowell Eady and Keri Eady.

OBJECTIVES

Declarant owns property located in the City of Sisters in Deschutes County, Oregon. Declarant proposes to develop portions of this property as a Commercial/Industrial and Residential development to be known as South Barclay Properties.

Owner has filed the plat of South Barclay Properties in the plat records of Deschutes County, Oregon. Declarant desires to subject the property described in such plat to the covenants, conditions, restrictions, and charges set forth herein for the benefit of such property and its present and subsequent owners.

NOW, THEREFORE, Declarant hereby declares that the property covered in the plat of South Barclay Properties, more particularly described on Exhibit A attached hereto, shall be held, sold, and conveyed subject to the following easements, covenants, conditions, restrictions, and charges, which shall run with such property and shall be binding upon all parties having or acquiring any right, title, or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

Upon any default or foreclosure, secured lenders shall remain responsible only for property taxes and normal City assessments. Lenders will not be responsible for any special assessments.

ARTICLE 1

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "Architectural Review Committee" means the Architectural Review Committee appointed pursuant to Article 5 hereof.

(a) The initial Architectural Review Committee shall consist of the following members:

- | | | |
|---|---|-----------------|
| Theodore Lowell Eady | - | Developer/Owner |
| Steven E. McGhehey/Richard L. Carpenter | - | Developer/Owner |
| (Member) | - | |
| Member to be elected by majority property owners. | | |

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(b) Any member of the Architectural Review Committee may resign at anytime. Upon resignation of one of the above members, the remaining members will appoint a new member by a vote of owners.

1.2 "Improvement" means every temporary or permanent structure or improvement of any kind, including but not limited to a building, fence, wall, driveway, storage shelter, signs, trash screens, or other product of construction efforts on or in respect to any property within the Project, including landscaping, and every alteration, painting, or reconstruction thereof.

1.3 "Lot" means a platted or legally partitioned lot within the Project."

1.4 "Owner" means the person or persons, owning any Lot, including any vendee under a recorded land sales contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot, including any vendor under a recorded land sales contract who has given up possession. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.5 "Project", South Barclay Properties, means the property described on Exhibit A attached hereto.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

Declarant hereby declares that all the real property described on Exhibit A attached hereto is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied, and improved subject to this Declaration.

ARTICLE 3

RESTRICTIONS ON USE OF LOTS

3.1 Approved Uses. Lots within the Project may be improved, operated, and used only for retail, commercial, industrial, professional office uses/music schools, nurseries, radio/television broadcasting technology/business schools, and craft person's studios and residential uses as permitted by the City of Sisters ordinances. Industrial/legal uses must comply with the Sisters Ordinances. In connection with the sale of Lots, Declarant may require that the purchaser of any Lot agree to improve such Lot for a specific use. The basis for such specific uses shall be the selection of business,

professional, and commercial uses which will be in harmony with the surrounding area and coordinated with other business, professional, and commercial activities in the Project. Any change or modification of a use specified by Declarant shall be effected only after such written approval is obtained from the Architectural Review Committee

3.2 Commercial Maintenance. Each Lot and all Buildings thereon shall be maintained in a clean and attractive condition, in good repair, and in such a fashion as not to create a fire hazard. All garbage, trash, cuttings, refuse, garbage, refuse containers, and other service facilities located on each Lot shall be screened from view in a manner approved by Declarant.

3.3 Offensive Activity. No offensive activity shall be carried on nor shall anything be done on any Lot that may be or become a nuisance to the other Owners.

3.4 Compliance with Laws and Regulations. In addition to compliance with this Declaration, each Owner shall comply with all applicable State of Oregon Department of Environmental Quality, the health and zoning ordinances of City of Sisters and the applicable building codes. This Declaration is designed to compliment such laws and regulations, and where any conflict occurs, the more rigid requirement shall prevail.

ARTICLE 4

ARCHITECTURAL REVIEW

4.1 Approval Required. No Improvement, as defined in Section 1.5 above, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this Declaration until plans have been submitted to and approved in writing by the Architectural Review Committee, except site plans submitted or approved prior to the recording date of this document.

