



AGENDA: REGULAR SESSION

WEDNESDAY, JANUARY 19, 2022

WASCO COUNTY BOARD OF COMMISSIONERS

<https://wascocounty-org.zoom.us/j/3957734524> OR Dial [1-253-215-8782](tel:1-253-215-8782) Meeting ID: 3957734524#

While these virtual options are provided, we cannot guarantee connection or quality of the call.

PUBLIC COMMENT: Individuals wishing to address the Commission on items not already listed on the Agenda may do so during the first half-hour and at other times throughout the meeting; please wait for the current speaker to conclude and raise your hand to be recognized by the Chair for direction. Speakers are required to give their name and address. Please limit comments from three to five minutes, unless extended by the Chair.

DEPARTMENTS: Are encouraged to have their issue added to the Agenda in advance. When that is not possible the Commission will attempt to make time to fit you in during the first half-hour or between listed Agenda items.

NOTE: With the exception of Public Hearings, the Agenda is subject to last minute changes; times are approximate – please arrive early. Meetings are ADA accessible. For special accommodations please contact the Commission Office in advance, (541) 506-2520. TDD 1-800-735-2900. If you require an interpreter, please contact the Commission Office at least 7 days in advance.

Las reuniones son ADA accesibles. Por tipo de alojamiento especiales, por favor póngase en contacto con la Oficina de la Comisión de antemano, (541) 506-2520. TDD 1-800-735-2900. Si necesita un intérprete por favor, póngase en contacto con la Oficina de la Comisión por lo menos siete días de antelación.

9:00 a.m.	CALL TO ORDER Items without a designated appointment may be rearranged to make the best use of time. Other matters may be discussed as deemed appropriate by the Board. Corrections or Additions to the Agenda Discussion Items: COVID Update ; Expunction Agreement ; Maupin Deed Transfer & Sales Agreement ; Budget Committee Appointment ; MCCFL/Pacific Source Letter (Items of general Commission discussion, not otherwise listed on the Agenda) Consent Agenda: 1.5.2022 Regular Session Minutes (Items of a routine nature: minutes, documents, items previously discussed.) Public Comment at discretion of Chair
9:30 a.m.	Planning Commission Appeal – Daniel Dougherty
10:45 a.m.	Fee Schedule Hearing – Kathy Clark
10:55 a.m.	Bargain Sale & Deed to City of Dufur – Arthur Smith/Merle Keys
11:05 a.m.	Coordinated Homeless Response Pilot Program – Kenny LaPoint
11:15 a.m.	Hazardous Waste Search App – Morgaine Riggins
11:30 a.m.	Youth Think Update – Debby Jones
BREAK	
2:00 p.m.	Strategic Investment Program Community Service Fee – Matthew Klebes
2:30 p.m.	Transit Development Plan – Kate Drennan
	COMMISSION CALL
	NEW/OLD BUSINESS
	ADJOURN

If necessary, an Executive Session may be held in accordance with: ORS 192.660(2)(a) – Employment of Public Officers, Employees & Agents, ORS 192.660(2)(b) – Discipline of Public Officers & Employees, ORS 192.660(2)(d) – Labor Negotiator Consultations, ORS 192.660(2)(e) – Real Property Transactions, ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection, ORS 192.660(2)(g) – Trade Negotiations, ORS 192.660(2)(h) – Conferring with Legal Counsel regarding litigation, ORS 192.660(2)(i) – Performance Evaluations of Public Officers & Employees, ORS 192.660(2)(j) – Public Investments, ORS 192.660(2)(n) – Security Programs, ORS 192.660(2)(n) – Labor Negotiations



**WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
JANUARY 5, 2022**

This meeting was held on Zoom

<https://wascocounty-org.zoom.us/j/3957734524>

or call in to [1-253-215-8782](tel:1-253-215-8782) Meeting ID: 3957734524#

PRESENT: Kathy Schwartz, Chair
Steve Kramer, Vice-Chair
Scott Hege, County Commissioner

STAFF: Kathy Clark, Executive Assistant
Tyler Stone, Administrative Officer

Chair Schwartz opened the session at 9:00 a.m. Changes to the Agenda:

- Remove HHW Search App
- Originally published topic times have changed

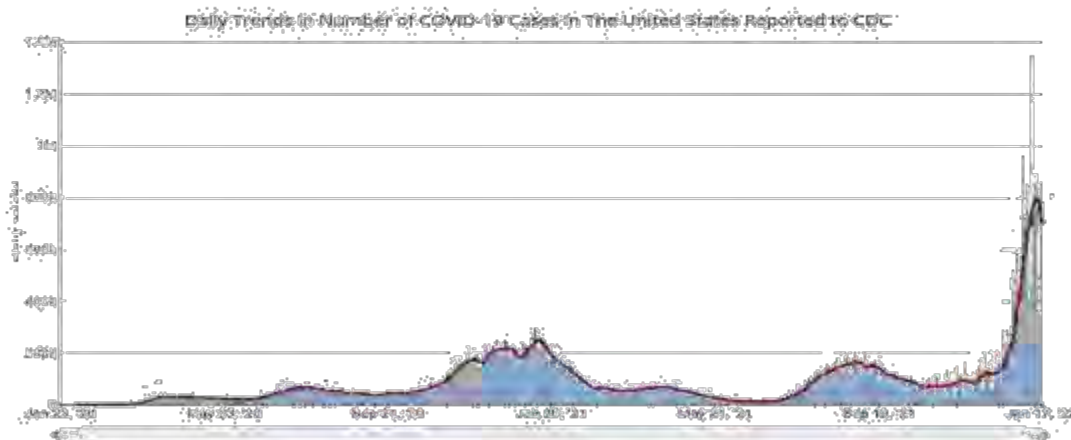
Discussion Item – COVID Update

Public Health Nurse Martha McInnes, Clinical Program Supervisor for North Central Public Health District, explained that they are changing their investigation strategy for COVID cases:

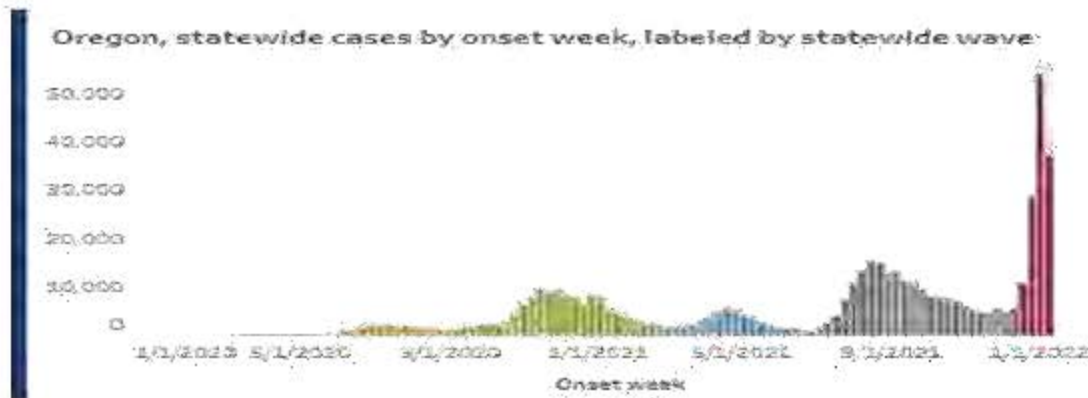
- No longer investigating individual cases
- Only following up on outbreaks

She added that currently there are outbreaks in almost all of the local long-term care facilities. She then reviewed local, state and national data:

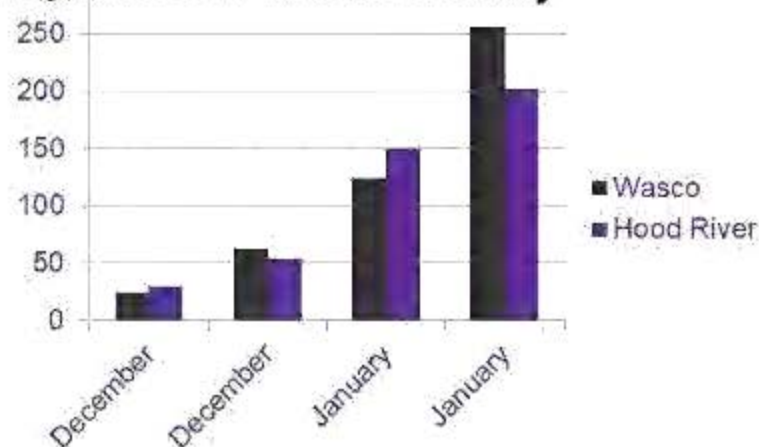
COVID-19 Cases in the USA



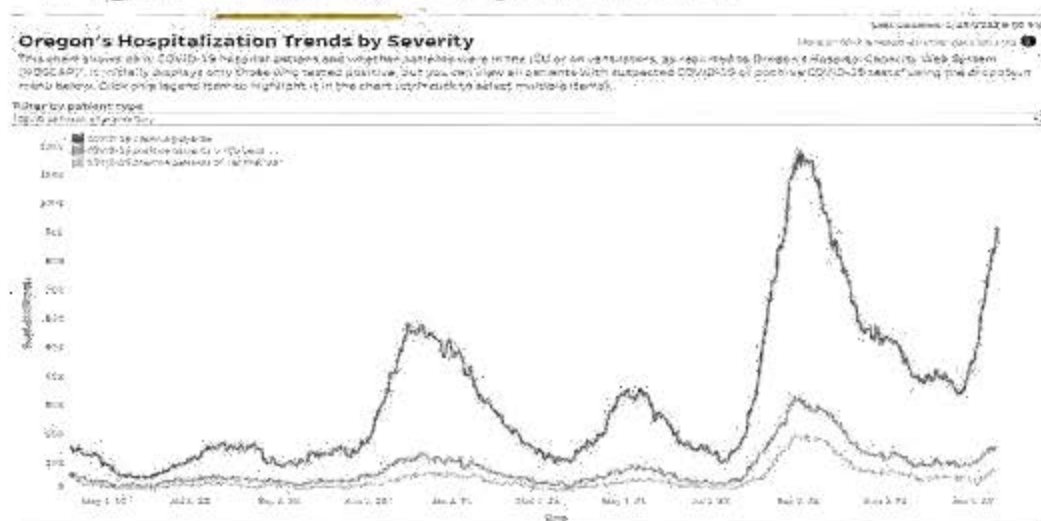
COVID-19 Cases in Oregon



COVID-19 Cases in Wasco County



Oregon COVID-19 Hospitalizations



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Ms. McInnes reported that the hospital capacity in our region is extremely stressed with 8 of 10 ICU beds occupied and 46 of 48 non-ICU beds occupied. She added that there is a national shortage of tests; NCPHD and hospitals are prioritizing those with high risk medical conditions. Every household can order up to 4 at-home test kits for free from the federal government at covidtests.gov. She said that if you are sick, just assume you are positive and stay home for 5 days followed by 5 days of masking everywhere you go.

Ms. McInnes observed that just last week, Wasco County was 28 out of 36 Oregon counties for the numbers of people getting booster shots. The NCPHD can provide 1,000 per week but people are not coming in to get them. They are working on how to spread the word in an information-overloaded environment. Much of the public does not realize they are eligible or do not understand booster efficacy. The booster may not keep you from getting sick, but it will prevent hospitalization. NCPHD continues to hold clinics at the Readiness Center from 3-6 p.m. on Thursdays.

Commissioner Hege observed that it seems like some people believe that Omicron is not as bad as earlier variants. Ms. McInnes responded that the percentage of people with Omicron who are hospitalized and/or die is smaller, but because the transmissibility is so much greater, the numbers of people being hospitalized and dying is still enormous. Compounding that is the shortage of staffing either due to illness or burnout. Vaccinations, boosters, masking, social distancing and personal hygiene can all reduce transmission.

Commissioner Hege asked if you need to miss work after being vaccinated. Ms. McInnes replied that you may not feel well enough to work for a day or two, but the booster does not create a contagious condition that would keep you from working.

Commissioner Hege asked how you know a mask is surgical grade. Ms. McInnes answered that she does not know what someone can look for to make sure a mask is actually an adequate surgical mask. There are legitimate places to get KN95s but many are sold out. She suggested people just to the best they can and make sure the mask fits well with no gaping sides. She added that soon the government will be dispensing N95 masks at no cost.

Vice-Chair Kramer encouraged everyone to stay connected to reliable sources of information as there are changes daily and we need to follow the guidelines. Chair Schwartz asked if what is happening here regarding contact tracing is happening across the state. Ms. McInnes confirmed.

Chair Schwartz asked if there have been local school outbreaks. Ms. McInnes stated that while there are a significant number of local students quarantined, most of the transmission occurred outside of the school system.

Chair Schwartz asked if there are other circumstances in which you might consider using an at-home test such as if you are going to be around unvaccinated children or visiting a long-term care facility. Ms. McInnes agreed that there are other valid reasons to use a test other than being symptomatic; however, she cautioned that there is a test shortage – people should use the tests judiciously and never allow them to substitute for masking. There have been incidences in which everyone tested negative before gathering and there was still transmission – it can change that quickly.

NCPHD Executive Director Shellie Campbell reminded the Board that at the last session they had requested that the tent, provided by the state to house some homeless COVID patients with behavioral issues that made other options inviable, be moved from the Discovery Center to a safer, more convenient location. Although a good deal of work and collaboration went into the effort, they were unable to find a solution. It came down to the cost of insurance and the safety of support staff. Ultimately, the tent was removed – the generator had been stolen. The sanitized cots and bedding were sent to a warming shelter. They continue to work with the shelter and Shilo Inn to house these individuals. They will continue to work with community partners to achieve a long-term solution for a very complex issue.

Chair Schwartz told the audience that if they have further questions, they can call North Central Public Health District.

Agenda Item – Planning Commission Appeal

At 9:33 a.m. Chair Schwartz opened open the Board of Commissioners Quasi-Judicial Appeal Hearing on agenda item 921-19-000193-PLNG, A National Scenic Area request decided upon by the Planning Commission for the following: A new dwelling and structures to support the proposed farm use of raising approximately 13 goats. Specifically, this request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H);
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H);
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6'fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen; and

- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000-gallon water cistern, and driveway.

The property involved is described as Map & Tax Lot: Township 2 North, Range 11 East, Section 11, Tax Lot 2200. The Tax Account Identification Number: 327.

The criteria for approval of the land use decision includes the following chapters within the National Scenic Area Land Use and Development Ordinance for Wasco County (NSA-LUDO): Chapter 2 - Development Approval Procedures, Section 2.160 Review of a Decision of the Planning Commission; Chapter 3 - Basic Provisions, Section 3.130 "A-2" Small Scale Agriculture Zone (GMA Only); Chapter 4 - Supplemental Provisions, Section 4.040, Off-Street Parking; Chapter 11 - Fire Safety Standards; and Chapter 14 - Scenic Area Review.

The proposed development must comply with applicable provisions contained in the Management Plan for the Columbia River Gorge National Scenic Area. Generally, unless otherwise noted, if a request is found to be consistent with the NSA-LUDO it is considered consistent with the Management Plan.

This will be a de novo hearing, conducted as a new hearing before the public. New evidence or testimony will be accepted to fully and fairly address significant procedural or substantive issues raised.

The procedure to be followed is:

- a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts (see below)
- b. Reading of the Rules of Evidence (see below)
- c. Planning department staff will present their report
- d. The appellant will then have the opportunity to testify
- e. The applicant will have an opportunity for rebuttal
- f. Those who wish to speak in opposition of the proposal
- g. Those who wish to speak in favor of the proposal
- h. Questions by Commissioners of staff, proponent, or opponent
- i. Close the hearing and record and begin deliberation (only Commissioners, or staff if questioned, may contribute to this discussion)

She asked if any commissioner wished to disqualify themselves for any personal or financial interest in this matter. There were none. She asked if any commissioner wished to report any significant ex parte or pre-hearing contacts. There were none.

She asked for the record if any Commissioners conducted a site visit to the

subject property. There were none.

Chair Schwartz explained that anyone can speak for or against the proposal today. However, only those who have “party” status will be able to appeal a decision reached by this commission. Anyone seeking party status should say so at the beginning of their testimony.

A party is defined in Section 1.090 as:

- a. The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.*
- b. All property owners of record, as provided in (a) above, within the notification area, as described in Table 2-1, of the property which is the subject of the application.*
- c. A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.*
- d. Any affected unit of local government or public district or state or federal agency.*
- e. Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority.***

And in ORS 197.830 (7)(b) as:

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

The Rules of Evidence are as follows:

- a. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.**
- b. Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.**
- c. Testimony and evidence must be directed toward the criteria applicable to the subject hearing or to criteria that the party believes apply to the decision.**
- d. Failure to raise an issue with sufficient specificity may preclude raising it before the Land Use Board of Appeals.**
- e. Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Wasco County to respond to the issue precludes an action for damages in circuit court.**

Chair Schwartz asked for staff to present. Senior Planner Daniel Dougherty explained that staff received a formal request from the appellant, Joe Czerniecki,

yesterday:

“Mr. Dougherty I am formally requesting a continuance of the currently scheduled appeal regarding the Lopez property in Mosier, Oregon. My husband, Joseph Czerniecki, is recovering from major surgery which occurred January 14, 2022, at the Mayo Clinic in Rochester, Minnesota. He is unable to adequately present his case at this time. I thank you for your willingness to consider this request. Sincerely, Jeanine Czerniecki.”

Mr. Dougherty explained that the Board has options to proceed:

- Stop the hearing now and continue to a date and time certain.
- Allow presentation today but defer testimony to a future date.
- Allow presentation and take some testimony and defer remaining testimony to a future date.
- Deny the request and proceed with the hearing today.

Vice-Chair Kramer said that under the circumstances a couple of weeks' continuance is appropriate; however, this has been going on for some time and we need to get it settled. Chair Schwartz and Commissioner Hege agreed.

{{{Commissioner Kramer moved to continue the Quasi-Judicial Appeal Hearing on agenda item 921-19-000193-PLNG to February 2, 2022 at 9:30 a.m. Commissioner Hege seconded the motion which passed unanimously.}}}

Chair Schwartz closed the hearing at 9:45 a.m. to be reopened at 9:30 a.m. on February 2, 2022.

Agenda Item – Youth Think Update

Prevention Coordinator Debby Jones explained that Mid-Columbia Center for Living has been the contractor for gambling prevention funding through OHA. MCCFL reached out to their three counties to see if there is any interest in taking on that work. This fits perfectly into our upstream prevention work. We already have tools and strategies in place that can be applied to this work. She said she hopes to bring an agreement to the Board at an upcoming meeting.

Ms. Jones went on to say that they successfully applied for \$20,000 in grant funds through 4 Rivers Early Learning to convene new evidence-based Parent Cafes that will fit in with the Parent Boot Camp program for continued outreach. This will give participants the opportunity to become leaders in their communities.

Ms. Jones reported that they have made the decision to step back from some federal grant opportunities as they want to make sure our systems are solidly in place to be prepared to successfully apply for those grants.

The Board thanked Ms. Jones for the report and expressed their appreciation for her work.

Agenda Item – Transit Plan

MCEDD Deputy Director of Transportation Kate Drennan reviewed the presentation included in the Board Packet.

Commissioner Hege asked what the cost is for each additional bus stop. Ms. Drennan replied that it is about \$12,000 including engineering, permits, etc.

Commissioner Hege asked if they looked at the increase in revenue that would result from the changes. He added that it is probably inconsequential compared to costs. Ms. Drennan agreed, saying that fares are a small part of the budget.

Commissioner Hege said that over time the hope is that more people will see it as an option for travel. Ms. Drennan said that one challenge is that for so long it was a dial-a-ride service and people thought of it as something just for seniors or the disabled and not as general public transit. Commissioner Hege suggested that the County can help with that messaging and encouraged MCEDD to send information for posting.

Vice-Chair Kramer said this is very exciting; although there are challenges, we can work through them. He noted that it would be good to see the congestion data and how it can be reduced through public transit along with the other unseen benefits of the plan. He commended the work being done.

Chair Schwartz asked if this is a 20 year vision. Ms. Drennan replied affirmatively, saying that it considers population and job growth among other factors.

Discussion Item – Maupin Deed Transfer

County Assessor Jill Amery reviewed the memo included in the Board Packet. Maupin City Manager Kevin Lewis said that this property abuts current City property and they are looking at using it for affordable housing and a park area.

Ms. Clark explained that there have been some minor changes to the documents included in the Board Packet. The County Surveyor has corrected the legal description. In addition, the agreement has a closing deadline that is already expired; we will be changing that to a future date. The changes have been

approved by both City and County Counsels.

{{Vice-Chair Kramer moved to approve the Sale and Purchase Agreement and Bargain Sale and Deed for surplus property to the City of Maupin for consideration of \$22,329.22 with corrections to the legal description in the deed and the closing date in the agreement. Commissioner Hege seconded the motion which passed unanimously.}}

Commissioner Hege asked where the figure of \$22,000 comes from. Ms. Amery replied that it is the outstanding taxes so that the taxing districts are made whole – that is our minimum requirement when selling the foreclosed properties. She said we have owned this property for some time. Commissioner Hege said it is great to get it back on the tax rolls.

Chair Schwartz asked if there is a need for this property in order to expand the City's water system. Mr. Lewis answered that this will allow them to place a water tower high enough to serve the higher elevation properties.

Discussion Item – Budget Appointment

Chair Schwartz noted that Frank Kay has resigned from the Budget Committee due to his plan to relocate out of the area. She said she is very happy to see that we have a well-qualified applicant.

Applicant DeOra Patton said that she appreciates the opportunity to participate in government and represent the southern part of the county. Chair Schwartz said that Ms. Patton's experience in government and budgeting will be a huge asset.

{{Commissioner Hege moved to approve Order 22-002 appointing DeOra Patton to the Wasco County Budget Committee. Vice-Chair Kramer seconded the motion which passed unanimously.}}

Agenda Item – Bargain Sale & Deed to City of Dufur

Public Works Director Arthur Smith reviewed the memo included in the Board Packet. He said this is a win/win and he supports the sale.

Dufur Mayor Merle Keys explained that they need the land to meet DEQ requirements for a setback on an ongoing project. They were not aware of the need when they started the project. The upgrades will allow Dufur to expand housing as well as modernize the sewer system.

Vice-Chair Kramer stated that he is in favor of this as it will help the City of Dufur move into the future.

Commissioner Hege asked how long we have had the property. Mr. Smith said we acquired it in 1924 as a quarry site. The agreement retains our rights to the rock and meets both the needs of the County and the needs of the City.

{{{Commissioner Hege move to approve the Land Transfer Agreement and Statutory Bargain Sale and Deed conveying property to the City of Dufur, retaining County mining rights, for consideration of \$3,000. Vice-Chair Kramer seconded the motion which passed unanimously.}}}

Discussion Item – Expunction Agreement

Vice-Chair Kramer said doing the math on the agreement it would pay for 174 expunctions and he wondered if we actually have that many. Chair Schwartz stated that she had the opportunity to talk with Juvenile Services Director Molly Rogers and this agreement will cover their expenses.

Commissioner Hege said he had also spoken to Ms. Rogers with a concern about sustainability; Ms. Rogers believes this will be ongoing funding and is comfortable with the agreement.

Chair Schwartz said that her understanding is that this is a new process that will expunge certain juveniles once they turn 18 and open the way for a better future.

{{{Vice-Chair Kramer moved to approve IGA 14840 for the expunction of juvenile records. Commissioner Hege seconded the motion which passed unanimously.}}}

Agenda Item – Fee Schedule Hearing

At 10:45 a.m. Chair Schwartz opened a hearing for the Wasco County Amended Fee Schedule Ordinance explaining the process to be followed.

Ms. Clark reported that there have been no changes to the proposed fees in the Ordinance since they were presented at the January 2nd hearing. However, a couple of non-substantive changes have been made: 1) Appendix D was not referenced in the introductory language of the Ordinance 2) Not all the Appendices included their designated identifying letter at the beginning of the Appendix. Both of those oversites have been corrected. She went on to say that this is the second of two required hearings; the Board may deliberate and vote at today's hearing. If adopted, the Ordinance would take effect on April 5, 2022.

Commissioner Hege asked if the State comments on the fees. Ms. Clark replied that she has not received any comment from the State Building Codes Division. They require 45 days' notice prior to adoption during which time they post and

distribute the proposed changes. We have received no oral or written comment as a result of that process.

Commissioner Hege noted that most of the Building Codes fees are going up approximately 15% but it has been some time since they have been increased. Ms. Clark said that they have not been increased since 2013. These increases were formulated by our previous Building Official. Much higher increases had been proposed but the Board was reluctant to raise them so much all at once.

Commissioner Hege said that we will look at them annually for a more gradual cost increase. Ms. Clark said that she hopes to coordinate the Building Codes Fee Schedule process with that for the remaining County fees included in the Schedule so that the Board has only one annual process to consider increases. **{{Vice-Chair Kramer move to approve Ordinance 22-001 In the Matter of Amending Wasco County's Uniform Fee Schedule for Various County Departments. Commissioner Hege seconded the motion which passed unanimously.}}**

Public Comment

Sheila Dooley asked if the Wilson hearing will be De novo or on the record; what will be the time limit on testimony; why you need to request party status at the hearing.

Planning Director Kelly Howsley-Glover responded that the Wilson hearing will be limited to items on remand and will be De novo. County Ordinance requires party status be requested and it never hurts to ask. She said she would be happy to talk with Ms. Dooley after the meeting to answer her questions more fully.

Discussion Item Continued – Expunction Agreement

Ms. Rogers explained that Senate Bill 817 was passed to allow for automatic expunction for youth when they turn 18 and have no current issues before the court. It allows expunction without going through the court. Since the fee for expunction applications has been abolished, this agreement helps to pay for the work. She said she believes we can make this work under current staffing; some of the larger counties have had to add staff. Oregon Youth Authority manages those funds.

Commissioner Hege asked who is involved on our side. Ms. Rogers replied that it comes from her office and Law Enforcement agencies. These are cases not filed in court. Her office starts the process and sends it to the youth and any law enforcement agency involved in the referral of the youth. That agency is

responsible for redaction, destruction or sealing of the record. If it was a court diversion, then it goes through their staff for processing.

Discussion Item – MCCFL/Pacific Source Letter

Mr. Stone said that Wasco County has put in a significant effort to support MCCFL whey they work on filling vacancies and reorganizing. We have been negotiating with Pacific Source and this letter thanks them for a stability payment which will help MCCFL transition from where they are now to where they need to be. He said he is asking for the Board's support to put this letter forward to acknowledge the Pacific Source efforts to help us with one of our most important community needs. He said he is hoping that one or more of the Commissioners can add a personal story to insert. He added that the stability payment is tied to contractual negotiations, but we are well down the road to finalizing that.

Commissioner Hege said that he supports the letter – it is a good idea.

Vice-Chair Kramer said that the lived experiences can come later. Chair Schwartz agreed but asked that the general language about community experiences, such as mental health issues in our schools, remain in the letter.

*****The Board was in consensus to sign a letter thanking Pacific Source for their help in stabilizing Mid-Columbia Center for Living.*****

Chair Schwartz said there are not enough thanks for the work Mr. Stone is doing at MCCFL. She asked if other counties are sending similar letter. Mr. Stone said that it is also before Hood River and Sherman Counties' Boards. He added that Al Barton and Silas Halloran-Steiner also deserve recognition along with a number of Wasco County staff who have been working hard to help.

Agenda Item – Coordinated Homeless Response Pilot Program

Mid-Columbia Community Action Council Executive Director Kenny LaPoint reminded the Board of a letter of interest he submitted on behalf of the Cities of The Dalles and Hood River along with Wasco, Sherman and Hood River Counties to participate in a proposed pilot program being presented to the State legislature in the upcoming session. He reported that we are one of 8 selected to be included in the legislation. We are unique in that all the others are one city in collaboration with one county. Because we are more regional, we asked for some adjustments to the legislation to address that circumstance.

Mr. LaPoint went on to say that, if the legislation passes, we will get \$1 million over 2 years to develop a plan and establish a coordinated office. We are already in the process of developing a plan, so one request we made was to be

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able to use some of the money for implementation of the plan. That request has been acknowledged and we are approved so long as we accomplish the two main goals.

Mr. LaPoint stated that another thing that makes us unique is all the other applicants are city or county governments; we are a regional non-profit Action Council. The Council will enter into an MOU with each City and County for the work. He said that his vision is to use dollars for implementation and a sustainability plan. We can use the additional support for fund development but cannot use it for the development of the Navigation Center.

Vice-Chair Kramer asked that Mr. LaPoint be our point person to keep us up to date on what the Board can do to help advocate for the legislation. Mr. LaPoint said that he would be happy to serve in that capacity. He said he hopes to come back in February to report. He added that there is someone at both AOC and LOC assigned to follow through on support for this bill.

Chair Schwartz noted that the Mayor of The Dalles has put together an unfunded coalition to address houselessness; the work done by that coalition will put us ahead in this process.

Vice-Chair Kramer commented that there will still be work to do in determining what the County's role will be. Most of the issues being addressed are city-based rather than issues seen in the unincorporated areas of the county.

Mr. LaPoint reported that they have made a lot of progress on pre-development for the Navigation Center. Next week is the Point in Time Homeless Count. There are staging areas in the three counties with outreach teams to do the count with the goal of being as accurate as possible; this data is used to determine funding. The hope is that we can do a better job than has been done in the past. The most important information to gather is the number of homeless and the reasons for the homelessness.

Chair Schwartz asked if veterans are counted. Mr. LaPoint replied affirmatively, saying that is one of the characteristics that is tracked. He said they are looking for funding that will address veteran homelessness.

Chair Schwartz asked when the report will be available from that count. Mr. LaPoint responded that they should have preliminary numbers in a month. Previously the count was done with clipboards and paper; this time they will be able to use tablets which will allow much faster tabulation. The County typically counts only those in a shelter or those completely unsheltered. We cannot submit numbers for those who are doubled up at someone else's home, but we will

gather that data for our own information. He said that Wasco County Juvenile Services has volunteered to provide some assistance.

Chair Schwartz commented that people make assumptions about why others are homeless; the report will be educational.

Consent Agenda – 1.5.2022 Regular Session Minutes

**{{Vice-Chair Kramer moved to approve the Consent Agenda.
Commissioner Hege seconded the motion which passed unanimously.}}**

Commission Call

Commissioner Hege said that last week was AOC meetings related to the upcoming short legislative session in Salem. The bill Mr. LaPoint referenced has a lot of conversation around it.

Vice-Chair Kramer followed up on the letter to Representative Blumenauer; he was asked to do a deeper dive with legislative staff. Dr. Howsley-Glover and Mr. Stone have agreed to participate in that. He is also hoping to engage Sheriff Magill in the effort. He said he will follow up and report back.

Vice-Chair Kramer said that there are 6 bills related to mental and behavioral health passed in 2021. Senate Bill 5024 outlines where the funding is supposed to go but there is a lot of that money still sitting out there not being distributed. It is scheduled to be released sometime in February; he is pressing for more information. He said we need to get those funds on the ground to providers who can help the people in need.

Vice-Chair Kramer announced that he has been selected to serve on the Governor's Truth in Labeling Task Force and the Governor's Oregon Recycling System Advisory Council. He added that the County Solutions Advisory is up and running with staffing to help them move forward.

Chair Schwartz congratulated Vice-Chair Kramer on his appointments. She said that she attended the AOC Health and Human Services Committee meeting – it looks like the State will be contracting for an after-action report regarding the pandemic.

Chair Schwartz recessed the meeting at 11:37 a.m.

The session resumed at 2:00 p.m.

Agenda Item – Strategic Investment Program Community Service Fee

Administrative Services Director Matthew Klebes reviewed the report included

in the Board Packet. He said he is looking for direction on the County's position on a process to determine distribution for the Community Service Fee (CSF); the County's recommendation for distribution and a potential loan to MCFR to support their service level during the construction phase of the project.

Mr. Klebes continued saying that there is guidance from statute for the CSF. The amount is based on a formula; but the distribution is determined locally under certain conditions. The decision must be made within 90 days; the agreement was approved on December 17, 2021, so we have until March 17, 2022. The entities involved in the decision is set in statute to include the City of The Dalles, Wasco County and certain taxing districts – Mid-Columbia Fire and Rescue (MCFR), North Wasco County Parks and Recreation, Library District, 4H & Extension District, Port of The Dalles, Soil and Water Conservation District and the Education Service District. The funds may be distributed to any organization that is a benefit to the community.

Mr. Klebes said that the negotiating team recommends a process in which we solicit input from the participating districts. Following that, hold a meeting with two representatives from each deciding entity to review the input and discuss it to reach agreement and consensus. Once there is consensus, that would be memorialized in an IGA for adoption which would then be sent to the Business Oregon for approval.

The staff report contains a recommendation to decide on distribution for Project 2 until it is closer to construction; however, Business Oregon does not permit that and distribution for both projects must be determined in this 90-day window.

Today he is looking for feedback on the process, but within that process is the County's position for distribution. The staff recommendation is to distribute proportionally to all participating taxing districts.

There is also a request for a loan of \$750,000 to MCFR. The negotiating team recommends that it come from the City and County after funds are distributed. This is to support services during construction. The disbursement of the loan would be tied to the initial payment of \$3 million to the City and County. It would be repaid over 15 years, likely using a portion of the CSF to make that payment.

Chair Schwartz asked about the school district's exclusion from the distribution. Mr. Klebes replied that school districts are specifically excluded from the CSF distribution because the annual SIP fee is split between the City, County and school district but does not include the other taxing districts.

Mid-Columbia Medical Center (MCMC) CEO Dennis Knox congratulated the

team on the successful negotiation. He said he would love to see the funds be directed to have an impact on economic development such as the athletic complex for the youth and larger community. He said he is excited about the possibility of having this facility for our youth and to bring in regional as well as statewide tournaments which would have a significant positive economic impact.

Sheriff Magill supported Mr. Knox's statements. He said that community sporting events help the economy but also have a much broader positive impact. The bigger picture is the ripple effect that will bring us a better health care system to include a mental health unit. The proposed resolution center can participate in the long-term care and transition for those in crisis. The improvement of mental health and behavioral health systems creates long-term stability not only for our community but neighboring communities that can take advantage of those services.

MCMC Director of Business Development Travis Dray thanked the team for leading with courage to bring us this opportunity. He said he serves on the Board of the Sluggers Program; the athletic complex is an opportunity for our youth and for our economy. The green space is an offering for all kinds of outdoor activities for users of all ages. He suggested that the Board consider distributing 50% of the CSF to the districts and 50% towards the athletic complex.

Radio News Reporter Rodger Nichols asked what the timeline would be following the March 17th deadline. Mr. Klebes said he would like to start meetings tomorrow and a couple of weeks later try to get a meeting together to work toward an agreement. It is possible to request an extension if the process is moving forward. However, we have no start date from Google for construction.

The Dalles Chamber of Commerce Board Chair Megan Thompson commented that this is a great opportunity for Wasco County and The Dalles; she supports the athletic complex – it would be an opportunity to attract economic development which would help our schools.

Chair Schwartz asked what other funding opportunities are contained in the SIP and how might they be used for projects. Mr. Klebes said that there is an initial payment of \$3 million for each project; that payment is split between the City and County. There is a tax component which is automatically distributed to the taxing districts. Finally, there is a GAP payment which makes up the difference between the combined total of the CSF & the tax component to achieve 50% (60% for the second project) of what they would pay being fully taxed.

Mr. Stone explained that when the team negotiated on the CSF for Project 1, they

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did not know that distribution for both projects would have to be determined now. The idea was to have the 1st CSF go to the districts and the 2nd CSF be determined through a process that would take place closer to the start of that project. The team's recommendation was really only for the 1st project. The Board has leeway and can make a different recommendation. The final decision is made jointly by the taxing districts as prescribed by statute.

Ms. Amery noted that when looking at the payments the larger piece is the taxing component, then the CSF then the GAP.

Commissioner Hege said that Mr. Dray made an interesting suggestion because it will give us resources now and in the future. He said that would be his recommendation.

Chair Schwartz asked about flexibility for the 2nd CSF. Mr. Stone explained that the team did not engage in conversation about the 2nd project because we do not know when it will be built; therefore, the negotiations were around the 1st project. The negotiating team has no authority; the Board is free to decide on a recommendation.

Chair Schwartz asked to be reminded of City Council's recommendation. Mr. Klebes said that they recommended distributing both to the taxing districts. He said that the Board can do the same or something different. Mr. Stone said he does not think the Council went very far down the path of alternatives.

Mr. Klebes said that agreement must be City, County and 75% of the Districts; if the County does not agree, then it will not go forward and could go to Business Oregon for a final determination. He said he does not believe that has ever had to happen.

Chair Schwartz asked if we have heard from the districts. Mr. Stone said that process has not started; the closest we came was a discussion many months ago with a push from MCFR to distribute to the districts. The coming discussions over the next few weeks will bring that out.

Commissioner Hege said he still believes that 50/50 is a good suggestion – 50% to the districts and 50% for greater good projects. Mr. Klebes asked if that would be for Project 1, Project 2 or both. Commissioner Hege said it would be applied to both.

Vice-Chair Kramer said he agrees – almost. He pointed out that Districts will be getting extra funds this year as the original Google project is coming onto the tax rolls. He said he thinks Project 2 should be for greater good projects. The

projects in this agreement have not happened and we are spending money we do not have. He said he understands that we have to make a plan.

Commissioner Hege asked Vice-Chair Kramer what he would change about the 50/50 plan. He said he would prefer that 100% goes to greater good for the 2nd project.

Commissioner Hege said that he thinks he is proposing the same thing only a shift in timing to get some money on the ground sooner rather than later for greater good projects.

Chair Schwartz said she can live with that recommendation. Vice-Chair Kramer concurred.

Mr. Stone asked about the loan to MCFR. Mr. Klebes said that the loan is connected to the CSF.

Commissioner Hege said that if the loan comes out of the initial payment, he is fine with it. Mr. Klebes said that the clerical component is that their payment would be from their CSF funds. That may influence their decisions on the loan. Chair Schwartz noted that they will also be receiving tax dollars. Ms. Amery said that they will be mailing Google a tax statement for the original project and MCFR will receive additional revenue through that.

Chair Schwartz said that the Board is in consensus to do a 50/50 split of the CSF to districts and greater good projects for both Project 1 and Project two and also to approve the \$750,000 loan to MCFR. Vice-Chair Kramer and Commissioner Hege agreed.

Chair Schwartz thanked staff for the many hours of work and the recommendations, memos and presentations. She noted that there is still work to do but this has been a good meeting and a good discussion. She thanked MCMC for all the work their staff is doing throughout the pandemic.

Chair Schwartz adjourned the session at 3:02 p.m.

Summary of Actions

MOTIONS

- **To continue the Quasi-Judicial Appeal Hearing on agenda item 921-19-000193-PLNG to February 2, 2022 at 9:30 a.m.**
- **To approve the Sale and Purchase Agreement and Bargain Sale and Deed for surplus property to the City of Maupin for consideration of \$22,329.22 with corrections to the legal description in the deed and**

the closing date in the agreement.

- **To approve Order 22-002 appointing DeOra Patton to the Wasco County Budget Committee.**
- **To approve the Land Transfer Agreement and Statutory Bargain Sale and Deed conveying property to the City of Dufur, retaining County mining rights, for consideration of \$3,000.**
- **To approve IGA 14840 for the expunction of juvenile records.**
- **To approve Ordinance 22-001 In the Matter of Amending Wasco County's Uniform Fee Schedule for Various County Departments.**
- **To approve the Consent Agenda – 1.5.2022 Regular Session Minutes.**

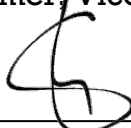
CONSENSUS

- **To direct staff to work with NCPHD to move the tent shelter to a new location.**
- **To submit the Medicaid Waiver comments as presented.**
- **To move the 2022 Priority List forward as presented.**
- **To submit the proposed comments regarding the Recreation Enhancement, Wildfire Response & Conservation Concept with the changes suggested by Vice-Chair Kramer.**

Wasco County
Board of Commissioners


Kathleen B. Schwartz, Commission Chair


Steven D. Kramer, Vice-Chair


Scott C. Hege, County Commissioner



DISCUSSION LIST

[NCPHD UPDATE](#)- Mimi McDonell

[EXPUNCTION AGREEMENT](#)– Molly Rogers

[MAUPIN DEED TRANSFER](#) – Jill Amery

[BUDGET COMMITTEE APPOINTMENT](#) – Kathy Clark

[MCCFL/PACIFIC SOURCE LETTER](#) – Tyler Stone



DISCUSSION ITEM

NCPHD COVID-19 Update

[NO DOCUMENTS HAVE BEEN SUBMITTED FOR THIS ITEM – RETURN TO AGENDA](#)



DISCUSSION ITEM

Expunction Agreement

[IGA 14840 FOR THE EXPUNCTION OF JUVENILE RECORDS](#)

[MOTION LANGUAGE](#)

INTERGOVERNMENTAL AGREEMENT EXPUNCTION OF JUVENILE RECORDS

Agreement No. 14840



This Agreement is between the State of Oregon acting by and through its **Oregon Youth Authority** ("Agency") and **Wasco County**, ("Local Government"), each a "Party" and, together, the "Parties."

SECTION 1: AUTHORITY

This Agreement is issued pursuant to ORS 190.110 and ORS 420A.010(6), the parties have authority to enter into intergovernmental cooperative agreements, and therefore agree to enter into this agreement in order to allow Agency to provide County with compensation for costs associated with the expunction of juvenile records.

SECTION 2: BACKGROUND AND PURPOSE

The mission of the Oregon Youth Authority ("OYA") is to protect the public and reduce crime by holding youth accountable and providing opportunities for reformation in safe environments. Youth are committed to state custody as a result of criminal acts in one of Oregon's 36 counties. Youth may remain in OYA custody until a maximum age of 25 years. OYA provides a continuum of services and sanctions including: parole and probation services, residential and foster care services, individualized treatment and support, juvenile crime prevention programs, and secure close-custody facilities for youth who represent an unacceptable risk to the public. OYA currently serves approximately 600 youth in state owned and operated close-custody facilities and an additional 900 youth on parole or probation.

SECTION 3: EFFECTIVE DATE AND DURATION

Upon execution by all Parties and receipt of all required approvals, this Agreement is effective on **January 2, 2022** ("Effective Date"), and terminates on **January 1, 2024**, unless terminated earlier in accordance with Section 18.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1. Agency's Authorized Representative is:

Laura Ward, Community Services Program Analyst
530 Center Street NE, Suite 500, Salem, OR 97301
Phone: 971-301-1138
Email: Laura.Ward@oya.oregon.gov

4.2. Local Government's Authorized Representative is:

Molly Rodgers, Wasco County Youth Services
202 E 5th St, The Dalles, Oregon 97058
Phone: 541-506-2660 ext.2
Email: mollyr@co.wasco.or.us

4.3. A Party may designate a new Authorized Representative by written notice to the other Party without the need for formal amendment.

SECTION 5: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence:

This Agreement less all exhibits;

Exhibit A – Statement of Work;
Exhibit B – Insurance; and
Exhibit C– Miscellaneous Provisions.

All exhibits by this reference are hereby made part of this Agreement.

SECTION 6: RESERVED

SECTION 7: RESPONSIBILITIES OF EACH PARTY

7.1. The Parties will follow the Statement of Work attached as Exhibit A, Statement of Work.

7.2. Agency shall pay Local Government as described in Section 8 titled "Compensation."

SECTION 8: COMPENSATION

8.1. **Not to Exceed Compensation.** The maximum, not-to-exceed compensation payable to Local Government under this Agreement, which includes any allowable expenses, is **\$35,870.10**. Agency will pay Local Government according to the invoicing terms listed in Exhibit A- Statement of Work. Agency will not pay Local Government any amount in excess of the not-to-exceed compensation of this Agreement.

8.2. **Payments.** Payments, including interim payments, to Local Government will be made only for completed and accepted Deliverables and Services, and will be made in accordance with the payment schedule and requirements set forth in Exhibit A, Statement of Work.

SECTION 9: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

9.1. Local Government is a political subdivision of the State of Oregon duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;

- 9.2. The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Local Government's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 9.3. This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 9.4. Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
- 9.5. Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Local Government.

SECTION 10: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Local Government that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 11: OWNERSHIP OF WORK PRODUCT

- 11.1. As used in this Section and elsewhere in this Agreement, the following terms have the meanings set forth below:

- 11.1.1. **"Local Government Intellectual Property"** means any intellectual property owned by Local Government and developed independently from the work under this Agreement.
 - 11.1.2. **"Third Party Intellectual Property"** means any intellectual property owned by parties other than Local Government or Agency.
 - 11.1.3. **"Work Product"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Local Government is required to deliver to Agency under this Agreement, and all intellectual property rights therein.
- 11.2. All Work Product created by Local Government under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Local Government agree that any Work Product that is an original work of authorship created by Local Government under this Agreement is a "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created by Local Government under this Agreement is not "work made for hire," Local Government hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created by Local Government under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Local Government shall execute such further documents and instruments necessary to fully vest such rights in Agency. Local Government forever waives any and all rights relating to Work Product created by Local Government under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If the Work Product created by Local Government under this Agreement is a derivative work based on Local Government Intellectual Property, or is a compilation that includes Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the pre-existing elements of the Local Government Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

If the Work Product created by Local Government under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing element of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

- 11.3. If Work Product is Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce,

prepare derivative works based upon, distribute copies of, perform and display the Local Government Intellectual Property, and to authorize others to do the same on Agency's behalf.

- 11.4. If Work Product is Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 11.5. If state or federal law requires that Agency or Local Government grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then Local Government shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 12: CONTRIBUTION

- 12.1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section with respect to the Third Party Claim.
- 12.2. With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 12.3. With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in

settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 13: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 13.1. Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 13.2. Any representation, warranty, or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 13.3. Local Government (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 13.4. A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 14: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any

of its covenants, agreements, or obligations under this Agreement.

SECTION 15: REMEDIES

- 15.1. In the event Local Government is in default under Section 13, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 18, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 16 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 15.2. In the event Agency is in default under Section 14 and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 18.3.3, or in the event Agency terminates this Agreement under Sections 18.2.1, 18.2.2, 18.2.3, or 18.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against Local Government, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 15.2, Local Government shall promptly pay any excess to Agency.

SECTION 16: RECOVERY OF OVERPAYMENTS

If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government, exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 17: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 12, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 18: TERMINATION

18.1. This Agreement may be terminated at any time by mutual written consent of the Parties.

18.2. Agency may terminate this Agreement as follows:

- 18.2.1. Upon 30 days advance written notice to Local Government;
- 18.2.2. Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;
- 18.2.3. Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
- 18.2.4. Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Local Government; or
- 18.2.5. As otherwise expressly provided in this Agreement.

18.3. Local Government may terminate this Agreement as follows:

- 18.3.1. Upon 45 days advance written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
- 18.3.2. Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;
- 18.3.3. Upon 30 days advance written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or
- 18.3.4. As otherwise expressly provided in this Agreement.

18.4. Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by Local Government under this Agreement.

SECTION 19: INSURANCE

Local Government shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 20: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

SECTION 21: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties unless otherwise expressly provided within this Agreement.

SECTION 22: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 23: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 9, 10, 11, 12, 16, 17, and 23 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 24: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 25: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 26: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state, and local law.

SECTION 27: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 28: INTENDED BENEFICIARIES

Agency and Local Government are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 29: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 30: ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 31: SUBCONTRACTS

Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

SECTION 32: TIME IS OF THE ESSENCE

Time is of the essence in Local Government's performance of its obligations under this Agreement.

SECTION 33: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or

representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 34: RECORDS MAINTENANCE AND ACCESS

Local Government shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Local Government shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Local Government's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Local Government shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 35: HEADINGS

The headings and captions to Sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 36: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

SIGNATURE OF LOCAL GOVERNMENT'S AUTHORIZED REPRESENTATIVE

Authorized Signature: _____ Date: _____

By (Insert Name and Title): _____

SIGNATURE OF STATE'S AUTHORIZED REPRESENTATIVE

AGENCY: STATE OF OREGON, acting by and through its Oregon Youth Authority

By: _____ Date: _____

Amber Forster, Designated Procurement Officer/Chief Financial Officer

Signatures continued on the following page

ATTORNEY GENERAL: Approved for Legal Sufficiency

By: Susan Amesbury Approved via email 12302021 Date: _____
Name:

PROCUREMENT UNIT: Reviewed by Contract Specialist

By: _____ Date: _____
Name: Susanna Ramus

AGREEMENT ADMINISTRATOR: Reviewed and Approved

By: _____ Date: _____
Name: Laura Ward

EXHIBIT A
Statement of Work

SB 575 (2021) contains new requirements for expunctions of juvenile records. SB 575 would have a financial impact for Local Government to complete new work required by this legislation. Agency has analyzed the associated costs and determined an estimated cost for additional work brought forward by SB 575 as described below. Through this Agreement, Agency will reimburse Local Government a flat rate per Qualified Expunction, as defined below and according to the compensation details listed in Section 2 of this Exhibit.

Agency considers the following Juvenile Records expunctions to be qualified for reimbursement ("Qualified Expunctions"):

- Expunctions described in Section 2(2)(a) of SB 575, and
- Expunctions described in Section 6, Subsection 2(a)(A) of SB 575.

1. RESPONSIBILITIES OF EACH PARTY

1.1. Local Government Responsibilities:

1.1.1. Complete Qualified Expunctions.

1.1.2. Submit a monthly Billing Report for Qualified Expunctions to Agency according to the requirements listed below. The Billing Report must:

- Be generated using the BIS Report through the Juvenile Justice Information System (JJIS).
- List the total number of Qualified Expunctions that were processed during the previous month.
- Include the anonymized youth Identification number created by JJIS for the Report and shall not include any juvenile identifying information.
- Be submitted according to the requirements listed in Section 3 of this Exhibit.

1.2. Agency Responsibilities:

1.2.1 On the date that the youth becomes eligible for expunction under either Section 2(2)(a), or Section 6, Subsection 2(a)(A), provide Local Government with a Business Intelligence Systems (BIS) report ("Expunction Report") notifying Local Government of youth's eligibility.

1.2.2 Review the submitted Billing Report submitted with the invoice and provide reimbursement to Local Government within 45 days of receipt of the invoice, at the rate listed in Section 2.1 of this Exhibit, for Qualified Expunctions completed and listed on the Billing Report.

1.3. Acceptance Criteria and Process

Agency will reimburse Local Government following Agency's approval of Local Government's invoice submitted to Agency for Qualified Expunctions in accordance with

the terms and conditions of this Agreement. Agency will consider the Services complete when the final Billing Report is received from Local Government under this Agreement.

- 2. COMPENSATION.** The total not to exceed amount available for payment to Local Government is as follows:

Services (Exhibit A, Section 1.1, Local Government Responsibilities)	\$35,870.10
Total Not to Exceed Amount for this Agreement	\$35,870.10

2.1. Method of Payment for Services

Agency will reimburse Local Government at the rate of **\$206.15** per Qualified Expunction.

3. Invoices

- 3.1. Local Government shall send monthly invoices to Agency as soon as possible but no later than quarterly, for Services completed and Goods delivered and accepted by Agency in accordance with Exhibit A, Section 1. Local Government shall include on each invoice:
- 3.1.1. Agreement number
 - 3.1.2. Billing Report
 - 3.1.3. Payment address
- 3.2. Local Government shall send all invoices to Agency's Agreement Administrator at the address specified on page one of this Agreement or to any other address as Agency may indicate in writing to Local Government. Local Government's claims to Agency for overdue payments on invoices are subject to ORS 293.462.
- 3.3. If payments to Local Government by the Agency under this Agreement, or under any other agreement between Local Government and Agency, are made in error or are found by the Agency to be excessive under the terms of this Agreement or the other agreement, the Agency, after giving written notification to the Local Government, may withhold payments due to Local Government under this Agreement in such amounts, and over such periods of time, as are deemed necessary by the Agency to recover the amount of the overpayment. This Exhibit A, Subsection 3.3, shall survive expiration or earlier termination of this Agreement and be fully enforceable thereafter.
- 3.4. Local Government must submit its final invoice to the Agency no later than 60 days after the termination or expiration date of this Agreement. The Agency will be under no obligation to pay for services not billed within 60 days after the termination or expiration date of this Agreement.
- 3.5. Local Government certifies with each invoice and reporting form submitted to Agency that the materials, services, or expenses included in the invoice have been furnished, rendered, or expended pursuant to the terms of this Agreement, that they are as stated in the Agreement and the Local Government has not previously requested payment for the item(s) from the Agency.

EXHIBIT B
Insurance (Reserved)

EXHIBIT C

Miscellaneous Provisions

1. **Media Disclosure:** Local Government shall not provide information to the media regarding a recipient of Services purchased under this Agreement without first consulting the Agency. Local Government shall make immediate contact with the Agency's Communications Office when media contact occurs. The Agency's Communications Office will assist Local Government with an appropriate follow-up response for the media.
2. **Client Records:** Local Government shall appropriately secure all records and files to prevent access by unauthorized persons. Local Government shall, and shall require its employees and subcontractors to, comply with all appropriate federal and state laws, rules, and regulations regarding confidentiality of client records.
3. **Conflict of Interest:** Local Government shall notify Agency in writing when a current employee or newly hired employee is also an employee of the Agency. Local Government shall submit the notification to the Agency Agreement Administrator and the Agency Procurement Unit and shall include the name of the employee and their job description. The Agency will review the employment situation for actual and potential conflicts of interest as identified under ORS Chapter 244.
4. **Mandatory Reporting:** As required by Oregon Law (ORS 419B.005 through ORS 419B.050), all the Agency contractors must immediately inform either the local office of the Department of Human Services ("DHS") or a law enforcement agency when they have reasonable cause to believe that any child with whom Local Government comes in contact has suffered abuse, or that any person with whom the Local Government comes in contact has abused a child. Oregon Law recognizes child abuse to be: physical injury; neglect or maltreatment; sexual abuse and sexual exploitation; threat of harm; mental injury; and child selling.

Reports must be made immediately upon awareness of the incident. Local Government is encouraged to contact the local DHS office if any questions arise as to whether an incident meets the definition of child abuse.

5. **Criminal Records Check:** Contractor shall ensure that any person having direct contact with Agency youth in the course of providing services under this Contract has passed a criminal history and child abuse registry check and meets the Agency's criminal history records check standards as set forth in OAR 416-800-0000 to 416-800-0095 before the person provides services under this Contract. Contractor shall ensure that criminal records checks are updated at least every five years.

Any person who has failed a criminal history check as set forth in OAR 416-800-0000 to 416-800-0095 is prohibited from serving as a contracted service provider.



MOTION

SUBJECT: Expunction Agreement

I move to approve IGA 14840 for the expunction of juvenile records.



DISCUSSION ITEM

Maupin Surplus Land Purchase

[STAFF MEMO](#)

[PURCHASE AGREEMENT](#)

[BARGAIN SALE & DEED](#)

[MOTION LANGUAGE](#)



MEMORANDUM

SUBJECT: Maupin Parcel Purchase

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JILL AMERY

DATE: 1/12/2022

BACKGROUND INFORMATION:

The City of Maupin expressed a need for additional land March of 2021, for future capital improvements projects and possible affordable housing. At this time, Wasco County had already prepared the list of properties to be auctioned June of 2021. A request to pause the sale of parcel 5S 14E 6 500 by Wasco County at auction was granted by the Board of County Commissioners shortly thereafter. October 2021 Maupin City Council approved the purchase of the parcel from Wasco County in an amount of property taxes forgone due to the foreclosure. The documents presented today will complete this sale to a governmental entity as prescribed by ORS 271.310.

PURCHASE AND SALE AGREEMENT
FOR SURPLUS PROPERTY

OREGON REVISED STATUTES ORS 271.310

THIS **PURCHASE AND SALE AGREEMENT** (the "Agreement") is made and entered into this ____ day of January, 2022, by and between WASCO COUNTY, OREGON, a political subdivision of the State of Oregon (hereafter referred to as the "Seller"), and the City of Maupin, an Oregon governmental body (hereinafter referred to as the "Buyer").

Whereas, the Wasco County Board of Commissioners has designated the Property that is the subject this Agreement as surplus property and not in use by Wasco County.

Whereas, pursuant to ORS 271.310 Buyer is a qualifying governmental body.

Whereas, pursuant to ORS 271.310, for an amount not less than all outstanding property taxes due to the taxing districts prior to foreclosure, as well as expenses incurred by Wasco County incurred in care and maintenance with respect to said Property, the Wasco County Board of Commissioners has elected to relinquish the subject Property to Buyer.

Whereas, for and in consideration of Twenty-Two Thousand Three Hundred Twenty Nine and 22/100 Dollars (\$22,329.22) and the mutual covenants and undertakings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. SALE AND PURCHASE

Agreement to Sell and Convey. Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, subject to the terms and conditions hereinafter set forth, certain parcel of land situated in Wasco County, Oregon, and being more particularly described under the Wasco County Property Assessor's Parcel Number 12494, map & tax lot number 5S 14E 6 500 legally described in Exhibit A.

together with the following:

- (a) Any and all improvements, personal property and fixtures situated thereon, (collectively, the "Improvements");
- (b) all and singular the rights and appurtenances pertaining thereto; and
- (c) all of Seller's rights in and to all easements, if any, benefiting the land and Improvements, if any;

all collectively referred to as the "**Property**."

1.01. **Enforceability.** The enforceability of this Agreement is wholly contingent upon the approval of this Agreement by the Wasco County Board of County Commissioners at a properly noticed public meeting. However, all dates and timelines herein shall run from the Execution Date. For purposes of this Agreement, the "Execution Date" is the date this Agreement is executed by the County Administrator and the Buyer, whichever is later).

1.02. **Purchase Price.** The purchase price (hereinafter referred to as the "Purchase Price") shall be all outstanding property taxes due to the taxing Districts prior to foreclosure in the amounts of \$22,329.22, which shall be payable in cash, in current funds, subject to Closing prorations and adjustments as hereinafter set forth.

1.03. **Cash/Financing.** Buyer will pay cash for the Property with no financing contingency. If financing is obtained by Buyer, Closing Agent will cooperate with Buyer's lender for document execution; however, this Agreement is not conditioned on Buyer obtaining financing.

1.04 **Feasibility Study.** This Agreement shall be considered "As-Is". Buyer has waived its right to inspection except as specifically set forth below.

II. TITLE REQUIREMENTS, SURVEY AND PERMITTED EXCEPTIONS

2.01. **Title Insurance.** This Property is being sold "As Is".

2.02. **Current Survey.** Buyer may, at its sole expense, obtain a current survey (the "Survey") of the Property prepared by a surveyor acceptable to Buyer and Buyer's lender, without in any way affecting the "As Is" provision of this Agreement.

III. PROVISIONS WITH RESPECT TO CLOSING

3.01. **Closing Date.** The consummation of the transaction contemplated by this Agreement (the "Closing") shall take place in Wasco County, Oregon, at the offices of Wasco Title or at such other place and time as Buyer and Seller agree to in writing on or no later than November 1, 2021(the "Closing Date"). Possession of the Property shall be granted by Seller to Buyer no later than the Closing Date. Despite any provisions in this Agreement which could possibly be construed to the contrary, no extension to the closing date shall be granted unless mutually agreed in writing. No objection as to the title or physical status of the property will result in an extension of closing without a mutual written agreement.

3.02. **Seller's Obligations at Closing.** At the Closing Seller shall execute the following for the conveyance of the Property:

(a) Execute, acknowledge and deliver to Buyer a Bargain and Sale Deed conveying the Property, which deed shall be in statutory form for recording;

(b) Execute and deliver such other documents as may be required by this

Agreement.

3.03. **Buyer's Obligations at Closing.** Contemporaneously with the performance by Seller of its obligations set forth in Section 3.02 above, at Closing, Buyer shall do the following:

(a) Execute and deliver instruments satisfactory to Seller instruments reflecting the proper power, good standing and authorization for the purchase of the Property from Seller by Buyer hereunder, and;

(b) Execute and deliver to Seller a closing statement setting forth the Purchase Price, adjustments, prorations, and closing costs as set forth herein, and;

(c) Execute and deliver such other documents as may be required by this Agreement.

(d) **Buyer Closing Costs.** Buyer shall pay all costs and expenses related to the Closing of this transaction including but not limited to:

(i) All recording fees associated with the transaction, including those related to the recording of the Deed;

(ii) Survey costs, if any; and

(iii) All other costs and expenses necessary to close this transaction except those set forth as Seller Closing Costs herein.

(e) **Seller Closing Costs.** Seller shall pay no closing costs in connection with this transaction.

3.04. **Prorations.** The following items shall be prorated between Seller and Buyer as of midnight of the day immediately preceding the date of Closing; such prorations favoring Buyer shall reduce the Purchase Price, and such prorations favoring Seller shall increase the Purchase Price:

(a) **Property Taxes.** The parties recognize that Seller is a governmental entity and exempt from ad valorem taxes. The current city, state and county ad valorem taxes, if applicable, for the calendar year of Closing may not be representative of the anticipated taxes for the Property after conveyance to Buyer. There shall be no adjustment between the parties for taxes when the tax statements for the year of Closing are available

(b) **Utility Charges.** Utility charges and any other operating expenses associated with the operation of the Property, if any.

(c) **Other items.** Such other items, if any, as are customarily adjusted between buyers and sellers of real properties, it being intended that the items set forth in this paragraph above are illustrative only and that the parties will make such other

adjustments at or after closing as are necessary so that Seller shall have all the benefits and burdens of the Property up to and including midnight of the day preceding the date of Closing and Buyer shall have all the benefits and burdens of the Property after midnight of the day preceding the date of Closing. The Buyer agrees to indemnify and hold the Seller harmless of and from any and all liabilities, claim, demands and expenses, of any kind or nature arising or accruing after midnight on the date of Closing and which are related to the ownership, maintenance or operation of the Property, and all expenses related thereto after said time, including, without limitation, court costs and attorney's fees.

IV. RISK OF LOSS

4.01. **Seller to Bear Risk.** The risk of loss to the Property by fire, casualty, or otherwise prior to the Closing which materially and adversely affects the Property, in Buyer's reasonable discretion (a "Casualty"), is assumed by Seller.

V. DEFAULT

5.01. **Default by Seller.** If Seller fails to perform any of the covenants of this Agreement, or if Seller otherwise defaults hereunder, Buyer may elect to terminate this Agreement and because of the difficulty, inconvenience and uncertainty of ascertaining actual damages, no other damages, rights or remedies shall in any case be collectible, enforceable or available to Buyer other than as provided in this paragraph.

5.02. **Default by Buyer.** In the event Buyer should fail to consummate the transaction contemplated herein for any reason except for (i) any permissible reasons set forth herein or (ii) Seller's default, Seller may terminate this Agreement.

VI. BROKERAGE COMMISSIONS

6.01 **Broker.** Seller and Buyer warrant each to the other that they have not dealt with any real estate broker or sales-person.

VII. OTHER CONTRACTUAL PROVISIONS

6.01 **Assignment.** Buyer may not assign its interests in this Agreement either in whole or in part without the prior written consent of Seller.

6.02 **Notices.** All notices which are required or permitted hereunder must be in writing and shall be deemed to have been given, delivered or made, as the case may be, (notwithstanding lack of actual receipt by the addressee) (i) when delivered by personal delivery or (ii) three (3) business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid, or (iii) one (1) business day after having

been deposited with an expedited, overnight courier service (such as by way of example but not limitation, U.S. Express Mail, Federal Express or United Parcel Service), addressed to the party to whom notice is intended to be given at the address set forth below:

Wasco County;

Wasco County Administrator
Wasco County Board of County Commissioners
511 Washington Street
The Dalles, OR 97058

Buyer:

Mayor
City of Maupin
PO Box 308
Maupin, OR 97037

8.02. **Address Change.** Any party may change the address to which its notices are sent by giving the other party written notice of any such change in the manner provided in this Section, but notice of change of address is effective only upon receipt.

8.03. **Governing Law.** All questions, issues or disputes arising out of or under this Agreement, shall be governed by the laws of the State of Oregon and State jurisdiction is hereby agreed by Party/parties to be in Wasco County, Oregon.

8.04. **General.** The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in full force and effect. Party/parties agree to sign all such documents and do all such things as may be necessary or desirable to completely and effectively carry out the terms and conditions of this Agreement. Time shall be of the essence of this Agreement. In this Agreement, wherever the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this agreement. Party/parties agree that this Agreement is consummated and entered into in Wasco County, Oregon.

8.05. **Severability.** Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid but if any provision or term of this Agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

8.06. **Attorneys' Fees.** If any action is commenced to construe or enforce this Agreement or the rights and duties created hereunder, then the party prevailing in that action shall be entitled to recover its costs and fees in that action, the cost and fees incurred in any

appeal thereof, and the costs and fees incurred in enforcing any judgment entered herein.

8.07. **Disputes.** All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between the parties, followed if necessary within thirty (30) days by professionally-assisted mediation. Any mediator so designated must be acceptable to each party. The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Failing resolution through negotiation or mediation, either party may file an action in a court of competent jurisdiction or other appropriate remedy available in law or equity.

8.08. **Authority of Parties.** Seller and Buyer represent to each other that each has full power and authority to enter into and perform this Agreement, all related instruments and the documentation contemplated hereby and thereby in accordance with their respective terms and that the delivery and performance of this Agreements, all related instruments and the documentation contemplated hereby and thereby has been duly authorized by necessary action.

8.09. **No Waiver.** Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligations hereunder, nor any custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

8.14. **Representations and Warranties.** Seller makes no representations and warranties concerning the Property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below their respective signatures.

SELLER: BOARD OF COUNTY COMMISSIONERS WASCO COUNTY, OREGON

Kathy Schwartz, COUNTY COMMISSION CHAIR

BUYER: CITY OF MAUPIN

Lynn Ewing, MAYOR

Dated: 1-6-2022

EXHIBIT A
LEGAL DESCRIPTION

Beginning at the north most corner of said Parcel 3 of Partition Plat 2001-019, said point further being on the southerly line of an existing City of Maupin public roadway easement; thence along the easterly line of said Parcel 3, South 10°13'00" east 1,051.83 feet; thence leaving said easterly line, north 88°45'42" west 311.28 feet; thence on a 180.00 foot radius curve to the right 294.56 feet (the long chord of which bears north 41°52'51" west 262.78 feet); thence north 05°00'00" east 71.35 feet; thence on a 620.00 foot radius curve to the left 379.00 feet (the long of which bears north 12°30'44" west 373.13 feet); thence north 30°01'28" west 50.15 feet to the southerly line of said City of Maupin public roadway easement; thence along said southerly line on a 1,360.00 foot radius curve to the right 60.06 feet (the long chord of which bears south 60°23'49" west 60.00 feet); thence leaving said southerly line north 30°01'28" west 60.03 feet to the northerly line of said public roadway easement; thence leaving said northerly line, north 10°29'58" west 639.21 feet, more or less, to the southerly right-of-way of U.S. Highway #197; thence along said southerly right-of-way line, 1,966 feet, more or less, to the point of intersection with the easterly line of said City of Maupin public roadway easement, said point being south 57°08'32" east 2,534.57 feet from the northwest corner of Section 6; thence along the easterly and southerly line of said City of Maupin public roadway easement on a 310.00 foot radius curve to the right 290.26 feet (the long chord of which bears south 59°24'20" west 279.77 feet); thence south 86°13'46" west 274.20 feet; thence on a 4,030.00 foot radius curve to the right 206.04 feet (the long chord of which bears south 87°41'39" west 206.02 feet); thence south 89°09'32" west 103.71 feet; thence on a 200.00 foot radius curve to the left 164.84 feet (the long chord of which bears south 65°32'52" west 160.21 feet); thence south 41°56'11" west 447.93 feet to the point of beginning.

**Until a change is requested,
all tax statements shall be sent to:**

City of Maupin
PO Box 308
Maupin, OR 97037

After recording return to:

Campbell Phillips PC
Attn: Kristen A. Campbell
P.O. Box 2449
The Dalles, OR 97058

Consideration: ORS 271.310

BARGAIN AND SALE DEED

Wasco County, a political subdivision of the State of Oregon, Grantor, conveys to the City of Maupin, Grantee, the following described real property:

Parcel 1: See attached Exhibit A

And, further, subject to all encumbrances of record.

These restrictions shall run with the land.

The true consideration for this conveyance is as established by ORS 271.310.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED: _____, 2022.

WASCO COUNTY
BOARD OF COMMISSIONERS

By: _____
Kathleen B. Schwartz, Commission Chair

By: _____
Steven D. Kramer, Vice-Chair

By: _____
Scott C. Hege, County Commissioner

STATE OF OREGON)
) ss. _____, 2022.
County of Wasco)

Personally appeared the above named Kathleen Schwartz, Commission Chair of Wasco County, a political subdivision of the State of Oregon, and acknowledged the foregoing instrument to be their voluntary act and deed. _

Notary Public for Oregon

STATE OF OREGON)
) ss. _____, 2022.
County of Wasco)

Personally appeared the above named Scott C. Hege, Commissioner of Wasco County, a political subdivision of the State of Oregon, and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon

STATE OF OREGON)
) ss. _____, 2022.
County of Wasco)

Personally appeared the above named Steven D. Kramer, Vice-Chair of Wasco County, a political subdivision of the State of Oregon, and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon



MOTION

SUBJECT: Maupin Deed

I move to approve the Sale and Purchase Agreement and Bargain Sale and Deed for surplus property to the City of Maupin for consideration of \$22,329.22.



DISCUSSION ITEM

Budget Appointment

[VOLUNTEER APPLICATION](#)

[ORDER 22-002 APPOINTING DEORA PATTON TO BUDGET COMMITTEE](#)

[MOTION LANGUAGE](#)



INFORMATION AND QUALIFICATION FORM

Wasco County Budget Committee

VOLUNTEER POSITIONS
WASCO COUNTY, OREGON

BACKGROUND

The Wasco County Budget Committee meets each year to:

- Receive the budget document
- Hear the budget message
- Hear & consider public comment
- Discuss and revise the budget as needed
- Approve the budget
- Approve the property taxes

APPLICATION

Provide personal qualifications for this specific volunteer position.

Supplementary information may be attached. Do not provide confidential information.

Name: _____

Address: _____

Phone (home) _____ Phone (work) _____

E-mail address _____

Signature: _____

Date: _____ Number of years as a Wasco County resident: _____

Your objectives/goals? Desired contributions and accomplishments? _____

The cost of providing Wasco County services far outweigh the ability to fund them. Are you willing to make the difficult funding decisions and communicate the results to the public?

Comments: _____

Education (school, college, training, apprenticeships, degrees, etc.)

_____ Date(
_____ Date(s): _____
_____ Date(s): _____
_____ Date(s): _____

Experience (work, volunteering, leadership roles, achievements etc.)

_____ Date(s): _____
_____ Date(s): _____
_____ Date(s): _____
_____ Date(s): _____

General Comments/Additional Relevant Information

Send completed form to: Wasco County
511 Washington Street, Suite 101
The Dalles OR 97058
(541) 506-2520
(541) 506-2551 (fax)



IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE APPOINTMENT OF DEORA PATTEN TO THE WASCO COUNTY BUDGET COMMITTEE

ORDER #22-002

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board of Commissioners being present; and

IT APPEARING TO THE BOARD: That a vacancy exists on the Wasco County Budget Committee; and

IT FURTHER APPEARING TO THE BOARD: That DeOra Patten is willing and is qualified to be reappointed to the Wasco County Budget Committee for another term.

NOW, THEREFORE, IT IS HEREBY ORDERED: That DeOra Patten be and is hereby appointed to the Wasco County Budget Committee; said term to expire on December 31, 2022.

DATED this 19th day of January, 2022.

APPROVED AS TO FORM:

WASCO COUNTY BOARD OF COMMISSIONERS:

Kristen Campbell, County Counsel

Kathleen B. Schwartz, Commission Chair

Steve D. Kramer, Vice-Chair

Scott C. Hege, County Commissioner



MOTION

SUBJECT: Budget Appointment

I move to approve Order 22-002 appointing DeOra Patten to the Wasco County Budget Committee.



DISCUSSION ITEM

MCCFL/Pacific Source Letter

[STAFF MEMO](#)

[DRAFT LETTER](#)



MEMORANDUM

SUBJECT: MCCFL/Pacific Source Letter

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY CLARK

DATE: JANUARY 11, 2022

BACKGROUND INFORMATION:

The letter included in the packet is a draft collaboratively created. The Board is, of course, free to modify the letter. However, the passage highlighted in blue is specifically intended for Commissioner input.



BOARD OF COUNTY COMMISSIONERS

511 Washington St, Ste. 101 • The Dalles, OR 97058
p: [541] 506-2520 • f: [541] 506-2551 • www.co.wasco.or.us

Pioneering pathways to prosperity.

To: Ken Provencher, President and CEO PacificSource Health Plan
Via Email: Ken.Provencher@pacificsource.com
CC: PacificSource Senior Leadership Team

RE: Stability Payment and 2022 Contract Negotiations

January 19, 2022

We are writing to thank you for the recent decision to provide a stability payment for Mid-Columbia Center for Living (MCCFL). Your decision demonstrates a commitment to the core mission of MCCFL to serve our most vulnerable community members many of whom are also your health plan members. We also write in advocacy for a quick resolution to the current contract negotiations between MCCFL and PacificSource Community Solutions Columbia Gorge CCO.

Given our challenges within the region over the past 18 months, we are singularly focused on keeping our health and human services infrastructure intact and stable. Sadly, we have faced a terrible mixture of organizational and financial challenges in the middle of a life-altering pandemic that has produced suffering in all of our communities across the region.

If Commissioners want to add a personal story or observation this is a place to do it. OR just delete this short paragraph. Example: we've seen BLANK (talk about schools mental health challenges, lost jobs, homelessness, higher rates of substance abuse, domestic issues, early childhood trauma, increased crisis services and impact to law enforcement, jail health services, etc.)

As the Local Mental Health Authority (LMHA) for Wasco County, we are paying attention to how MCCFL, as our chosen Community Mental Health Program (CMHP), is performing. We are taking steps to strengthen our business systems with technical assistance from Wasco County and consultation from Oregon CMHP subject matter experts. You can be assured that despite the workforce shortages, we stand behind MCCFL and have no desire to entertain the lengthy and costly exercise of producing a request for proposals during a pandemic to attract a new provider as our regional CMHP.

As the Local Public Health Authority (LPHA) and the LMHA for Wasco County, we are also paying attention to Oregon's overall efforts to further invest in behavioral health services. This was evidenced in the Oregon Health Policy Board's multiyear policy focus on CCO 2.0 which led to the Oregon Health Authority's contractual obligations with all CCOs to make additional investments into behavioral health. The five policy focus areas of the 2022 draft 1115 Medicaid waiver letter signal a course we should follow. Behavioral health, equity and social determinants of health are correctly called out because CCO investments in these areas will lead to better overall health for our communities, as well as cost containment for taxpayers who ultimately pay into this publicly-funded model.

We understand that MCCFL and PacificSource have been meeting since summer 2021 to update the contract payment terms. We are watching the contract negotiation very closely as the health of our communities hangs in the balance. We hoped to have this contract payment model finalized prior to the start of the new contract period on January 1, 2022 so that our communities are safely able to access these contractually and statutorily required core services (ORS 414.153). Although we are beyond the January 1st timeline, the need is no less critical – the work, no less imperative. If there are additional areas for investment in 2022, we hope to continue those conversations about value-based contract models and can easily amend the contract if both parties are in

agreement. We encourage a contract duration of one year or longer so MCCFL can make plans to fully stabilize and emerge post-pandemic and so staff can recommit themselves to their public service without concerns about the fiscal health of the organization.

Now is a time for investment in behavioral health. We need to see this in advance of our post-pandemic recovery effort so that we can stabilize MCCFL and build capacity. The well-being of our communities across the region are quite literally at stake because without a strong safety net CMHP model that is financially stable, we cannot properly care for the residents/PacificSource members as we are charged to do so as the Local Mental Health and Local Public Health Authorities.

Sincerely,
Wasco County Board of Commissioners

Kathleen B. Schwartz, Chair

Steven D. Kramer, Vice-Chair

Scott C. Hege, County Commissioner

Cc:

- Peter Davidson, Executive VP, CFO, Columbia Gorge Coordinated Care Organization
- Erick T. Doolen, Executive VP, COO Columbia Gorge Coordinated Care Organization
- Dan Stevens, Executive VP, Provider and Regional Partnerships, Columbia Gorge Coordinated Care Organization
- Lindsey Hopper, Executive VP, Lines of Business, Columbia Gorge Coordinated Care Organization
- Edward McEachern, MD, Executive VP, CMO
- Sharon Thomson, Executive VP, Marketing & Community Strategy, Columbia Gorge Coordinated Care Organization
- Elke Towey, Director, Columbia Gorge Coordinated Care Organization
- Erin Fair Taylor, Vice President of Medicaid Programs | PacificSource Community Solutions
- Peter McGarry, Vice President of Provider Network, PacificSource Community Solutions



CONSENT AGENDA

[MINUTES: 1.5.2022 REGULAR SESSION](#)



**WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
JANUARY 5, 2022**

This meeting was held on Zoom

<https://wascocounty-org.zoom.us/j/3957734524>

or call in to [1-253-215-8782](tel:1-253-215-8782) Meeting ID: 3957734524#

PRESENT: Kathy Schwartz, Chair
Steve Kramer, Vice-Chair
Scott Hege, County Commissioner

STAFF: Kathy Clark, Executive Assistant
Tyler Stone, Administrative Officer

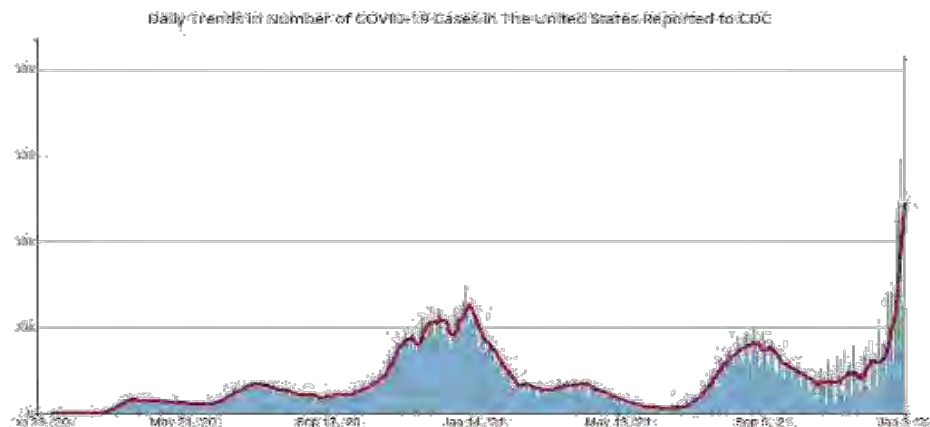
Chair Schwartz opened the session at 9:00 a.m. Changes to the Agenda:

- Remove Dufur Bargain Sale & Deed to place on January 19, 2022 Agenda
- Add Emergency Shelter for COVID Isolation

Discussion Item – COVID Update

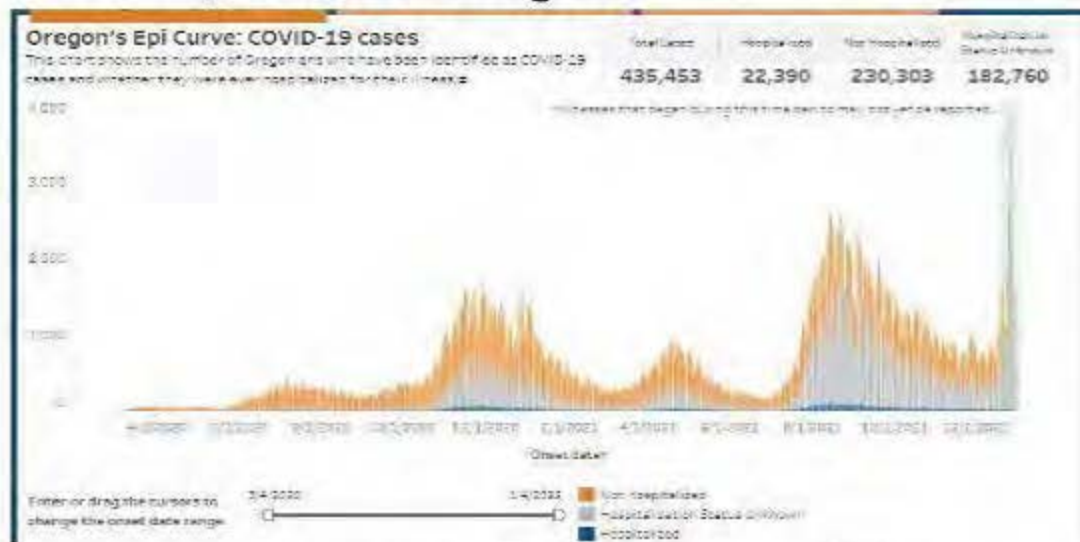
North Central Public Health District Medical Officer Dr. Mimi McDonell reviewed current status of the COVID19 pandemic in the United States, Oregon and our region.

COVID-19 Cases in the USA

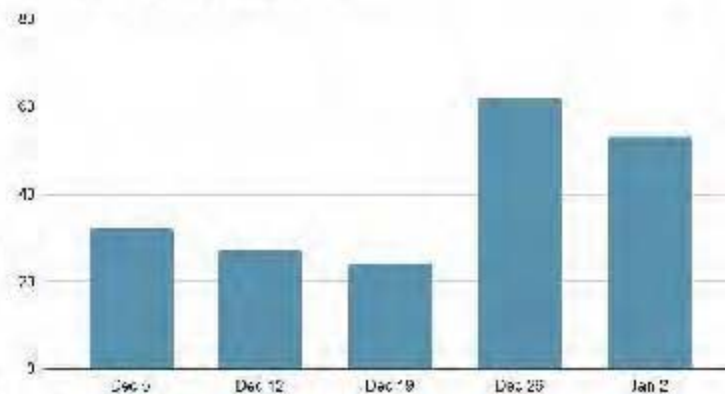


Dr. McDonell pointed out that the United States and Oregon are seeing the highest number of positive cases of COVID19 since the beginning of the pandemic. Wasco County is seeing significant increases in positive test results of the last few weeks.