4.2 Procedure. Any Owner proposing to construct any Improvements within the Project (including addition, destruction, or modification to any such Improvements) shall follow the procedures and shall be subject to the approvals required by this Article 4. Failure to follow such procedures or obtain such approvals as required by this Article 4 shall be deemed a breach of this Declaration.

4.3 Required Documents. Any Owner proposing to utilize, improve, or develop real property within the Project shall submit the following items for review:

(a) A site plan showing the location, size, configuration, and layout of any Building, structure, or Improvement (or, where applicable, any alteration, addition, modification, or destruction thereto), including appurtenant facilities for parking, storage, fences, and vehicular and pedestrian traffic and circulation.

(b) Architectural plans and drawings showing the nature, style, and dimensions of any Building, structure, fence, wall, barrier, or deck (or, where applicable,

any alteration, addition, modification, or destruction thereof), including the exterior material types, colors, and appearance. The scale of plans shall be 1 inch = 20 feet or larger.

(c) A landscape plan showing the nature, type, size, location, and layout of all landscaping, vegetation ground cover, landscape and site lighting, walks, major existing vegetation and irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed).

4.4 Review All plans and drawings identified in Section 4.3 above shall be submitted to the Architectural Review Committee for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied by a check payable to the Architectural Review Committee in an amount to be determined by the Architectural Review Committee from time to time. No plans shall be reviewed until the architectural review fee is paid in full and all items specified in this section are submitted. Within 30 days following receipt of such plans and drawings, and the full amount of the architectural review fee, Declarant shall review the plans and shall inform the Owner in writing whether the plans conform to the development concept for the Project. In the event the Owner is not notified as to the conformity of the plans within the 30-day review period, the plans are conclusively presumed to be approved as submitted. In the event any of the plans do not conform to the Project development concept, the Owner shall resubmit those nonconforming portions of the plans for review in accordance with the procedures outlined in Section 4.3 and until all aspects of all plans required under Section 4.3 above and this paragraph have been approved by the Architectural Review Committee. Any site plans, construction plans, connection with the construction of any Improvement in the Project must bear the prior written approval of the Architectural Review Committee.

4.5 Architectural Guidelines. The development concept for the Project shall be determined by the Architectural Review Committee in accordance with applicable statutes, ordinances, regulations, zoning, and other governmental land use controls. Architectural guidelines setting forth various aspects of the development concept, in addition to this Declaration, shall be published from time to time by the Architectural Review Committee. The Architectural Review Committee shall have the right to alter, rescind, or amend any published guidelines without prior notice to any party, provided, however, that once approval has been given pursuant to Section 4.4 above, work may proceed in accordance with the approved plans and drawings, notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with this Declaration.

4.6 Waiver. Any condition or provision of Sections 4.2 through 4.6 above may be waived by the Architectural Review Committee in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the Project. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under Sections 4.2 through 4.6. The granting of a waiver as to one

Owner shall not automatically entitle any other Owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the Architectural Review Committee and delivered by certified mail to the party claiming the benefit of such waiver.

4.7 Majority Action. Except as otherwise provided herein, a majority of the members of the Architectural Review Committee shall have the power, after notification of all members, to act on behalf of the Architectural Review Committee, without the necessity of a meeting. After notification of all members, any member may request a meeting of the Architectural Review Committee before a final decision may be rendered. This meeting shall occur within 10 days of the notification. If no meeting has been requested, the Architectural Review Committee's decision, in a written instrument setting forth the action taken by the members consenting thereto, shall be final.

4.8 Liability. The scope of the Architectural Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering, building, or zoning code compliance or other similar considerations. Neither the Architectural Review Committee nor any member thereof shall be liable to any Owner, tenant, occupant, invitee, builder, or developer for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the Architectural Review Committee or a member thereof, provided only that the Architectural Review Committee has, or the member has, in accordance with the actual knowledge possessed by the Architectural Review Committee or by such member, acted in good faith.