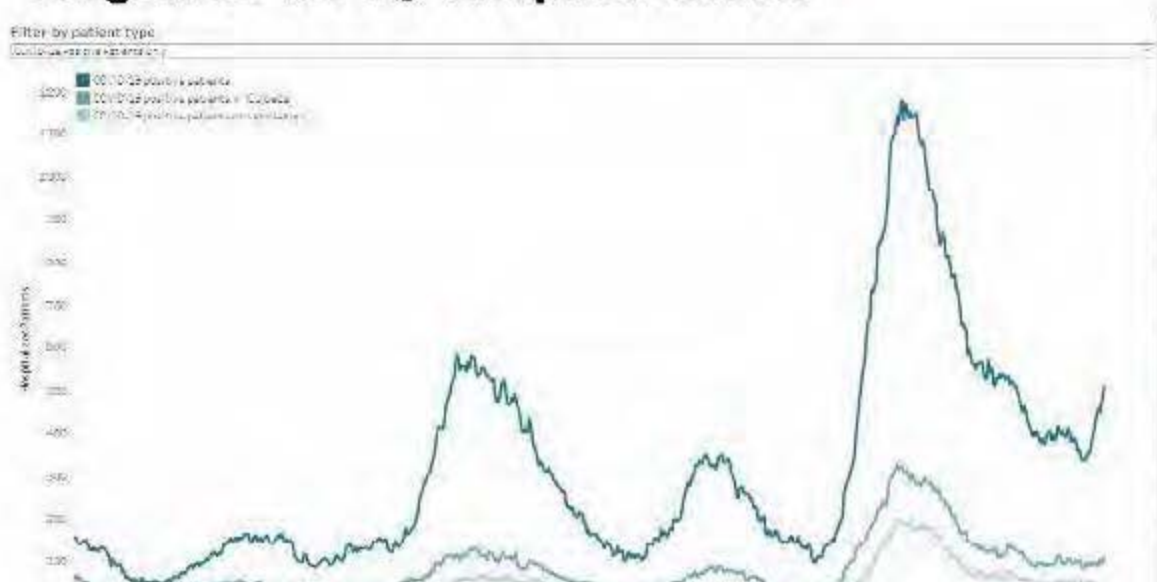
COVID-19 Cases in Oregon



Wasco County Weekly Cases



Oregon COVID-19 Hospitalizations



Dr. McDonnell explained that using the number of hospitalizations is a good indicator of the severity of cases that we are seeing. The rise in hospitalizations is not as steep as the rise in cases overall; however, hospitalizations generally lag a couple of weeks behind case counts.

Hospital capacity in our region currently is basically at maximum capacity.

Region 6 Hospital Capacity

9/10	ICU Beds Occupied
44/49	non-ICU Beds Occupied

This Thursday's vaccination clinic will be held at Sunshine Mill due to a plumbing issue at the Readiness Center.

The Pfizer booster has been approved for children between 12 and 15. Medical professionals are looking at vaccination status as being up to date rather than fully vaccinated.

The guidelines are changing for isolation and quarantine. Isolation has been recommended for 10 days but is changing to 5 days if they are asymptomatic and will wear a mask for the following 5 days. NCPHD is working with the local schools to follow the old guidelines until OHA and ODE get up to date. Most of our local schools have not reopened after the holiday break due to the weather conditions.

Quarantine guidelines have also been shortened. If a person has been exposed and is up to date on their vaccinations, they would not need to quarantine. If not up to date on their vaccinations, 5 days of quarantine followed by 5 days of masking is recommended.

Dr. McDonnell said that we have had a significant outbreak among our unsheltered homeless population. With freezing temperatures, this population already faces challenges. In The Dalles, St. Vincent DePaul has a congregate warming shelter but that is not appropriate for those testing positive for COVID. We sometimes have availability at some local hotels for shelter; however, a number of these folks are not able to comply with the rules and therefore cannot stay in a hotel. That brings us to our most pressing issue of how to care for this group.

NCPHD Executive Director Shellie Campbell explained that there has been a lot of discussion around the placement of this population. Emergency Management and the Oregon Department of Human Services were able to get a tent in the community for them. It was set up at the Discovery Center with 8 cots, sleeping bags and a generator. The challenges are around staff support for the tent occupants who generally have some mental health issues and do not comply with rules. NCPHD staff is not trained to deal with those issues. In addition, the generator needs to be refueled every 7-8 hours – staff has had to go out on the icy roads after dark to fill the generator. The request is that City and County leaders help get the tent relocated to a less remote location.

Vice-Chair Kramer thanked Public Health for all the work they have done to keep up with the changes.

Chair Schwartz asked Dr. McDonell to elaborate on what is an “effective” mask. Dr. McDonell responded that surgical grade masks are easily obtained and better than cloth masks. KN95 or N95 masks are even better.

Chair Schwartz observed that there are a lot more home tests in use and the results are likely not reported. That means we no longer have an accurate baseline. She encouraged people to report positive home tests to the Health Department. Dr. McDonell added that Public Health or a primary care provider can give good advice on what to do. The work Public Health is doing now, in terms of case management, has changed.

The Dalles Mayor Rich Mays expressed his appreciation for all the work that has gone into installing and maintaining the tent shelter. He asked how it was decided to place the tent shelter at the Discovery Center and who provided the tent.

Micah Goettl, Regional Emergency Coordinator for the Oregon Department of Human Services Office of Resilience and Emergency Management, stated that his office provided the tent based on a request from Public Health and Emergency Management. It was the most rapid, life-saving response that they could do immediately and is at no cost to the local jurisdictions.

Mayor Mays asked if this has been used in other jurisdictions. Mr. Goettl replied that this is the first tent of this sort to be deployed. The tents are intended for mass evacuations and this is a good test of their use.

WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
JANUARY 5, 2022
PAGE 5

Mayor Mays thanked the State for stepping up to provide this assistance. He asked why it was located at the Discovery Center. Dr. McDonell replied that they were the only ones to say yes.

Commissioner Hege commented that he is open to the idea of moving the tent in coordination with community partners and supports finding a better location.

Vice-Chair Kramer said that this incident opens the door to the need for a greater conversation. We have to start dealing with mental and behavioral health in our community; it is a major issue. We need to work together and support it with resources to address the problem. He said he is also in favor of moving the tent for the health and safety of both staff and tent occupants.

Chair Schwartz asked where NCPHD would like to have the tent located. Ms. Campbell replied that the first choice would be the lower lot at the Public Health annex. Another solution is the Lewis and Clark Festival Park which has restrooms. Placing the tent in an area more familiar to the occupants will encourage them to stay in isolation.

Commissioner Hege asked if the annex location would create parking issues for staff in the 3 buildings located there. Ms. Campbell said that she believes most of Parole and Probation are working remotely. There is enough parking on the upper level but cones and signs would be necessary to cordon off the lower lot.

Commissioner Hege asked if the Festival Park is a good option. Mayor Mays said that there is not a lot of support for that. In 2020 when they tried to site the palette shelters there, it was rejected by City Council. A lot has changed since then; they may feel differently now.

Commissioner Hege asked if we have a sense of how long the tent will be needed. Dr. McDonell said that outbreaks generally last about 4 weeks – that is a loose estimate.

Mr. Goettl said that he is checking with a local supplier that makes portable shelters which might be an option and would be reimbursable. It would have to be locally supported with a plan in place for location. The state can help make the connection with the resource, but a local entity would have to support it.

Dr. McDonell observed that currently, people who have been housed at the

palette shelter are able to comply with the rules; there are no cases reported there.

Chair Schwartz paused the conversation to accommodate the public hearing scheduled for 9:30 a.m.

Agenda Item – Fee Schedule Ordinance Hearing

Chair Schwartz opened the hearing at 9:32 a.m. and explained the process.

Ms. Clark noted that the Board saw the proposed increases to the Building Codes fees at Ordinance hearings that took place in the fall of 2021. The statute requires a more lengthy process for changes to Building Codes fees which is why these are being brought forward today.

Commissioner Hege asked if these changes have been noticed to the contracting community. Ms. Clark replied that it is part of the state process; the County sends the proposed changes to the State Building Codes office and they distribute them to the contracting community. They also post them on their site for 6 weeks.

Vice-Chair Kramer read the Ordinance into the record by title: Ordinance 22-001 In The Matter of Amending Wasco County's Uniform Fee Schedule for Various County Departments.

Chair Schwartz closed the hearing at 9:37 a.m.

Discussion Item – COVID Update Continued

Commissioner Hege said that he thinks directing staff to work in conjunction with partners toward a solution should be considered. He stated that he supports the suggestions that have been made and has confidence in staff to come to a good solution.

Vice-Chair Kramer said that he agrees as long as policy, procedure and legal requirements are met; staff can handle this.

Chair Schwartz asked Mr. Goettl to expand his description the other housing alternative he had mentioned. Mr. Goettl said it is similar to an ice fishing shed. It is 8' x 9', moisture resistant, lockable, wired for 110, able to withstand a snow load and has bunk beds. With just one person in quarantine, it would pay for itself in two months as compared to the cost of a hotel room. It is a longer term

WASCO COUNTY BOARD OF COMMISSIONERS
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JANUARY 5, 2022
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solution for the homeless crisis; it is safer than a tent and can support long term treatment. It accommodates 2; it is a tiny home concept with a palette shelter application.

Chair Schwarz said that she thinks we should accommodate the request to move the tent to a more convenient location. She agreed that staff can work out the details; having it at the Discovery Center was an immediate solution but it is a challenging location. Going out there every 8 hours to fill the generator is not sustainable and creates an urgent need for relocation. Our Health District staff is in the midst of rising case counts due to the Omicron variant and their capacity is extremely limited. Bringing it closer to them will make it much better. This is an emergency and although no solution will be ideal, we need to get it solved quickly.

Community Corrections Manager Fritz Bachman said that his office is at $\frac{3}{4}$ staffing. There is room in the lower parking lot and they will face any challenges. Bridges to Change has expressed concerns about some of the potential tent occupants who were formerly located at a Bridges house. He said he would prefer the Lewis and Clark Festival Park but he understands the immediacy of the need.

*****The Board was in consensus to direct staff to work with NCPHD to move the tent shelter to a new location.*****

Vice-Chair Kramer commented that this is a short-term problem being addressed today. We have long-term, underlying issues that need to be addressed.

Ms. Campbell said that some of the barriers are around liability and insurance; that will prolong the solution.

Mr. Goettl said that the State is accepting responsibility for damages and will have someone from the manufacturer to help provide guidance for the dismantling and relocating of the tent.

Chair Schwartz said that we will also have County Counsel involved.

Mayor Mays said that he would like to add his voice to Vice-Chair Kramer's comments on the behavioral and mental health crisis. We have to understand

that the reason these folks have been placed in the tent is that they were evicted from the hotel due to behavioral issues. A local task force has been trying to address this issue with no resources and no authority. We need a group that has both to work on this issue.

Chair Schwartz thanked County and NCPHD staff for all their work on this over the holiday.

Agenda Item – JRI Grant Agreement

Mr. Bachman said that he previously presented the grant application and reviewed the details of the program at that time. The funding is commonly not approved by the State until October; this year it was not approved until mid-December. We applied for everything we could to support NORCOR, specialty courts and transitional housing. We are getting a little less than last biennium which is based on our supervision case load. Last biennium we received approximately \$613,000; this biennium we will receive approximately \$570,000, which is the full amount we requested and are approved for. Community Corrections is doing well and getting results. Today's request is for approval of the agreement which is similar to previous agreements with a little more reporting required.

Commissioner Hege asked if Sherman County has a similar agreement with the State and if those funds will be coming to Wasco County as the entity providing supervision services for Sherman County. Mr. Backman replied that this is separate than the grant and aid funding which will come to Wasco County for the work we do on behalf of Sherman County. The Justice Reinvestment Grant funds go directly to each county; Sherman County will apply their JRI funds to provide victims services, prevention and outreach work and work crew programs.

{{Vice-Chair Kramer moved to approve the Criminal Justice Commission Justice Reinvestment Grant Program Grant Agreement. Commissioner Hege seconded the motion which passed unanimously.}}

Mr. Bachman added that the State has also approved our grant in aid funding and that is moving forward.

Agenda Item – OEM Grant Agreement

Emergency Manager Sheridan McClellan explained that this agreement is for the funding that supports the Emergency Manager position, general office supplies

and training. There is a \$66,000 match requirement from the County.

Commissioner Hege commented that this is the primary funding for our emergency services that comes from the State and goes to all counties. Mr. McClellan confirmed, saying that there is a base amount for all counties and then an additional amount based on population.

Chair Schwartz asked if the match comes from our General Fund. Mr. McClellan replied that it is a 50% match. Chair Schwartz pointed out that he is a staff of one and commended him on doing the job well – it is a big job.

{{{Commissioner Hege moved to approve the OEM Emergency Management Performance Grant Agreement 21-533. Vice-Chair Kramer seconded the motion which passed unanimously.}}}

Agenda Item: MCCFL Information Services Agreement
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Information Services Director Andrew Burke explained that this is an agreement to provide services to Mid-Columbia Center for Living for the next 12 months to help them as they work through their current budget crisis. This is a statement of work model and we can build out statements in the future without loss of revenue to the County. That allows flexibility for both the County and MCCFL.

Commissioner Hege asked if we are already providing services. Mr. Burke replied affirmatively, saying that we are doing it in an emergency capacity. He is doing that as a second job.

Vice-Chair Kramer said he would like to hear from the Administrative Officer and County Counsel.

Mr. Stone said that this is actually a concept we had worked on before the MCCFL crisis. This is a regional idea to bring specialization to the IS department that will improve our service level as well as that of others. This is an opportunity to test that system; if it is a viable solution, we can look at expanding to other entities that are too small for dedicated IS staff. We have not been charging up to this point. Realizing their financial landscape, we are scaling the fees. They had been paying \$18,000 per year to contract out for these services.

Mr. Burke added that his department did a cost analysis last year which will enable us to accurately recover costs. Mr. Stone said that we can get more staff

and they can get better services.

County Counsel Kristen Campbell said that she has a conflict for this agreement and therefore referred it to outside counsel for review. She said she has full confidence that they have thoroughly vetted the agreement.

Chair Schwartz stated that she appreciates Wasco County doing this; it is one way we can step up to assist our mental health provider. She said she also appreciates the sliding fee scale as it will help them to get up and running.

{{Vice-Chair Kramer moved to approve the Wasco County Information Services Master Service Agreement between Wasco County and Mid-Columbia Center for Living. Commissioner Hege declared a conflict as he sits on both the County and MCCFL Boards. Chair Schwartz seconded the motion which passed on a vote of 2 yeas and one abstention.}}}

Chair Schwartz opened the floor to public comment. There was none.

Agenda Item: Public Comment for 2022-2027 Medicaid 1115 Waiver

Juvenile Services Director Molly Rogers reviewed the comment letter included in the Board Packet. She said she has been working on this issue for over 20 years to allow Medicaid to continue through incarceration. If granted, this will allow services for short-term incarceration.

Commissioner Hege said this makes a lot of sense. It is frustrating when someone has not yet been found guilty but loses coverage. It is the same for both adults and juveniles. He thanked Ms. Rogers for her strong advocacy.

Vice-Chair Kramer agreed with Commissioner Hege's comments. District Attorney Matt Ellis added his support for the comments.

Chair Schwartz asked if the federal government has been denying this. Ms. Rogers replied that it has never actually been included in the waiver request. This is the first time it would be submitted to the federal government. The National Sheriff's Association has been working on this through NACo for the adult side. She said she is asking that they clearly include the juvenile side. She said that we have one kid in NORCOR who needs glasses but has lost coverage while incarcerated.

*****The Board was in consensus to submit the Medicaid Waiver comments as presented.*****

Discussion Item: Museum Commission Appointment

Ms. Clark explained that there are a couple of vacancies on the Fort Dalles Museum Commission. The Commission Board has reviewed Dawn Rasmussen's application and is in support of her appointment.

{{{Commissioner Hege moved to approve Order 22-001 appointing Dawn Rasmussen to the Fort Dalles Museum Commission. Vice-Chair Kramer seconded the motion which passed unanimously.}}}

Discussion Item: Opioid Settlement Agreement

County Counsel Kristen Campbell said this has been going on for 18 months and the litigating entities have reached a settlement. Wasco County is not an active litigant but part of the settlement was to include non-litigating entities. That places Wasco County in line for proceeds which will be approximately \$700,000 to \$800,000 over a 9 year period to be applied to opioid mitigation. In addition to these direct funds, the State will receive funds they will set aside for grant opportunities. She recommended signing the settlement documents which will support finalization of this process. The deadline is January 26, 2022, after which the pharmaceutical companies have a week to determine if there are enough participants to move forward.

Vice-Chair Kramer asked why there are 3 agreements. Ms. Campbell replied that there are two agreements with distributors and one with the state for distribution of funds based on population.

Chair Schwartz asked what kinds of services would qualify for this funding. Ms. Campbell responded that it is fairly broad; there is leeway on what would qualify as a mitigation expenditure.

Chair Schwartz asked if the State allocation will also be staggered. Ms. Campbell replied affirmatively. Chair Schwartz commented that it is very frustrating because opioids have caused such suffering in our communities and this is not enough to counter the damage that has been done.

{{{Commissioner Hege moved to approve the opioid settlement agreements as presented and to authorize Wasco County's Administrative Officer to

effectuate and execute the settlements under the general terms outlined in the documents presented today. Vice-Chair Kramer seconded the motion which passed unanimously.}}

Consent Agenda: 12.15.2021 Regular Session Minutes

Vice-Chair Kramer noted a scrivener's error in the minutes where "rest" is accidentally written as "reset."

{{Vice-Chair Kramer moved to approve the Consent Agenda with the correction to the minutes as stated. Commissioner Hege seconded the motion which passed unanimously.}}

Agenda Item: EDC Priority List & Quarterly Report

PRIORITY LIST

MCEDD Deputy Director of Economic Development Carrie Pipinich reviewed the memo included in the Board Packet.

Vice-Chair Kramer asked if the Dog River pipeline received funding. Ms. Pipinich replied that she has not heard the results of that. Vice-Chair Kramer suggested that if that funding has been secured, that project could be moved off of the list and Work Force could be moved onto the list.

Commissioner Hege agreed. He thanked the EDC for this work. He said that even the additional unranked projects benefit by being moved forward. He asked if those projects have been scoped. Ms. Pipinich said that some of them are the next project on the list but are not quite ready. The EDC helps them with scoping and planning.

Commissioner Hege stated that it is gratifying to see people planning ahead and raising awareness of their needs. Ms. Pipinich said that the community meetings are very helpful to learn what the needs and plans are throughout the county.

Chair Schwartz asked if the community meetings were virtual. Ms. Pipinich said that some of the smaller communities met in person; City of The Dalles met virtually.

Chair Schwartz asked for more information regarding Wy'East. Ms. Pipinich said that they support energy efficiency and technology adoption for farmers and

ranchers. Vice-Chair Kramer added that he has been on the Wy'East Board for 9 years. They started with irrigation conservation and are currently looking at electric farming equipment.

Wy'East Executive Director Robert Wallace said he has been with Wy'East for 12 years and they are working toward renewable energy and energy efficiency on a statewide basis. They work with other nonprofits on electric farm equipment. They have brought in 4 electric tractors and plan to bring in 12-14 more pieces of electric farm equipment. They will work with local farmers and ranchers to test the equipment. They are also working with local utilities. It is a very exciting project.

Chair Schwartz expressed appreciation for the thoughtful work done by the EDC.

*****The Board was in consensus to move the 2022 Priority List forward as presented.*****

EDC QUARTERLY REPORT

Ms. Pipinich reviewed the report included in the Board Packet. The Board thanked her for the thorough report and great work being done at the EDC.

Agenda Item: Coordinated Transit System

MCEDD Deputy Director of Transportation Kate Drennan reviewed the presentation in the Board Packet, explaining that the Gorge Pass will connect all the transportation systems, including the seasonal routes. There is a consolidated website to help riders coordinate their travels.

Ms. Drennan went on to say that they will be enhancing the site with trip ideas that include activities throughout the Gorge. There will be a monthly newsletter that outlines events and how you might plan a trip around those activities. In addition there will be some discounts offered for local products through the Gorge Pass program.

Vice-Chair Kramer praised the work that has been done. Commissioner Hege said it is a great idea to have trip suggestions. He asked if they have seen any increase in ridership since rolling this out. Ms. Drennan replied that there has been an increase in pass usage but the big push for increased ridership will come in the spring. They have a marketing grant and will use that to enter the

Portland market.

Commissioner Hege commented that he has already seen a lot about the program on social media. He asked if there is other functionality for the app. Ms. Drennan responded that it produces data for them but for the rider, it is just a pass. People can get a hard copy of the pass or have it on their phone. Commissioner Hege said that it would be nice to have the route map on the app.

Chair Schwartz noted that there will likely be increased ridership when we get out of the pandemic. She asked if you can get to Mt. Hood through the Gorge Pass system. Ms. Drennan replied that there is a seasonal shuttle to Mt. Hood starting on January 8th. You can bring your ski equipment or snowboard with you.

Chair Schwartz asked if the County partnered on this project. Ms. Drennan answered that Mr. Stone is aware of it but it is a separate program.

Agenda Item: Wildfire Smoke Response

OSU Extension Service District Associate Professor Lauren Kraemer explained that they have been collaboratively working with other agencies to address smoke - especially wildfire smoke - that has significant health impacts. Fire season has been extended by 80 days in Wasco County. Smoke is very dangerous for vulnerable groups. They are using a 3 pronged approach. #1 to gather more information about the levels of smoke which we face year round through fire place smoke, smudge pots and burn barrels in the spring, summer wildfires and planned burns in the fall. Last year's summer fire made us one of the worst air quality areas in the world. We have only two sensors in the Gorge - St Mary's and Hood River; that is inadequate. We need more monitoring and have received a grant from OHSU for 10 more monitors for the gorge. #2 is more community engagement. We have received \$80,000 to work with community partners for a broad focus on communication about smoke levels and environmental notices. There will be a table top exercise to make sure we are communicating in the best way possible. #3 They have applied for a grant to mitigate and reduce smoke impact and have applied for a grant with partners to help reduce and prevent smoke. She asked that the County accept the grant funds. Ms. Clark said she would work with Ms. Drennan offline to complete that process.

Commissioner Hege asked how people can access the air quality information. Mr. Drennan replied that Purple Air carries information supplied by private individuals who have installed monitors. The Extension District will be working

with a company to develop a website that helps translate the information and make it useable. She said that they hope one day to trigger messages to those who sign up for the information and for law enforcement.

Chair Schwartz thanked Ms. Drennan for the information and commented that this is yet another example of how the Extension Service District supports our community.

Agenda Item: Legislative Concept Comments

Planning Director Kelly Howsley-Glover stated that the concept covers a lot of areas and has a broad impact to residents of Wasco County. She said that it is important to submit comment and she worked with the Sheriff and others to understand the variety of impacts. The letter included in the Board Packet lays out some of the most critical issues, specifically the impact of creating new public spaces on staffing and budgets. The concept does address some additional funding for emergency services. Wildfire is a huge concern – the #1 concern for citizens. It is important that it is taken into consideration. There is some talk about wildfire risk. We also need to consider drought resiliency. In addition the Scenic Area loop has an impact on the agricultural industry and there may be some alternate solutions. There also needs to be a tribal intermediary to address the concerns they might have with these changes.

Vice-Chair Kramer said that he thinks the last sentence should be revised to ask for consideration of revision to the management plans from the 1990 and 1994 that do not address our current situation. Supporting healthy forests through a better plan will help. Otherwise, he believes the letter is spot on.

Commissioner Hege agreed with Vice-Chair Kramer's change. He said that the idea in paragraph #3 to have target areas is good; as it stands, the concept is too broad and widespread for us to be able to effectively comment – it is overwhelming.

Chair Schwartz agreed saying that is really the most important sentence in the letter. She asked if it is ordinary to ask for comment on a concept. Commissioner Hege said he has not seen it before; it is nice that they are rolling out the concept.

Chair Schwartz said that she agrees with the change in language suggested by Vice-Chair Kramer. She added these bills get passed and are not always funded. We saw this with the Scenic Area Act; we were promised funding and have fought to get it for many years . . . we finally got the last little bit of it, but it is in

1984 dollars. She said that is her number one concern – there is a lot in the concept without supporting resources.

Vice-Chair Kramer agreed saying that it was his first comment to congressional staffers; this is unfunded and that is irresponsible.

Commissioner Hege agreed saying that even if the funding is added, it often declines over time.

Chair Schwartz commented that she wishes they would put this much energy into preventing wildfire through forest management.

*****The Board was in consensus to submit the proposed comments regarding the Recreation Enhancement, Wildfire Response & Conservation Concept with the changes suggested by Vice-Chair Kramer.*****

Commission Call

Vice-Chair Kramer said that at the last meeting it was mentioned that none of us were able to join in the child care conversation. He asked if either of the other Commissioners had become involved since then. Chair Schwartz replied that Wasco County Human Resources Director Nichole Biechler will be our representative. Vice-Chair Kramer stated that child care has been elevated at Regional Solutions and he wanted to know who to contact.

Vice-Chair Kramer reported that he is meeting monthly with The Dalles Chamber of Commerce Executive Director Lisa Farquarson. She has offered to act as a liaison in any way that makes sense.

Vice-Chair Kramer said that they are about to finish the forestland classification process - one more meeting; He added that he is speaking at CREA to update them on our renewable projects.

Commissioner Hege noted that this past weekend's weather event and shelter crisis put a spotlight on what we do when Mr. Stone is on vacation - who is in charge? Chair Schwartz said that she will be working on that. We need to define the roles and she will be talking to Mr. Stone upon his return - he needs to actually be able to be on vacation. Vice-Chair Kramer said he has asked Ms. Clark to add that topic to our next Work Session.

Chair Schwartz expressed appreciation to the Road Department, Law Enforcement and Facilities for working on all of the weather events through the holidays. She said she also wants to recognize Sheridan McClellan, Matthew Klebes and Tyler Stone for jumping in to help with the houseless COVID outbreak.

Chair Schwartz reported that she just got a text from MCCAC Executive Director Kenny LaPoint that we were selected for the Coordinated Homeless Pilot program - that will mean significant funding. She asked that Mr. LaPoint be added to the next agenda to talk to the Board about the program.

Chair Schwartz said that she received a note from Leah Horner regarding a regional infrastructure fund that we should be paying attention to.

Commissioner Hege said that is \$40million for regional boards to have resources. Vice-Chair Kramer noted that it will be one of the agenda items for County Solutions on the 10th.

Commissioner Hege said he thinks it is interesting that we are the first one to get the tent from the State. It was not perfect, but it is encouraging and we will do better next time.

Chair Schwartz adjourned the session at 12:02 p.m.

Summary of Actions

MOTIONS

- **To approve the Criminal Justice Commission Justice Reinvestment Grant Program Grant Agreement.**
- **To approve the OEM Emergency Management Performance Grant Agreement 21-533.**
- **To approve the Wasco County Information Services Master Service Agreement between Wasco County and Mid-Columbia Center for Living.**
- **To approve Order 22-001 appointing Dawn Rasmussen to the Fort Dalles Museum Commission.**
- **To approve the opioid settlement agreements as presented and to authorize Wasco County's Administrative Officer to effectuate and execute the settlements under the general terms outlined in the**

documents presented today.

- **To approve the Consent Agenda with the correction to the minutes as stated.**

CONSENSUS

- **To direct staff to work with NCPHD to move the tent shelter to a new location.**
- **To submit the Medicaid Waiver comments as presented.**
- **To move the 2022 Priority List forward as presented.**
- **To submit the proposed comments regarding the Recreation Enhancement, Wildfire Response & Conservation Concept with the changes suggested by Vice-Chair Kramer.**

Wasco County
Board of Commissioners

Scott C. Hege, Commission Chair

Kathleen B. Schwartz, Vice-Chair

Steven D. Kramer, County Commissioner



AGENDA ITEM

Planning Commission Decision Appeal

[SUMMARY OF INFORMATION](#)

[BOARD OF COMMISSIONERS STAFF REPORT – LOPEZ APPEAL](#)

[BOARD OF COMMISSIONERS APPEAL APPLICATION](#)

[PLANNING COMMISSION NOTICE OF DECISION](#)

[PLANNING COMMISSION STAFF REPORT](#)

[PLANNING COMMISSION APPEAL HEARING STAFF REPORT](#)

[APPEAL OF PLANNING COMMISSION DECISION APPLICATION](#)

[PLANNING COMMISSION APPEAL – ADDITIONAL MATERIALS](#)

[ADMINISTRATIVE NOTICE OF DECISION – JUNE 24, 2021](#)

[ADMINISTRATIVE STAFF REPORT – JUNE 24, 2021](#)

[SITE MAPS](#)

[ADMINISTRATIVE NOTICE OF LAND USE ACTION – JUNE 3, 2021](#)

[LAND USE APPLICATION – ADRIAN LOPEZ](#)

[ADJACENT PROPERTIES MAPS](#)

[USDA CROP DATA](#)

[OREGON DEPARTMENT OF FISH AND WILDLIFE COMMENT](#)



WASCO COUNTY BOARD OF COUNTY COMMISSIONS AGENDA PACKET

FOR

Hearing Date: January 19, 2022
Hearing Time: 9:30 pm
Hearing Location: Electronically via Zoom
Meeting ID: 3957734524#

HEARING DETAILS: File #921-19-000193-PLNG. A Scenic Area request for the following: (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H); (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H); (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen; and (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway. The subject parcel is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as: Tax Lot: 2N 11E 11 2200, Account number: 327, Zoned: (GMA) A-2 (80). The request was approved by the Wasco County Planning Director; appealed by neighbor Joseph Czerniecki, approved by the Wasco County Planning Commission, and appealed by Joseph Czerniecki to the Wasco County Board of County Commissioners.



PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
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MEMORANDUM TABLE OF CONTENTS

Date: January 10, 2022
To: Wasco County Board of County Commissioners
From: Wasco County Planning Office
Subject: Submittal for Hearing dated January 19, 2022
Re: Appeal of Planning Commission approval of #921-19-000193-PLNG

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PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • f: [541] 506-2561

SUMMARY OF INFORMATION

Prepared for the Wasco County Board of Commissioners

FILE #: 921-19-000193-PLNG

APPEAL HEARING DATE: January 19, 2022

NEWSPAPER PUBLISHING DATE: January 5, 2022

REQUEST: Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

APPLICANT/OWNER INFORMATION:

APPLICANT/OWNER: Adrian Lopez, 1150 Huskey Road, Mosier, OR 97040

PROPERTY INFORMATION:

LOCATION: The subject parcel is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

ZONING: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Original Staff Reviewer: Brent Bybee

PC Appeal Reviewer: Daniel Dougherty

BOC Appeal Reviewer: Daniel Dougherty

SUMMARY OF INFORMATION

Prepared for the Wasco County Board of Commissioners

Attachments:

Attachment A BOC Appeal Staff Report
Attachment B BOC Appeal Application
Attachment C PC Notice of Decision
Attachment D PC Staff Report
Attachment E PC Appeal Hearing Staff Report
Attachment F PC Appeal Application
Attachment G Additional Appeal Information
Attachment H Original Administrative Notice of Decision
Attachment I Original Administrative Staff Report
Attachment J Site Maps
Attachment K Notice of Administrative Action
Attachment L Amended Lopez Application
Attachment M Map of Adjacent Properties
Attachment N Map of USDA Crop Data
Attachment O ODFW Comments

SUMMARY OF INFORMATION

RECOMMENDED CONDITIONS OF APPROVAL

The full staff recommendation with proposed findings of fact addressing issues raised within the appeal is enclosed as Attachment A and was available at the Wasco County Planning Department for review one week prior to the January 19, 2022, hearing. The full staff recommendation is made as part of the record. This summary does not supersede or alter any of the findings or conclusions in the staff report, but provides a summary of the overall request, the recommended conditions of approval, and the Wasco County Board of Commission's options and staff's recommendation.

RECOMMENDED CONDITIONS OF APPROVAL

A. Cultural Resources:

1. All ground disturbance within the archaeological site boundaries shall be monitored by a professional archaeologist, specifically the installation of fence lines.
2. If plans change so that greater impacts are proposed within the archaeological site boundaries, the site shall be formally evaluated for significance and eligibility for inclusion on the National Register of Historic Places (NRHP).
3. If cultural resources are discovered during development of any new structure or building, all construction shall cease within 100' of the discovered cultural resource. The cultural resource(s) shall remain as found and further disturbance is prohibited. The owners shall notify the Wasco County Planning Department and Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or associated with Native Americans, the owners shall also notify the Confederated Tribes of Warm Springs, Confederated Tribes of Umatilla, Perce Nez, and Yakama Indian Nation within 24 hours of discovery.
4. If human remains are discovered, all work on the parcel shall cease, and the human remains shall not be disturbed any further. The owners shall immediately notify the Wasco County Sheriff's Office, the Wasco County Planning Department, the Gorge Commission, and the four Indian tribal governments.

B. Prior to Issuance of Zoning Approval on any Building Permit and After Expiration of the 15-Day Appeal Period, the Applicant/Owner shall:

1. Obtain a Road Approach Permit from the Wasco County Public Works Department for the existing driveway onto Huskey Road.
2. Oregon Dept. of Forestry Permit: Any land clearing activities involving power driven machinery that occur from May 1st through September 30th shall obtain a Permit to Operate Power Driven Machinery from the Oregon Dept. of Forestry prior to beginning any development.

C. Chapter 11 - Fire Safety Standards:

1. Improvements and requirements listed in Chapter 11 of the Wasco County NSA-LUDO and the signed and completed Fire Safety Standard Self-Certification shall be achieved within one year of the date of approval and maintained through the life of the development. This certification commits all future property owners to the same requirements. A copy of this self-certification

SUMMARY OF INFORMATION

RECOMMENDED CONDITIONS OF APPROVAL

form is available for inspection at the Wasco County Planning Department under File #921-19-000193-PLNG.

2. Address: Apply for a new address for the proposed dwelling, and submit the County application and fee (\$75) to the Planning Department (prior to issuance of zoning approval on a building permit application). An approved address shall be posted on both sides of a permanent post or mailbox within 30' of the driveway providing access to the dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. Application must be made a minimum of 2 weeks prior to issuance of zoning approval on a building permit application.

D. Colors and Materials

1. The following materials and colors are approved for the kitchen/restroom building:

	Material	Exterior Color	Looks Like	Consistent with color requirement?
HOUSE				
Main/Body	Hardie Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardie Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
BARN/SHOP & PUMP HOUSE				
Main/Body	Hardi Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardi Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
ROUND PEN	Galvanized Steel	Hunter Green (Rustoleum)	Dark Green	Yes, approved for narrow surfaces only

2. If alternate colors or materials are proposed for any new development, they shall be submitted to and approved by the Planning Department prior to their use on the exterior of the building.
3. All windows shall be thermal pane rated less than 15% visible light reflectivity.

F. Miscellaneous Conditions:

1. Ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be

SUMMARY OF INFORMATION

RECOMMENDED CONDITIONS OF APPROVAL

responsible for survival of planted vegetation and the replacement of such vegetation that does not survive.

2. The retention of all conifer trees indicated on the site plan is required to comply with visual subordination standards. Coniferous trees not indicated on the site plan may be removed if they are damaged or diseased, or for fire safety purposes. If coniferous trees indicated on the site plan are removed, die or are destroyed, they shall be replaced in compliance with the following standards:

To ensure survival, new trees and replacement trees shall meet the following requirements

- All trees shall be at least 4 feet tall at planting, well branched, and formed.
 - Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.
 - The trees must be irrigated until they are well established.
 - Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.
3. All conifer trees east of the existing driveway shall be retained.
 4. Trees not impacted by disease or wildfire shall be retained.
 5. Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River. Shielding and hooding materials shall be composed of nonreflective, opaque materials.
 6. The round pen shall not be placed inside any property line or resource protection setbacks in the event that it is moved.
 7. Development approved by this decision shall comply with all requirements of the Wasco County Building Codes Services Department.

SUMMARY OF INFORMATION – WASCO COUNTY BOARD OF COMMISSION OPTIONS & STAFF RECOMMENDATION

WASCO COUNTY BOARD OF COMMISSIONERS OPTIONS

- A. Approve the request as submitted by the applicant with those conditions of approval modified and approved by the Planning Commission
- B. Approve the request, with amended Conditions and Findings; or
- C. Deny the request with amended Conditions and Findings; or
- D. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

STAFF RECOMMENDATION

Staff recommends Option A: Approve the request, with those conditions of approval modified and approved by the Planning Commission.

ATTACHMENT A

File Number: 921-19-000193-PLNG

Request: Appeal of the Planning Commission's decision to approve a new dwelling and agricultural structures to support proposed farm use

Prepared By: Daniel Dougherty, Senior Planner

Prepared For: Wasco County Board of Commissioners

Procedure Type: Appeal

Appellant/Applicant: Joseph Czerniecki

Owner: Adrian Lopez

Staff Recommendation: Uphold the decision of the Planning Commission

Wasco County Board Of Commission Hearing Date: January 19, 2022

Location: The subject parcel is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Tax Lot</u>	<u>Acct#</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

Zoning: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Past Actions: 921-18-000017-PLNG (Withdrawn): Horse Boarding Facility
921-19-000193-PLNG Scenic Area Review of a new dwelling and structure to support the proposed farm use.

APPLICABLE STANDARDS

A. Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO)

Chapter 2 – Development Approval Procedures

A. Section 2.160 Review of a Decision of the Planning Commission

Pertinent Sections addressed in the Planning Commission Staff Report (See Attachment D):

B. Chapter 3 – Basic Provisions

Section 3.110	Expedited Review
Section 3.110.A.5	Uses Permitted Subject to Expedited Review, Woven Wire Fences
Section 3.130, A-2	Small Scale Agriculture (GMA)
Section 3.130.D.2	Uses Permitted Subject to Review, Agricultural structures
Section 3.130.D.4	Uses Permitted Subject to Review, One single-family dwelling
Section 3.130.D.6	Uses Permitted Subject to Review, Accessory building(s)
Section 3.130.G	Property Development Standards

C. Chapter 4 – Supplemental Provisions

Section 4.040	Off-Street Parking
---------------	--------------------

D. Chapter 11 – Fire Safety Standards

Section 11.110	Siting Standards
Section 11.120	Defensible Space
Section 11.130	Construction Standards for Dwellings and Structures
Section 11.140	Access Standards
Section 11.150	Fire Protection or On-Site Water Required

E. Chapter 14 – Scenic Area Review

Section 14.100	Provisions for all new development
Section 14.200	Key Viewing Areas
Section 14.300	Scenic Travel Corridors
Section 14.400	Landscape Settings
Section 14.500	Cultural Resources – GMA
Section 14.600	Natural Resources – GMA
Section 14.700	Recreation Resources - GMA
Section 14.800	Indian Tribal Treaty Rights and Consultation – GMA

I. BACKGROUND

A. **Legal Parcel:** Pursuant to the National Scenic Area Land Use and Development Ordinance (NSA-LUDO) Section 1.200, the definition of a legal parcel is the following:

Parcel (Legal)/Lot of Record - A unit of land created as follows:

- a. A lot in an existing, duly recorded subdivision; or*

- b. *A parcel in an existing, duly recorded major or minor land partition; or*
- c. *By deed or land sales contract prior to September 4, 1974.*

The subject lot is identified as Lot 21 of Rocky Prairie Subdivision, recorded with the Wasco County Clerk on April 27, 1977. It is consistent with the definition of Legal Lot in NSA-LUDO Section 1.200, Definitions, because it was created by a recorded subdivision.

- B. Site Description:** The subject lot is located between Huskey Road and Quartz Drive, in Rocky Prairie, a subdivision located on a hill above Mosier, Oregon. This property contains northwest-facing slopes averaging 9%. The western 1/3 (approximate) of the lot is heavily vegetated with Oregon white oak trees. Natural grasses are the dominant ground cover. The property ranges in elevation from 620-720' Above Sea Level (ASL).
- C. Surrounding Land Use:** Properties located north, east and west of the subject lot are located in the "A-2" Small Scale Agriculture Zone (GMA Only). Properties located south of Huskey Road are located in the "F-3" Small Woodland Forest Zone (GMA Only). With the exception of one property located north of Quartz Drive, all surrounding properties are used for residential use. Properties located east and west of the subject lot contain similar northwest-facing slopes averaging 8-10%. Property to the southwest, located north of Huskey Road is heavily vegetated with Oregon white oak trees. Property located to the west contains cherry orchard and a cidery, but there are no other commercial farm uses on adjacent properties. Land lying within 750' of Huskey Road averages 30% northwest-facing slopes while farther south, slopes lessen to 5-10%. Properties to the south are generally heavily vegetated with Oregon white oak and Ponderosa pine trees.
- D. Public Comments:** On September 16, 2021, 19-days prior to the Planning Commission hearing, a hearing notice was sent to all property owners within 750 feet of the subject parcel, and interested public agencies. Public notice of this hearing appeared in The Dalles Chronicle on September 15, 2021. Wasco County received comments from:
 - 1. (Sep 9, 2021) Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW).

On January 6, 2022, 13-days prior to the Planning Commission hearing, a hearing notice was sent to all property owners within 750 feet of the subject parcel, and interested public agencies. Public notice of this hearing was published on January 5, 2022. Wasco county received no additional comments.

II. FINDINGS:

A. Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO)

Section 2.160 Review of a Decision of the Planning Commission

Fifteen (15) days from the date of a final decision of the Planning Commission, the decision shall become effective unless review is sought pursuant to this Section.

A. Review of the decision of the Planning Commission:

1. *Shall be made by the County Governing Body, pursuant to Section 2.170, upon any party filing a Notice of Review with the Director within fifteen (15) days from the date of the final decision sought to be reviewed; or*
2. *May be made by the County Governing Body, pursuant to Section 2.170, on its own motion passed within fifteen (15) days from the date of the final decision sought to be reviewed.*

FINDING: The decision under appeal, (File No. 921-19-000193) was initially reviewed and approved by the Director's designee as an Administrative Decision. The Administrative Decision was appealed to the Planning Commission. A "de novo" hearing was brought before the Planning Commission for review on October 5, 2021. The Planning Commission reviewed and approved the request, with amended Conditions and Findings. An appeal of the Planning Commission's decision was properly received on October 22, 2021, within the 15 day time period. The appeal of the Planning Commission's decision shall be made by the Wasco County Board of Commissioners pursuant to Section 2.170. Staff finds that Section 2.160.A has been met.

- B. *Notice of the time and place of the review together with any Notice of Review filed shall meet the requirements of Section 2.100, Notice Requirements.*

FINDING: Newspaper publication of the hearing was published on January 5, 2022, and notification was mailed on January 6, 2022. Staff provided proper notice according to requirements under *Section 21.00.B. Type III - Quasi Judicial Public Hearing*. Staff finds that Section 2.160.B has been met.

- C. *Every Notice of Review shall contain:*

1. *A reference to the decision sought to be reviewed;*
2. *A statement as to how the petitioner qualifies as a party;*
3. *The specific grounds relied upon in the petition request for review; and*
4. *The date of the decision sought to be reviewed.*

FINDING: The notice of review contains the above requirements. Staff finds that Section 2.160.C has been met.

- D. *A Notice of Review shall be accompanied by a fee as set forth on the fee schedule established by the County Governing Body.*

FINDING: The proper appeal fee (Appeal to Board of Commissioners \$1,296) was received in a timely manner. Staff finds that Section 2.160.D has been met.

Section 2.170 Review by the County Governing Body

- A. *The review of the decision of the Planning Commission by the County Governing Body shall be conducted as a "de novo" hearing, including but not limited to the record established at the Planning Commission level.*

FINDING: The review of the Planning Commission decision by the Wasco County Board of Commissioners shall be conducted as a "de novo" hearing. Staff finds that Section 2.170.A has been met.

- B. Review by the County Governing Body upon appeal by a party shall be limited to the grounds relied upon in the petition request for review.*

FINDING: The review by the Wasco County Board of Commissioners shall be limited to the grounds relied upon by the appellant. The grounds for appeal are provided below in subsection II.B. of this report. Staff finds that Section 2.170.B has been met.

- C. The County Governing Body may remand the matter to the Planning Commission if it is satisfied that testimony or other evidence could not have been presented at the hearing before the Planning Commission. In deciding such remand, the County Governing Body shall consider and adopt findings and conclusions respecting:*
- 1. Prejudice to parties;*
 - 2. Convenience or availability of evidence at the time of the initial hearing;*
 - 3. Surprise to opposing parties;*
 - 4. Date notice was sent to other parties as to an attempt to admit; and*
 - 5. The competency, relevancy and materiality of the proposed testimony or other evidence.*
- D. Only those members of the County Governing Body reviewing the entire record may act on the matter reviewed. The agreement of at least two (2) members is necessary to amend, reverse, or remand the action of the Planning Commission. Upon failure of at least two (2) members to agree, the decision of the Approving Authority below shall stand.*
- E. The Notice of a Decision shall meet the requirements of Section 2.130.*

B. Appeal Grounds

Appeal Grounds 1:

"Appeal 1 - Request that the approval of 900' of moveable fence not be approved

- There is an absence of documentation of a development request for 900' of moveable electric fence therefore there should be no approval.*
- There is no land use ordinance that allows the approval of a development application that is not specifically requested.*
- The inclusion of additional elements in the approval that were not described in the development request does not allow involved parties to adequately participate in the process."*

FINDING: The Administrative Staff Report (Attachment I) and Notice of Decision (Attachment H) issued for the Administrative Decision on June 24, 2021, and the Planning Commission Staff Report (Attachment D) and Notice of Decision (Attachment C), issued on October 5, 2021, requests the following:

The Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats.

This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

The last Public Notice of Administrative Action (Attachment K), issued on June 3, 2021, provides the following description of requests:

Scenic Area Review of a 1,889 Square Foot (SF) (50'L x 40'W x 24'H), two story single family dwelling, a 1,500 SF (50'L x 30'W x 24'H) accessory structure for a shop and storage, and retroactive approval of an unlawfully placed well to be housed in a proposed 100 SF (10'L x 10'W x 12.5'H) pump house. The request includes a 4' H wire fence on the eastern portion of the property, 150' away from the identified wetland. The request also includes raising 12 goats on the property, and rotating them to different portions of the property on an annual basis. A 50' diameter portable round pen will also be utilized.

The Public Notice of Administrative Action, which was amended due to an updated application posted on the website, accurately reflects the application details and site plan (Attachment K). The Administrative Staff Report (Attachment I Page 23) and Planning Commission Staff Report (Attachment D Page 24: "Staff also coordinated with the applicant to ensure that the wetland resource on the property would not be disturbed through the request, by placing the fencing outside of the wetland buffer".

The criteria in the National Scenic Area Land Use and Development Ordinance related to fencing is specifically for permanent or semi-permanent fencing. Fencing definitions reference built fences like stone, wood, or metal and do not include moveable pens or things like kennels.

Section 1.200, provides:

Fence, Protective - A fence at least six feet tall designed to restrict passage through the fence. A protective fence includes stockade, woven wood, chain link and others, but not split rail or primarily barbed wire.

Fence, Site-Obscuring - A fence consisting of wood, metal, or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

There are no standards for moveable objects, like moveable fencing, farm equipment, water troughs, feeders, recreational vehicles and so forth. The definition of agricultural structure lists permanent buildings or storage containers for the storage of farm equipment and supplies, but does not list the containment of livestock.

Section 1.200, provides:

Agricultural structure/building - A structure or building located on a farm or ranch and used in the operation for the storage, repair and maintenance of farm equipment, and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: Barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

As such, the standards for the moveable fencing are not addressed in the staff report because they are not subject to the same regulation as permanent or semi-permanent structures.

Based on that lack of standards to evaluate moveable objects, staff concluded the 900' of fencing is permitted without review and therefore not substantive to the application. Therefore, staff concludes it was immaterial for the moveable fence to have been noticed; its presence in the staff report request portion served only to raise awareness that staff had advised it as a mitigation measure to reduce or eliminate wetland disturbance. **Staff recommends the Wasco County Board of Commissioners dismiss this ground for appeal.**

Appeal Grounds 2:

"Appeal 2 - The language of approval of 900' of movable fence remove any reference "to protect the wetland". It is already protected by the fixed wire woven fence described in the amended application."

FINDING: The Staff Report for the Administrative Decision issued on June 24, 2021, (Attachment I), and the Staff Report issued for the Planning Commission Decision issued on October 5, 2021, (Attachment D), provide the following statements describing the 900 feet of movable fence:

The Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats.

This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen. (Emphasis Added).
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

I. BACKGROUND

- A. **Proposal:** The property currently contains a driveway and a residential well that was constructed without review. This application proposes the construction of a two-story single family dwelling, a two story accessory building, fencing, a round pen to assist with the raising of approximately 5 cows, 15 goats and/or sheep, and a new well house and cistern for the well. The applicant has described the use of the property as a "small family farm." As noted above, the request can be more specifically described as 1,889 Square Foot (SF), 50'L x 40'W x 24'H, two story single family dwelling, a 1,500 SF, 50'L x 30'W x 24'H two story accessory structure for a shop and farm equipment storage, retroactive review of an unlawfully placed well and a new well house and cistern, and approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing the three areas on either side of the driveway for livestock pens, approximately 900' of moveable electric fence to protect a wetland, and a 50' diameter moveable round pen. (Emphasis Added).

As noted above in the "Finding" for the first ground of appeal:

The Public Notice of Administrative Action, which was amended due to an updated application posted on the website, accurately reflects the application details and site plan (Attachment K). The Administrative Staff Report (Attachment I Page 23) and Planning Commission Staff Report (Attachment D Page 24: "Staff also coordinated with the applicant to ensure that the wetland resource on the property would not be disturbed through the request, by placing the fencing outside of the wetland buffer").

The criteria in the National Scenic Area Land Use and Development Ordinance related to fencing is specifically for permanent or semi-permanent fencing. Fencing definitions reference built fences like stone, wood, or metal and do not include moveable pens or things like kennels.

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Section 1.200, provides:

Agricultural structure/building - A structure or building located on a farm or ranch and used in the operation for the storage, repair and maintenance of farm equipment, and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: Barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

As such, the standards for the moveable fencing are not addressed in the staff report because they are not subject to the same regulation as permanent or semi-permanent structures.

Based on that lack of standards to evaluate moveable objects, staff concluded the 900' of fencing is permitted without review and therefore not substantive to the application. Therefore, staff concludes it was immaterial for the moveable fence to have been noticed; its presence in the staff report request portion served only to raise awareness that staff had advised it as a mitigation measure to reduce or eliminate wetland disturbance. **Staff recommends the Wasco County Board of Commissioners dismiss this ground for appeal.**

Appeal Grounds 3:

"Appeal 3 - The decision to include only a 100' setback requirement of the structures in the proposed development is incorrect it should be modified based upon a 250' setback based upon the suitability of my property for orchard activity, and the absence of a continuous vegetative parrier (Sic)."

FINDING: Staff relies on the clear and objective standard in the National Scenic Area criteria related to setbacks. All structures proposed in the development are more than 500' from the property line to the north. The exception is the 50' round pen, which is proposed to be 100' from the property line. The round

pen is a moveable structure, which for reasons laid out by previous findings, is not generally subject to review. However, for the sake of being thorough and because it was listed in the staff report setback review, the round pen will be reviewed as if it is subject to setback standards.

Agricultural setbacks for the "A-2" Small Scale Agriculture Zone (GMA Only) are provided for in the Wasco County National Scenic Area Land Use and Development Ordinance Chapter 3, under Section 3.130.G Property Development Standards. (See NSA-LUDO Section 3.130.G.3 Agricultural Setbacks Page 3-39). The required criterion and listed setbacks are provided:

Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

These clear and objective standards require staff analyze the actual adjacent use. Because the appellant has not provided additional details or information about the actual farm use on his property, staff analysis has included review of aerial photography (Attachment M), analysis of GIS layers like the United States Department of Agriculture (USDA) Crop data, and a site visit.

A site visit was conducted during the initial application review and staff determined there was not currently an agricultural use on the property in question. Aerial photography shows this property is not planted as an orchard, cultivated for row crops or vegetables, harvested for grains, or in cultivation for berries or vineyards (Attachment M). The USDA Crop data lists the current use as "shrubland" (Attachment N).

Based on the best available data, staff finds the agricultural use on the appellant's property is more consistent with "Other" and as such, the 100' "Open or Fenced" setback is appropriate.

However, even if objective data provides that the adjacent north property is "used for or [is] suitable for agricultural use" and that that use is for "Orchards", the 100' "Natural or Created Vegetation Barrier" is sufficient due to the existence of a "of a continuous vegetative screen" located along the northwest adjacent property line.

The vegetative screen definition and analysis of the existing vegetative screen is provided below:

A vegetative screen, or vegetation barrier, is defined in Chapter 3, A-2 Zone under Section G.3.b.

Section 3.130 "A-2" Small Scale Agriculture Zone (GMA Only)

The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be 6+ feet high when planted and reach an ultimate height of at least

fifteen (15) feet. The vegetation screen shall be planted along the appropriate lot/parcel line(s), and be continuous.

This criterion does not define the thickness of vegetation, but rather the height, and requires trees to be at least 15 feet high. Photographs of the existing tree vegetation were provided by the appellant (Attachment G, labelled as Supplement B), and appear to be well over 15 feet high. The term continuous is used in the criterion, but implies continuous to development rather than the entire property line.

Staff found that the development, with the exception of the moveable round pen, will occur more than 500' from the north adjacent property line. According to the detailed site plan (Attachment J Page 19) the round pen does not run the length of the approximate 940' north adjacent property line. Instead, it is in the northwest corner of the property, and measures 50' in diameter.

The proposed placement of the round pen is in the same corner where the stand of oak trees exists to the north. Staff found that the round pen's placement, in relation to the existing oak stand, offered the continuous vegetative screen to satisfy a reduction in the setback if it was necessary. According to GIS analysis, the existing oak stand measures 278.3 feet across, in a continuous cluster, providing a vegetative screen for the round pen. The continuous nature of the barrier is related to the development in question. In this case, the oak stand exceeds the length of the 50' barrier.

Furthermore, the requirement for a setback between an "Open or Fenced" nonagricultural or agricultural use classified as "Other" is 100', which the round pen meets. As indicated, the round pen is a moveable, non-permanent farm related implement used for holding animals and not generally subject to Scenic Area standards. **Staff recommends the Wasco County Board of Commissioners dismiss this ground for appeal.**

Party includes the following:

- The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.
- All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.
- A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.
- Any affected unit of local government or public district or state or federal agency.
- Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)

4. Grounds for appeal: List the specific grounds relied upon in the petition request for review (e.g. ordinance criteria not met, procedural error, etc.) Additional pages may be attached.
Amended Application differs from Staff Report and Decision. Decision to approve 900' moveable electric fence was not included in the application therefore should not be approved.

Decision regarding 100' setback was incorrect based upon suitability of agricultural use of my property.

See Attached document for details

5. De Novo vs. On The Record: All appeals to Planning Commission are De Novo meaning new information can be entered into the record. All appeals to the Board of Commissioners are on the record unless a request is made as part of this request by party filing the petition. Any other party must make such a request no more than seven (7) calendar days after the deadline for filing a petition for review has expired.

The appeal is to the Board of Commissioners?

☐ NO ☒ YES

I request the hearing to be De Novo or partial De Novo?

☐ NO ☐ YES

State the reasons you are requesting a De Novo or partial De Novo without addressing the merits of the land use action:

I am including additional information that supports my appeal to the planning commission. So it is not totally new information. It supports the suitability of my property for orchard which I communicated during the prior hearing.

Indicate any persons known to be opposed to a request for a De Novo hearing.

When practicable, the requesting party shall advise the other parties and attempt to gain their consent.

I have attempted to gain the consent of the other parties associated with this file? ☒ NO ☐ YES

If you answered no indicate why this is not practicable. If you answered yes list the parties who have consented for this to be a De Novo or partial De Novo hearing.

The request for a De Novo hearing for appeal of a quasi-judicial plan amendment shall be decided by the Board of Commissioners as a nonpublic hearing item, except that the Board may make such provision for notice to the parties and may take such testimony as it deems necessary to fully and fairly address significant procedural or substantive issues raised. The Court shall grant the request only upon findings that:

- A De Novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
- The substantial rights of the parties will not be significantly prejudiced; and
- The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

5. Outstanding Appeal Fees: Any person wishing to appeal any decision shall be required to pay all outstanding appeal fees prior to their appeal application being considered complete.

List prior appeals filed:

appeal to planning commission Oct 5

\$250.00

I have paid all outstanding fees associated with prior appeals:

☐ NO

☒ YES

SIGNATURES

Name, Title

Date

Name, Title

Date

Additional petitioner(s):

Name

Address

Name

Address

Name

Address

Name

Address

P:\Development Applications\Appeal_Decision.doc

Last updated 3/9/2017

Appeal of Development Application 921-19-000193-PLNG

October 19, 2021

Joseph and Janine Czerniecki adjacent property landholders

Appeal 1 - Request that the approval of 900' of moveable fence not be approved

- There is an absence of documentation of a development request for 900' of moveable electric fence therefore there should be no approval.
- There is no land use ordinance that allows the approval of a development application that is not specifically requested.
- The inclusion of additional elements in the approval that were not described in the development request does not allow involved parties to adequately participate in the process.

Supporting Information

- The initial development application **921-19-000193-PLNG** 12/31/2019 does not include any fencing of any description in the request.
- The amended application which is **not available on-line** as it is required to be, but in the mailed version the Amended Request (May 20, 2021) is for:
 - o "Scenic Area Review of a 1,889 Square Foot (SF) (50'Lx40'Wx24'H), two story single family dwelling, a 1,500 SF (50'L x 30'W x 24'H) accessory structure for a shop and storage, and retroactive approval of an unlawfully placed well to be housed in a proposed 100 SF (10'L x 10'W x 12.5'H) pump house. The request includes a 4' H wire fence on the eastern portion of the property, 150' away from the identified wetland. The request also includes raising 12 goats on the property, and rotating them to different portions of the property on an annual basis. A 50' diameter portable round pen will also be utilized. pump house."
- The staff report (June 24, 2021) in response to the request states that the request is for:
 - o "Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:
 - (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
 - (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
 - (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
 - (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

SUMMARY:

The description of the request in the staff report should match the development request

- Failure to do this does not allow all involved parties an opportunity to respond.
- Therefore this should be deleted from the approval, and if the applicant would like to include this it would require a separate application

Appeal 2 – The language of approval of 900' of moveable fence remove any reference "to protect the wetland". It is already protected by the fixed wire woven fence described in the amended application.

Supporting Information

- The staff report and decision (June 24, 2021) in the description of the request includes the following language – "approximately 900' of moveable electric fence to protect the wetland"
- The Amended Application already includes a fixed 4 foot high woven wire fence to protect the wetland.
- The justification that the moveable electric fence should be approved to protect the wetland is unjustified and unnecessary.

SUMMARY

- There is no justification for inclusion of the 900' of electric fence to protect the wetland therefore it should be deleted.

Appeal 3 – The decision to include only a 100' setback requirement of the structures in the proposed development is incorrect it should be modified based upon a 250' setback based upon the suitability of my property for orchard activity, and the absence of a continuous vegetative parier

Supporting Information

- The staff report and Decision dated June 24, 2021 in it's assessment of setback requirements evaluates whether or not the proposed development meets all general and agricultural set back requirements and incorrectly concludes that a 100' set back is all that is required.

1. The Round Pen is included as an agricultural structure in the Staff Report and Conditional approval of June 24, 2021 (see below)

FINDING: As proposed, the development will exceed the requirements of General Setbacks. Staff finds that the request complies with Criterion 3.130.G.2.

Required Setback	Proposed – Dwelling	Proposed – Shop	Round Pen	Pump House	Consistent?
East (side) = 25'	400'	400'	660'	475'	Yes
West (side) = 25'	550'	550'	100'	475'	Yes
North (rear) = 25'	700'	500'	100'	800'	Yes
South (front) = 40'	300'	500'	850'	150'	Yes

3. ***Agricultural Setbacks*** - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

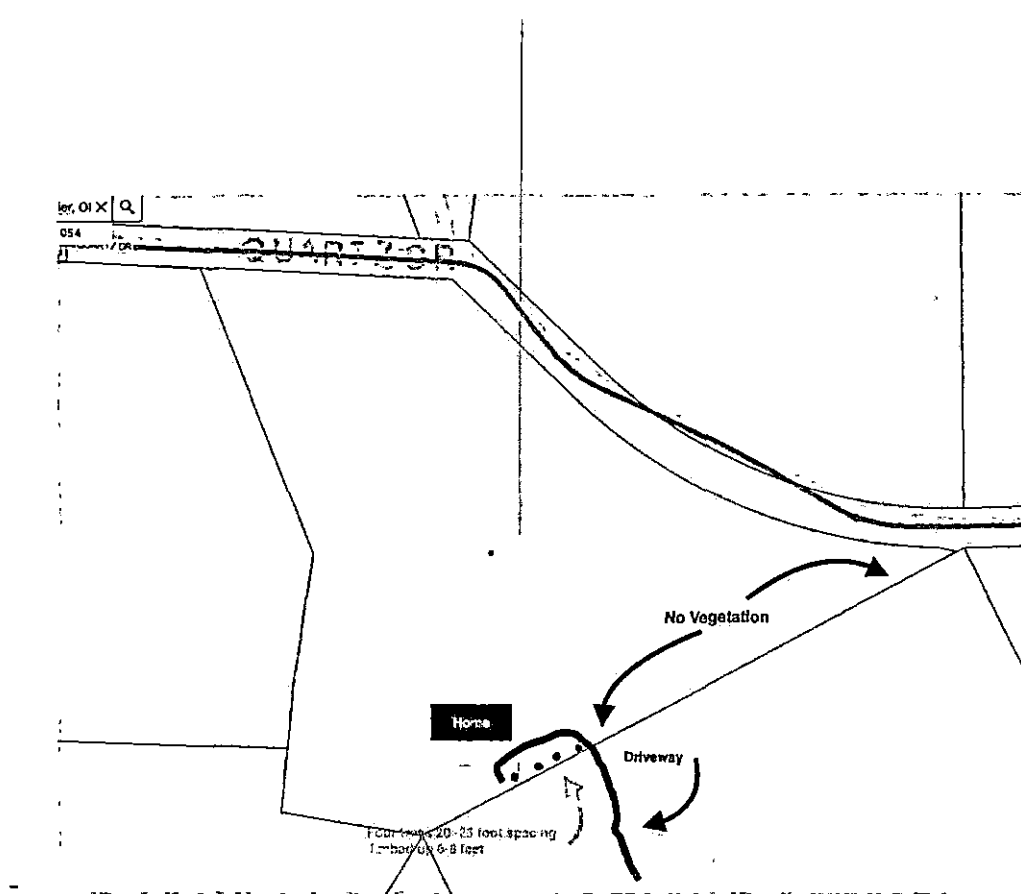
Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

2. The staff report and conditional approval of June 24, 2020, incorrectly asserts that there is a vegetative barrier which supports the 100' setback.

- This is incorrect. The Land Use and Development Ordinance defines (Page 3-27 3(b)) a Vegetative Barrier as:

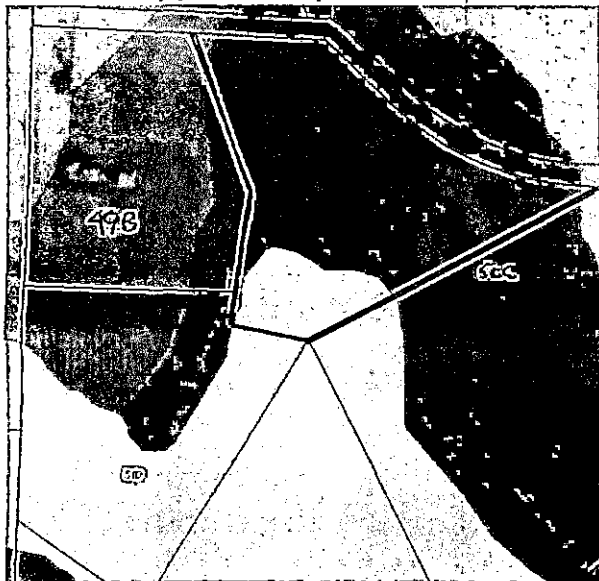
b. The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be 6+ feet high when planted and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate lot/parcel line(s), and be continuous.

- There is no continuous vegetative screen by the LUDO definition. There are approximately 5 evergreen trees separating the two properties that have no limbs below approximately 15 feet above ground level along a 900' property line. (see figure below)



3. The proposed use of my property is best suited to orchard activity which requires a 250' set back in the absence of a continuous vegetative barrier.

- a. **Soil type** - The soil type is the same as adjacent properties to the west that are currently planted in productive orchard.



- This is an image taken from the NRCS USDA soil survey web page (<https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>) it is an overlay of the property boundaries soil type and topographic image of the vegetation on each property.
- My property is defined by the blue lines.

- In the two adjacent properties to the west the image of orchard trees can be seen.
 - The soil type is indicated by the codes 50C, 49B
 - The majority of my property is designated as 50 C which is defined as:
50C Wamic Loam, 5-12% north slopes
 - The two properties to the west are of the same soil type with slightly different slopes 49B – Wamic Loam, 1-5% grades, 50C – Wamic Loam, 5-12% north slopes, The soil type and slope therefore confirm the potential use of my property as orchard and therefore requires a 250' setback.
- b. **Orchard infrastructure** in the Mosier Valley - The predominant agricultural activity in the Mosier area is Orchard activity in particular Cherry Orchard. There is a significant infrastructure in place to support cherry orchard activity which further supports the suitability for orchard activity.
- c. **Rainfall** – The rainfall characteristics of my property are clearly similar to that of the adjacent properties.

SUMMARY

- Orchard Activity is the most suitable use for my property based upon soil type, slope and the presence of infrastructure in the Mosier area to support orchard activity.
- The two adjacent properties are successful in orchard activity.
- There is no continuous vegetative screen by LUDO definition of vegetative screen therefore there is a requirement for a 250' setback



PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • f: [541] 506-2561

PLANNING COMMISSION NOTICE OF DECISION

FILE #: 921-19-000193-PLNG

PC DECISION DATE: October 5, 2021

DATE OF NOTIFICATION: October 7, 2021

APPEAL DEADLINE: October 22, 2021

REQUEST: Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

DECISION: Approved with **Conditions**

APPLICANT/OWNER INFORMATION:

APPLICANT/OWNER: Adrian Lopez, 1150 Huskey Road, Mosier, OR 97040

PROPERTY INFORMATION:

LOCATION: The development site is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

ZONING: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Attachments:

Staff Reviewer: Daniel Dougherty, Senior Planner &

- A. Conditions of Approval
- B. Time Limits & Appeal Information
- C. Maps
- D. Staff Report
- E. Outdoor Lighting Standards
- F. Forest-Farm Management Easement
- G. Comments (made during initial review and during appeal period review)

After recording, please return to:
Wasco County Planning Department
Board of County Commissioners Agenda Packet
January 19, 2022

BOCC 1 - 25

ATTACHMENT A – CONDITIONS OF APPROVAL

Pursuant to Wasco County National Scenic Area Land Use Development Ordinance, Chapter 2 – Development Approval Procedures, Section 2.150. Appeal from Decision of the Director, the following shall be recorded as conditions of approval and binding upon the owners, developers or assigns.

A. Cultural Resources:

1. All ground disturbance within the archaeological site boundaries shall be monitored by a professional archaeologist, specifically the installation of fence lines.
2. If plans change so that greater impacts are proposed within the archaeological site boundaries, the site shall be formally evaluated for significance and eligibility for inclusion on the National Register of Historic Places (NRHP).
3. If cultural resources are discovered during development of any new structure or building, all construction shall cease within 100' of the discovered cultural resource. The cultural resource(s) shall remain as found and further disturbance is prohibited. The owners shall notify the Wasco County Planning Department and Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or associated with Native Americans, the owners shall also notify the Confederated Tribes of Warm Springs, Confederated Tribes of Umatilla, Perce Nez, and Yakama Indian Nation within 24 hours of discovery.
4. If human remains are discovered, all work on the parcel shall cease, and the human remains shall not be disturbed any further. The owners shall immediately notify the Wasco County Sheriff's Office, the Wasco County Planning Department, the Gorge Commission, and the four Indian tribal governments.

B. Prior to Issuance of Zoning Approval on any Building Permit and After Expiration of the 15-Day Appeal Period, the Applicant/Owner shall:

1. Obtain a Road Approach Permit from the Wasco County Public Works Department for the existing driveway onto Huskey Road.
2. Oregon Dept. of Forestry Permit: Any land clearing activities involving power driven machinery that occur from May 1st through September 30th shall obtain a Permit to Operate Power Driven Machinery from the Oregon Dept. of Forestry prior to beginning any development.

C. Chapter 11 - Fire Safety Standards:

1. Improvements and requirements listed in Chapter 11 of the Wasco County NSA-LUDO and the signed and completed Fire Safety Standard Self-Certification shall be achieved within one year of the date of approval and maintained through the life of the development. This certification commits all future property owners to the same requirements. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File #921-19-000193-PLNG.
2. Address: Apply for a new address for the proposed commercial horse boarding facility, and submit the County application and fee (\$75) to the Planning Department (prior to issuance of zoning approval on a building permit application). An approved address shall be posted on both sides of a permanent post or mailbox within 30' of the driveway providing access to the

ATTACHMENT A – CONDITIONS OF APPROVAL

dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. Application must be made a minimum of 2 weeks prior to issuance of zoning approval on a building permit application.

D. Colors and Materials

1. The following materials and colors are approved for the kitchen/restroom building:

	Material	Exterior Color	Looks Like	Consistent with color requirement?
HOUSE				
Main/Body	Hardie Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardie Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
BARN/SHOP & PUMP HOUSE				
Main/Body	Hardi Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardi Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
ROUND PEN	Galvanized Steel	Hunter Green (Rustoleum)	Dark Green	Yes, approved for narrow surfaces only

2. If alternate colors or materials are proposed for any new development, they shall be submitted to and approved by the Planning Department prior to their use on the exterior of the building.
3. All windows shall be thermal pane rated less than 15% visible light reflectivity.

F. Miscellaneous Conditions:

1. Ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive.
2. The retention of all conifer trees indicated on the site plan is required to comply with visual subordination standards. Coniferous trees not indicated on the site plan may be removed if they are damaged or diseased, or for fire safety purposes. If coniferous trees indicated on the site

ATTACHMENT B – TIME LIMITS AND APPEAL INFORMATION

plan are removed, die or are destroyed, they shall be replaced in compliance with the following standards:

To ensure survival, new trees and replacement trees shall meet the following requirements

- All trees shall be at least 4 feet tall at planting, well branched, and formed.
 - Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.
 - The trees must be irrigated until they are well established.
 - Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.
3. All conifer trees east of the existing driveway shall be retained.
 4. To ensure sensitive wildlife habitat protection and the retention vegetative screening, all on site trees not impacted by wildfire or disease shall be retained unless removed for approved development. Any trees that die shall be replaced in the next growing season.
 5. Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River. Shielding and hooding materials shall be composed of nonreflective, opaque materials.
 6. The round pen shall not be placed inside any property line or resource protection setbacks in the event that it is moved.
 7. Development approved by this decision shall comply with all requirements of the Wasco County Building Codes Services Department.

SIGNED THIS 7th day of October, 2021, at The Dalles, Oregon.

Daniel Dougherty, Senior Planner
Wasco County Planning Department

NOTE: Any new land uses or structural development such as residences; garages, workshops or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

Proposed development shall not commence until the appeal period has expired, and conditions of approval are adhered to.

Section 2.240 of the Wasco County National Scenic Area Land Use and Development Ordinance, this approval shall expire: (1) when construction has not commenced within two years of the date the land use approval was granted, or (2) when the structure has not been completed within two years of the date of commencement of construction. **The expiration date for the validity of a land use approval is from the date of expiration of the appeal period and not the date the decision was issued.**

Please Note!

No guarantee of extension or subsequent approval either expressed or implied can be made by the Wasco County Planning Department. Please take care in implementing your proposal in a timely manner.

APPEAL PROCESS:

The decision date for this land use review is **Thursday, October 7, 2021**. The decision of the Director shall be final unless an appeal from an aggrieved party is received by the Director within fifteen (15) days of the mailing date of this decision, **Friday, October 22, 2021, at 4:00 p.m.**, or unless the Planning Commission or Board of County Commissioners on its own motion orders review within fifteen (15) days of the date of decision. A complete record of the matter is available for review upon request during regular business hours or copies can be ordered at a reasonable price at the Wasco County Planning Department. Notice of Appeal forms may also be obtained at the Wasco County Planning Department. **The filing fee for an appeal is \$250.00. Fees are refunded if appellant prevails.**

FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning Department, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: <http://co.wasco.or.us/departments/planning/index.php>. Click the drop-down arrow to the right of Zoning Permits, click on Active Applications. The table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

ATTACHMENT C – MAPS
Applicant/Owner: Adrian Lopez
2N 11E 11, Tax Lot 2200; Account #327
Vicinity Map

Wasco County Planning Dept



6/25/2020, 10:03:28 AM

1:36,112

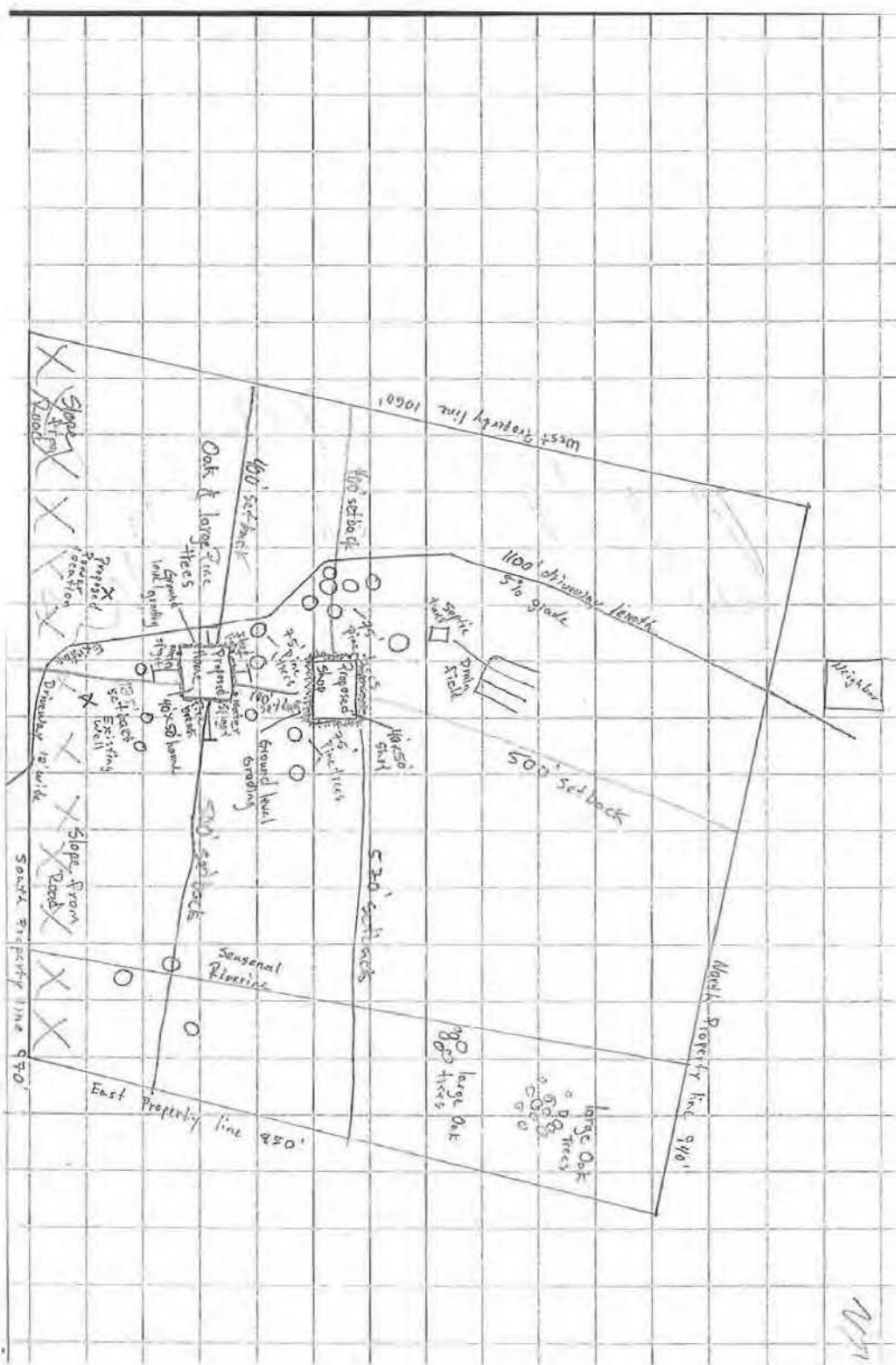
- Taxlots
- City
- Railroad
- Public Access
- Roads
- Private
- State
- Road Labels
- County
- Wasco County Boundary Line

0 0.2 0.4 0.8 mi
0 0.33 0.65 1.3 km

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DOGAMI, State of Oregon, Wasco County GIS, Lane County, Assessor's,
Wasco County GIS

Wasco County Planning
This Map is for Informational Purposes Only

ATTACHMENT C – MAPS
Applicant/Owner: Adrian Lopez
2N 11E 11, Tax Lot 2200; Account #327
Vicinity Map



ATTACHMENT C – MAPS
 Applicant/Owner: Adrian Lopez
 2N 11E 11, Tax Lot 2200; Account #327
 Site Plan

Property line setbacks

Home 40'x50'

North - 700'
 South - 300'
 East - 400'
 West - 550'
 Huskey Rd - 350'

Shop 30'x50'

North - 500'
 South - 500'
 East - 400'
 West - 550'
 Huskey Rd - 550'

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE: (select one)

1:50 ☐

1:100 ☐

1:200 ☐

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☒ Proposed structures (location & size)
- ☒ Septic tanks and drain fields (ALL existing and proposed)
- ☒ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'.
- ☒ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☒ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

ATTACHMENT C – MAPS
Applicant/Owner: Adrian Lopez
2N 11E 11, Tax Lot 2200; Account #327
Site Plan

<p>Round Pen setback North - 100' South - 150' East - 100' West - 650'</p> <p>Pump House setback from Property line North - 600' South - 150' East - 475' West - 475'</p> <p>Map features include: Round Pen, Gates, Pasture, Wetland, Wire mesh fence, 15' buffer, 50' turn around, 12' driveway width, 30' 5% grade access, 1000' length, and property lines (North 940', South 970', West 1060', East 950').</p>		<p align="center">SITE PLAN CHECKLIST</p> <p>SITE PLANS MUST SHOW THE FOLLOWING:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Property boundary & development area dimensions <input type="checkbox"/> Setback distances from proposed structures to all: <ul style="list-style-type: none"> <input type="checkbox"/> Property lines <input type="checkbox"/> Roadways <input type="checkbox"/> Waterways <input type="checkbox"/> Existing structures (location & size) <input type="checkbox"/> Proposed structures (location & size) <input type="checkbox"/> Septic tanks and drain fields (ALL existing and proposed) <input type="checkbox"/> Existing & proposed services including wells, electricity, etc. <input checked="" type="checkbox"/> Driveway & access to public/private roads <input type="checkbox"/> Significant land forms & slopes <p>Fire Safety Information</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'. <input type="checkbox"/> Location of a standpipe (water spigot) at least 50' from each building that includes plumbing. <input type="checkbox"/> Indicate 50' fire break surrounding new buildings.
<p align="center">SITE PLAN MAP</p> <p>Map, Tax Lot #: _____</p> <p>Applicant: <u>Adrian Lopez</u></p> <p>File #: _____</p>	<p>SCALE: (select one)</p> <p>1:50 <input checked="" type="checkbox"/></p> <p>1:100 <input type="checkbox"/></p> <p>1:200 <input type="checkbox"/></p>	
<p>NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Location & depth of proposed grading, filling, ditching and excavating <input type="checkbox"/> Outside lighting fixtures <input type="checkbox"/> All proposed signs <input type="checkbox"/> Location & height of outdoor storage & screening devices <p>Landscaping Plan</p> <ul style="list-style-type: none"> <input type="checkbox"/> Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed. <input type="checkbox"/> Location of irrigation systems <p><i>DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.</i></p>		

ATTACHMENT C – MAPS
 Applicant/Owner: Adrian Lopez
 2N 11E 11, Tax Lot 2200; Account #327
 Site Plan

Trees

☒ Oak trees
☒ Pine/Fir trees most are over 50' tall
 All trees will remain for screening

Huskey Rd
Pine & Oak Forest

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☐ Property boundary & development area dimensions
- ☐ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☐ Proposed structures (location & size)
- ☐ Septic tanks and drain fields (ALL existing and proposed)
- ☐ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
- ☐ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☐ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☐ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☒ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE: (select one)

1:50 ☐

1:100 ☐

1:200 ☐

ATTACHMENT D – STAFF REPORT

File Number: 921-19-000193-PLNG

Applicant/Owner: Adrian Lopez

Requests: Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

Administrative

Decision: June 24, 2021

Decision Appealed to

Planning Commission: July 9, 2021

Planning Commission

Decision Date: October 5, 2021

Notice of Decision

Issued: October 7, 2021

Appeal Deadline: October 22, 2021

Planning Commission

Decision: **Approved** by the Planning Commission with amended Conditions and Findings as described in Attachment A of the Planning Commission Packet. Amended findings are described in this Staff Report as **[AMENDED FINDING]**.

Location: Development site is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

Zoning: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Past Actions: 921-18-000017-PLNG (Withdrawn): Horse Boarding Facility

ATTACHMENT D – STAFF REPORT

Procedure Type: Administrative

Prepared By: Daniel Dougherty, Senior Planner

I. APPLICABLE STANDARDS

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 – Basic Provisions

Section 3.110, Expedited Review

Section 3.110.A.5., Uses Permitted Subject to Expedited Review, Woven Wire Fences

Section 3.130, A-2, Small Scale Agriculture (GMA)

Section 3.130.D.2., Uses Permitted Subject to Review, Agricultural structures

Section 3.130.D.4., Uses Permitted Subject to Review, One single-family dwelling

Section 3.130.D.6., Uses Permitted Subject to Review, Accessory building(s)

Section 3.130.G, Property Development Standards

B. Chapter 4 – Supplemental Provisions

Section 4.040, Off-Street Parking

C. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards

Section 11.120, Defensible Space

Section 11.130, Construction Standards for Dwellings and Structures

Section 11.140, Access Standards

Section 11.150, Fire Protection or On-Site Water Required

D. Chapter 14 – Scenic Area Review

Section 14.100, Provisions for all new development

Section 14.200, Key Viewing Areas

Section 14.300, Scenic Travel Corridors

Section 14.400, Landscape Settings

Section 14.500, Cultural Resources – GMA

Section 14.600, Natural Resources – GMA

Section 14.700, Recreation Resources - GMA

Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA

I. BACKGROUND

- A. Proposal:** The property currently contains a driveway and a residential well that was constructed without review. This application proposes the construction of a two-story single family dwelling, a two story accessory building, fencing, a round pen to assist with the raising of approximately 5 cows, 15 goats and/or sheep, and a new well house and cistern for the well. The applicant has described the use of the property as a “small family farm.” As noted above, the request can be more specifically described as 1,889 Square Foot (SF), 50’L x 40’W x 24’H, two story single family dwelling, a 1,500 SF, 50’L x 30’W x 24’H two story accessory structure for a shop and farm equipment storage, retroactive review of an unlawfully placed well and a new well house and cistern, and approximately 5,000’ of 4’ H wire mesh fence (6’ fence posts) enclosing the three areas on either side of the driveway for livestock pens, approximately 900’ of moveable electric fence to protect a wetland, and a 50’ diameter moveable round pen.