4.9 Effective Period of Consent. The Architectural Review Committee's consent to any proposed Improvement shall automatically be revoked one year after issuance unless construction of the Improvement has been commenced or the Owner has applied for and received an extension of time from the party granting consent.

ARTICLE 5

Architectural Theme Design Minimum Standards

01. **Purpose**. The purpose of this section is to provide architectural theme standards for development that will, when provided by the developer(s) be in conformance with the purposes, provisions, and objectives of this ordinance and the Comprehensive Plan.

02. **Sisters "False Front" Western Frontier Architectural Design Theme**. This design theme will apply to all new, reconstructed, or remodeled commercial uses in the General Commercial Zone and the Highway Commercial Zone. In the Highway Commercial Zone, the existing motel and supermarket are acceptable examples of the Theme. Each establishment is subject to design review for compliance with the central architectural theme. Owner of Industrial property on street frontage only, to follow

Sisters Western False Front Theme per interpretation of majority vote of Architectural Review Committee.

1. Approved Materials.

A. Roofs. Coverings shall be non-reflective, asphalt, and other appropriate materials. If wood roofing is used it shall be fire retardant treated.

B. Exterior Finishes. Typical materials are varieties of horizontal wood siding, vertical board and batten (rough sawn or surfaced four sides) and cedar shingles, with the latter particularly applicable to ornamental patterns on residential structures. Brick or stone masonry provides additional choices of material. Any T-111 (grooved) plywood siding is prohibited. Smooth plywood shall not be used as an exterior finish material. Roughsawn plywood may be used as exterior finish material, but only in board and batten applications with battens of no less than nominal 1 x 2 dimension, placed on centers not exceeding 12 inches. All vertical plywood joints and seams shall be covered by battens, and no plywood edges shall be left exposed.

Where the exterior is not painted the exterior is to be oiled and/or stained to protect the surface materials. This is practical with the use of cedar or redwood which both contain natural oils that protect the wood. As a practical matter for extended protection of any board and batten surface, the use of sealer or oil base of solid color stain is warranted. The same is true of vertical surfaces finished with cedar shingles.

Horizontal wood drop siding was normally finished with paint, however, in many instances no finish was applied. Here a sealer or stain would be appropriate in lieu of a painted surface.

C. Windows. Wood sash windows are typical, to include double hung, casement, horizontal sliding and fixed sash. Availability of currently manufactured stock in styles keeping with the period, is limited as to capturing the period window style. This is particularly true for large expanses of glass in commercial storefronts and will undoubtedly require special foundation.

D. Doors. Combination glass and wood panel doors are typical and are available in certain standard types, in single and divided glass lights. To approach the variety of period door styles will require modification of standard door types, particularly in arrangement of glass lights or necessitate special manufacture.

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E. Colors. Rough sawn or milled boards and batten, particularly cedar and redwood, may be retained in a natural finish which ultimately weathers to silver gray in color.

During the period, there was a lack of high gloss finishes, therefore color applications were generally flat in nature. To duplicate this character, flat or low gloss products currently on the market should be utilized.

Applied surface colors were predominately flat white for most buildings. Large area surface colors other than white were primarily flat earthy ochres, yellows, browns and reds. Trim was found at the cornices, vertical corner trim of a building, windows and doors, porch and balustrade.

Actual color samples on the proposed materials shall be provided for consideration of approval by the hearings body for all site plans and repainting existing buildings.

F. View Protection Corridor. Protection of view corridors are provided for and as related in attached exhibit B, showing the areas subject to this requirement.

2. Architectural Techniques. Examples of typical western frontier architectural styles found in the turn of the century western United States are illustrated in Appendix C. The false front architectural characteristic as depicted in Appendix C shall be utilized for all new, reconstructed, or remodeled uses in the General Commercial and Industrial Zone. The only exception to this shall be applicants providing a photograph or plans of an historical commercial building existing at turn of the century east of the Cascade Mountains in Oregon to be reproduced on the site. Decisions about the appropriateness of a particular design will be made on an individual application by the Hearings Body.