- B. Legal Lot:** The subject lot is identified as Lot 21 of Rocky Prairie Subdivision, recorded with the Wasco County Clerk on April 27, 1977. It is consistent with the definition of Legal Lot in NSA-LUDO Section 1.200, Definitions, because it was created by a recorded subdivision.
- C. Site Description:** The subject lot is located between Huskey Road and Quartz Drive, in Rocky Prairie, a subdivision located on the hill above Mosier, Oregon. This property contains northwest-facing slopes averaging 9%. The western 1/3 (approximate) of the lot is heavily vegetated with Oregon white oak trees. Natural grasses are the dominant ground cover. The property ranges in elevation from 620-720' Above Sea Level (ASL).
- D. Surrounding Land Use:** Properties located north, east and west of the subject lot are located in the A-2, Small Scale Agriculture Zone. Properties located south of Huskey Road are zoned F-3(80), Small Woodland-Forest. With the exception of one property located north of Quartz Drive, all surrounding properties are used for residential use. Properties located east and west of the subject lot contain similar northwest-facing slopes averaging 8-10%. Property to the southwest, located north of Huskey Road is heavily vegetated with Oregon white oak trees. Property located to the west contains cherry orchard and a cidery, but there are no other commercial farm uses on adjacent properties. Land lying within 750' of Huskey Road averages 30% northwest-facing slopes while farther south, slopes lessen to 5-10%. Properties to the south are generally heavily vegetated with Oregon white oak and Ponderosa pine trees.
- E. Public Comment:** Notice of Administrative Action was mailed on July 2, 2020, to all owners of property within 500' of the subject parcel, the U.S. Forest Service - Columbia River Gorge National Scenic Area Office, Columbia River Gorge Commission, the four tribal governments, State Historic Preservation Office, and other interested parties registered with Wasco County. This notice provided a 15-day pre-notice for public comment (ending July 17, 2020). Comments are included as Attachment G of this report. All comments are addressed in applicable Findings throughout this report.

II. FINDINGS:

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 - Basic Provisions

Section 3.110 Expedited Review

A. Uses Permitted Subject to Expedited Review

(***)

5. Woven-wire fences for agricultural use that would enclose 80 acres or less. (GMA Only)

FINDING: The request includes a 4'H "mesh" or woven-wire fence enclosing the subject property, to support a proposed agricultural use. The property is 20.59 acres and is located in the GMA, meeting the requirements of this criterion. However, it is on a property where a cultural reconnaissance survey was required. Section 3.110.B.2.A. states: "The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey." Because a survey was required, the woven-wire fence is included in the full review below.

Section 3.130, A-2, Small Scale Agriculture (GMA)

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Small-Scale Agriculture subject to Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as all other listed or referenced standards.

2. Agricultural structures, except buildings, in conjunction with agricultural use. Non commercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

FINDING: This proposal includes approximately 5,000' of perimeter fencing, about 1,000' of temporary moveable electric fencing, and a 50' diameter moveable round pen to support the proposed farm use of a "Small Family Farm." The Farm Management Plan submitted with the application materials describes the potential animal husbandry of approximately 13 goats on this 20 acre parcel. Farm Use is permitted without review in the A-2 zone, unless it involves new cultivation. Agricultural structures are permitted subject to compliance with property development standards, Fire Safety Standards, and Scenic Area Review criteria. Property Development Standards are addressed below. Chapter 11 – Fire Safety Standards is addressed in III.C. Chapter 14 – Scenic Area Review is addressed in III.D. Staff finds that the request complies with Criterion 3.130.D.2.

4. One single-family dwelling on any legally existing parcel.

FINDING: As noted under section I.B above, the subject parcel was lawfully created. The request includes the construction of one single family dwelling, with associated underground septic system. As permitted by this criterion, new dwellings are an allowed review use in the A-2 Small Scale Agriculture zone subject to compliance with property development standards, Fire Safety Standards, and Scenic Area review criteria. Property Development Standards are addressed below. Chapter 11 – Fire Safety Standards is addressed in III.C. Chapter 14 – Scenic Area Review is addressed in III.D. Staff finds that the request complies with Criterion 3.130.D.4.

6. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any parcel:

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

FINDING: The subject property is larger than 10 acres in size and does not currently contain any lawfully established buildings (the well that was being constructed unlawfully is being reviewed as a new use).

Proposed development includes the construction of one single family dwelling, one 1,500 SF accessory building with a height of 24 feet, and a 144 SF well house. As a result of the proposed development, there will be a total footprint of 1,644 SF worth of accessory structures, which is less than the 2,500 SF maximum. The shop/barn is being reviewed as an accessory structure because it was not proposed to be fully dedicated to farm use. Though that will be a part of its function, storing equipment and feed, it was also proposed as a personal shop, accessory to the residential use. Neither of the proposed accessory structures exceed 24' in height. Staff finds that the request is consistent with Criterion 3.130.D.6.

G. Property Development Standards

(***)

2. General Setbacks - All structures, other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25'
Side Yard	25'
Rear Yard	40'

FINDING: As proposed, the development will exceed the requirements of General Setbacks. Staff finds that the request complies with Criterion 3.130.G.2.

Required Setback	Proposed – Dwelling	Proposed – Shop	Round Pen	Pump House	Consistent?
East (side) = 25'	400'	400'	660'	475'	Yes
West (side) = 25'	550'	550'	100'	475'	Yes
North (rear) = 25'	700'	500'	100'	800'	Yes
South (front) = 40'	300'	500'	850'	150'	Yes

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

FINDING: The subject property shares borders with seven other properties. To the west, an adjacent property is currently farmed as a commercial orchard on the other side of a vegetative barrier (oak trees). To the north, one property contains approximately eight acres of land that is not currently

farmed, but is suitable for future farm use. Without a barrier, orchards are protected by a 250' setback. With a barrier, orchards are protected by a 100' setback. The property to the north contains an oak woodland that creates a natural vegetative barrier and thus only require a 100' buffer. All other adjacent properties contain poor quality soils and are predominantly developed as rural residential properties that are 10-15 acres in size.

As proposed, the following distances will exist between the development and adjacent properties that contain or are suitable for agriculture use:

Required Setback	Barrier Present?	Proposed – Dwelling	Proposed – Shop	Round Pen	Pump House	Consistent?
North = 100'	Yes, existing vegetative	600'	500'	100'	800'	Yes
West = 250'	No, open field	600'	500'	NA (structure is proposed in the portion of the property with the barrier)	900'	Yes

The applicant describes the round pen in their Farm Management Plan narrative as “made up of 10 panels 5' tall ... it can be taken apart and moved in under 20 min so it probably will be moved for some reason or another.” It is permissible to move this pen anywhere on the property as long as it complies with required setbacks, including those listed under the wetland protection section below. As the placement of the pen does not involve ground disturbance, there will be no impact to cultural resources. A **condition** of approval is included requiring that the pen not be placed inside any property line or resource protection setbacks in the event that it is moved.

With that condition, staff finds that the proposed setbacks meet or exceed the requirements in the A-2, Small Scale Agriculture Zone and that request complies with Criterion 3.130.G.3.

4. *Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.*

FINDING: The subject property is not located within any identified FEMA flood zone. It is located approximately 0.8 mile south of the closest identified flood plain along Rock Creek. Staff finds that the request complies with Criterion 3.130.G.4.

5. *Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.*

FINDING: The applicant proposes the following heights for all new structures:

- Dwelling: 24'
- Shop: 24'
- Round Pen: 5'
- Woven-wire fence: 4' fencing, 6' posts
- Well house: 12'

All structures are proposed to be less than 35' in height. Staff finds that the request complies with Criterion 3.130.G.5.

6. *Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.*

FINDING: The subject lot is not located on a corner lot. Staff finds that Criterion 3.130.G.6. is not applicable to this request.

7. *Parking - Off street parking shall be provided in accordance with Chapter 4.*

FINDING: Off-street parking is addressed below in Chapter 4. There is an existing driveway accessing the property however there is no Road Approach Permit on file with the Wasco County Public Works Department for this driveway. A **condition** of approval is included in the Notice of Decision requiring the applicant/owner to obtain a Road Approach Permit for the existing driveway after expiration of the appeal period. Staff finds that the request complies with Criterion 3.130.G7.

B. Chapter 4 – Supplemental Provisions

(***)

Section 4.040, Off-Street Parking

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure, off-street parking spaces shall be provided in accordance with this Section. In an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section. Where square feet are specified the area measured shall be the gross floor area necessary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises during the largest shift at peak season, including proprietors.

A. Residential

1. Single-family dwelling: One (1) space per dwelling unit.

FINDING: The proposal involves one single family dwelling and an accessory structure. This section requires one parking space for a dwelling. The house designs submitted with the application indicate a 19' x 19'6" attached garage which is large enough to accommodate two vehicles. Staff finds that the request complies with Criterion 4.040.A.1.

(***)

C. Chapter 11 – Fire Safety Standards

The Fire Safety Standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

As part of a complete application, the property owners completed a Fire Safety Standard Self-Certification Form. By signing the self-certification form, the owners have acknowledged that they

understand these standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File 921-19-000193-PLNG. A **condition** of approval stating this is included in the Notice of Decision.

Section 11.110, Siting Standards – Locating Structures for Good Defensibility

FINDING: There are no slopes on the property in excess of 30%, except short ones right at the road. The slopes around the proposed development are between 5 and 9%. Staff finds the request complies with Section 11.110.

Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

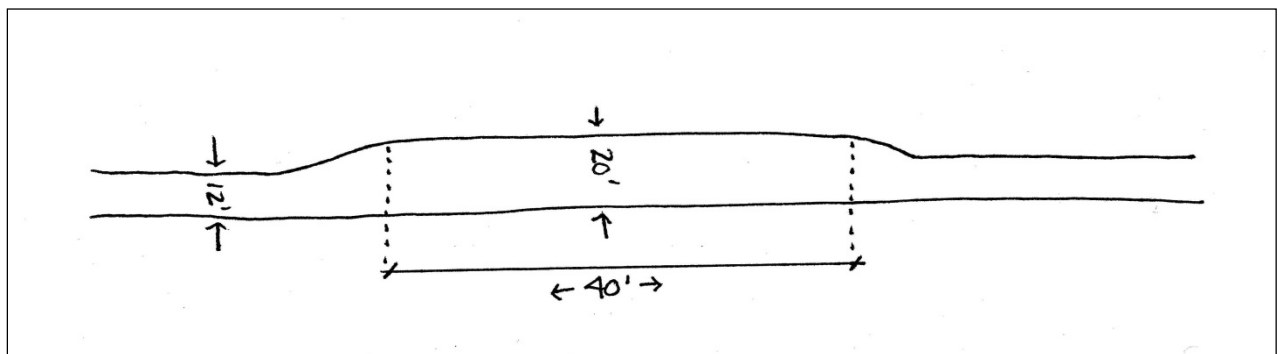
FINDING: The applicant included 50' of defensible space on the site plan around the proposed development. Currently that land in a 50' radius around the home and shop consists of grass and three mature ponderosa pine trees. The applicant has committed himself and future property owners in his self-certification form to maintaining that fire fuel break. Staff finds the request complies with Section 11.120.

Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

FINDING: The application states that the dwelling and accessory structure will be constructed of fiber cement (Hardie board brand) siding and trim, with asphalt shingles for roofing. Cement and asphalt are fire resistant materials. Staff finds the request complies with Section 11.130.

Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home

FINDING: The existing driveway provides access to the lot located to the north. The driveway is approximately 1,000' in length. The site plan shows that the proposed new dwelling will be 360' from the main road. Fire safety standards require the driveway to be a minimum of 12' wide, and contain 6-8" of pitrun base rock, and 2-3" $\frac{3}{4}$ minus leveling course. A 13' vertical clearance must be provided for vehicles, including a fire fuel break of 10' from the centerline of the driveway on each side. The driveway must also contain turnouts every 400' to allow vehicles to pass safely, especially during an emergency as well as a turnaround that is passable for emergency responders.



The site plan does not show access and turnaround for emergency vehicles or turnouts. However, a January 17, 2020 site visit confirmed that the property is open enough to allow for turnouts and turn

around anywhere along its length, with the exception of the first 100' of driveway where it slopes down steeply from Huskey Road. Staff finds the request complies with Section 11.140.

Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

FINDING: The subject property is located within the boundaries of Mosier Fire District and has structural fire protection. The proposed structures are not larger than 3,500 SF, which would necessitate on site water storage. No on-site water storage is required. The site plan demonstrates two locations where water spigots will be available outside the dwelling. Staff finds the proposal complies with Section 11.150.

This proposed development is located within the Oregon Department of Forestry Fire Protection District and receives wildland fire protection services by ODF, as does surrounding properties.

Based on comments received from ODF for the application, ODF continues to be concerned about the impact of additional structures and the associated human activities within the wildland urban interface and emphasizes defensible space standards around the building site that contribute to higher likelihood of a structure being saved while reducing risk to firefighting personnel in the event of a wildland fire moving through the area, regardless of how the fire started. Road Standards need to be met regarding road width, vertical clearance, turnarounds and turn outs, and road grades. If any land clearing activities involving power driven machinery are proposed during the spring or summer months, applicant or owner will be required to obtain a Permit to Operate Power Driven Machinery (PDM) from ODF prior to the start of these activities. A **condition** stating this is included in the Notice of Decision.

Though not specifically addressed in Chapter 11, it is essential that the proposed development have a valid address so that emergency responders can quickly find the property. In accordance with the Wasco County Uniform Addressing Ordinance adopted on June 9, 1982, prior to Building Permit Authorization, the applicant or future owner(s) shall clearly post the address of the subject lot on both sides of a post or mailbox, or other similar post, support, stake or pedestal which cannot be easily removed or destroyed which is within 30' of the driveway which accesses the dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. A **condition** of approval is included in the Notice of Decision requiring the owner to apply for a new address for the new dwelling after expiration of the appeal period but at least 2 weeks prior to issuance of zoning approval on a building permit application, and submit the filing fee (\$75) for an address application to the Planning Department prior to issuance of zoning approval on a building permit application.

With these conditions of approval staff finds that the request complies with Chapter 11 – Fire Safety Standards.

D. Chapter 14 – Scenic Area Review

Section 14.100, Provisions For All New Development (GMA & SMA)

- A. *All new development, except uses allowed through the expedited review process, shall be reviewed under the applicable sections of Key Viewing Areas, Scenic Travel Corridors, Landscape Settings, Natural Resources, Cultural Resources, and Recreation Resources.*

FINDING: The following applicable sections of Chapter 14 are addressed below: Section 14.200, Key Viewing Areas, Section 14.300, Scenic Travel Corridors, Section 14.400, Landscape Settings, Section

14.500, Cultural Resources – GMA, Section 14.600, Natural Resources – GMA, Section 14.700, Recreation Resources – GMA, and Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA.

- B. New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.*

FINDING: The request includes a dwelling, accessory structure, approximately 6,000 linear feet of fencing and underground utilities including subsurface septic disposal system. Slopes on the subject lot are less than 10% and are similar throughout the property. As proposed, both buildings will require less than 100 cubic yards of grading, individually. The driveway is existing and will require no further grading. Staff finds that the proposed development will retain existing topography and minimize grading activities to the maximum extent practicable and complies with Criterion 14.100.B.

- C. New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

FINDING: The applicant is requesting approval to construct a two story single family dwelling with a 1,889 Square Foot (SF) footprint 50'L x 40'W x 24'H, and a 1,500 SF, 50'L x 30'W x 24'H accessory structure for a shop and storage. The two story dwelling will have an overall square footage of 2,978 SF.

Staff conducted a compatibility analysis of all properties in Rocky Prairie Subdivision; there are dozens of existing buildings in this study area. The largest building is a 2-story barn with an overall mass of 6,496 SF. This building is considered to be an outlier because no other building in the area is anywhere close to this size. The next largest building in the area is 3,921 SF and many others are smaller but similar in size. As proposed, all proposed buildings are smaller than other nearby structures, and will fit into the general scale of the neighborhood. Staff finds that the request complies with Criterion 14.100.C.

- D. Unless expressly exempted by other provisions, colors of all exterior surfaces of structures on sites not visible from Key Viewing Areas shall be earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The entire property is visible from one or more KVAs. Staff finds that Criterion 14.100.D. is not applicable to this request.

- E. Additions to existing buildings.....*

FINDING: This request involves three new buildings. There are no existing buildings on the subject property (the well is present, but was unlawfully constructed and is being reviewed as new development, not existing, along with the proposed new well house for it). Staff finds that Criterion 14.100.E. is not applicable to this request.

- F. Outdoor lighting shall be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There*

shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic.

FINDING: Two new lights are proposed as part of the dwelling request, one on the garage, and one on the back door. These lights will be motion detector lights and will not be on all night. The applicant and owner should be aware of the requirements for outdoor lighting and the need to hood and shield outdoor lighting so that it is directed onto the subject lot. A **condition** of approval is included in the Notice of Decision requiring outdoor lighting to be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic. Outdoor Lighting Standards are included as Attachment E. With this condition of approval, staff finds that the request complies with Criterion 14.100.F.

- G. All ground disturbance as a result of site development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation, and replacement of such vegetation that does not survive.*

FINDING: There will be ground disturbance as a result of new development (dwelling, shop, fencing). A **condition** of approval is included in the Notice of Decision requiring ground disturbance to be minimized to the greatest extent possible. All ground disturbance resulting from construction of the new development must be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive. With the proposed condition of approval, the request complies with Criterion 14.100.G.

- H. Except as is necessary for site development or fire safety purposes, the existing tree cover screening the development area on the subject parcel from Key Viewing Areas and trees that provide a back drop on the subject parcel which help the development area achieve visual subordination, shall be retained. Additionally, unless allowed to be removed as part of the review use, all trees and vegetation within buffer zones for wetlands, streams, lakes, ponds and riparian areas shall be retained in their natural condition. Any of these trees or other trees required to be planted as a condition of approval that die for any reason shall be replaced by the current property owner or successors in interest no later than the next planting season (Oct-April) after their death with trees of the same species or from the list in the landscape setting for the property.*

To ensure survival, new trees and replacement trees shall meet the following requirements

- 1. All trees shall be at least 4 feet tall at planting, well branched, and formed.*
- 2. Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.*
- 3. The trees must be irrigated until they are well established.*

4. *Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.*

FINDING: The subject lot contains scattered tree cover (15 Ponderosa pine trees) around the proposed development and the southwestern third of the property, behind the development as seen from KVAs, is heavily vegetated with Oregon white oak trees. The applicant does not propose to remove any trees for site development. Appropriate thinning may occur over time to comply with fire safety standards among the oak trees, however the grove acts as backdrop screening to the proposed development and must remain generally intact. The 15 pine trees indicated on the site plan provide visual screening in front and behind the proposed structures, as seen from KVAs. A **condition** of approval is included in the Notice of Decision requiring retention of all conifer trees indicated on the site plan to comply with visual subordination standards. Coniferous trees not indicated on the site plan may be removed if they are damaged or diseased, or for fire safety purposes. If coniferous trees indicated on the site plan are removed, die or are destroyed, they shall be replaced in compliance with Criterion 14.100.H. Staff notes that an individual property owner's view is not protected by the NSA-LUDO, however no trees between the applicant and the neighboring property will be removed. Also, all locations on the property are visible from KVAs, so there is no other location which will minimize visibility from KVAs.

With the proposed condition of approval, staff finds that the request complies with Criterion 14.100.H.

Section 14.200, Key Viewing Areas

The following is required for all development that occurs on parcels/lots topographically visible from Key Viewing Areas.

- A. *Each development and land use shall be visually subordinate to its setting in the GMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.*
 1. *Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to:*
 - a. *The number of Key Viewing Areas it is visible from;*
 - b. *The distance from the building site to the Key Viewing Areas it is visible from;*
 - c. *The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads and the Columbia River);*
 - d. *The difference in elevation between the building site and Key Viewing Areas;*
 - e. *The nature and extent of topographic and vegetative back screening behind the building site as seen from Key Viewing Areas;*
 - f. *The amount of area of the building site exposed to Key Viewing Areas; and*
 - g. *The degree of existing vegetation providing screening.*
 2. *Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from key viewing areas, including but not limited to:*
 - a. *siting (location of development on the subject property, building orientation, and other elements);*

- b. *design (color, reflectivity, size, shape, height, architectural and design details and other elements); and*
- c. *new landscaping.*

[AMENDED FINDING]: Both the dwelling and the shop will be two stories with pitched roofs. The dwelling will have a cross gabled design and will be oriented east-west. They will be just east of the driveway closer to the southern property line (road) than the north. The western third of the property is covered in oak trees. Approximately 15 mature Ponderosa pine trees are scattered throughout the open field in the eastern two thirds of the property.

The development sites are topographically visible from the following Key Viewing Areas (KVAs):

- Dwelling & Pump House: SR 14, the Columbia River, and Highway 30 W (Middle Ground);
- Accessory Structure: SR 14 and the Columbia River (Middle Ground);

Middleground is defined as ¼ mile – 3 miles from the subject lot.

Section 14.200 is not applicable to portions of a KVA within an Urban Area (UA) identified by the Management Plan. The Urban Area identified in this request is Mosier, Oregon.

The development sites are located at an elevation of approximately 680' feet above sea level (ASL). The primary factors in analyzing the visibility of the proposed dwelling and agricultural structures include the distance from KVAs, the use of dark earthtone colors on the buildings, existing backdrop of trees and the use of nonreflective materials.

The land use designation (GMA, Large Scale Agriculture) and landscape setting (Oak Woodlands) in the project area requires a scenic standard of visually subordinate.

Visually Subordinate is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

Highway 30 W: The portion of this KVA located within the Urban Area (UA) of Mosier, Oregon, is not included in this review. The portion of the KVA located outside of the UA is located at an elevation ranging from 180-200 beginning approximately 1.4 miles north of the development site and is visible for a linear distance of approximately 0.4 miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Washington SR 14: This KVA is located at an elevation of 40-80' Above Sea Level (ASL), approximately 1.9 mile north of the development site. The site is sporadically visible among land forms for approximately 3.3 linear miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Columbia River: This KVA is located at an elevation of approximately 76' ASL (per Corps of Engineers flowage easement between The Dalles Dam and Bonneville Dam). The development site is located approximately 1.1 mile south of the Columbia River. The development site is topographically visible for 3.5

linear miles along the river, however existing on-site trees (background and foreground) and distance make it very difficult to see the development site from this KVA. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, the proposed development will be visually subordinate as seen from this KVA.

The applicant submitted colors for the proposed structures (dwelling, shop, round pen, and pump house) which are dark earth tone colors that blend with the surrounding area. Dark earth tone colors were not submitted, nor required, for the agricultural fencing as Section 3.110.B.1.a states: "a. In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less" and this 20.59 acre property is in the GMA.

Colors are addressed further in Section 14.200.I.

Reflectivity is addressed in Section 14.200.J.

Based on distance between the new development and KVAs, screening vegetation, and proposed colors and materials, with conditions proposed in Sections 14.200 I. and J., the proposed agricultural buildings and structures will be visually subordinate as seen from KVAs. Staff finds that the request complies with Criterion 14.200.A.

- B. New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)*

FINDING: All portions of the subject property are topographically visible from KVAs. The home has been sited to allow for the shop to be clustered nearest the livestock, without impacting grazing, well or septic areas. No other sites exist on the property that would reduce the overall visibility of the proposed development. With conditions of approval throughout this report, the proposed development will be visually subordinate from all KVAs therefore staff finds that the request complies with Criterion 14.200.B.

- C. New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.*

FINDING: The required scenic standard in this location is "visually subordinate." There are no on-site topographic features on the subject lot that will screen the new building from KVAs. The buildings will be partially screened by 15 existing Ponderosa pine trees scattered around the development. As proposed, dark earthtone colors and nonreflective materials will also help the development achieve visual subordination with its surrounding landscape. Staff finds that the request complies with Criterion 14.200.C.

- D. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.*

FINDING: Slopes on the subject lot are less than 10%. Each proposed building site will require less than 100 cubic yards of leveling. Since there is little leveling to be done on site, there will be little cut banks

and fill slopes on-site, and they will not be visible from KVAs. The driveway is existing and will not require further grading. A condition of approval is included in the notice of decisions requiring that ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive. With this condition, staff finds that the request complies with Criterion 14.200.D.

- E. The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. A variance in the General Management Area may be granted according to Chapter 6 if application of the guidelines would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height and site to comply with the criteria have been made.*

FINDING: KVAs from which the site is visible are located north of the subject property. The development site is located at an elevation of approximately 680' Above Sea Level (ASL). Hills to the south rise to an elevation of approximately 1,200'. When viewed from KVAs, the proposed agricultural buildings will be located below the skyline of a bluff, cliff or ridge. Staff finds that the request complies with Criterion 14.200.E.

- F. An alteration to a building built prior to*

FINDING: The request involves three new buildings. There are no existing buildings on the subject property. Staff finds that Criterion 14.200.F. is not applicable to this request.

- G. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized according to Chapter 6 of this Ordinance. In the SMA the setbacks described above shall be 200 feet.*

FINDING: The proposed development is located approximately 1 mile south of the Columbia River. Staff finds that the request complies with Criterion 14.200.G.

- H. New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. Variances to this guideline may be authorized according to Chapter 6 of this Ordinance if its application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be utilized.*

FINDING: The average slope on the subject lot is approximately 10%. This is less than 30% and staff finds that the request complies with Criterion 14.200.H.

- I. Unless expressly exempted by other provisions in this chapter, colors of all exterior surfaces of structures visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The subject parcel is visible from several KVAs. The request includes construction of three new buildings (a dwelling, shop, & pump house), a round pen, and a mesh fence. Dark earth tone colors are required on all exterior surfaces, with the exception of the mesh fences as described above. The applicant submitted the following proposed materials and colors:

	Material	Exterior Color	Looks Like	Consistent with color requirement?
HOUSE				
Main/Body	Hardie Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardie Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
SHOP & PUMP HOUSE				
Main/Body	Hardi Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardi Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
ROUND PEN	Galvanized Steel	Hunter Green (Rustoleum)	Dark Green	Yes, approved for narrow surfaces only

A **condition** of approval is included in the Notice of Decision approving these colors. If alternate colors are proposed, they shall be submitted to and approved by the Planning Department prior to their application on the building. With the proposed condition of approval staff finds that the request complies with Criterion 14.200.I.

- J. The exterior of buildings in the GMA and structures in the SMA on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this criterion, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from Key Viewing Areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.*

FINDING: Exterior materials are identified above in Section 14.200.I. Exterior siding and trim for the buildings will be fiber cement (Hardie board brand), and the roofing will be asphalt shingles. The round pen is a structure, not a building, and does not need to comply with this criterion as this is not in the SMA. Fiber cement and asphalt are non-reflective materials listed in the Scenic Resources Implementation Handbook as 'Preferred' and are approved.

Windows on the north, east, and west facing walls of the proposed buildings will be visible from KVAs. The application materials state that the windows will be of “low reflectivity glass.” No specifications were given. The Scenic Resources Implementation Handbook states that clear thermal pane glass with 11%-15% reflectivity is potentially acceptable outside the foreground of KVAs. Tinted glass with less than 11% visible light reflectivity rating is recommended. The proposed structures are outside the foreground of KVAs. A **condition** of approval is included requiring that all windows be thermal pane rated less than 15% visible light reflectivity.

The Scenic Resources Implementation Handbook also states:

“The Management Plan does not limit the total amount of glass on buildings. Review agencies recommend, however, that an unscreened window or continuous glass area should not exceed 50 square feet.”

On the dwelling there will be three windows, a door, and a garage door on the north side; one window on the west side, and none on the east side. According to the scaled elevation drawings, only the north side will have one door that will be larger than 50 SF of continuous glass and it will not be visible from KVAs. The site plan indicates that there are several pine trees immediately south of the proposed dwelling which will provide screening. In addition, the proposed shop sits 100’ south of the dwelling and will provide additional screening from KVAs. The shop has two small windows proposed on each side that faces the KVAs, with the two large and one small shop doors on the north face which is not visible from KVAs.

As there are no sections of continuous glass larger than 50 SF that face KVAs, all windows are proposed to be low reflectivity, and there is existing vegetative screening as well as proposed structural screening, staff finds that the request complies with Criterion 14.200.J.

K. The following criteria shall apply to new landscaping used to screen development from Key Viewing Areas...

[AMENDED FINDING]: The proposed development is required to be visually subordinate from identified KVAs. The subject property contains scattered tree cover (approximately 15 conifers) between the proposed development and KVAs to the north and northeast provide year-round screening from KVAs. There are no alternate sites on the parcel to place new development to better achieve visual subordination than the proposed development sites because alternative sites could require tree removal and increased grading. No additional tree screening, landscaping, or earthen berms are required to be planted to achieve visual subordination because visual subordination can be achieved by the retention of existing on-site coniferous trees and the use of dark earthtone colors and nonreflective materials on the exterior surfaces of new development. A **condition** of approval is included requiring the retention of all on site trees not impacted by wildfire or disease. Any trees that die shall be replaced in the next growing season. With that condition, staff finds that the request complies with Criterion 14.200.K.

L. Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

FINDING: The subject lot is topographically visible from three KVAs (Highway 30W, SR 14, and the Columbia River). KVAs are located to the north and northeast at elevations ranging from 40-360’ ASL. The development site is located at an elevation of approximately 660’ Above Sea Level (ASL), and the landscape continues to rise behind it, as seen from KVAs. Hills to the south rise to an elevation of

approximately 1,200'. When viewed from KVAs, the proposed agricultural buildings will be located below the skyline of a bluff, cliff or ridge.

The subject lot is difficult to see from KVAs due to their relatively low elevation and the existence of intervening vegetation. As proposed, the buildings will be subordinate to the surrounding landscape because the height of the development is within the canopy height of the mature pine trees offering screening on the property, the design uses dark earth-tone colors and non-reflective materials and all large glass surfaces face away from KVAs.

With the distance from KVAs, screening and backdrop provided by existing vegetation, low reflective, small windows being used on KVA facing sides of buildings, and dark earthtone colors proposed to be used on the exterior surfaces, staff finds that the proposed development will have no cumulative impact on scenic resources and will blend into the surrounding landscape. Staff finds that the request complies with Criterion 14.200.L.

M. New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

FINDING: This request does not include any items discussed in this criterion. Staff finds Criterion 14.200.M. is not applicable to this request.

N. New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

O. New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that...

FINDING: This request does not include any communication facilities. Staff finds Criteria 14.200.N. and O. are not applicable to this request.

P. Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that...

FINDING: This request does not include any items discussed in the above criterion. Staff finds Criterion 14.200.P. is not applicable to this request.

Q. In addition to all applicable criteria above, all Mineral and Aggregate related uses on lands visible from Key Viewing Areas shall meet all applicable criteria in Chapter 10.

FINDING: This request does not include any Mineral or Aggregate uses. Staff finds Criterion 14.200.Q. is not applicable to this request.

R. In addition to the GMA standards, the following will be required in the SMA...

FINDING: This request is not for development in the SMA. Staff finds Criterion 14.200.R. is not applicable to this request.

S. The following are not required to meet scenic standards...

FINDING: This request does not include any items discussed in this criterion. Staff finds Criterion 14.200.S. is not applicable to this request.

Section 14.300, Scenic Travel Corridors

The Historic Columbia River Highway (Highway 30) and Interstate 84 (I-84) are designated as Scenic Travel Corridors, and development along a Scenic Travel Corridor must be set back at least 100' from the edge of pavement of the Scenic Travel Corridor roadway.

FINDING: The proposed development site is located approximately 0.9 mile south of Highway 30 W and 1 mile south of Interstate 84. Staff finds that the request complies with Section 14.300.

Section 14.400, Landscape Settings (GMA & SMA)

Landscape settings are the combination of land uses, landforms and vegetation patterns which distinguish an area in appearance and character from other portions of the National Scenic Area.

C. Oak-Pine Woodland Landscape Setting

GMA Only

1. *Structure height shall remain below the tree canopy level in wooded portions of this setting.*

FINDING: The subject lot contains a grove of Oregon white oak trees whose canopy exceeds 30' in height. There are also Ponderosa pine trees up to 75' in height. The proposed dwelling and shop will be 24' tall, lower than the nearby canopy. Staff finds that the request complies with Criterion 14.400.C.1.

2. *In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development.*
 - a. *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include: Oregon white oak, ponderosa pine, Douglas fir.*
 - b. *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

FINDING: The buildings are located on the eastern side of the oak grove, which is located on the west side of the property, and have scattered pine trees around them. Based on distance from KVAs, the use of dark earthtone colors and nonreflective materials on the exterior of all buildings, no new trees need to be planted to achieve visual subordination. Staff finds that the request complies with Criterion 14.400.C.2.

Section 14.500, Cultural Resources – GMA

The purpose of this section is to protect and enhance cultural resources, and ensure that proposed development does not have an adverse effect on significant cultural resources.

(***)

B. Applicability of the Cultural Resource Reconnaissance and Historic Survey Requirements

- 1. The reconnaissance survey standards of C, Cultural Resource Reconnaissance and Historic Survey, apply until a cultural resource survey of the General Management Areas is complete.*

- a. A reconnaissance survey shall be required for all proposed uses, except...*

(***)

(5) Proposed uses that would occur on sites that have been adequately surveyed in the past.

- (a) The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception.*
- (b) Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing.*
- (c) The nature and extent of any cultural resources in the project area must be adequately documented.*

FINDING: A new reconnaissance survey is not required for the requested development. One was performed during a 2018-19 application on this property when a prior owner applied for a horse boarding facility but withdrew the application after appeals. In a July 20, 2020 comment, Chris Donnermeyer, the Heritage Program Manager of the Columbia River Gorge National Scenic Area deemed that the prior survey adequately surveyed the area relevant to the new proposal. During the second pre-notice comment period (sent Sept 17, 2020) and the cultural notice comment period (sent October 7, 2020), Chris affirmed this comment.

The cultural resource survey was prepared on June 21, 2018 by Justin B. Colon, M.A., Archaeological Services LLC, 601 Officers Row, Vancouver, WA 98661. He is considered to be an expert consistent with the professional standards published in 36 Code of Federal Regulations Part 61, and Guidelines for evaluating and Documenting Traditional Cultural Properties. His report included surface survey information and subsurface testing, adequately documenting the cultural resources. While the results of this survey are confidential, relevant portions of them are discussed below. Staff finds that the request complies with Criterion 14.500.B.1.a.

- 2. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.*

FINDING: This request does not include any structures over 50 years old. Staff finds that Section 14.500 does not apply.

- 3. The Gorge Commission will conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area.*

- a. When archaeological resources or traditional cultural properties are discovered, the Gorge*

Commission also will identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone.

FINDING: A cultural resource survey was conducted and delineated during the application process for application #921-18-000017-PLNG. No new delineation is required. Staff finds that the request complies with Criterion 14.500.B.3.a.

- b. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.*

FINDING: As a request for a new dwelling and a farm use with associated structures, this request does not meet the definition of a large-scale use (described below in Criterion 14.500.d). Staff finds that Criterion 14.500.B.3.b. does not apply to this request.

- c. The Gorge Commission will conduct and pay for evaluations of significance and mitigation plans for cultural resources that are discovered during construction, subsection G, for small and large-scale uses in the General Management Area.*

FINDING: If any cultural resources are discovered during the development of this request, the Gorge Commission will conduct and pay for evaluations of significance and mitigation planning. Staff finds that the request complies with Criterion 14.500.c.

- d. For this Ordinance, large-scale uses include development involving:*

- (1) two or more new residential dwellings;*
- (2) recreation facilities;*
- (3) commercial and industrial development;*
- (4) public transportation facilities;*
- (5) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater;*
- (6) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances; and*
- (7) disposal sites*

FINDING: This request is for one new residential dwelling, a farm use, and associated structures. It does not meet the definition of a large-scale use identified above. Staff finds that Criterion 14.500.3.d. does not apply.

*(***)*

- 4. The primary responsibility and cost of preparing an Evaluation of Significance, D; Assessment of Affect, E; or Mitigation Plan, F, shall be borne by the project applicant.*
- a. If the applicant has no practicable alternative, according to (5) below, Practicable Alternative Test, allowing them to avoid an affected cultural resource, or is seeking to*

make a change or addition to a historic resource, the Forest Service has agreed to provide services to aid in the preparation of the Evaluation of Significance, Assessment of Effect, or Mitigation Plan to the greatest extent possible.

- b. The responsibility for and cost of any development necessary to protect or mitigate effects on the cultural resource shall be borne by the project applicant.*

FINDING: A cultural resource reconnaissance survey dated June 21, 2018, was submitted to the Planning Department. The cost of this survey was borne by the previous project applicant/property owner.

- 5. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and Guidelines for evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).*

FINDING: The cultural resource survey was prepared by Justin B. Colon, M.A., Archaeological Services LLC, 601 Officers Row, Vancouver, WA 98661. He is considered to be an expert consistent with the professional standards published in 36 Code of Federal Regulations Part 61, and Guidelines for evaluating and Documenting Traditional Cultural Properties. Staff finds that the request complies with Criterion 5.

Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- a. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on cultural resources;*

FINDING: The request includes small scale livestock (goats) in the A-2 (80), Small Scale Agriculture Zone. A farm use is a use permitted without review in this zone. To enable this farm use however, fencing must be placed on the subject parcel as this is within the Wasco County Livestock District, where it is the responsibility of the landowner to keep cattle on their land, as opposed to Open Range, where they may be allowed to roam free and other landowners need to fence them out.

Cultural resources were identified on a portion of the property. As well, approximately one third of the land (6.5 acres) is oak pine woodland and does not contain adequate forage for the applicant's proposed livestock. It is not feasible to require the removal of the oak pine woodland to provide more forage for the livestock, as that would conflict with other criteria within the NSA LUDO related to visual subordination and natural resources.

The soil types on the property include about 19 acres of 50C (wamic loam, class 4) and 51D (wamic skyline complex, class C), as well as just under 2 acres of 39 (rocky outcropping, class 8). The 51 D is in

the oak area on the western edge, and the 39 is along the eastern edge, with the 50C occupying the central area of the parcel. The Class C and Class 4 soils have an Animal Unit Monthly (AUM) value ranging from 3.33 (favorable conditions) to 7.02 (unfavorable conditions) according to the USDA soil interpretation guide. The class 8 soil has no listed value for AUM.

Staff also coordinated with the applicant to ensure that the wetland resource on the property would not be disturbed through the request, by placing the fencing outside of the wetland buffer. The proposed farm use on this land cannot reasonably be accomplished by eliminating the cultural resource area from grazing. To do so would concentrate the animals on a much smaller area of the land, and the existing 19 acres is only just adequate during favorable conditions.

A condition described and required below, requires a cultural resources monitor to be onsite during the construction of the fencing. The condition is in response to concerns raised by the Umatilla and Warm Springs tribal government cultural resource protection programs. Staff finds that the request complies with Criterion a.

In sum, staff finds the applicants have exhausted practicable alternatives and coordinated with resource protection agencies to ensure compliance with resource protection requirements of the Wasco County NSA LUDO and the Management Plan for the Columbia River Gorge National Scenic Area.

- b. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on cultural resources; and*

FINDING: As stated in a. above, the basic purpose of the use would not be reasonably accomplished by reducing the size, scope or configuring by changing the design of the use in a way that would avoid or result in less adverse effects on cultural resources. Additional plans were submitted by the applicant to accommodate competing natural and cultural resource buffers with the assistance of resource specialists that meet the regulatory requirements of this plan. A condition is included in D.5. requiring on-site monitoring by an archaeologist when construction of the project occurs in the identified cultural area on the property. As noted below, this was deemed reasonable by the Umatilla tribe and Warm Springs tribes during the cultural notice process for this application. With the proposed condition of approval staff finds that the request complies with Criterion b.

- c. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.*

FINDING: The land use designation and recreation intensity class are not a constraint in this application. There are no proposed alternatives to this request due to the parcel size and configuration of land outside of the wildlife habitat and cultural area. Staff finds that the request complies with Criterion c.

A. Cultural Resource Reconnaissance and Historic Surveys

1. Gorge Commission/Tribal Government Notice

- a. In addition to other public notice requirements that may exist, the County shall notify the Indian tribal governments when:*

(1) a reconnaissance survey is required; or

(2) cultural resources that are prehistoric or otherwise associated with Native Americans exist in the project area.

- b. Notices sent to Indian tribal governments shall include a site plan as stipulated in Section 14.040.*
- c. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit written comments to the County Planning Office.*

(1) Written comments should describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge about them.

(2) The County shall send a copy of all comments to the Gorge Commission.

FINDING: All appropriate notices were sent to the four tribal governments, State Historic Preservation Office (SHPO) and the Gorge Commission. This included the original pre-notice (July 2, 2020), the amended pre-notice (Sept. 17, 2020), and a cultural notice (Oct. 7, 2020). SHPO was notified of the original report in 2018. A June 4, 2021, email from Chris Donnermeyer clarifies that they do not need to be updated with the new proposal as they have already affirmed the original report. Kristen Tiede, Archaeologist with the Cultural Resources Protection Program of the Confederated Tribes of the Umatilla Indian Reservation replied with the following statement:

“The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.”

Christian Nauer, archaeologist with the Confederated Tribes of the Warm Springs Reservation stated:

“This office considers the report to represent a reasonable and good faith effort to identify and protect historic properties within the Project APE, and concurs with the recommendation for an archaeological monitor to be present during Project activities within the boundaries of the site.”

No other comments were received from any agency or Tribe during the notification periods of the various notices. Staff finds that the request complies with Criterion 1.

3. Notice of Survey Results

- a. The County shall submit a copy of all cultural resource survey reports to the State Historic Preservation Office and the Indian tribal governments.*

(1) Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(2) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the County

Planning Office.

- (3) The County shall record and address all written comments in its development review order.*

FINDING: On October 7, 2020, Planning Department staff sent a copy of the completed cultural resource reconnaissance survey to all four Indian tribal governments and SHPO. Comments were received from two Tribal governments (Umatilla and Warm Springs). Kristen Tiede, Archaeologist with the Cultural Resources Protection Program of the Confederated Tribes of the Umatilla Indian Reservation replied with the following statement:

“The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.”

Christian Nauer, archaeologist with the Confederated Tribes of the Warm Springs Reservation stated:

“This office considers the report to represent a reasonable and good faith effort to identify and protect historic properties within the Project APE, and concurs with the recommendation for an archaeological monitor to be present during Project activities within the boundaries of the site.”

No other comments were received from any agency or Tribe during the notification periods of the various notices.

Staff finds that the request complies with Criterion 3.

4. Conclusion of the Cultural Resource Protection Process

- a. The County Planning Office will make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, guidelines, and standards.*
- b. If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.*

FINDING: Through this report and Notice of Decision Wasco County is making a final decision that, with conditions of approval, the proposed use will be consistent with the cultural resource goals, policies, guidelines, and standards. The final decision does not contradict SHPO, who concurred that there will be no adverse effect on cultural resources. Staff finds that the request complies with Criteria a. and b.

- c. The cultural resource protection process may conclude when one of the following conditions exist:*

*(***)*

(3) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area.

- (a) To meet this standard, a reasonable buffer zone must be established around the affected resources or properties;*

- (b) All ground disturbing activities shall be prohibited within the buffer zone.*
- (c) Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant.*
- (d) A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.*
- (e) An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.*

FINDING: The applicant proposes to use a portion of the identified cultural area for pasture. Instead of following (a)-(d) and avoiding the area entirely, the applicant has elected to construct fencing through that section of the property. A condition of approval has been included requiring an on-site archaeologist to monitor the installation of the fence posts. This condition has been deemed acceptable by the two commenting treaty tribes, as well as by Chris Donnermeyer. Neither of the other tribes has voiced concerns for this proposed condition. Staff finds that the request complies with Criterion 3. (e) and an evaluation of significance is addressed below in B.

D. Evaluation of Significance

1. Evaluation Criteria

Cultural resources are significant if one of the following criteria is satisfied.

- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places.*

The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4). Cultural resources are eligible for the National Register of Historic Places if they possess integrity of location, design, setting, materials, workmanship, feeling, and association. In addition, they must meet one or more of the following criteria...

- b. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.*

FINDING: The site has not been formally evaluated for significance and eligibility consideration for inclusion on the National Register of Historic Places (NRHP). The private consultant recommended that if plans change so that greater impacts are proposed within the site boundaries, it should be formally evaluated. No Indian tribal government submitted comments indicating the site is culturally significant. Because neither of the above criteria can be met, the cultural resource is not considered to be significant. Staff finds that the request complies with Criterion 1.

2. Evaluation Process and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following standards...

FINDING: The Forest Service archaeologist and SHPO concurred with the consultant's report. Comments received from both the Umatilla tribe and the Confederated Tribes of the Warm Springs Reservation indicated support for a mitigation plan that would require an archaeological monitor be present for the construction of the fence. A **condition** of approval is included requiring that an archaeological monitor be present for the construction of the fence. With that condition, staff finds that the request complies with Criterion 2.

3. Notice of Evaluation Results

If the evaluation of significance demonstrates that the cultural resources are not significant, the County shall submit a copy of the evaluation of significance to the State Historic Preservation Office and the Indian tribal governments.

- a. The State Historic Preservation Office, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the County Planning Office.*
- b. The County Planning Office shall record and address all written comments in its development review order.*

FINDING: After coordinating with Indian Tribal Governments, the SHPO and Mr. Donnermeyer, the cultural resources have not been found to be significant. Comments were received from two Tribal governments, the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of the Warm Springs Reservation. These comments are addressed in this review. Staff finds that the request complies with Criterion 3.

(***)

5. Conclusion of the Cultural Resource Protection Process

The County will make a final decision on whether the affected resources are significant.

- a. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Office or Cultural Advisory Committee, the County must justify how it reached an opposing conclusion.*
- b. The cultural resource protection process may conclude if the affected cultural resources are not significant.*
- c. If the project applicant or the County determines that the cultural resources are significant, the effects of the proposed use shall be assessed according to E below, Assessment of Effect.*

FINDING: Based on the cultural resource reconnaissance survey submitted by the applicant/owner, Wasco County finds that if specific conditions are imposed, the cultural resources are not significant. This decision is consistent with the USFS archaeologist and SHPO and the cultural resource process may conclude. **Conditions** of approval associated with cultural resources include:

- All ground disturbance within the archaeological site boundaries shall be archaeologically monitored, specifically the installation of fence lines.
- If plans change so that greater impacts are proposed within the archaeological site boundaries, the site shall be formally evaluated for significance and eligibility for inclusion on the National Register of Historic Places (NRHP).

With these conditions, staff finds that the request meets Criterion 5.

G. Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities.

1. *Halt Construction: All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.*

FINDING: A **condition** of approval is included in the Notice of Decision requiring all construction within 100' of any discovered cultural resource to cease. The cultural resource shall remain as found and no further disturbance may occur. With this condition, staff finds that the request complies with Criterion 1.

2. *Notification: The project applicant shall notify the County Planning Office and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.*

FINDING: A **condition** of approval is included in the Notice of Decision requiring the project applicant to notify the Wasco County Planning Department and the Gorge Commission within 24 hours of any cultural resource discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the applicant shall also notify the Indian tribal government within 24 hours. With this condition of approval staff finds that the request complies with Criterion 2.

3. *Survey and Evaluation: The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Office (see, ORS 358.905 to 358.955).*
4. *Mitigation Plan: Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in F above, Mitigation Plans.*
5. *All survey and evaluation reports and mitigation plans shall be submitted to the County Planning Office and the State Historic Preservation Office.*
6. *Indian tribal governments also shall receive a copy of all reports and plans if the cultural*

resources are prehistoric or otherwise associated with Native Americans.

7. *Construction activities may recommence when the conditions in the mitigation plan have been executed.*

FINDING: If cultural resources are found to be significant, the process outlined in Criteria 3.-7. will be followed. Staff finds that the request complies with Criteria 3. – 7.

H. Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. *Halt Activities: All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.*
2. *Notification: Local law enforcement officials, the County Planning Office, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.*

FINDING: If any human remains are discovered during construction, all activities shall cease and the human remains shall not be disturbed any further. The project applicant will notify local law enforcement officials, the County Planning Office, the Gorge Commission and all four Indian tribal governments. **Conditions** of approval stating this are included in the Notice of Decision. Staff finds that the request complies with Criteria 14.500.H.1. and 2.

3. *Inspection: The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.*
4. *Jurisdiction: If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.*
5. *Treatment: Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, chapter 97.740 to 97.760.*
6. *If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in F above, Mitigation Plans.*
 - a. *The plan shall accommodate the cultural and religious concerns of Native Americans.*
 - b. *The cultural resource protection process may conclude when the conditions set forth in F above, Mitigation Plans, are met and the mitigation plan is executed.*

FINDING: If human remains are found during construction/ground disturbance, the process outlined in Criteria 3. – 6. will be followed. Staff finds that the request complies with Criteria 14.500.H.3. – 6.

Section 14.600, Natural Resources – GMA

A. Wetlands:

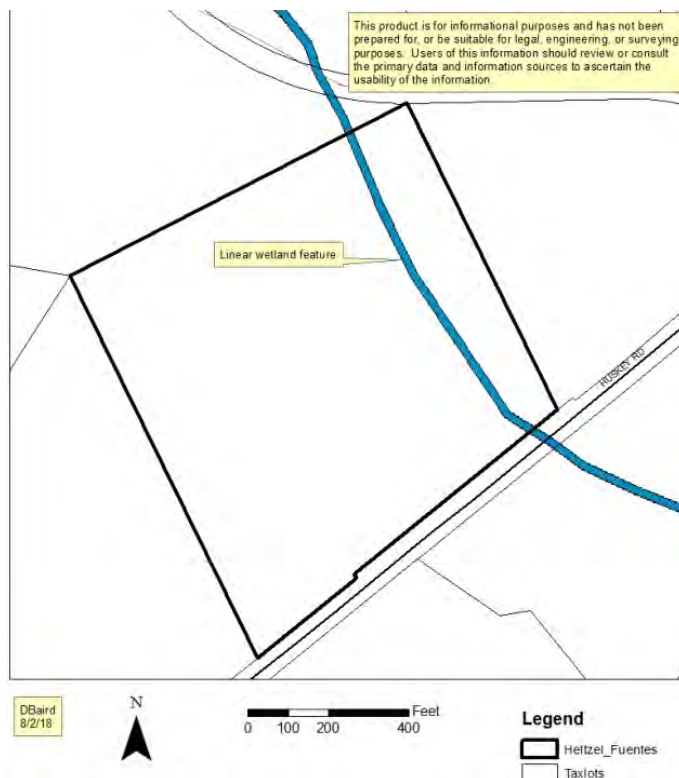
1. Purpose

- a. Achieve no overall net loss of wetlands acreage and functions.
- b. Increase the quantity and quality of wetlands.

2. Rules for Delineating Wetlands Boundaries

- a. The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Fish and Wildlife Service 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

FINDING: The National Wetlands Inventory map identifies a linear wetland feature on the eastern portion of the property (see below). Staff finds that the subject lot contains a wetland.



3. Wetlands Buffer Zones

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- b. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(1) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.

(2) A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(3) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(4) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

FINDING: The subject lot contains a wetland with an herbaceous vegetation community. Staff finds that the request complies with Criterion 14.600.A.3.b.

c. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.

(3) Herbaceous communities: 150 feet

d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.

FINDING: The herbaceous community buffer zone is 150'. The request does not include development within the buffer of this resource. Staff finds that Criteria 14.600.A.3.c. and d. are not applicable to this request.

*(***)*

6. Other Uses and Activities Located in Wetlands or Wetland Buffer Zones.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) and Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Wetlands as specified in (4) above, other uses authorized by the applicable zoning designation may be allowed in wetlands and wetland buffer zones subject to (7) below, Site Plans, the remaining applicable sections of this Chapter and the following criteria:

FINDING: The proposed use involves a small scale agriculture use. No portions of the proposed project or farm use will occur within the buffer for this resource. This use is not water-dependent. The Practicable Alternative Test is addressed in E. Staff finds Criterion 14.600.A.6 is not applicable.

*(***)*

B. Streams, Ponds, Lakes, and Riparian Areas

FINDING: The purpose of this section is to protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas, and to enhance aquatic and riparian areas. According to digital data from the Gorge Commission, there are no streams, ponds, lakes or riparian areas on the subject lot. Staff finds that the request complies with Criterion 14.600.B.

(***)

C. Wildlife Habitat

1. Purpose:

- a. *Ensure that new uses do not adversely affect sensitive wildlife areas and sites.*

"Sensitive wildlife areas" means the 17 land and water areas that are included in the wildlife inventory of the Management Plan.

"Sensitive wildlife sites" is used here in a generic sense to refer to sites that are used by species that are:

(1) Listed as endangered or threatened pursuant to federal or state endangered species acts,

(2) Listed as sensitive by the Oregon Fish and Wildlife Commission, or

(3) Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

(4) Updated lists of species included in (1), (2), and (3) above can be found on the website for the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

- b. *Enhance wildlife habitat that has been altered or destroyed by past uses.*

FINDING: The purpose of this section is to ensure that new uses do not adversely affect sensitive wildlife areas and sites. The proposed residential use and small family farm will result in the creation of three buildings (a dwelling, shop, and pump house), and one additional structure (a round pen) in addition to the proposed livestock fencing. The southwestern 1/3 (approximate) of the subject lot contains Oregon white oak, which is an important wildlife habitat for many species. Staff confirmed that the development will be occurring within a sensitive wildlife area, and contacted ODFW regarding the proposal. The deer and elk winter range is addressed below. Staff also contacted Andrew Meyers with ODFW on June 21, 2021, to ensure there were no further concerns regarding the Big Game Turkey wildlife area. Meyers confirmed by phone that he had no concerns with the proposal with regard to this wildlife area. Staff finds that the request is subject to Criterion 14.600.C.1.

2. Approval Criteria for Fences in Deer and Elk Winter Range

(***)

- c. *Woven wire fences may be authorized only when a project applicant clearly*

demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.

[AMENDED FINDING]: The applicant has demonstrated that the proposed use includes goats, which require a woven wire fence for controlling. In a Nov. 4, 2020 email, Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW) stated: “It does not appear that the applicant is proposing to impact the oak habitat in this application, and with the proximity to town I do not see additional wildlife impacts. ODFW has no concerns.”

Additional commentary was provided by Jeremy Thompson, District Wildlife Biologist for the (ODFW) on Sep 9, 2021. A Complete copy of this commentary is provided in the land use file 921-19-000193-PLNG, and below in attachment G.

With no concerns for impact on deer and elk winter range from the proposed fencing, which has been demonstrated to be required for the proposed farm use of controlling goats, staff finds that the request complies with Criterion 14.600.C.2.

D. Rare Plants

FINDING: The purpose of this section is to ensure that new uses do not adversely affect plant species listed on an inventory kept by the Gorge Commission. Inventories provided by the Oregon Biodiversity Information Center and the Columbia River Gorge Commission indicate that a sensitive plant may be located within 1,000 feet of the proposed development. A Sensitive Plant Notification was sent to Sue Vrilakis of ORBIC and Sarah Callaghan of the US Forest Service National Scenic Area. On Sept 17, 2020, Sarah stated: “No concerns. From what I can see of the landscape/habitat for the proposed development, there is unlikely any habitat in the immediate area for the sensitive plant species.”

The Scenic Area regulations do not protect all grasses and wild flowers, only those known to be rare. Staff notes that while the use will impact native grasses and wild flowers, there is no criterion that requires all on-site vegetation to be undisturbed. Staff finds that the request complies with Criterion 14.600.D.

E. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

FINDING: A practicable alternative test will not be required since the proposal will meet the criterion for the protection of all natural resources. As previously noted in the cultural resources practicable alternative test, the applicant worked with staff and resource protection professionals to ensure all protected resources were protected and consistent with applicable regulations. Staff finds Criterion E is not applicable.

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Section 14.700, Recreation Resources – GMA

The purpose of this section is to protect and enhance recreation resources consistent with Indian treaty rights, and to protect scenic, natural, cultural and recreation resources when providing

new recreation opportunities.

FINDING: There are no recreational sites on the subject lot and no new recreational use is proposed on the property. The closest recreational sites are the Twin Tunnels portion of Highway 30 (0.7 mile to the north) and the Columbia River (1 mile to the north). The proposed development will have no impact on the recreational use due to distance. Staff finds that the request complies with Section 14.700.

Section 14.800, Indian Tribal Treaty Rights and Consultation - GMA

The purpose of this section is to ensure that the Scenic Area Act, the Management Plan, and these implementing ordinances do not affect or modify any treaty or other rights of any Indian tribe. It requires notification to the four tribal governments when new uses are proposed on public lands, in or adjacent to the Columbia River or its tributaries that support anadromous or resident fish.

FINDING: Section 14.800 provides protection of Indian Tribal Treaty Rights from new development in the National Scenic Area. Section 14.800.B.3. lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or e-mailed to the four tribal governments on July 2, 2020, and a 15-day comment period was provided. After that comment period, the application was amended and a second pre-notice was sent out on Sept 17, 2020, with a 20-day comment period. At the conclusion of that comment period, a cultural notice was sent to the four treaty tribes and the US Forest Service on October 7, 2020, with a 30-day comment period. In response to the cultural notice, comments were received from the Umatilla tribe and Warm Springs tribes that they supported the requirement for an archaeological monitor to be present during construction of the fencing. A condition of approval is included requiring this monitor.

Section 14.800.C. lists guidelines for tribal government consultation when those governments submit substantive written comments. The comments described above were received from the tribal governments but these comments did not contain any claims that the request would affect or modify any treaty or other rights of any Indian tribe. Staff finds that the proposed development is consistent with Section 14.800.C.

Section 14.800.D. states that the treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Section 14.800.D.

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY & TELESCOPE.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

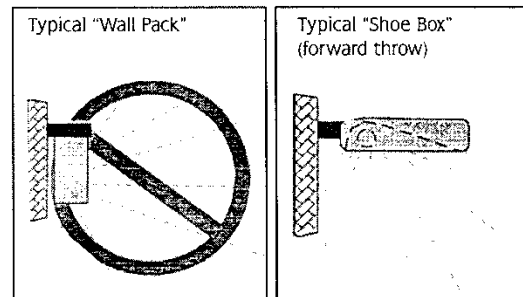
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

How do I switch to good lighting?

- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures

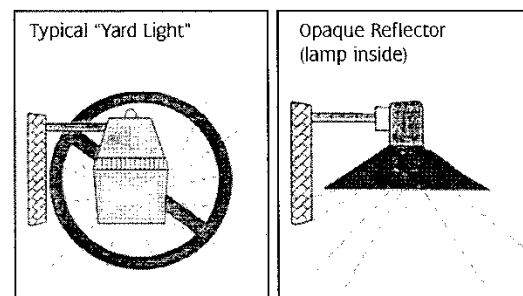


BAD

Waste light goes up and sideways

GOOD

Directs all light down

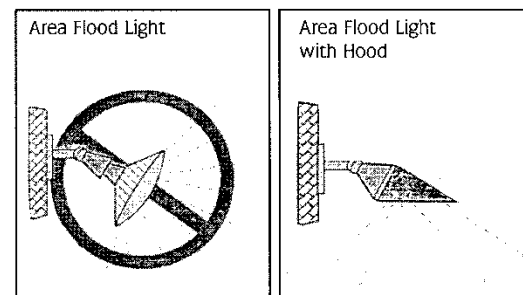


BAD

Waste light goes up and sideways

GOOD

Directs all light down



BAD

Waste light goes up and sideways

GOOD

Directs all light down

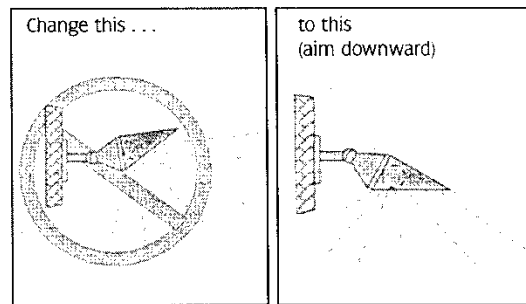
areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2** Aim lights down. Choose “full-cutoff shielded” fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3** Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.
- 4** If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If “white” light is needed, fixtures using compact fluorescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.
- 5** Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

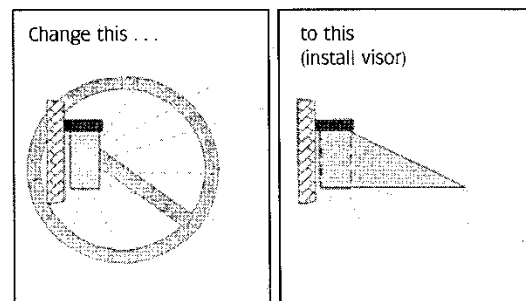
Replace bad lights with good lights.

You’ll save energy and money. You’ll be a good neighbor. And you’ll help preserve our view of the stars.

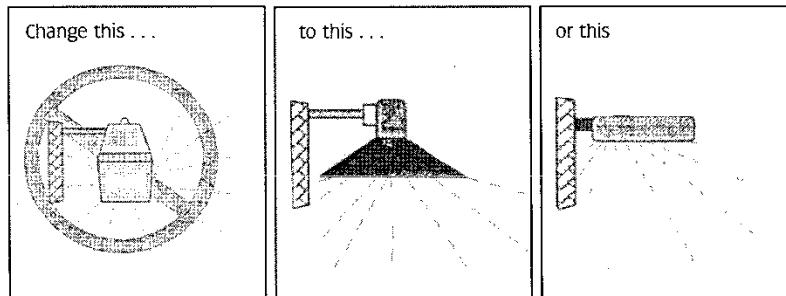
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT

OPAQUE REFLECTOR

SHOE BOX

Presented by the **New England Light Pollution Advisory Group (NELPAG)**
(<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>)

and **Sky & Telescope** (<http://SkyandTelescope.com/>).

NELPAG and **Sky & Telescope** support the
International Dark-Sky Association (IDA) (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

GNF01



Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

ATTACHMENT F - COMMENTS

9/9/21, 9:49 AM

Wasco County Mail - Goat farm, dwelling, agricultural structures and fencing in the NSA



Kelly Howsley - Glover <kellyg@co.wasco.or.us>

Goat farm, dwelling, agricultural structures and fencing in the NSA

THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>

Thu, Sep 9, 2021 at 9:36 AM

To: Kelly Howsley - Glover <kellyg@co.wasco.or.us>

Cc: Jeremy Thompson <jeremy.l.thompson@state.or.us>, MEYERS Andrew R * ODFW <Andrew.R.MEYERS@odfw.oregon.gov>

Kelly,

ODFW still does not have a concern regarding this proposal. We support the fencing of sensitive areas, such as a wetland area. While strand wire fencing is more hospitable to deer movement, in this scenario woven wire will not have an impact on the deer or elk, as there are no known migratory corridors within the area, and the proposed development is in an area already impacted by human presence, especially considering that within 1500 meters to the west is a large block of commercial orchards, and 1500 meters to the north lies the city of Mosier.

Impacts to the oak habitat were addressed through limiting the removal of trees on this property. The understory component within the area proposed for development is already impacted due to the previous land uses and adjacent human development.

Let me know if you need any further clarification.

Jeremy Thompson

District Wildlife Biologist

Mid-Columbia District, ODFW

3701 W. 13th St.

The Dalles, OR 97058

541-967-6794 office

541-980-8524 cell

541-298-4993 fax

<https://mail.google.com/mail/u/0/?ik=316e660433&view=pt&search=all&permmsgid=msg-f%3A1710442820826825165&siml=msg-f%3A1710442820826825165> 1/2

8/9/21, 9:49 AM

Wasco County Mail - Goat farm, dwelling, agricultural structures and fencing in the NSA



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<https://mail.google.com/mail/u/0?ik=316e660433&view=pt&search=all&permmsgid=msg-f%3A1710442820826825165&simpl=msg-f%3A17104428208...> 2/2

10/5/21, 5:10 AM

Wasco County Mail - File 921-19-000193- PLNG



Daniel Dougherty <daniel@co.wasco.or.us>

File 921-19-000193- PLNG

1 message

amyhop@gorge.net <amyhop@gorge.net>
To: daniel@co.wasco.or.us

Tue, Oct 5, 2021 at 1:07 AM

Tax lot 2N 11E 11 2200,acct # 327 ,Zoned :(GMA) A - 2 (80)

I support the appeal request by Joseph Czerniecki regarding the property that I have identified above by tax lot. And by your letter as approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the city of Mosier. But, outside city limits and that's ss the crow flies.

I would add as a neighbor, an adjacent landowner that if you are going to allow 15 goats, then you need to regulate where they are and where they are housed. Goats stink and if you want to subject his neighbors to them, then we should have the right to put some next to you, where you live. And don't give me gentrification crap, I have lived in the Mosier area for 30 years. 20 at my humble place on Huskey road.

This application has stunk of Mark Fuentes from day one. A question I've asked previously is access for the Czernieckis? Now they have to dodge 15 goats to get to their house which they built over 20 years ago? What's the solution to that?

How does the general management agricultural 80 square with a 20 acre parcel? I'm EFU but my property is almost exclusively white oak trees. Can I clear cut it to grow grapes or husband goats?

You would allow the destruction of a beautiful landscape, seen from key viewing areas by letting some guy run goats and ruin it?

Unbelievable, the Columbia River Gorge is meant to be protected.

Sincerely, Amy Conroy

<https://mail.google.com/mail/u/0/?ik=497e58a7d0&view=pt&search=all&permthid=thread-t%3A1712766297351369905&siml=msg-f%3A1712766297351369905> 1/1

The following comments were received during the original review period. They were included in the original Staff Report issued on June 24, 2021.

Wasco County Planners -
(Planning Dept)

COMMENTS ON 14X LOT 2N 11E 11 2200

FORWARDED BY	Amy
DATE	Conroy

July 16, 2020

ADRIAN LOPEZ, owner/applicant

File # 921 19 000193 PLNG

1) Retroactive approval of an unlawfully placed well. No.

I am opposed for several reasons.

First, why would anyone bother with getting a permit for building a structure or siting and drilling a well when it will be approved after the fact anyway?

2) I am also very concerned about the impact of an unregulated well on my well. I have a very good well that I have maintained and am very concerned that there was no geological oversight on the drilling. The negative impact on my property of loss of my water source by a neighboring property is huge.

What is the county doing retroactively to insure the well drilled will not adversely affect the neighboring properties? And what is my recourse against the offending parties, Mark Fuentes, M+M Drilling, unfortunately Adrian Lopez as current landowner and the county of Wasco for allowing it?

3) The sitings of the 2 very large buildings, the single family home and the accessory

I respectfully request that the proposed building structures not be placed directly across from my building structures (house, garage, etc).

My house was sited 10 years before I bought it and I'm stuck with it. (Almost 30 years ago, for siting)

I must also note that the power source, the electrical utility box is on my property and is for my property. It is not a general purpose, anyone can tap into it resource. This has been an issue in the past.

4) Wire fencing around the entire perimeter of the property. NO.

I oppose, We are in a National Scenic Area and a proposed fence will destroy the aesthetic of the Rocky Prairie Slope. And what is the purpose of the fence? This is a wildlife corridor and fencing the whole property will force the animals onto Huskey Road endangering them and people driving on Huskey Road.

And there is a legal easement, access to the property owned by Joe + Janine Cerniecki. How will you mitigate that?

And, has there been a cataloging of native grasses^{or plants} on the property?

Thank you for your time and consideration of these issues.

Amy Conroy (541-578-0188)

1115 Huskey Rd

BOCC 1-77 Mosier, OR 97040



Brent Bybee <brentb@co.wasco.or.us>

File # 921-19-000193-PLNG

3 messages

amyhop@gorge.net <amyhop@gorge.net>

Fri, Jun 4, 2021 at 2:48 PM

To: brentb@co.wasco.or.us

Cc: kclm98@hotmail.com

My concern is still about the unlawfully dug well and the long term impact on my water supply from my well. Is it county policy to grant retroactive approval, and if so that begs the question as to why a person would get a permit to begin with? The well driller assured me last summer that Mark Fuentes had gotten a permit but refused to show it to me. Did the county level any kind of fine on Mark Fuentes for an unlawfully placed well? This appears to be a case of it's easier to say I'm sorry then go through the procedure of obtaining a permit.

I understand that Adrian Lopez needs a water source to effectively develop his property and that he did not commission the well to be dug, but with the drastic shortage of water we face in these drought conditions, doesn't retroactive approval set a precedent?

Sincerely,

Amy Conroy
1145 Huskey Road
Mosier, Oregon 97040
541 578 0188

Brent Bybee <brentb@co.wasco.or.us>

Mon, Jun 7, 2021 at 5:42 PM

To: amyhop@gorge.net

Cc: kclm98@hotmail.com

Hello Amy,

Thank you for commenting, I'll be sure to include your comments on the record.

Our department does not regulate water rights for landowners, please contact the Oregon Water Resources Department (OWRD) regarding that request. Our department will only review the actual development of a well to ensure resources will not be affected. It is the responsibility of the landowner to ensure the well can be approved through OWRD. Any approvals may be on file with them as well.

All applicants throughout the entirety of Wasco County are afforded the opportunity to bring nonconforming development built without review into compliance. If the development constructed without review does not meet the land use criteria, it must be removed. If it meets the criteria it may remain after being approved retroactively. In 2020, the Board of County Commissioners approved additional fees for development commenced without land use approval in the National Scenic Area, which would ultimately result in double the cost. This application was submitted before that went into effect, so to answer your question directly no the applicant was not fined.

Brent

[Quoted text hidden]

--



Brent Bybee | Associate Planner
PLANNING DEPARTMENT

brentb@co.wasco.or.us | www.co.wasco.or.us

541-506-2544 | Fax 541-506-2561

2705 E 2nd St | The Dalles, OR 97058

Office Notice about COVID-19

Welcome back! We have resumed in-person customer service. Office hours are Monday through Thursday, 10am to 4pm with a lunchtime closure. Appointments can be accommodated on Fridays. Masks are required in the office unless you bring your vaccination card to demonstrate you are a full two weeks out from your final COVID-19 vaccination.

Staff continue to stagger their schedules to allow for COVID-19 safe distancing in a shared office environment. Appointments with staff are encouraged to ensure adequate staffing on the day of your visit. We also offer video calls that can save you travel time. We strongly encourage customers to contact us first by phone or email to determine whether an in-person visit is necessary. Please scroll down for many online available tools and resources.

Need information? Help with a tool? Schedule an in person or video call appointment?
Please call 541-506-2560 or write us at wcplanning@co.wasco.or.us

Thank you for your patience during this time.

*Note: This correspondence does not constitute a Land Use Decision per ORS 197.015.
It is informational only and a matter of public record.*

amyhop@gorge.net <amyhop@gorge.net>
To: Brent Bybee <brentb@co.wasco.or.us>

Mon, Jun 7, 2021 at 11:55 PM

So what you are saying is if the unlawfully placed Fuentes well drains my well dry and I decide to replace my well as Fuentes drilled a new well, it would cost me double but he gets off with no penalty. That's fucked up. On the record, an arbitrary date allows a person to steal water yet penalizes the wronged person to correct the issue with the same mechanisms the county turned a blind eye to.

What particularly agrieves me is that I have been a resident of Wasco county for 30 years and have owned and resided at the Huskey Road property for 20 years and have many dedicated hours of bringing the value of the property up by physically taking care of fire abatement, that is ongoing, and making it into a beautiful property only to have Wasco county shit on me and say not only if the illegal placed well destroys your water source, if you drill the same type well without a permit it will cost you double. We'll fine you for what your neighbor caused.

Great, Amy Conroy

----- OriginalMessage -----

From: "Brent Bybee" <brentb@co.wasco.or.us>

To: amyhop@gorge.net

CC: kclm98@hotmail.com

Sent: Mon, Jun 07, 2021, 05:43 PM

Subject: Re: File # 921-19-000193-PLNG

[Quoted text hidden]



Will S <wills@co.wasco.or.us>

CAFO minimum size?

William Matthews <wmatthews@oda.state.or.us>
 To: Will S <wills@co.wasco.or.us>
 Cc: William J Matthews <wmatthew@oda.state.or.us>

Wed, Sep 23, 2020 at 2:35 PM

Hi Will, There is no minimum number of animals on an operation that may require a CAFO Permit. Based on the details you provided, it appears that the system they propose is a grazing system with minimal confinement. The pasture deposition of manure is allowed as long as it does not cause pollution of surface or ground waters of the state. As long as this facility as described is not proposing a liquid manure or process waste water collection system or creating process waste water from a milking or cheese making activity, we would not require a CAFO Permit. The facility is required to maintain compliance with the ODA AGWQ area management plan. See <https://www.oregon.gov/oda/programs/NaturalResources/AgWQ/Pages/AgWQPlans.aspx> to find the appropriate area management plan for the proposed facility location. -Wym

On Sep 23, 2020, at 1:46 PM, Will S <wills@co.wasco.or.us> wrote:

Good afternoon,

We have a land use application south of Mosier that involves five cows and 15 goats and/or sheep on about 20 acres of land. The land they will be grazing on has a seasonal wetland running through a portion of it. Would they need a CAFO permit as the livestock may be leaving manure in that wetland that runs to Rock Creek and then to the Columbia River? I didn't see a minimum size of ag operation listed on your website.

A little more info about the proposal: They plan on fencing the whole property in with mesh fence, but including a moveable strip of electric fence to keep the livestock out of the wetland during wet portions of the year, only allowing the grazing and use of it when it is dry (most of the year it just looks like a meadow, and it is mostly just damp during the winter - it's not a stream.)

Please let me know if you need more information. Thank you.

--



Will Smith, AICP | Senior Planner
PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

541-506-2560 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.

This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)

Wym Matthews, Manager
Oregon Department of Agriculture – CAFO and Fertilizer Programs
 635 Capitol St NE, Salem, OR 97301-2532
 PH: 503-986-4792 | CELL: 503-881-5418 | WEB: Oregon.gov/ODA

Pronouns: he, him, his

Response to Lopez Development Application 921-19-000193-PLNG

October 3, 2020

Joe Czerniecki

First of all I would like to say that my goal in providing comment on this development is not to obstruct their proposed development but to try to ensure that the adverse impacts of their development plans are minimized. I have only met Adrian a couple of times and he seems like a nice fellow and I look forward to having him as a neighbor. My comments below are focused on ways that the proposed development does not conform to the Wasco County and Columbia River Gorge Commission requirements, as well as how this property has been impacted without development approval.

There has been extensive development and modification of the property without any application or approval. This includes:

1. a well drilled without approval
2. After notification of the county development office about the well drilling, and communication between the county and Mr. Lopez about the need for development approval he engaged in extensive tree cutting, and limbing, as well as spraying of the understory in the designated woodland portion of his property. This was done out of scale with current fire protection requirements and has damaged the quality and character of the woodland which has adversely affected its function as deer and elk winter range.
3. Most recently a paddock for horse training has been installed in the northwest corner of the property, which once again this occurred without county approval.

I am therefore concerned that the pattern of apparently ignoring the Wasco County Development Land Use Ordinances may continue to occur. And that consideration should be given to remediation and special oversight.

The development requirements are designed to protect the character of the Columbia River Gorge in perpetuity and must be followed. I do understand that they create some additional burdens, but the end result is something that I have appreciated in the over 25 years I have had a home in Rocky Prairie. The preservation of the unique and special character of the Columbia River Gorge is not only of value to me but to all of the visitors and other residents.

In the following section I will also outline how the current development application does not meet the Wasco County LUDO requirements. I will be referring extensively to the Hetzel/Fuentes application 921-18-000017-PLNG in my comments. This application was reviewed by the Wasco County Planning and Development office less than 2 years ago and many of the issues that were raised by the neighboring landowners and the decisions reached by the planning office will parallel the issues I will raise.

A. Problems Related to Inconsistencies and a Lack of Completeness of the Application.

1. The date on the application is December 31st 2019. Because the application was mailed out to neighboring landowners the assumption is that the application was deemed complete. It's current state of ongoing incompleteness is based upon the requirements in Section 2.080. This raises questions about whether the current application should be considered void:

1. **On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection a. of this section and has not submitted information.**

2. Incompleteness of the information provided in the application

A complete site plan shall be submitted for all new development, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak.

- a. There continues to be conflicting information on the site plan and the Farm management plan. The site plan includes a 5 foot "MESS fence" around the perimeter of the property and the Farm Management Plan includes a 4 foot fence. The site plan includes a continuous fence around the property , but the Farm Management plan includes a fence around the woodland area to the west of the driveway and a fence around the remaining property. Which is it? These inconsistencies prevent all parties from being able to adequately comment.
- b. There is no access or egress designated to either of the fenced areas. This should be defined in the development plan.
- c. Part of the farm management plan suggests that there will be 5 cows, 15 goats, and a large number of chickens. There is no fencing in the immediate area of the home to exclude the animals from this area. This is very unusual. Will there be no fencing in this area? Typically when chickens are raised they have some type of shelter. There is no designation on the farm management plan, about where these will be, and what the visual appearance and size of this structure will be. The farm management plan is incomplete. The farm management plan also suggests that there will be a moveable electric fence. How will electricity be conducted to this area? Presumably there will be a hot wire, in addition to the proposed fence? If so this is not included in the development plan.

- d. **The site plan shall be prepared at a scale of 1" = 200' or a scale providing greater detail which clearly indicates key information:**

There is no indication of the scale provided with plan.

- e. **Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel.** The site plan provided is largely illegible: this is partly because of an effort on the part of Mr. Lopez to provide all of the necessary information in too small a space. To clearly indicate the relationship of the buildings to one another and all of the necessary detail of the development an additional site plan should be provided that provides the necessary scale to adequately evaluate the development plan. Further, I assume because this is a formal document it should be covered under the ADA

requirements. Anyone with a visual impairment would not be able to read it at all, and therefore would be prevented from having their right to comment.

- f. **Access: Indicate all existing and proposed points of ingress and egress and whether they are public or private.** There is no specific indication on the plan.
- g. **Location, dimensions and method of improvement of all roads, access drives, trails, and parking areas with individual parking spaces and internal circulation patterns.** The dimension (width) of the driveway, which provides access to my property, and which is immediately north of the Lopez property, is not included. I have an easement that gives me free access to and use of the driveway extending from Huskey road, through the Lopez property to my home. The easement is 30' wide, so no fence structure can be installed within the boundaries of this easement.
- h. **Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve (12) percent with turnouts provided at a minimum of every five hundred (500) feet.** Although there is an indication on the site plan of a driveway, that extends from Huskey road to my property immediately to the north of the Lopez property, the plan does not indicate the necessary turnout. The development of the Lopez property, with its associated increase in vehicle use on the driveway, will likely result in an increase in potential access problems especially in emergency situations. A turnout should be included in the site plan.
- i. **Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, telephone and power poles and lines. Telephone and power supply systems shall be underground whenever practical.** There is no indication of where trenching will occur to provide power access to the home site.
- j. **The location of the pond, stream, tank or sump with storage of not less than 1,000 gallons if the well or water system is not capable of delivering twenty (20) gallons per minute.** There is no specification of well output and no indication of storage.
- k. **The location of a standpipe (water spigot) a minimum of fifty (50) feet from each flammable structure if the development includes a plumbed water system.** I didn't see this specified in the site plan. Scale and legibility may be the limiting factor in this assessment.
- l. **Location and depth of all proposed grading, filling, ditching and excavating unless a grading plan is required by F below.** There is no indication of where trenching will occur to provide power access to the home site. There is only one indication of grade in the application. That is a 5% grade as the driveway approaches my property to the north. Prior review of a development plan on this property (Hetzl **921-18-000017-PLNG**) in 2018 indicates a finding by Wasco County Development that there is a 10% grade in the area of the homesite. The development plan must include a grading and excavating plan.

- m. **North arrow and map scale.** No indication of map scale
- n. **Elevation Drawing - Elevation drawings shall show the appearance of all sides of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.** The provided elevation drawings are only of the structures in a plan view. They do not include the natural grade and the finished grade. It is also unclear if the elevations of the structures are labelled correctly-this should be clarified. The north elevation for example should be the north facing side of the building. As currently provided it suggests that in the house elevations the garage doors will be on the north (view) side of the structure. The north elevation of the shop has two large openings penciled in - should they be on the south elevation? There is also no indication of what these openings are so it is difficult to ascertain whether light reflectivity and visual subordination will be a problem. Are they ? windows ? doors?
- o. The site plan does not include the necessary information on the natural grade, finished grade and the relationship of the structures to this grade. It is a requirement to provide this information and it should be provided at an appropriate scale so that it can adequately be assessed.

Problems with the Proposed Development Plan.

SECTION 14.200 Key Viewing Areas

A. Each development and land use shall be visually subordinate to its setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.

SITING

New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)

New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

The proposed siting of the structures avoids the use of oak pine woodland to the west, and the wetland to the east but places the structures in open grassland, with little to no screening because of the previously-mentioned excessive tree removal and limbing.

Additionally, the orientation of the two proposed structures strongly influences their visual impact from key viewing areas. In the plan view the shop is immediately to the north of the house and there is a 180 foot distance between them. On the surface does not look like this would affect the visual impact, however when the slope is considered the two structures will have the visual appearance from key viewing areas to the north of being 75' high. Prior decision of Wasco County states there is a 10% slope in the area of home/shop development. with a 10 % grade there is 27 foot overall elevation gain between the north wall of the shop and the south wall of the home. This means the total visual height of the two structures is 24' shop + 24' home + 27' resulting from the grade = 75'. This is an imposing visual feature in open grassland without adequate screening. It will likely also require extensive grading depending on the details of the relationship between the buildings, access between the buildings and access to both the driveway and the shop.

Further, as noted above, more detail is required to understand the extent of grading, the overall "visual" stature of the two structures with the 10% north/south grade, to adequately evaluate its impact on Key Viewing Areas and the potential for visual subordination of the two structures. Visual subordination could be improved by shifting the development closer to the woodland or in the edge of the woodland to the west, a site which was approved in a prior application (Shattuck SAR-04-110). See illustration below.



(Figure 4. Location proposed building site in existing vegetation.)

Proposed Farm Use

Mr. Lopez is proposing as part of the Farm Management Plan to have 5 cows, 15 goats and 15 chickens. The number of animals is excessive relative to the available grazing area.

1. In the summer when the wetland and the wildlife area are excluded from possible grazing, there is inadequate area available to graze the livestock. In the attached table the NRC Soil Survey suggests that 5 cows require at a minimum 5 acres per month and the goats are the equivalent of sheep which would require an additional 3.75 acres per month at .25 acres per goat. Therefore, there is inadequate grazing area for even 1 month and there would be no time for recovery, because this area cannot be watered. The proposed use therefore should not be allowed. If allowed the numbers of livestock should be greatly reduced. In the Hetzel/Fuentes application on the same property the Wasco County Land Use Development office limited the number of livestock to 5 horses.

# of Acres Needed to Feed 1 Animal for 1 Month				
Geographic Area	Soil Name	1 Cow Acre	1 Sheep Acre	1 Horse Acre
TDalles / Mill Crk	Cherry Hill /Chenowith	1.5 Acres	0.03 Acre	2 Acres
Wrentham / Dufur	Walla Walla /Dufur	1.0	0.08	1.1
Juniper Flat	Maupin / Watama	1.0	0.22	1.4
Bakeoven	Condon / Bakeoven	2.0	0.50	2.5
Tygh Ridge	Condon / Cantala	1.2	0.25	1.5
Tygh Valley	Sherar / Sinamox	1.3	0.25	1.7

Data obtained from Wasco County NRCS Soil Survey

11

SECTION 14.600 Natural Resources (GMA Only)

A. Wetlands

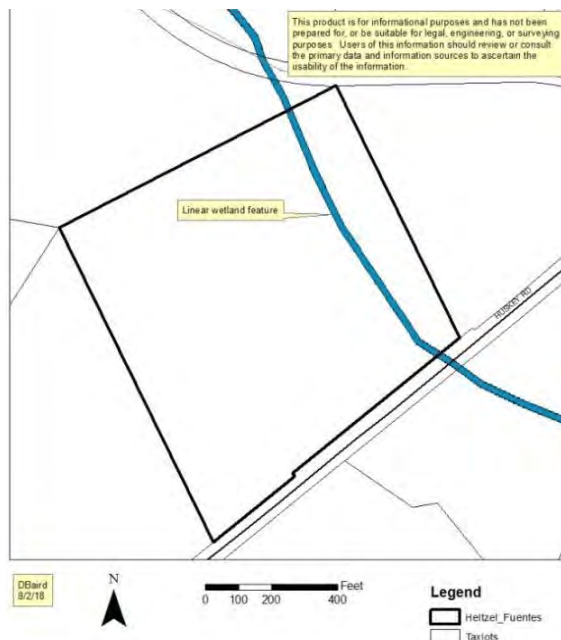
The Wasco County Development staff in the prior development application (Hetzel 2018 **921-18-000017-PLNG**) made a finding that the Lopez property includes a Herbaceous community wetland. This wetland requires a 150' setback for all development including fences. The proposed development includes a plan to install fencing which will disrupt the wetland and should not be allowed in the setback area of the wetland.

The importance of and the preservation of the wetland was raised by many neighbors, in particular by the McCabe comments, in the prior Hetzel/Fuentes **921-18-000017-PLNG** application. In the current Lopez amended proposal, the farm management plan includes a fence that encloses the wetland, with a moveable fence that would prevent grazing of 5 cows and 15 goats in the wetland in the winter season but be allowed to graze in the wetland in the summer season. The farm management plan suggests that this will have a beneficial effect on plant life in the wetland. The consequences of animal grazing are much greater than the soil or plant characteristics in it's immediate vicinity. Nitrites from manure can increase algae and reduce oxygen content in the water which can adversely affect fish survival. There are also increases in bacterial counts in the water which have led to fish die offs and sickness. These consequences in the Rock Creek drainage area which feed the Columbia, can therefore have adverse effects on fish and endangered species. The potential for E coli contamination is enough of an issue that a monitoring plan is being put in place (see minutes of the Mosier Watershed Counsel meeting Appendix A). In addition there are many at-risk and endangered species listed in the Mosier Watershed area which includes Rock Creek which is the destination of the water from the Lopez property. The endangered species are listed in Appendix B.

This conclusion was also reached by the Wasco County Development office in their evaluation of the Hetzel/Fuentes application.

“ FINDING: The National Wetlands Inventory map identifies a linear wetland feature on the eastern portion of the property. Staff finds that the subject lot contains a wetland.

Staff Recommendation Page 42 of 52 921-18-000017-PLNG (Heltzel/Fuentes)



c. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.

(3) Herbaceous communities: 150 feet

d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.

The herbaceous community buffer zone is 150'. Normally the buffer zones cannot be disturbed.

A condition of approval is included in the Notice of Decision requiring the maintenance of the existing contour, vegetation and hydrology of the wetland."

Other published literature further supports the potential adverse effects of livestock grazing in watershed areas(Paul Hansen a Research Associate Professor in the School of Forestry at the University of Montana in Missoula. Dr. Hansen is a Riparian wetland ecologist and principal ecologist for the Montana Riparian Association) in a US forest service publication.

He suggests that there is a delicate balance when grazing is allowed in wetlands (Appendix C)

1. • season-long grazing is not a viable option to improve deteriorated riparian wetland areas or to maintain a healthy riparian-wetland zone.
2. It only takes a few weeks of unauthorized use or overgrazing to set back years of progress in improvements of riparian-wetland systems. Myers (1981) states "that compliance with grazing systems is critical. When livestock are moved from a management pasture, it is commonplace for a few animals to be overlooked. In one stream, annual use by a few head of unauthorized livestock throughout most of the hot season period has nullified positive riparian-wetland habitat responses in an otherwise excellent grazing systems."
3. Therefore, livestock grazing should not be permitted in the wetland. The risk of adverse consequences and history of compliance problems both suggest this would not be advisable.

C. Wildlife Habitat

a. Ensure that new uses do not adversely affect sensitive wildlife areas and sites.

In the prior application (Hetzl/Fuentes **921-18-000017-PLNG**) there were once again extensive comments by the neighboring property owners that the protection of habitat was important for wildlife. The Wasco County Development staff made a finding that this property includes wildlife habitat.

Prior Wasco County Development Office FINDING: Approximately 6.6 acres of the western portion of the property is located in Oregon white oak trees and is considered to be wildlife habitat.



In the interim period from the Hetzel/Fuentes application until now, there has been extensive tree cutting and scraping of the land surface to provide rough roadways through the Wildlife Habitat damaging the understory. With restoration, time and the prevention of development in this area, it should be able to recover and allow this portion of the property to return to wildlife habitat.

This wildlife habitat is primarily oak woodland. The recommendation after appeal of the (Hetzl/Fuentes **921-18-000017-PLNG**) was that this woodland was an important wildlife corridor. This is supported by the priorities of the **East Cascades Oak Partnership** which was referenced in the Mosier Watershed Council meeting (see Appendix D)

The Wasco County Development office has an obligation to require restoration of this wildlife habitat.

Fencing Requirements

New fences in deer and elk winter range shall comply with the following standards.

1. New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

The addition of the Farm Management Plan suggests that the fencing is necessary to contain livestock. This is in conflict with the preservation of the western fenced area as a wildlife corridor. To preserve the woodland as a wildlife corridor the fencing should not be allowed in this area.

2. **New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson et. al. 1990), as summarized below, unless the project applicant demonstrates the need for an alternative design:**
 1. **To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.**
 2. **The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.**
 3. **The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.**
 4. **Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.**

There is a conflict between the Farm Management Plan and the Development plan: one suggests a 5 foot high MESS fence and the other has a 4' high MESS fence. Both of these do not conform to the fencing requirements in deer and elk winter range. The fence type does not conform to development standards, and the fence height exceeds the 42" requirement

The post height being proposed (6' posts) do not conform to the fencing needs. It is of particular concern that the current owners have been non-compliant and that the fence height limitations will be exceeded in the future. The posts should be no higher than that required for fencing.

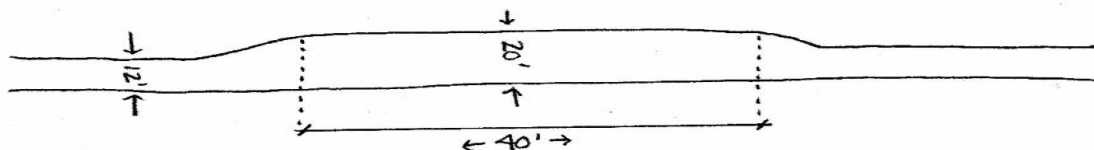
This importance of placing limitations on fencing is supported by the Friends of Columbia Gorge comments in the Hetzel/Fuentes application 2018 **921-18-000017-PLNG**.

Pursuant to NSA LUDO 14.600© new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas such as gardens. Fences must be minimum to meet the needs of the project applicant. If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high, the distance between the top two wires must be 1- inches apart, the bottom wire must be at least 16 inches above the ground, and must be smooth wire, stays or braces must be placed between fence posts to create a more rigid. Fence and woven wire must not be used as fencing material. Applicants must demonstrate a specific need for variance from these rules.

CHAPTER 11 FIRE SAFETY STANDARDS

SECTION 11.140 Access Standards - Providing safe access to and escape from your home.

IF YOUR DRIVEWAY IS LONGER THAN 200 FEET, ARE TURNOUTS PROVIDED ALONG ITS LENGTH?



Turnouts need to be provided at least every 400 feet. Turn outs are intended to allow vehicles to pass safely, especially during an emergency. This should be kept in mind when siting the turnouts. Steeper slopes or tighter corners may require turnouts to be located closer than every 400 feet.

The requirement of “providing safe access to and escape from your home” is an important issue. As already noted, I have an easement that runs with the land giving me free and unencumbered access to my home using the driveway that spans from Huskey road through the Lopez property to the property line separating the Lopez property and my property to the north. This easement is 30’ wide. The current development plan does not specify the spacing of the proposed fence on the east and west sides of the driveway. A finding based upon Wasco County Development staff in their assessment on page 24 of the decision on the Hetzel/Fuentes application paid particular attention to safety access concerns related to my property. The proposed fencing in the Farm Management Plan specifically states that there will be no gate at the south end of the property where it intersects with Huskey Road. It does not state this at the north end where it provides access to my property. It should specifically state there will be no gates at either end of the driveway.

There are no turnouts proposed along the driveway. Because of the proposed farm use the probability that there will be other vehicles using the driveway, the decision should require the required turnouts.

Summary:

The following list outlines in brief the significant problems associated with the development plan. It is a bullet point summary. Details are included in the above comments.

1. The filing of the application exceeds the required time period required for completeness and consideration should be given to whether or not it is a valid application.
2. The development plan is incomplete, and is inconsistent. I have identified numerous areas where the application is incomplete. It is also inconsistent in that there are differences in what is presented in the on-line application and what is presented in the Farm Management Plan. The development plan is also illegible, likely due in part to the amount of information being provided

at the scale it was drawn. To remedy this a larger scale additional site plan should be provided that allows adequate assessment of grading, visual impact, location of a standpipe, etc. There should also be a reapplication that is consistent in the site plan so that neighboring property owners can adequately determine what is being proposed so that concerns can be addressed.

3. The development plan does not allow the proposed development to be subordinate to the landscape.
4. The plan for development and animal grazing as proposed in the wetlands area should not be allowed as the adverse risks are too high.
5. There is inadequate acreage to graze the proposed number of animals which creates a high risk of destruction of the soils and erosion.
6. Fencing as proposed does not meet the required criteria and should not be allowed.
7. The development plan for the driveway is inadequate to ensure fire and emergency safety.
8. The development plan must allow a 30' minimum clearance to be in compliance with the easement.
9. There should be a requirement to restore the woodland portion of the property to its prior health.

Appendix A

From minutes of Mosier Watershed Council January 2020

Surface Water Monitoring Group Discussion

Bryce initiated the conversation by sharing how he and Kris have been wanting the council to have an open discussion about the correlation of our creeks and anything that folks have noticed (water quality concerns) that the watershed council could help landowners address. The council has spent a majority of our focus addressing groundwater concerns and thought this would be a great time to also look closer at our surface waters. There are many different reasons to evaluate our creeks. Todd added that a good way to measure the chemistry of the creek is to evaluate how many times it's used before it goes to the Columbia; gathering baseline data to assess areas of improvement. Todd has been gathering *E.coli* and bacteria levels in Mosier Creek for the past several years, and has volunteered to share that information with the council on an annual basis. There are many causes of *E.coli* being present in streams including: flushing during a Summer rain event; livestock in or near the stream; and human contamination. Not just including *E.coli* there are a whole range of parameters that can be measured to investigate water quality. Abbie shared the efforts that The Dalles Watershed Council has been involved with over the past 10 years addressing water quality concerns in

Mill Creek. Susan stated, she is not very knowledgeable of how to be a good steward of the creek. She added that having knowledge of what to do to "do her part" would be very valuable. Council members agreed that providing educational materials to the public would be very beneficial. Karen Lamson added that the Conservation Riparian Enhancement Program has an assessment tool that is used by conservation technicians to look at the landowner's land and quality conditions of the stream. Discussion ensued.

The council members agreed to have Abbie seek out funding to add Mosier Creek monitoring to the current ODA Water Quality Monitoring Plan that is administered through the SWCD. Pete volunteered to work with Todd, Bryce and Abbie to develop a monitoring plan. Part of that plan will be to develop a Sampling Analysis Plan (SAP) and submit to DEQ for their Volunteer Water Quality Monitoring Program in hopes of having monitoring supplies donated. The newly formed Water Quality subcommittee will also find out what data is already available and add that information to the watershed council website so it is accessible to the public.

Appendix B: Endangered Species Lists for Mosier Watershed including species migrating through Columbia River (US Fish and Wildlife Service, December 26, 2001)

ATTACHMENT A

FEDERALLY LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES, AND CANDIDATE SPECIES THAT MAY OCCUR WITHIN THE AREA OF THE MOSIER WATERSHED ASSESSMENT PROJECT 1-7-02-SP-110

LISTED SPECIES¹⁷

Mammals

Canada lynx ²⁰	<i>Lynx canadensis</i>	T
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Birds

Bald eagle ³	<i>Haliaeetus leucocephalus</i>	T
Northern spotted owl ⁴⁰	<i>Strix occidentalis caurina</i>	CH T

Fish

Steelhead (Middle Columbia River) ³⁰	<i>Oncorhynchus mykiss</i>	**T
Steelhead (Upper Columbia River) ⁶⁰	<i>Oncorhynchus mykiss</i>	**E
Steelhead (Snake River Basin) ⁶⁰	<i>Oncorhynchus mykiss</i>	**T
Sockeye salmon	<i>Oncorhynchus nerka</i>	CH **E
Salmon River tributary to the Snake River, Idaho		
Chinook salmon (Upper Columbia River) ⁷⁰	<i>Oncorhynchus tshawytscha</i>	**E
Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CH **T
SNAKE RIVER spring/summer runs		
Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CH **T
SNAKE RIVER fall runs		
Bull trout (Columbia River pop) ³⁰	<i>Salvelinus confluentus</i>	T

PROPOSED SPECIES

Fish

Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>	PT
(Southwestern Washington/Columbia River)		

CANDIDATE SPECIES⁸⁰

Birds

Yellow-billed cuckoo ¹⁰⁰	<i>Coccyzus americanus</i>
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Amphibians and Reptiles

Oregon spotted frog	<i>Rana pretiosa</i>
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Fish

Coho salmon (Lower Columbia River) ¹¹⁰	<i>Oncorhynchus kisutch</i>	**CF
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Developing a Successful Riparian-Wetland Grazing Management Plan for the Upper Ruby River Cattle and Horse Allotment in Southwestern Montana

Paul Hansen

Introduction

The Upper Ruby Cattle and Horse Grazing Allotment lies in the Upper Ruby River drainage, a watershed of approximately 88,000 acres in southwestern Montana. The Allotment encompasses 43,261 acres within the Beaverhead National Forest. It is located approximately 35 air miles southeast of Sheridan, Montana. The Ruby River flows northward and is bounded by the Snowcrest Range to the west and the Gravelly Range to the east. To the south lies the Centennial Valley. The entire area has been grazed by livestock since the late 1800's. The landscape of the Upper Ruby River is characterized as having open grasslands and wet meadows, sagebrush and grass slopes, willow and aspen complexes, open conifer/grass stands, and dense coniferous forests. Topography is varied and includes the Ruby River bottoms, large open valley bottoms, high benches, open basins, and rough rocky mountainous terrain. Elevations range from 6,000 ft on the lower Ruby River to over 10,000 ft on the Gravelly crest.

Since the 1970 Allotment Management Plan (AMP) was implemented, a large number of interest groups have expressed concern. More recently; this concern has been elevated to the national level by the various parties. In 1990 the Beaverhead National Forest started to prepare an Environmental Impact Statement (EIS) for the allotment. The draft EIS became a focal point for the various groups.

The major concern with the Upper Ruby Cattle and Horse Grazing Allotment has been the health of the riparian zone. The historic use of the riparian zone along the Upper

Ruby River and its major tributaries has left much of it in a degraded state. The issue is complicated in that both allotted and nonallotted livestock trail along the main road which lies for most of its length immediately adjacent to the Upper Ruby River.

Cattle and sheep are trailed annually to and from the Upper Ruby, adjacent USDA Forest Service allotments, and private, State, and USDI Bureau of Land Management lands in the Centennial Valley. In the spring, approximately 2,919 cow/calf pairs of the Upper Ruby Allotment are trailed from home ranches to the Allotment. Also in the spring, an additional 2,450 nonallotted cow/calf pairs are trailed southward through the allotment to USDI Bureau of Land Management, State, and private lands in the Centennial Valley. In the fall, approximately 3,275 head of nonallotted cattle and 3,245 head of nonallotted sheep trail back through the Allotment. In addition, 2,919 head of cattle from the Upper Ruby Allotment trail back through the Allotment.

Paul Hansen is a Research Associate Professor in the School of Forestry at the University of Montana in Missoula. Dr. Hansen is a riparian-wetland ecologist and principal ecologist for the Montana Riparian Association. He has been working on riparian-wetland classification and management issues in the Northern Great Plains and Northern Rocky Mountain ecosystems for the past 15 years.

The fall trailing has historically taken place immediately before the opening of big game hunting. The fall is typically characterized as a time of increased precipitation when heavy rainfall or snowfall may occur at any time. The main road and livestock trail lie immediately adjacent to the Ruby River, the same location where many of the big game hunting camps are established. This has created a classic case of big game hunting vs. livestock managing.

In 1990 the Beaverhead National Forest began preparing an Environmental Impact Statement (EIS) for the Allotment. The draft EIS became a focal point for the various groups. All sides reached an impasse and wanted an independent third-party review of the Allotment and requested the Section 8 process. Within Montana, the Section 8 process represents a Memorandum of Understanding (MOU) between the Governor of the State of Montana and the Regional Forester of the USDA Forest Service regarding rangeland management issues such as allotment management plans (AMP). (The MOU was signed on May 31, 1990.) The USDA Forest Service has just recently started to develop a memorandum of understanding on a state-by-state basis in the West.

The Section 8 process can be invoked by either the USDA Forest Service or the grazing permittee(s). The process typically occurs after both sides have met an impasse and all other attempts, such as a Coordinated Resource Management Planning (CRMP) process, has failed. If technical concerns develop during the development or revision of an AMP, either the USDA Forest Service or the grazing permittee(s) can request that the Governor's representative become involved in the consultation. The USDA Forest Service, the permittee(s), and the Governor's representative then become the Core Consultation Group or Core Group. The Core Group then selects a Target Group to provide technical services. The issues, concerns, and resource values of the allotment determine the composition of the Target Group. The Target Group reviews existing data in a timely manner and identifies any additional data that will be needed to develop or revise the AMP plan. The Target Group can also

identify responsibilities for additional data collection. In order to resolve the issues in conflict, the Target Group will make recommendations that are based on a consensus. The comments on the recommendations of the Target Group are given to the Core Group. Any consensus reached by the Target Group must comply with applicable federal laws, policies, administrative orders, guidelines, etc. The recommendations of the Target Group are included in the environmental analysis and the National Environmental Policy Act (NEPA) documentation. The appropriate USFS line officer selects an alternative (NEPA decision) and approves the final AMP. If the permittee(s) disagrees with the line officer's decision, the permittee(s) retains the opportunity to appeal the decisions as provided in the appeal regulations.

In 1991, a Target Group was chosen that included Edward Ruppel, state geologist from Butte; Pat Currie, a range consultant from Miles City; Don Collins, a biologist from Montana State University; and myself, Paul Hansen, a riparian-wetland ecologist from The University of Montana. The Target Group prepared a draft set of recommendations. After a review of these recommendations by the Core Group, additional riparian-wetland technical information was requested. The Core Group felt this was necessary to support recommendations concerning riparian-wetland management and monitoring. The following discussion represents my recommendations on developing a riparian-wetland grazing management plan for the Upper Ruby Cattle and Horse Grazing Allotment. The same discussion is also applicable to riparian-wetland areas throughout the West.

Background

Although the land area is small, riparian-wetland areas occupy a unique position in the landscape and life of the West with their importance far exceeding their total area. Riparian-wetland areas are important islands of diversity within extensive upland ecosystems. Abundant water, forage, and habitat attract a proportionately greater

amount of use and conflict than their small area would indicate. They are of prime importance to water quality, water quantity, stream stability, and fisheries habitat. They are vital to the livestock grazing industry and many are also well suited for development as high quality agricultural farmland. In addition, many riparian-wetland sites are excellent timber producing sites. Most sites provide critical habitat needs for many species and they support a greater concentration of wildlife species and activities than any other type of location on the landscape (Pfister and Batchelor 1984). Finally, riparian-wetland areas can be considered the "thread" that ties together all the other ecosystems. The importance of these areas as wildlife corridors can not be emphasized enough.

Riparian-wetland areas are defined as the green zones associated with lakes, reservoirs, estuaries, potholes, springs, bogs, fens, wet meadows, and ephemeral, intermittent, or perennial streams. The riparian-wetland zone occurs between the upland or terrestrial zone and the aquatic or deep water zone.

In contrast to their importance, riparian-wetland communities are among the least studied and least understood areas in terms of structure, function, and management. The riparian-wetland zone has often been overlooked, ignored, or considered a minor inclusion of the larger terrestrial or aquatic systems. Impacts from improper grazing, timber harvesting, road construction, and agricultural practices may drastically affect these communities. However, in general, riparian-wetland areas are among the most resilient ecosystems. Depending on the health of the site (condition) and potential of the site, riparian-wetland areas usually respond more quickly to changes in management than do drier upland sites.

Identifying the Problem

The management of livestock grazing in riparian-wetland areas is one of the most difficult and complex issues facing the western rangeland manager today. Kinch (1989) and Clary and Webster (1989) found that in reviewing the literature and in discussions with range managers, it is apparent that no single grazing management system has as yet conclusively proven to result in consistent improvement of degraded riparian-wetland areas throughout western range. Many varying combinations of sites, resource health (condition), and impacts as well as the interaction of many different human perspectives are involved. Therefore, the grazing management strategy designed for an area should be tailored to the conditions, problems, site potential, objectives, and livestock management considerations on a site specific basis that will best meet the resource needs.

Moore and others (1979) summarized it best by stating "From the standpoint of

"Livestock grazing is a compatible use in riparian-wetland areas when the functions of the riparian system (sediment filtering, streambank building, water storage, aquifer recharge, energy dissipation during storm events, etc.), potential of the site, and the needs of the riparian vegetation guide the development of the grazing management strategy."

achieving livestock management objectives and minimizing soil, vegetation and water quality impacts, grazing management plans will vary. There is no set formula that will identify the type of grazing system or management plan that will be best for any livestock operation or

allotment. Water quality impact will be closely related to soil erosion and sedimentation, associated with vegetation cover and concentration of livestock grazing. The grazing system must be designed on the basis of soil and vegetation capabilities, water quality considerations and livestock and wildlife requirements."

Livestock grazing is a compatible use in riparian-wetland areas when the functions of the riparian system (sediment filtering, streambank building, water storage, aquifer recharge, energy dissipation during storm events, etc.), potential of the site, and the needs of the riparian vegetation guide the development of the grazing management strategy.

Developing Management Objectives

Grazing management based only on objectives related to nonriparian-wetland areas (uplands) does not usually result in maintenance or improvement of riparian-wetland areas present in the same pasture or allotment. Therefore, where maintenance or improvement of riparian-wetland areas is desired, land use plan, activity plan objectives, and management prescriptions must be determined specifically for the riparian-wetland features while considering the needs of the entire watershed.

The establishment of specific objectives, description of the desired plant community, and selection of key species should be an interdisciplinary effort carried out in close cooperation with the range user. Objectives need to have realistic and attainable goals. They should be dictated by the present condition and trend of the riparian-wetland habitat in relation to management goals, the resource potential for change, and the importance of other resource values. Major considerations in establishing management objectives in riparian-wetland areas should include the following (Kinch 1989):

Vegetation

1. The potential of the site (e.g., the riparian-wetland plant association).
2. The desired plant community.
 - If the potential of the site is woody vegetation, then the health and reproduction of woody vegetation should receive equal consideration as the herbaceous vegetation (depending on the riparian-wetland

objectives). If one of the objectives for a riparian-wetland area is streambank stability, then woody vegetation vigor should be of utmost importance due to the vastly different streambank stability protection afforded by the woody vegetation when compared to the herbaceous vegetation.

- The development and/or maintenance of different age classes (e.g., seedlings, saplings, poles, and mature for trees; seedlings, saplings, and mature age classes for shrubs) of the key woody plant species on the site in order to maintain a viable plant community. (Once again, only if the potential of the site is for woody vegetation.)

- The type of vegetation cover necessary to minimize trampling damage and reduce the erosive effects of run-off events.

- The vegetation structure necessary for wildlife cover diversity.

3. The stabilization of streambanks and elimination of bank hoof shearing.

4. The value of the site for forage production.

5. The amount of vegetation stubble required to trap and hold sediment deposits during run-off events to rebuild streambanks and restore/recharge aquifers. It is important to realize that on streams with high gradients and low silt loads, it is more difficult to improve them than those with low gradients and high silt loads (e.g., mud management).

Water Quality / Quantity Issues

1. Raising the elevation of the present water table.

2. The improvement or maintenance of water quality and quantity or change in the timing of the flow.

Streambank Stability

1. The establishment of proper stream channels, streambanks, and floodplain conditions and functions.

2. The maintenance of long term adjustment processes which may affect channel/riparian-wetland zone conditions. These processes include sediment deposition, streambank development, floodplain development, and stream dynamics (meandering).

Wildlife

1. The improvement or maintenance of the fishery habitat.

2. The importance of the riparian-wetland community to riparian-wetland dependent wildlife and to wildlife species that occur primarily on upland sites but are periodically attracted to riparian-wetland areas.

Other

1. The aesthetic values of a healthy riparian-wetland zone.

2. The period of time which is acceptable or necessary for riparian-wetland rehabilitation/restoration.

3. The reduction of upland erosion and stream sediment load and the maintenance of soil productivity.

The proper management of livestock grazing in riparian-wetland areas requires a recognition that:

- grazing management practices which improve or maintain upland sites may not be good management practice for riparian-wetland areas, and

- season-long grazing is not a viable option to improve deteriorated riparian-wetland areas or to maintain a healthy riparian-wetland zone. Grazing management must provide for an adequate cover and height of vegetation on the streambanks and overflow zones to permit the natural stream functions (e.g., sediment filtering, streambank building, flood energy dissipation, aquifer recharge, and water storage) to operate successfully.

Developing the Monitoring Plan

Key Areas

As objectives are considered and developed for riparian-wetland areas, key areas for monitoring must be located in representative portions of the riparian-wetland areas as well as in the uplands. These key areas will serve as the location where appropriate monitoring will be conducted and where decisions will be made as to whether management objectives are being met or not. Key areas must possess (or have the potential to produce) all the specific elements in the objective(s) because these will provide data for evaluation of management efforts. In many cases, it is appropriate to select the key areas first and then develop objectives specific to each.

Key Species

Key species will vary with the potential of each individual site. Key species should be selected which are necessary to the operation of the natural stream functions. The type of vegetation present will affect channel roughness and the dissipation of stream energy. Willows and other large woody vegetation (trees) filter large water-borne organic material, and their root systems provide streambank stabilization. Sedges, rushes, grasses, and forbs capture and filter out the finer materials while their root masses help stabilize streambanks and colonize filtered sediments. On sites where the potential exists for both woody and herbaceous vegetation, the cumulative effect of plant diversity greatly enhances stream function. Finally, it is essential that the physiological and ecological requirements of the key wood species, along with key herbaceous species, be understood so that a proper management program can be designed. This includes determining the effects of grazing/browsing on the particular growth characteristics of the species involved.

Utilization Guidelines

Utilization targets guidelines are a tool that can be used to help insure that long-term objectives are met. Utilization can be monitored annually, or more often, whereas progress in reaching long-term resource objectives such as streambank stabilization, rebuilding of the streamside aquifer, and the re-establishment of beaver, fish, or moose habitat can only be determined over a longer period of time. The accomplishment of these long term objectives relates directly or indirectly to the need to leave a certain amount of vegetation available for other uses (soil stabilization, trapping sediment, wildlife cover, or forage, etc.,). Utilization monitoring provides a means of insuring that the necessary amount of vegetation is left to protect the site and provide for reaching other vegetation-dependent objectives.

The establishment of utilization targets for riparian-wetland key plant species and the management of grazing to insure these targets are met are critical factors involved in proper riparian-wetland area management. It is important to remember that without proper livestock distribution, utilization targets in riparian-wetland zones will usually be reached much sooner than those in adjacent uplands. The establishment of utilization targets requires that the manager know the growth habitats and characteristics of the important plant species for which they are managing and how the plant species respond to grazing and browsing.

The manager must know the characteristics, preferences, and requirements of the grazing /browsing animals. Therefore, utilization targets should be developed for riparian-wetland areas that:

- Will maintain both herbaceous species and woody species (where present) in a healthy and vigorous state and promote their ability to reproduce and maintain different age classes in the desired riparian-wetland plant community.
- Will leave sufficient plant residue necessary to protect streambanks during run-off events and provide for adequate sediment

filtering, and dissipation of flood water energy.

- Are consistent with other resource values and objectives (e.g., aesthetics, water quality, water quantity, wildlife populations, etc.,).
- Will limit streambank shearing and trampling to acceptable levels.

In many instances, proper utilization guidelines can only be derived over time through trial and error by monitoring, analyzing, and evaluating the results. Initial results may be different than expected. The manager should not hesitate to make changes in key species or utilization guidelines where required to meet objectives.

When establishing utilization targets to ensure riparian-wetland area improvements, guidelines should be considered that will provide a margin of safety for those years when production is less than average (Riparian Habitat Committee 1982). This could take the form of reduction in the utilization targets for both riparian-wetland and upland areas to provide additional carryover forage and vegetation necessary for streambank protection and sediment filtering. The importance of providing for adequate vegetation vigor and regeneration at the end of the growing season can not be emphasized enough.

Finally, due to the variation in riparian-wetland sites and management, one standard utilization target is not appropriate. However, utilization should be considered, together with regrowth potential, to ensure the presence of vegetation stubble necessary to the operation of natural stream functions or accomplishment of other land use objectives.

Compliance And Supervision

Range management in riparian-wetland areas will require a greater level of management because livestock are attracted to riparian-wetland areas during certain seasons. Resource managers must work closely with users to insure that alternate water sources are functional, that fences are

maintained, that salt and supplements are located as required in the management plan, that essential riding and herding is done, that livestock are in the proper pasture at the proper time, and that the necessary vegetation stubble is left. It only takes a few weeks of unauthorized use or overgrazing to set back years of progress in improvements of riparian-wetland systems. Myers (1981) states "that compliance with grazing systems is critical. When livestock are moved from a management pasture, it is commonplace for a few animals to be overlooked. In one stream, annual use by a few head of unauthorized livestock throughout most of the hot season period has nullified positive riparian-wetland habitat responses in an otherwise excellent grazing systems." Therefore, compliance is one of the key issues in proper riparian-wetland management.

Steps Necessary for a Successful Management Plan

The following steps are necessary in order to have a successful riparian-wetland grazing management plan (Kinch 1989, Skovlin 1984):

1. The grazing management designed for an area must be tailored to a particular site or stream reach. The management plan should include the following: a) determine the site potential(s), b) determine the existing vegetation type(s) (community type[s]), and c) determine the desired plant community or desired future condition. Determine the current health (e.g., condition) of the site or stream reach. Identify the factors contributing to undesirable habitat conditions (if applicable). Grazing must be managed to leave sufficient vegetation stubble on the banks and overflow zones to permit the natural functions of the stream to operate successfully. Define realistic and attainable management objectives for the site or stream reach. Those involved in the management of the area including the livestock user and the involved public (if applicable) should understand and agree on the problems and objectives to be addressed, as well as understand the changes which can occur, and how they can benefit from proper management and improvements in the riparian-wetland conditions. All parties

involved need to share the commitment to achieve the management objectives. Rangeland rest should be employed wherever and whenever possible. Implement the management plan. Design a monitoring plan that will evaluate the effectiveness of the management plan. Monitor the site or the stream reach over time. Grazing management must be flexible enough to accommodate changes based on experience. Mistakes need to be documented and not repeated elsewhere. Once the management is in progress, the most important element is frequent use of supervision. This is necessary to foresee and avoid adverse impacts (e.g., trampling damage to streambanks and excessive utilization). Determine the outcome of the management plan. If it is successful, then proceed with the existing management plan. If the plan was either a partial or complete failure, then modify the management objectives.



Literature Cited

Clary, Warren P. and Bert F. Webster. 1989. Managing grazing of riparian areas in the Intermountain Region. USDA Forest Service General Technical Report INT-263. Intermountain Research Station, Ogden, UT. 11 p.

Kinch, Gene. 1989. Riparian area management. Grazing management in riparian areas. Technical Reference 1737-4, September 1989. USDI Bureau of Land Management, Denver, CO. 44 p.

Moore, E., E. James, F. Kinsinger, K. Pitney, and J. Samsbury. 1979. Summary of best management practices for minimizing or preventing adverse water quality impacts. In: Livestock Grazing Management and Water Quality Protection (State of the Art Reference Document). EPA Publication 9190/9-79-67. Denver, CO. pp. 13-199.

Myers, Lewis. 1981. Grazing on stream riparian habitats in southwestern Montana. Proceedings of the Montana Chapter, Wildlife Society, Great Falls, MT.

Pfister, Robert D., and Ronald F. Batchelor. 1984. Montana riparian vegetation types. Western Wildlands 9(4):19-23. School of Forestry, University of Montana, Missoula, MT.

Riparian Habitat Committee--Western Division American Fisheries Society. 1982. The best management practices for the management and protection of western riparian stream ecosystems. American Fisheries Society, Western Division. 45 p.

Skovlin, J. M. 1984. Impacts of grazing on wetlands and riparian habitat: A review of our knowledge. In: Developing Strategies for Rangeland Management. Westview Press, Boulder, CO. pp. 1001-1104.

*"When man obliterates wilderness,
he repudiates the evolutionary force
that put him on this planet. In a deeply
terrifying sense man is on his own."
David Brower*

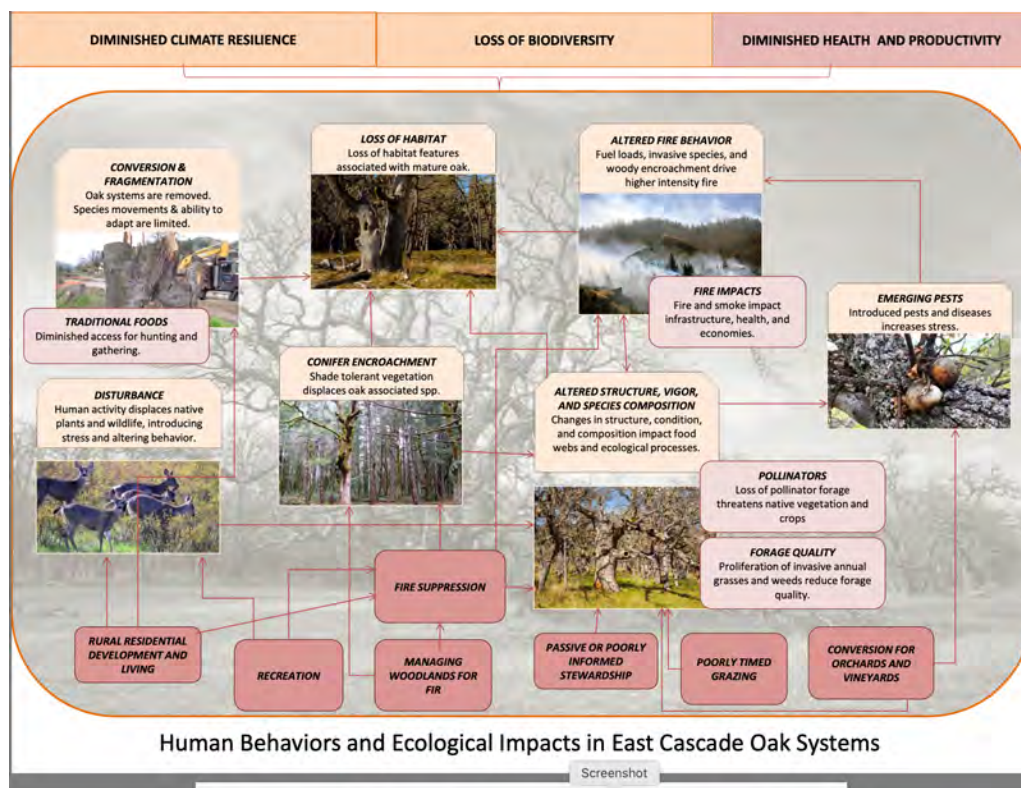
Appendix D:

East Cascades Oak Partnership update for September 2020 Watershed Council meeting

The East Cascades Oak Partnership (ECOP) is a group of people collaborating to leverage resources, share knowledge, and implement conservation strategies that will help protect vulnerable oak habitats, encouraging more sustainable human interactions and improving outcomes for people, oaks and wildlife. The partnership recognizes that relationships between public, private, tribal and nonprofit organizations and individuals are essential to protecting and restoring oak habitats in the region.

Over the past three years ECOP has been working on the development of a strategic action plan. The strategic plan effort has the support of over 150 partners, representing 29 public and private organizations and businesses, as well as dozens of private land owners. The result of the strategic planning process is that partners have agreed to focus our strategies around five high priority actions that are guiding the future direction of the group.

1. Protect the most intact, functional oak systems, connectivity and climate resiliency corridors on the landscape and manage for ecological stewardship
2. Establish and distribute best management practices to support positive outcomes in oak systems while advancing other private landowner management goals.
3. Develop conservation projects on a strong research, monitoring, and adaptive management framework.
4. Advocate for oak systems experiencing fir encroachment in existing fuels reduction program funding allocations, expand funding and partner capacity to implement release activities
5. Build and expand outreach and incentive programs that support oak system stewardship by rural residential landowners in core conservation areas, connectivity corridors, and buffers.



Addendum to Czerniecki Comments:

October 6, 2020

1. An additional component of my objection to the proposed development plan is the reference to the *50 foot diameter* round pen. The reference to this pen in the farm management plan is: "It can be taken apart and moved in about 20 minutes so it probably will be moved for some reason or another". This round pen is a structure and the vague reference to be moved for some reason or another is inadequate. It would be assumed that in a Farm Management Plan, there would be a clear idea of how the pen would be used, what criteria would be considered to move the pen, and where it might be moved to. Even if some flexibility is required the development plan and the farm management plan should define where it might be moved to and under what conditions it might be moved. This would allow individuals to comment on the impact of this structure.



Brent Bybee <brentb@co.wasco.or.us>

921-19-000193-PLNG Fencing Question

Donnermeyer, Christopher -FS <christopher.donnermeyer@usda.gov>

Tue, Jun 15, 2021 at 8:59 AM

To: Brent Bybee <brentb@co.wasco.or.us>

Hi Brent,

Since the railroad posts will require excavation, an archaeological monitor will need to be hired by the applicant. No monitoring will be needed for installation of t-posts.

Thanks,

Chris

**Chris Donnermeyer, MA, RPA**
Heritage Program Manager**Forest Service****Columbia River Gorge National Scenic Area****p: 541-308-1711****c: 541-288-8027**christopher.donnermeyer@usda.gov[902 Wasco Ave. Suite 200](#)

Hood River, OR 97031

www.fs.fed.us**Caring for the land and serving people**

From: Brent Bybee <brentb@co.wasco.or.us>**Sent:** Monday, June 7, 2021 8:23 AM**To:** Donnermeyer, Christopher -FS <christopher.donnermeyer@usda.gov>**Subject:** [External Email]Fwd: 921-19-000193-PLNG Fencing Question

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

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[Quoted text hidden]

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Will S <wills@co.wasco.or.us>

Wasco Co., 02N 11E 11 #2200; RE: Notice of Land Use Action - Lopez

BROWN Jevra <jevra.brown@state.or.us>

Thu, Jul 2, 2020 at 4:32 PM

To: Will S <wills@co.wasco.or.us>

Cc: TAYLOR Clara <clara.taylor@state.or.us>, EVANS Daniel <Daniel.Evans@state.or.us>, HARTMAN Heidi <heidi.m.hartman@state.or.us>, "jensis@co.wasco.or.us" <jensis@co.wasco.or.us>

Hi Will,

We have some history with this property. We have previous WLUNs for a horse barn and associated structures: WN2018-0267, WN2018-0397, and WN2019-0125. Please check the location of the proposed house and associated structures against the SWI mapping and submit a WLUN if appropriate.

Stay home, stay healthy,

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Office (M-W) 503-986-5297; cell (Th-F) 503-580-3172; fax 503-378-4844

Have you heard about the Statewide Wetlands Inventory update? [Learn More!](#)

Messages to and from this e-mail address may be available to the public under Oregon Public Record Law.

Most of the Department of State Lands staff is currently teleworking to help prevent the spread of COVID-19.

Customer Satisfaction Survey open until Monday June 29th

Agencywide: <https://www.surveymonkey.com/r/OregonDSL>

ARM: https://www.surveymonkey.com/r/DSL_waters

From: Will S <wills@co.wasco.or.us>

Sent: Thursday, July 2, 2020 8:54 AM

To: Cindy Miller <millerc@nwasco.k12.or.us>; Mike Renault <mike.renault@mosierfire.com>; jeffd@wascoelectric.com; EVANS Daniel <Daniel.Evans@state.or.us>; BROWN Jevra <jevra.brown@dsl.state.or.us>; Lane Magill <lanem@co.wasco.or.us>; scottw@co.wasco.or.us

Subject: Fwd: Notice of Land Use Action - Lopez

----- Forwarded message -----

From: **Jensi Smith** <jensis@co.wasco.or.us>

Date: Thu, Jul 2, 2020 at 8:34 AM

Subject: Notice of Land Use Action - Lopez

To: Nicole Bailey <nicoleba@ncphd.org>, Jaime Solars <jaimes@co.wasco.or.us>, Jesus Elias <Jesuse@ncphd.org>, Teri Thalhofer <TeriT@ncphd.org>, Building Codes <buildingcodes@co.wasco.or.us>, Jill Amery <jilla@co.wasco.or.us>, Adam Fourcade <adamf@co.wasco.or.us>, Melanie Brown <melanieb@co.wasco.or.us>, Marci Beebe <marcib@co.wasco.or.us>, Brandon Jones <brandonj@co.wasco.or.us>, Sheridan McClellan <sheridanm@co.wasco.or.us>, Arthur Smith <arthurs@co.wasco.or.us>, Jayme Kimberly <jaymek@co.wasco.or.us>, WOOD Robert L * WRD <Robert.L.Wood@oregon.gov>, <ykahn@fhco.org>, HARTMAN Heidi

Board of County Commissioners Agenda Packet

BOCC 1 - 107

<heidi.m.hartman@state.or.us>, <shilah.olson@or.nacdn.net>, <Candres@osp.state.or.us>, Sue Vrilakas <sue.vrilakas@pdx.edu>, <jeremy.l.thompson@state.or.us>, <rod.a.french@state.or.us>, DODD Kristin * ODF <Kristin.dodd@oregon.gov>, <kristen.stallman@odot.state.or.us>, <jthomps9999@yahoo.com>, <steve@gorgefriends.org>, Stephanie Krell <stephaniek@co.wasco.or.us>, Tyler Stone <tylers@co.wasco.or.us>, <rshoal@fs.fed.us>, <sacallaghan@fs.fed.us>, <permits@friends.org>, kfitzz77 <kfitzz77@gmail.com>, Gatz, Casey -FS <cgatz@fs.fed.us>, Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>, <connie.acker@gorgecommission.org>, <rowapplications@bpa.gov>, MOREHOUSE Donald <Donald.MOREHOUSE@odot.state.or.us>, <ODOTR4PLANMGR@odot.state.or.us>, <Patrick.M.Cimmiyotti@odot.state.or.us>, DEHART Brad <bradley.k.dehart@odot.state.or.us>, <scott.peters@odot.state.or.us>, Jacob Powell <jacob.powell@oregonstate.edu>, <nakiaw@nezperce.org>, pat b <keithb@nezperce.org>, <robert.brunoe@ctwsbnr.org>, <THPO@ctwsbnr.org>, <pattyperry@ctuir.org>, Kristen Tiede <kristentiede@ctuir.org>, Sheila Dooley <sdooley3300@yahoo.com>, <casey_barney@yakama.com>, Will S <wills@co.wasco.or.us>, Angie Brewer <angieb@co.wasco.or.us>

The Wasco County Planning Department has new information which has been updated on the webpage. Please visit the page to view the updated information for the following files. **Please note:** The comment deadline for this action is **4:00 PM, July 17, 2020.**

Lopez	921-19-000193-PLNG	A-2 (80) GMA	Scenic area review for a single family dwelling with accessory structure	2N11E11TL2200	Smith	Notice of Action Comment deadline July 17, 2020 at 4:00 pm
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Wasco County Planning Department Website

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Jensi Smith | Planning Coordinator

PLANNING DEPARTMENT

jensis@co.wasco.or.us | www.co.wasco.or.us

541-506-2697 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE. EMAIL IS THE BEST METHOD FOR THE QUICKEST RESPONSE. THANK YOU!

--

Will Smith, AICP | Senior Planner

PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

7/7/2020

Wasco County Mail - Wasco Co., 02N 11E 11 #2200; RE: Notice of Land Use Action - Lopez



541-506-2560 | Fax 541-506-2561
2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.

This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)



Will S <wills@co.wasco.or.us>

RE: Notice of Land Use Action Wasco Co, 02N22E11#2200

BROWN Jevra <jevra.brown@state.or.us>
 To: Will S <wills@co.wasco.or.us>
 Cc: Brenda Coleman <brendac@co.wasco.or.us>

Thu, Sep 17, 2020 at 2:00 PM

Hi Will,

You might look at WN2019-0125 for the same site last year. It might be applicable for this activity since the only mapped SWI feature is an intermittent stream/wetland similar to what is represented on submitted site plan...especially if this is the same applicant. If applicant is different then giving them a copy of WN2019-0125 or submitting a new WLUN will be an educational opportunity -

Thanks,

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Cell 503-580-3172

Checking for wetlands and waters? – Use the STATEWIDE WETLANDS INVENTORY

To help prevent the spread of COVID-19 many of the DSL staff are telecommuting.

From: Brenda Coleman <brendac@co.wasco.or.us>
Sent: Thursday, September 17, 2020 10:08 AM

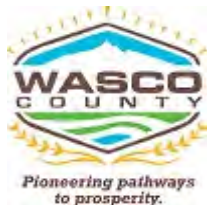
To: Nicole Bailey <nicoleba@ncphd.org>; Jaime Solars <jaimes@co.wasco.or.us>; Jesus Elias <Jesuse@ncphd.org>; Shellie Campbell <shelliec@ncphd.org>; Building Codes <buildingcodes@co.wasco.or.us>; Jill Amery <jilla@co.wasco.or.us>; Adam Fourcade <adamf@co.wasco.or.us>; Melanie Brown <melanieb@co.wasco.or.us>; Marci Beebe <marcib@co.wasco.or.us>; Brandon Jones <brandonj@co.wasco.or.us>; Sheridan McClellan <sheridanm@co.wasco.or.us>; Arthur Smith <arthurs@co.wasco.or.us>; Jayme Kimberly <jaymek@co.wasco.or.us>; Robert.L.Wood@oregon.gov; ykahn@fhco.org; HARTMAN Heidi <Heidi.M.Hartman@dsl.state.or.us>; BROWN Jevra <jevra.brown@dsl.state.or.us>; TAYLOR Clara <clara.taylor@dsl.state.or.us>; shilah.olson@or.nacdn.net; Candres@osp.state.or.us; Sue Vrilakas <sue.vrilakas@pdx.edu>; THOMPSON Jeremy L <Jeremy.L.Thompson@state.or.us>; FRENCH Rod A <Rod.A.French@state.or.us>; Kristin.dodd@oregon.gov; Kristen Stallman <kristen.stallman@odot.state.or.us>; Jeff Thompson <jthomps9999@yahoo.com>; Steve McCoy <steve@gorgefriends.org>; Stephanie Krell <stephaniek@co.wasco.or.us>; Tyler Stone <tylers@co.wasco.or.us>; Robin Shoal <rshoal@fs.fed.us>; sacallaghan@fs.fed.us; permits@friends.org; Kathleen Fitzpatrick <kfitzz77@gmail.com>; Gatz, Casey -FS <cgatz@fs.fed.us>; Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>; connie.acker@gorgecommission.org; Bonneville Power <rowapplications@bpa.gov>; DONALD.MOREHOUSE@odot.state.or.us; ODOTR4PLANMGR@odot.state.or.us; Patrick Cimmiyotti <Patrick.M.Cimmiyotti@odot.state.or.us>; Bradley DeHart <bradley.k.dehart@odot.state.or.us>; Scott Peters <scott.peters@odot.state.or.us>; jacob.powell@oregonstate.edu; Nakia Williamson <nakiaw@nezperce.org>; Nez Perce Tribe <keithb@nezperce.org>; robert.brunoe@ctwsbnr.org; THPO@ctwsbnr.org; Confed Tribes of Umatilla <pattyperry@ctuir.org>; kristentiede@ctuir.org; Sheila Dooley <sdooley3300@yahoo.com>; casey_barney@yakama.com
Cc: William Smith <wills@co.wasco.or.us>; Angie Brewer <angieb@co.wasco.or.us>; Jensi Smith <jensis@co.wasco.or.us>

Subject: Notice of Land Use Action

The Wasco County Planning Department has new information which has been updated on the webpage. Please visit the page to view the updated information for the following files. **Please note:** The comment deadline for Board of County Commissioners Agenda Packet BOCC 1 - 110

this decision is **4:00 PM, October 7, 2020.**

Lopez	921-19-000193-PLNG AMENDED APPLICATION - Farm Management Plan	A-2 (80) GMA	Scenic area review for a single family dwelling with accessory structure	2N11E11TL2200	Smith	AMENDED Notice of Action Comment deadline October 7, 2020 at 4:00 pm
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Brenda Coleman | Office Assistant

PLANNING DEPARTMENT

brendac@co.wasco.or.us | www.co.wasco.or.us

541-506-2562 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

Email is the best way to reach me! In an effort to prevent, slow, and stop the spread of COVID-19 to our citizens and staff, our office will be limiting business to phone, email and online service. If you are not sure how to access services online, or you have a need that requires in-person assistance, please call our office at 541-506-2560 to discuss. Please keep in mind that response time may vary depending on staffing. Thank you for your patience during this time.

This correspondence does not constitute a Land Use Decision per ORS 197.015. It is informational only and a matter of public record.



July 17, 2020

Will Smith, Senior Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

Re: Adrian Lopez's application #921-20-000193 to construct a single family dwelling and accessory building, and for after-the-fact approval of a well.

Dear Mr. Smith:

Friends of the Columbia Gorge ("Friends") has reviewed and submits these comments on the above-referenced application. Friends is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends reviews and comments on all land use applications subject to the Wasco County National Scenic Area Land Use and Development Ordinance. These comments are intended to identify application requirements and resource protection standards, provide recommendations to the permitting agency and the public regarding legal requirements, and establish standing.

Requests for after-the-fact approval must be reviewed as if the development has not taken place. Otherwise, landowners have no incentive to properly apply for permits and permittees have an incentive to violate the terms of their permits since relief will be available afterwards. As such, after-the-fact approval must be based upon the conditions on the ground prior to development even in instances of honest mistake.

Application Requirements

Under section 2.080 of the Wasco County National Scenic Area Land Use and Development Ordinance (NSA-LUDO), a complete application is required prior to review. An application must not be accepted until any omissions or deficiencies have been corrected by the applicant. *Id.* Approval of a land use proposal not accompanied by a complete and adequate application violates the county's scenic area ordinance, denies the public any meaningful opportunity to comment on the proposed development, and results in a decision not based on substantial

evidence. Such a decision is subject to reversal, as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate application materials. *Eagle Ridge* at 9–10.

Site Plan Map

Each site plan must contain a map of the project area. NSA-LUDO § 14.020(B) contains a list of specific elements that must be included in site plan maps. Site plan maps must include the following required elements:

- North arrow
- Map scale
- Boundaries, dimensions, and size of the subject parcel
- Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel
- An illustration of the buildings and parking facilities on abutting parcels
- Bodies of water and watercourses
- Location and width and methods of improvement for all existing and proposed roads, driveways, trails and parking areas
- Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles, and lines, and outdoor lighting
- Location and depth of all proposed grading, filling, ditching, and excavating
- An indication of all existing and proposed point of ingress and egress and whether they are public or private
- Significant terrain features and landforms

Landscaping Plan

Pursuant to NSA-LUDO § 14.020(D), all applications must contain a detailed landscaping plan that must clearly illustrate the following elements:

- The location, height, and species of all existing trees and vegetation, with an indication of any vegetation that would be removed.
- The location, height, and species of individually proposed trees and vegetation groupings.
- The location of automatic sprinkler systems or other irrigation provisions to ensure the survival of any proposed screening vegetation.

Material Samples

All applications must contain material samples for all exterior surfaces of proposed structures, including but not limited to the main portion of each structure, trim or secondary portions, roof, window frames, windowsills, window sashes, doors (including garage doors), and hooding for exterior lighting. NSA-LUDO § 14.020(C)

Elevation Drawings

Pursuant to NSA-LUDO § 14.020(E), applications for new structures must provide elevation drawings showing:

- the appearance of proposed structures, including both natural and finished grade, and
- the geometric exterior of the length and width of structures seen from a horizontal view.

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Grading Plan

For structural development that meets either or both of the following conditions, the application must include a grading plan containing the elements specified by NSA-LUDO § 14.020(F)(3):

- More than 100 cubic yards of grading on slopes exceeding 10 percent. NSA-LUDO § 14.020(F)(1).
- More than 200 cubic yards of grading on a site visible from key viewing areas. NSA-LUDO § 14.020(F)(2).

Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development.

Allowed Uses

Accessory Buildings and Structures

Buildings and structures accessory to a dwelling must be incidental and subordinate to the dwelling and located on the same parcel as the dwelling. NSA-LUDO § 1.200 (definition of “accessory structure/building”). All accessory buildings and structures with a footprint of at least 60 square feet, with a height of at least 10 feet, or located within the buffer zone of a riparian area must be reviewed under all applicable rules at NSA-LUDO Chapter 14 (scenic, cultural, natural, and recreational resources). NSA-LUDO § 3.100(E).

In most zones, the height of any individual accessory building must not exceed 24 feet and the combined footprints of all accessory buildings on a parcel must not exceed 1,500 square feet. This combined limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings. **If the parcel is larger than 10 acres and is located within an agricultural or forest zone, the combined footprints of all accessory buildings on the parcel must not exceed 2,500 square feet and the footprint of any individual accessory building must not exceed 1,500 square feet. The accessory structure in the application is listed as 30’x 50’ in one location and 40’x 50’ in another. If the accessory structure is in fact proposed as 40’x 50’, the structure exceeds the 1,500 square foot maximum footprint of any individual accessory building.**

Small-Scale Agriculture Zone

The proposed project is located in a Small-Scale Agriculture zone in the General Management Area. NSA-LUDO § 3.130 specifies which uses are allowed in Small-Scale Agriculture zones.

Only one single-family dwelling is allowed per legally created parcel, and only if the development is consistent with all applicable rules protecting scenic, cultural, natural, and recreational resources. The applicant bears the burden of proving the legality of the parcel and the County has the responsibility of making a determination of the parcel’s legality prior to a decision.

Resource Impact Review

Scenic Resource Protection

NSA-LUDO §§ 14.100 and 14.200 contain the scenic resource protection standards for the General Management Area. Whether or not the parcel is visible from key viewing areas (KVAs),

new buildings and roads must be sited and designed to retain existing topography and to reduce grading to the maximum extent possible. NSA-LUDO § 14.100(B). New buildings must be generally compatible with the general scale of existing nearby development. For purposes of determining compatibility, the height, dimensions (*i.e.*, length, width, and footprint), and visible mass of the proposed building must each be evaluated. NSA-LUDO § 14.100(C).

Key Viewing Areas

The subject parcel may be visible from key viewing areas such as the Historic Columbia River Highway, SR-14, and the Columbia River. If so, then the following rules apply:

- New buildings and roads must be sited so that they are visually subordinate to their settings as seen from KVAs. In determining the least visible site, existing topography and vegetation must be given priority over artificial means of screening. NSA-LUDO § 14.200(R)(4).
- The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes. NSA-LUDO § 14.200(H).
- New buildings and roads must be sited and designed to minimize grading activities and visibility of cut banks and fill slopes from KVAs. NSA-LUDO § 14.200(D).
- The County must evaluate all aspects of the development, including size, height, shape, color, reflectivity, landscaping, and siting, to ensure that the development will be visually subordinate. NSA-LUDO § 14.200(A)(2).
- Exterior colors must be dark earth-tones found at the specific site or in the surrounding landscape. Actual specific colors meeting this standard must be proposed in the land use application. Colors that are not expressly approved by a land use decision may not be used. 14.200(I).
- The County must evaluate the number of KVAs from which the development site is visible; the amount of area of the building site exposed to KVAs; the degree of existing vegetation providing screening; the distance from the building site to the KVAs; and, for linear KVAs such as roads, the linear distance along which the site is visible. NSA-LUDO § 14.200(A)(1).
- The County must evaluate the potential cumulative visual effects of the proposed development. NSA-LUDO § 14.200(L). This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided. 16 USC 544(a)(3).
- New buildings are not allowed on sites with slopes greater than 30 percent. NSA-LUDO § 14.200(H).
- The silhouette of new buildings must remain below the skyline of bluffs, cliffs, or ridges as seen from KVAs. NSA-LUDO § 14.200(E).
- Unless the building site is fully screened from all key viewing areas by existing topography, building materials must be nonreflective or low-reflective. NSA-LUDO § 14.200(J).

New development must be sited on the parcel in the location that best achieves visual subordination as seen from KVAs, using existing topography and vegetation for screening before requiring new screening measures.

If the proposed development cannot be conditioned to ensure that the development will achieve visual subordination, then the County must deny the application. This requirement was upheld by

the Oregon Supreme Court in its ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm’n, 346 Or 366, 213 P3d 1164 (2009) (“If the applicant does not or cannot sufficiently alter the proposal to satisfy the [scenic resource protection guidelines], permission to carry out the proposed activity must be denied”). Consequently, if the project would reduce visibility “to the maximum extent practicable” but not achieve visual subordination the application must be denied.

Landscape Setting

NSA-LUDO § 14.400 specifies the standards for compatibility of development with the landscape setting in the GMA. Generally, new development in all landscape settings must be compatible with the general scale (height, dimensions, overall mass) of similar development in the vicinity.

This development is proposed in an Oak-Pine Woodland landscape setting. If the parcel is visible from KVAs, at least half of all new screening trees must be native and coniferous. For portions with fewer trees, (1) structures must be sited on portions of the property that provide maximum screening from KVAs, using existing topographic features; (2) patterns of screening vegetation plantings must match the character of the surrounding area; and (3) buildings and roads must be clustered together, particularly toward the edges of existing open areas. Structure height must remain below the tree canopy level. NSA-LUDO § 14.400(C).

Natural Resource Protection

Cumulative Adverse Effects

The County must determine if there would be “[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area” considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to “more than moderate adverse consequences,” and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of “Adversely affect or Adversely affecting”). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.
- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.
- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).

- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.*

A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant. **If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high,** the distance between the two top wires must be at least 10 inches apart, the bottom wire must be at least 16 inches above the ground and must consist of smooth wire, stays or braces must be placed between fence posts to create a more rigid fence, and woven wire may not be used as fencing material. Applicants must demonstrate a specific need for any variance from these rules.

Sensitive Plant Species

NSA-LUDO § 14.600(D) contains the standards for projects in the GMA that may affect sensitive plant resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive plant species. This includes the following plant species:

- species endemic to the Columbia River Gorge and vicinity
- species listed as endangered or threatened by federal or state authorities, including the Oregon Natural Heritage Program

NSA-LUDO §§ 1.200 (definition of “sensitive plant species”), 14.600(D)(1)(a).

If the proposed project is within 1,000 feet of such a species, the next step is for the applicant to prepare a more detailed site plan map at a scale of at least one inch equals 100 feet (1:1,200).

NSA-LUDO § 14.600(D)(4)(a). The County must transmit the more detailed map to the Oregon Natural Heritage Program, which will review the application to determine if the project could affect sensitive plants. ONHP must identify the precise location of the affected plants and must delineate a 200-foot buffer zone to protect these plants. NSA-LUDO § 14.600(D)(4)(c)(2). Buffer zones must be maintained in an undisturbed, natural condition.

If one of the following uses is proposed, then a field survey must be prepared by a professional wildlife biologist hired by the applicant:

- communications, water and sewer, and natural gas transmission lines, pipes, etc.

NSA-LUDO § 14.410(C)(4)(b).

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Cultural Resource Protection

Pursuant to the Oregon Supreme Court ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm'n, 346 Or 366, 213 P3d 1164 (2009), County land use decisions must protect against cumulative adverse effects to cultural resources. Pursuant to this ruling, the County must review whether the proposed development would contribute to cumulative adverse impacts to cultural resources. This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided.

NSA-LUDO § 14.500 contains the standards for protection of cultural resources in the General Management Area.

If a use is proposed within 500 feet of a known cultural resource, the Gorge Commission is responsible for preparing a cultural resource reconnaissance survey and report. NSA-LUDO § 14.500(B)(3). For any other small-scale use, a reconnaissance survey need not be prepared if the area has a low probability of containing cultural resources, as determined by the Columbia River Gorge Commission and United States Forest Service. Reconnaissance surveys and reports must comply with the standards found at NSA-LUDO § 14.500(C).

Significant Cultural Resources

If a cultural resource is identified, it must be evaluated for significance. NSA-LUDO § 14.500(D)(2). If the resource is determined to be significant, the County must determine whether the project is likely to adversely affect the resource. NSA-LUDO § 14.500(D)(4). If the County concludes that the project would have an adverse effect on a significant cultural resource, then a mitigation plan must be prepared and reviewed pursuant to section 14.500(F).

Conditions of Approval

All conditions of approval must be entered into the deeds of the affected parcels and registered with the county.

Conclusion

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy
Staff Attorney



October 7, 2020

Will Smith, Senior Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

Re: Adrian Lopez's revised application #921-19-000193 to construct a single family dwelling and agricultural building, and for after-the-fact approval of a well.

Dear Mr. Smith:

Friends of the Columbia Gorge ("Friends") has reviewed and submits these comments on the above-referenced application. Friends is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends reviews and comments on all land use applications subject to the Wasco County National Scenic Area Land Use and Development Ordinance. These comments are intended to identify application requirements and resource protection standards, provide recommendations to the permitting agency and the public regarding legal requirements, and establish standing.

Requests for after-the-fact approval must be reviewed as if the development has not taken place. Otherwise, landowners have no incentive to properly apply for permits and permittees have an incentive to violate the terms of their permits since relief will be available afterwards. As such, after-the-fact approval must be based upon the conditions on the ground prior to development even in instances of honest mistake.

Application Requirements

Under section 2.080 of the Wasco County National Scenic Area Land Use and Development Ordinance (NSA-LUDO), a complete application is required prior to review. An application must not be accepted until any omissions or deficiencies have been corrected by the applicant. *Id.* Approval of a land use proposal not accompanied by a complete and adequate application violates the county's scenic area ordinance, denies the public any meaningful opportunity to comment on the proposed development, and results in a decision not based on substantial

evidence. Such a decision is subject to reversal, as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate application materials. *Eagle Ridge* at 9–10.

Site Plan Map

Each site plan must contain a map of the project area. NSA-LUDO § 14.020(B) contains a list of specific elements that must be included in site plan maps. Site plan maps must include the following required elements:

- North arrow
- Map scale
- Boundaries, dimensions, and size of the subject parcel
- Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel
- An illustration of the buildings and parking facilities on abutting parcels
- Bodies of water and watercourses
- Location and width and methods of improvement for all existing and proposed roads, driveways, trails and parking areas
- Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles, and lines, and outdoor lighting
- Location and depth of all proposed grading, filling, ditching, and excavating
- An indication of all existing and proposed point of ingress and egress and whether they are public or private
- Significant terrain features and landforms

Landscaping Plan

Pursuant to NSA-LUDO § 14.020(D), all applications must contain a detailed landscaping plan that must clearly illustrate the following elements:

- The location, height, and species of all existing trees and vegetation, with an indication of any vegetation that would be removed.
- The location, height, and species of individually proposed trees and vegetation groupings.
- The location of automatic sprinkler systems or other irrigation provisions to ensure the survival of any proposed screening vegetation.

Material Samples

All applications must contain material samples for all exterior surfaces of proposed structures, including but not limited to the main portion of each structure, trim or secondary portions, roof, window frames, windowsills, window sashes, doors (including garage doors), and hooding for exterior lighting. NSA-LUDO § 14.020(C)

Elevation Drawings

Pursuant to NSA-LUDO § 14.020(E), applications for new structures must provide elevation drawings showing:

- the appearance of proposed structures, including both natural and finished grade, and
- the geometric exterior of the length and width of structures seen from a horizontal view.

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Grading Plan

For structural development that meets either or both of the following conditions, the application must include a grading plan containing the elements specified by NSA-LUDO § 14.020(F)(3):

- More than 100 cubic yards of grading on slopes exceeding 10 percent. NSA-LUDO § 14.020(F)(1).
- More than 200 cubic yards of grading on a site visible from key viewing areas. NSA-LUDO § 14.020(F)(2).

Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development.

Allowed Uses

Small-Scale Agriculture Zone

The proposed project is located in a Small-Scale Agriculture zone in the General Management Area. NSA-LUDO § 3.130 specifies which uses are allowed in Small-Scale Agriculture zones. Only one single-family dwelling is allowed per legally created parcel, and only if the development is consistent with all applicable rules protecting scenic, cultural, natural, and recreational resources. The applicant bears the burden of proving the legality of the parcel and the County has the responsibility of making a determination of the parcel's legality prior to a decision.

Agricultural buildings and structures must be located on a farm or ranch; must be proposed in conjunction with a **current** agricultural use; and must be used for the storage, repair, and maintenance of farm equipment and supplies, or for the raising and/or storage of crops and livestock. NSA-LUDO § 1.200 (definition of "agricultural structure/building"), NSA-LUDO § 3.120(D)(3), (D)(4). An "agricultural use," as defined at NSA-LUDO § 1.200, means the current employment of land for the primary purpose of obtaining a monetary profit by one or more of the following practices:

- the raising, harvesting, and selling of crops, including Christmas trees;
- the feeding, breeding, management, and sale or production of livestock, poultry, fur-bearing animals or honeybees (not including livestock feed lots);
- dairying and the sale of dairy products;
- any other agricultural or horticultural use.

Pursuant to NSA-LUDO § 3.120(D)(4), the size of agricultural buildings must not exceed the size needed to serve the current agricultural use (and, if applicable, any proposed agricultural uses). All applications for agricultural buildings must contain the following information:

- A description of the size and characteristics of current agricultural uses.
- If any new agricultural uses are proposed, a plan specifying the types, locations, and schedules of such uses and details regarding any agricultural structures that would support the uses.
- A floor plan showing the intended uses of the agricultural building (*e.g.*, space for equipment, supplies, agricultural products, livestock).

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Resource Impact Review

Scenic Resource Protection

NSA-LUDO §§ 14.100 and 14.200 contain the scenic resource protection standards for the General Management Area. Whether or not the parcel is visible from key viewing areas (KVAs), new buildings and roads must be sited and designed to retain existing topography and to reduce grading to the maximum extent possible. NSA-LUDO § 14.100(B). New buildings must be generally compatible with the general scale of existing nearby development. For purposes of determining compatibility, the height, dimensions (*i.e.*, length, width, and footprint), and visible mass of the proposed building must each be evaluated. NSA-LUDO § 14.100(C).

Key Viewing Areas

The subject parcel may be visible from key viewing areas such as the Historic Columbia River Highway, SR-14, and the Columbia River. If so, then the following rules apply:

- New buildings and roads must be sited so that they are visually subordinate to their settings as seen from KVAs. In determining the least visible site, existing topography and vegetation must be given priority over artificial means of screening. NSA-LUDO § 14.200(R)(4).
- The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes. NSA-LUDO § 14.200(H).
- New buildings and roads must be sited and designed to minimize grading activities and visibility of cut banks and fill slopes from KVAs. NSA-LUDO § 14.200(D).
- The County must evaluate all aspects of the development, including size, height, shape, color, reflectivity, landscaping, and siting, to ensure that the development will be visually subordinate. NSA-LUDO § 14.200(A)(2).
- Exterior colors must be dark earth-tones found at the specific site or in the surrounding landscape. Actual specific colors meeting this standard must be proposed in the land use application. Colors that are not expressly approved by a land use decision may not be used. 14.200(I).
- The County must evaluate the number of KVAs from which the development site is visible; the amount of area of the building site exposed to KVAs; the degree of existing vegetation providing screening; the distance from the building site to the KVAs; and, for linear KVAs such as roads, the linear distance along which the site is visible. NSA-LUDO § 14.200(A)(1).
- The County must evaluate the potential cumulative visual effects of the proposed development. NSA-LUDO § 14.200(L). This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided. 16 USC 544(a)(3).
- New buildings are not allowed on sites with slopes greater than 30 percent. NSA-LUDO § 14.200(H).
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- Unless the building site is fully screened from all key viewing areas by existing topography, building materials must be nonreflective or low-reflective. NSA-LUDO § 14.200(J).

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New development must be sited on the parcel in the location that best achieves visual subordination as seen from KVAs, using existing topography and vegetation for screening before requiring new screening measures.

If the proposed development cannot be conditioned to ensure that the development will achieve visual subordination, then the County must deny the application. This requirement was upheld by the Oregon Supreme Court in its ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm'n, 346 Or 366, 213 P3d 1164 (2009) ("If the applicant does not or cannot sufficiently alter the proposal to satisfy the [scenic resource protection guidelines], permission to carry out the proposed activity must be denied"). Consequently, if the project would reduce visibility "to the maximum extent practicable" but not achieve visual subordination the application must be denied.

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Natural Resource Protection

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The County must determine if there would be "[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area" considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to "more than moderate adverse consequences," and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of "Adversely affect or Adversely affecting"). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.

- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.
- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).
- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife

management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.* A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant. **If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high,** the distance between the two top wires must be at least 10 inches apart, the bottom wire must be at least 16 inches above the ground and must consist of smooth wire, stays or braces must be placed between fence posts to create a more rigid fence, and woven wire may not be used as fencing material. Applicants must demonstrate a specific need for any variance from these rules.

Sensitive Plant Species

NSA-LUDO § 14.600(D) contains the standards for projects in the GMA that may affect sensitive plant resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive plant species. This includes the following plant species:

- species endemic to the Columbia River Gorge and vicinity
- species listed as endangered or threatened by federal or state authorities, including the Oregon Natural Heritage Program

NSA-LUDO §§ 1.200 (definition of “sensitive plant species”), 14.600(D)(1)(a).

If the proposed project is within 1,000 feet of such a species, the next step is for the applicant to prepare a more detailed site plan map at a scale of at least one inch equals 100 feet (1:1,200).

NSA-LUDO § 14.600(D)(4)(a). The County must transmit the more detailed map to the Oregon Natural Heritage Program, which will review the application to determine if the project could affect sensitive plants. ONHP must identify the precise location of the affected plants and must delineate a 200-foot buffer zone to protect these plants. NSA-LUDO § 14.600(D)(4)(c)(2).

Buffer zones must be maintained in an undisturbed, natural condition.

Cultural Resource Protection

Pursuant to the Oregon Supreme Court ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm’n, 346 Or 366, 213 P3d 1164 (2009), County land use decisions must protect against cumulative adverse effects to cultural resources. Pursuant to this ruling, the

County must review whether the proposed development would contribute to cumulative adverse impacts to cultural resources. This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided.

NSA-LUDO § 14.500 contains the standards for protection of cultural resources in the General Management Area. If a use is proposed within 500 feet of a known cultural resource, the Gorge Commission is responsible for preparing a cultural resource reconnaissance survey and report. NSA-LUDO § 14.500(B)(3). For any other small-scale use, a reconnaissance survey need not be prepared if the area has a low probability of containing cultural resources, as determined by the Columbia River Gorge Commission and United States Forest Service. Reconnaissance surveys and reports must comply with the standards found at NSA-LUDO § 14.500(C).

Significant Cultural Resources

If a cultural resource is identified, it must be evaluated for significance. NSA-LUDO § 14.500(D)(2). If the resource is determined to be significant, the County must determine whether the project is likely to adversely affect the resource. NSA-LUDO § 14.500(D)(4). If the County concludes that the project would have an adverse effect on a significant cultural resource, then a mitigation plan must be prepared and reviewed pursuant to section 14.500(F).

Conditions of Approval

All conditions of approval must be entered into the deeds of the affected parcels and registered with the county.

Conclusion

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy
Staff Attorney



June 17, 2021

Brent Bybee, Associate Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

Re: Adrian Lopez's revised application #921-19-000193 to construct a dwelling, an accessory structure, an agricultural building, and fencing; for new agricultural uses; and for after-the-fact approval of a well.

Dear Mr. Bybee:

Friends of the Columbia Gorge ("Friends") has reviewed and submits these comments on the above-referenced application. Friends is a non-profit organization with approximately 6,000 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends reviews and comments on all land use applications subject to the Wasco County National Scenic Area Land Use and Development Ordinance. These comments are intended to identify application requirements and resource protection standards, provide recommendations to the permitting agency and the public regarding legal requirements, and establish standing.

Requests for after-the-fact approval must be reviewed as if the development has not taken place. Otherwise, landowners have no incentive to properly apply for permits and permittees have an incentive to violate the terms of their permits since relief will be available afterwards. As such, after-the-fact approval must be based upon the conditions on the ground prior to development even in instances of honest mistake.

Application Requirements

Under section 2.080 of the Wasco County National Scenic Area Land Use and Development Ordinance (NSA-LUDO), a complete application is required prior to review. An application must not be accepted until any omissions or deficiencies have been corrected by the applicant. *Id.* Approval of a land use proposal not accompanied by a complete and adequate application violates the county's scenic area ordinance, denies the public any meaningful opportunity to

comment on the proposed development, and results in a decision not based on substantial evidence. Such a decision is subject to reversal, as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate application materials. *Eagle Ridge* at 9–10.

Site Plan Map

Each site plan must contain a map of the project area. NSA-LUDO § 14.020(B) contains a list of specific elements that must be included in site plan maps. Site plan maps must include the following required elements:

- North arrow
- Map scale
- Boundaries, dimensions, and size of the subject parcel
- Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel
- An illustration of the buildings and parking facilities on abutting parcels
- Bodies of water and watercourses
- Location and width and methods of improvement for all existing and proposed roads, driveways, trails and parking areas
- Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles, and lines, and outdoor lighting
- Location and depth of all proposed grading, filling, ditching, and excavating
- An indication of all existing and proposed point of ingress and egress and whether they are public or private
- Significant terrain features and landforms

Landscaping Plan

Pursuant to NSA-LUDO § 14.020(D), all applications must contain a detailed landscaping plan that must clearly illustrate the following elements:

- The location, height, and species of all existing trees and vegetation, with an indication of any vegetation that would be removed.
- The location, height, and species of individually proposed trees and vegetation groupings.
- The location of automatic sprinkler systems or other irrigation provisions to ensure the survival of any proposed screening vegetation.

Material Samples

All applications must contain material samples for all exterior surfaces of proposed structures, including but not limited to the main portion of each structure, trim or secondary portions, roof, window frames, windowsills, window sashes, doors (including garage doors), and hooding for exterior lighting. NSA-LUDO § 14.020(C)

Elevation Drawings

Pursuant to NSA-LUDO § 14.020(E), applications for new structures must provide elevation drawings showing:

- the appearance of proposed structures, including both natural and finished grade, and
- the geometric exterior of the length and width of structures seen from a horizontal view.

Grading Plan

For structural development that meets either or both of the following conditions, the application must include a grading plan containing the elements specified by NSA-LUDO § 14.020(F)(3):

- More than 100 cubic yards of grading on slopes exceeding 10 percent. NSA-LUDO § 14.020(F)(1).
- More than 200 cubic yards of grading on a site visible from key viewing areas. NSA-LUDO § 14.020(F)(2).

Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development.

Allowed Uses

Small-Scale Agriculture Zone

The proposed project is located in a Small-Scale Agriculture zone in the General Management Area. NSA-LUDO § 3.130 specifies which uses are allowed in Small-Scale Agriculture zones. Only one single-family dwelling is allowed per legally created parcel, and only if the development is consistent with all applicable rules protecting scenic, cultural, natural, and recreational resources. The applicant bears the burden of proving the legality of the parcel and the County has the responsibility of making a determination of the parcel's legality prior to a decision.

Agricultural buildings and structures must be located on a farm or ranch; must be proposed in conjunction with a **current** agricultural use; and must be used for the storage, repair, and maintenance of farm equipment and supplies, or for the raising and/or storage of crops and livestock. NSA-LUDO § 1.200 (definition of "agricultural structure/building"), NSA-LUDO § 3.120(D)(3), (D)(4). **An "agricultural use," as defined at NSA-LUDO § 1.200, means the current employment of land for the primary purpose of obtaining a monetary profit by one or more of the following practices:**

- the raising, harvesting, and selling of crops, including Christmas trees;
- the feeding, breeding, management, and sale or production of livestock, poultry, fur-bearing animals or honeybees (not including livestock feed lots);
- dairying and the sale of dairy products;
- any other agricultural or horticultural use.

Pursuant to NSA-LUDO § 3.120(D)(4), the size of agricultural buildings must not exceed the size needed to serve the current agricultural use (and, if applicable, any proposed agricultural uses). All applications for agricultural buildings must contain the following information:

- A description of the size and characteristics of current agricultural uses.
- If any new agricultural uses are proposed, a plan specifying the types, locations, and schedules of such uses and details regarding any agricultural structures that would support the uses.
- A floor plan showing the intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

Resource Impact Review

Scenic Resource Protection

NSA-LUDO §§ 14.100 and 14.200 contain the scenic resource protection standards for the General Management Area. Whether or not the parcel is visible from key viewing areas (KVAs), new buildings and roads must be sited and designed to retain existing topography and to reduce grading to the maximum extent possible. NSA-LUDO § 14.100(B). New buildings must be generally compatible with the general scale of existing nearby development. For purposes of determining compatibility, the height, dimensions (*i.e.*, length, width, and footprint), and visible mass of the proposed building must each be evaluated. NSA-LUDO § 14.100(C).

Key Viewing Areas

The subject parcel may be visible from key viewing areas such as the Historic Columbia River Highway, SR-14, and the Columbia River. If so, then the following rules apply:

- New buildings and roads must be sited so that they are visually subordinate to their settings as seen from KVAs. In determining the least visible site, existing topography and vegetation must be given priority over artificial means of screening. NSA-LUDO § 14.200(R)(4).
- The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes. NSA-LUDO § 14.200(H).
- New buildings and roads must be sited and designed to minimize grading activities and visibility of cut banks and fill slopes from KVAs. NSA-LUDO § 14.200(D).
- The County must evaluate all aspects of the development, including size, height, shape, color, reflectivity, landscaping, and siting, to ensure that the development will be visually subordinate. NSA-LUDO § 14.200(A)(2).
- Exterior colors must be dark earth-tones found at the specific site or in the surrounding landscape. Actual specific colors meeting this standard must be proposed in the land use application. Colors that are not expressly approved by a land use decision may not be used. 14.200(I).
- The County must evaluate the number of KVAs from which the development site is visible; the amount of area of the building site exposed to KVAs; the degree of existing vegetation providing screening; the distance from the building site to the KVAs; and, for linear KVAs such as roads, the linear distance along which the site is visible. NSA-LUDO § 14.200(A)(1).
- The County must evaluate the potential cumulative visual effects of the proposed development. NSA-LUDO § 14.200(L). This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided. 16 USC 544(a)(3).
- New buildings are not allowed on sites with slopes greater than 30 percent. NSA-LUDO § 14.200(H).
- The silhouette of new buildings must remain below the skyline of bluffs, cliffs, or ridges as seen from KVAs. NSA-LUDO § 14.200(E).
- Unless the building site is fully screened from all key viewing areas by existing topography, building materials must be nonreflective or low-reflective. NSA-LUDO § 14.200(J).

New development must be sited on the parcel in the location that best achieves visual subordination as seen from KVAs, using existing topography and vegetation for screening before requiring new screening measures.

If the proposed development cannot be conditioned to ensure that the development will achieve visual subordination, then the County must deny the application. This requirement was upheld by the Oregon Supreme Court in its ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm'n, 346 Or 366, 213 P3d 1164 (2009) ("If the applicant does not or cannot sufficiently alter the proposal to satisfy the [scenic resource protection guidelines], permission to carry out the proposed activity must be denied"). Consequently, if the project would reduce visibility "to the maximum extent practicable" but not achieve visual subordination the application must be denied.

Landscape Setting

NSA-LUDO § 14.400 specifies the standards for compatibility of development with the landscape setting in the GMA. Generally, new development in all landscape settings must be compatible with the general scale (height, dimensions, overall mass) of similar development in the vicinity. This development is proposed in an Oak-Pine Woodland landscape setting. If the parcel is visible from KVAs, at least half of all new screening trees must be native and coniferous. For portions with fewer trees, (1) structures must be sited on portions of the property that provide maximum screening from KVAs, using existing topographic features; (2) patterns of screening vegetation plantings must match the character of the surrounding area; and (3) buildings and roads must be clustered together, particularly toward the edges of existing open areas. Structure height must remain below the tree canopy level. NSA-LUDO § 14.400(C).

Natural Resource Protection

Cumulative Adverse Effects

The County must determine if there would be "[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area" considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to "more than moderate adverse consequences," and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of "Adversely affect or Adversely affecting"). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.
- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.

- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).
- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or

her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.* A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant.

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Buffer zones must be maintained in an undisturbed, natural condition.

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Significant Cultural Resources

If a cultural resource is identified, it must be evaluated for significance. NSA-LUDO § 14.500(D)(2). If the resource is determined to be significant, the County must determine whether the project is likely to adversely affect the resource. NSA-LUDO § 14.500(D)(4). If the County concludes that the project would have an adverse effect on a significant cultural resource, then a mitigation plan must be prepared and reviewed pursuant to section 14.500(F).

Conditions of Approval

All conditions of approval must be entered into the deeds of the affected parcels and registered with the county.

Conclusion

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy
Staff Attorney



Will S <wills@co.wasco.or.us>

Applicant: Adrian Lopez File Number: 921-19-000193-PLNG

McCabe, Edward M.D., Ph.D <EMcCabe@mednet.ucla.edu>

Tue, Jul 7, 2020 at 12:46 PM

To: "wills@co.wasco.or.us" <wills@co.wasco.or.us>

Cc: "McCabe, Linda Ph.D" <LMcCabe@mednet.ucla.edu>

Dear Mr. Smith,

We are extremely pleased to support the Application of Adrian Lopez for development of the lot that is part of the Rocky Prairie subdivision. A corner of the lot abuts Quartz Drive across from our property at 953 Quartz Drive.

We have reviewed the material you sent to us by USPS, as well as the on-line information.

The two buildings planned for this property are of a scale consistent with other buildings on Rocky Prairie. We do not see any information that is concerning to us as neighbors to this property development.

Thank you.

Linda and Edward McCabe

953 Quartz Drive

July 7, 2020

Sent from [Mail](#) for Windows 10

UCLA HEALTH SCIENCES IMPORTANT WARNING: This email (and any attachments) is only intended for the use of the person or entity to which it is addressed, and may contain information that is privileged and confidential. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Unauthorized redisclosure or failure to maintain confidentiality may subject you to federal and state penalties. If you are not the intended recipient, please immediately notify us by return email, and delete this message from your computer.