3. Public Art. All sculpture and visual art displayed for the public in the General Commercial or Highway Commercial zones and located on the exterior of a building or on grounds outside of a building shall be subject to Architectural Theme Design and Site Plan Approval to insure compatibility with the western frontier theme.

4. Benches. Benches should be provided in both public and private pedestrian areas and walkways. Benches in public areas on private property, adjacent to public right of way, shall comply with the western frontier theme.

5. Trash Enclosures. Trash enclosures shall be carefully located and treated to integrate with the appearance of the site/building design. The roof pitch and materials shall be consistent with the western frontier theme and the style of the adjacent buildings. It is recommended that placement of the enclosures be combined with neighboring properties where reasonably possible.

6. Lighting. Lighting shall be low intensity, shaded, subject to review and shall be compatible with the western frontier theme. Exterior lighting shall comply with 15.02.310 **Supplementary Provisions, 11 Outdoor Lighting.** No fluorescent lighting may be exposed.

7. Building Entrances. Entrances to the building shall be recessed from the public sidewalk to provide for an entryway not in conflict with the pedestrian circulation on the sidewalk.

8. Roof, mechanical equipment and satellite dishes. Such equipment shall be screened in a method consistent and integral with the overall architectural appearance of the structure.

9. Architectural Details. Attention to detail is of significant importance. Lighting fixtures, gates, exterior window treatments, use of materials and color must be considered relative to the western frontier period for authenticity and detail.

10. Awnings, canopies, porches. Awnings, porches, canopies or other additions to a structure shall be reviewed and approved and shall be compatible with the western frontier theme. Such additions on corner buildings shall be continuous around the corner.

ARTICLE 6

SUBORDINATION AND CHANGES

This declaration will be subordinate to any duly adopted changes by the City of Sisters ordinance regarding the property.

The powers and obligations of this Declaration may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, by a 75% vote of property owners.

99-18249-9

IN WITNESS WHEREOF, Declarant has executed this Declaration this 13 day of April, 1999.

Theodore Lowell Eady
Theodore Lowell Eady

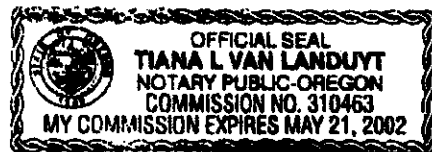
Keri Eady
Keri Eady

STATE OF OREGON, County of Deschutes: ss.

I certify that I know or have satisfactory evidence that Theodore L. Eady, Steven E. McGhehey and Richard L. Carpenter are the persons who appeared before me, and signed this instrument and acknowledged it to be its free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: April 13, 1999

Tiana L. Van Landuyt
NOTARY PUBLIC FOR OREGON
My commission expires 5-21-2002



99-18249-10

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1, PARTITION PLAT NO. 1999-13

PARCEL 2, PARTITION PLAT NO. 1999-13

THAT PORTION OF PARCEL NO. 3, PARTITION PLAT NO. 1999-13 LYING SOUTHERLY OF
BARCLAY DRIVE

ALL BEING SITUATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 15 SOUTH,
RANGE 10 EAST, WILLAMETTE MERIDIAN, CITY OF SISTERS, DESCHUTES COUNTY,
OREGON

Exhibit "B"
Restrictions Regarding Structures in View Corridor

Area 1

Building in the diagonal view corridor must adhere to the following height restrictions

1. 33% of the view corridor shall be open space.
- * 2. 20% of the buildings in the view corridor shall not exceed 30' in height.
3. 20% of the remaining view corridor may have buildings up to 19' in height.
4. The remaining 27% of the view corridor may have building heights of 16' or less.

* Allowed in this area are features (including but not limited to: columns, gates, signs, security shack, etc.) These features are to be 10 feet in height or less.

Area 2

Buildings in the diagonal view corridor must adhere to the following height restrictions.

1. 60% to be 20 feet or less.
2. 40% to be 30 feet or less.