Oregon

Kate Brown, Governor

Department of Forestry

Central Oregon District

The Dalles Unit

3701 West 13th

The Dalles, OR 97058

PHONE: 541-296-4626

FAX: 541-298-4993

www.ODFcentraloregon.com



"STEWARDSHIP IN FORESTRY"

7/2/2020

Wasco County Planning and Development
2705 East 2nd Street
The Dalles Or 97058

Attn: Will Smith

Re: Lopez 921-19-000193 PLNG

Catastrophic wildfires threaten and destroy many homes in Oregon and in other states each year. The Oregon Department of Forestry (ODF) has a responsibility to its landowners to protect their forest lands from wildfire. Since ODF does not provide structure protection it is incumbent on the local fire district (in this case, Mosier Fire District) to provide that protection. However, ODF is still responsible for the forest and range land surrounding those structures.

This proposed development is located within the Oregon Department of Forestry Fire Protection District, hence, this property receives wildland fire protection services by ODF, as does surrounding properties.

ODF continues to be concerned about the impact of putting additional structures and the associated human activities within the wildland urban interface. Simply stated, people start fires, no matter the good intentions of the landowner or guests to the property. Many activities that result from living in the forest/range zone have the potential to cause fires. Because of these concerns we have worked closely with the planning department to provide consistent and appropriate siting standards for structures.

I'd like to emphasize that structures, and human activity associated with those structures in the wildland urban interface, create additional fire start risk as well as additional complexity in fire suppression activities and evacuations. As such, ODF wants to reiterate the importance of fire prevention and risk mitigation. If approved, ODF would expect the planning department to consistently apply the wildfire siting standards adopted by the county as they currently exist.

I would like to also iterate the importance of the defensible space standards around the building site that contribute to higher likelihood of a structure being saved while reducing risk to firefighting personnel in the event of a wildland fire moving through the area, regardless of how the fire started. We place emphasis on primary and secondary fuel breaks, construction materials, and not siting structures on slopes greater than 40%.

We also want to see Road Standards with emphasis on road width, vertical clearance, turnarounds and turn outs, and road grades.

Flammable vegetation will continue to grow in and around these structures over time. However, if the proposal is granted, the long term maintenance of defensible space is an issue that is not addressed in the current planning department standards, and may only be addressed through ongoing maintenance of defensible space surrounding all structures by the landowner.

It is ODF's hope that through proper wildfire siting standards and continued maintenance of defensible space, landowners will be able to provide a safe and risk free environment for themselves, their neighbors and the firefighters who protect their property.

Finally, if applicant intends to clear any brush or vegetation by using power equipment during the months of May through October, they will need to file an eNotification for a 'Permit to Operate Power Driven Machinery' with the Oregon Department of Forestry. Information for this free electronic permit can be found at: <https://www.oregon.gov/odf/working/pages/ENotification.aspx>.

Thank you for the opportunity to comment.

Regards,

/s/ *Kristin Dodd*

Unit Forester

Central Oregon District – The Dalles Unit



Brent Bybee <brentb@co.wasco.or.us>

Notice of Land Use Action - Lopez

Scott Williams <scottw@co.wasco.or.us>

Thu, May 20, 2021 at 12:38 PM

To: Brent Bybee <brentb@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Lane Magill <lanem@co.wasco.or.us>

no issues for law enforcement

[Quoted text hidden]

--

**Scott Williams** | *Chief Deputy*
SHERIFF'S OFFICEscottw@co.wasco.or.us | www.co.wasco.or.us

541-506-2593 | Fax 541-506-2581

511 Washington Street suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Notice of Land Use Action - Lopez

Lane Magill <lanem@co.wasco.or.us>

Thu, Jul 2, 2020 at 9:37 AM

To: Will S <wills@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Scott Williams <scottw@co.wasco.or.us>

I don't see any issues with this application.

Lane

[Quoted text hidden]

--

**Lane Magill | Wasco County Sheriff
SHERIFF'S OFFICE**lanem@co.wasco.or.us | www.co.wasco.or.us

541-506-2592 | Fax 541-506-2581

511 Washington St. Suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Notice of Land Use Action

Lane Magill <lanem@co.wasco.or.us>

Thu, Sep 17, 2020 at 11:29 AM

To: Will S <wills@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Scott Williams <scottw@co.wasco.or.us>

I don't see any issues with this.

I do have a question. Most of the applications we see have a physical address and this one didn't. I know there was Section information but I don't have any access to that type of information.

Thanks
Lane

On Thu, Sep 17, 2020 at 10:19 AM Will S <wills@co.wasco.or.us> wrote:

[Quoted text hidden]

--



Lane Magill | Wasco County Sheriff
SHERIFF'S OFFICE

lanem@co.wasco.or.us | www.co.wasco.or.us

541-506-2592 | Fax 541-506-2581

511 Washington St. Suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Cultural notice for 921-19-000193-PLNG

Kristen Tiede <KristenTiede@ctuir.org>

Thu, Oct 8, 2020 at 7:41 AM

To: Will S <wills@co.wasco.or.us>

Cc: "Donnermeyer, Christopher J -FS" <christopher.donnermeyer@usda.gov>

Good morning Mr. Smith,

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timine Way, Pendleton, OR 97801

Direct Line/Fax: (541) 429-7206

Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Will S [mailto:wills@co.wasco.or.us]

Sent: Wednesday, October 7, 2020 4:30 PM

Subject: Cultural notice for 921-19-000193-PLNG

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

[Quoted text hidden]

The opinions expressed by the author are his or her own and are not necessarily those of the Confederated Tribes of the Umatilla Indian Reservation. The information, contents and attachments in this email are Confidential and Private.



Brent Bybee <brentb@co.wasco.or.us>

Notice of Land Use Action - Lopez

Kristen Tiede <KristenTiede@ctuir.org>

Thu, Jun 3, 2021 at 8:26 AM

To: Brent Bybee <brentb@co.wasco.or.us>, Jensi Smith <jensis@co.wasco.or.us>

Cc: "Donnermeyer, Christopher -FS" <christopher.donnermeyer@usda.gov>

Good morning,

As the CRPP recommended previously on this project, a cultural resources monitor should be present for the fence construction if it is near the previously recorded archaeological site. Please let me know if there are any questions or concerns.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timine Way, Pendleton, OR 97801

Direct Line/Fax: (541) 429-7206

Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Jensi Smith [mailto:jensis@co.wasco.or.us]

Sent: Thursday, May 20, 2021 5:30 AM

To: Nicole Bailey <nicoleba@ncphd.org>; Jaime Solars <jaimes@co.wasco.or.us>; Jesus Elias <Jesuse@ncphd.org>; Shellie Campbell <shelliec@ncphd.org>; Building Codes <buildingcodes@co.wasco.or.us>; Jill Amery <jilla@co.wasco.or.us>; Adam Fourcade <adamf@co.wasco.or.us>; Melanie Brown <melanieb@co.wasco.or.us>; Marci Beebe <marcib@co.wasco.or.us>; Brandon Jones <brandonj@co.wasco.or.us>; Sheridan McClellan <sheridanm@co.wasco.or.us>; Arthur Smith <arthurs@co.wasco.or.us>; Kara Davis <karad@co.wasco.or.us>; WOOD Robert L * WRD <Robert.L.Wood@oregon.gov>; ykahn@fhco.org; Heidi.M.Hartman@dsl.state.or.us;

Board of County Commissioners Agenda Packet

BOCC 1 - 144

BROWN Jevra * DSL <jevra.brown@dsl.state.or.us>; clara.taylor@dsl.state.or.us; shilah.olson@or.nacdnet.net; Candres@osp.state.or.us; Sue Vrilakas <sue.vrilakas@pdx.edu>; jeremy.l.thompson@state.or.us; Andrew.R.Meyers@state.or.us; rod.a.french@state.or.us; DODD Kristin * ODF <Kristin.dodd@oregon.gov>; kristen.stallman@odot.state.or.us; jthomps9999@yahoo.com; steve@gorgefriends.org; Stephanie Krell <stephaniek@co.wasco.or.us>; Tyler Stone <tylers@co.wasco.or.us>; rshoal@fs.fed.us; sacallaghan@fs.fed.us; permits@friends.org; kfitzz77 <kfitzz77@gmail.com>; Gatz, Casey -FS <cgatz@fs.fed.us>; Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>; Connie Acker <connie.acker@gorgecommission.org>; rowapplications@bpa.gov; MOREHOUSE Donald <Donald.MOREHOUSE@odot.state.or.us>; ODOTR4PLANMGR@odot.state.or.us; Patrick.M.Cimmiyotti@odot.state.or.us; DEHART Brad <bradley.k.dehart@odot.state.or.us>; PETERS Scott <scott.peters@odot.state.or.us>; Jacob Powell <jacob.powell@oregonstate.edu>; nakiaw@nezperce.org; pat b <keithb@nezperce.org>; robert.brunoe@ctwsbnr.org; THPO@ctwsbnr.org; Patty Perry <PattyPerry@ctuir.org>; Kristen Tiede <KristenTiede@ctuir.org>; Sheila Dooley <sdooley3300@yahoo.com>; casey_barney@yakama.com; Angie Brewer <angieb@co.wasco.or.us>; Brent Bybee <brentb@co.wasco.or.us>

Subject: Notice of Land Use Action - Lopez

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

[Quoted text hidden]

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----- Forwarded message -----

From: Kristen Tiede <KristenTiede@ctuir.org>

To: Will S <wills@co.wasco.or.us>

Cc: "Donnermeyer, Christopher J -FS" <christopher.donnermeyer@usda.gov>

Bcc:

Date: Thu, 8 Oct 2020 14:41:05 +0000

Subject: RE: Cultural notice for 921-19-000193-PLNG

Good morning Mr. Smith,

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

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Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Will S [mailto:wills@co.wasco.or.us]
Sent: Wednesday, October 7, 2020 4:30 PM
Subject: Cultural notice for 921-19-000193-PLNG

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

Good afternoon,

This application involves locating a fence in the vicinity of a confirmed cultural resource and I wanted to ensure we received your input in the process. A previous application for a horse boarding facility proposed a fence around the property and they hired an archaeologist to conduct a study (see attached, no new study was required for this application due to the work performed in 2018, but a new notification for your review is required.) That application ended up being withdrawn, but staff had proposed a condition to require an archaeologist to be on site when the fence was built. The current application is for a dwelling, barn, and fence (for 5 cows, 15 goats/sheep, and chickens). The dwelling and the barn are not in the impacted area. We would propose the same condition for this application regarding the placement of the fence. This cultural notice has a 30 day review period, ending November 6, but if you have comments or concerns, or if you have none and find it acceptable, please let me know as soon as possible. Thank you!

Attachments:
Cultural Notice (including location and site plan maps)

2018 Survey

2018 USFS Response

Regards,

--



Will Smith, AICP | Senior Planner

PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

541-506-2560 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.


This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)

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 **RE: Cultural notice for 921-19-000193-PLNG.eml**
54K



Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2019-0125

Responsible Jurisdiction

Staff Contact

William Smith

Jurisdiction Type

County

Municipality

Wasco

Local case file #

921-18-000017-PLNG

County

Wasco

Activity Location

Township

02N

Range

11E

Section

11

QQ section

Tax Lot(s)

2200

Street Address

1139 Huskey Rd

Address Line 2

City

Mosier

Postal / Zip Code

97040

State / Province / Region

OR

Country

Wasco

Latitude

45.669989

Longitude

-121.406104

Wetland/Waterway/Other Water Features

☒ There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

☒ The National Wetlands Inventory shows wetland, waterway or other water features on the property

Your Activity

☒ It appears that the proposed project **may** impact wetlands and **may** require a State permit.

Applicable Oregon Removal-Fill Permit Requirement(s)

☒ A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

There is a National Wetland Inventory-mapped channel on the east side of the parcel. The proposed project appears to have impacts of <50 cubic yards associated with fence post installation around and through this channel. A state permit is not required for projects with <50 cy of removal or fill activities. No permit will be required for the DSL if impacts are below 50 cy or removal or fill..

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

☒ A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

4/3/2019

Response by:

Daniel Evans

Response Phone:

503-986-5271

ATTACHMENT A

File Number: 921-19-000193-PLNG

Request: Appeal of the Planning Director's decision to approve a new dwelling and agricultural structures to support proposed farm use

Prepared By: Daniel Dougherty, Associate Planner

Prepared For: Wasco County Planning Commission

Procedure Type: Appeal

Appellant/Applicant: Joseph Czerniecki

Owner: Adrian Lopez

Staff Recommendation: Uphold the decision of the Planning Director

Planning Commission Hearing Date: October 5, 2021

Location: The subject parcel is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Tax Lot</u>	<u>Acct#</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

Zoning: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Past Actions: 921-18-000017-PLNG (Withdrawn): Horse Boarding Facility
921-19-000193-PLNG Scenic Area Review of a new dwelling and structure to support the proposed farm use.

Attachments:

Attachment B	Appeal Application
Attachment C	Additional Appeal Information
Attachment D	N/A, See Attachment G
Attachment E	Staff Report
Attachment F	Maps
Attachment G	Notice of Decision
Attachment H	Notice of Administrative Action
Attachment I	Amended Lopez Application
Attachment J	Map of Adjacent Properties
Attachment K	Map of USDA Crop Data
Attachment L	ODFW Comments

APPLICABLE STANDARDS

A. Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO)

Chapter 2 – Development Approval Procedures

Section 2.150 Appeals from the Decision of the Director

Addressed in Original Staff Report (Attachment E):

A. Chapter 3 – Basic Provisions

Section 3.110	Expedited Review
Section 3.110.A.5	Uses Permitted Subject to Expedited Review, Woven Wire Fences
Section 3.130, A-2	Small Scale Agriculture (GMA)
Section 3.130.D.2	Uses Permitted Subject to Review, Agricultural structures
Section 3.130.D.4	Uses Permitted Subject to Review, One single-family dwelling
Section 3.130.D.6	Uses Permitted Subject to Review, Accessory building(s)
Section 3.130.G	Property Development Standards

B. Chapter 4 – Supplemental Provisions

Section 4.040	Off-Street Parking
---------------	--------------------

C. Chapter 11 – Fire Safety Standards

Section 11.110	Siting Standards
Section 11.120	Defensible Space
Section 11.130	Construction Standards for Dwellings and Structures
Section 11.140	Access Standards
Section 11.150	Fire Protection or On-Site Water Required

D. Chapter 14 – Scenic Area Review

Section 14.100	Provisions for all new development
Section 14.200	Key Viewing Areas
Section 14.300	Scenic Travel Corridors
Section 14.400	Landscape Settings
Section 14.500	Cultural Resources – GMA
Section 14.600	Natural Resources – GMA
Section 14.700	Recreation Resources - GMA
Section 14.800	Indian Tribal Treaty Rights and Consultation – GMA

I. BACKGROUND

- A. Legal Parcel:** Pursuant to the National Scenic Area Land Use and Development Ordinance (NSA-LUDO) Section 1.200, the definition of a legal parcel is the following:

Parcel (Legal)/Lot of Record - A unit of land created as follows:

- a. *A lot in an existing, duly recorded subdivision; or*
- b. *A parcel in an existing, duly recorded major or minor land partition; or*
- c. *By deed or land sales contract prior to September 4, 1974.*

The subject lot is identified as Lot 21 of Rocky Prairie Subdivision, recorded with the Wasco County Clerk on April 27, 1977. It is consistent with the definition of Legal Lot in NSA-LUDO Section 1.200, Definitions, because it was created by a recorded subdivision.

- B. Site Description:** The subject lot is located between Huskey Road and Quartz Drive, in Rocky Prairie, a subdivision located on a hill above Mosier, Oregon. This property contains northwest-facing slopes averaging 9%. The western 1/3 (approximate) of the lot is heavily vegetated with Oregon white oak trees. Natural grasses are the dominant ground cover. The property ranges in elevation from 620-720' Above Sea Level (ASL).
- C. Surrounding Land Use:** Properties located north, east and west of the subject lot are located in the "A-2" Small Scale Agriculture Zone (GMA Only). Properties located south of Huskey Road are located in the "F-3" Small Woodland Forest Zone (GMA Only). With the exception of one property located north of Quartz Drive, all surrounding properties are used for residential use. Properties located east and west of the subject lot contain similar northwest-facing slopes averaging 8-10%. Property to the southwest, located north of Huskey Road is heavily vegetated with Oregon white oak trees. Property located to the west contains cherry orchard and a cidery, but there are no other commercial farm uses on adjacent properties. Land lying within 750' of Huskey Road averages 30% northwest-facing slopes while farther south, slopes lessen to 5-10%. Properties to the south are generally heavily vegetated with Oregon white oak and Ponderosa pine trees.
- D. Public Comments:** On September 16, 2021, 19-days prior to the Planning Commission hearing, a hearing notice was sent to all property owners within 750 feet of the subject parcel, and interested public agencies. Public notice of this hearing appeared in The Dalles Chronicle on September 15, 2021. Wasco County received comments from:
 - 1. (Sep 9, 2021) Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW).

II. FINDINGS:

A. Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO)

Section 2.150 Appeal from Decision of the Director

- A. *Any action taken by the Director or the Director's designee in the interpretation, administration or enforcement of this ordinance shall be subject to review by the Planning Commission.*

FINDING: The decision under appeal, 921-19-000193 was initially reviewed and approved by the Director's designee. This appeal is brought before the Planning Commission for review on October 5, 2021. Staff finds that Section 2.150.A has been met.

- B. *Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the*

appeal shall not be heard and the contested decision shall become final. For expedited reviews, party status shall be given to any person.

FINDING: The appellant submitted comment during the full scenic area review and is presenting the case before the Planning Commission.

The Planning Commission may **approve or deny** the appellant as a party.

- C. *The Approving Authority may review the action of the Director upon receipt of a Notice of Appeal as prescribed in this section. For the purpose of this section, an appeal shall be filed with the Director no later than twelve (12) days for an expedited review and fifteen (15) days for all other reviews following the date of the decision or action of the Director. The decision of the Director may also be reviewed by the County Governing Body upon its own motion passed within twelve (12) days for an expedited review and (15) fifteen days for all other reviews following the date of the written decision sought to be reviewed if no appeal is filed. County Governing Body review shall be conducted pursuant to Section 2.170.*

FINDING: The appeal deadline for the Administrative Decision was July 9, 2021. The appeal was properly received and filed on July 9, 2021. Staff finds that Section 2.150.C has been met.

D. *Every Notice of Appeal shall contain:*

1. *A reference to the application sought to be appealed.*
2. *A statement as to how the petitioner qualifies as a party.*
3. *The specific grounds relied upon in the petition request for review.*
4. *The date of the final decision of the action.*
5. *The required fee, unless waived pursuant to Section 2.090.*

FINDING: The appeal was properly submitted on July 9, 2021, with the following: required fee, specific grounds relied upon in the petition request for review, a statement as to how the petitioner qualifies as a party, reference to the application being appealed, and the date of the final decision of the action. This was provided on the application materials and an additional sheet and is attached to the Planning Commission Packet as Attachment B. Additional evidence was provided on September 3, 2021 and is included as Attachment C.

To summarize the application, the appellant is a neighboring property owner and submitted comments in response to "initial application". The appeal application indicated the case being appealed was 921-19-000193-PLNG with an appeal deadline of June 9, 2021 and was being submitted on June 9, 2021.

Staff assumes the dates listed under the Appeal Deadline and Date Submitted were incorrectly written as June, as staff notation on the application indicates the appeal application was submitted on July 9, 2021.

The appellant lists the specific grounds for appeal as follows:

1. The Notice of Decision for 921-19-000193-PLNG did not match the Public Notice of Administrative Action because the Public Notice did not include the proposal for 900' of moveable electric fence. The appellant lists "other specific differences in the requests for agricultural structures".

2. The appellant cites “many inaccuracies and inconsistencies” in the staff report including:
 - a. Discrepancies with the 900’ electrical fence
 - b. Change between the Request and the Development Proposal in the number of animals in the application
 - c. Error in description of the land use of an adjacent parcel
 - d. Discrepancy in the length of the moveable electric fence
 - e. The number of parcels the subject parcel borders
 - f. The description of existing vegetative barriers
 - g. The description of the project in KVA analysis
3. 100’ setback of structures from property lines are insufficient, given the existing (or lack thereof) vegetative barriers.
4. Approval of fencing based on adverse impacts. The appellant cites a past development for this property as evidence.
5. Lack of a condition requiring preservation of oak trees.

E. Members of the Approving Authority shall neither:

1. *Communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; nor*
2. *Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.*

FINDING: The Planning Commission is asked in the initial part of the hearing to disclose any ex parte contact. At the October 5, 2021 hearing, Planning Commission members stated for the record: [insert ex parte disclosures]. Staff finds the criteria _____.

F. Appeal of an administrative decision to the Planning Commission shall be "de novo"; i.e., conducted as a new hearing before the public.

FINDING: Although the appellant did not indicate on the appeal application a request for a de novo hearing, based on the requirement listed in the criterion above staff has treated the appeal as de novo, advised both the applicant and the appellant that the hearing would be de novo, and explained the impact of a de novo hearing. Staff finds that Section 2.150.F has been met.

G. The review shall be accomplished in accordance with the Rules of Procedure adopted by the County Governing Body. The Approving Authority may continue its hearing from time to time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Approving Authority no additional notice need be given of continued hearings if the matter be continued to a certain date.

FINDING: To be made at the hearing. This review shall be accomplished in accordance with the Rules of Procedure adopted by the County Governing Body. The Planning Commission may continue the hearing “to gather additional evidence or to consider the application fully.” Proposed: The Planning Commission is not requiring a continuance. Staff finds Section 2.150.G is not applicable at this time.

H. All evidence offered and not objected to shall be received unless excluded by the Approving Authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to Oregon Revised Statutes 183.450 except as otherwise provided for herein.

FINDING: [To be made at the hearing. Proposed: The Planning Commission has received, and not rejected, all evidence of a quality that reasonable persons rely upon in the conducting of their everyday affairs.]

I. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan and Management Plan for the Columbia River Gorge National Scenic Area pursuant to 2.120(C).

- 1. For all cases the Approving Authority shall make a decision based on findings and conclusions from the record before it as justification for its action.*
- 2. The Director shall send a copy of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director.*

FINDING: [To be made at the hearing. Proposed: The Planning Commission affirms and modifies the decision of the Planning Director, based on the findings and conclusions from the record. The Planning Director will send a copy of the Planning Commission decision to all parties to the matter and a copy will be saved in the file records.]

B. Appeal Grounds

Appeal Grounds 1: *The Notice of Decision for 921-19-000193-PLNG did not match the Public Notice of Administrative Action because the Public Notice did not include the proposal for 900’ of moveable electric fence. The appellant lists “other specific differences in the requests for agricultural structures”.*

FINDING: The Staff report (Attachment E) and Notice of Decision with a decision date of June 24, 2021 (Attachment G) lists the application as including the following requests:

The Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats.

This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50’L x 40’W x 24’H)
- (2) Accessory Buildings (1,500 SF footprint, 50’L x 40’W x 24’H)
- (3) Agriculture Structures: approximately 5,000’ of 4’ H wire mesh fence (6’ fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900’ of moveable electric fence to protect a wetland; and a 50’ diameter moveable round pen.

- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

The last Public Notice of Administrative Action (Attachment H) provides the following description of requests:

Scenic Area Review of a 1,889 Square Foot (SF) (50'L x 40'W x 24'H), two story single family dwelling, a 1,500 SF (50'L x 30'W x 24'H) accessory structure for a shop and storage, and retroactive approval of an unlawfully placed well to be housed in a proposed 100 SF (10'L x 10'W x 12.5'H) pump house. The request includes a 4' H wire fence on the eastern portion of the property, 150' away from the identified wetland. The request also includes raising 12 goats on the property, and rotating them to different portions of the property on an annual basis. A 50' diameter portable round pen will also be utilized.

The Public Notice of Administrative Action, which was amended due to an updated application posted on the website, accurately reflects the application details and site plan (Attachment I). The original staff report indicates (Attachment E, page 23): "Staff also coordinated with the applicant to ensure that the wetland resource on the property would not be disturbed through the request, by placing the fencing outside of the wetland buffer".

The criteria in the National Scenic Area Land Use and Development Ordinance related to fencing is specifically for permanent or semi-permanent fencing. Fencing definitions reference built fences like stone, wood, or metal and do not include moveable pens or things like kennels.

Section 1.200, provides:

Fence, Protective - A fence at least six feet tall designed to restrict passage through the fence. A protective fence includes stockade, woven wood, chain link and others, but not split rail or primarily barbed wire.

Fence, Site-Obscuring - A fence consisting of wood, metal, or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

There are no standards for moveable objects, like moveable fencing, farm equipment, water troughs, feeders, recreational vehicles and so forth. The definition of agricultural structure lists permanent buildings or storage containers for the storage of farm equipment and supplies, but does not list the containment of livestock.

Section 1.200, provides:

Agricultural structure/building - A structure or building located on a farm or ranch and used in the operation for the storage, repair and maintenance of farm equipment, and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: Barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

As such, the standards for the moveable fencing are not addressed in the staff report because they are not subject to the same regulation as permanent or semi-permanent structures.

Based on that lack of standards to evaluate moveable objects, staff concluded moveable objects like the 900' of fencing are permitted without review and therefore not substantive to the application. Therefore, staff concludes it was immaterial for the moveable fence to have been noticed; its presence in the staff

report request portion served only to raise awareness that staff had advised it as a mitigation measure to reduce or eliminate wetland disturbance. **Staff recommends the Planning Commission dismiss this ground for appeal.**

Appeal Grounds 2: The appellant cites “many inaccuracies and inconsistencies” in the staff report including:

- a. *Discrepancies with the 900’ electrical fence*
- b. *Change between the Request and the Development Proposal in the number of animals in the application*
- c. *Error in description of the land use of an adjacent parcel*
- d. *The length of moveable electric fence was elsewhere cited as 1,000 feet.*
- e. *The number of parcels the subject parcel borders*
- f. *The description of existing vegetative barriers*
- g. *The description of the project in KVA analysis*

FINDING:

Appeal ground 2a. Staff has addressed a. in the finding for “Appeal Grounds 1” above, and **recommends the Planning Commission dismiss this ground for appeal.**

Appeal ground 2b. This appeal ground states that the number of animals has changed between the request and the development proposal. The staff report and notice of decision indicates 13 goats are proposed. The application (Attachment I) included a farm management plan that indicated the ultimate goal of having 12 female goats and one stud. The farm management plan indicated an expected four year timeline to reach the total maximum number of goats.

The farm management plan, according to the National Scenic Area LUDO, is required to include the following:

- *proof that the parcel is enrolled in a farm deferral program with the Wasco County Assessor;*
- *written description of the current and/or proposed farm operation that identifies the number of acres of land in production, type and number of acres planted to a specific crop;*
- *the current and/or proposed number of animals grazing or being raised on the farm parcel;*
- *existing and/or proposed farm structures (including irrigation sprinklers) supporting the farm use and existing water rights.*
- *description of the existing and/or proposed number of employees, including owners, working the farm parcel, and their responsibilities and the hours per week they will be principally engaged in the farm use.*
- *a map that shows the location of all current and/or proposed farm activities including but not limited to registered fields, grazing areas, areas dedicated to farm structures, acres and location of water rights (Farm Services Agency map); and*
- *a schedule of all proposed agricultural uses which shall be initiated within one year and complete within five years*

The purpose of the farm management plan is to verify that proposed agricultural buildings dwellings are approved in conjunction with agricultural use and in support of commercial agricultural activity.

An earlier iteration of the Farm Management Plan included 15 goats, five cows, and 15 chickens. This was revised to the current Farm Management Plan for 13 goats. This change reflects the reason for the scrivener's error between the request and the development proposal section of the staff report.

The number of animals is only important to the review insomuch as it demonstrates the farm use; the difference between 15 goats and 13 goats is insignificant to the review. **Staff recommends dismissal of grounds for appeal 2b.**

Appeal grounds 2c. This appeal ground relates to page 3 of the staff report "Surrounding Land Use." The appellant provides "staff report states that the land to the west is used for orchard. This is incorrect the immediate property to the west is oak woodland it is the property beyond this to the west that is orchard [sic]."

The staff report provided the following description of west adjacent properties:

"Property to the southwest, located north of Huskey Road is heavily vegetated with Oregon white oak trees. Property located to the west contains cherry orchard..." (Staff Report page 3).

For the purposes of neighborhood compatibility and other analysis, it is common for land use planners to consider properties that not only share a common property line, but also a common point. Land use planners also typically evaluate parcels across roadways because, in rural areas, roads are often owned by the adjacent property owner to the centerline of the road, and therefore the centerline of the road constitutes a common border. The purpose for expanding analysis beyond properties that share a common property line is to have a complete picture of compatibility and understanding neighborhood impacts. This is, in part, due to the requirement in the Management Plan for compatibility with adjacent uses.

Adjacent is not defined in the Management Plan or Wasco County Land Use and Development Ordinance, and so planners use the common dictionary definition of "Adjacent":

Merriam-Webster Dictionary

- a: not distant : NEARBY // the city and adjacent suburbs
- b: having a common endpoint or border // adjacent lots // adjacent sides of a triangle
- c: immediately preceding or following

(Merriam-Webster Dictionary: <https://www.merriam-webster.com/dictionary/adjacent>).

In the case of the Lopez development review, staff considered properties that not only share a common property line, but also a common point or are across Huskey Road (Attachment J). A property to the west, that shares a common point, is an orchard. Staff was not incorrect in identifying this property, albeit did not specify that its relationship to the subject parcel was based on a common point rather than a property line.

Staff recommends denial of grounds for appeal 2c.

Appeal grounds 2d. This appeal ground relates to the proposed electric fence. The appellant cites that the staff report finding on page 4 provides that the length of the fence is listed as 1,000 feet.

The staff report provided the following regarding the proposed movable/mobile electric fence:

"This proposal includes approximately... about 1,000' of temporary moveable electric fencing..." (Staff Report page 4).

Although the explicit language within the staff report provides for "about" 1,000 feet of mobile electric fence, it is clear that the listed amount of fencing within the staff report on page 4 is a scrivener's error, and as recommended above in appeal grounds b., is not critical to the analysis.

Staff recommends denial of ground for appeal 2d.

Appeal grounds 2e. This appeal ground posits the following: "that the subject parcel shares borders with 7. This is not accurate it shares a border with 3 parcels, and Huskey Road to the South."

For the purposes of neighborhood compatibility and other analysis, it is common for land use planners to consider properties that not only share a common property line, but also a common point. Land use planners also typically evaluate parcels across roadways because, in rural areas, roads are often owned by the adjacent property owner to the centerline of the road, and therefore the centerline of the road constitutes a common border. The purpose for expanding analysis beyond properties that share a common property line is to have a complete picture of compatibility and understanding neighborhood impacts. This is, in part, due to the requirement in the Management Plan for compatibility with adjacent uses.

Adjacent is not defined in the Management Plan or Wasco County Land Use and Development Ordinance, and so planners use the common dictionary definition of "Adjacent":

Merriam-Webster Dictionary

- a: not distant : NEARBY // the city and adjacent suburbs
- b: having a common endpoint or border // adjacent lots // adjacent sides of a triangle
- c: immediately preceding or following

(Merriam-Webster Dictionary: <https://www.merriam-webster.com/dictionary/adjacent>).

The end result of the staff report analyzing seven properties rather than three was a more thorough analysis with greater protections for agricultural use and neighborhood compatibility.

Staff recommends denial of ground for appeal 2e.

Appeal grounds 2f. Appeal ground f is related to vegetative barriers. Specifically, the appellant provides that the staff report: "goes on to say that there is vegetative barrier between the Lopez parcel and my parcel to the north...This is incorrect. There are 5 trees over the greater than 900 foot property line. This does not meet the Wasco County definition of a vegetative barrier." In Attachment C, the appellant provides a photograph which shows the cluster of oaks and provides "there is no vegetative barrier".

A vegetative screen, or vegetation barrier, is defined in Chapter 3, A-2 Zone under Section G.3.b.

Section 3.130 "A-2" Small Scale Agriculture Zone (GMA Only)

The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be 6+ feet high when planted and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate lot/parcel line(s), and be continuous.

This criterion does not define the thickness of vegetation, but rather the height, and requires trees to be at least 15 feet high. The trees in the photograph (Attachment C, labelled as Supplement B) appear to be well over 15 feet high. The term continuous is used in the criterion, but implies continuous to development rather than the property line.

Staff found that development, with the exception of the moveable round pen, would occur more than 500' from the property to the north. According to the detailed site plan (page 19 of Attachment I) the round pen does not run the length of the 940' property line to the north. Instead, it is in the northwest corner of the property, and measures 50' in diameter.

The proposed placement of the round pen is in the same corner where the stand of oak trees exists to the north. Staff found that the round pen's placement, in relation to the existing oak stand, offered the continuous vegetative screen to satisfy a reduction in the setback if it was necessary. According to GIS analysis, the existing oak stand measures 278.3 feet across, in a continuous cluster, providing a vegetative screen for the round pen. The continuous nature of the barrier is related to the development in question. In this case, the oak stand exceeds the length of the 50' barrier.

Furthermore, the requirement for a setback between an open or faced nonagricultural or agricultural use classified as "other" is 100', which the round pen meets. As indicated in the previous finding, the round pen is a moveable, non-permanent farm related implement used for holding animals and not generally subject to Scenic Area standards.

Based on all these findings, staff recommends denial of ground for appeal 2f.

Appeal grounds 2g. Finally, grounds for appeal g. provides that on page 13 of the staff report that: "The development sites are located at an elevation of approximately 680' above sea level (ASL). The primary factors in analyzing the visibility of the proposed kitchen/restroom building include the distance from KVAs, the use of dark earthtone colors on the building, existing backdrop of trees and the use of nonreflective materials."

There is no kitchen/restroom building provided for in the development proposal. Staff believes that this may be a cut/paste error from the prior Heltzel/Fuentes development proposal on this property.

This does appear to be an error, as no kitchen/restroom building is proposed in this application. However, staff did perform the Key Viewing Area, reflectivity, and topographic analysis based on the correct proposed structures, as clearly indicated in other portions of this finding and elsewhere in the report (See Pages 13-14, See also Pages 15-18 of Staff Report in Attachment E of this packet).

Regarding grounds for appeal 2g: **Staff recommends the Planning Commission acknowledge this error and except the modified findings for Section 14.200 Key Viewing Areas to be:**

Finding: Both the dwelling and the shop will be two stories with pitched roofs. The dwelling will have a cross gabled design and will be oriented east-west. They will be just east of the driveway closer to the southern property line (road) than the north. The western third of the property is covered in oak trees. Approximately 15 mature Ponderosa pine trees are scattered throughout the open field in the eastern two thirds of the property.

The development sites are topographically visible from the following Key Viewing Areas (KVAs):

- *Dwelling & Pump House: SR 14, the Columbia River, and Highway 30 W (Middle Ground);*
- *Accessory Structure: SR 14 and the Columbia River (Middle Ground);*

Middleground is defined as ¼ mile – 3 miles from the subject lot.

Section 14.200 is not applicable to portions of a KVA within an Urban Area (UA) identified by the Management Plan. The Urban Area identified in this request is Mosier, Oregon.

The development sites are located at an elevation of approximately 680' feet above sea level (ASL). The primary factors in analyzing the visibility of the proposed dwelling and agricultural structures include the distance from KVAs, the use of dark earthtone colors on the buildings, existing backdrop of trees and the use of nonreflective materials.

The land use designation (GMA, Large Scale Agriculture) and landscape setting (Oak Woodlands) in the project area requires a scenic standard of visually subordinate.

Visually Subordinate is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

Highway 30 W: The portion of this KVA located within the Urban Area (UA) of Mosier, Oregon, is not included in this review. The portion of the KVA located outside of the UA is located at an elevation ranging from 180-200 beginning approximately 1.4 miles north of the development site and is visible for a linear distance of approximately 0.4 miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Washington SR 14: This KVA is located at an elevation of 40-80' Above Sea Level (ASL), approximately 1.9 mile north of the development site. The site is sporadically visible among land forms for approximately 3.3 linear miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Columbia River: This KVA is located at an elevation of approximately 76' ASL (per Corps of Engineers flowage easement between The Dalles Dam and Bonneville Dam). The development site is located approximately 1.1 mile south of the Columbia River. The development site is topographically visible for 3.5 linear miles along the river, however existing on-site trees (background and foreground) and distance make it very difficult to see the development site from this KVA. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, the proposed development will be visually subordinate as seen from this KVA.

The applicant submitted colors for the proposed structures (dwelling, shop, round pen, and pump house) which are dark earth tone colors that blend with the surrounding area. Dark earth tone colors were not submitted, nor required, for the agricultural fencing as Section 3.110.B.1.a states: "a. In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less" and this 20.59 acre property is in the GMA.

Colors are addressed further in Section 14.200.I.

Reflectivity is addressed in Section 14.200.J.

Based on distance between the new development and KVAs, screening vegetation, and proposed colors and materials, with conditions proposed in Sections 14.200 I. and J., the proposed agricultural buildings and structures will be visually subordinate as seen from KVAs. Staff finds that the request complies with Criterion 14.200.A.

As the revised language does not represent a deviation from the recommended conditions, staff believes a modification of findings to be the most appropriate course of action.

The appellant concludes this section of grounds for appeal with the following statement: "These errors call into question the validity and the accuracy of the whole staffing report. Further it leaves potential respondents uncertain about what is being proposed and what is being approved and what the justification for the approval/conditions might be."

As staff has demonstrated, the errors or perceived errors represented as grounds for appeal are generally immaterial to the analysis and review of the request, and thus, an insufficient basis for reversal or remand.

Appeal Grounds 3: The appellant opposes the 100' setback from his property to the north, suggesting all development should be setback 250' from his property on the basis that: "Although my property is not currently being used for orchard activity it is agricultural activity that is most consistent with the agricultural uses of two neighboring properties to the west."

FINDING: The appellant did not supply additional information to indicate that any agricultural activity is occurring on his property to the north or support the claim that "it is most consistent with the agricultural uses of two neighboring properties to the west."

Staff relies on the clear and objective standard in the National Scenic Area criteria related to setbacks. All structures proposed in the development are more than 500' from the property line to the north. The exception is the 50' round pen, which is proposed to be 100' from the property line. The round pen is a moveable structure, which for reasons laid out by previous findings, is not generally subject to review. However, for the sake of being thorough and because it was listed in the staff report setback review, the round pen will be reviewed as if it is subject to setback standards.

Agricultural setbacks for the "A-2" Small Scale Agriculture Zone (GMA Only) are provided for in the Wasco County National Scenic Area Land Use and Development Ordinance Chapter 3, under Section 3.130.G Property Development Standards. (See NSA-LUDO Section 3.130.G.3 Agricultural Setbacks Page 3-39). The required criterion and listed setbacks are provided:

Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

These clear and objective standards require staff analyze the actual adjacent use. Because the appellant has not provided additional details or information about the actual farm use on his property, staff analysis has included review of aerial photography (Attachment J), analysis of GIS layers like the United States Department of Agriculture (USDA) Crop data, and a site visit.

A site visit was conducted during the initial application review and staff determined there was not currently an agricultural use on the property in question. Aerial photography shows this property is not planted as an orchard, cultivated for row crops or vegetables, harvested for grains, or in cultivation for berries or vineyards (Attachment J). The USDA Crop data lists the current use as “shrubland” (Attachment K).

Based on the best available data, staff finds the agricultural use on the appellant’s property is more consistent with “other” and as such, the 100’ setback is appropriate.

Staff recommends denial of this ground for appeal.

Appeal Grounds 4: *The fourth grounds for appeal are related to fencing being permitted in the oak woodland “because of its adverse affect on wildlife habitat.”*

FINDING: The appellant uses several arguments to suggest that fencing should not be allowed within oak woodland habitat.

In item a., the appellant states “Wasco county [sic] development standards in the national scenic area [sic] are required to ensure that new uses do not adversely affect sensitive wildlife areas and sites.”

Wasco County relies on the expert consultation of the Oregon Department of Fish and Wildlife to determine when proposed development represents potential for adverse effects. In a Nov. 4, 2020 email, Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW) stated: “It does not appear that the applicant is proposing to impact the oak habitat in this application, and with the proximity to town I do not see additional wildlife impacts. ODFW has no concerns.” Staff finds that the original finding, in consultation with ODFW, followed requirements to identify, mitigate and/or eliminate adverse impacts and that ODFW clearly stated they had no concerns related to fencing within the oak woodlands.

In part b. and c., the appellant uses neighbor comments from a prior property owner’s application that is unrelated to the application at hand. Land use reviews consider the property conditions, zoning, and proposed development against current regulations. The review does not include past proposals in making a decision unless submitted as evidence by the applicant. This is for multiple reasons including: findings related to a previous application may have been different because the material facts, proposed uses and development were substantially different; conditions may have changed; regulations may have changed; due process requires land use reviews are conducted de novo or “anew” except when specifically required to consider the full record or history of the property. In the case of Heltzel-Fuentes, referenced by the appellant, the application was for a horse boarding facility and other development inconsistent with the Lopez application and is immaterial to the Lopez proposal.

The appellant included information from an East Cascades Oak Partnership meeting to support ground for appeal c. The East Cascades Oak Partnership is a non-governmental consortium of various stakeholders who are developing a plan to preserve oak habitat in the region. The plan is not adopted, regulatory, or recognized by the Columbia River Gorge Commission as an official guidance document for reviews. These recommendations also do not mention or preclude fencing as the appellant implies.

In part d., the appellant elaborates on fencing standards. Wasco County Planning relies on the expert consultation of the Oregon Department of Fish and Wildlife to determine when proposed development

represents potential for adverse effects. As indicated above, the District Wildlife Biologist found no conflict with the proposed fencing and wildlife. Furthermore, staff reached out to ODFW with the appeal and to clarify ODFW had reviewed all the proposed fencing, including the 900' moveable fence proposed around the wetland to mitigate impacts. In a September 9, 2021 email (Attachment L), Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW) stated: "ODFW still does not have a concern regarding this proposal. We support the fencing of sensitive areas, such as a wetland area. While strand wire fencing is more hospitable to deer movement, in this scenario woven wire will not have an impact on the deer or elk, as there are no known migratory corridors within the area, and the proposed development is in an area already impacted by human presence, especially considering that within 1500 meters to the west is a large block of commercial orchards, and 1500 meters to the north lies the city of Mosier."

Impacts to the oak habitat were addressed through limiting the removal of trees on this property. The understory component within the area proposed for development is already impacted due to the previous land uses and adjacent human development.

Finally, in item e., the appellant again raises issues from a previous development proposal on the same property. As stated above, this information is irrelevant as it is based on a different development and agricultural use proposal.

Additional information was provided in Attachment C by the appellant which includes a snapshot of staff analysis from the Heltzel-Fuentes review and a report from the University of California Small Farm Center about goat farming in California. Appellant claims that the report's statement about the amount of pasture land required to raise a goat in California suggests 12 goats can be raised on a smaller amount of the parcel. However, the University of California Small Farm Center is relying on the high level of productivity of California's "fertile land" (Attachment C, page 26). Attachment K of the USDA Crop Data shows a mixture of shrubland and grassland/pasture land on the Lopez property, with soils ranging between class four and 8, according to NRCS soil data. Without knowing the average soil classification of a California goat farm, it's impossible to do detailed analysis on the comparison except to say that it is likely the acreage required on "fertile" California pasture land and a mixture of soils/land types in Oregon is different for the rearing of goats.

Staff recommends the Planning Commission dismiss these grounds for appeal.

Appeal Grounds 5: The appellant charges that the proposed fencing does not meet deer and elk winter range requirements for fencing.

FINDING: The applicant has demonstrated that the proposed use includes goats which require a woven wire fence for controlling. In a Nov. 4, 2020 email, Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW) stated: "It does not appear that the applicant is proposing to impact the oak habitat in this application, and with the proximity to town I do not see additional wildlife impacts. ODFW has no concerns." With no concerns for impact on deer and elk winter range from the proposed fencing, which has been demonstrated to be required for the proposed farm use of controlling goats, staff finds that the request complies with Criterion 14.600.C.2.

ODFW had the opportunity to review the proposed fencing and expressed no concerns. As allowed by the requirements, the applicant was able to demonstrate the need for the specific type of fencing which is alternative to the design standard and allowed an exception conditioned on the review of ODFW not finding any conflicts or having concerns. As indicated above, the District Wildlife Biologist found no conflict with the proposed fencing and wildlife.

Staff recommends the Planning Commission dismiss these grounds for appeal.

Appeal Grounds 6: *The appellant request a specific condition to require oak tree preservation.*

FINDING: The condition of approval to require retention of all on site conifers is related to criterion 14.200.K which is for new landscaping used to screen development from Key Viewing areas. The finding states that the existing conifer trees can be used to better achieve visual subordination, along with dark earthtone colors and non-reflective materials.

There are no other triggers for requiring tree preservation.

Staff recommends dismissal of this grounds for appeal but suggests the Planning Commission modify the condition to require preservation of all trees not impacted by wildfire or disease.



PLANNING DEPARTMENT

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Pioneering pathways to prosperity.

FILE NUMBER: PLAAPL- 921-19-000193
FEE: \$ 250

APPEAL OF LAND USE DECISION

ORIGINAL PLANNING DEPARTMENT FILE NUMBER: 921-19-000-193-PLNG

Date Received: 7/9/21 Planner Initials: BB Date Complete: _____ Planner Initials: _____

APPELLANT INFORMATION

Name: JOSEPH CZERNIECKI
Mailing Address: (LOCAL) 1059 QUARTZ DR, MOSIER OR
City/State/Zip: (RESIDENTIAL SEATTLE) 4232 BAGLEY AVE N, SEATTLE, 98103
Phone: 206 899 2179 Email: jczern@uw.edu

APPEAL INFORMATION

1. Appeal Type

- ☐ Administrative Decision to the Planning Commission: Fee = \$250
☐ Planning Commission Decision to the Board of County Commissioners: Fee = \$ _____

If appellant prevails at Planning Commission or a subsequent appeal, the \$250 fee for the initial appeal shall be refunded per ORS 215.416(11)(b). This is not applicable for any subsequent appeal costs.

2. Appeal Deadline: JUNE 9, 2021 4PM

Date Submitted: JUNE 9, 2021

All appeal documents filed with Wasco County must be delivered to the Wasco County Planning Department Office by postal service or in person. Documents faxed are not considered filed. An appeal will not be considered timely unless received no later than 4:00 p.m. on the deadline stated on the Notice of Decision or Resolution. AN APPEAL IS NOT CONSIDERED COMPLETE UNTIL BOTH THE SIGNED NOTICE OF APPEAL AND FILING FEE ARE RECEIVED.

3. Party Status: State how the petitioner(s) qualifies as a party to this matter:

NEIGHBORING PROPERTY OWNER / SUBMITTED COMMENTS
IN RESPONSE TO INITIAL APPLICATION

Party includes the following:

- The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.
- All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.
- A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.
- Any affected unit of local government or public district or state or federal agency.
- Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)

4. Grounds for appeal: List the **specific** grounds relied upon in the petition request for review (e.g. ordinance criteria not met, procedural error, etc.) Additional pages may be attached.

(see attached)

5. De Novo vs. On The Record: All appeals to Planning Commission are De Novo meaning new information can be entered into the record. All appeals to the Board of Commissioners are on the record unless a request is made as part of this request by party filing the petition. Any other party must make such a request no more than seven (7) calendar days after the deadline for filing a petition for review has expired.

The appeal is to the Board of Commissioners?

☒ NO ☐ YES

I request the hearing to be De Novo or partial De Novo?

☐ NO ☐ YES

State the reasons you are requesting a De Novo or partial De Novo without addressing the merits of the land use action:

Indicate any persons known to be opposed to a request for a De Novo hearing.

When practicable, the requesting party shall advise the other parties and attempt to gain their consent.

I have attempted to gain the consent of the other parties associated with this file? ☐ NO ☐ YES

If you answered no indicate why this is not practicable. If you answered yes list the parties who have consented for this to be a De Novo or partial De Novo hearing.

The request for a De Novo hearing for appeal of a quasi-judicial plan amendment shall be decided by the Board of Commissioners as a nonpublic hearing item, except that the Board may make such provision for notice to the parties and may take such testimony as it deems necessary to fully and fairly address significant procedural or substantive issues raised. The Court shall grant the request only upon findings that:

- A De Novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
- The substantial rights of the parties will not be significantly prejudiced; and
- The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

5. Outstanding Appeal Fees: Any person wishing to appeal any decision shall be required to pay all outstanding appeal fees prior to their appeal application being considered complete.

List prior appeals filed:

I have paid all outstanding fees associated with prior appeals: N/A ☐ NO ☐ YES

SIGNATURES

Name, Title

Date

Name, Title

Date

Additional petitioner(s):

Name

Address

Name

Address

Name

Address

Name

Address

P:\Development Applications\Appeal_Decision.doc

Last updated 3/9/2017

Joseph Czerniecki

Re: Appeal of proposed Adrian Lopez development – Application number 921-19-000193-PLNG

First of all I would like to complement Adrian for all of his work on amending the application. The amended version has gone a long way to addressing the majority of my concerns.

The first two appeals A and B below relate to the Notice of Decision and the Staff Report related to this development application. Both of these documents have so many errors that will lead to confusion and probable downstream errors of interpretation that they should be re-written.

- A. The Notice of Decision should be remanded for correction and resubmitted to all involved parties.
 - a. The current notice of decision includes a request that does not match the Public Notice of Administrative action dated June 3,2021
 - i. This leads to confusion and ambiguity about what is being requested and what is being approved.
 - ii. Specifically, the Amended Request (June 3,2021) does not include 900' of electric fence while the Notice of Decision (June 24,2021)states that the request includes 900' of moveable electric fence.
 - iii. It also includes other specific differences in the requests for agricultural structures
 - iv. This error will lead to potential downstream conflict.
- B. The Staff Report should be remanded for modification and correction – there are so many inaccuracies and inconsistencies that there are questions about the overall validity of the report. It also leaves open to ongoing confusion about what is being requested and what is being approved. It also limits the ability of neighbors and other agencies to adequately respond to the development application.
 - a. Page 1. The description of the development states that the proposed development includes 900 ft of moveable electric fence – this was present in the initial application but was not specified in the amended application. The amended application indicates a blue color coding for only 4' MESH fence in all areas including that which runs north/south protecting the wetland in the eastern portion of the property.
 - b. Page 2. Background – staff report states that the proposed agricultural use of the Lopez property is 5 cows, 15 goats and/or sheep. This is not consistent with the amended application which states that the agricultural use will be for 12 goats.
 - c. Page 3. D. Surrounding land use – staff report states that the land to the west is used for orchard. This is incorrect the immediate property to the west is oak woodland it is the property beyond this to the west that is orchard.

- d. Page 4. Finding – the extent of moveable electric fence has now changed to 1,000 ft. – once again moveable fence is not included in the amended application.
- e. Pages 5-6. Finding- the subject parcel shares borders with 7 parcels. This is not accurate it shares a border with 3 parcels, and Huskey Road to the south.
- f. Pages 5-6 – goes on to say that there is vegetative barrier between the Lopez parcel and my parcel to the north. “To the north, one property contains approximately eight acres of land that is not currently farmed, but is suitable for future farm use. Without a barrier, orchards are protected by a 250’ setback. With a barrier, orchards are protected by a 100’ setback. The property to the north contains an oak woodland that creates a natural vegetative barrier and thus only require a 100’ buffer.”
 - i. This is incorrect. There are 5 trees over the greater than 900 foot property line. This does not meet Wasco County definition of a vegetative barrier.
- g. Page 13 – The staff report includes the statement “The development sites are located at an elevation of approximately 680’ feet above sea level (ASL). The primary factors in analyzing the visibility of **the proposed kitchen/restroom building** include the distance from KVAs, the use of dark earthtone colors on the buildings, existing backdrop of trees and the use of nonreflective materials. “
 - i. There is no kitchen/restroom building in the development proposal. I believe this may be a cut/paste error from the prior Hetzel/Fuentes development proposal on this property.
 - ii. These errors call into question the validity and the accuracy of the whole staffing report. Further it leaves potential respondents uncertain about what is being proposed and what is being approved and what the justification for the approval/conditions might be.

Regarding the proposed development; I have a number of additional points of appeal related to the decisions that were reached regarding this development.

- C. I am appealing the decision to only have a 100’ setback of all structures from my property. Currently there is a roundpen (agricultural structure) that was put into place approximately 100’ from the property line adjacent to my home.
 - i. This proposed decision is based upon the following finding.
 - 1. **“FINDING:** The subject property shares borders with seven other properties. To the west, an adjacent property is currently farmed as a commercial orchard on the other side of a vegetative barrier (oak trees). To the north, one property contains approximately eight acres of land that is not currently farmed, but is suitable for future farm use. Without a barrier, orchards are protected by a 250’ setback. With a barrier, orchards are protected by a 100’ setback. The property to the north contains an oak woodland that creates a natural vegetative barrier and thus only require a 100’ buffer.”
 - ii. The definition of vegetative barrier in the NSA development ordinance is:
 - 1. The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be 6+ feet high when planted

and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate lot/parcel line(s), and be continuous.

- iii. There are currently 5 trees that separate our parcels over a 900+ foot property line. This does not meet the definition of a vegetative screen. The setback distance to my property therefore should be 250'. Although my property is not currently being used for orchard activity it is agricultural activity that is most consistent with the agricultural uses of two neighboring properties to the west.

D. I am also appealing the decision to allow fencing in the oak woodland because of its adverse effect on wildlife habitat

- a. Wasco county development standards in the national scenic area are required to ensure that new uses do not adversely affect sensitive wildlife areas and sites.
- b. In the prior development application on this property (Hetzel/Fuentes 921-18-000017-PLNG) in 2018 there were extensive comments by the neighboring property owners that the protection of habitat was important for wildlife. The Wasco County Development staff made a finding that this property includes wildlife habitat. Below is a map of the subject parcel developed by the Wasco County Development staff.

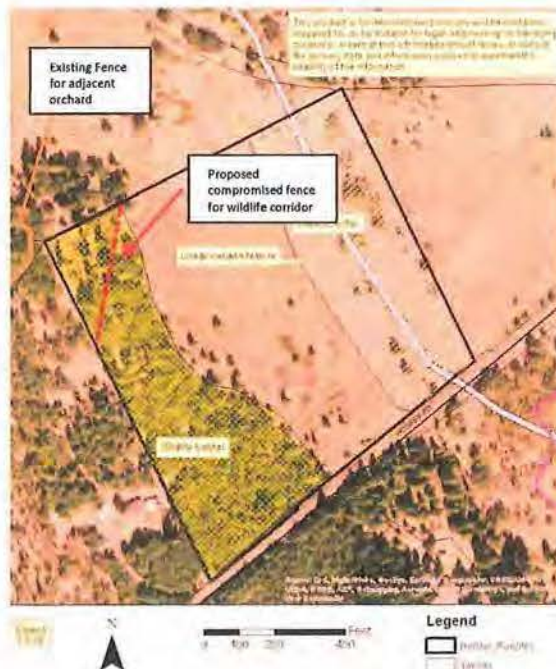


- c. This wildlife habitat is primarily oak woodland. The recommendation after appeal of the (Hetzel/Fuentes 921-18-000017-PLNG) application was that this woodland was an

important wildlife corridor. This is supported by the priorities of the East Cascades Oak Partnership which was referenced in the Mosier Watershed Council meeting (see Appendix A)

- d. Wasco County Development standards in the National Scenic area require:
 - i. *New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson et. al. 1990), as summarized below, unless the project applicant demonstrates the need for an alternative design:*
 - ii. *To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.*
 - iii. *The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.*
 - iv. *The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.*
 - v. *Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.*
- e. **From Hetzel/Fuentes application 2 years prior staff findings included:**
 - i. **FINDING:** As stated in a. above, the grove of oak/pine trees cannot be removed to increase the amount of land available for the horse boarding operation.
 - ii. **FINDING:** Approximately 6.6 acres of the western portion of the property is located in Oregon white oak trees and is considered to be wildlife habitat.
 - iii. **FINDING:** The purpose of this section is to ensure that new uses do not adversely affect sensitive wildlife areas and sites. The proposed horse boarding facility will result in the creation of four buildings: a barn, a round pen, a loafing shed, and an equipment shed. The southwestern 1/3 (approximate) of the subject lot contains Oregon white oak, an important wildlife habitat for big game.
 - iv. Report of contact included the following:
 - 1. Staff contacted Mr. Thompson again by e-mail on August 2, 2018, and inquired about whether the proposed fencing would allow wildlife passage. The fence will be constructed with wooden posts and smooth wire with a hot top wire. Mr. Thompson replied by email on August 2 2018 and stated: *"I prefer smooth wire, and a tophot wire is no impact."*

- E. The Farm Management Plan included by Mr. Lopez suggests that the fencing is necessary to contain livestock. The proposed fencing does not meet the above noted requirements for preservation of deer and elk winter range. This is in conflict with the preservation of the western fenced area as a wildlife corridor



- a. The importance of maintaining wildlife corridors is being increasingly recognized as important for the preservation of both habitat and the animal species who reside there. Because of this conflict between agricultural use and preservation of deer and elk winter range the best compromise would be to modify the fencing location to allow for a wildlife corridor. As indicated on the figure above. This would allow deer and elk to move freely between adjacent properties, without significant loss of the proposed use of the property for raising 13 goats.
- F. The final area of appeal is that there should be a specific condition that requires preservation of the oak trees in the oak woodland portion of the property.
- a. The conditions in the decision specify the preservation of existing conifer trees on the subject parcel but do not specifically state that the oak trees in the oak woodland must be preserved.
 - b. They should be preserved for both wildlife protection and for reducing the visibility of the proposed structures.
 - c. According to NSALUDO 14.200 The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes.

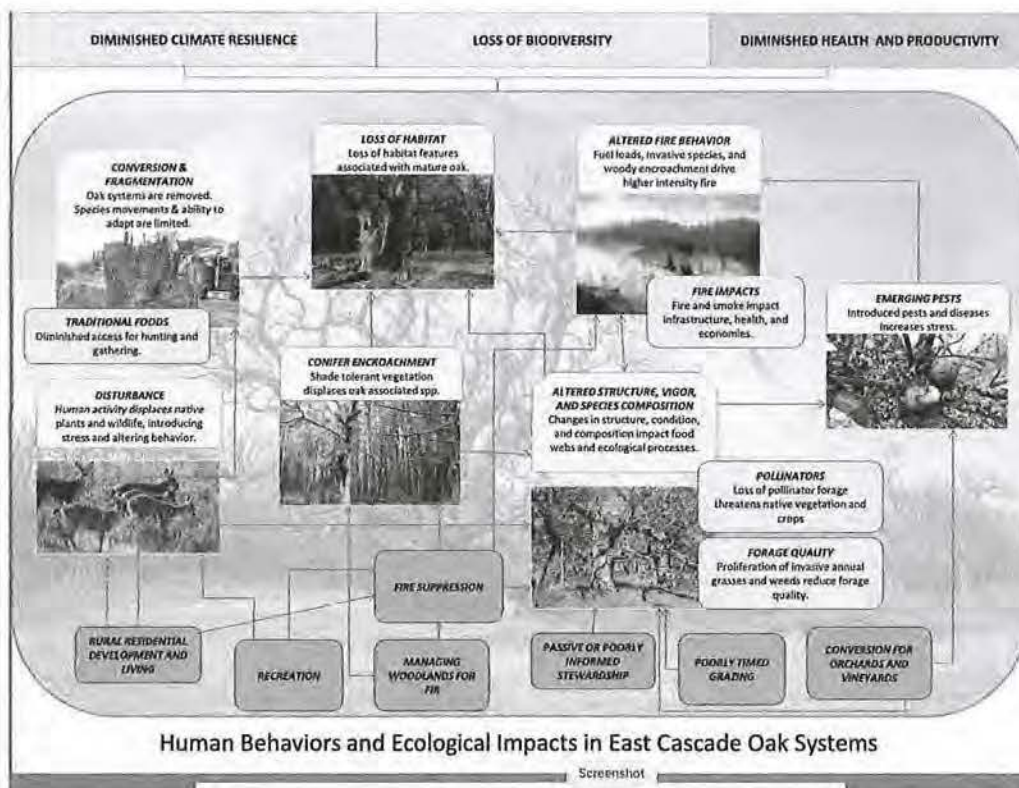
Appendix A:

East Cascades Oak Partnership update for September 2020 Watershed Council meeting

The East Cascades Oak Partnership (ECOP) is a group of people collaborating to leverage resources, share knowledge, and implement conservation strategies that will help protect vulnerable oak habitats, encouraging more sustainable human interactions and improving outcomes for people, oaks and wildlife. The partnership recognizes that relationships between public, private, tribal and nonprofit organizations and individuals are essential to protecting and restoring oak habitats in the region.

Over the past three years ECOP has been working on the development of a strategic action plan. The strategic plan effort has the support of over 150 partners, representing 29 public and private organizations and businesses, as well as dozens of private land owners. The result of the strategic planning process is that partners have agreed to focus our strategies around five high priority actions that are guiding the future direction of the group.

1. Protect the most intact, functional oak systems, connectivity and climate resiliency corridors on the landscape and manage for ecological stewardship
2. Establish and distribute best management practices to support positive outcomes in oak systems while advancing other private landowner management goals.
3. Develop conservation projects on a strong research, monitoring, and adaptive management framework.
4. Advocate for oak systems experiencing fir encroachment in existing fuels reduction program funding allocations, expand funding and partner capacity to implement release activities
5. Build and expand outreach and incentive programs that support oak system stewardship by rural residential landowners in core conservation areas, connectivity corridors, and buffers.



**Supplement A: History of Non-compliance:
Photographic documentation to supplement prior comments**

Figure 1. Round Pen, Shed



Figure 2. Shed



Figure 3. School bus parked for months without approval for a parking area



Supplement B: Photographic Documentation which supports the absence of a vegetative barrier.



View south to Lopez Development from the edge of my parking area which corresponds to our adjacent property boundaries. There is no vegetative barrier.

Figure illustrating the property line and the absence of a vegetative barrier between the Czerniecki and Lopez properties.



Supplement C: Documentation to support the feasibility and advantage of wildlife corridor

1. Supplement to my prior comments about a wildlife corridor.
2. The proposed development is in deer/elk winter range and has been determined to be wildlife habitat by Wasco County Development staff on previous Fuentes application.



3. The proposed development includes fencing design which is not allowed under current standards for deer elk winter range.
4. The proposed fencing is being approved to meet agricultural requirements
5. The proposed fencing is unnecessary to meet agricultural requirements
6. This is supported by:
 - a. Accompanying UC Small Farm Center Research Report SFCRR2005-01
 - b. Excerpt from page 5 of Report see highlighted below
 - i. Indicates the proposed 12 goat farm can be financially and functionally viable if an unfenced wildlife corridor is retained

ments. An average California meat goat farm of 24 goats can be raised on 5 to 10 acres of pasture land and can fit into more than 62 percent of the farms in California, contributing to the diversity of these small farms.

Figure 1. Wasco County map illustrating existing fencing (blue), proposed fencing (orange), and recommended fencing to preserve corridor (pink)



Outlook for a Small Farm ◀ Meat Goat Industry for California



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University of California Small Farm Center
Research Report SFCRR2005-01

February 2006 (Revised)





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UC Small Farm Center Research Report SFCRR2005-01

This report was edited by
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Photographs courtesy of
John Gonzales of Rocky Spot Ranch.

Layout by Natalie Karst.

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Introduction ◀

Goats are the most popular domesticated animals in the world and goat meat and milk are the most widely consumed animal products. Goats are popular with small holders because of their efficient conversion of feed into edible, high quality meat, milk, and hide. Goats are also used as a holistic tool for land vegetation management and fire fuel-load control. With proper grazing management, goats can eliminate noxious weeds, restore native grasses, and prevent fire through fuel-load reduction.

In the United States, meat goat production has been gaining in popularity in recent years thanks to several factors, including growing populations of ethnic groups that favor goat meat and

faith-based consumers who prefer it. National estimates based on import data indicate that the U.S.'s supply of goats is deficient—more than 500,000 additional goats are required to meet the country's current demand for goat meat.

California, with its large ethnic populations and many faith-based consumers, has great potential for meat goat production. A small herd of meat goats can be produced on 10 to 15 acres of pasture land and can fit into more than 60 percent of California's farmsteads, enhancing small farm diversity and profitability. Goat meat is also lean and healthy and can play a major role in the diet of health-conscious Californians.

All photos are courtesy of John Gonzales of Rocky Spot Ranch and are used by permission.





Present Status of the Goat Industry in the U.S. and California ◀

Changes in Farms and Farming Acreage

According to the U.S. Department of Agriculture's (USDA's) 2002 census, the total number of U.S. and California farms and the land area devoted to farming have decreased. However, average acres per farm and total dollars produced per acre of farm land have increased in the U.S. and especially in California (Table 1). California farmers produce on average three times the dollar value per acre as those in the rest of the U.S., and this is partially due to the creativity and diversity of small farms in California. Meat goats, as small grazing units, can quite appropriately fit into California's farming structure and add more diversity to farming—justified by the increase in the percent of the population that consumes goat meat.

The majority of farms in California are small farms. Around 62 percent of California farms are less than 50 acres, 72 percent are less than 100 acres, and 80 percent are less than 180 acres in size (Table 2).

According to the USDA census (2002), while the number of acres in total woodland, pasture land and range land decreased from 1997 to 2002, the number of farms claiming woodland, pasture land, and range land increased (Table 3). This could be an indication that more small farms are utilizing grazing and browsing animals. Especially in California, more small farms seem to be utilizing pasture and range lands that are appropriate for goat production (goats being browsers).

Status of Goat Farms in the U.S.

According to USDA's census (2002), the number of goat farms in this country increased by more than 19 percent while there was a 12 percent increase in the goat population from 1997 to 2002; however, the number of farms that sold goats increased by more than 45 percent and goat sales were up more than 55 percent (Table 4).

During the same period, the number of angora goat farms declined along with a decrease of about 63 percent in the number of angora goats. The number

► Table 1. Farms' status changes from 1997 to 2002 in the U.S. and California

	U.S.		California	
	1997	2002	1997	2002
Number of Farms	2,215,876	2,128,982	87,991	79,631
Area in Farming (acres)	954,752,502	938,279,056	28,795,834	27,589,027
Average Farm Size (acres)	431	441	327	346
Dollars per Acre	967	1,213	2,643	3,526

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.



► Table 2. California farm size (acres) and numbers

Farm Size in Acres	Number of Farms	Percent of Farms	Accumulated Percent
1–9	21,827	27.4	27.4
10–49	27,307	34.3	61.7
50–69	4,143	5.2	66.9
70–99	4,044	5.1	72.0
100–139	3,505	4.4	76.4
140–179	2,664	3.3	79.7
>180	16,141	20.2	99.9

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.



► Table 3. Farms (acres) with woodland and pasture land

	U.S.		California	
	1997	2002	1997	2002
Total Woodland				
Number of Farms	858,438	818,105	4,944	5,136
Number of Acres	76,854,833	75,878,213	1,213,093	1,191,484
Woodland Pasture				
Number of Farms	402,490	379,795	2,183	2,534
Number of Acres	31,078,705	31,128,955	706,996	679,384
Pasture and Range				
Number of Farms	645,548	850,913	15,890	18,053
Number of Acres	398,232,125	395,278,829	15,021,823	13,987,763
Pasture, All Types				
Number of Farms	1,429,638	1,384,798	26,941	26,462
Number of Acres	495,699,214	486,965,589	17,067,865	16,012,506

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

► Table 4. Changes in all goat farms from 1997 to 2002 in the U.S.

	1997	2002
Number of Farms	76,543	91,462
Number of Goats	2,251,613	2,530,466
Number of Farms that Sold Goats	29,937	43,495
Number of Goats Sold	843,773	1,314,310

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.



of farms that sold angora goats declined as well, with a decrease exceeding 61 percent in the number of angora goats sold (Table 5). The number of farms that sold mohair declined by more than 36 percent with more than 54 percent less mohair sold (Table 6).

By contrast, the number of dairy goat farms increased by 45 percent with a more than 52 percent increase in the number of dairy goats in the U.S. from 1997 to 2002. The number of dairy farms that sold goats increased by 71 percent with a more than 57 percent increase in the number of goats sold (Table 7).

► Table 5. Changes in angora goat farms from 1997 to 2002 in the U.S.

	1997	2002
Number of Farms	5,485	5,075
Number of Goats	829,263	300,753
Number of Farms that Sold Goats	1,883	1,662
Number of Goats Sold	238,674	91,037

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

► Table 6. Changes in mohair production from 1997 to 2002 in the U.S.

	1997	2002
Number of Farms that Sold Mohair	3,826	2,434
Pounds of Mohair Sold	5,287,312	2,416,376

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

► Table 7. Changes in dairy goat farms from 1997 to 2002 in the U.S.

	1997	2002
Number of Farms	15,451	22,389
Number of Goats	190,588	290,789
Number of Farms that Sold Goats	5,163	8,850
Number of Goats Sold	72,307	113,654

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

► Table 8. Changes in meat goat farms from 1997 to 2002 in the U.S.

	1997	2002
Number of Farms	63,422	74,980
Number of Goats	1,231,762	1,938,924
Number of Farms that Sold Goats	24,539	36,403
Number of Goats Sold	532,792	1,109,619

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

The number of meat goat farms increased by 18 percent with a more than 57 percent increase in the number of meat goats (Table 8). The number of farms that sold meat goats increased by 48 percent with a more than 108 percent increase in meat goats sold from 1997 to 2002. While there was a drastic reduction in angora goat numbers (530,000) and sales, the increase in the total goat population (more than 250,000) in the U.S. can be attributed partially to a small increase in the number of dairy goats (more than 100,000) and a major increase in the number of meat goats (more than 700,000). The 71 percent increase in the number of goats sold by dairy goat farms also may have contributed to the meat goat supply.



► Table 9. Profile of the goat industry in the U.S. and California

	U.S.		California		
	Number	Percent	Number	Percent	Rank
All Goats	2,530,466	100.0	103,122	100.0	3
Meat Goats	1,938,924	76.6	61,241	59.4	6
Milk Goats	290,789	11.5	37,343	36.2	1
Fiber Goats	300,756	11.9	4,538	4.4	4

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

Status of Goat Farming in California

The 2002 agricultural census for California reported 4,256 farms that had sales of sheep and goat products worth \$52.4 million, whereas the U.S. reported 96,249 farms with sales of \$541.7 million. California claimed 4.4 percent of U.S. farms with a 9.7 percent contribution to sales of sheep and goat products.

Goat Numbers

California, with more than 103,000 goats, ranks third in the total number of goats after Texas and Tennessee according to USDA's 2002 census (Table 14). More than three-quarters of the U.S.'s goats are meat goats. Meat goats account for 60 percent, milk goats for 36 percent, and fiber goats for 4 percent of the goats in California. For dairy goats, California, with more than 37,000, ranks first; the state's more than 4,500 fiber goats rank the state fourth; and its more than 61,000 reported meat goats place it sixth in the nation. Tables 10, 11, 12, and 13 clearly indicate that California is a leading state for goat production and that there is great potential for the meat goat industry to grow in this state.

Goat Herd Size

The average size of goat herds in the U.S. is higher for fiber goats, followed by meat and dairy goats. Fiber goats are mainly

concentrated in large herds in the hot, dry climates of Texas, Arizona, and New Mexico. Dairy goats are located mainly in cooler environments such as those found in California and Wisconsin. Meat goats are the most widely distributed across the United States, which is an indication of their adaptability to different environments. An average California meat goat farm of 24 goats can be raised on 5 to 10 acres of pasture land and can fit into more than 62 percent of the farms in California, contributing to the diversity of these small farms.

Goat Meat Imports

As shown in Table 15, in 2003 the U.S. imported 77.5 million kilograms of mutton and goat meat, up 54.4 percent from 50.2 million kilograms in 1999. Imports were valued at \$353.2 million, up 93.7 percent from \$182.3 million in 1999. The main exporters to the U.S. are Australia, which has about a 66 percent share, and New Zealand, which has about a 34 percent share.

Figures 1 and 2 show changes in goat meat imports and dollars spent from 1999 to 2003. Goat meat imports in 2003 alone were 8.46 million kilograms (valued at \$21.48 million), an increase of 151 percent from the 3.36 million kilograms imported in 1999. The value of goat meat imports



► Table 10. Top ten states for the number of all goats in 2002

	Farms	Goats
U.S.	91,462	2,530,466
Texas	17,411	1,194,289
Tennessee	5,268	114,664
California	3,542	103,122
Oklahoma	3,560	82,792
Georgia	2,975	69,498
Kentucky	3,471	68,412
North Carolina	3,546	67,276
Alabama	2,259	50,574
Missouri	2,411	48,654
Ohio	4,014	45,061

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

► Table 12. Top ten states for the number of milk goats in 2002

	Farms	Goats
U.S.	22,389	290,789
California	1,301	37,343
Wisconsin	668	25,900
Texas	1,703	22,569
Ohio	1,358	14,420
New York	1,146	12,822
Pennsylvania	1,082	12,652
Michigan	843	8,935
Missouri	749	8,656
Iowa	447	8,524
Oklahoma	865	8,389

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

► Table 11. Top ten states for the number of meat goats in 2002

	Farms	Goats
U.S.	74,980	1,938,924
Texas	16,145	941,783
Tennessee	4,758	107,211
Oklahoma	3,006	73,302
Georgia	2,786	66,018
Kentucky	2,979	61,618
California	2,613	61,241
North Carolina	3,111	58,993
Alabama	2,042	47,270
South Carolina	1,943	37,985
Missouri	1,852	37,515

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

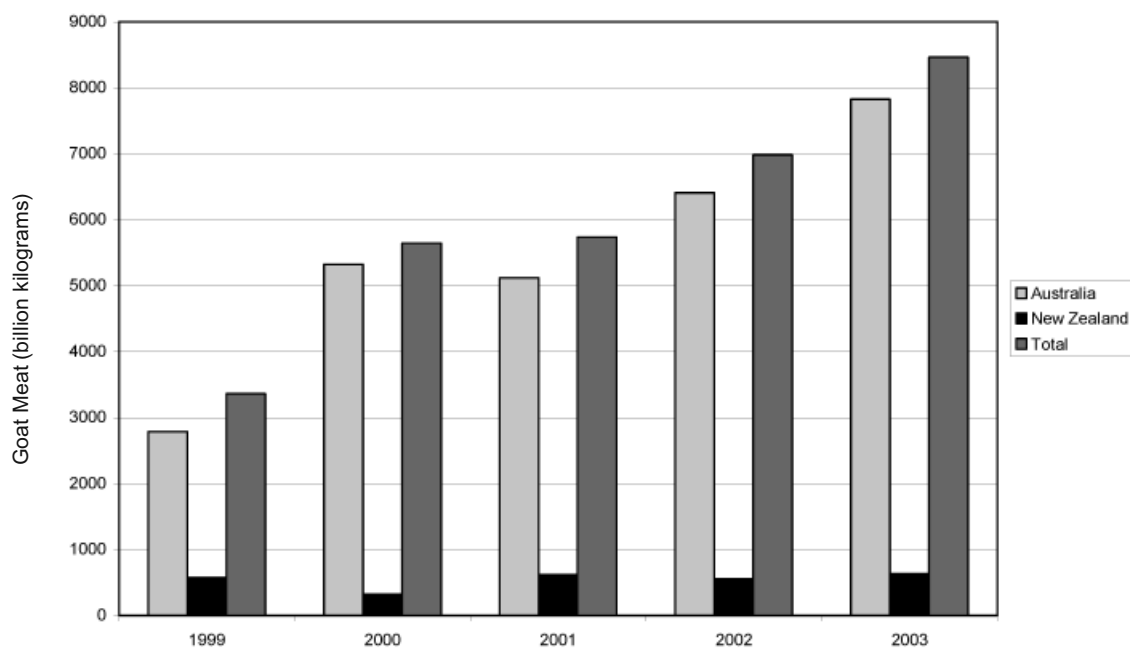
► Table 13. Top ten states for the number of fiber goats in 2002

	Farms	Goats
U.S.	5,075	300,756
Texas	908	229,937
Arizona	53	27,905
New Mexico	98	7,059
California	246	4,538
Missouri	154	2,483
Ohio	253	2,202
Oregon	257	2,156
North Carolina	161	1,571
Michigan	145	1,374
Virginia	124	1,164

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

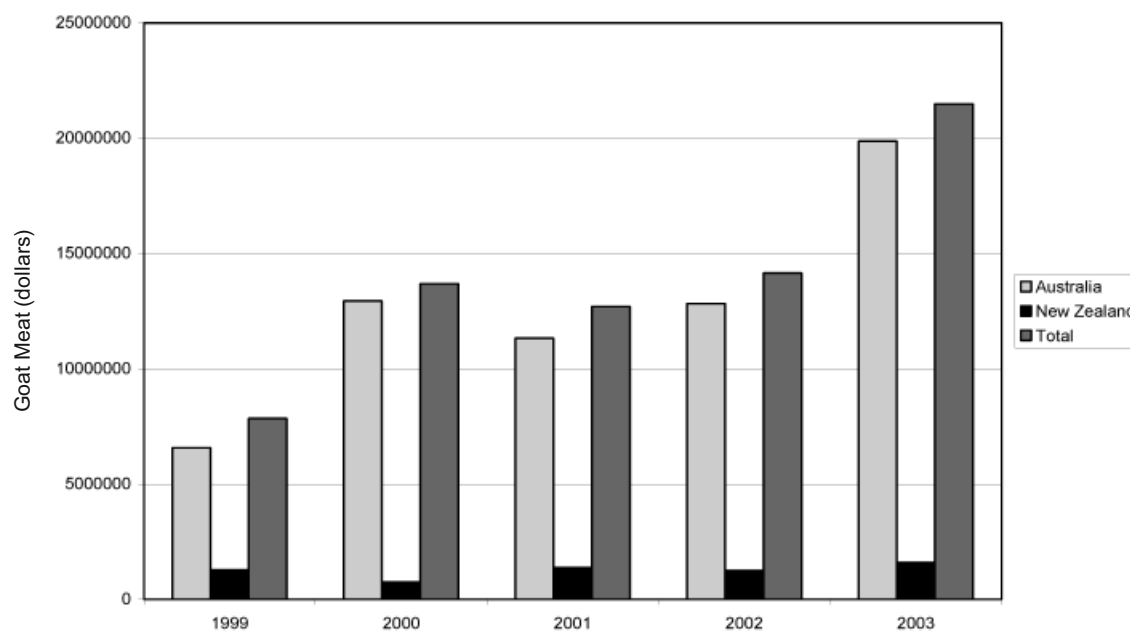


► Figure 1. Changes in goat meat imported to the U.S. from 1999 to 2003



Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.

► Figure 2. Changes in total dollars spent on goat meat from 1999 to 2003 in the U.S.



Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.



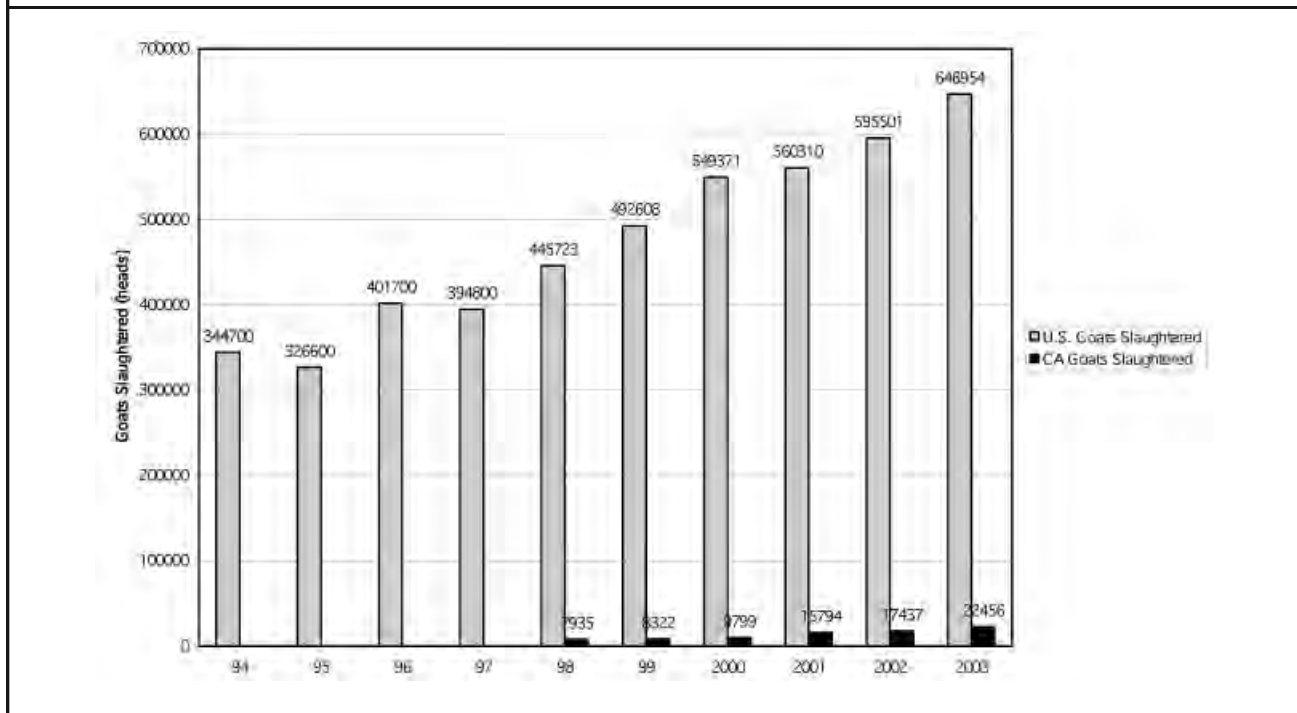
► Table 14.

Average size of goat herds in the U.S. and top ten states for meat, milk, and fiber goats

	All Goats	Meat Goats	Milk Goats	Fiber Goats
U.S.	28	26	13	60
Texas	69	59	14	254
Tennessee	22	23	—	—
California	29	24	29	19
Oklahoma	24	25	10	—
Georgia	24	24	—	—
Kentucky	20	21	—	—
Wisconsin	—	—	39	—
Ohio	11	—	11	9
New York	—	—	11	—
Arizona	—	—	—	527

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.

► Figure 3. Goats slaughtered in USDA-inspected plants in the U.S. and California from 1994 through 2003



Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.



represented an increase of 174 percent from \$7.85 million in 1999. As the figures indicate, there was a sharp increase in goat meat imports and dollars spent for goat meat, especially from 2002 to 2003. This trend is likely to continue unless there is an increase in domestic production.

Goats Slaughtered in USDA-Inspected Plants

The number of all goats slaughtered at federally inspected plants increased by 45.1 percent between 1998 and 2003, and there was a much greater increase in slaughters reported in California—183 percent (Table 16). No slaughter data were reported for California prior to 1998. The number of meat goats slaughtered has shown solid increases since 1998 and will



continue to increase due to a number of factors promoting meat goat production, especially in California (Figure 3). It also

► Table 15. U.S. goat meat and mutton imports and their value

	1999	2003	Percent Change
Goat Meat and Mutton			
Imports in Million Kilograms	182.30	353.20	93.7
Goat Meat Only			
Imports in Million Kilograms	3.36	8.46	151.0
Value in Million Dollars	7.85	21.48	174.0

Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.

must be noted that the meat goat industry in general and especially in California is in its infancy; therefore, many on-farm slaughters are not reported. For every goat slaughter reported, one can assume that others have not been reported.

► Table 16. Goats (number) slaughtered at federally inspected plants in the U.S. and California

	1998 ^a	2003	Percent Change
U.S.	445,723	646,954	45.1
California	7,935	22,456	183.0

^a First year that data were reported for goats in California.
Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.



Factors That May Affect Goat Meat Consumption ◀

U.S. Population Changes with Special Reference to California

According to the 2000 U.S. census, the number of foreign-born people in the U.S. has risen 57 percent since 1990—from 19.8 million to 31.1 million—and continues

1950 and 2000, the Southern share of the population increased from 31 percent to 36 percent; for the West, it increased from 13 percent to 22 percent; and for the Midwest, it dropped from 29 percent to 23 percent (Table 18).

► Table 17. U.S. population changes by ethnic/cultural group with projections to 2050

	2000	Percent	2005	Percent	2050	Percent
Total	281,421,906		295,507,000		419,854,000	
Asian	10,242,998	3.6	12,419,000	4.2	33,430,000	7.9
Black	34,658,190	12.3	38,056,000	12.9	61,361,000	14.6
Hispanic	35,305,818	12.5	41,801,000	14.1	102,560,000	24.4

Source: U.S. Census Bureau, *U.S. Census 2000*.

to increase on an upward trend that started in 1970. Of those born outside the U.S., 51.7 percent are from Latin America and 26.4 percent are from Asia. With this shift in geographic origins, there has also been a major change in regional settlement in the U.S. The number of foreign-born individuals living in the West and South rose from 37.7 percent in 1990 to 65.5 percent in 2000. The U.S. Hispanic population increased at a fast rate and will exceed 100 million or 25 percent of the population in the year 2050 (Table 17). This group of immigrants has a strong preference for goat meat and will create an opportunity for this segment of agriculture to expand.

Because of differences in growth rates, regions' shares of the total U.S. population have shifted considerably in recent decades. Between

U.S. Hispanic Population Changes

Table 19 indicates changes in the U.S. Hispanic population by regional residency. The Hispanic population is mostly concentrated in the West and South with more than 40 percent in California.

U.S. Asian Population Changes

About 50 percent of the U.S. Asian population resides in the West with more than 70

► Table 18. U.S. population changes by region

	1990	2000	Percent Change
U.S. Total	248,709,873	281,421,906	13.2
Northeast	50,809,229	53,594,378	5.5
Midwest	59,668,632	64,392,776	7.9
South	85,445,930	100,236,820	17.3
West	52,786,082	63,197,932	19.7

Source: U.S. Census Bureau, *U.S. Census 2000*.



► Table 19. Changes in the U.S. Hispanic population by region

	1990		2000	
	Number	Percent	Number	Percent
U.S.	22,354,056	9.0	35,305,818	12.5
Northeast	3,754,389	7.4	5,254,087	9.8
Midwest	1,726,509	2.9	3,124,532	4.9
South	6,767,021	7.9	11,586,696	11.6
West	10,106,140	19.1	15,340,503	24.3

Source: U.S. Census Bureau, *U.S. Census 2000*.

► Table 20. Changes in the U.S. Asian population by region

	1990		2000	
	Number	Percent	Number	Percent
U.S.	6,908,638	2.8	10,242,998	3.6
Northeast	1,324,865	2.6	2,119,426	4.0
Midwest	755,403	1.3	1,197,554	1.9
South	1,094,179	1.3	1,922,407	1.9
West	3,734,191	7.1	5,003,611	7.9

Source: U.S. Census Bureau, *U.S. Census 2000*.

percent of those in California. Goat meat is a popular staple food for this group of immigrants and provides an opportunity for goat meat production, especially in the West and California (Table 20).

U.S. Ethnic and Faith-Based Populations with a Preference for Goat Meat

The U.S. ethnic population consuming goat meat changed between 1990 and 2000. More than a million Buddhists and Muslims, more than ten million Asians, and more than 35 million Hispanics (according to

the U.S. 2000 census) currently reside in the United States. Along with these populations come opportunities for U.S. agriculture to promote new products to serve this ever increasing population base (Table 21).

► Table 21. Changes in the U.S. ethnic population from 1990 to 2000

	1990	2000	Percent Change
Muslims	527,000	1,104,000	109
Buddhists	401,000	1,082,000	170
Hispanics	22,354,000	35,305,000	58
Asians	6,908,638	10,242,998	48

Source: U.S. Census Bureau, *U.S. Census 2000*.



Outlook for Goat Meat Production in California ◀

The major factor contributing to the rise in demand for meat goat production in the U.S. is the shift in population demographics. California, with a Hispanic population of more than 30 percent, can be a major goat meat producer and consumer.

In 2000, 51.7 percent of the foreign-born population was from Latin America, 26.4 percent was from Asia, and 15.8 percent was from Europe. Together, Latin America and Asia accounted for 78.2 percent of the foreign-born population, up from 28.3 percent in 1970.

Along with this major change in the geographic origins of the foreign-born, the U.S. has seen a major change in settlement of these groups within the United States. The proportion of the foreign-born population living in the West and South rose from 37.7 percent in 1970 to 65.5 percent in 2000.

► Table 22. Population changes from 1990 to 2000 in California and surrounding states

	1990	2000	Percent Change
Arizona	3,665,228	5,130,632	40.0
California	29,760,021	33,871,648	13.8
Nevada	1,201,833	1,998,257	66.3
Oregon	2,842,321	3,421,399	20.4

Source: U.S. Census Bureau, *U.S. Census 2000*.

Ethnic Population Changes in California and Surrounding States

The total population of Arizona increased 40 percent and Nevada saw a 66 percent increase in population from 1990 to 2000 (Table 22).

The increase in population in California, especially among ethnic minorities, has a spillover effect on neighboring states. This shift has impacted the foreign-born population in those states, which could also create a potential market for goat meat production. The Hispanic population doubled in Nevada and Oregon and increased 25 percent in California and

34 percent in Arizona from 1990 to 2000 (Table 23).

The Asian population has also increased more than 28 percent in Arizona, 18 percent in California, 55 percent in

► Table 23. Changes in the Hispanic population in California and surrounding states

	1990		2000	
	Number	Percent	Number	Percent
Arizona	688,338	18.8	1,295,617	25.3
California	7,687,938	25.8	10,966,556	32.4
Nevada	124,419	10.4	393,970	19.7
Oregon	112,707	4.0	275,314	8.0

Source: U.S. Census Bureau, *U.S. Census 2000*.



Nevada, and 30 percent in Oregon. This population increase in California and surrounding states is another promising factor for the goat meat industry in this region (Table 24).

Sociological and Economic Changes among the Ethnic Population

Not only have ethnic populations increased in number in California, but household incomes for various ethnic groups have increased as well, allowing for more disposable income. Average household income

increased 18.8 percent with the incomes of African Americans and Asians increasing by 25.8 percent and 51.3 percent respectively (Table 25).

Socioeconomic changes in the Hispanic population are indicated by an increase in the number and proportion of Hispanic farmers that are principal operators and farm owners (Table 26). The increase in income could potentially lead to more disposable income in ethnic households, which may result in more consumption of goat meat.

► Table 24. Changes in the Asian population in California and surrounding states

	1990		2000	
	Number	Percent	Number	Percent
Arizona	51,699	1.4	92,236	1.8
California	2,735,060	9.2	3,697,513	10.9
Nevada	35,232	2.9	90,266	4.5
Oregon	64,232	2.3	101,350	3.0

Source: U.S. Census Bureau, *U.S. Census 2000*.

► Table 25. Changes in household income in the U.S.

	1990 Income in 2000 Dollars	2000 Income	Percent Increase
All Households	\$48,024	\$57,047	18.79
Whites	\$49,962	\$59,280	18.65
African Americans	\$31,860	\$40,067	25.76
Hispanics	\$35,915	\$42,411	18.09
Asians	\$46,412	\$70,231	51.32

Source: U.S. Census Bureau, *U.S. Census 2000*.

► Table 26. Changes in Hispanic principal operators from 1997 to 2002

	1997	2002	Percent Change
Farmers	33,450	50,592	51.2
Full Owners	21,742	36,650	68.5

Source: U.S. Department of Agriculture, *2002 Census of Agriculture*.





Goats Slaughtered at USDA-Inspected Plants in California

The number of goats slaughtered at federally inspected plants in California increased from more than 7,900 reported in 1998 to more than 22,000 in 2003 (Figure 4). This is a clear indication of increased interest in goat meat.

Presently there are 27 federally inspected slaughterhouses in California according to a list compiled by High Sierra Beef. Five of those plants show goat processing and four of the five are open to the public (Table 27). The plants are all located in Central and Northern California.

The majority of California's Hispanic population resides in Southern California locations, including Los Angeles (46.5 percent) and San Diego (25.4 percent)

(Table 28). The population in some areas in Southern California is more than 60 to 90 percent Hispanic, and the presence of a USDA goat-harvesting and processing plant should be justified.

Imports and Exports of Goat Meat

The United States was a net exporter of goat meat until 1991; however, there were no exports after 1993 (Table 29). This shift is another indication of the increased interest in goat meat consumption nationally. In 2003, the U.S. imported more than 18 million pounds of goat meat. With an average carcass weight of 35 to 40 pounds, an estimated 500,000 goat carcasses were imported. This number of goats is a potentially viable value-added enterprise opportunity by which small farms in California can diversify.

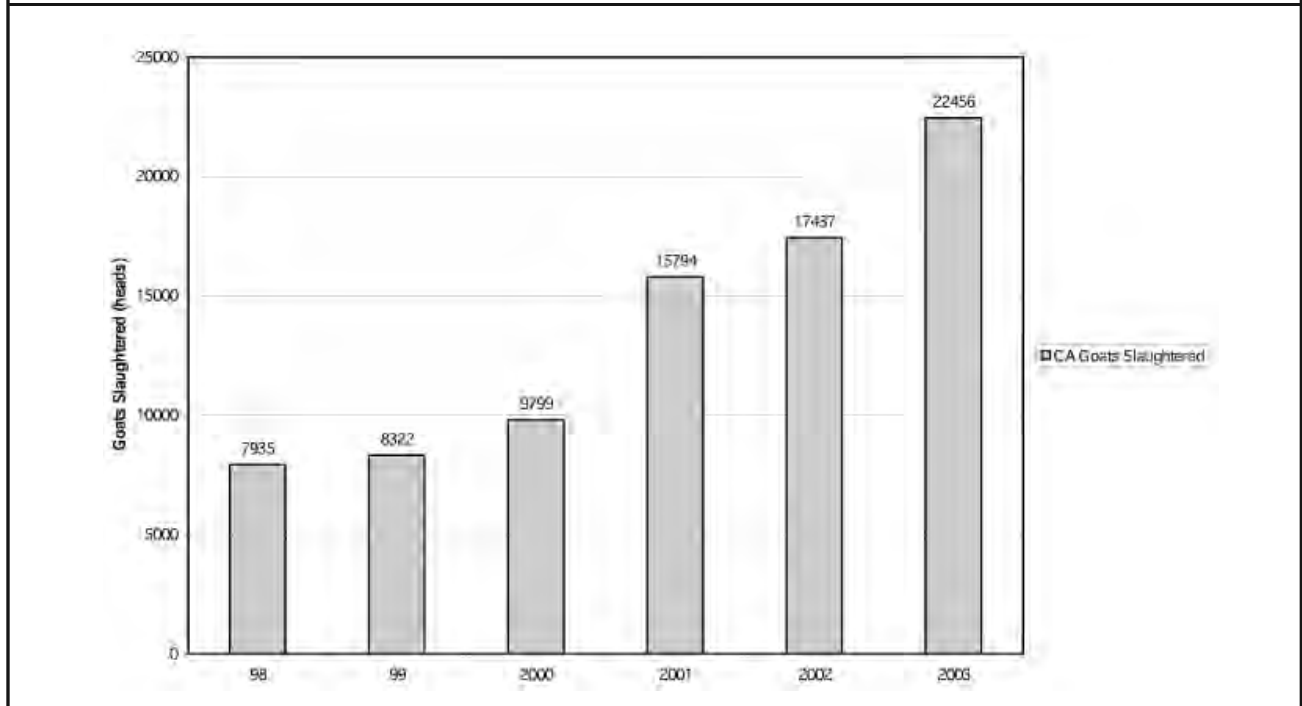
► Table 27. USDA-inspected goat processing sites in California

Abattoir	County	Telephone Number	Days Open	Public
Johansen's Meat Market Road P North of Highway 232 Orland, California	Glenn	530.865.2103	Tuesday– Thursday	Yes
Meridian Meat Company 16761 Kilgore Road Meridian, California	Sutter	530.696.0130	Monday– Tuesday	Yes
Panizzera Meat Company Main Street & Graton Road Occidental, California	Sonoma	707.874.1854	Monday– Wednesday	Yes
Stagno's Meat Company E. Barstow & Woodrow Modesto, California	Stanislaus	209.578.1748	Monday– Friday	Yes
University of California UC Meat Lab One Shields Avenue Davis, California	Yolo	530.752.7410	Monday– Friday	No

Source: http://ucce.ucdavis.edu/counties/ceplacernevada.ucdavis.edu/custom_program550/usda_inspected_harvesting_sites.htm.



► Figure 4. Goat slaughters reported from 13 USDA-inspected plants in California



Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.

► Table 28. Places in California with 100,000 or more individuals making up the Hispanic population

	Population	Percent
East Los Angeles	120,307	96.8
Santa Ana	257,097	76.1
El Monte	83,945	72.4
Oxnard	112,807	66.2

Source: U.S. Census Bureau, *U.S. Census 2000*.

► Table 29. U.S. meat goat import and export balance

	Imports to U.S.	Exports from U.S.	Balance
1989	86,067	122,056	+35,989
1990	99,353	115,413	+16,060
1991	122,932	53,246	-71,506
1992	172,280	60,444	-148,836
1993	136,364	3,504	-132,860
1994	138,481	None	-138,481

Source: U.S. Department of Agriculture, National Agricultural Statistics Service, *Livestock Slaughter: 2004 Summary*.



Estimated Potential Demand for Goat Meat in California ◀

The largest group of ethnic consumers of goat meat is Hispanics, which increased 57.9 percent in population from 1990 to 2000. Muslims, Asians, and Africans also consume significant amounts of goat meat. Goat meat consumption throughout the year typically remains constant except on special holidays, when it triples or quadruples. There also are increases in demand for goat meat for Easter, the Fourth of July, and some Muslim holidays such as Aideh Ghorban and Aideh Fatre. Goat meat consumption is usually greater in colder months between October and February among the Chinese. Understanding these ethnic traditions and matching demand with production require special education in marketing techniques. Also, special handling and harvesting procedures related to various religions and traditions can contribute added value to goat meat. Halal harvesting procedures for Muslims and Kosher techniques for Jewish people may add value to goat meat.

The following estimate of the potential demand for goat meat is based on the Hispanic and Asian population in

California. According to the U.S. census (2000), there are about 3.7 million Asians and about 11 million Hispanics in California. Among 7 million illegal immigrants, more than 50 percent are Mexicans (who consume goat meat), the majority of whom reside in California. In total, there are at least 17 million people belonging to ethnic populations in California. Dividing that figure by an average of 5 persons per household generates an estimated 3.4 million households. If only 10 percent of those households consume goat meat, there would be demand for the meat by 340,000 households. If every household consumes 6 pounds of meat per month (including holidays), there would be a demand for 24,480,000 pounds of meat. Assuming a 40-pound carcass weight, demand as total number of goats is 612,000 head (Table 30).

This is a very modest estimate of demand for meat goats in California. According to the USDA's 2002 census, California has about 61,000 goats that are not dairy or fiber goats. Some of those goats are undoubtedly used for vegetation control and are not usually sold for meat.

► Table 30. Estimated demand for goats and goat meat in California

Total Population (Asian and Hispanic)	17 million
Total number of households assuming five persons per household	3.4 million
Households that consume goat meat (10 percent)	340,000
Household consumption of goat meat per month, including holidays	6 pounds
Total goat meat consumed	24,480,000 pounds
Average goat carcass weight	40 pounds
Total head of goats in demand	612,000



With only 22,000 goats harvested in USDA-inspected plants, it is clear that there is great potential for this industry to grow and become better organized in California. About 50 percent of the U.S. ethnic population resides in California (17–18 million of 35–36 million), which should translate

into consumption of about half of the goat meat imported and harvested in the U.S. The estimated demand for consumption of goat meat in California is a little more than 50 percent of the 1.15 million goats reported consumed in the U.S. in 2003 (domestic slaughters + imports).



Conditions Promoting Goat Production in California ◀

Hispanic and Female Principal Operators

The number of female principal operators rose 12 percent between 1997 and 2002, whereas the number of Hispanic principal operators and of Hispanic female principal operators were up 51 percent and 56 percent respectively (Table 31). Goats are smaller animals than cattle and very popular with female producers. Increasing numbers of female principal operators and especially Hispanic principal operators and Hispanic women are encouraging prospects for promoting meat goat production. Proper knowledge in goat husbandry, budgeting, and marketing techniques will ensure a profitable agri-business.

The number of California women as principal operators decreased by 3.2 percent between 1997 and 2002; however, total Hispanic and Hispanic female principal operators were up more than 43 percent according to the USDA's 2002 census (Table 32).

Farm Size in California

In 2002, California reported 4,256 farms with sales of sheep and goat products worth \$52.4 million, whereas the U.S. reported 96,249 farms with sales of \$541.7 million. California claimed 4.4 percent of U.S. farms with a 9.7 percent contribution to the sale of sheep and goat products.

California, having an average farm size of 346 acres and a median of 35 acres

per farm, is appropriately designed for small-scale meat goat production. Also, more than 50 percent of California's farms are less than 49 acres in size. Goats are smaller-unit animals and 5 to 10 goats can be raised on an acre of improved pasture depending on the intensity of management.

Sources of Feed

California has the highest product value per acre in the U.S. and a large variety of agricultural products are grown on its fertile land. Energy-source cereal grains such as wheat, barley, and sorghum are grown locally. Protein feeds such as cotton seeds, sunflower meal, and other by-products are readily available. Roughages such as good quality hays

► Table 31. Changes in the characteristics of U.S. farms' principal operators from 1997 to 2002

	1997	2002	Percent Change
Total Women	209,784	238,269	11.95
Total Hispanics	33,450	50,443	50.80
Hispanic Women	3,286	5,138	56.36

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.

► Table 32. Changes in the characteristics of California farms' principal operators from 1997 to 2002

	1997	2002	Percent Change
Total Women	13,018	12,598	-3.20
Total Hispanics	5,347	7,771	45.33
Hispanic Women	512	736	43.75

Source: U.S. Department of Agriculture, 2002 Census of Agriculture.



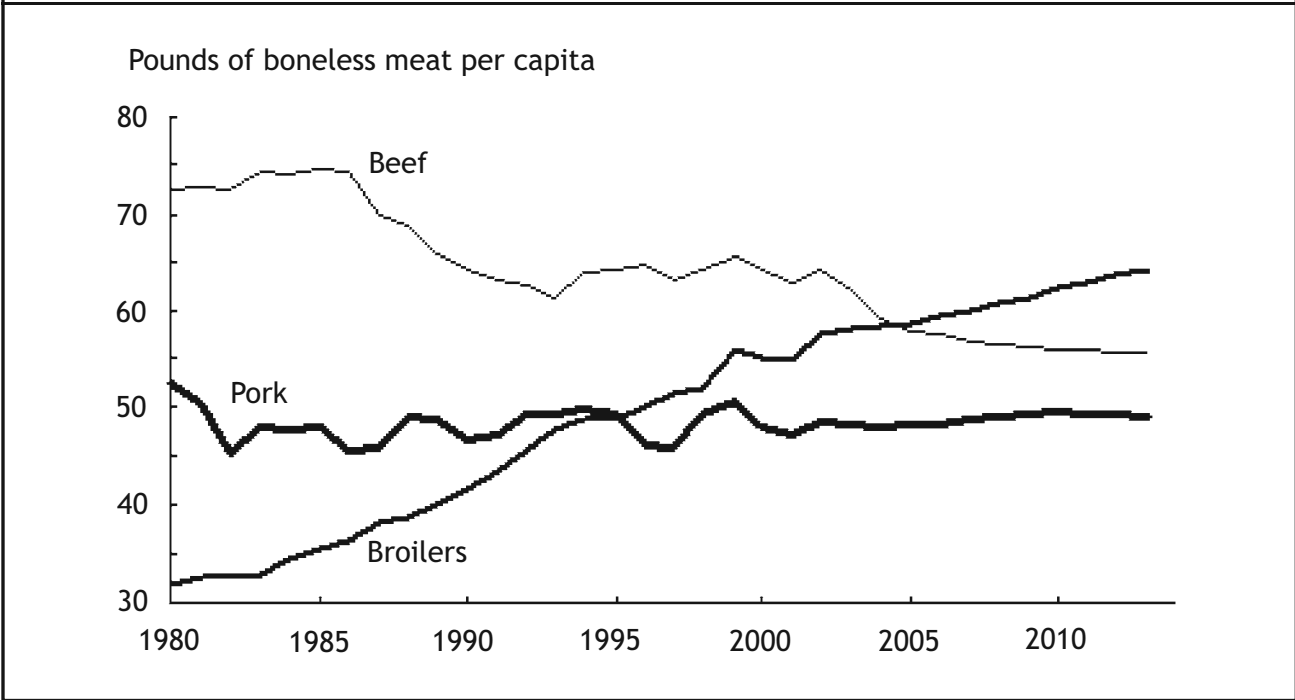
and silages and by-products such as rice bran, wheat bran, and sugar beet pulp are common. Leftover garden produce of all kinds sold in farmers markets is presently being composted, but it is a goat's favorite meal.

**Health Consciousness
and Goat Meat Quality**

Americans and especially Californians are more conscious of their health and what they eat than ever before. Poultry consumption has increased from less than 35 pounds per capita in 1980 and is projected to exceed 60 pounds per capita by 2010 (Figure 5). Three characteristics of poultry have made major contributions to this increase: 1) it is considered a healthier product as it is leaner than beef and pork, 2) it costs less than beef or pork, and 3) it is readily available. Compared to poultry,

goat meat is leaner with less fat waste, and research has indicated that it has balanced proportions of saturated and unsaturated fatty acids and is a rich source of conjugated linoleic acid (CLA), which is found only in ruminants. However, it is more expensive than poultry, beef, lamb, and pork and it is not readily available. A 2004 report of county fair activities in Merced, California, indicated that the interest in showing meat goats has been increasing each year since the first show of four meat goats in 2001. This year, the number was up to 53. Beef and sheep entries were down and goat and rabbits entries were up. Average prices per pound were \$4.93 for goats, \$4.50 for sheep, \$3.46 for swine, and \$2.50 for beef. Clearly the most expensive meat was goat meat. The high price of goat meat, along with lack of availability, constrains its consumption.

► Figure 5. Meat consumption per capita from 1980 to 2010



Source: U.S. Department of Agriculture, Economic Research Service, *USDA Agricultural Baseline Projections to 2013*, February 2004.



Challenges to Growth ◀

Major problems associated with advancement of goat meat production in California are:

- ▶ Consumer education
- ▶ Producer education
- ▶ Organized market and marketing channels

Consumer education on the quality of goat meat and why all the old cultures such as Greek, Chinese, Mayan (Mexican, Hispanic), and Middle Eastern people, eat this meat should be investigated. Producers should be educated on the best management techniques for raising goats for meat. Utilizing some superior breeds with fast growth rates, especially from South Africa, has revolutionized meat goat production

elsewhere. However, the most important factor in the growth of any industry, including goat meat, is marketing of the product. With high prices for goat meat, it

may be feasible to do direct marketing using the internet. Value-added products, such as specialty sausages and other ready-to-eat meat products, can enhance marketing and profit margins. Special consideration should be given to proper harvesting and handling techniques for goat meat to cater to various customer groups for increased profit margins.





Conclusion ◀

There is increased interest in goat meat consumption in the U.S. The number of goats harvested in USDA-inspected plants and the amount of goat meat imported from Australia and New Zealand have increased sharply since 1999. The U.S. has changed from a net exporter to a net importer during the last decade. Increases in ethnic populations, especially Hispanics, Asians, and Muslims, in the U.S. in general and in California in

particular may have contributed to this fact. Also, goat meat is a healthy meat that fits the “designer” diets of health-conscious Americans. This is an opportunity for small farm producers in California to target this market and diversify their farm products. There is also an opportunity for value-added products. However, consumer and producer education is needed and marketing structures need development.







References ◀

- Banskalieva, V., T. Sahlu, and A.L. Goetsch. 2000. Fatty acid composition of goat muscles and fat depots: A review. *Small Rumin. Res.* 37(3):255–268.
- Chin, S.F., W. Liu, J.M. Storkson, Y.L. Ha, and W.M. Pariza. 1992. Dietary sources of conjugated dienoic isomers of linoleic acid, a newly recognized class of anticarcinogens. *J. Food Compos. Anal.* 5:185–197.
- Merced County Fair Board. 2004. *Merced County Fair Handbook 2004*. Available online November 2004 at www.mercedcountyfair.com/pdfs/exhibitor_handbook04.pdf.
- U.S. Census Bureau. *U.S. Census 2000*. Washington DC. Available online at www.census.gov.
- U.S. Department of Agriculture. *2002 Census of Agriculture*. Washington DC. Available online at www.nass.usda.gov/census/census02.
- U.S. Department of Agriculture, Economic Research Service. *USDA Agricultural Baseline Projections to 2013*. Washington DC, February 2004.
- U.S. Department of Agriculture, National Agricultural Statistics Service. *Livestock Slaughter: 2004 Summary*. Washington DC, 2005. Available online at <http://usda.mannlib.cornell.edu>.





The Small Farm Center offers this Situation and Outlook report as a prelude to more serious analysis and discussion about the possibilities for development of a more rational goat meat production and distribution system in California. As this report suggests, the potential demand for goat meat by various ethnic populations could provide the demand side that would justify developing this industry. On the supply side, it would not be an insuperable task to enable a significant number of California's small farmers to develop the necessary production capacity. More of a challenge would be the logistics of a marketing and distribution system, particularly regarding the location of slaughtering facilities. But through collaboration among potential stakeholders, the constraints may be breached and development enabled.



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530.752.8136



PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • f: [541] 506-2561

NOTICE OF DECISION

FILE #: 921-19-000193-PLNG

DECISION DATE: June 24, 2021

APPEAL DEADLINE: July 9, 2021

REQUEST: Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

DECISION: Approved with **Conditions**

APPLICANT/OWNER INFORMATION:

APPLICANT/OWNER: Adrian Lopez, 1150 Huskey Road, Mosier, OR 97040

PROPERTY INFORMATION:

LOCATION: The development site is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

ZONING: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Attachments:

- A. Conditions of Approval
- B. Time Limits & Appeal Information
- C. Maps
- D. Staff Report
- E. Outdoor Lighting Standards
- F. Forest-Farm Management Easement
- G. Comments

Staff Reviewer: Will Smith, Senior Planner &
Brent Bybee, Associate Planner

After recording, please return to:
Wasco County Planning Department

ATTACHMENT A – CONDITIONS OF APPROVAL

Pursuant to Wasco County National Scenic Area Land Use Development Ordinance, Chapter 2 – Development Approval Procedures, Section 2.120.A., Notice of a Decision by the Director, the following shall be recorded as conditions of approval and binding upon the owners, developers or assigns.

A. Cultural Resources:

1. All ground disturbance within the archaeological site boundaries shall be monitored by a professional archaeologist, specifically the installation of fence lines.
2. If plans change so that greater impacts are proposed within the archaeological site boundaries, the site shall be formally evaluated for significance and eligibility for inclusion on the National Register of Historic Places (NRHP).
3. If cultural resources are discovered during development of any new structure or building, all construction shall cease within 100' of the discovered cultural resource. The cultural resource(s) shall remain as found and further disturbance is prohibited. The owners shall notify the Wasco County Planning Department and Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or associated with Native Americans, the owners shall also notify the Confederated Tribes of Warm Springs, Confederated Tribes of Umatilla, Perce Nez, and Yakama Indian Nation within 24 hours of discovery.
4. If human remains are discovered, all work on the parcel shall cease, and the human remains shall not be disturbed any further. The owners shall immediately notify the Wasco County Sheriff's Office, the Wasco County Planning Department, the Gorge Commission, and the four Indian tribal governments.

B. Prior to Issuance of Zoning Approval on any Building Permit and After Expiration of the 15-Day Appeal Period, the Applicant/Owner shall:

1. Obtain a Road Approach Permit from the Wasco County Public Works Department for the existing driveway onto Huskey Road.
2. Oregon Dept. of Forestry Permit: Any land clearing activities involving power driven machinery that occur from May 1st through September 30th shall obtain a Permit to Operate Power Driven Machinery from the Oregon Dept. of Forestry prior to beginning any development.

C. Chapter 11 - Fire Safety Standards:

1. Improvements and requirements listed in Chapter 11 of the Wasco County NSA-LUDO and the signed and completed Fire Safety Standard Self-Certification shall be achieved within one year of the date of approval and maintained through the life of the development. This certification commits all future property owners to the same requirements. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File #921-19-000193-PLNG.
2. Address: Apply for a new address for the proposed commercial horse boarding facility, and submit the County application and fee (\$75) to the Planning Department (prior to issuance of zoning approval on a building permit application). An approved address shall be posted on both sides of a permanent post or mailbox within 30' of the driveway providing access to the

ATTACHMENT A – CONDITIONS OF APPROVAL

dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. Application must be made a minimum of 2 weeks prior to issuance of zoning approval on a building permit application.

D. Colors and Materials

1. The following materials and colors are approved for the kitchen/restroom building:

	Material	Exterior Color	Looks Like	Consistent with color requirement?
HOUSE				
Main/Body	Hardie Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardie Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
BARN/SHOP & PUMP HOUSE				
Main/Body	Hardi Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardi Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
ROUND PEN	Galvanized Steel	Hunter Green (Rustoleum)	Dark Green	Yes, approved for narrow surfaces only

2. If alternate colors or materials are proposed for any new development, they shall be submitted to and approved by the Planning Department prior to their use on the exterior of the building.
3. All windows shall be thermal pane rated less than 15% visible light reflectivity.

F. Miscellaneous Conditions:

1. Ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive.
2. The retention of all conifer trees indicated on the site plan is required to comply with visual subordination standards. Coniferous trees not indicated on the site plan may be removed if they are damaged or diseased, or for fire safety purposes. If coniferous trees indicated on the site

ATTACHMENT A – CONDITIONS OF APPROVAL

plan are removed, die or are destroyed, they shall be replaced in compliance with the following standards:

To ensure survival, new trees and replacement trees shall meet the following requirements

- All trees shall be at least 4 feet tall at planting, well branched, and formed.
 - Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.
 - The trees must be irrigated until they are well established.
 - Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.
3. All conifer trees east of the existing driveway shall be retained.
 4. Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River. Shielding and hooding materials shall be composed of nonreflective, opaque materials.
 5. The round pen shall not be placed inside any property line or resource protection setbacks in the event that it is moved.
 6. Development approved by this decision shall comply with all requirements of the Wasco County Building Codes Services Department.

SIGNED THIS 24th day of June, 2021, at The Dalles, Oregon.



Brent Bybee, Associate Planner
Wasco County Planning Department

NOTE: Any new land uses or structural development such as residences; garages, workshops or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

ATTACHMENT B – TIME LIMITS AND APPEAL INFORMATION

Proposed development shall not commence until the appeal period has expired, and conditions of approval are adhered to.

Section 2.240 of the Wasco County National Scenic Area Land Use and Development Ordinance, this approval shall expire: (1) when construction has not commenced within two years of the date the land use approval was granted, or (2) when the structure has not been completed within two years of the date of commencement of construction. **The expiration date for the validity of a land use approval is from the date of expiration of the appeal period and not the date the decision was issued.**

Please Note!

No guarantee of extension or subsequent approval either expressed or implied can be made by the Wasco County Planning Department. Please take care in implementing your proposal in a timely manner.

APPEAL PROCESS:

The decision date for this land use review is **Thursday, June 24, 2021**. The decision of the Director shall be final unless an appeal from an aggrieved party is received by the Director within fifteen (15) days of the mailing date of this decision, **Friday, July 9, 2021, at 4:00 p.m.**, or unless the Planning Commission or Board of County Commissioners on its own motion orders review within fifteen (15) days of the date of decision. A complete record of the matter is available for review upon request during regular business hours or copies can be ordered at a reasonable price at the Wasco County Planning Department. Notice of Appeal forms may also be obtained at the Wasco County Planning Department. **The filing fee for an appeal is \$250.00. Fees are refunded if appellant prevails.**

FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning Department, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: <http://co.wasco.or.us/departments/planning/index.php>. Click the drop-down arrow to the right of Zoning Permits, click on Active Applications. The table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

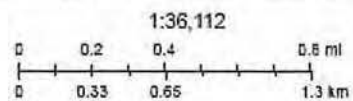
ATTACHMENT C – MAPS
Applicant/Owner: Adrian Lopez
2N 11E 11, Tax Lot 2200; Account #327
Vicinity Map

Wasco County Planning Dept



6/25/2020, 10:03:28 AM

- | | | | |
|--|----------|--|----------------------------|
| | Taxlots | | City |
| | Railroad | | Public Access |
| | Roads | | Private |
| | State | | Road Labels |
| | County | | Wasco County Boundary Line |



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 Wasco County GIS

Wasco County Planning
 This Map is for Informational Purposes Only

ATTACHMENT C – MAPS
 Applicant/Owner: Adrian Lopez
 2N 11E 11, Tax Lot 2200; Account #327
 Site Plan

Property line setbacks

Home 40'x50'
 North - 700'
 South - 300'
 East - 400'
 West - 550'
 Huskey Rd - 350'

Shop 30'x50'
 North - 500'
 South - 500'
 East - 400'
 West - 550'
 Huskey Rd - 550'

SITE PLAN MAP

Map, Tax Lot #:

Applicant: Adrian Lopez

File #:

SCALE: (select one)

1:50

0 25 50

☐

1:100

0 50 100

☐

1:200

0 100 200

☐

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☒ Proposed structures (location & size)
- ☒ Septic tanks and drain fields (ALL existing and proposed)
- ☒ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'.
- ☒ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☒ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

Applicant/Owner: Adrian Lopez
2N 11E 11, Tax Lot 2200; Account #327
Site Plan



ATTACHMENT C – MAPS
 Applicant/Owner: Adrian Lopez
 2N 11E 11, Tax Lot 2200; Account #327

Site Plan

Trees

The map shows a property with four boundaries: West, North, East, and South. A driveway runs from Huskey Rd to the property. Inside the property, there are two buildings labeled 'Shop' and 'Home'. A large area on the left is labeled 'Oak Forest' in pink. Numerous green dots represent 'Pine/Fir trees' and pink dots represent 'Oak trees'. A note states 'All trees will remain for screening'. The bottom of the map shows 'Huskey Rd' and 'Pine & Oak Forest' with a north arrow pointing up.

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☐ Property boundary & development area dimensions
- ☐ Setback distances from proposed structures to all:
 - ☐ Property lines
 - ☐ Roadways
 - ☐ Waterways
- ☐ Existing structures (location & size)
- ☐ Proposed structures (location & size)
- ☐ Septic tanks and drain fields (ALL existing and proposed)
- ☐ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'.
- ☐ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☐ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☐ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☒ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE: (select one)

1:50 ☐

1:100 ☐

1:200 ☐

ATTACHMENT D – STAFF REPORT

File Number: 921-19-000193-PLNG

Applicant/Owner: Adrian Lopez

Requests: Scenic Area Review of a new dwelling and structures to support the proposed farm use of raising approximately 13 goats. This request includes:

- (1) New Single Family Dwelling (1,889 SF footprint, 50'L x 40'W x 24'H)
- (2) Accessory Buildings (1,500 SF footprint, 50'L x 40'W x 24'H)
- (3) Agriculture Structures: approximately 5,000' of 4' H wire mesh fence (6' fence posts) enclosing three areas on either side of the driveway for livestock pens; approximately 900' of moveable electric fence to protect a wetland; and a 50' diameter moveable round pen.
- (4) Retroactive review of an unlawfully placed well to serve the residential use and a new 12'L x 12'W x 12'H well house with 1,000 gallon water cistern, and driveway.

Decision: **Approved** with Conditions

Decision Date: June 24, 2021

Appeal Deadline: July 9, 2021

Location: Development site is located north of Huskey Road, approximately 0.1 miles west of Jasper Lane and 0.5 miles south of the City of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 11E 11 2200	327	20.59

Zoning: A-2 (80), Small Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Past Actions: 921-18-000017-PLNG (Withdrawn): Horse Boarding Facility

Procedure Type: Administrative

Prepared By: Will Smith, Senior Planner & Brent Bybee, Associate Planner

I. APPLICABLE STANDARDS

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 – Basic Provisions

Section 3.110, Expedited Review

Section 3.110.A.5., Uses Permitted Subject to Expedited Review, Woven Wire Fences

Section 3.130, A-2, Small Scale Agriculture (GMA)

Section 3.130.D.2., Uses Permitted Subject to Review, Agricultural structures

Section 3.130.D.4., Uses Permitted Subject to Review, One single-family dwelling

Section 3.130.D.6., Uses Permitted Subject to Review, Accessory building(s)

Section 3.130.G, Property Development Standards

B. Chapter 4 – Supplemental Provisions

Section 4.040, Off-Street Parking

C. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards

Section 11.120, Defensible Space

Section 11.130, Construction Standards for Dwellings and Structures

Section 11.140, Access Standards

Section 11.150, Fire Protection or On-Site Water Required

D. Chapter 14 – Scenic Area Review

Section 14.100, Provisions for all new development

Section 14.200, Key Viewing Areas

Section 14.300, Scenic Travel Corridors

Section 14.400, Landscape Settings

Section 14.500, Cultural Resources – GMA

Section 14.600, Natural Resources – GMA

Section 14.700, Recreation Resources - GMA

Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA

I. BACKGROUND

- A. Proposal:** The property currently contains a driveway and a residential well that was constructed without review. This application proposes the construction of a two-story single family dwelling, a two story accessory building, fencing, a round pen to assist with the raising of approximately 5 cows, 15 goats and/or sheep, and a new well house and cistern for the well. The applicant has described the use of the property as a “small family farm.” As noted above, the request can be more specifically described as 1,889 Square Foot (SF), 50’L x 40’W x 24’H, two story single family dwelling, a 1,500 SF, 50’L x 30’W x 24’H two story accessory structure for a shop and farm equipment storage, retroactive review of an unlawfully placed well and a new well house and cistern, and approximately 5,000’ of 4’ H wire mesh fence (6’ fence posts) enclosing the three areas on either side of the driveway for livestock pens, approximately 900’ of moveable electric fence to protect a wetland, and a 50’ diameter moveable round pen.

- B. Legal Lot:** The subject lot is identified as Lot 21 of Rocky Prairie Subdivision, recorded with the Wasco County Clerk on April 27, 1977. It is consistent with the definition of Legal Lot in NSA-LUDO Section 1.200, Definitions, because it was created by a recorded subdivision.
- C. Site Description:** The subject lot is located between Huskey Road and Quartz Drive, in Rocky Prairie, a subdivision located on the hill above Mosier, Oregon. This property contains northwest-facing slopes averaging 9%. The western 1/3 (approximate) of the lot is heavily vegetated with Oregon white oak trees. Natural grasses are the dominant ground cover. The property ranges in elevation from 620-720' Above Sea Level (ASL).
- D. Surrounding Land Use:** Properties located north, east and west of the subject lot are located in the A-2, Small Scale Agriculture Zone. Properties located south of Huskey Road are zoned F-3(80), Small Woodland-Forest. With the exception of one property located north of Quartz Drive, all surrounding properties are used for residential use. Properties located east and west of the subject lot contain similar northwest-facing slopes averaging 8-10%. Property to the southwest, located north of Huskey Road is heavily vegetated with Oregon white oak trees. Property located to the west contains cherry orchard and a cidery, but there are no other commercial farm uses on adjacent properties. Land lying within 750' of Huskey Road averages 30% northwest-facing slopes while farther south, slopes lessen to 5-10%. Properties to the south are generally heavily vegetated with Oregon white oak and Ponderosa pine trees.
- E. Public Comment:** Notice of Administrative Action was mailed on July 2, 2020, to all owners of property within 500' of the subject parcel, the U.S. Forest Service - Columbia River Gorge National Scenic Area Office, Columbia River Gorge Commission, the four tribal governments, State Historic Preservation Office, and other interested parties registered with Wasco County. This notice provided a 15-day pre-notice for public comment (ending July 17, 2020). Comments are included as Attachment G of this report. All comments are addressed in applicable Findings throughout this report.

II. FINDINGS:

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 - Basic Provisions

Section 3.110 Expedited Review

A. Uses Permitted Subject to Expedited Review

(***)

5. Woven-wire fences for agricultural use that would enclose 80 acres or less. (GMA Only)

FINDING: The request includes a 4'H "mesh" or woven-wire fence enclosing the subject property, to support a proposed agricultural use. The property is 20.59 acres and is located in the GMA, meeting the requirements of this criterion. However, it is on a property where a cultural reconnaissance survey was required. Section 3.110.B.2.A. states: "The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey." Because a survey was required, the woven-wire fence is included in the full review below.

Section 3.130, A-2, Small Scale Agriculture (GMA)

D. Uses Permitted Subject to Review

The following uses and activities may be allowed on a legal parcel designated Small-Scale Agriculture subject to Subsection G - Property Development Standards, Chapter 11 - Fire Safety Standards & Chapter 14 - Scenic Area Review, as well as all other listed or referenced standards.

2. Agricultural structures, except buildings, in conjunction with agricultural use. Non commercial wind energy conversion systems which fit this category are subject to the applicable provisions of Chapter 19.

FINDING: This proposal includes approximately 5,000' of perimeter fencing, about 1,000' of temporary moveable electric fencing, and a 50' diameter moveable round pen to support the proposed farm use of a "Small Family Farm." The Farm Management Plan submitted with the application materials describes the potential animal husbandry of approximately 13 goats on this 20 acre parcel. Farm Use is permitted without review in the A-2 zone, unless it involves new cultivation. Agricultural structures are permitted subject to compliance with property development standards, Fire Safety Standards, and Scenic Area Review criteria. Property Development Standards are addressed below. Chapter 11 – Fire Safety Standards is addressed in III.C. Chapter 14 – Scenic Area Review is addressed in III.D. Staff finds that the request complies with Criterion 3.130.D.2.

4. One single-family dwelling on any legally existing parcel.

FINDING: As noted under section I.B above, the subject parcel was lawfully created. The request includes the construction of one single family dwelling, with associated underground septic system. As permitted by this criterion, new dwellings are an allowed review use in the A-2 Small Scale Agriculture zone subject to compliance with property development standards, Fire Safety Standards, and Scenic Area review criteria. Property Development Standards are addressed below. Chapter 11 – Fire Safety Standards is addressed in III.C. Chapter 14 – Scenic Area Review is addressed in III.D. Staff finds that the request complies with Criterion 3.130.D.4.

6. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any parcel:

b. Larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

FINDING: The subject property is larger than 10 acres in size and does not currently contain any lawfully established buildings (the well that was being constructed unlawfully is being reviewed as a new use).

Proposed development includes the construction of one single family dwelling, one 1,500 SF accessory building with a height of 24 feet, and a 144 SF well house. As a result of the proposed development, there will be a total footprint of 1,644 SF worth of accessory structures, which is less than the 2,500 SF maximum. The shop/barn is being reviewed as an accessory structure because it was not proposed to be fully dedicated to farm use. Though that will be a part of its function, storing equipment and feed, it was also proposed as a personal shop, accessory to the residential use. Neither of the proposed accessory structures exceed 24' in height. Staff finds that the request is consistent with Criterion 3.130.D.6.

G. Property Development Standards

(***)

2. General Setbacks - All structures, other than approved signs and fences shall comply with the following general setback standards:

Front Yard	25'
Side Yard	25'
Rear Yard	40'

FINDING: As proposed, the development will exceed the requirements of General Setbacks. Staff finds that the request complies with Criterion 3.130.G.2.

Required Setback	Proposed – Dwelling	Proposed – Shop	Round Pen	Pump House	Consistent?
East (side) = 25'	400'	400'	660'	475'	Yes
West (side) = 25'	550'	550'	100'	475'	Yes
North (rear) = 25'	700'	500'	100'	800'	Yes
South (front) = 40'	300'	500'	850'	150'	Yes

3. Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with the following setback standards:

Adjacent Use	Open or Fenced	Natural or Created Vegetation Barrier	8 foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

FINDING: The subject property shares borders with seven other properties. To the west, an adjacent property is currently farmed as a commercial orchard on the other side of a vegetative barrier (oak trees). To the north, one property contains approximately eight acres of land that is not currently

farmed, but is suitable for future farm use. Without a barrier, orchards are protected by a 250' setback. With a barrier, orchards are protected by a 100' setback. The property to the north contains an oak woodland that creates a natural vegetative barrier and thus only require a 100' buffer. All other adjacent properties contain poor quality soils and are predominantly developed as rural residential properties that are 10-15 acres in size.

As proposed, the following distances will exist between the development and adjacent properties that contain or are suitable for agriculture use:

Required Setback	Barrier Present?	Proposed – Dwelling	Proposed – Shop	Round Pen	Pump House	Consistent?
North = 100'	Yes, existing vegetative	600'	500'	100'	800'	Yes
West = 250'	No, open field	600'	500'	NA (structure is proposed in the portion of the property with the barrier)	900'	Yes

The applicant describes the round pen in their Farm Management Plan narrative as “made up of 10 panels 5' tall ... it can be taken apart and moved in under 20 min so it probably will be moved for some reason or another.” It is permissible to move this pen anywhere on the property as long as it complies with required setbacks, including those listed under the wetland protection section below. As the placement of the pen does not involve ground disturbance, there will be no impact to cultural resources. A **condition** of approval is included requiring that the pen not be placed inside any property line or resource protection setbacks in the event that it is moved.

With that condition, staff finds that the proposed setbacks meet or exceed the requirements in the A-2, Small Scale Agriculture Zone and that request complies with Criterion 3.130.G.3.

4. *Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.*

FINDING: The subject property is not located within any identified FEMA flood zone. It is located approximately 0.8 mile south of the closest identified flood plain along Rock Creek. Staff finds that the request complies with Criterion 3.130.G.4.

5. *Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.*

FINDING: The applicant proposes the following heights for all new structures:

- Dwelling: 24'
- Shop: 24'
- Round Pen: 5'
- Woven-wire fence: 4' fencing, 6' posts
- Well house: 12'

All structures are proposed to be less than 35' in height. Staff finds that the request complies with Criterion 3.130.G.5.

6. *Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.*

FINDING: The subject lot is not located on a corner lot. Staff finds that Criterion 3.130.G.6. is not applicable to this request.

7. *Parking - Off street parking shall be provided in accordance with Chapter 4.*

FINDING: Off-street parking is addressed below in Chapter 4. There is an existing driveway accessing the property however there is no Road Approach Permit on file with the Wasco County Public Works Department for this driveway. A **condition** of approval is included in the Notice of Decision requiring the applicant/owner to obtain a Road Approach Permit for the existing driveway after expiration of the appeal period. Staff finds that the request complies with Criterion 3.130.G7.

B. Chapter 4 – Supplemental Provisions

(***)

Section 4.040, Off-Street Parking

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure, off-street parking spaces shall be provided in accordance with this Section. In an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section. Where square feet are specified the area measured shall be the gross floor area necessary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises during the largest shift at peak season, including proprietors.

A. Residential

1. Single-family dwelling: One (1) space per dwelling unit.

FINDING: The proposal involves one single family dwelling and an accessory structure. This section requires one parking space for a dwelling. The house designs submitted with the application indicate a 19' x 19'6" attached garage which is large enough to accommodate two vehicles. Staff finds that the request complies with Criterion 4.040.A.1.

(***)

C. Chapter 11 – Fire Safety Standards

The Fire Safety Standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

As part of a complete application, the property owners completed a Fire Safety Standard Self-Certification Form. By signing the self-certification form, the owners have acknowledged that they

understand these standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File 921-19-000193-PLNG. A **condition** of approval stating this is included in the Notice of Decision.

Section 11.110, Siting Standards – Locating Structures for Good Defensibility

FINDING: There are no slopes on the property in excess of 30%, except short ones right at the road. The slopes around the proposed development are between 5 and 9%. Staff finds the request complies with Section 11.110.

Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

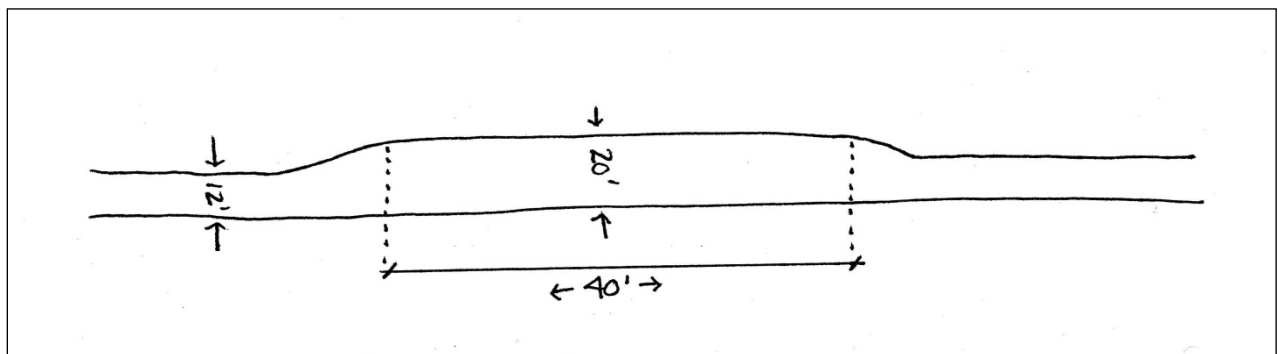
FINDING: The applicant included 50' of defensible space on the site plan around the proposed development. Currently that land in a 50' radius around the home and shop consists of grass and three mature ponderosa pine trees. The applicant has committed himself and future property owners in his self-certification form to maintaining that fire fuel break. Staff finds the request complies with Section 11.120.

Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

FINDING: The application states that the dwelling and accessory structure will be constructed of fiber cement (Hardie board brand) siding and trim, with asphalt shingles for roofing. Cement and asphalt are fire resistant materials. Staff finds the request complies with Section 11.130.

Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home

FINDING: The existing driveway provides access to the lot located to the north. The driveway is approximately 1,000' in length. The site plan shows that the proposed new dwelling will be 360' from the main road. Fire safety standards require the driveway to be a minimum of 12' wide, and contain 6-8" of pitrun base rock, and 2-3" $\frac{3}{4}$ minus leveling course. A 13' vertical clearance must be provided for vehicles, including a fire fuel break of 10' from the centerline of the driveway on each side. The driveway must also contain turnouts every 400' to allow vehicles to pass safely, especially during an emergency as well as a turnaround that is passable for emergency responders.



The site plan does not show access and turnaround for emergency vehicles or turnouts. However, a January 17, 2020 site visit confirmed that the property is open enough to allow for turnouts and turn

around anywhere along its length, with the exception of the first 100' of driveway where it slopes down steeply from Huskey Road. Staff finds the request complies with Section 11.140.

Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

FINDING: The subject property is located within the boundaries of Mosier Fire District and has structural fire protection. The proposed structures are not larger than 3,500 SF, which would necessitate on site water storage. No on-site water storage is required. The site plan demonstrates two locations where water spigots will be available outside the dwelling. Staff finds the proposal complies with Section 11.150.

This proposed development is located within the Oregon Department of Forestry Fire Protection District and receives wildland fire protection services by ODF, as does surrounding properties.

Based on comments received from ODF for the application, ODF continues to be concerned about the impact of additional structures and the associated human activities within the wildland urban interface and emphasizes defensible space standards around the building site that contribute to higher likelihood of a structure being saved while reducing risk to firefighting personnel in the event of a wildland fire moving through the area, regardless of how the fire started. Road Standards need to be met regarding road width, vertical clearance, turnarounds and turn outs, and road grades. If any land clearing activities involving power driven machinery are proposed during the spring or summer months, applicant or owner will be required to obtain a Permit to Operate Power Driven Machinery (PDM) from ODF prior to the start of these activities. A **condition** stating this is included in the Notice of Decision.

Though not specifically addressed in Chapter 11, it is essential that the proposed development have a valid address so that emergency responders can quickly find the property. In accordance with the Wasco County Uniform Addressing Ordinance adopted on June 9, 1982, prior to Building Permit Authorization, the applicant or future owner(s) shall clearly post the address of the subject lot on both sides of a post or mailbox, or other similar post, support, stake or pedestal which cannot be easily removed or destroyed which is within 30' of the driveway which accesses the dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. A **condition** of approval is included in the Notice of Decision requiring the owner to apply for a new address for the new dwelling after expiration of the appeal period but at least 2 weeks prior to issuance of zoning approval on a building permit application, and submit the filing fee (\$75) for an address application to the Planning Department prior to issuance of zoning approval on a building permit application.

With these conditions of approval staff finds that the request complies with Chapter 11 – Fire Safety Standards.

D. Chapter 14 – Scenic Area Review

Section 14.100, Provisions For All New Development (GMA & SMA)

- A. *All new development, except uses allowed through the expedited review process, shall be reviewed under the applicable sections of Key Viewing Areas, Scenic Travel Corridors, Landscape Settings, Natural Resources, Cultural Resources, and Recreation Resources.*

FINDING: The following applicable sections of Chapter 14 are addressed below: Section 14.200, Key Viewing Areas, Section 14.300, Scenic Travel Corridors, Section 14.400, Landscape Settings, Section

14.500, Cultural Resources – GMA, Section 14.600, Natural Resources – GMA, Section 14.700, Recreation Resources – GMA, and Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA.

- B. New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.*

FINDING: The request includes a dwelling, accessory structure, approximately 6,000 linear feet of fencing and underground utilities including subsurface septic disposal system. Slopes on the subject lot are less than 10% and are similar throughout the property. As proposed, both buildings will require less than 100 cubic yards of grading, individually. The driveway is existing and will require no further grading. Staff finds that the proposed development will retain existing topography and minimize grading activities to the maximum extent practicable and complies with Criterion 14.100.B.

- C. New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

FINDING: The applicant is requesting approval to construct a two story single family dwelling with a 1,889 Square Foot (SF) footprint 50'L x 40'W x 24'H, and a 1,500 SF, 50'L x 30'W x 24'H accessory structure for a shop and storage. The two story dwelling will have an overall square footage of 2,978 SF.

Staff conducted a compatibility analysis of all properties in Rocky Prairie Subdivision; there are dozens of existing buildings in this study area. The largest building is a 2-story barn with an overall mass of 6,496 SF. This building is considered to be an outlier because no other building in the area is anywhere close to this size. The next largest building in the area is 3,921 SF and many others are smaller but similar in size. As proposed, all proposed buildings are smaller than other nearby structures, and will fit into the general scale of the neighborhood. Staff finds that the request complies with Criterion 14.100.C.

- D. Unless expressly exempted by other provisions, colors of all exterior surfaces of structures on sites not visible from Key Viewing Areas shall be earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The entire property is visible from one or more KVAs. Staff finds that Criterion 14.100.D. is not applicable to this request.

- E. Additions to existing buildings.....*

FINDING: This request involves three new buildings. There are no existing buildings on the subject property (the well is present, but was unlawfully constructed and is being reviewed as new development, not existing, along with the proposed new well house for it). Staff finds that Criterion 14.100.E. is not applicable to this request.

- F. Outdoor lighting shall be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There*

shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic.

FINDING: Two new lights are proposed as part of the dwelling request, one on the garage, and one on the back door. These lights will be motion detector lights and will not be on all night. The applicant and owner should be aware of the requirements for outdoor lighting and the need to hood and shield outdoor lighting so that it is directed onto the subject lot. A **condition** of approval is included in the Notice of Decision requiring outdoor lighting to be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic. Outdoor Lighting Standards are included as Attachment E. With this condition of approval, staff finds that the request complies with Criterion 14.100.F.

- G. All ground disturbance as a result of site development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation, and replacement of such vegetation that does not survive.*

FINDING: There will be ground disturbance as a result of new development (dwelling, shop, fencing). A **condition** of approval is included in the Notice of Decision requiring ground disturbance to be minimized to the greatest extent possible. All ground disturbance resulting from construction of the new development must be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive. With the proposed condition of approval, the request complies with Criterion 14.100.G.

- H. Except as is necessary for site development or fire safety purposes, the existing tree cover screening the development area on the subject parcel from Key Viewing Areas and trees that provide a back drop on the subject parcel which help the development area achieve visual subordination, shall be retained. Additionally, unless allowed to be removed as part of the review use, all trees and vegetation within buffer zones for wetlands, streams, lakes, ponds and riparian areas shall be retained in their natural condition. Any of these trees or other trees required to be planted as a condition of approval that die for any reason shall be replaced by the current property owner or successors in interest no later than the next planting season (Oct-April) after their death with trees of the same species or from the list in the landscape setting for the property.*

To ensure survival, new trees and replacement trees shall meet the following requirements

- 1. All trees shall be at least 4 feet tall at planting, well branched, and formed.*
- 2. Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.*
- 3. The trees must be irrigated until they are well established.*

4. *Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.*

FINDING: The subject lot contains scattered tree cover (15 Ponderosa pine trees) around the proposed development and the southwestern third of the property, behind the development as seen from KVAs, is heavily vegetated with Oregon white oak trees. The applicant does not propose to remove any trees for site development. Appropriate thinning may occur over time to comply with fire safety standards among the oak trees, however the grove acts as backdrop screening to the proposed development and must remain generally intact. The 15 pine trees indicated on the site plan provide visual screening in front and behind the proposed structures, as seen from KVAs. A **condition** of approval is included in the Notice of Decision requiring retention of all conifer trees indicated on the site plan to comply with visual subordination standards. Coniferous trees not indicated on the site plan may be removed if they are damaged or diseased, or for fire safety purposes. If coniferous trees indicated on the site plan are removed, die or are destroyed, they shall be replaced in compliance with Criterion 14.100.H. Staff notes that an individual property owner's view is not protected by the NSA-LUDO, however no trees between the applicant and the neighboring property will be removed. Also, all locations on the property are visible from KVAs, so there is no other location which will minimize visibility from KVAs.

With the proposed condition of approval, staff finds that the request complies with Criterion 14.100.H.

Section 14.200, Key Viewing Areas

The following is required for all development that occurs on parcels/lots topographically visible from Key Viewing Areas.

- A. *Each development and land use shall be visually subordinate to its setting in the GMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.*
 1. *Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to:*
 - a. *The number of Key Viewing Areas it is visible from;*
 - b. *The distance from the building site to the Key Viewing Areas it is visible from;*
 - c. *The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads and the Columbia River);*
 - d. *The difference in elevation between the building site and Key Viewing Areas;*
 - e. *The nature and extent of topographic and vegetative back screening behind the building site as seen from Key Viewing Areas;*
 - f. *The amount of area of the building site exposed to Key Viewing Areas; and*
 - g. *The degree of existing vegetation providing screening.*
 2. *Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from key viewing areas, including but not limited to:*
 - a. *siting (location of development on the subject property, building orientation, and other elements);*

- b. *design (color, reflectivity, size, shape, height, architectural and design details and other elements); and*
- c. *new landscaping.*

FINDING: Both the dwelling and the shop will be two stories with pitched roofs. The dwelling will have a cross gabled design and will be oriented east-west. They will be just east of the driveway closer to the southern property line (road) than the north. The western third of the property is covered in oak trees. Approximately 15 mature Ponderosa pine trees are scattered throughout the open field in the eastern two thirds of the property.

The development sites are topographically visible from the following Key Viewing Areas (KVAs):

- Dwelling & Pump House: SR 14, the Columbia River, and Highway 30 W (Middle Ground);
- Accessory Structure: SR 14 and the Columbia River (Middle Ground);

Middleground is defined as ¼ mile – 3 miles from the subject lot.

Section 14.200 is not applicable to portions of a KVA within an Urban Area (UA) identified by the Management Plan. The Urban Area identified in this request is Mosier, Oregon.

The development sites are located at an elevation of approximately 680' feet above sea level (ASL). The primary factors in analyzing the visibility of the proposed kitchen/restroom building include the distance from KVAs, the use of dark earthtone colors on the buildings, existing backdrop of trees and the use of nonreflective materials.

The land use designation (GMA, Large Scale Agriculture) and landscape setting (Oak Woodlands) in the project area requires a scenic standard of visually subordinate.

Visually Subordinate is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

Highway 30 W: The portion of this KVA located within the Urban Area (UA) of Mosier, Oregon, is not included in this review. The portion of the KVA located outside of the UA is located at an elevation ranging from 180-200 beginning approximately 1.4 miles north of the development site and is visible for a linear distance of approximately 0.4 miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Washington SR 14: This KVA is located at an elevation of 40-80' Above Sea Level (ASL), approximately 1.9 mile north of the development site. The site is sporadically visible among land forms for approximately 3.3 linear miles. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, it will be visually subordinate as seen from this KVA.

Columbia River: This KVA is located at an elevation of approximately 76' ASL (per Corps of Engineers flowage easement between The Dalles Dam and Bonneville Dam). The development site is located

approximately 1.1 mile south of the Columbia River. The development site is topographically visible for 3.5 linear miles along the river, however existing on-site trees (background and foreground) and distance make it very difficult to see the development site from this KVA. Based on distance, screening vegetation (including the oak grove backdrop, and the scattered conifers onsite in the foreground), proposed dark earth-tone colors and non-reflective materials to be used on the exterior of the building, the proposed development will be visually subordinate as seen from this KVA.

The applicant submitted colors for the proposed structures (dwelling, shop, round pen, and pump house) which are dark earth tone colors that blend with the surrounding area. Dark earth tone colors were not submitted, nor required, for the agricultural fencing as Section 3.110.B.1.a states: “a. In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less” and this 20.59 acre property is in the GMA.

Colors are addressed further in Section 14.200.I.

Reflectivity is addressed in Section 14.200.J.

Based on distance between the new development and KVAs, screening vegetation, and proposed colors and materials, with conditions proposed in Sections 14.200 I. and J., the proposed agricultural buildings and structures will be visually subordinate as seen from KVAs. Staff finds that the request complies with Criterion 14.200.A.

- B. New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)*

FINDING: All portions of the subject property are topographically visible from KVAs. The home has been sited to allow for the shop to be clustered nearest the livestock, without impacting grazing, well or septic areas. No other sites exist on the property that would reduce the overall visibility of the proposed development. With conditions of approval throughout this report, the proposed development will be visually subordinate from all KVAs therefore staff finds that the request complies with Criterion 14.200.B.

- C. New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.*

FINDING: The required scenic standard in this location is “visually subordinate.” There are no on-site topographic features on the subject lot that will screen the new building from KVAs. The buildings will be partially screened by 15 existing Ponderosa pine trees scattered around the development. As proposed, dark earthtone colors and nonreflective materials will also help the development achieve visual subordination with its surrounding landscape. Staff finds that the request complies with Criterion 14.200.C.

- D. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.*

FINDING: Slopes on the subject lot are less than 10%. Each proposed building site will require less than 100 cubic yards of leveling. Since there is little leveling to be done on site, there will be little cut banks and fill slopes on-site, and they will not be visible from KVAs. The driveway is existing and will not require further grading. A condition of approval is included in the notice of decisions requiring that ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive. With this condition, staff finds that the request complies with Criterion 14.200.D.

- E. The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. A variance in the General Management Area may be granted according to Chapter 6 if application of the guidelines would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height and site to comply with the criteria have been made.*

FINDING: KVAs from which the site is visible are located north of the subject property. The development site is located at an elevation of approximately 680' Above Sea Level (ASL). Hills to the south rise to an elevation of approximately 1,200'. When viewed from KVAs, the proposed agricultural buildings will be located below the skyline of a bluff, cliff or ridge. Staff finds that the request complies with Criterion 14.200.E.

- F. An alteration to a building built prior to*

FINDING: The request involves three new buildings. There are no existing buildings on the subject property. Staff finds that Criterion 14.200.F. is not applicable to this request.

- G. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized according to Chapter 6 of this Ordinance. In the SMA the setbacks described above shall be 200 feet.*

FINDING: The proposed development is located approximately 1 mile south of the Columbia River. Staff finds that the request complies with Criterion 14.200.G.

- H. New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. Variances to this guideline may be authorized according to Chapter 6 of this Ordinance if its application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be utilized.*

FINDING: The average slope on the subject lot is approximately 10%. This is less than 30% and staff finds that the request complies with Criterion 14.200.H.

- I. Unless expressly exempted by other provisions in this chapter, colors of all exterior surfaces of structures visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be*

included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

FINDING: The subject parcel is visible from several KVAs. The request includes construction of three new buildings (a dwelling, shop, & pump house), a round pen, and a mesh fence. Dark earth tone colors are required on all exterior surfaces, with the exception of the mesh fences as described above. The applicant submitted the following proposed materials and colors:

	Material	Exterior Color	Looks Like	Consistent with color requirement?
HOUSE				
Main/Body	Hardie Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardie Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
SHOP & PUMP HOUSE				
Main/Body	Hardi Board Fiber Cement	SW Thunder Grey (SW 7645)	Dark Gray	Yes, approved
Trim	Hardi Board Fiber Cement	SW Forest Wood (SW 7730)	Dark Green	Yes, approved
Roof	Owens Corning Asphalt Shingles	Gray	Dark Gray	Yes, approved
ROUND PEN	Galvanized Steel	Hunter Green (Rustoleum)	Dark Green	Yes, approved for narrow surfaces only

A **condition** of approval is included in the Notice of Decision approving these colors. If alternate colors are proposed, they shall be submitted to and approved by the Planning Department prior to their application on the building. With the proposed condition of approval staff finds that the request complies with Criterion 14.200.I.

- J. The exterior of buildings in the GMA and structures in the SMA on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this criterion, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from Key Viewing Areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.*

FINDING: Exterior materials are identified above in Section 14.200.I. Exterior siding and trim for the buildings will be fiber cement (Hardie board brand), and the roofing will be asphalt shingles. The round

pen is a structure, not a building, and does not need to comply with this criterion as this is not in the SMA. Fiber cement and asphalt are non-reflective materials listed in the Scenic Resources Implementation Handbook as 'Preferred' and are approved.

Windows on the north, east, and west facing walls of the proposed buildings will be visible from KVAs. The application materials state that the windows will be of "low reflectivity glass." No specifications were given. The Scenic Resources Implementation Handbook states that clear thermal pane glass with 11%-15% reflectivity is potentially acceptable outside the foreground of KVAs. Tinted glass with less than 11% visible light reflectivity rating is recommended. The proposed structures are outside the foreground of KVAs. A **condition** of approval is included requiring that all windows be thermal pane rated less than 15% visible light reflectivity.

The Scenic Resources Implementation Handbook also states:

"The Management Plan does not limit the total amount of glass on buildings. Review agencies recommend, however, that an unscreened window or continuous glass area should not exceed 50 square feet."

On the dwelling there will be three windows, a door, and a garage door on the north side; one window on the west side, and none on the east side. According to the scaled elevation drawings, only the north side will have one door that will be larger than 50 SF of continuous glass and it will not be visible from KVAs. The site plan indicates that there are several pine trees immediately south of the proposed dwelling which will provide screening. In addition, the proposed shop sits 100' south of the dwelling and will provide additional screening from KVAs. The shop has two small windows proposed on each side that faces the KVAs, with the two large and one small shop doors on the north face which is not visible from KVAs.

As there are no sections of continuous glass larger than 50 SF that face KVAs, all windows are proposed to be low reflectivity, and there is existing vegetative screening as well as proposed structural screening, staff finds that the request complies with Criterion 14.200.J.

K. The following criteria shall apply to new landscaping used to screen development from Key Viewing Areas...

FINDING: The proposed development is required to be visually subordinate from identified KVAs. The subject property contains scattered tree cover (approximately 15 conifers) between the proposed development and KVAs to the north and northeast provide year-round screening from KVAs. There are no alternate sites on the parcel to place new development to better achieve visual subordination than the proposed development sites because alternative sites could require tree removal and increased grading. No additional tree screening, landscaping, or earthen berms are required to be planted to achieve visual subordination because visual subordination can be achieved by the retention of existing on-site coniferous trees and the use of dark earthtone colors and nonreflective materials on the exterior surfaces of new development. A **condition** of approval is included requiring the retention of all on site conifers east of the existing driveway. Any trees that die shall be replaced in the next growing season. With that condition, staff finds that the request complies with Criterion 14.200.K.

L. Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

FINDING: The subject lot is topographically visible from three KVAs (Highway 30W, SR 14, and the Columbia River). KVAs are located to the north and northeast at elevations ranging from 40-360' ASL. The development site is located at an elevation of approximately 660' Above Sea Level (ASL), and the landscape continues to rise behind it, as seen from KVAs. Hills to the south rise to an elevation of approximately 1,200'. When viewed from KVAs, the proposed agricultural buildings will be located below the skyline of a bluff, cliff or ridge.

The subject lot is difficult to see from KVAs due to their relatively low elevation and the existence of intervening vegetation. As proposed, the buildings will be subordinate to the surrounding landscape because the height of the development is within the canopy height of the mature pine trees offering screening on the property, the design uses dark earth-tone colors and non-reflective materials and all large glass surfaces face away from KVAs.

With the distance from KVAs, screening and backdrop provided by existing vegetation, low reflective, small windows being used on KVA facing sides of buildings, and dark earthtone colors proposed to be used on the exterior surfaces, staff finds that the proposed development will have no cumulative impact on scenic resources and will blend into the surrounding landscape. Staff finds that the request complies with Criterion 14.200.L.

M. New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

FINDING: This request does not include any items discussed in this criterion. Staff finds Criterion 14.200.M. is not applicable to this request.

N. New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

O. New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that...

FINDING: This request does not include any communication facilities. Staff finds Criteria 14.200.N. and O. are not applicable to this request.

P. Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that...

FINDING: This request does not include any items discussed in the above criterion. Staff finds Criterion 14.200.P. is not applicable to this request.

Q. In addition to all applicable criteria above, all Mineral and Aggregate related uses on lands visible from Key Viewing Areas shall meet all applicable criteria in Chapter 10.

FINDING: This request does not include any Mineral or Aggregate uses. Staff finds Criterion 14.200.Q. is not applicable to this request.

R. In addition to the GMA standards, the following will be required in the SMA...

FINDING: This request is not for development in the SMA. Staff finds Criterion 14.200.R. is not applicable to this request.

S. The following are not required to meet scenic standards...

FINDING: This request does not include any items discussed in this criterion. Staff finds Criterion 14.200.S. is not applicable to this request.

Section 14.300, Scenic Travel Corridors

The Historic Columbia River Highway (Highway 30) and Interstate 84 (I-84) are designated as Scenic Travel Corridors, and development along a Scenic Travel Corridor must be set back at least 100' from the edge of pavement of the Scenic Travel Corridor roadway.

FINDING: The proposed development site is located approximately 0.9 mile south of Highway 30 W and 1 mile south of Interstate 84. Staff finds that the request complies with Section 14.300.

Section 14.400, Landscape Settings (GMA & SMA)

Landscape settings are the combination of land uses, landforms and vegetation patterns which distinguish an area in appearance and character from other portions of the National Scenic Area.

C. Oak-Pine Woodland Landscape Setting

GMA Only

1. *Structure height shall remain below the tree canopy level in wooded portions of this setting.*

FINDING: The subject lot contains a grove of Oregon white oak trees whose canopy exceeds 30' in height. There are also Ponderosa pine trees up to 75' in height. The proposed dwelling and shop will be 24' tall, lower than the nearby canopy. Staff finds that the request complies with Criterion 14.400.C.1.

2. *In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development.*
 - a. *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include: Oregon white oak, ponderosa pine, Douglas fir.*
 - b. *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

FINDING: The buildings are located on the eastern side of the oak grove, which is located on the west side of the property, and have scattered pine trees around them. Based on distance from KVAs, the use of dark earthtone colors and nonreflective materials on the exterior of all buildings, no new trees need to be planted to achieve visual subordination. Staff finds that the request complies with Criterion 14.400.C.2.

Section 14.500, Cultural Resources – GMA

The purpose of this section is to protect and enhance cultural resources, and ensure that proposed development does not have an adverse effect on significant cultural resources.

(***)

B. Applicability of the Cultural Resource Reconnaissance and Historic Survey Requirements

1. *The reconnaissance survey standards of C, Cultural Resource Reconnaissance and Historic Survey, apply until a cultural resource survey of the General Management Areas is complete.*

- a. *A reconnaissance survey shall be required for all proposed uses, except...*

(***)

(5) Proposed uses that would occur on sites that have been adequately surveyed in the past.

- (a) The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception.*
- (b) Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing.*
- (c) The nature and extent of any cultural resources in the project area must be adequately documented.*

FINDING: A new reconnaissance survey is not required for the requested development. One was performed during a 2018-19 application on this property when a prior owner applied for a horse boarding facility but withdrew the application after appeals. In a July 20, 2020 comment, Chris Donnermeyer, the Heritage Program Manager of the Columbia River Gorge National Scenic Area deemed that the prior survey adequately surveyed the area relevant to the new proposal. During the second pre-notice comment period (sent Sept 17, 2020) and the cultural notice comment period (sent October 7, 2020), Chris affirmed this comment.

The cultural resource survey was prepared on June 21, 2018 by Justin B. Colon, M.A., Archaeological Services LLC, 601 Officers Row, Vancouver, WA 98661. He is considered to be an expert consistent with the professional standards published in 36 Code of Federal Regulations Part 61, and Guidelines for evaluating and Documenting Traditional Cultural Properties. His report included surface survey information and subsurface testing, adequately documenting the cultural resources. While the results of this survey are confidential, relevant portions of them are discussed below. Staff finds that the request complies with Criterion 14.500.B.1.a.

2. *A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.*

FINDING: This request does not include any structures over 50 years old. Staff finds that Section 14.500 does not apply.

3. *The Gorge Commission will conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area.*
- a. *When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also will identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone.*

FINDING: A cultural resource survey was conducted and delineated during the application process for application #921-18-000017-PLNG. No new delineation is required. Staff finds that the request complies with Criterion 14.500.B.3.a.

- b. *Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.*

FINDING: As a request for a new dwelling and a farm use with associated structures, this request does not meet the definition of a large-scale use (described below in Criterion 14.500.d). Staff finds that Criterion 14.500.B.3.b. does not apply to this request.

- c. *The Gorge Commission will conduct and pay for evaluations of significance and mitigation plans for cultural resources that are discovered during construction, subsection G, for small and large-scale uses in the General Management Area.*

FINDING: If any cultural resources are discovered during the development of this request, the Gorge Commission will conduct and pay for evaluations of significance and mitigation planning. Staff finds that the request complies with Criterion 14.500.c.

- d. *For this Ordinance, large-scale uses include development involving:*

- (1) two or more new residential dwellings;*
- (2) recreation facilities;*
- (3) commercial and industrial development;*
- (4) public transportation facilities;*
- (5) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater;*
- (6) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances; and*
- (7) disposal sites*

FINDING: This request is for one new residential dwelling, a farm use, and associated structures. It does not meet the definition of a large-scale use identified above. Staff finds that Criterion 14.500.3.d. does not apply.

(***)

4. *The primary responsibility and cost of preparing an Evaluation of Significance, D; Assessment*

of Affect, E; or Mitigation Plan, F, shall be borne by the project applicant.

- a. If the applicant has no practicable alternative, according to (5) below, Practicable Alternative Test, allowing them to avoid an affected cultural resource, or is seeking to make a change or addition to a historic resource, the Forest Service has agreed to provide services to aid in the preparation of the Evaluation of Significance, Assessment of Effect, or Mitigation Plan to the greatest extent possible.*
- b. The responsibility for and cost of any development necessary to protect or mitigate effects on the cultural resource shall be borne by the project applicant.*

FINDING: A cultural resource reconnaissance survey dated June 21, 2018, was submitted to the Planning Department. The cost of this survey was borne by the previous project applicant/property owner.

- 5. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and Guidelines for evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).*

FINDING: The cultural resource survey was prepared by Justin B. Colon, M.A., Archaeological Services LLC, 601 Officers Row, Vancouver, WA 98661. He is considered to be an expert consistent with the professional standards published in 36 Code of Federal Regulations Part 61, and Guidelines for evaluating and Documenting Traditional Cultural Properties. Staff finds that the request complies with Criterion 5.

Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- a. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on cultural resources;*

FINDING: The request includes small scale livestock (goats) in the A-2 (80), Small Scale Agriculture Zone. A farm use is a use permitted without review in this zone. To enable this farm use however, fencing must be placed on the subject parcel as this is within the Wasco County Livestock District, where it is the responsibility of the landowner to keep cattle on their land, as opposed to Open Range, where they may be allowed to roam free and other landowners need to fence them out.

Cultural resources were identified on a portion of the property. As well, approximately one third of the land (6.5 acres) is oak pine woodland and does not contain adequate forage for the applicant's proposed livestock. It is not feasible to require the removal of the oak pine woodland to provide more forage for the livestock, as that would conflict with other criteria within the NSA LUDO related to visual

subordinance and natural resources.

The soil types on the property include about 19 acres of 50C (wamic loam, class 4) and 51D (wamic skyline complex, class C), as well as just under 2 acres of 39 (rocky outcropping, class 8). The 51 D is in the oak area on the western edge, and the 39 is along the eastern edge, with the 50C occupying the central area of the parcel. The Class C and Class 4 soils have an Animal Unit Monthly (AUM) value ranging from 3.33 (favorable conditions) to 7.02 (unfavorable conditions) according to the USDA soil interpretation guide. The class 8 soil has no listed value for AUM.

Staff also coordinated with the applicant to ensure that the wetland resource on the property would not be disturbed through the request, by placing the fencing outside of the wetland buffer. The proposed farm use on this land cannot reasonably be accomplished by eliminating the cultural resource area from grazing. To do so would concentrate the animals on a much smaller area of the land, and the existing 19 acres is only just adequate during favorable conditions.

A condition described and required below, requires a cultural resources monitor to be onsite during the construction of the fencing. The condition is in response to concerns raised by the Umatilla and Warm Springs tribal government cultural resource protection programs. Staff finds that the request complies with Criterion a.

In sum, staff finds the applicants have exhausted practicable alternatives and coordinated with resource protection agencies to ensure compliance with resource protection requirements of the Wasco County NSA LUDO and the Management Plan for the Columbia River Gorge National Scenic Area.

- b. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on cultural resources; and*

FINDING: As stated in a. above, the basic purpose of the use would not be reasonably accomplished by reducing the size, scope or configuring by changing the design of the use in a way that would avoid or result in less adverse effects on cultural resources. Additional plans were submitted by the applicant to accommodate competing natural and cultural resource buffers with the assistance of resource specialists that meet the regulatory requirements of this plan. A condition is included in D.5. requiring on-site monitoring by an archaeologist when construction of the project occurs in the identified cultural area on the property. As noted below, this was deemed reasonable by the Umatilla tribe and Warm Springs tribes during the cultural notice process for this application. With the proposed condition of approval staff finds that the request complies with Criterion b.

- c. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.*

FINDING: The land use designation and recreation intensity class are not a constraint in this application. There are no proposed alternatives to this request due to the parcel size and configuration of land outside of the wildlife habitat and cultural area. Staff finds that the request complies with Criterion c.

A. Cultural Resource Reconnaissance and Historic Surveys

1. *Gorge Commission/Tribal Government Notice*

- a. *In addition to other public notice requirements that may exist, the County shall notify the Indian tribal governments when:*
 - (1) *a reconnaissance survey is required; or*
 - (2) *cultural resources that are prehistoric or otherwise associated with Native Americans exist in the project area.*
- b. *Notices sent to Indian tribal governments shall include a site plan as stipulated in Section 14.040.*
- c. *Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit written comments to the County Planning Office.*
 - (1) *Written comments should describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge about them.*
 - (2) *The County shall send a copy of all comments to the Gorge Commission.*

FINDING: All appropriate notices were sent to the four tribal governments, State Historic Preservation Office (SHPO) and the Gorge Commission. This included the original pre-notice (July 2, 2020), the amended pre-notice (Sept. 17, 2020), and a cultural notice (Oct. 7, 2020). SHPO was notified of the original report in 2018. A June 4, 2021, email from Chris Donnermeyer clarifies that they do not need to be updated with the new proposal as they have already affirmed the original report. Kristen Tiede, Archaeologist with the Cultural Resources Protection Program of the Confederated Tribes of the Umatilla Indian Reservation replied with the following statement:

“The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.”

Christian Nauer, archaeologist with the Confederated Tribes of the Warm Springs Reservation stated:

“This office considers the report to represent a reasonable and good faith effort to identify and protect historic properties within the Project APE, and concurs with the recommendation for an archaeological monitor to be present during Project activities within the boundaries of the site.”

No other comments were received from any agency or Tribe during the notification periods of the various notices. Staff finds that the request complies with Criterion 1.

3. *Notice of Survey Results*

- a. *The County shall submit a copy of all cultural resource survey reports to the State Historic Preservation Office and the Indian tribal governments.*
 - (1) *Survey reports may include measures to avoid affected cultural resources, such as a*

map that shows a reasonable buffer zone.

(2) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the County Planning Office.

(3) The County shall record and address all written comments in its development review order.

FINDING: On October 7, 2020, Planning Department staff sent a copy of the completed cultural resource reconnaissance survey to all four Indian tribal governments and SHPO. Comments were received from two Tribal governments (Umatilla and Warm Springs). Kristen Tiede, Archaeologist with the Cultural Resources Protection Program of the Confederated Tribes of the Umatilla Indian Reservation replied with the following statement:

“The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.”

Christian Nauer, archaeologist with the Confederated Tribes of the Warm Springs Reservation stated:

“This office considers the report to represent a reasonable and good faith effort to identify and protect historic properties within the Project APE, and concurs with the recommendation for an archaeological monitor to be present during Project activities within the boundaries of the site.”

No other comments were received from any agency or Tribe during the notification periods of the various notices.

Staff finds that the request complies with Criterion 3.

4. Conclusion of the Cultural Resource Protection Process

- a. The County Planning Office will make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, guidelines, and standards.*
- b. If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.*

FINDING: Through this report and Notice of Decision Wasco County is making a final decision that, with conditions of approval, the proposed use will be consistent with the cultural resource goals, policies, guidelines, and standards. The final decision does not contradict SHPO, who concurred that there will be no adverse effect on cultural resources. Staff finds that the request complies with Criteria a. and b.

- c. The cultural resource protection process may conclude when one of the following conditions exist:*

*(***)*

(3) The proposed use would avoid archaeological resources and traditional cultural

resources that exist in the project area.

- (a) To meet this standard, a reasonable buffer zone must be established around the affected resources or properties;*
- (b) All ground disturbing activities shall be prohibited within the buffer zone.*
- (c) Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant.*
- (d) A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.*
- (e) An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.*

FINDING: The applicant proposes to use a portion of the identified cultural area for pasture. Instead of following (a)-(d) and avoiding the area entirely, the applicant has elected to construct fencing through that section of the property. A condition of approval has been included requiring an on-site archaeologist to monitor the installation of the fence posts. This condition has been deemed acceptable by the two commenting treaty tribes, as well as by Chris Donnermeyer. Neither of the other tribes has voiced concerns for this proposed condition. Staff finds that the request complies with Criterion 3. (e) and an evaluation of significance is addressed below in B.