Additional Criteria

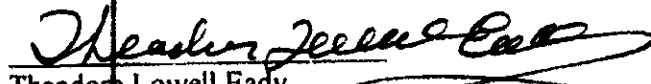
The following criteria pertain to the view corridor only.

1. Architectural features may exceed height limitations.
2. Tree species selected for this area will not exceed 20 feet in height.
3. Design will be subject to review by design review committee as agreed upon by all parties.

Acknowledged:


Steven E. McGhehey


Richard L. Carpenter


Theodore Lowell Eady

66-18244-12

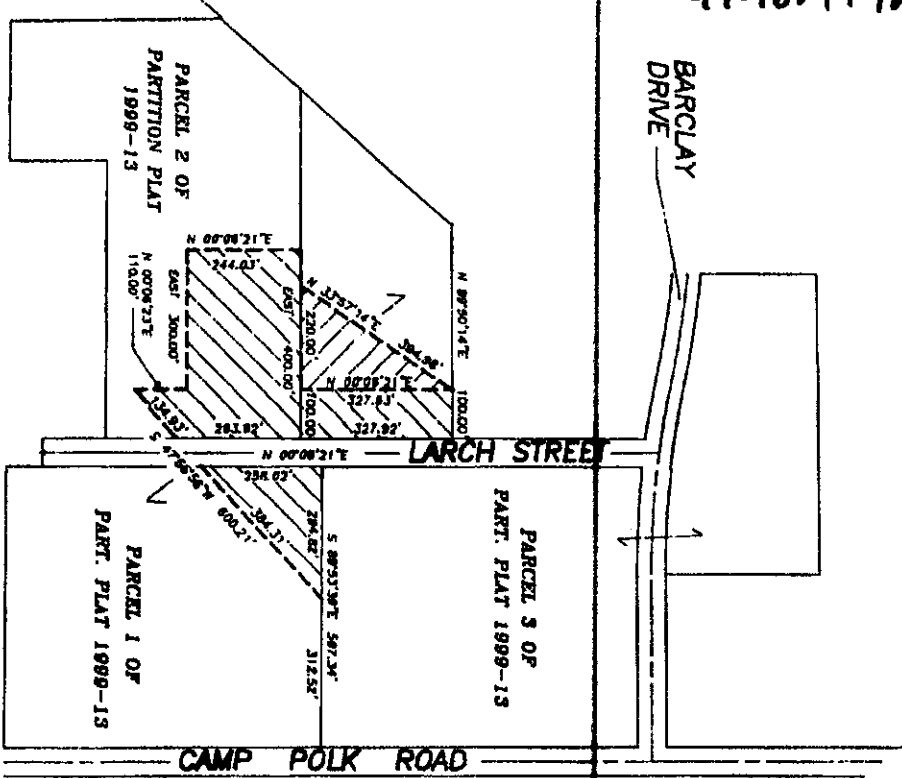
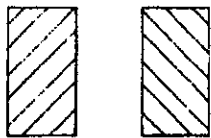


EXHIBIT B

RESTRICTIONS REGARDING STRUCTURES IN
VIEW CORRIDOR

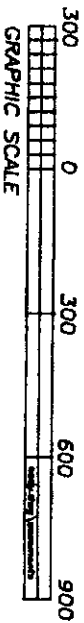
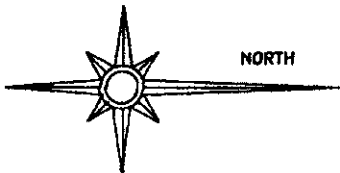
OVER AND ACROSS PARCELS 1 & 2 OF PARTITION
PLAT 1999-13, SITUATED IN THE SW 1/4 OF