D. Evaluation of Significance

1. Evaluation Criteria

Cultural resources are significant if one of the following criteria is satisfied.

- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places.*

The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4). Cultural resources are eligible for the National Register of Historic Places if they possess integrity of location, design, setting, materials, workmanship, feeling, and association. In addition, they must meet one or more of the following criteria...

- b. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.*

FINDING: The site has not been formally evaluated for significance and eligibility consideration for inclusion on the National Register of Historic Places (NRHP). The private consultant recommended that

if plans change so that greater impacts are proposed within the site boundaries, it should be formally evaluated. No Indian tribal government submitted comments indicating the site is culturally significant. Because neither of the above criteria can be met, the cultural resource is not considered to be significant. Staff finds that the request complies with Criterion 1.

2. Evaluation Process and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following standards...

FINDING: The Forest Service archaeologist and SHPO concurred with the consultant's report. Comments received from both the Umatilla tribe and the Confederated Tribes of the Warm Springs Reservation indicated support for a mitigation plan that would require an archaeological monitor be present for the construction of the fence. A **condition** of approval is included requiring that an archaeological monitor be present for the construction of the fence. With that condition, staff finds that the request complies with Criterion 2.

3. Notice of Evaluation Results

If the evaluation of significance demonstrates that the cultural resources are not significant, the County shall submit a copy of the evaluation of significance to the State Historic Preservation Office and the Indian tribal governments.

- a. The State Historic Preservation Office, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the County Planning Office.*
- b. The County Planning Office shall record and address all written comments in its development review order.*

FINDING: After coordinating with Indian Tribal Governments, the SHPO and Mr. Donnermeyer, the cultural resources have not been found to be significant. Comments were received from two Tribal governments, the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of the Warm Springs Reservation. These comments are addressed in this review. Staff finds that the request complies with Criterion 3.

*(***)*

5. Conclusion of the Cultural Resource Protection Process

The County will make a final decision on whether the affected resources are significant.

- a. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Office or Cultural Advisory Committee, the County must justify how it reached an opposing conclusion.*
- b. The cultural resource protection process may conclude if the affected cultural resources are not significant.*
- c. If the project applicant or the County determines that the cultural resources are*

significant, the effects of the proposed use shall be assessed according to E below, Assessment of Effect.

FINDING: Based on the cultural resource reconnaissance survey submitted by the applicant/owner, Wasco County finds that if specific conditions are imposed, the cultural resources are not significant. This decision is consistent with the USFS archaeologist and SHPO and the cultural resource process may conclude. **Conditions** of approval associated with cultural resources include:

- All ground disturbance within the archaeological site boundaries shall be archaeologically monitored, specifically the installation of fence lines.
- If plans change so that greater impacts are proposed within the archaeological site boundaries, the site shall be formally evaluated for significance and eligibility for inclusion on the National Register of Historic Places (NRHP).

With these conditions, staff finds that the request meets Criterion 5.

G. Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities.

1. *Halt Construction: All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.*

FINDING: A **condition** of approval is included in the Notice of Decision requiring all construction within 100' of any discovered cultural resource to cease. The cultural resource shall remain as found and no further disturbance may occur. With this condition, staff finds that the request complies with Criterion 1.

2. *Notification: The project applicant shall notify the County Planning Office and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.*

FINDING: A **condition** of approval is included in the Notice of Decision requiring the project applicant to notify the Wasco County Planning Department and the Gorge Commission within 24 hours of any cultural resource discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the applicant shall also notify the Indian tribal government within 24 hours. With this condition of approval staff finds that the request complies with Criterion 2.

3. *Survey and Evaluation: The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Office (see, ORS 358.905 to 358.955).*
4. *Mitigation Plan: Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in F above, Mitigation Plans.*
5. *All survey and evaluation reports and mitigation plans shall be submitted to the County*

Planning Office and the State Historic Preservation Office.

6. *Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.*
7. *Construction activities may recommence when the conditions in the mitigation plan have been executed.*

FINDING: If cultural resources are found to be significant, the process outlined in Criteria 3.-7. will be followed. Staff finds that the request complies with Criteria 3. – 7.

H. Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. *Halt Activities: All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.*
2. *Notification: Local law enforcement officials, the County Planning Office, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.*

FINDING: If any human remains are discovered during construction, all activities shall cease and the human remains shall not be disturbed any further. The project applicant will notify local law enforcement officials, the County Planning Office, the Gorge Commission and all four Indian tribal governments. **Conditions** of approval stating this are included in the Notice of Decision. Staff finds that the request complies with Criteria 14.500.H.1. and 2.

3. *Inspection: The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.*
4. *Jurisdiction: If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.*
5. *Treatment: Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, chapter 97.740 to 97.760.*
6. *If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in F above, Mitigation Plans.*
 - a. *The plan shall accommodate the cultural and religious concerns of Native Americans.*
 - b. *The cultural resource protection process may conclude when the conditions set forth in F above, Mitigation Plans, are met and the mitigation plan is executed.*

FINDING: If human remains are found during construction/ground disturbance, the process outlined in Criteria 3. – 6. will be followed. Staff finds that the request complies with Criteria 14.500.H.3. – 6.

Section 14.600, Natural Resources – GMA

A. Wetlands:

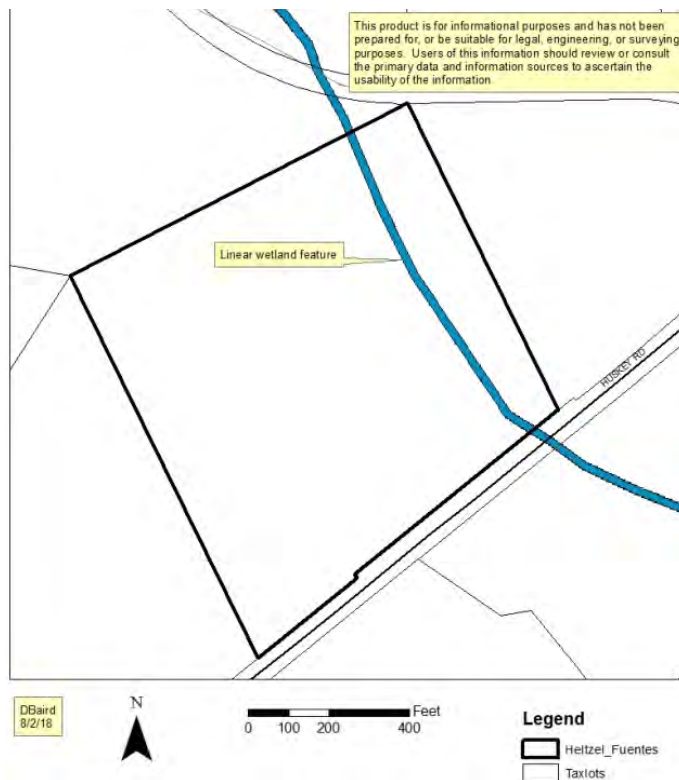
1. Purpose

- a. *Achieve no overall net loss of wetlands acreage and functions.*
- b. *Increase the quantity and quality of wetlands.*

2. Rules for Delineating Wetlands Boundaries

- a. *The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Fish and Wildlife Service 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.*

FINDING: The National Wetlands Inventory map identifies a linear wetland feature on the eastern portion of the property (see below). Staff finds that the subject lot contains a wetland.



3. Wetlands Buffer Zones

(***)

- b. *The dominant vegetation community in a buffer zone is the vegetation community*

that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(1) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.

(2) A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(3) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(4) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

FINDING: The subject lot contains a wetland with an herbaceous vegetation community. Staff finds that the request complies with Criterion 14.600.A.3.b.

c. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.

(3) Herbaceous communities: 150 feet

d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.

FINDING: The herbaceous community buffer zone is 150'. The request does not include development within the buffer of this resource. Staff finds that Criteria 14.600.A.3.c. and d. are not applicable to this request.

*(***)*

6. Other Uses and Activities Located in Wetlands or Wetland Buffer Zones.

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) and Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Wetlands as specified in (4) above, other uses authorized by the applicable zoning designation may be allowed in wetlands and wetland buffer zones subject to (7) below, Site Plans, the remaining applicable sections of this Chapter and the following criteria:

FINDING: The proposed use involves a small scale agriculture use. No portions of the proposed project or farm use will occur within the buffer for this resource. This use is not water-dependent. The Practicable Alternative Test is addressed in E. Staff finds Criterion 14.600.A.6 is not applicable.

*(***)*

B. Streams, Ponds, Lakes, and Riparian Areas

FINDING: The purpose of this section is to protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas, and to enhance aquatic and riparian areas. According to digital data from the Gorge Commission, there are no streams, ponds, lakes or riparian areas on the subject lot. Staff finds that the request complies with Criterion 14.600.B.

(***)

C. Wildlife Habitat

1. Purpose:

- a. Ensure that new uses do not adversely affect sensitive wildlife areas and sites.*

"Sensitive wildlife areas" means the 17 land and water areas that are included in the wildlife inventory of the Management Plan.

"Sensitive wildlife sites" is used here in a generic sense to refer to sites that are used by species that are:

(1) Listed as endangered or threatened pursuant to federal or state endangered species acts,

(2) Listed as sensitive by the Oregon Fish and Wildlife Commission, or

(3) Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

(4) Updated lists of species included in (1), (2), and (3) above can be found on the website for the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

- b. Enhance wildlife habitat that has been altered or destroyed by past uses.*

FINDING: The purpose of this section is to ensure that new uses do not adversely affect sensitive wildlife areas and sites. The proposed residential use and small family farm will result in the creation of three buildings (a dwelling, shop, and pump house), and one additional structure (a round pen) in addition to the proposed livestock fencing. The southwestern 1/3 (approximate) of the subject lot contains Oregon white oak, which is an important wildlife habitat for many species. Staff confirmed that the development will be occurring within a sensitive wildlife area, and contacted ODFW regarding the proposal. The deer and elk winter range is addressed below. Staff also contacted Andrew Meyers with ODFW on June 21, 2021, to ensure there were no further concerns regarding the Big Game Turkey wildlife area. Meyers confirmed by phone that he had no concerns with the proposal with regard to this wildlife area. Staff finds that the request is subject to Criterion 14.600.C.1.

2. Approval Criteria for Fences in Deer and Elk Winter Range

(***)

- c. *Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.*

FINDING: The applicant has demonstrated that the proposed use includes goats, which require a woven wire fence for controlling. In a Nov. 4, 2020 email, Jeremy Thompson, District Wildlife Biologist for the Oregon Department of Fish and Wildlife (ODFW) stated: "It does not appear that the applicant is proposing to impact the oak habitat in this application, and with the proximity to town I do not see additional wildlife impacts. ODFW has no concerns." With no concerns for impact on deer and elk winter range from the proposed fencing, which has been demonstrated to be required for the proposed farm use of controlling goats, staff finds that the request complies with Criterion 14.600.C.2.

D. Rare Plants

FINDING: The purpose of this section is to ensure that new uses do not adversely affect plant species listed on an inventory kept by the Gorge Commission. Inventories provided by the Oregon Biodiversity Information Center and the Columbia River Gorge Commission indicate that a sensitive plant may be located within 1,000 feet of the proposed development. A Sensitive Plant Notification was sent to Sue Vrilakis of ORBIC and Sarah Callaghan of the US Forest Service National Scenic Area. On Sept 17, 2020, Sarah stated: "No concerns. From what I can see of the landscape/habitat for the proposed development, there is unlikely any habitat in the immediate area for the sensitive plant species."

The Scenic Area regulations do not protect all grasses and wild flowers, only those known to be rare. Staff notes that while the use will impact native grasses and wild flowers, there is no criterion that requires all on-site vegetation to be undisturbed. Staff finds that the request complies with Criterion 14.600.D.

E. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

FINDING: A practicable alternative test will not be required since the proposal will meet the criterion for the protection of all natural resources. As previously noted in the cultural resources practicable alternative test, the applicant worked with staff and resource protection professionals to ensure all protected resources were protected and consistent with applicable regulations. Staff finds Criterion E is not applicable.

(***)

Section 14.700, Recreation Resources – GMA

The purpose of this section is to protect and enhance recreation resources consistent with Indian treaty rights, and to protect scenic, natural, cultural and recreation resources when providing new recreation opportunities.

FINDING: There are no recreational sites on the subject lot and no new recreational use is proposed on the property. The closest recreational sites are the Twin Tunnels portion of Highway 30 (0.7 mile to the

north) and the Columbia River (1 mile to the north). The proposed development will have no impact on the recreational use due to distance. Staff finds that the request complies with Section 14.700.

Section 14.800, Indian Tribal Treaty Rights and Consultation - GMA

The purpose of this section is to ensure that the Scenic Area Act, the Management Plan, and these implementing ordinances do not affect or modify any treaty or other rights of any Indian tribe. It requires notification to the four tribal governments when new uses are proposed on public lands, in or adjacent to the Columbia River or its tributaries that support anadromous or resident fish.

FINDING: Section 14.800 provides protection of Indian Tribal Treaty Rights from new development in the National Scenic Area. Section 14.800.B.3. lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or e-mailed to the four tribal governments on July 2, 2020, and a 15-day comment period was provided. After that comment period, the application was amended and a second pre-notice was sent out on Sept 17, 2020, with a 20-day comment period. At the conclusion of that comment period, a cultural notice was sent to the four treaty tribes and the US Forest Service on October 7, 2020, with a 30-day comment period. In response to the cultural notice, comments were received from the Umatilla tribe and Warm Springs tribes that they supported the requirement for an archaeological monitor to be present during construction of the fencing. A condition of approval is included requiring this monitor.

Section 14.800.C. lists guidelines for tribal government consultation when those governments submit substantive written comments. The comments described above were received from the tribal governments but these comments did not contain any claims that the request would affect or modify any treaty or other rights of any Indian tribe. Staff finds that the proposed development is consistent with Section 14.800.C.

Section 14.800.D. states that the treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Section 14.800.D.

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY & TELESCOPE.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

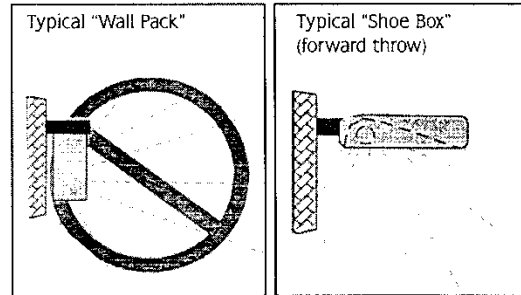
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

How do I switch to good lighting?

- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures

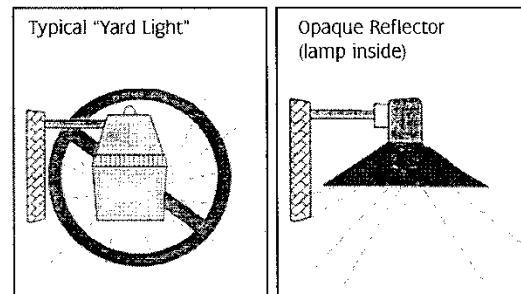


BAD

Waste light goes up and sideways

GOOD

Directs all light down

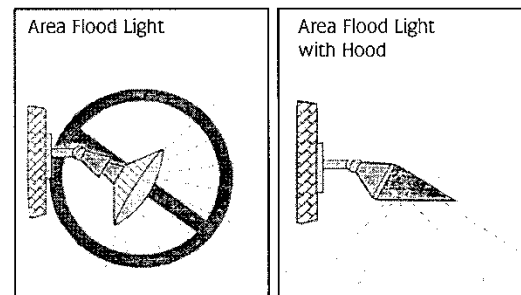


BAD

Waste light goes up and sideways

GOOD

Directs all light down



BAD

Waste light goes up and sideways

GOOD

Directs all light down

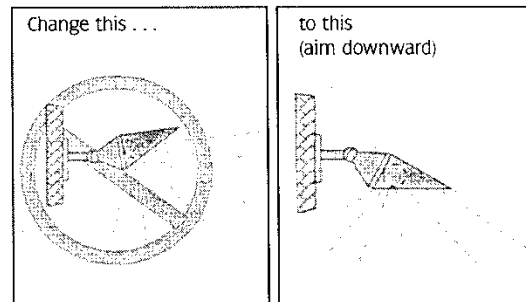
areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2** Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3** Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.
- 4** If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact fluorescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.
- 5** Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

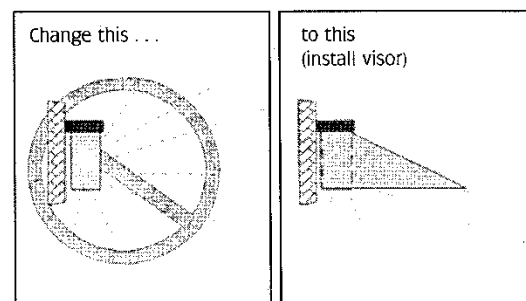
Replace bad lights with good lights.

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

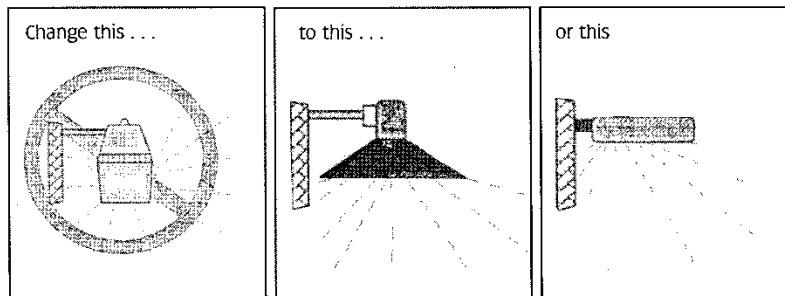
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT

OPAQUE REFLECTOR

SHOE BOX

Presented by the **New England Light Pollution Advisory Group (NELPAG)**
(<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>)

and **Sky & Telescope** (<http://SkyandTelescope.com/>).

NELPAG and **Sky & Telescope** support the
International Dark-Sky Association (IDA) (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

GNF01



Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

ATTACHMENT G - COMMENTS

The following pages contain the comments received.

Wasco County Planners -
(Planning Dept)

COMMENTS ON 14X Lot 2N 11E 11 2200

FORWARDED BY	Amy
DATE	Conroy

July 16, 2020

ADRIAN LOPEZ, owner/applicant

File # 921 19 000193 PLNG

1) Retroactive approval of an unlawfully placed well. No.

I am opposed for several reasons.

First, why would anyone bother with getting a permit for building a structure or siting and drilling a well when it will be approved after the fact anyway?

2) I am also very concerned about the impact of an unregulated well on my well. I have a very good well that I have maintained and am very concerned that there was no geological oversight on the drilling. The negative impact on my property of loss of my water source by a neighboring property is huge.

What is the county doing retroactively to insure the well drilled will not adversely affect the neighboring properties? And what is my recourse against the offending parties, Mark Fuentes, M+M Drilling, unfortunately Adrian Lopez as current landowner and the county of Wasco for allowing it?

3) The sitings of the 2 very large buildings, the single family home and the accessory

I respectfully request that the proposed building structures not be placed directly across from my building structures (house, garage, etc).

My house was sited 10 years before I bought it and I'm stuck with it. (Almost 30 years ago for siting)

I must also note that the power source, the electrical utility box is on my property and is for my property. It is not a general purpose, anyone can tap into it resource. This has been an issue in the past.

4) Wire fencing around the entire perimeter of the property. NO.

I oppose, We are in a National Scenic Area and a proposed fence will destroy the aesthetic of the Rocky Prairie slope. And what is the purpose of the fence? This is a wildlife corridor and fencing the whole property will force the animals onto Huskey Road endangering them and people driving on Huskey Road.

And there is a legal easement, access to the property owned by Joe + Janine Cerniecki. How will you mitigate that?

And, has there been a cataloging of native grasses^{or plants} on the property?

Thank you for your time and consideration of these issues.

Amy Conroy (541-578-0188)



Brent Bybee <brentb@co.wasco.or.us>

File # 921-19-000193-PLNG

3 messages

amyhop@gorge.net <amyhop@gorge.net>

Fri, Jun 4, 2021 at 2:48 PM

To: brentb@co.wasco.or.us

Cc: kclm98@hotmail.com

My concern is still about the unlawfully dug well and the long term impact on my water supply from my well. Is it county policy to grant retroactive approval, and if so that begs the question as to why a person would get a permit to begin with? The well driller assured me last summer that Mark Fuentes had gotten a permit but refused to show it to me. Did the county level any kind of fine on Mark Fuentes for an unlawfully placed well? This appears to be a case of it's easier to say I'm sorry then go through the procedure of obtaining a permit.

I understand that Adrian Lopez needs a water source to effectively develop his property and that he did not commission the well to be dug, but with the drastic shortage of water we face in these drought conditions, doesn't retroactive approval set a precedent?

Sincerely,

Amy Conroy
1145 Huskey Road
Mosier, Oregon 97040
541 578 0188

Brent Bybee <brentb@co.wasco.or.us>

Mon, Jun 7, 2021 at 5:42 PM

To: amyhop@gorge.net

Cc: kclm98@hotmail.com

Hello Amy,

Thank you for commenting, I'll be sure to include your comments on the record.

Our department does not regulate water rights for landowners, please contact the Oregon Water Resources Department (OWRD) regarding that request. Our department will only review the actual development of a well to ensure resources will not be affected. It is the responsibility of the landowner to ensure the well can be approved through OWRD. Any approvals may be on file with them as well.

All applicants throughout the entirety of Wasco County are afforded the opportunity to bring nonconforming development built without review into compliance. If the development constructed without review does not meet the land use criteria, it must be removed. If it meets the criteria it may remain after being approved retroactively. In 2020, the Board of County Commissioners approved additional fees for development commenced without land use approval in the National Scenic Area, which would ultimately result in double the cost. This application was submitted before that went into effect, so to answer your question directly no the applicant was not fined.

Brent

[Quoted text hidden]

--



Brent Bybee | Associate Planner
PLANNING DEPARTMENT

brentb@co.wasco.or.us | www.co.wasco.or.us

541-506-2544 | Fax 541-506-2561

2705 E 2nd St | The Dalles, OR 97058

Office Notice about COVID-19

Welcome back! We have resumed in-person customer service. Office hours are Monday through Thursday, 10am to 4pm with a lunchtime closure. Appointments can be accommodated on Fridays. Masks are required in the office unless you bring your vaccination card to demonstrate you are a full two weeks out from your final COVID-19 vaccination.

Staff continue to stagger their schedules to allow for COVID-19 safe distancing in a shared office environment. Appointments with staff are encouraged to ensure adequate staffing on the day of your visit. We also offer video calls that can save you travel time. We strongly encourage customers to contact us first by phone or email to determine whether an in-person visit is necessary. Please scroll down for many online available tools and resources.

Need information? Help with a tool? Schedule an in person or video call appointment?
Please call 541-506-2560 or write us at wcplanning@co.wasco.or.us

Thank you for your patience during this time.

*Note: This correspondence does not constitute a Land Use Decision per ORS 197.015.
It is informational only and a matter of public record.*

amyhop@gorge.net <amyhop@gorge.net>
To: Brent Bybee <brentb@co.wasco.or.us>

Mon, Jun 7, 2021 at 11:55 PM

So what you are saying is if the unlawfully placed Fuentes well drains my well dry and I decide to replace my well as Fuentes drilled a new well, it would cost me double but he gets off with no penalty. That's fucked up. On the record, an arbitrary date allows a person to steal water yet penalizes the wronged person to correct the issue with the same mechanisms the county turned a blind eye to.

What particularly agrieves me is that I have been a resident of Wasco county for 30 years and have owned and resided at the Huskey Road property for 20 years and have many dedicated hours of bringing the value of the property up by physically taking care of fire abatement, that is ongoing, and making it into a beautiful property only to have Wasco county shit on me and say not only if the illegal placed well destroys your water source, if you drill the same type well without a permit it will cost you double. We'll fine you for what your neighbor caused.

Great, Amy Conroy

----- OriginalMessage -----

From: "Brent Bybee" <brentb@co.wasco.or.us>

To: amyhop@gorge.net

CC: kclm98@hotmail.com

Sent: Mon, Jun 07, 2021, 05:43 PM

Subject: Re: File # 921-19-000193-PLNG

[Quoted text hidden]



Will S <wills@co.wasco.or.us>

CAFO minimum size?

William Matthews <wmatthews@oda.state.or.us>

Wed, Sep 23, 2020 at 2:35 PM

To: Will S <wills@co.wasco.or.us>

Cc: William J Matthews <wmatthew@oda.state.or.us>

Hi Will, There is no minimum number of animals on an operation that may require a CAFO Permit. Based on the details you provided, it appears that the system they propose is a grazing system with minimal confinement. The pasture deposition of manure is allowed as long as it does not cause pollution of surface or ground waters of the state. As long as this facility as described is not proposing a liquid manure or process waste water collection system or creating process waste water from a milking or cheese making activity, we would not require a CAFO Permit. The facility is required to maintain compliance with the ODA AGWQ area management plan. See <https://www.oregon.gov/oda/programs/NaturalResources/AgWQ/Pages/AgWQPlans.aspx> to find the appropriate area management plan for the proposed facility location. -Wym

On Sep 23, 2020, at 1:46 PM, Will S <wills@co.wasco.or.us> wrote:

Good afternoon,

We have a land use application south of Mosier that involves five cows and 15 goats and/or sheep on about 20 acres of land. The land they will be grazing on has a seasonal wetland running through a portion of it. Would they need a CAFO permit as the livestock may be leaving manure in that wetland that runs to Rock Creek and then to the Columbia River? I didn't see a minimum size of ag operation listed on your website.

A little more info about the proposal: They plan on fencing the whole property in with mesh fence, but including a moveable strip of electric fence to keep the livestock out of the wetland during wet portions of the year, only allowing the grazing and use of it when it is dry (most of the year it just looks like a meadow, and it is mostly just damp during the winter - it's not a stream.)

Please let me know if you need more information. Thank you.

--



Will Smith, AICP | Senior Planner
PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

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NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.

This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)

Wym Matthews, Manager

Oregon Department of Agriculture – CAFO and Fertilizer Programs

635 Capitol St NE, Salem, OR 97301-2532

PH: 503-986-4792 | CELL: 503-881-5418 | WEB: Oregon.gov/ODA

Pronouns: he, him, his

Response to Lopez Development Application 921-19-000193-PLNG

October 3, 2020

Joe Czerniecki

First of all I would like to say that my goal in providing comment on this development is not to obstruct their proposed development but to try to ensure that the adverse impacts of their development plans are minimized. I have only met Adrian a couple of times and he seems like a nice fellow and I look forward to having him as a neighbor. My comments below are focused on ways that the proposed development does not conform to the Wasco County and Columbia River Gorge Commission requirements, as well as how this property has been impacted without development approval.

There has been extensive development and modification of the property without any application or approval. This includes:

1. a well drilled without approval
2. After notification of the county development office about the well drilling, and communication between the county and Mr. Lopez about the need for development approval he engaged in extensive tree cutting, and limbing, as well as spraying of the understory in the designated woodland portion of his property. This was done out of scale with current fire protection requirements and has damaged the quality and character of the woodland which has adversely affected its function as deer and elk winter range.
3. Most recently a paddock for horse training has been installed in the northwest corner of the property, which once again this occurred without county approval.

I am therefore concerned that the pattern of apparently ignoring the Wasco County Development Land Use Ordinances may continue to occur. And that consideration should be given to remediation and special oversight.

The development requirements are designed to protect the character of the Columbia River Gorge in perpetuity and must be followed. I do understand that they create some additional burdens, but the end result is something that I have appreciated in the over 25 years I have had a home in Rocky Prairie. The preservation of the unique and special character of the Columbia River Gorge is not only of value to me but to all of the visitors and other residents.

In the following section I will also outline how the current development application does not meet the Wasco County LUDO requirements. I will be referring extensively to the Hetzel/Fuentes application 921-18-000017-PLNG in my comments. This application was reviewed by the Wasco County Planning and Development office less than 2 years ago and many of the issues that were raised by the neighboring landowners and the decisions reached by the planning office will parallel the issues I will raise.

A. Problems Related to Inconsistencies and a Lack of Completeness of the Application.

1. The date on the application is December 31st 2019. Because the application was mailed out to neighboring landowners the assumption is that the application was deemed complete. It's current state of ongoing incompleteness is based upon the requirements in Section 2.080. This raises questions about whether the current application should be considered void:

1. **On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection a. of this section and has not submitted information.**

2. Incompleteness of the information provided in the application

A complete site plan shall be submitted for all new development, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak.

- a. There continues to be conflicting information on the site plan and the Farm management plan. The site plan includes a 5 foot "MESS fence" around the perimeter of the property and the Farm Management Plan includes a 4 foot fence. The site plan includes a continuous fence around the property , but the Farm Management plan includes a fence around the woodland area to the west of the driveway and a fence around the remaining property. Which is it? These inconsistencies prevent all parties from being able to adequately comment.
- b. There is no access or egress designated to either of the fenced areas. This should be defined in the development plan.
- c. Part of the farm management plan suggests that there will be 5 cows, 15 goats, and a large number of chickens. There is no fencing in the immediate area of the home to exclude the animals from this area. This is very unusual. Will there be no fencing in this area? Typically when chickens are raised they have some type of shelter. There is no designation on the farm management plan, about where these will be, and what the visual appearance and size of this structure will be. The farm management plan is incomplete. The farm management plan also suggests that there will be a moveable electric fence. How will electricity be conducted to this area? Presumably there will be a hot wire, in addition to the proposed fence? If so this is not included in the development plan.

- d. **The site plan shall be prepared at a scale of 1" = 200' or a scale providing greater detail which clearly indicates key information:**

There is no indication of the scale provided with plan.

- e. **Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel.** The site plan provided is largely illegible: this is partly because of an effort on the part of Mr. Lopez to provide all of the necessary information in too small a space. To clearly indicate the relationship of the buildings to one another and all of the necessary detail of the development an additional site plan should be provided that provides the necessary scale to adequately evaluate the development plan. Further, I assume because this is a formal document it should be covered under the ADA

requirements. Anyone with a visual impairment would not be able to read it at all, and therefore would be prevented from having their right to comment.

- f. **Access: Indicate all existing and proposed points of ingress and egress and whether they are public or private.** There is no specific indication on the plan.
- g. **Location, dimensions and method of improvement of all roads, access drives, trails, and parking areas with individual parking spaces and internal circulation patterns.** The dimension (width) of the driveway, which provides access to my property, and which is immediately north of the Lopez property, is not included. I have an easement that gives me free access to and use of the driveway extending from Huskey road, through the Lopez property to my home. The easement is 30' wide, so no fence structure can be installed within the boundaries of this easement.
- h. **Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve (12) percent with turnouts provided at a minimum of every five hundred (500) feet.** Although there is an indication on the site plan of a driveway, that extends from Huskey road to my property immediately to the north of the Lopez property, the plan does not indicate the necessary turnout. The development of the Lopez property, with its associated increase in vehicle use on the driveway, will likely result in an increase in potential access problems especially in emergency situations. A turnout should be included in the site plan.
- i. **Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, telephone and power poles and lines. Telephone and power supply systems shall be underground whenever practical.** There is no indication of where trenching will occur to provide power access to the home site.
- j. **The location of the pond, stream, tank or sump with storage of not less than 1,000 gallons if the well or water system is not capable of delivering twenty (20) gallons per minute.** There is no specification of well output and no indication of storage.
- k. **The location of a standpipe (water spigot) a minimum of fifty (50) feet from each flammable structure if the development includes a plumbed water system.** I didn't see this specified in the site plan. Scale and legibility may be the limiting factor in this assessment.
- l. **Location and depth of all proposed grading, filling, ditching and excavating unless a grading plan is required by F below.** There is no indication of where trenching will occur to provide power access to the home site. There is only one indication of grade in the application. That is a 5% grade as the driveway approaches my property to the north. Prior review of a development plan on this property (Hetzl **921-18-000017-PLNG**) in 2018 indicates a finding by Wasco County Development that there is a 10% grade in the area of the homesite. The development plan must include a grading and excavating plan.

- m. **North arrow and map scale.** No indication of map scale
- n. **Elevation Drawing - Elevation drawings shall show the appearance of all sides of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.** The provided elevation drawings are only of the structures in a plan view. They do not include the natural grade and the finished grade. It is also unclear if the elevations of the structures are labelled correctly-this should be clarified. The north elevation for example should be the north facing side of the building. As currently provided it suggests that in the house elevations the garage doors will be on the north (view) side of the structure. The north elevation of the shop has two large openings penciled in - should they be on the south elevation? There is also no indication of what these openings are so it is difficult to ascertain whether light reflectivity and visual subordination will be a problem. Are they ? windows ? doors?
- o. The site plan does not include the necessary information on the natural grade, finished grade and the relationship of the structures to this grade. It is a requirement to provide this information and it should be provided at an appropriate scale so that it can adequately be assessed.

Problems with the Proposed Development Plan.

SECTION 14.200 Key Viewing Areas

A. Each development and land use shall be visually subordinate to its setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.

SITING

New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)

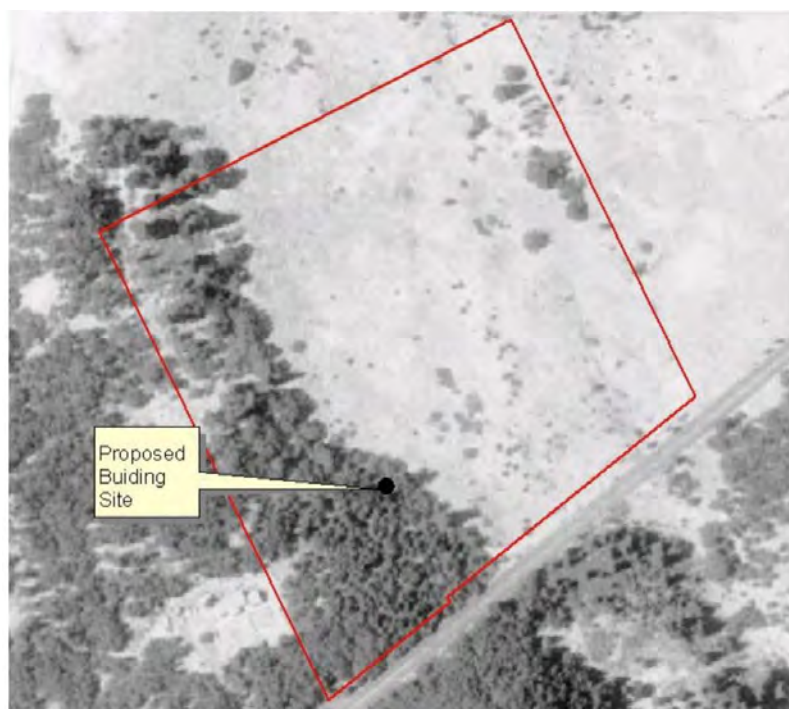
New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

The proposed siting of the structures avoids the use of oak pine woodland to the west, and the wetland to the east but places the structures in open grassland, with little to no screening because of the previously-mentioned excessive tree removal and limbing.

Additionally, the orientation of the two proposed structures strongly influences their visual impact from key viewing areas. In the plan view the shop is immediately to the north of the house and there is a 180 foot distance between them. On the surface does not look like this would affect the visual impact, however when the slope is considered the two structures will have the visual appearance from key viewing areas to the north of being 75' high. Prior decision of Wasco County states there is a 10% slope in the area of home/shop development. with a 10 % grade there is 27 foot overall elevation gain between the north wall of the shop and the south wall of the home. This means the total visual height of the two structures is 24' shop + 24' home + 27' resulting from the grade = 75'. This is an imposing visual feature in open grassland without adequate screening. It will likely also require extensive grading depending on the details of the relationship between the buildings, access between the buildings and access to both the driveway and the shop.

Further, as noted above, more detail is required to understand the extent of grading, the overall "visual" stature of the two structures with the 10% north/south grade, to adequately evaluate its impact on Key Viewing Areas and the potential for visual subordination of the two structures. Visual subordination could be improved by shifting the development closer to the woodland or in the edge of the woodland to the west, a site which was approved in a prior application (Shattuck SAR-04-110). See illustration below.



(Figure 4. Location proposed building site in existing vegetation.)

Proposed Farm Use

Mr. Lopez is proposing as part of the Farm Management Plan to have 5 cows, 15 goats and 15 chickens. The number of animals is excessive relative to the available grazing area.

1. In the summer when the wetland and the wildlife area are excluded from possible grazing, there is inadequate area available to graze the livestock. In the attached table the NRC Soil Survey suggests that 5 cows require at a minimum 5 acres per month and the goats are the equivalent of sheep which would require an additional 3.75 acres per month at .25 acres per goat. Therefore, there is inadequate grazing area for even 1 month and there would be no time for recovery, because this area cannot be watered. The proposed use therefore should not be allowed. If allowed the numbers of livestock should be greatly reduced. In the Hetzel/Fuentes application on the same property the Wasco County Land Use Development office limited the number of livestock to 5 horses.

# of Acres Needed to Feed 1 Animal for 1 Month				
Geographic Area	Soil Name	1 Cow Acre	1 Sheep Acre	1 Horse Acre
TDalles / Mill Crk	Cherry Hill /Chenowith	1.5 Acres	0.03 Acre	2 Acres
Wrentham / Dufur	Walla Walla /Dufur	1.0	0.08	1.1
Juniper Flat	Maupin / Watama	1.0	0.22	1.4
Bakeoven	Condon / Bakeoven	2.0	0.50	2.5
Tygh Ridge	Condon / Cantala	1.2	0.25	1.5
Tygh Valley	Sherar / Sinamox	1.3	0.25	1.7

Data obtained from Wasco County NRCS Soil Survey

11

SECTION 14.600 Natural Resources (GMA Only)

A. Wetlands

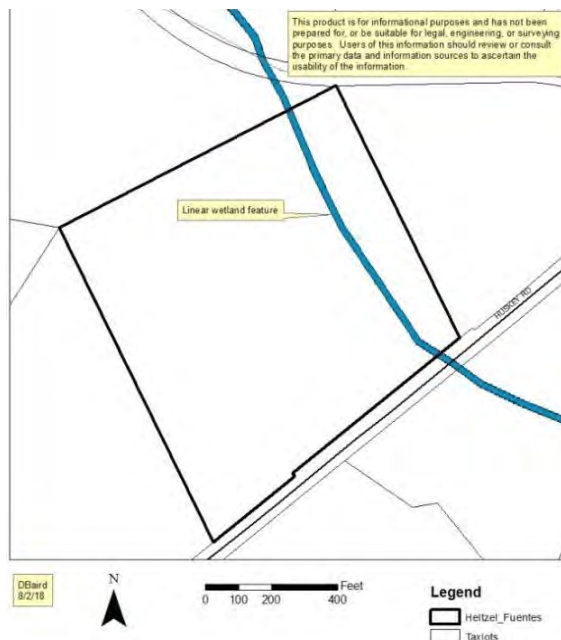
The Wasco County Development staff in the prior development application (Hetzel 2018 **921-18-000017-PLNG**) made a finding that the Lopez property includes a Herbaceous community wetland. This wetland requires a 150' setback for all development including fences. The proposed development includes a plan to install fencing which will disrupt the wetland and should not be allowed in the setback area of the wetland.

The importance of and the preservation of the wetland was raised by many neighbors, in particular by the McCabe comments, in the prior Hetzel/Fuentes **921-18-000017-PLNG** application. In the current Lopez amended proposal, the farm management plan includes a fence that encloses the wetland, with a moveable fence that would prevent grazing of 5 cows and 15 goats in the wetland in the winter season but be allowed to graze in the wetland in the summer season. The farm management plan suggests that this will have a beneficial effect on plant life in the wetland. The consequences of animal grazing are much greater than the soil or plant characteristics in it's immediate vicinity. Nitrites from manure can increase algae and reduce oxygen content in the water which can adversely affect fish survival. There are also increases in bacterial counts in the water which have led to fish die offs and sickness. These consequences in the Rock Creek drainage area which feed the Columbia, can therefore have adverse effects on fish and endangered species. The potential for E coli contamination is enough of an issue that a monitoring plan is being put in place (see minutes of the Mosier Watershed Counsel meeting Appendix A). In addition there are many at-risk and endangered species listed in the Mosier Watershed area which includes Rock Creek which is the destination of the water from the Lopez property. The endangered species are listed in Appendix B.

This conclusion was also reached by the Wasco County Development office in their evaluation of the Hetzel/Fuentes application.

“ FINDING: The National Wetlands Inventory map identifies a linear wetland feature on the eastern portion of the property. Staff finds that the subject lot contains a wetland.

Staff Recommendation Page 42 of 52 921-18-000017-PLNG (Heltzel/Fuentes)



c. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.

(3) Herbaceous communities: 150 feet

d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.

The herbaceous community buffer zone is 150'. Normally the buffer zones cannot be disturbed.

A condition of approval is included in the Notice of Decision requiring the maintenance of the existing contour, vegetation and hydrology of the wetland."

Other published literature further supports the potential adverse effects of livestock grazing in watershed areas(Paul Hansen a Research Associate Professor in the School of Forestry at the University of Montana in Missoula. Dr. Hansen is a Riparian wetland ecologist and principal ecologist for the Montana Riparian Association) in a US forest service publication.

He suggests that there is a delicate balance when grazing is allowed in wetlands (Appendix C)

1. • season-long grazing is not a viable option to improve deteriorated riparian wetland areas or to maintain a healthy riparian-wetland zone.
2. It only takes a few weeks of unauthorized use or overgrazing to set back years of progress in improvements of riparian-wetland systems. Myers (1981) states "that compliance with grazing systems is critical. When livestock are moved from a management pasture, it is commonplace for a few animals to be overlooked. In one stream, annual use by a few head of unauthorized livestock throughout most of the hot season period has nullified positive riparian-wetland habitat responses in an otherwise excellent grazing systems."
3. Therefore, livestock grazing should not be permitted in the wetland. The risk of adverse consequences and history of compliance problems both suggest this would not be advisable.

C. Wildlife Habitat

a. Ensure that new uses do not adversely affect sensitive wildlife areas and sites.

In the prior application (Hetzl/Fuentes **921-18-000017-PLNG**) there were once again extensive comments by the neighboring property owners that the protection of habitat was important for wildlife. The Wasco County Development staff made a finding that this property includes wildlife habitat.

Prior Wasco County Development Office FINDING: Approximately 6.6 acres of the western portion of the property is located in Oregon white oak trees and is considered to be wildlife habitat.



In the interim period from the Hetzel/Fuentes application until now, there has been extensive tree cutting and scraping of the land surface to provide rough roadways through the Wildlife Habitat damaging the understory. With restoration, time and the prevention of development in this area, it should be able to recover and allow this portion of the property to return to wildlife habitat.

This wildlife habitat is primarily oak woodland. The recommendation after appeal of the (Hetzel/Fuentes **921-18-000017-PLNG**) was that this woodland was an important wildlife corridor. This is supported by the priorities of the **East Cascades Oak Partnership** which was referenced in the Mosier Watershed Council meeting (see Appendix D)

The Wasco County Development office has an obligation to require restoration of this wildlife habitat.

Fencing Requirements

New fences in deer and elk winter range shall comply with the following standards.

1. New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

The addition of the Farm Management Plan suggests that the fencing is necessary to contain livestock. This is in conflict with the preservation of the western fenced area as a wildlife corridor. To preserve the woodland as a wildlife corridor the fencing should not be allowed in this area.

- 2. New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson et. al. 1990), as summarized below, unless the project applicant demonstrates the need for an alternative design:**
 - 1. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.**
 - 2. The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.**
 - 3. The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.**
 - 4. Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.**

There is a conflict between the Farm Management Plan and the Development plan: one suggests a 5 foot high MESS fence and the other has a 4' high MESS fence. Both of these do not conform to the fencing requirements in deer and elk winter range. The fence type does not conform to development standards, and the fence height exceeds the 42" requirement

The post height being proposed (6' posts) do not conform to the fencing needs. It is of particular concern that the current owners have been non-compliant and that the fence height limitations will be exceeded in the future. The posts should be no higher than that required for fencing.

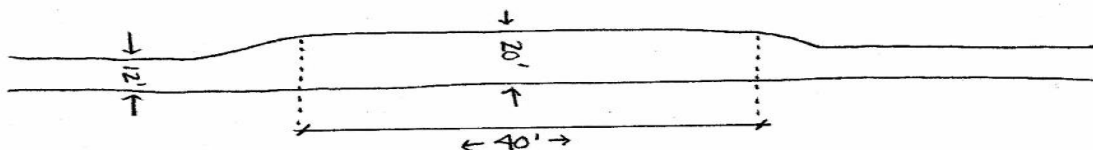
This importance of placing limitations on fencing is supported by the Friends of Columbia Gorge comments in the Hetzel/Fuentes application 2018 **921-18-000017-PLNG**.

Pursuant to NSA LUDO 14.600© new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas such as gardens. Fences must be minimum to meet the needs of the project applicant. If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high, the distance between the top two wires must be 1- inches apart, the bottom wire must be at least 16 inches above the ground, and must be smooth wire, stays or braces must be placed between fence posts to create a more rigid. Fence and woven wire must not be used as fencing material. Applicants must demonstrate a specific need for variance from these rules.

CHAPTER 11 FIRE SAFETY STANDARDS

SECTION 11.140 Access Standards - Providing safe access to and escape from your home.

IF YOUR DRIVEWAY IS LONGER THAN 200 FEET, ARE TURNOUTS PROVIDED ALONG ITS LENGTH?



Turnouts need to be provided at least every 400 feet. Turn outs are intended to allow vehicles to pass safely, especially during an emergency. This should be kept in mind when siting the turnouts. Steeper slopes or tighter corners may require turnouts to be located closer than every 400 feet.

The requirement of “providing safe access to and escape from your home” is an important issue. As already noted, I have an easement that runs with the land giving me free and unencumbered access to my home using the driveway that spans from Huskey road through the Lopez property to the property line separating the Lopez property and my property to the north. This easement is 30’ wide. The current development plan does not specify the spacing of the proposed fence on the east and west sides of the driveway. A finding based upon Wasco County Development staff in their assessment on page 24 of the decision on the Hetzel/Fuentes application paid particular attention to safety access concerns related to my property. The proposed fencing in the Farm Management Plan specifically states that there will be no gate at the south end of the property where it intersects with Huskey Road. It does not state this at the north end where it provides access to my property. It should specifically state there will be no gates at either end of the driveway.

There are no turnouts proposed along the driveway. Because of the proposed farm use the probability that there will be other vehicles using the driveway, the decision should require the required turnouts.

Summary:

The following list outlines in brief the significant problems associated with the development plan. It is a bullet point summary. Details are included in the above comments.

1. The filing of the application exceeds the required time period required for completeness and consideration should be given to whether or not it is a valid application.
2. The development plan is incomplete, and is inconsistent. I have identified numerous areas where the application is incomplete. It is also inconsistent in that there are differences in what is presented in the on-line application and what is presented in the Farm Management Plan. The development plan is also illegible, likely due in part to the amount of information being provided

at the scale it was drawn. To remedy this a larger scale additional site plan should be provided that allows adequate assessment of grading, visual impact, location of a standpipe, etc. There should also be a reapplication that is consistent in the site plan so that neighboring property owners can adequately determine what is being proposed so that concerns can be addressed.

3. The development plan does not allow the proposed development to be subordinate to the landscape.
4. The plan for development and animal grazing as proposed in the wetlands area should not be allowed as the adverse risks are too high.
5. There is inadequate acreage to graze the proposed number of animals which creates a high risk of destruction of the soils and erosion.
6. Fencing as proposed does not meet the required criteria and should not be allowed.
7. The development plan for the driveway is inadequate to ensure fire and emergency safety.
8. The development plan must allow a 30' minimum clearance to be in compliance with the easement.
9. There should be a requirement to restore the woodland portion of the property to its prior health.

Appendix A

From minutes of Mosier Watershed Council January 2020

Surface Water Monitoring Group Discussion

Bryce initiated the conversation by sharing how he and Kris have been wanting the council to have an open discussion about the correlation of our creeks and anything that folks have noticed (water quality concerns) that the watershed council could help landowners address. The council has spent a majority of our focus addressing groundwater concerns and thought this would be a great time to also look closer at our surface waters. There are many different reasons to evaluate our creeks. Todd added that a good way to measure the chemistry of the creek is to evaluate how many times it's used before it goes to the Columbia; gathering baseline data to assess areas of improvement. Todd has been gathering *E.coli* and bacteria levels in Mosier Creek for the past several years, and has volunteered to share that information with the council on an annual basis. There are many causes of *E.coli* being present in streams including: flushing during a Summer rain event; livestock in or near the stream; and human contamination. Not just including *E.coli* there are a whole range of parameters that can be measured to investigate water quality. Abbie shared the efforts that The Dalles Watershed Council has been involved with over the past 10 years addressing water quality concerns in

Mill Creek. Susan stated, she is not very knowledgeable of how to be a good steward of the creek. She added that having knowledge of what to do to "do her part" would be very valuable. Council members agreed that providing educational materials to the public would be very beneficial. Karen Lamson added that the Conservation Riparian Enhancement Program has an assessment tool that is used by conservation technicians to look at the landowner's land and quality conditions of the stream. Discussion ensued.

The council members agreed to have Abbie seek out funding to add Mosier Creek monitoring to the current ODA Water Quality Monitoring Plan that is administered through the SWCD. Pete volunteered to work with Todd, Bryce and Abbie to develop a monitoring plan. Part of that plan will be to develop a Sampling Analysis Plan (SAP) and submit to DEQ for their Volunteer Water Quality Monitoring Program in hopes of having monitoring supplies donated. The newly formed Water Quality subcommittee will also find out what data is already available and add that information to the watershed council website so it is accessible to the public.

Appendix B: Endangered Species Lists for Mosier Watershed including species migrating through Columbia River (US Fish and Wildlife Service, December 26, 2001)

ATTACHMENT A

FEDERALLY LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES, AND CANDIDATE SPECIES THAT MAY OCCUR WITHIN THE AREA OF THE MOSIER WATERSHED ASSESSMENT PROJECT 1-7-02-SP-110

LISTED SPECIES¹⁷

Mammals

Canada lynx ²⁰	<i>Lynx canadensis</i>	T
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Birds

Bald eagle ³	<i>Haliaeetus leucocephalus</i>	T
Northern spotted owl ⁴⁰	<i>Strix occidentalis caurina</i>	CH T

Fish

Steelhead (Middle Columbia River) ³⁰	<i>Oncorhynchus mykiss</i>	**T
Steelhead (Upper Columbia River) ⁶⁰	<i>Oncorhynchus mykiss</i>	**E
Steelhead (Snake River Basin) ⁶⁰	<i>Oncorhynchus mykiss</i>	**T
Sockeye salmon	<i>Oncorhynchus nerka</i>	CH **E
Salmon River tributary to the Snake River, Idaho		
Chinook salmon (Upper Columbia River) ⁷⁰	<i>Oncorhynchus tshawytscha</i>	**E
Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CH **T
SNAKE RIVER spring/summer runs		
Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CH **T
SNAKE RIVER fall runs		
Bull trout (Columbia River pop) ³⁰	<i>Salvelinus confluentus</i>	T

PROPOSED SPECIES

Fish

Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>	PT
(Southwestern Washington/Columbia River)		

CANDIDATE SPECIES⁸⁰

Birds

Yellow-billed cuckoo ¹⁰⁰	<i>Coccyzus americanus</i>
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Amphibians and Reptiles

Oregon spotted frog	<i>Rana pretiosa</i>
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Fish

Coho salmon (Lower Columbia River) ¹¹⁰	<i>Oncorhynchus kisutch</i>	**CF
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Developing a Successful Riparian-Wetland Grazing Management Plan for the Upper Ruby River Cattle and Horse Allotment in Southwestern Montana

Paul Hansen

Introduction

The Upper Ruby Cattle and Horse Grazing Allotment lies in the Upper Ruby River drainage, a watershed of approximately 88,000 acres in southwestern Montana. The Allotment encompasses 43,261 acres within the Beaverhead National Forest. It is located approximately 35 air miles southeast of Sheridan, Montana. The Ruby River flows northward and is bounded by the Snowcrest Range to the west and the Gravelly Range to the east. To the south lies the Centennial Valley. The entire area has been grazed by livestock since the late 1800's. The landscape of the Upper Ruby River is characterized as having open grasslands and wet meadows, sagebrush and grass slopes, willow and aspen complexes, open conifer/grass stands, and dense coniferous forests. Topography is varied and includes the Ruby River bottoms, large open valley bottoms, high benches, open basins, and rough rocky mountainous terrain. Elevations range from 6,000 ft on the lower Ruby River to over 10,000 ft on the Gravelly crest.

Since the 1970 Allotment Management Plan (AMP) was implemented, a large number of interest groups have expressed concern. More recently; this concern has been elevated to the national level by the various parties. In 1990 the Beaverhead National Forest started to prepare an Environmental Impact Statement (EIS) for the allotment. The draft EIS became a focal point for the various groups.

The major concern with the Upper Ruby Cattle and Horse Grazing Allotment has been the health of the riparian zone. The historic use of the riparian zone along the Upper

Ruby River and its major tributaries has left much of it in a degraded state. The issue is complicated in that both allotted and nonallotted livestock trail along the main road which lies for most of its length immediately adjacent to the Upper Ruby River.

Cattle and sheep are trailed annually to and from the Upper Ruby, adjacent USDA Forest Service allotments, and private, State, and USDI Bureau of Land Management lands in the Centennial Valley. In the spring, approximately 2,919 cow/calf pairs of the Upper Ruby Allotment are trailed from home ranches to the Allotment. Also in the spring, an additional 2,450 nonallotted cow/calf pairs are trailed southward through the allotment to USDI Bureau of Land Management, State, and private lands in the Centennial Valley. In the fall, approximately 3,275 head of nonallotted cattle and 3,245 head of nonallotted sheep trail back through the Allotment. In addition, 2,919 head of cattle from the Upper Ruby Allotment trail back through the Allotment.

Paul Hansen is a Research Associate Professor in the School of Forestry at the University of Montana in Missoula. Dr. Hansen is a riparian-wetland ecologist and principal ecologist for the Montana Riparian Association. He has been working on riparian-wetland classification and management issues in the Northern Great Plains and Northern Rocky Mountain ecosystems for the past 15 years.

The fall trailing has historically taken place immediately before the opening of big game hunting. The fall is typically characterized as a time of increased precipitation when heavy rainfall or snowfall may occur at any time. The main road and livestock trail lie immediately adjacent to the Ruby River, the same location where many of the big game hunting camps are established. This has created a classic case of big game hunting vs. livestock managing.

In 1990 the Beaverhead National Forest began preparing an Environmental Impact Statement (EIS) for the Allotment. The draft EIS became a focal point for the various groups. All sides reached an impasse and wanted an independent third-party review of the Allotment and requested the Section 8 process. Within Montana, the Section 8 process represents a Memorandum of Understanding (MOU) between the Governor of the State of Montana and the Regional Forester of the USDA Forest Service regarding rangeland management issues such as allotment management plans (AMP). (The MOU was signed on May 31, 1990.) The USDA Forest Service has just recently started to develop a memorandum of understanding on a state-by-state basis in the West.

The Section 8 process can be invoked by either the USDA Forest Service or the grazing permittee(s). The process typically occurs after both sides have met an impasse and all other attempts, such as a Coordinated Resource Management Planning (CRMP) process, has failed. If technical concerns develop during the development or revision of an AMP, either the USDA Forest Service or the grazing permittee(s) can request that the Governor's representative become involved in the consultation. The USDA Forest Service, the permittee(s), and the Governor's representative then become the Core Consultation Group or Core Group. The Core Group then selects a Target Group to provide technical services. The issues, concerns, and resource values of the allotment determine the composition of the Target Group. The Target Group reviews existing data in a timely manner and identifies any additional data that will be needed to develop or revise the AMP plan. The Target Group can also

identify responsibilities for additional data collection. In order to resolve the issues in conflict, the Target Group will make recommendations that are based on a consensus. The comments on the recommendations of the Target Group are given to the Core Group. Any consensus reached by the Target Group must comply with applicable federal laws, policies, administrative orders, guidelines, etc. The recommendations of the Target Group are included in the environmental analysis and the National Environmental Policy Act (NEPA) documentation. The appropriate USFS line officer selects an alternative (NEPA decision) and approves the final AMP. If the permittee(s) disagrees with the line officer's decision, the permittee(s) retains the opportunity to appeal the decisions as provided in the appeal regulations.

In 1991, a Target Group was chosen that included Edward Ruppel, state geologist from Butte; Pat Currie, a range consultant from Miles City; Don Collins, a biologist from Montana State University; and myself, Paul Hansen, a riparian-wetland ecologist from The University of Montana. The Target Group prepared a draft set of recommendations. After a review of these recommendations by the Core Group, additional riparian-wetland technical information was requested. The Core Group felt this was necessary to support recommendations concerning riparian-wetland management and monitoring. The following discussion represents my recommendations on developing a riparian-wetland grazing management plan for the Upper Ruby Cattle and Horse Grazing Allotment. The same discussion is also applicable to riparian-wetland areas throughout the West.

Background

Although the land area is small, riparian-wetland areas occupy a unique position in the landscape and life of the West with their importance far exceeding their total area. Riparian-wetland areas are important islands of diversity within extensive upland ecosystems. Abundant water, forage, and habitat attract a proportionately greater

amount of use and conflict than their small area would indicate. They are of prime importance to water quality, water quantity, stream stability, and fisheries habitat. They are vital to the livestock grazing industry and many are also well suited for development as high quality agricultural farmland. In addition, many riparian-wetland sites are excellent timber producing sites. Most sites provide critical habitat needs for many species and they support a greater concentration of wildlife species and activities than any other type of location on the landscape (Pfister and Batchelor 1984). Finally, riparian-wetland areas can be considered the "thread" that ties together all the other ecosystems. The importance of these areas as wildlife corridors can not be emphasized enough.

Riparian-wetland areas are defined as the green zones associated with lakes, reservoirs, estuaries, potholes, springs, bogs, fens, wet meadows, and ephemeral, intermittent, or perennial streams. The riparian-wetland zone occurs between the upland or terrestrial zone and the aquatic or deep water zone.

In contrast to their importance, riparian-wetland communities are among the least studied and least understood areas in terms of structure, function, and management. The riparian-wetland zone has often been overlooked, ignored, or considered a minor inclusion of the larger terrestrial or aquatic systems. Impacts from improper grazing, timber harvesting, road construction, and agricultural practices may drastically affect these communities. However, in general, riparian-wetland areas are among the most resilient ecosystems. Depending on the health of the site (condition) and potential of the site, riparian-wetland areas usually respond more quickly to changes in management than do drier upland sites.

Identifying the Problem

The management of livestock grazing in riparian-wetland areas is one of the most difficult and complex issues facing the western rangeland manager today. Kinch (1989) and Clary and Webster (1989) found that in reviewing the literature and in discussions with range managers, it is apparent that no single grazing management system has as yet conclusively proven to result in consistent improvement of degraded riparian-wetland areas throughout western range. Many varying combinations of sites, resource health (condition), and impacts as well as the interaction of many different human perspectives are involved. Therefore, the grazing management strategy designed for an area should be tailored to the conditions, problems, site potential, objectives, and livestock management considerations on a site specific basis that will best meet the resource needs.

Moore and others (1979) summarized it best by stating "From the standpoint of

"Livestock grazing is a compatible use in riparian-wetland areas when the functions of the riparian system (sediment filtering, streambank building, water storage, aquifer recharge, energy dissipation during storm events, etc.), potential of the site, and the needs of the riparian vegetation guide the development of the grazing management strategy."

achieving livestock management objectives and minimizing soil, vegetation and water quality impacts, grazing management plans will vary. There is no set formula that will identify the type of grazing system or management plan that will be best for any livestock operation or

allotment. Water quality impact will be closely related to soil erosion and sedimentation, associated with vegetation cover and concentration of livestock grazing. The grazing system must be designed on the basis of soil and vegetation capabilities, water quality considerations and livestock and wildlife requirements."

Livestock grazing is a compatible use in riparian-wetland areas when the functions of the riparian system (sediment filtering, streambank building, water storage, aquifer recharge, energy dissipation during storm events, etc.), potential of the site, and the needs of the riparian vegetation guide the development of the grazing management strategy.

Developing Management Objectives

Grazing management based only on objectives related to nonriparian-wetland areas (uplands) does not usually result in maintenance or improvement of riparian-wetland areas present in the same pasture or allotment. Therefore, where maintenance or improvement of riparian-wetland areas is desired, land use plan, activity plan objectives, and management prescriptions must be determined specifically for the riparian-wetland features while considering the needs of the entire watershed.

The establishment of specific objectives, description of the desired plant community, and selection of key species should be an interdisciplinary effort carried out in close cooperation with the range user. Objectives need to have realistic and attainable goals. They should be dictated by the present condition and trend of the riparian-wetland habitat in relation to management goals, the resource potential for change, and the importance of other resource values. Major considerations in establishing management objectives in riparian-wetland areas should include the following (Kinch 1989):

Vegetation

1. The potential of the site (e.g., the riparian-wetland plant association).
2. The desired plant community.
 - If the potential of the site is woody vegetation, then the health and reproduction of woody vegetation should receive equal consideration as the herbaceous vegetation (depending on the riparian-wetland

objectives). If one of the objectives for a riparian-wetland area is streambank stability, then woody vegetation vigor should be of utmost importance due to the vastly different streambank stability protection afforded by the woody vegetation when compared to the herbaceous vegetation.

- The development and/or maintenance of different age classes (e.g., seedlings, saplings, poles, and mature for trees; seedlings, saplings, and mature age classes for shrubs) of the key woody plant species on the site in order to maintain a viable plant community. (Once again, only if the potential of the site is for woody vegetation.)

- The type of vegetation cover necessary to minimize trampling damage and reduce the erosive effects of run-off events.
- The vegetation structure necessary for wildlife cover diversity.

3. The stabilization of streambanks and elimination of bank hoof shearing.

4. The value of the site for forage production.

5. The amount of vegetation stubble required to trap and hold sediment deposits during run-off events to rebuild streambanks and restore/recharge aquifers. It is important to realize that on streams with high gradients and low silt loads, it is more difficult to improve them than those with low gradients and high silt loads (e.g., mud management).

Water Quality / Quantity Issues

1. Raising the elevation of the present water table.
2. The improvement or maintenance of water quality and quantity or change in the timing of the flow.

Streambank Stability

1. The establishment of proper stream channels, streambanks, and floodplain conditions and functions.

2. The maintenance of long term adjustment processes which may affect channel/riparian-wetland zone conditions. These processes include sediment deposition, streambank development, floodplain development, and stream dynamics (meandering).

Wildlife

1. The improvement or maintenance of the fishery habitat.

2. The importance of the riparian-wetland community to riparian-wetland dependent wildlife and to wildlife species that occur primarily on upland sites but are periodically attracted to riparian-wetland areas.

Other

1. The aesthetic values of a healthy riparian-wetland zone.

2. The period of time which is acceptable or necessary for riparian-wetland rehabilitation/restoration.

3. The reduction of upland erosion and stream sediment load and the maintenance of soil productivity.

The proper management of livestock grazing in riparian-wetland areas requires a recognition that:

- grazing management practices which improve or maintain upland sites may not be good management practice for riparian-wetland areas, and
- season-long grazing is not a viable option to improve deteriorated riparian-wetland areas or to maintain a healthy riparian-wetland zone. Grazing management must provide for an adequate cover and height of vegetation on the streambanks and overflow zones to permit the natural stream functions (e.g., sediment filtering, streambank building, flood energy dissipation, aquifer recharge, and water storage) to operate successfully.

Developing the Monitoring Plan

Key Areas

As objectives are considered and developed for riparian-wetland areas, key areas for monitoring must be located in representative portions of the riparian-wetland areas as well as in the uplands. These key areas will serve as the location where appropriate monitoring will be conducted and where decisions will be made as to whether management objectives are being met or not. Key areas must possess (or have the potential to produce) all the specific elements in the objective(s) because these will provide data for evaluation of management efforts. In many cases, it is appropriate to select the key areas first and then develop objectives specific to each.

Key Species

Key species will vary with the potential of each individual site. Key species should be selected which are necessary to the operation of the natural stream functions. The type of vegetation present will affect channel roughness and the dissipation of stream energy. Willows and other large woody vegetation (trees) filter large water-borne organic material, and their root systems provide streambank stabilization. Sedges, rushes, grasses, and forbs capture and filter out the finer materials while their root masses help stabilize streambanks and colonize filtered sediments. On sites where the potential exists for both woody and herbaceous vegetation, the cumulative effect of plant diversity greatly enhances stream function. Finally, it is essential that the physiological and ecological requirements of the key wood species, along with key herbaceous species, be understood so that a proper management program can be designed. This includes determining the effects of grazing/browsing on the particular growth characteristics of the species involved.

Utilization Guidelines

Utilization targets guidelines are a tool that can be used to help insure that long-term objectives are met. Utilization can be monitored annually, or more often, whereas progress in reaching long-term resource objectives such as streambank stabilization, rebuilding of the streamside aquifer, and the re-establishment of beaver, fish, or moose habitat can only be determined over a longer period of time. The accomplishment of these long term objectives relates directly or indirectly to the need to leave a certain amount of vegetation available for other uses (soil stabilization, trapping sediment, wildlife cover, or forage, etc.,). Utilization monitoring provides a means of insuring that the necessary amount of vegetation is left to protect the site and provide for reaching other vegetation-dependent objectives.

The establishment of utilization targets for riparian-wetland key plant species and the management of grazing to insure these targets are met are critical factors involved in proper riparian-wetland area management. It is important to remember that without proper livestock distribution, utilization targets in riparian-wetland zones will usually be reached much sooner than those in adjacent uplands. The establishment of utilization targets requires that the manager know the growth habitats and characteristics of the important plant species for which they are managing and how the plant species respond to grazing and browsing.

The manager must know the characteristics, preferences, and requirements of the grazing /browsing animals. Therefore, utilization targets should be developed for riparian-wetland areas that:

- Will maintain both herbaceous species and woody species (where present) in a healthy and vigorous state and promote their ability to reproduce and maintain different age classes in the desired riparian-wetland plant community.
- Will leave sufficient plant residue necessary to protect streambanks during run-off events and provide for adequate sediment

filtering, and dissipation of flood water energy.

- Are consistent with other resource values and objectives (e.g., aesthetics, water quality, water quantity, wildlife populations, etc.,).
- Will limit streambank shearing and trampling to acceptable levels.

In many instances, proper utilization guidelines can only be derived over time through trial and error by monitoring, analyzing, and evaluating the results. Initial results may be different than expected. The manager should not hesitate to make changes in key species or utilization guidelines where required to meet objectives.

When establishing utilization targets to ensure riparian-wetland area improvements, guidelines should be considered that will provide a margin of safety for those years when production is less than average (Riparian Habitat Committee 1982). This could take the form of reduction in the utilization targets for both riparian-wetland and upland areas to provide additional carryover forage and vegetation necessary for streambank protection and sediment filtering. The importance of providing for adequate vegetation vigor and regeneration at the end of the growing season can not be emphasized enough.

Finally, due to the variation in riparian-wetland sites and management, one standard utilization target is not appropriate. However, utilization should be considered, together with regrowth potential, to ensure the presence of vegetation stubble necessary to the operation of natural stream functions or accomplishment of other land use objectives.

Compliance And Supervision

Range management in riparian-wetland areas will require a greater level of management because livestock are attracted to riparian-wetland areas during certain seasons. Resource managers must work closely with users to insure that alternate water sources are functional, that fences are

maintained, that salt and supplements are located as required in the management plan, that essential riding and herding is done, that livestock are in the proper pasture at the proper time, and that the necessary vegetation stubble is left. It only takes a few weeks of unauthorized use or overgrazing to set back years of progress in improvements of riparian-wetland systems. Myers (1981) states "that compliance with grazing systems is critical. When livestock are moved from a management pasture, it is commonplace for a few animals to be overlooked. In one stream, annual use by a few head of unauthorized livestock throughout most of the hot season period has nullified positive riparian-wetland habitat responses in an otherwise excellent grazing systems." Therefore, compliance is one of the key issues in proper riparian-wetland management.

Steps Necessary for a Successful Management Plan

The following steps are necessary in order to have a successful riparian-wetland grazing management plan (Kinch 1989, Skovlin 1984):

1. The grazing management designed for an area must be tailored to a particular site or stream reach. The management plan should include the following: a) determine the site potential(s), b) determine the existing vegetation type(s) (community type[s]), and c) determine the desired plant community or desired future condition. Determine the current health (e.g., condition) of the site or stream reach. Identify the factors contributing to undesirable habitat conditions (if applicable). Grazing must be managed to leave sufficient vegetation stubble on the banks and overflow zones to permit the natural functions of the stream to operate successfully. Define realistic and attainable management objectives for the site or stream reach. Those involved in the management of the area including the livestock user and the involved public (if applicable) should understand and agree on the problems and objectives to be addressed, as well as understand the changes which can occur, and how they can benefit from proper management and improvements in the riparian-wetland conditions. All parties

involved need to share the commitment to achieve the management objectives. Rangeland rest should be employed wherever and whenever possible. Implement the management plan. Design a monitoring plan that will evaluate the effectiveness of the management plan. Monitor the site or the stream reach over time. Grazing management must be flexible enough to accommodate changes based on experience. Mistakes need to be documented and not repeated elsewhere. Once the management is in progress, the most important element is frequent use of supervision. This is necessary to foresee and avoid adverse impacts (e.g., trampling damage to streambanks and excessive utilization). Determine the outcome of the management plan. If it is successful, then proceed with the existing management plan. If the plan was either a partial or complete failure, then modify the management objectives.



Literature Cited

Clary, Warren P. and Bert F. Webster. 1989. Managing grazing of riparian areas in the Intermountain Region. USDA Forest Service General Technical Report INT-263. Intermountain Research Station, Ogden, UT. 11 p.

Kinch, Gene. 1989. Riparian area management. Grazing management in riparian areas. Technical Reference 1737-4, September 1989. USDI Bureau of Land Management, Denver, CO. 44 p.

Moore, E., E. James, F. Kinsinger, K. Pitney, and J. Samsbury. 1979. Summary of best management practices for minimizing or preventing adverse water quality impacts. In: Livestock Grazing Management and Water Quality Protection (State of the Art Reference Document). EPA Publication 9190/9-79-67. Denver, CO. pp. 13-199.

Myers, Lewis. 1981. Grazing on stream riparian habitats in southwestern Montana. Proceedings of the Montana Chapter, Wildlife Society, Great Falls, MT.

Pfister, Robert D., and Ronald F. Batchelor. 1984. Montana riparian vegetation types. Western Wildlands 9(4):19-23. School of Forestry, University of Montana, Missoula, MT.

Riparian Habitat Committee--Western Division American Fisheries Society. 1982. The best management practices for the management and protection of western riparian stream ecosystems. American Fisheries Society, Western Division. 45 p.

Skovlin, J. M. 1984. Impacts of grazing on wetlands and riparian habitat: A review of our knowledge. In: Developing Strategies for Rangeland Management. Westview Press, Boulder, CO. pp. 1001-1104.

*"When man obliterates wilderness,
he repudiates the evolutionary force
that put him on this planet. In a deeply
terrifying sense man is on his own."
David Brower*

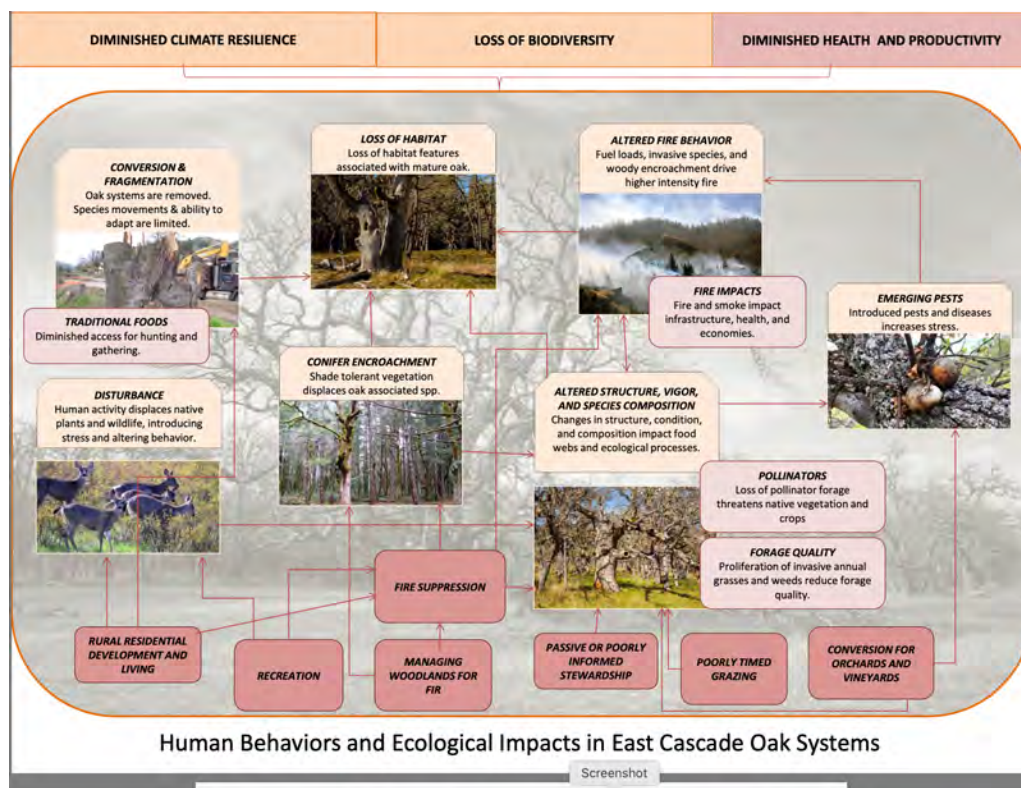
Appendix D:

East Cascades Oak Partnership update for September 2020 Watershed Council meeting

The East Cascades Oak Partnership (ECOP) is a group of people collaborating to leverage resources, share knowledge, and implement conservation strategies that will help protect vulnerable oak habitats, encouraging more sustainable human interactions and improving outcomes for people, oaks and wildlife. The partnership recognizes that relationships between public, private, tribal and nonprofit organizations and individuals are essential to protecting and restoring oak habitats in the region.

Over the past three years ECOP has been working on the development of a strategic action plan. The strategic plan effort has the support of over 150 partners, representing 29 public and private organizations and businesses, as well as dozens of private land owners. The result of the strategic planning process is that partners have agreed to focus our strategies around five high priority actions that are guiding the future direction of the group.

1. Protect the most intact, functional oak systems, connectivity and climate resiliency corridors on the landscape and manage for ecological stewardship
2. Establish and distribute best management practices to support positive outcomes in oak systems while advancing other private landowner management goals.
3. Develop conservation projects on a strong research, monitoring, and adaptive management framework.
4. Advocate for oak systems experiencing fir encroachment in existing fuels reduction program funding allocations, expand funding and partner capacity to implement release activities
5. Build and expand outreach and incentive programs that support oak system stewardship by rural residential landowners in core conservation areas, connectivity corridors, and buffers.



Addendum to Czerniecki Comments:

October 6, 2020

1. An additional component of my objection to the proposed development plan is the reference to the *50 foot diameter* round pen. The reference to this pen in the farm management plan is: "It can be taken apart and moved in about 20 minutes so it probably will be moved for some reason or another". This round pen is a structure and the vague reference to be moved for some reason or another is inadequate. It would be assumed that in a Farm Management Plan, there would be a clear idea of how the pen would be used, what criteria would be considered to move the pen, and where it might be moved to. Even if some flexibility is required the development plan and the farm management plan should define where it might be moved to and under what conditions it might be moved. This would allow individuals to comment on the impact of this structure.



Brent Bybee <brentb@co.wasco.or.us>

921-19-000193-PLNG Fencing Question

Donnermeyer, Christopher -FS <christopher.donnermeyer@usda.gov>

Tue, Jun 15, 2021 at 8:59 AM

To: Brent Bybee <brentb@co.wasco.or.us>

Hi Brent,

Since the railroad posts will require excavation, an archaeological monitor will need to be hired by the applicant. No monitoring will be needed for installation of t-posts.

Thanks,

Chris

**Chris Donnermeyer, MA, RPA**
Heritage Program Manager**Forest Service****Columbia River Gorge National Scenic Area****p: 541-308-1711****c: 541-288-8027**christopher.donnermeyer@usda.gov[902 Wasco Ave. Suite 200](#)

Hood River, OR 97031

www.fs.fed.us**Caring for the land and serving people**

From: Brent Bybee <brentb@co.wasco.or.us>**Sent:** Monday, June 7, 2021 8:23 AM**To:** Donnermeyer, Christopher -FS <christopher.donnermeyer@usda.gov>**Subject:** [External Email]Fwd: 921-19-000193-PLNG Fencing Question

[External Email]

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Will S <wills@co.wasco.or.us>

Wasco Co., 02N 11E 11 #2200; RE: Notice of Land Use Action - Lopez

BROWN Jevra <jevra.brown@state.or.us>

Thu, Jul 2, 2020 at 4:32 PM

To: Will S <wills@co.wasco.or.us>

Cc: TAYLOR Clara <clara.taylor@state.or.us>, EVANS Daniel <Daniel.Evans@state.or.us>, HARTMAN Heidi <heidi.m.hartman@state.or.us>, "jensis@co.wasco.or.us" <jensis@co.wasco.or.us>

Hi Will,

We have some history with this property. We have previous WLUNs for a horse barn and associated structures: WN2018-0267, WN2018-0397, and WN2019-0125. Please check the location of the proposed house and associated structures against the SWI mapping and submit a WLUN if appropriate.

Stay home, stay healthy,

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Office (M-W) 503-986-5297; cell (Th-F) 503-580-3172; fax 503-378-4844

Have you heard about the Statewide Wetlands Inventory update? [Learn More!](#)

Messages to and from this e-mail address may be available to the public under Oregon Public Record Law.

Most of the Department of State Lands staff is currently teleworking to help prevent the spread of COVID-19.

Customer Satisfaction Survey open until Monday June 29th

Agencywide: <https://www.surveymonkey.com/r/OregonDSL>

ARM: https://www.surveymonkey.com/r/DSL_waters

From: Will S <wills@co.wasco.or.us>

Sent: Thursday, July 2, 2020 8:54 AM

To: Cindy Miller <millerc@nwasco.k12.or.us>; Mike Renault <mike.renault@mosierfire.com>; jeffd@wascoelectric.com; EVANS Daniel <Daniel.Evans@state.or.us>; BROWN Jevra <jevra.brown@dsl.state.or.us>; Lane Magill <lanem@co.wasco.or.us>; scottw@co.wasco.or.us

Subject: Fwd: Notice of Land Use Action - Lopez

----- Forwarded message -----

From: **Jensi Smith** <jensis@co.wasco.or.us>

Date: Thu, Jul 2, 2020 at 8:34 AM

Subject: Notice of Land Use Action - Lopez

To: Nicole Bailey <nicoleba@ncphd.org>, Jaime Solars <jaimes@co.wasco.or.us>, Jesus Elias <Jesuse@ncphd.org>, Teri Thalhofer <TeriT@ncphd.org>, Building Codes <buildingcodes@co.wasco.or.us>, Jill Amery <jilla@co.wasco.or.us>, Adam Fourcade <adamf@co.wasco.or.us>, Melanie Brown <melanieb@co.wasco.or.us>, Marci Beebe <marcib@co.wasco.or.us>, Brandon Jones <brandonj@co.wasco.or.us>, Sheridan McClellan <sheridanm@co.wasco.or.us>, Arthur Smith <arthurs@co.wasco.or.us>, Jayme Kimberly <jaymek@co.wasco.or.us>, WOOD Robert L * WRD <Robert.L.Wood@oregon.gov>, <ykahn@fhco.org>, HARTMAN Heidi

Board of County Commissioners Agenda Packet

BOCC 1 - 286

<heidi.m.hartman@state.or.us>, <shilah.olson@or.nacdn.net>, <Candres@osp.state.or.us>, Sue Vrilakas <sue.vrilakas@pdx.edu>, <jeremy.l.thompson@state.or.us>, <rod.a.french@state.or.us>, DODD Kristin * ODF <Kristin.dodd@oregon.gov>, <kristen.stallman@odot.state.or.us>, <jthomps9999@yahoo.com>, <steve@gorgefriends.org>, Stephanie Krell <stephaniek@co.wasco.or.us>, Tyler Stone <tylers@co.wasco.or.us>, <rshoal@fs.fed.us>, <sacallaghan@fs.fed.us>, <permits@friends.org>, kfitzz77 <kfitzz77@gmail.com>, Gatz, Casey -FS <cgatz@fs.fed.us>, Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>, <connie.acker@gorgecommission.org>, <rowapplications@bpa.gov>, MOREHOUSE Donald <Donald.MOREHOUSE@odot.state.or.us>, <ODOTR4PLANMGR@odot.state.or.us>, <Patrick.M.Cimmiyotti@odot.state.or.us>, DEHART Brad <bradley.k.dehart@odot.state.or.us>, <scott.peters@odot.state.or.us>, Jacob Powell <jacob.powell@oregonstate.edu>, <nakiaw@nezperce.org>, pat b <keithb@nezperce.org>, <robert.brunoe@ctwsbnr.org>, <THPO@ctwsbnr.org>, <pattyperry@ctuir.org>, Kristen Tiede <kristentiede@ctuir.org>, Sheila Dooley <sdooley3300@yahoo.com>, <casey_barney@yakama.com>, Will S <wills@co.wasco.or.us>, Angie Brewer <angieb@co.wasco.or.us>

The Wasco County Planning Department has new information which has been updated on the webpage. Please visit the page to view the updated information for the following files. **Please note:** The comment deadline for this action is **4:00 PM, July 17, 2020.**

Lopez	921-19-000193-PLNG	A-2 (80) GMA	Scenic area review for a single family dwelling with accessory structure	2N11E11TL2200	Smith	Notice of Action Comment deadline July 17, 2020 at 4:00 pm
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Wasco County Planning Department Website



Jensi Smith | *Planning Coordinator*

PLANNING DEPARTMENT

jensis@co.wasco.or.us | www.co.wasco.or.us

541-506-2697 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE. EMAIL IS THE BEST METHOD FOR THE QUICKEST RESPONSE. THANK YOU!

Will Smith, AICP | *Senior Planner*

PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

7/7/2020

Wasco County Mail - Wasco Co., 02N 11E 11 #2200; RE: Notice of Land Use Action - Lopez



541-506-2560 | Fax 541-506-2561
2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.

This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)



Will S <wills@co.wasco.or.us>

RE: Notice of Land Use Action Wasco Co, 02N22E11#2200

BROWN Jevra <jevra.brown@state.or.us>
 To: Will S <wills@co.wasco.or.us>
 Cc: Brenda Coleman <brendac@co.wasco.or.us>

Thu, Sep 17, 2020 at 2:00 PM

Hi Will,

You might look at WN2019-0125 for the same site last year. It might be applicable for this activity since the only mapped SWI feature is an intermittent stream/wetland similar to what is represented on submitted site plan...especially if this is the same applicant. If applicant is different then giving them a copy of WN2019-0125 or submitting a new WLUN will be an educational opportunity -

Thanks,

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Cell 503-580-3172

Checking for wetlands and waters? – Use the STATEWIDE WETLANDS INVENTORY

To help prevent the spread of COVID-19 many of the DSL staff are telecommuting.