SEC. 4, T15S, R10E, W.M.,
CITY OF SISTERS & DESCHUTES COUNTY, OREGON



AREA 1

AREA 2



Fred. A. Art, Jr. and Associates

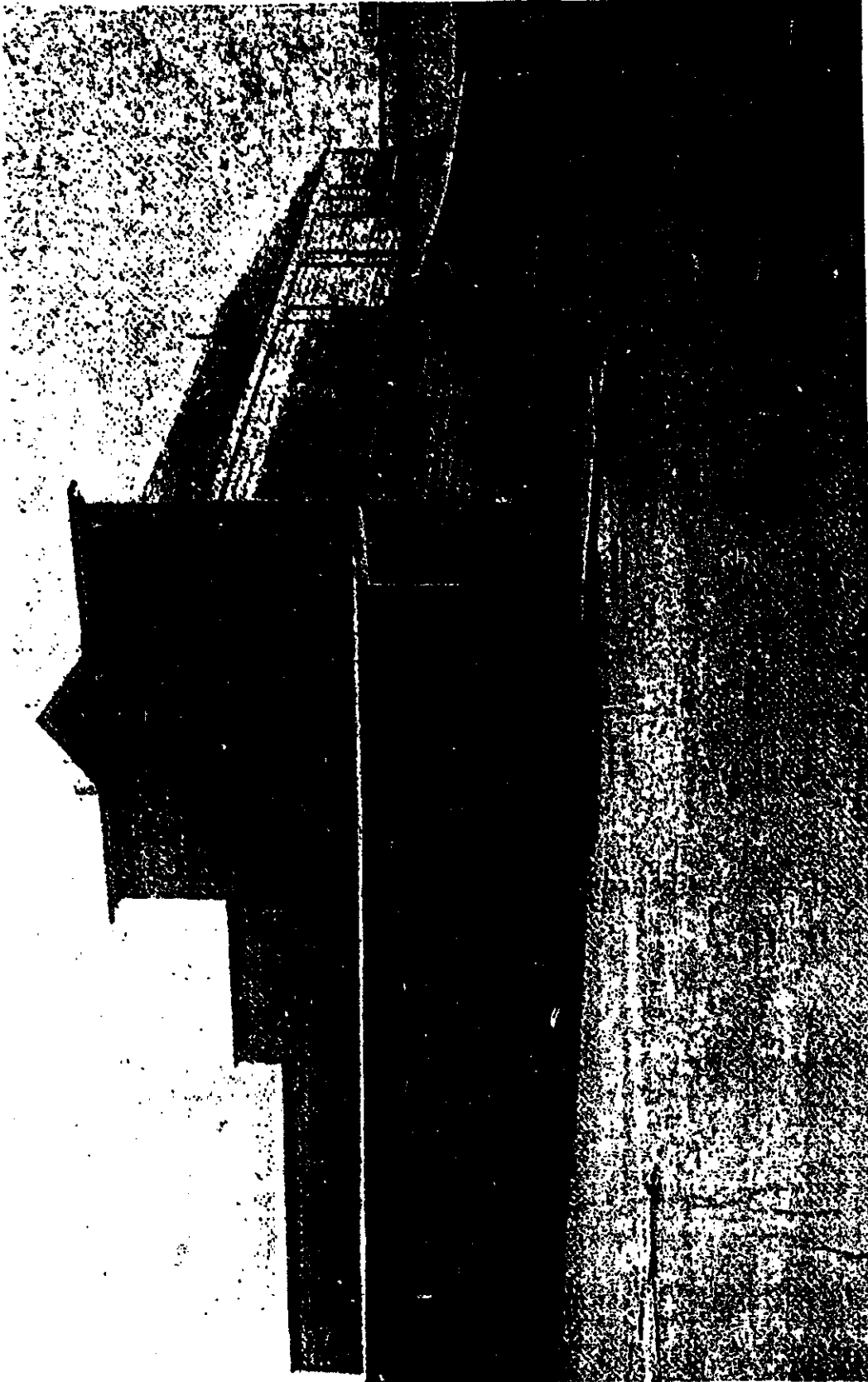
250 W. Cascade Avenue

P.O. Box 751

Sisters, Oregon 97759

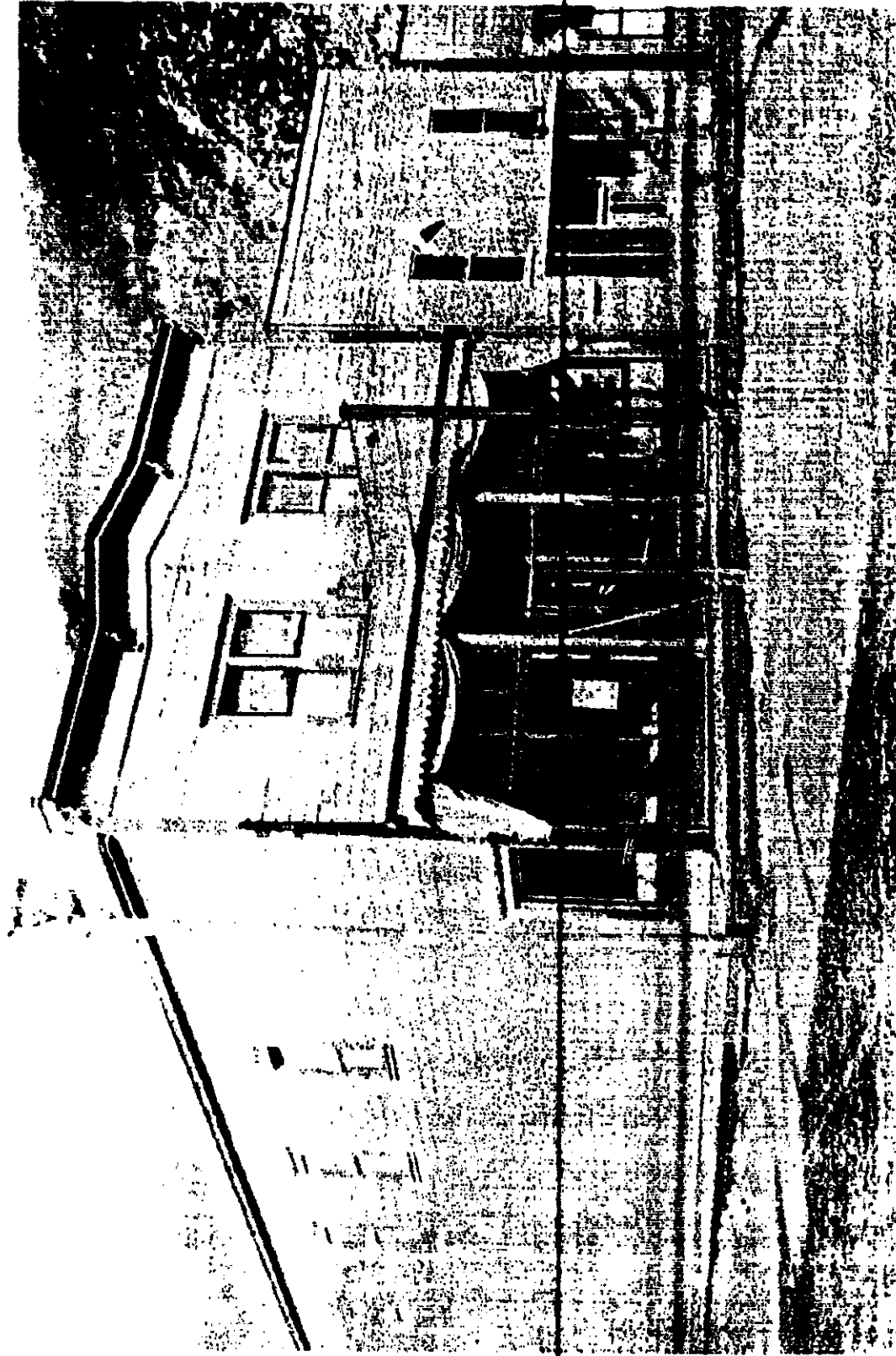
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99-18249-13



Main Street
Prineville, OR
Deschutes County Historical Society Neg # 00230

99-18249-14



Unknown Location
Deschutes County Historical Society Neg # 33531-B