From: Brenda Coleman <brendac@co.wasco.or.us>

Sent: Thursday, September 17, 2020 10:08 AM

To: Nicole Bailey <nicoledba@ncphd.org>; Jaime Solars <jaimes@co.wasco.or.us>; Jesus Elias <Jesuse@ncphd.org>; Shellie Campbell <shelliec@ncphd.org>; Building Codes <buildingcodes@co.wasco.or.us>; Jill Amery <jilla@co.wasco.or.us>; Adam Fourcade <adamf@co.wasco.or.us>; Melanie Brown <melanieb@co.wasco.or.us>; Marci Beebe <marcib@co.wasco.or.us>; Brandon Jones <brandonj@co.wasco.or.us>; Sheridan McClellan <sheridanm@co.wasco.or.us>; Arthur Smith <arthurs@co.wasco.or.us>; Jayme Kimberly <jaymek@co.wasco.or.us>; Robert.L.Wood@oregon.gov; ykahn@fhco.org; HARTMAN Heidi <Heidi.M.Hartman@dsl.state.or.us>; BROWN Jevra <jevra.brown@dsl.state.or.us>; TAYLOR Clara <clara.taylor@dsl.state.or.us>; shilah.olson@or.nacdn.net; Candres@osp.state.or.us; Sue Vrilakas <sue.vrilakas@pdx.edu>; THOMPSON Jeremy L <Jeremy.L.Thompson@state.or.us>; FRENCH Rod A <Rod.A.French@state.or.us>; Kristin.dodd@oregon.gov; Kristen Stallman <kristen.stallman@odot.state.or.us>; Jeff Thompson <jthomps9999@yahoo.com>; Steve McCoy <steve@gorgefriends.org>; Stephanie Krell <stephaniek@co.wasco.or.us>; Tyler Stone <tylers@co.wasco.or.us>; Robin Shoal <rshoal@fs.fed.us>; sacallaghan@fs.fed.us; permits@friends.org; Kathleen Fitzpatrick <kfitzz77@gmail.com>; Gatz, Casey -FS <cgatz@fs.fed.us>; Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>; connie.acker@gorgecommission.org; Bonneville Power <rowapplications@bpa.gov>; DONALD.MOREHOUSE@odot.state.or.us; ODOTR4PLANMGR@odot.state.or.us; Patrick Cimmiyotti <Patrick.M.Cimmiyotti@odot.state.or.us>; Bradley DeHart <bradley.k.dehart@odot.state.or.us>; Scott Peters <scott.peters@odot.state.or.us>; jacob.powell@oregonstate.edu; Nakia Williamson <nakiaw@nezperce.org>; Nez Perce Tribe <keithb@nezperce.org>; robert.brunoe@ctwsbnr.org; THPO@ctwsbnr.org; Confed Tribes of Umatilla <pattyperry@ctuir.org>; kristentiede@ctuir.org; Sheila Dooley <sdooley3300@yahoo.com>; casey_barney@yakama.com
Cc: William Smith <wills@co.wasco.or.us>; Angie Brewer <angieb@co.wasco.or.us>; Jensi Smith <jensis@co.wasco.or.us>

Subject: Notice of Land Use Action

The Wasco County Planning Department has new information which has been updated on the webpage. Please visit the page to view the updated information for the following files. **Please note:** The comment deadline for Board of County Commissioners Agenda Packet BOCC 1 - 289

this decision is **4:00 PM, October 7, 2020.**

Lopez	921-19-000193-PLNG AMENDED APPLICATION - Farm Management Plan	A-2 (80) GMA	Scenic area review for a single family dwelling with accessory structure	2N11E11TL2200	Smith	AMENDED Notice of Action Comment deadline October 7, 2020 at 4:00 pm
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Brenda Coleman | Office Assistant

PLANNING DEPARTMENT

brendac@co.wasco.or.us | www.co.wasco.or.us

541-506-2562 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

Email is the best way to reach me! In an effort to prevent, slow, and stop the spread of COVID-19 to our citizens and staff, our office will be limiting business to phone, email and online service. If you are not sure how to access services online, or you have a need that requires in-person assistance, please call our office at 541-506-2560 to discuss. Please keep in mind that response time may vary depending on staffing. Thank you for your patience during this time.

This correspondence does not constitute a Land Use Decision per ORS 197.015. It is informational only and a matter of public record.



July 17, 2020

Will Smith, Senior Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

Re: Adrian Lopez's application #921-20-000193 to construct a single family dwelling and accessory building, and for after-the-fact approval of a well.

Dear Mr. Smith:

Friends of the Columbia Gorge ("Friends") has reviewed and submits these comments on the above-referenced application. Friends is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends reviews and comments on all land use applications subject to the Wasco County National Scenic Area Land Use and Development Ordinance. These comments are intended to identify application requirements and resource protection standards, provide recommendations to the permitting agency and the public regarding legal requirements, and establish standing.

Requests for after-the-fact approval must be reviewed as if the development has not taken place. Otherwise, landowners have no incentive to properly apply for permits and permittees have an incentive to violate the terms of their permits since relief will be available afterwards. As such, after-the-fact approval must be based upon the conditions on the ground prior to development even in instances of honest mistake.

Application Requirements

Under section 2.080 of the Wasco County National Scenic Area Land Use and Development Ordinance (NSA-LUDO), a complete application is required prior to review. An application must not be accepted until any omissions or deficiencies have been corrected by the applicant. *Id.* Approval of a land use proposal not accompanied by a complete and adequate application violates the county's scenic area ordinance, denies the public any meaningful opportunity to comment on the proposed development, and results in a decision not based on substantial

evidence. Such a decision is subject to reversal, as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate application materials. *Eagle Ridge* at 9–10.

Site Plan Map

Each site plan must contain a map of the project area. NSA-LUDO § 14.020(B) contains a list of specific elements that must be included in site plan maps. Site plan maps must include the following required elements:

- North arrow
- Map scale
- Boundaries, dimensions, and size of the subject parcel
- Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel
- An illustration of the buildings and parking facilities on abutting parcels
- Bodies of water and watercourses
- Location and width and methods of improvement for all existing and proposed roads, driveways, trails and parking areas
- Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles, and lines, and outdoor lighting
- Location and depth of all proposed grading, filling, ditching, and excavating
- An indication of all existing and proposed point of ingress and egress and whether they are public or private
- Significant terrain features and landforms

Landscaping Plan

Pursuant to NSA-LUDO § 14.020(D), all applications must contain a detailed landscaping plan that must clearly illustrate the following elements:

- The location, height, and species of all existing trees and vegetation, with an indication of any vegetation that would be removed.
- The location, height, and species of individually proposed trees and vegetation groupings.
- The location of automatic sprinkler systems or other irrigation provisions to ensure the survival of any proposed screening vegetation.

Material Samples

All applications must contain material samples for all exterior surfaces of proposed structures, including but not limited to the main portion of each structure, trim or secondary portions, roof, window frames, windowsills, window sashes, doors (including garage doors), and hooding for exterior lighting. NSA-LUDO § 14.020(C)

Elevation Drawings

Pursuant to NSA-LUDO § 14.020(E), applications for new structures must provide elevation drawings showing:

- the appearance of proposed structures, including both natural and finished grade, and
- the geometric exterior of the length and width of structures seen from a horizontal view.

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Grading Plan

For structural development that meets either or both of the following conditions, the application must include a grading plan containing the elements specified by NSA-LUDO § 14.020(F)(3):

- More than 100 cubic yards of grading on slopes exceeding 10 percent. NSA-LUDO § 14.020(F)(1).
- More than 200 cubic yards of grading on a site visible from key viewing areas. NSA-LUDO § 14.020(F)(2).

Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development.

Allowed Uses

Accessory Buildings and Structures

Buildings and structures accessory to a dwelling must be incidental and subordinate to the dwelling and located on the same parcel as the dwelling. NSA-LUDO § 1.200 (definition of “accessory structure/building”). All accessory buildings and structures with a footprint of at least 60 square feet, with a height of at least 10 feet, or located within the buffer zone of a riparian area must be reviewed under all applicable rules at NSA-LUDO Chapter 14 (scenic, cultural, natural, and recreational resources). NSA-LUDO § 3.100(E).

In most zones, the height of any individual accessory building must not exceed 24 feet and the combined footprints of all accessory buildings on a parcel must not exceed 1,500 square feet. This combined limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings. **If the parcel is larger than 10 acres and is located within an agricultural or forest zone, the combined footprints of all accessory buildings on the parcel must not exceed 2,500 square feet and the footprint of any individual accessory building must not exceed 1,500 square feet. The accessory structure in the application is listed as 30’x 50’ in one location and 40’x 50’ in another. If the accessory structure is in fact proposed as 40’x 50’, the structure exceeds the 1,500 square foot maximum footprint of any individual accessory building.**

Small-Scale Agriculture Zone

The proposed project is located in a Small-Scale Agriculture zone in the General Management Area. NSA-LUDO § 3.130 specifies which uses are allowed in Small-Scale Agriculture zones.

Only one single-family dwelling is allowed per legally created parcel, and only if the development is consistent with all applicable rules protecting scenic, cultural, natural, and recreational resources. The applicant bears the burden of proving the legality of the parcel and the County has the responsibility of making a determination of the parcel’s legality prior to a decision.

Resource Impact Review

Scenic Resource Protection

NSA-LUDO §§ 14.100 and 14.200 contain the scenic resource protection standards for the General Management Area. Whether or not the parcel is visible from key viewing areas (KVAs),

new buildings and roads must be sited and designed to retain existing topography and to reduce grading to the maximum extent possible. NSA-LUDO § 14.100(B). New buildings must be generally compatible with the general scale of existing nearby development. For purposes of determining compatibility, the height, dimensions (*i.e.*, length, width, and footprint), and visible mass of the proposed building must each be evaluated. NSA-LUDO § 14.100(C).

Key Viewing Areas

The subject parcel may be visible from key viewing areas such as the Historic Columbia River Highway, SR-14, and the Columbia River. If so, then the following rules apply:

- New buildings and roads must be sited so that they are visually subordinate to their settings as seen from KVAs. In determining the least visible site, existing topography and vegetation must be given priority over artificial means of screening. NSA-LUDO § 14.200(R)(4).
- The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes. NSA-LUDO § 14.200(H).
- New buildings and roads must be sited and designed to minimize grading activities and visibility of cut banks and fill slopes from KVAs. NSA-LUDO § 14.200(D).
- The County must evaluate all aspects of the development, including size, height, shape, color, reflectivity, landscaping, and siting, to ensure that the development will be visually subordinate. NSA-LUDO § 14.200(A)(2).
- Exterior colors must be dark earth-tones found at the specific site or in the surrounding landscape. Actual specific colors meeting this standard must be proposed in the land use application. Colors that are not expressly approved by a land use decision may not be used. 14.200(I).
- The County must evaluate the number of KVAs from which the development site is visible; the amount of area of the building site exposed to KVAs; the degree of existing vegetation providing screening; the distance from the building site to the KVAs; and, for linear KVAs such as roads, the linear distance along which the site is visible. NSA-LUDO § 14.200(A)(1).
- The County must evaluate the potential cumulative visual effects of the proposed development. NSA-LUDO § 14.200(L). This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided. 16 USC 544(a)(3).
- New buildings are not allowed on sites with slopes greater than 30 percent. NSA-LUDO § 14.200(H).
- The silhouette of new buildings must remain below the skyline of bluffs, cliffs, or ridges as seen from KVAs. NSA-LUDO § 14.200(E).
- Unless the building site is fully screened from all key viewing areas by existing topography, building materials must be nonreflective or low-reflective. NSA-LUDO § 14.200(J).

New development must be sited on the parcel in the location that best achieves visual subordination as seen from KVAs, using existing topography and vegetation for screening before requiring new screening measures.

If the proposed development cannot be conditioned to ensure that the development will achieve visual subordination, then the County must deny the application. This requirement was upheld by

the Oregon Supreme Court in its ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm’n, 346 Or 366, 213 P3d 1164 (2009) (“If the applicant does not or cannot sufficiently alter the proposal to satisfy the [scenic resource protection guidelines], permission to carry out the proposed activity must be denied”). Consequently, if the project would reduce visibility “to the maximum extent practicable” but not achieve visual subordination the application must be denied.

Landscape Setting

NSA-LUDO § 14.400 specifies the standards for compatibility of development with the landscape setting in the GMA. Generally, new development in all landscape settings must be compatible with the general scale (height, dimensions, overall mass) of similar development in the vicinity.

This development is proposed in an Oak-Pine Woodland landscape setting. If the parcel is visible from KVAs, at least half of all new screening trees must be native and coniferous. For portions with fewer trees, (1) structures must be sited on portions of the property that provide maximum screening from KVAs, using existing topographic features; (2) patterns of screening vegetation plantings must match the character of the surrounding area; and (3) buildings and roads must be clustered together, particularly toward the edges of existing open areas. Structure height must remain below the tree canopy level. NSA-LUDO § 14.400(C).

Natural Resource Protection

Cumulative Adverse Effects

The County must determine if there would be “[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area” considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to “more than moderate adverse consequences,” and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of “Adversely affect or Adversely affecting”). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.
- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.
- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).

- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.*

A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant.

If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high, the distance between the two top wires must be at least 10 inches apart, the bottom wire must be at least 16 inches above the ground and must consist of smooth wire, stays or braces must be placed between fence posts to create a more rigid fence, and woven wire may not be used as fencing material. Applicants must demonstrate a specific need for any variance from these rules.

Sensitive Plant Species

NSA-LUDO § 14.600(D) contains the standards for projects in the GMA that may affect sensitive plant resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive plant species. This includes the following plant species:

- species endemic to the Columbia River Gorge and vicinity
- species listed as endangered or threatened by federal or state authorities, including the Oregon Natural Heritage Program

NSA-LUDO §§ 1.200 (definition of “sensitive plant species”), 14.600(D)(1)(a).

If the proposed project is within 1,000 feet of such a species, the next step is for the applicant to prepare a more detailed site plan map at a scale of at least one inch equals 100 feet (1:1,200).

NSA-LUDO § 14.600(D)(4)(a). The County must transmit the more detailed map to the Oregon Natural Heritage Program, which will review the application to determine if the project could affect sensitive plants. ONHP must identify the precise location of the affected plants and must delineate a 200-foot buffer zone to protect these plants. NSA-LUDO § 14.600(D)(4)(c)(2).

Buffer zones must be maintained in an undisturbed, natural condition.

If one of the following uses is proposed, then a field survey must be prepared by a professional wildlife biologist hired by the applicant:

- **communications, water and sewer, and natural gas transmission lines, pipes, etc.**

NSA-LUDO § 14.410(C)(4)(b).

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Cultural Resource Protection

Pursuant to the Oregon Supreme Court ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm'n, 346 Or 366, 213 P3d 1164 (2009), County land use decisions must protect against cumulative adverse effects to cultural resources. Pursuant to this ruling, the County must review whether the proposed development would contribute to cumulative adverse impacts to cultural resources. This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided.

NSA-LUDO § 14.500 contains the standards for protection of cultural resources in the General Management Area.

If a use is proposed within 500 feet of a known cultural resource, the Gorge Commission is responsible for preparing a cultural resource reconnaissance survey and report. NSA-LUDO § 14.500(B)(3). For any other small-scale use, a reconnaissance survey need not be prepared if the area has a low probability of containing cultural resources, as determined by the Columbia River Gorge Commission and United States Forest Service. Reconnaissance surveys and reports must comply with the standards found at NSA-LUDO § 14.500(C).

Significant Cultural Resources

If a cultural resource is identified, it must be evaluated for significance. NSA-LUDO § 14.500(D)(2). If the resource is determined to be significant, the County must determine whether the project is likely to adversely affect the resource. NSA-LUDO § 14.500(D)(4). If the County concludes that the project would have an adverse effect on a significant cultural resource, then a mitigation plan must be prepared and reviewed pursuant to section 14.500(F).

Conditions of Approval

All conditions of approval must be entered into the deeds of the affected parcels and registered with the county.

Conclusion

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy
Staff Attorney



October 7, 2020

Will Smith, Senior Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

Re: Adrian Lopez's revised application #921-19-000193 to construct a single family dwelling and agricultural building, and for after-the-fact approval of a well.

Dear Mr. Smith:

Friends of the Columbia Gorge ("Friends") has reviewed and submits these comments on the above-referenced application. Friends is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends reviews and comments on all land use applications subject to the Wasco County National Scenic Area Land Use and Development Ordinance. These comments are intended to identify application requirements and resource protection standards, provide recommendations to the permitting agency and the public regarding legal requirements, and establish standing.

Requests for after-the-fact approval must be reviewed as if the development has not taken place. Otherwise, landowners have no incentive to properly apply for permits and permittees have an incentive to violate the terms of their permits since relief will be available afterwards. As such, after-the-fact approval must be based upon the conditions on the ground prior to development even in instances of honest mistake.

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evidence. Such a decision is subject to reversal, as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate application materials. *Eagle Ridge* at 9–10.

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Each site plan must contain a map of the project area. NSA-LUDO § 14.020(B) contains a list of specific elements that must be included in site plan maps. Site plan maps must include the following required elements:

- North arrow
- Map scale
- Boundaries, dimensions, and size of the subject parcel
- Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel
- An illustration of the buildings and parking facilities on abutting parcels
- Bodies of water and watercourses
- Location and width and methods of improvement for all existing and proposed roads, driveways, trails and parking areas
- Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles, and lines, and outdoor lighting
- Location and depth of all proposed grading, filling, ditching, and excavating
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- Significant terrain features and landforms

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Pursuant to NSA-LUDO § 14.020(D), all applications must contain a detailed landscaping plan that must clearly illustrate the following elements:

- The location, height, and species of all existing trees and vegetation, with an indication of any vegetation that would be removed.
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Elevation Drawings

Pursuant to NSA-LUDO § 14.020(E), applications for new structures must provide elevation drawings showing:

- the appearance of proposed structures, including both natural and finished grade, and
- the geometric exterior of the length and width of structures seen from a horizontal view.

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Grading Plan

For structural development that meets either or both of the following conditions, the application must include a grading plan containing the elements specified by NSA-LUDO § 14.020(F)(3):

- More than 100 cubic yards of grading on slopes exceeding 10 percent. NSA-LUDO § 14.020(F)(1).
- More than 200 cubic yards of grading on a site visible from key viewing areas. NSA-LUDO § 14.020(F)(2).

Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development.

Allowed Uses

Small-Scale Agriculture Zone

The proposed project is located in a Small-Scale Agriculture zone in the General Management Area. NSA-LUDO § 3.130 specifies which uses are allowed in Small-Scale Agriculture zones. Only one single-family dwelling is allowed per legally created parcel, and only if the development is consistent with all applicable rules protecting scenic, cultural, natural, and recreational resources. The applicant bears the burden of proving the legality of the parcel and the County has the responsibility of making a determination of the parcel's legality prior to a decision.

Agricultural buildings and structures must be located on a farm or ranch; must be proposed in conjunction with a **current** agricultural use; and must be used for the storage, repair, and maintenance of farm equipment and supplies, or for the raising and/or storage of crops and livestock. NSA-LUDO § 1.200 (definition of "agricultural structure/building"), NSA-LUDO § 3.120(D)(3), (D)(4). An "agricultural use," as defined at NSA-LUDO § 1.200, means the current employment of land for the primary purpose of obtaining a monetary profit by one or more of the following practices:

- the raising, harvesting, and selling of crops, including Christmas trees;
- the feeding, breeding, management, and sale or production of livestock, poultry, fur-bearing animals or honeybees (not including livestock feed lots);
- dairying and the sale of dairy products;
- any other agricultural or horticultural use.

Pursuant to NSA-LUDO § 3.120(D)(4), the size of agricultural buildings must not exceed the size needed to serve the current agricultural use (and, if applicable, any proposed agricultural uses). All applications for agricultural buildings must contain the following information:

- A description of the size and characteristics of current agricultural uses.
- If any new agricultural uses are proposed, a plan specifying the types, locations, and schedules of such uses and details regarding any agricultural structures that would support the uses.
- A floor plan showing the intended uses of the agricultural building (*e.g.*, space for equipment, supplies, agricultural products, livestock).

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Resource Impact Review

Scenic Resource Protection

NSA-LUDO §§ 14.100 and 14.200 contain the scenic resource protection standards for the General Management Area. Whether or not the parcel is visible from key viewing areas (KVAs), new buildings and roads must be sited and designed to retain existing topography and to reduce grading to the maximum extent possible. NSA-LUDO § 14.100(B). New buildings must be generally compatible with the general scale of existing nearby development. For purposes of determining compatibility, the height, dimensions (*i.e.*, length, width, and footprint), and visible mass of the proposed building must each be evaluated. NSA-LUDO § 14.100(C).

Key Viewing Areas

The subject parcel may be visible from key viewing areas such as the Historic Columbia River Highway, SR-14, and the Columbia River. If so, then the following rules apply:

- New buildings and roads must be sited so that they are visually subordinate to their settings as seen from KVAs. In determining the least visible site, existing topography and vegetation must be given priority over artificial means of screening. NSA-LUDO § 14.200(R)(4).
- The existing tree cover screening the development area on the subject parcel from KVAs shall be retained except as necessary for site development or fire safety purposes. NSA-LUDO § 14.200(H).
- New buildings and roads must be sited and designed to minimize grading activities and visibility of cut banks and fill slopes from KVAs. NSA-LUDO § 14.200(D).
- The County must evaluate all aspects of the development, including size, height, shape, color, reflectivity, landscaping, and siting, to ensure that the development will be visually subordinate. NSA-LUDO § 14.200(A)(2).
- Exterior colors must be dark earth-tones found at the specific site or in the surrounding landscape. Actual specific colors meeting this standard must be proposed in the land use application. Colors that are not expressly approved by a land use decision may not be used. 14.200(I).
- The County must evaluate the number of KVAs from which the development site is visible; the amount of area of the building site exposed to KVAs; the degree of existing vegetation providing screening; the distance from the building site to the KVAs; and, for linear KVAs such as roads, the linear distance along which the site is visible. NSA-LUDO § 14.200(A)(1).
- The County must evaluate the potential cumulative visual effects of the proposed development. NSA-LUDO § 14.200(L). This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided. 16 USC 544(a)(3).
- New buildings are not allowed on sites with slopes greater than 30 percent. NSA-LUDO § 14.200(H).
- The silhouette of new buildings must remain below the skyline of bluffs, cliffs, or ridges as seen from KVAs. NSA-LUDO § 14.200(E).
- Unless the building site is fully screened from all key viewing areas by existing topography, building materials must be nonreflective or low-reflective. NSA-LUDO § 14.200(J).

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New development must be sited on the parcel in the location that best achieves visual subordination as seen from KVAs, using existing topography and vegetation for screening before requiring new screening measures.

If the proposed development cannot be conditioned to ensure that the development will achieve visual subordination, then the County must deny the application. This requirement was upheld by the Oregon Supreme Court in its ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm'n, 346 Or 366, 213 P3d 1164 (2009) ("If the applicant does not or cannot sufficiently alter the proposal to satisfy the [scenic resource protection guidelines], permission to carry out the proposed activity must be denied"). Consequently, if the project would reduce visibility "to the maximum extent practicable" but not achieve visual subordination the application must be denied.

Landscape Setting

NSA-LUDO § 14.400 specifies the standards for compatibility of development with the landscape setting in the GMA. Generally, new development in all landscape settings must be compatible with the general scale (height, dimensions, overall mass) of similar development in the vicinity.

This development is proposed in an Oak-Pine Woodland landscape setting. If the parcel is visible from KVAs, at least half of all new screening trees must be native and coniferous. For portions with fewer trees, (1) structures must be sited on portions of the property that provide maximum screening from KVAs, using existing topographic features; (2) patterns of screening vegetation plantings must match the character of the surrounding area; and (3) buildings and roads must be clustered together, particularly toward the edges of existing open areas. Structure height must remain below the tree canopy level. NSA-LUDO § 14.400(C).

Natural Resource Protection

Cumulative Adverse Effects

The County must determine if there would be "[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area" considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to "more than moderate adverse consequences," and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of "Adversely affect or Adversely affecting"). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.

- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.
- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).
- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife

management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.* A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant. **If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high,** the distance between the two top wires must be at least 10 inches apart, the bottom wire must be at least 16 inches above the ground and must consist of smooth wire, stays or braces must be placed between fence posts to create a more rigid fence, and woven wire may not be used as fencing material. Applicants must demonstrate a specific need for any variance from these rules.

Sensitive Plant Species

NSA-LUDO § 14.600(D) contains the standards for projects in the GMA that may affect sensitive plant resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive plant species. This includes the following plant species:

- species endemic to the Columbia River Gorge and vicinity
- species listed as endangered or threatened by federal or state authorities, including the Oregon Natural Heritage Program

NSA-LUDO §§ 1.200 (definition of “sensitive plant species”), 14.600(D)(1)(a).

If the proposed project is within 1,000 feet of such a species, the next step is for the applicant to prepare a more detailed site plan map at a scale of at least one inch equals 100 feet (1:1,200).

NSA-LUDO § 14.600(D)(4)(a). The County must transmit the more detailed map to the Oregon Natural Heritage Program, which will review the application to determine if the project could affect sensitive plants. ONHP must identify the precise location of the affected plants and must delineate a 200-foot buffer zone to protect these plants. NSA-LUDO § 14.600(D)(4)(c)(2).

Buffer zones must be maintained in an undisturbed, natural condition.

Cultural Resource Protection

Pursuant to the Oregon Supreme Court ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm’n, 346 Or 366, 213 P3d 1164 (2009), County land use decisions must protect against cumulative adverse effects to cultural resources. Pursuant to this ruling, the

County must review whether the proposed development would contribute to cumulative adverse impacts to cultural resources. This includes evaluation of past, present and likely future actions. Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided.

NSA-LUDO § 14.500 contains the standards for protection of cultural resources in the General Management Area. If a use is proposed within 500 feet of a known cultural resource, the Gorge Commission is responsible for preparing a cultural resource reconnaissance survey and report. NSA-LUDO § 14.500(B)(3). For any other small-scale use, a reconnaissance survey need not be prepared if the area has a low probability of containing cultural resources, as determined by the Columbia River Gorge Commission and United States Forest Service. Reconnaissance surveys and reports must comply with the standards found at NSA-LUDO § 14.500(C).

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Sincerely,



Steven D. McCoy
Staff Attorney



June 17, 2021

Brent Bybee, Associate Planner
Wasco County Department of Planning and Economic Development
2705 East Second Street
The Dalles, Oregon 97058
via email

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Dear Mr. Bybee:

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Natural Resource Protection

Cumulative Adverse Effects

The County must determine if there would be "[a] reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area" considering the context of the proposal, the intensity of the proposal (including magnitude, duration, and likelihood of reoccurrence), other similar actions that may cumulatively lead to "more than moderate adverse consequences," and any proposed mitigation measures. NSA-LUDO § 1.200 (Definition of "Adversely affect or Adversely affecting"). No adverse effects to wetlands, streams, ponds, lakes, and riparian areas, and their buffer zones are allowed. NSA-LUDO §§ 14.600(A)(7), (B)(6). In addition, there may be no adverse effects to sensitive plants and wildlife areas within 1000 feet of the project area. NSA-LUDO §§ 14.600(C)(3)(i), (D)(3)(d).

Water Resources

NSA-LUDO § 14.600 contains the standards for projects that may affect streams, ponds, lakes, wetlands, or other riparian areas in the General Management Area. If one or more of these resources is present on or adjacent to the subject parcel, then the applicant must determine the *exact* location of the water resource boundary. NSA-LUDO §§ 14.600(A)(2)(c), (B)(2)(b). In addition, the following buffer zones apply:

- Perennial streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A perennial stream is a stream that flows year-round during years of normal precipitation. NSA-LUDO § 1.200.
- Special streams: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1). A special stream is a stream that is a primary water supply for a fish hatchery or rearing pond. NSA-LUDO § 1.200.

- Intermittent streams used by anadromous or resident fish: 100 feet. NSA-LUDO § 14.600(B)(2)(a)(1).
- Intermittent streams not used by anadromous or resident fish: 50 feet. NSA-LUDO § 14.600(B)(2)(a)(2).
- Wetlands, lakes, and ponds in forest vegetation communities: 75 feet. NSA-LUDO § 14.600(A)(3)(c)(1). A forest vegetation community is characterized by trees with an average height of at least 20 feet, along with a shrub component. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(1).
- Wetlands, lakes, and ponds in shrub vegetation communities: 100 feet. NSA-LUDO § 14.600(A)(3)(c)(2). A shrub vegetation community is characterized by shrubs and trees with an average height between 3 feet and 20 feet. The trees and shrubs must form a canopy cover of at least 40 percent. NSA-LUDO § 14.600(A)(3)(b)(2).
- Wetlands, lakes, and ponds in herbaceous vegetation communities: 150 feet. NSA-LUDO § 14.600(A)(3)(c)(3). A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines. NSA-LUDO § 14.600(A)(3)(b)(3).

Buffer zones must be untouched and maintained in their natural condition. NSA-LUDO §§ 14.600(A)(3)(d), (B)(2)(d).

Sensitive Wildlife Resources

NSA-LUDO § 14.600(C) contains the standards for projects in the GMA that may affect sensitive wildlife resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive wildlife area or site. This includes the following areas:

- habitat for wildlife species that are listed as endangered, threatened, sensitive, or candidate by the federal government or by the State of Oregon
- habitat for elk, mountain goat, great blue heron, osprey, golden eagle, or prairie falcon
- deer and elk winter range
- pika colony areas
- waterfowl areas
- shallow water fish habitat in the Columbia River
- sturgeon spawning areas
- tributary fish habitat
- streams that are primary water supplies for fish hatcheries or rearing ponds
- wetlands, mudflats, shallow water, or riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles

NSA-LUDO §§ 1.200 (definition of “sensitive wildlife species”), 14.600(C)(1)(b).

If the proposed project is within 1,000 feet of one of these areas, the County must transmit the application to the Oregon Department of Fish and Wildlife, which will review the application to determine the precise locations of wildlife habitat and activities, as well as potential impacts to wildlife areas or sites. As part of its review, Oregon DFW may in its discretion conduct site visits. NSA-LUDO § 14.410(C)(3).

If the County, in consultation with ODFW, concludes that the proposed project is likely to adversely affect a sensitive wildlife area or site and that the impacts cannot be eliminated through site plan modifications or project timing, then the applicant must prepare a wildlife management plan. NSA-LUDO § 14.410(C)(5). The plan will provide a basis for the applicant to redesign the project in a manner that protects sensitive wildlife areas and sites, maximizes his or

her development options, and mitigates temporary impacts to the wildlife area or buffer zone. *Id.* A wildlife management plan, prepared by a professional biologist hired by the applicant, includes the following:

- relevant background, such as biology of the species, characteristics of the subject parcel, and regulatory protection and management guidelines
- delineation of core habitat
- wildlife buffer zones
- an indication of the size, scope, configuration or density, and timing of all new uses within core habitat
- rehabilitation and enhancement actions
- a 3-year monitoring plan for federal or state listed species

Id.

Fences

Pursuant to NSA-LUDO § 14.600(C), new fences in deer and elk winter range are allowed only where necessary to control livestock or pets, or to exclude wildlife from specific areas, such as gardens. Fenced areas must be the minimum necessary to meet the needs of the project applicant. **If the proposed fence is in deer and elk winter range, the top wire must be no more than 42 inches high**, the distance between the two top wires must be at least 10 inches apart, the bottom wire must be at least 16 inches above the ground and must consist of smooth wire, stays or braces must be placed between fence posts to create a more rigid fence, and woven wire may not be used as fencing material. Applicants must demonstrate a specific need for any variance from these rules.

Sensitive Plant Species

NSA-LUDO § 14.600(D) contains the standards for projects in the GMA that may affect sensitive plant resources. The first step is for the County to determine whether the project is proposed within 1,000 feet of a sensitive plant species. This includes the following plant species:

- species endemic to the Columbia River Gorge and vicinity
- species listed as endangered or threatened by federal or state authorities, including the Oregon Natural Heritage Program

NSA-LUDO §§ 1.200 (definition of “sensitive plant species”), 14.600(D)(1)(a).

If the proposed project is within 1,000 feet of such a species, the next step is for the applicant to prepare a more detailed site plan map at a scale of at least one inch equals 100 feet (1:1,200).

NSA-LUDO § 14.600(D)(4)(a). The County must transmit the more detailed map to the Oregon Natural Heritage Program, which will review the application to determine if the project could affect sensitive plants. ONHP must identify the precise location of the affected plants and must delineate a 200-foot buffer zone to protect these plants. NSA-LUDO § 14.600(D)(4)(c)(2). Buffer zones must be maintained in an undisturbed, natural condition.

Cultural Resource Protection

Pursuant to the Oregon Supreme Court ruling in Friends of the Columbia Gorge v. Columbia River Gorge Comm’n, 346 Or 366, 213 P3d 1164 (2009), County land use decisions must protect against cumulative adverse effects to cultural resources. Pursuant to this ruling, the County must review whether the proposed development would contribute to cumulative adverse impacts to cultural resources. This includes evaluation of past, present and likely future actions.

Individually insignificant but cumulatively significant actions must be evaluated and cumulative adverse impacts must be avoided.

NSA-LUDO § 14.500 contains the standards for protection of cultural resources in the General Management Area. If a use is proposed within 500 feet of a known cultural resource, the Gorge Commission is responsible for preparing a cultural resource reconnaissance survey and report. NSA-LUDO § 14.500(B)(3). For any other small-scale use, a reconnaissance survey need not be prepared if the area has a low probability of containing cultural resources, as determined by the Columbia River Gorge Commission and United States Forest Service. Reconnaissance surveys and reports must comply with the standards found at NSA-LUDO § 14.500(C).

Significant Cultural Resources

If a cultural resource is identified, it must be evaluated for significance. NSA-LUDO § 14.500(D)(2). If the resource is determined to be significant, the County must determine whether the project is likely to adversely affect the resource. NSA-LUDO § 14.500(D)(4). If the County concludes that the project would have an adverse effect on a significant cultural resource, then a mitigation plan must be prepared and reviewed pursuant to section 14.500(F).

Conditions of Approval

All conditions of approval must be entered into the deeds of the affected parcels and registered with the county.

Conclusion

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy
Staff Attorney



Will S <wills@co.wasco.or.us>

Applicant: Adrian Lopez File Number: 921-19-000193-PLNG

McCabe, Edward M.D., Ph.D <EMcCabe@mednet.ucla.edu>

Tue, Jul 7, 2020 at 12:46 PM

To: "wills@co.wasco.or.us" <wills@co.wasco.or.us>

Cc: "McCabe, Linda Ph.D" <LMcCabe@mednet.ucla.edu>

Dear Mr. Smith,

We are extremely pleased to support the Application of Adrian Lopez for development of the lot that is part of the Rocky Prairie subdivision. A corner of the lot abuts Quartz Drive across from our property at 953 Quartz Drive.

We have reviewed the material you sent to us by USPS, as well as the on-line information.

The two buildings planned for this property are of a scale consistent with other buildings on Rocky Prairie. We do not see any information that is concerning to us as neighbors to this property development.

Thank you.

Linda and Edward McCabe

953 Quartz Drive

July 7, 2020

Sent from [Mail](#) for Windows 10

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Oregon

Kate Brown, Governor

Department of Forestry

Central Oregon District

The Dalles Unit

3701 West 13th

The Dalles, OR 97058

PHONE: 541-296-4626

FAX: 541-298-4993

www.ODFcentraloregon.com



"STEWARDSHIP IN FORESTRY"

7/2/2020

Wasco County Planning and Development
2705 East 2nd Street
The Dalles Or 97058

Attn: Will Smith

Re: Lopez 921-19-000193 PLNG

Catastrophic wildfires threaten and destroy many homes in Oregon and in other states each year. The Oregon Department of Forestry (ODF) has a responsibility to its landowners to protect their forest lands from wildfire. Since ODF does not provide structure protection it is incumbent on the local fire district (in this case, Mosier Fire District) to provide that protection. However, ODF is still responsible for the forest and range land surrounding those structures.

This proposed development is located within the Oregon Department of Forestry Fire Protection District, hence, this property receives wildland fire protection services by ODF, as does surrounding properties.

ODF continues to be concerned about the impact of putting additional structures and the associated human activities within the wildland urban interface. Simply stated, people start fires, no matter the good intentions of the landowner or guests to the property. Many activities that result from living in the forest/range zone have the potential to cause fires. Because of these concerns we have worked closely with the planning department to provide consistent and appropriate siting standards for structures.

I'd like to emphasize that structures, and human activity associated with those structures in the wildland urban interface, create additional fire start risk as well as additional complexity in fire suppression activities and evacuations. As such, ODF wants to reiterate the importance of fire prevention and risk mitigation. If approved, ODF would expect the planning department to consistently apply the wildfire siting standards adopted by the county as they currently exist.

I would like to also iterate the importance of the defensible space standards around the building site that contribute to higher likelihood of a structure being saved while reducing risk to firefighting personnel in the event of a wildland fire moving through the area, regardless of how the fire started. We place emphasis on primary and secondary fuel breaks, construction materials, and not siting structures on slopes greater than 40%.

We also want to see Road Standards with emphasis on road width, vertical clearance, turnarounds and turn outs, and road grades.

Flammable vegetation will continue to grow in and around these structures over time. However, if the proposal is granted, the long term maintenance of defensible space is an issue that is not addressed in the current planning department standards, and may only be addressed through ongoing maintenance of defensible space surrounding all structures by the landowner.

It is ODF's hope that through proper wildfire siting standards and continued maintenance of defensible space, landowners will be able to provide a safe and risk free environment for themselves, their neighbors and the firefighters who protect their property.

Finally, if applicant intends to clear any brush or vegetation by using power equipment during the months of May through October, they will need to file an eNotification for a 'Permit to Operate Power Driven Machinery' with the Oregon Department of Forestry. Information for this free electronic permit can be found at: <https://www.oregon.gov/odf/working/pages/ENotification.aspx>.

Thank you for the opportunity to comment.

Regards,

/s/ *Kristin Dodd*

Unit Forester

Central Oregon District – The Dalles Unit



Brent Bybee <brentb@co.wasco.or.us>

Notice of Land Use Action - Lopez

Scott Williams <scottw@co.wasco.or.us>

Thu, May 20, 2021 at 12:38 PM

To: Brent Bybee <brentb@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Lane Magill <lanem@co.wasco.or.us>

no issues for law enforcement

[Quoted text hidden]

--

**Scott Williams** | *Chief Deputy*
SHERIFF'S OFFICEscottw@co.wasco.or.us | www.co.wasco.or.us

541-506-2593 | Fax 541-506-2581

511 Washington Street suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Notice of Land Use Action - Lopez

Lane Magill <lanem@co.wasco.or.us>

Thu, Jul 2, 2020 at 9:37 AM

To: Will S <wills@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Scott Williams <scottw@co.wasco.or.us>

I don't see any issues with this application.

Lane

[Quoted text hidden]

--

**Lane Magill | Wasco County Sheriff
SHERIFF'S OFFICE**lanem@co.wasco.or.us | www.co.wasco.or.us

541-506-2592 | Fax 541-506-2581

511 Washington St. Suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Notice of Land Use Action

Lane Magill <lanem@co.wasco.or.us>

Thu, Sep 17, 2020 at 11:29 AM

To: Will S <wills@co.wasco.or.us>

Cc: Cindy Miller <millerc@nwasco.k12.or.us>, Mike Renault <mike.renault@mosierfire.com>, Jeff Davis <jeffd@wascoelectric.com>, EVANS Daniel <Daniel.Evans@state.or.us>, BROWN Jevra <jevra.brown@state.or.us>, Scott Williams <scottw@co.wasco.or.us>

I don't see any issues with this.

I do have a question. Most of the applications we see have a physical address and this one didn't. I know there was Section information but I don't have any access to that type of information.

Thanks
Lane

On Thu, Sep 17, 2020 at 10:19 AM Will S <wills@co.wasco.or.us> wrote:

[Quoted text hidden]

--



Lane Magill | Wasco County Sheriff
SHERIFF'S OFFICE

lanem@co.wasco.or.us | www.co.wasco.or.us

541-506-2592 | Fax 541-506-2581

511 Washington St. Suite 102 | The Dalles, OR 97058



Will S <wills@co.wasco.or.us>

Cultural notice for 921-19-000193-PLNG

Kristen Tiede <KristenTiede@ctuir.org>

Thu, Oct 8, 2020 at 7:41 AM

To: Will S <wills@co.wasco.or.us>

Cc: "Donnermeyer, Christopher J -FS" <christopher.donnermeyer@usda.gov>

Good morning Mr. Smith,

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timine Way, Pendleton, OR 97801

Direct Line/Fax: (541) 429-7206

Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Will S [mailto:wills@co.wasco.or.us]

Sent: Wednesday, October 7, 2020 4:30 PM

Subject: Cultural notice for 921-19-000193-PLNG

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

[Quoted text hidden]

The opinions expressed by the author are his or her own and are not necessarily those of the Confederated Tribes of the Umatilla Indian Reservation. The information, contents and attachments in this email are Confidential and Private.



Brent Bybee <brentb@co.wasco.or.us>

Notice of Land Use Action - Lopez

Kristen Tiede <KristenTiede@ctuir.org>

Thu, Jun 3, 2021 at 8:26 AM

To: Brent Bybee <brentb@co.wasco.or.us>, Jensi Smith <jensis@co.wasco.or.us>

Cc: "Donnermeyer, Christopher -FS" <christopher.donnermeyer@usda.gov>

Good morning,

As the CRPP recommended previously on this project, a cultural resources monitor should be present for the fence construction if it is near the previously recorded archaeological site. Please let me know if there are any questions or concerns.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timine Way, Pendleton, OR 97801

Direct Line/Fax: (541) 429-7206

Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Jensi Smith [mailto:jensis@co.wasco.or.us]

Sent: Thursday, May 20, 2021 5:30 AM

To: Nicole Bailey <nicoleba@ncphd.org>; Jaime Solars <jaimes@co.wasco.or.us>; Jesus Elias <Jesuse@ncphd.org>; Shellie Campbell <shelliec@ncphd.org>; Building Codes <buildingcodes@co.wasco.or.us>; Jill Amery <jilla@co.wasco.or.us>; Adam Fourcade <adamf@co.wasco.or.us>; Melanie Brown <melanieb@co.wasco.or.us>; Marci Beebe <marcib@co.wasco.or.us>; Brandon Jones <brandonj@co.wasco.or.us>; Sheridan McClellan <sheridanm@co.wasco.or.us>; Arthur Smith <arthurs@co.wasco.or.us>; Kara Davis <karad@co.wasco.or.us>; WOOD Robert L * WRD <Robert.L.Wood@oregon.gov>; ykahn@fhco.org; Heidi.M.Hartman@dsl.state.or.us;
Board of County Commissioners Agenda Packet BOCC 1 - 323

BROWN Jevra * DSL <jevra.brown@dsl.state.or.us>; clara.taylor@dsl.state.or.us; shilah.olson@or.nacdnet.net; Candres@osp.state.or.us; Sue Vrilakas <sue.vrilakas@pdx.edu>; jeremy.l.thompson@state.or.us; Andrew.R.Meyers@state.or.us; rod.a.french@state.or.us; DODD Kristin * ODF <Kristin.dodd@oregon.gov>; kristen.stallman@odot.state.or.us; jthomps9999@yahoo.com; steve@gorgefriends.org; Stephanie Krell <stephaniek@co.wasco.or.us>; Tyler Stone <tylers@co.wasco.or.us>; rshoal@fs.fed.us; sacallaghan@fs.fed.us; permits@friends.org; kfitzz77 <kfitzz77@gmail.com>; Gatz, Casey -FS <cgatz@fs.fed.us>; Donnermeyer, Christopher J -FS <cjdonnermeyer@fs.fed.us>; Connie Acker <connie.acker@gorgecommission.org>; rowapplications@bpa.gov; MOREHOUSE Donald <Donald.MOREHOUSE@odot.state.or.us>; ODOTR4PLANMGR@odot.state.or.us; Patrick.M.Cimmiyotti@odot.state.or.us; DEHART Brad <bradley.k.dehart@odot.state.or.us>; PETERS Scott <scott.peters@odot.state.or.us>; Jacob Powell <jacob.powell@oregonstate.edu>; nakiaw@nezperce.org; pat b <keithb@nezperce.org>; robert.brunoe@ctwsbnr.org; THPO@ctwsbnr.org; Patty Perry <PattyPerry@ctuir.org>; Kristen Tiede <KristenTiede@ctuir.org>; Sheila Dooley <sdooley3300@yahoo.com>; casey_barney@yakama.com; Angie Brewer <angieb@co.wasco.or.us>; Brent Bybee <brentb@co.wasco.or.us>

Subject: Notice of Land Use Action - Lopez

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

[Quoted text hidden]

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----- Forwarded message -----

From: Kristen Tiede <KristenTiede@ctuir.org>

To: Will S <wills@co.wasco.or.us>

Cc: "Donnermeyer, Christopher J -FS" <christopher.donnermeyer@usda.gov>

Bcc:

Date: Thu, 8 Oct 2020 14:41:05 +0000

Subject: RE: Cultural notice for 921-19-000193-PLNG

Good morning Mr. Smith,

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the application for the dwelling, barn, and fence (921-19-000193-PLNG). The CRPP concurs with the condition of requiring an archaeological monitor be present for the construction of the fence.

Thank you,

Kristen Tiede

Archaeologist

Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timíne Way, Pendleton, OR 97801

Direct Line/Fax: (541) 429-7206

Main Office: (541) 276-3447

KristenTiede@ctuir.org



From: Will S [mailto:wills@co.wasco.or.us]
Sent: Wednesday, October 7, 2020 4:30 PM
Subject: Cultural notice for 921-19-000193-PLNG

EXTERNAL EMAIL: Please use caution when clicking links or opening attachments.

Good afternoon,

This application involves locating a fence in the vicinity of a confirmed cultural resource and I wanted to ensure we received your input in the process. A previous application for a horse boarding facility proposed a fence around the property and they hired an archaeologist to conduct a study (see attached, no new study was required for this application due to the work performed in 2018, but a new notification for your review is required.) That application ended up being withdrawn, but staff had proposed a condition to require an archaeologist to be on site when the fence was built. The current application is for a dwelling, barn, and fence (for 5 cows, 15 goats/sheep, and chickens). The dwelling and the barn are not in the impacted area. We would propose the same condition for this application regarding the placement of the fence. This cultural notice has a 30 day review period, ending November 6, but if you have comments or concerns, or if you have none and find it acceptable, please let me know as soon as possible. Thank you!

Attachments:
Cultural Notice (including location and site plan maps)

2018 Survey

2018 USFS Response

Regards,

--



Will Smith, AICP | Senior Planner

PLANNING DEPARTMENT

wills@co.wasco.or.us | www.co.wasco.or.us

541-506-2560 | Fax 541-506-2561

2705 East Second Street | The Dalles, OR 97058

NOTE: DUE TO COVID-19 CONCERNS THE PLANNING DEPARTMENT IS CURRENTLY RESTRICTING FACE TO FACE ASSISTANCE. WE ARE ACCEPTING APPLICATIONS BY MAIL AND INQUIRIES BY PHONE OR EMAIL UNTIL FURTHER NOTICE.

This correspondence does not constitute a Land Use Decision per ORS 197.015.

It is informational only and a matter of public record.

Planning for the Future. Wasco County 2040.

[Get involved](#)

The opinions expressed by the author are his or her own and are not necessarily those of the Confederated Tribes of the Umatilla Indian Reservation. The information, contents and attachments in this email are Confidential and Private.



RE: Cultural notice for 921-19-000193-PLNG.eml
54K



Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2019-0125

Responsible Jurisdiction

Staff Contact

William Smith

Jurisdiction Type

County

Municipality

Wasco

Local case file #

921-18-000017-PLNG

County

Wasco

Activity Location

Township

02N

Range

11E

Section

11

QQ section

Tax Lot(s)

2200

Street Address

1139 Huskey Rd

Address Line 2

City

Mosier

Postal / Zip Code

97040

State / Province / Region

OR

Country

Wasco

Latitude

45.669989

Longitude

-121.406104

Wetland/Waterway/Other Water Features

☒ There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

☒ The National Wetlands Inventory shows wetland, waterway or other water features on the property

Your Activity

☒ It appears that the proposed project **may** impact wetlands and **may** require a State permit.

Applicable Oregon Removal-Fill Permit Requirement(s)

☒ A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

There is a National Wetland Inventory-mapped channel on the east side of the parcel. The proposed project appears to have impacts of <50 cubic yards associated with fence post installation around and through this channel. A state permit is not required for projects with <50 cy of removal or fill activities. No permit will be required for the DSL if impacts are below 50 cy or removal or fill..

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

☒ A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

4/3/2019

Response by:

Daniel Evans

Response Phone:

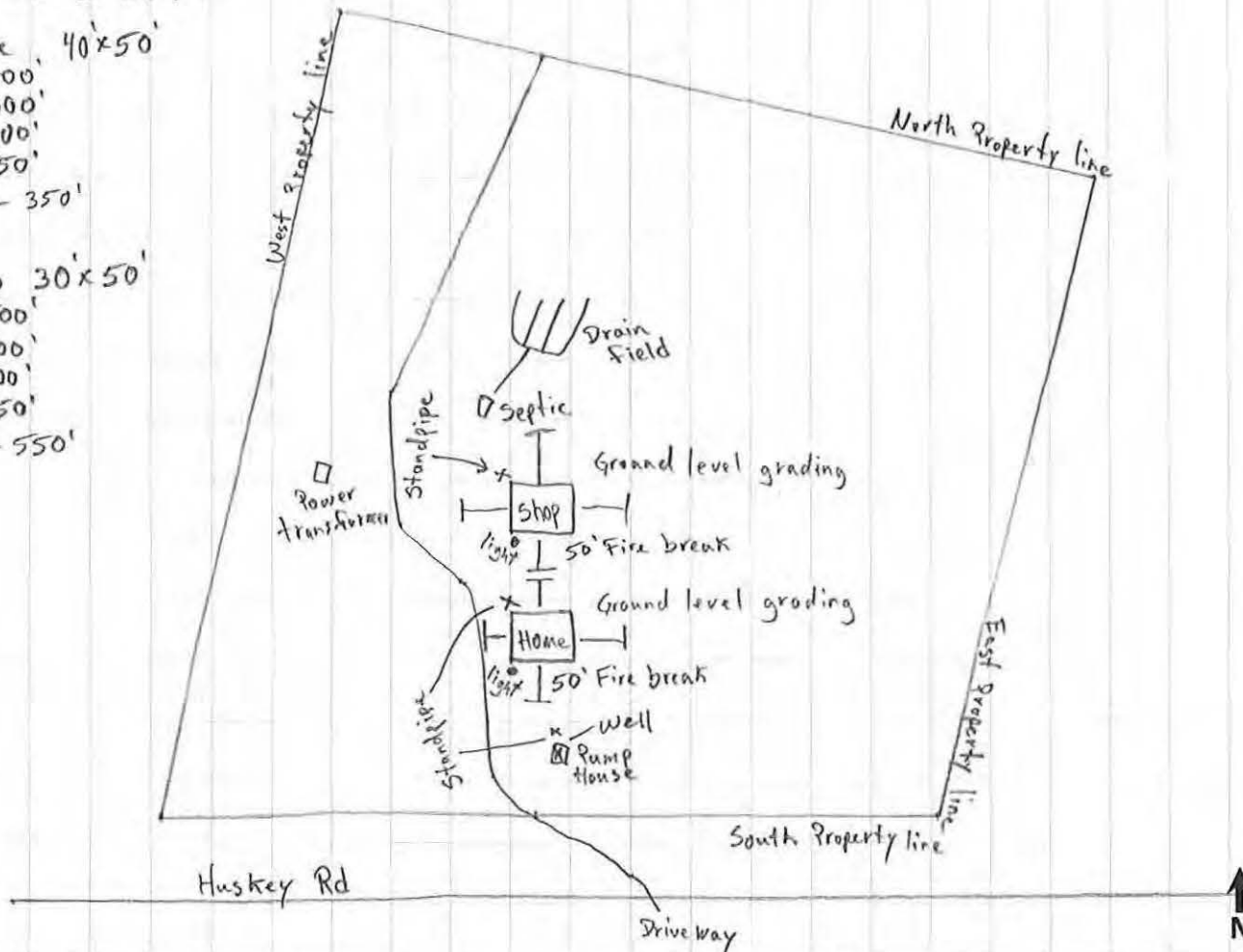
503-986-5271

Property line setbacks

Home 40'x50'
 North - 700'
 South - 300'
 East - 400'
 West - 550'

Huskey Rd - 350'

Shop 30'x50'
 North - 500'
 South - 500'
 East - 400'
 West - 550'
 Huskey Rd - 550'



SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☒ Proposed structures (location & size)
- ☒ Septic tanks and drain fields (ALL existing and proposed)
- ☒ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
- ☒ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☒ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☒ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE:

(select one)

1:50 ☐

1:100 ☐

1:200 ☐

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☐ Property boundary & development area dimensions
- ☐ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☐ Proposed structures (location & size)
- ☐ Septic tanks and drain fields (ALL existing and proposed)
- ☐ Existing & proposed services including wells, electricity, etc.
- ☒ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☒ Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'.
- ☐ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☐ Indicate 50' fire break surrounding new buildings.

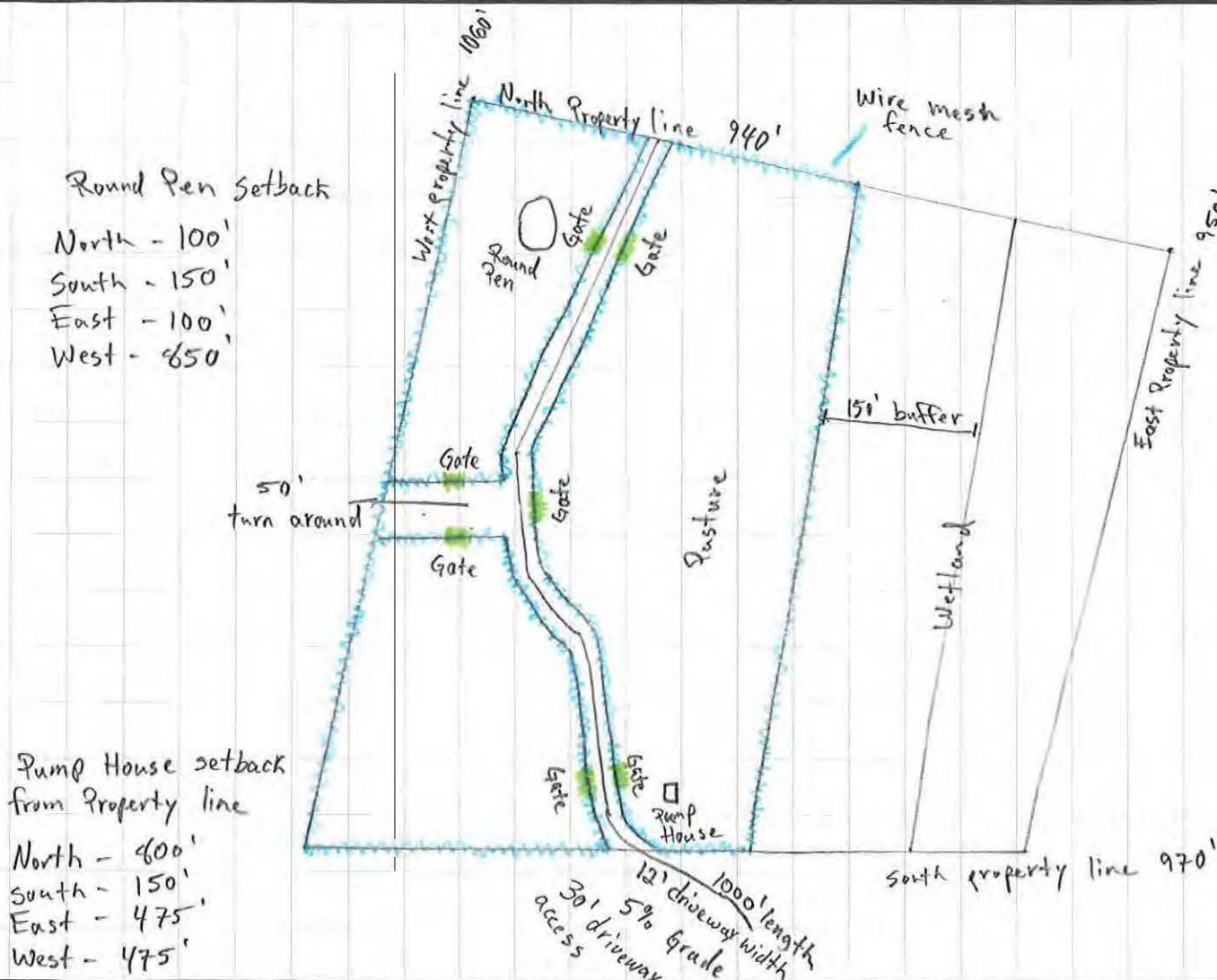
NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☐ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
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DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.



SITE PLAN MAP

Map, Tax Lot #:
Applicant: Adrian Lopez
File #:

SCALE:

(select one)

1:50

0 25 50

☒

1:100

0 50 100

☐

1:200

0 100 200

☐

Trees

● Oak trees

● Pine/Fir trees
most are over
50' tall

All trees will
remain for
screening



SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE:

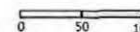
(select one)

1:50



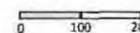
☐

1:100



☐

1:200



☐

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

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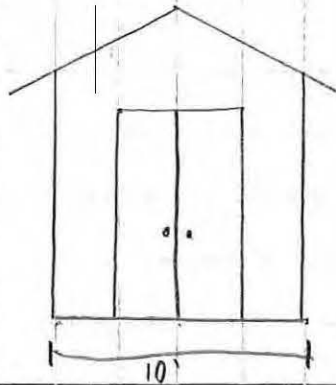
Landscaping Plan

- ☒ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

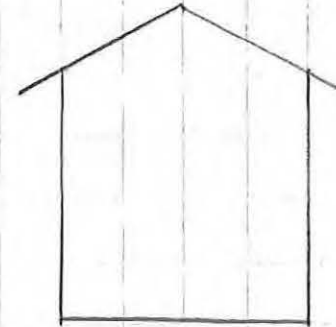
DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

Pump House

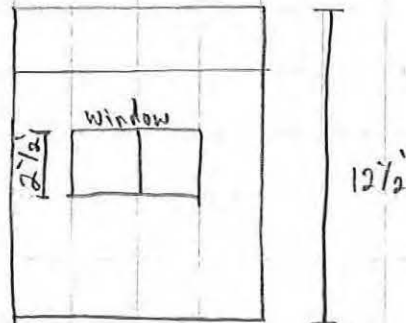
Front View



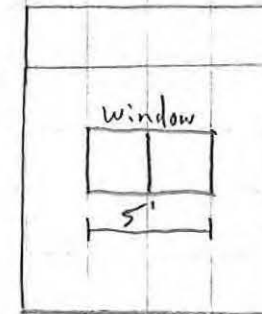
Rear View



Side View 1



Side View 2



ELEVATION DRAWING

☐ Natural Grade ☒ Finished Grade ☒ Dimensions (L x W x H)

Elevation drawings must be drawn to scale. Use additional pages if necessary. See back for more information.

☐ Each grid equals 5' x 5' at a scale of 1"=10', or
☒ Each grid equals 2.5' x 2.5' at a scale of 1"=5'



Same color and material as Home



PLANNING DEPARTMENT

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June 3, 2021

PUBLIC NOTICE OF ADMINISTRATIVE ACTION

Notice is hereby given that an Administrative Decision will be made by the Wasco County Planning Director pertaining to the following request. You are entitled to comment for or against the proposal. Comments must address review criteria and may be submitted to the Wasco County Planning Department, 2705 East Second Street, The Dalles, OR 97058.

This notice is in response to comments received regarding an incorrect version of the application on our website. The correct application is now on the website for review, and staff is allowing for another 15 day comment period.

COMMENTS DUE: June 18, 2021

FILE NUMBER: 921-19-000193-PLNG

**AMMENDED
REQUEST:**

Scenic Area Review of a 1,889 Square Foot (SF) (50'L x 40'W x 24'H), two story single family dwelling, a 1,500 SF (50'L x 30'W x 24'H) accessory structure for a shop and storage, and retroactive approval of an unlawfully placed well to be housed in a proposed 100 SF (10'L x 10'W x 12.5'H) pump house. The request includes a 4' H wire fence on the eastern portion of the property, 150' away from the identified wetland. The request also includes raising 12 goats on the property, and rotating them to different portions of the property on an annual basis. A 50' diameter portable round pen will also be utilized.

APPLICANT/OWNER: Adrian Lopez, 1150 Huskey Road, Mosier, OR 97040

LOCATION: The subject property is located approximately .5 miles south of the City of Mosier, OR, 879 feet to the southwest of Quartz Drive, along Huskey Rd; More specifically described as:

<u>Tax Lot:</u>	<u>Account #:</u>	<u>Acres:</u>
2N 11E 11 2200	327	20.58

ZONING: (GMA)A-2(80), General Management Area in the Small Scale Agriculture Zone

REVIEW AUTHORITY: Section 2.050(A) of the Wasco County National Scenic Area Land Use and Development Ordinance (NSA LUDO).

REVIEW CRITERIA: Chapter 2, Chapter 3, Chapter 5, Chapter 11 and Chapter 14 of the NSA LUDO

AVAILABLE INFORMATION: More information regarding this application is available on the Wasco

County Planning Department website at <http://co.wasco.or.us/planning/actions.html>. The table is sorted alphabetically by the name of the application. The information will be available until the end of the appeal period.

Copies of all review criteria and evidence relied upon by the applicant are available for free review or may be purchased at \$0.25 per page at the Wasco County Planning Department.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

COMMENTS:


1. *Written comments are due by 4:00 pm on June 18, 2021.*
2. This form is for your convenience if you wish to comment. Comments may also be submitted via email to brentb@co.wasco.or.us. If you wish to comment, please provide sufficient detail to allow the Director to respond to the issue(s).
3. Comments received are a matter of public record and are made available to the applicant. Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Board based on that issue.

Date: _____ Name: _____

Address: _____

DECISION PROCESS:

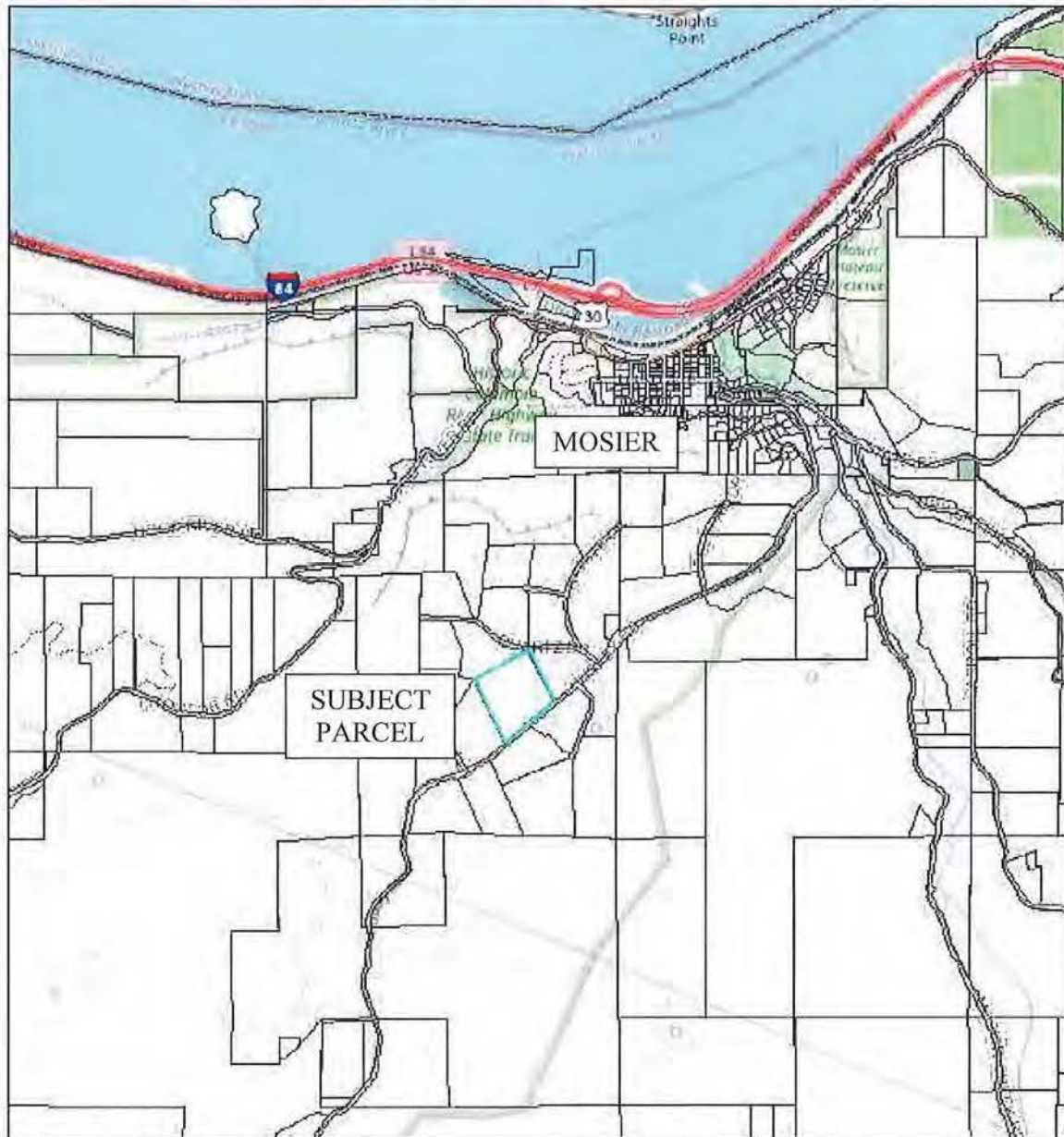
1. An application is received and reviewed for completeness.
2. When deemed complete, the Public Notice of Administrative Action is mailed to affected public agencies, interested parties, and property owners within 200 or 500 feet of the subject property. Timely comments are weighed against the NSA LUDO criteria in a staff report.
3. A decision is reached by the Director based on findings in the staff report.
4. Parties of Record (affected agencies, property owners within 200 or 500 feet of the subject parcel, plus those other parties who comment) will receive a Notice of Decision.
5. Aggrieved parties may appeal a decision of the Director within 15 days of the decision date.



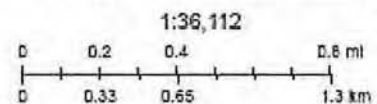
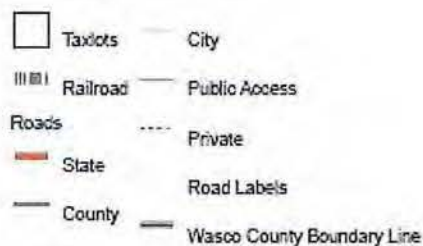
Brent Bybee, Associate Planner

MAPS Vicinity

Wasco County Planning Dept



6/25/2020, 10:03:28 AM



© OpenStreetMap (and) contributors, CC-BY-SA, Wasco County GIS, DOGAMI, State of Oregon, Wasco County GIS, Lane County, Assessor, Wasco County GIS

Wasco County Planning
This Map is for Informational Purposes Only

MAPS Site Plan

Property line setbacks

Home 40'x50'

North - 700'

South - 300'

East - 400'

West - 550'

Huskey Rd - 350'

Shop 30'x50'

North - 500'

South - 500'

East - 400'

West - 550'

Huskey Rd - 550'

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE: (select one)

1:50 ☐

1:100 ☐

1:200 ☐

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
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Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
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NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☒ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

MAPS



**PLANNING DEPARTMENT**

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FILE NUMBER: _____

FEE: _____

LAND USE APPLICATION COVERPAGE

Date Received: 12/31 Planner Initials: AK Date Complete: _____ Planner Initials: _____

APPLICANT INFORMATION

Name: Adrian Lopez
Address: 1150 Huskey Rd, Mosier Oregon 97040
City/State/Zip: _____
Phone: 541-490-0088
Email: adrianlopez5@yahoo

OWNER INFORMATION

Name: Adrian Lopez
Address: 1150 Huskey Rd
City/State/Zip: Mosier Oregon 97040
Phone: 541-490-0088
Email: adrianlopez5@yahoo

PROPERTY INFORMATION

Township/Range/Section/Tax Lot(s)	Acct #	Acres	Zoning
<u>2N 11E 11 2000</u>	<u>327</u>	<u>20.59</u>	<u>(GMA) A-2(80)</u>

Property address (or location): 1139 Huskey Rd, Mosier Oregon 97040

Zoning Designation: _____ Environmental Protection District: _____

Proposed Use: Residential Permitted Subject to Section: _____

Water source: Well Sewage disposal method: Septic

Are there wetlands/waterways on your property? ☐ NO ☒ YES (description) Riverine eastern portion of property

Name of road providing access: Huskey Rd

Current use of property: Lot Use of surrounding properties: Residential

Do you own neighboring property? ☒ NO ☐ YES (description) _____

DETAILED PROJECT DESCRIPTION (proposed use, structures, dimensions, etc.): 40'x50' Residential home on a 21 acre lot 40'x50' Pole barn for storage/workshop 24' height

☒ Additional description/maps/pictures attached

LEGAL PARCEL STATUS

Partition, Subdivision, OR

Most Recent Pre-9/4/1974 Deed #: _____ Date Filed: _____

Current Deed #: _____ Date Filed: _____

*The deed and a map showing the property described in the deed(s) must accompany this application.***SIGNATURES**Applicant(s):  Date: 12-31-19Erika Gonzalez Date: 12-31-19X Property Owner(s):  Date: 12-31-19Erika Gonzalez Date: 12-31-19_____
Date: _____

PLEASE NOTE: Before this application will be processed, you **must** supply all requested information and forms, and address **all listed or referenced criteria**. Pursuant to ORS 215.428, this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

ALL LAND USE APPLICATIONS MUST INCLUDE:

- ☐ Application Fee – Cash or Check (credit cards now accepted with additional fee)
- ☐ Site Plan
- ☐ Elevation Drawing
- ☐ Fire Safety Self-Certification
- ☐ Other applicable information/application(s):

☐ _____☐ _____**APPLICATIONS FOR PROPERTIES IN THE NATIONAL SCENIC AREA MUST ALSO INCLUDE:**

- ☐ Scenic Area Application/Expedited Review
- ☐ Color and Material Samples
- ☐ Landscaping Plan
- ☐ Grading Plan
- ☐ Other applicable information/application(s):

☐ _____☐ _____

SHADED AREA TO BE COMPLETED BY PLANNING DEPARTMENT

Legal Parcel

☐ NO

☐ YES

Deed/Land Use Action: _____

Previous Map and Tax Lot: _____

Past Land Use Actions: If yes, list file #(s) _____

☐ NO

☐ YES

Subject to previous conditions?

☐ NO

☐ YES

Assessor Property Class: _____

Zoning: _____

Environmental Protection Districts – List applicable EPDs:

☐ EPD # _____

☐ EPD # _____

☐ EPD # _____

☐ EPD # _____

Water Resources

Are there bodies of water or wetlands (seasonal or permanent) on property or adjacent properties? ☐ NO ☐ YES

Describe (include setback distances): _____

☐ Fish bearing ☐ Non fish bearing ☐ Seasonal Creek

☐ Irrigation ditch ☐ Wetland ☐ Pond/Lake ☐ Not identified

(Note: Check buffers. Different zones have different setback requirements that may require a more extensive permitting process.)

Access:

County or ODOT approach permit on file? ☐ NO ☐ YES, # _____

Address:

Address exists and has been verified to be correct?

☐ NO

☐ YES

Address needs to be assigned after approval?

☐ NO

☐ YES

Fire District: _____

Fees (List Review Type and Cost): _____



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FILE NUMBER: PLASAR-

FEE: _____

NATIONAL SCENIC AREA APPLICATION

Date Received:

Planner Initials:

Date Complete:

Planner Initials:

Please describe your proposed development in the National Scenic Area below. Attach additional narrative if necessary.

	LENGTH	WIDTH	HEIGHT	SQ. FT.	MATERIAL, COLOR, NAME & VENDOR (Samples Must Be Submitted)
EXISTING Development					
Dwelling					
Garage					
Other (shed, road etc...)					
PROPOSED Improvements					
Dwelling	50'	40'		1889	
Main/Body					Fiber Cement Sherwin Williams Hardi lap siding Thunder Gray SW7645
Trim					Fiber cement Sherwin Williams Hardi lap trim Forestwood SW7790
Roof(Fire Resistant)					Asphalt shingles - Grey Owens Corning Roofing
Doors					Fiberglass 6 panel
Windows (frame, sill & sash)					Vinyl thermal pane windows Hardi trim
Window Reflectivity Specs					low Reflectivity Glass
Other Building(s) Shop	40	50	16	2000	
Main/Body					Fiber Cement Hardi lap siding
Trim					Fiber cement Hardi lap siding
Roof(Fire Resistant)					Asphalt shingles Owens Corning Roofing Grey
Doors					Fiberglass
Windows (frame, sill & sash)					Vinyl thermal pane windows Hardi trim
Window Reflectivity Specs					low Reflectivity Glass
Decks					
Fences/Gates					
Driveway					20' concrete at of House Garage
Exterior Lighting & Hooding					Can lights Motion sensor flood on entry lights on garage and back door

ADDITIONAL INFORMATION

Your proposed development will be reviewed according to the following criteria. It is important that your proposed design takes them into consideration. Please consult [*Building in the Scenic Area - Scenic Resources Implementation Handbook*](#) for additional guidance regarding the siting and design of your proposed development.

KEY VIEWING AREAS

Check which Key Viewing Areas can be seen from the development site:

- ☐ Interstate 84, including rest stops
- ☒ Washington State Route 14
- ☒ Historic Columbia River Highway
- ☒ Columbia River
- ☐ Rowena Plateau and Tom McCall Point
- ☐ Washington State Route 142 (Lyle and Klickitat River road)
- ☐ Old Washington State Route 14 (County Road 1230)

Is property within ¼ mile of Interstate 84 or Historic Columbia River Highway (30)? ☒ NO ☐ YES

If YES, indicate setbacks to the paved edge of the Scenic Travel Corridors _____

Is any structure on property 50 years old or older? ☒ NO ☐ YES, year built: _____

Is proposed development site adjacent to agricultural uses? ☒ NO ☐ YES, type (grazing, orchards, grain, other): _____

Please describe the operational characteristics of non-residential uses/structures, including hours of operation, number of average daily trips, number of commercial events per year, etc. (attach additional pages if necessary):

MAINTAIN TOPOGRAPHY

- ☒ The proposed development has been designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

COMPATIBILITY

- ☒ The proposed development is compatible with the general scale (height, dimensions and overall mass) of existing nearby development.

SKYLINE

- ☒ The proposed development does not break the skyline as seen from any Key Viewing Areas.

VISUAL SUBORDINANCE

- ☒ The proposed development is sited to achieve visual subordination from Key Viewing Areas by utilizing existing topography and existing vegetation. Please explain (attach additional pages if necessary):
- _____
- _____

APPLICATION REQUIREMENTS

In addition to the items listed on the Land Use Application and Site Plan forms, the following information must be included with all applications for development in the National Scenic Area.

MATERIAL SAMPLES

All samples of exterior colors and materials have been included with the application.

- ☒ **If visible from Key Viewing Areas:** Dark earth-tone colors found at the specific site or in the surrounding landscape and either non-reflective or minimally reflective (non-metal with low-reflectivity glass); OR
- ☐ **If not visible from Key Viewing Areas:** Earth-tone colors found at the specific site.

GRADING PLAN

All applications for structural development, except for trails in the SMA, involving more than 100 cubic yards of grading and with slopes greater than 10 percent shall include a grading plan. All proposed structural development involving more than 200 cubic yards of grading on sites visible from Key Viewing Areas shall include a grading plan.

A grading plan is required

☒ NO ☐ YES

If yes, a grading plan meeting the requirements below is included with the application:

- ☐ A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:
- (1) Natural and finished grades.
 - (2) Location of all areas to be graded, with cut banks and fill slopes delineated.
 - (3) Estimated dimensions of graded areas.
- ☐ A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
- (1) Its purpose.
 - (2) An estimate of the total volume of material to be moved.
 - (3) The height of all cut banks and fill slopes.
 - (4) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)
 - (5) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
 - (6) A description of any other interim or permanent erosion control measures to be used.

COMPLETENESS

☒ I have read and understand the following:

If an application is deemed incomplete within 30 days of receipt, a letter shall be sent to the Applicant notifying him of exactly what information is missing. Applicant shall have 30 days from the date the incomplete letter is sent to submit the missing information. If the missing information is not submitted within this time frame, the application shall be deemed complete for the purposes of the review on 31st day after receipt of the application.

Due to the missing information, Wasco County will be unable to adequately review the proposal to determine if it is consistent with all applicable criteria, and landowners within the required notification area, affected agencies and other interested parties will be unable to appropriately comment on the proposal. **As a result, the proposal will be denied.** Pursuant to Wasco County National Scenic Area Land Use & Development Ordinance 2.120(D), Applicant will not be able to submit a similar application for a minimum of one year unless the denial is reversed by a higher authority.



INCLUSIVE FEATURES

STRUCTURAL

8' or 9' ceiling height (per plan)
Vaulted ceilings (per plan)
24" foundation wall
Engineered wood I – Joist floor system
Vapor barrier in crawl space
Tongue and groove sub-floor glued and nailed
2"x 6" exterior stud walls – Garage (per plan)
2"x 4" interior stud walls
Kiln dried framing lumber
Engineered Truss system
6/12 Roof pitch for enhanced curb appeal
Architectural comp roofing

EXTERIOR

Exterior paint, three color scheme
Siding caulked and painted
50 year LP® Smart Side (limited warranty)
LP® Smart Trim all external windows
House wrap to prevent water intrusion
Vinyl thermal pane windows
Vinyl thermal pane sliding glass door (per plan)
Fiberglass 6 panel front door
LP® paint grade shake panels at front gables
Two exterior outlets (per plan)
Two exterior hose bibs (per plan)
Schlage brushed nickel exterior door knobs
and deadbolts

Light fixtures at garage and back door
Can lights at front entry (per plan)
Covered front porch/entry (plan specific)
Front porch, concrete (plan specific)

INTERIOR

Interior painting, walls, ceilings,
trim and doors
Recessed lighting in common spaces
Sheet rocked and fire taped garage
Rounded drywall corners
Staggered upper cabinets in kitchen with
crown molding
Solid wood doors, face frame and drawer
faces on cabinets
Tile entry (plan specific)
GE® appliances, range, dishwasher and
micro/hood in white
Stair skirting on two story homes
200 AMP electrical service
Zoned electrical heating
1 phone and 2 cable outlets
Insulation meets or exceeds building codes
Orange peel texture on walls throughout home
Knock down ceiling texture in common areas
and bedrooms
Archways (per plan)
Plant shelves (plan specific)

2" colonial base and case trim
Window sills in formal areas
3 panel hollow core interior doors
Wood shelving throughout home
Merillat® Birch cabinets
Moen® faucets
50 gallon hot water tank gas or electric
Ice maker plumbing connection
Brushed nickel light fixture package
Wilsonart® laminate counter tops
6" tile backsplash at all counter surfaces
Mannington® vinyl flooring at kitchen,
bath and utility
Quality Shaw® carpet
Garbage disposal
Micro/hood vented to outside

INTANGIBLES

Professional knowledgeable sales staff
Multiple award winning home plans
Customization available
Professional back office administration staff
Many preferred lender relationships
Professional construction management
New Home Orientation Walkthrough
Exceptional value
Robust IT systems and internal processes

We invite you to compare these Simplicity Home inclusive features. You will find the industry standard is to charge extra for many of these items. Not with us, just one more of the many Simplicity Advantages.

SIMPLICITY MISSION

With integrity we strive to build value driven, high quality homes. Our team centric professionals are dedicated to providing an unparalleled customer experience.

**PLANNING DEPARTMENT**

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**FIRE SAFETY STANDARDS
SELF CERTIFICATION FORM**

This checklist certifies that Applicant/Owner has reviewed, understands, and commits to maintain compliance with Wasco County Fire Safety Standards. The information contained in this form shall be recorded with the Wasco County Clerk.

Fire standards are listed in their entirety, with illustrations, in **Chapter 10** of the Wasco County Land Use & Development Ordinance (WC LUDO) and **Chapter 11** of the Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO). Please confirm compliance by marking the appropriate box and providing written comment if necessary. If compliance with applicable standards cannot be certified by Applicant, please contact the Planning Department to request a modification to Fire Safety Standards.

File Number: _____

PROJECT DESCRIPTION: Residential home on a 21 acre lot.

APPLICANT INFORMATION

Name: Adrian Lopez
Address: 1150 Huskey Rd
City/State/Zip: Mosier Oregon 97040
Phone: 541-490-0088
Email: adrianlopez5@yahoo

OWNER INFORMATION

Name: Adrian Lopez
Address: 1150 Huskey Rd
City/State/Zip: Mosier Oregon 97040
Phone: 541-490-0088
Email: adrianlopez5@yahoo

PROPERTY INFORMATION

Township/Range/Section/Tax Lot(s)	Acct #	Acres	Zoning
<u>2N 11E 11 2200</u>	<u>327</u>	<u>20.59</u>	<u>(6MA) A-2(80)</u>

Property address (or location): 1139 Huskey Rd, Mosier Oregon 97040

SITING 10.110/11.110 – Please show approximate areas of steep slopes and proposed building locations relative to the slopes on the site plan. Information shall be sufficient to demonstrate the following:

NOTE: Select either B(1) or B(2).

A. You have identified site(s) for your building(s) that are not steeper than 40%.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B(1). If your property is located in a Resource (A-1, F-1 or F-2) or Large Lot Residential Zone please show, on the site plan, that you have identified site(s) for your building(s) that are at least 50 feet back from the top of any slopes steeper than 30%;

☒ Yes – Comment No slope over 30% ☐ No, See Attached Fire Safety Plan

B(2). If your property is located in a Resource or Large Lot Residential Zone please show you have identified site(s) for your building(s) that are at least 30 feet back from the top of any slopes steeper than 30% on the site plan and certify that you will be implementing the structural techniques for increasing fire resistance discussed in **10.110(B)(2)/11.110(B)(2)** of the ordinance.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

DEFENSIBLE SPACE 10.120/11.120 – Please show building location(s) including a boundary for the 50 foot fire fuel break boundary on the site plan. Information shall be sufficient to demonstrate the following:

NOTE: Select either A or B.

A. You have identified site(s) for the proposed building(s) that allow for a full 50 foot fire fuel break either on the parcel or by easement over the necessary portion of an adjoining parcel;

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B. Your property is located in an exception area or smaller lot residential zone and building(s) are located to accommodate a 30 foot fire fuel break where a full 50 foot fire fuel break cannot be provided for.

☐ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

CONSTRUCTION STANDARDS 10.130/11.130 – Please provide the following information about construction details you will implement to increase the fire resistance of your proposed building(s):

A(1). Fire resistant roofing will be installed to the manufacturers' specifications. Please confirm the type of roofing and that the rating of the roof material by Underwriter's Laboratory Classification system is Class A, B, or its equivalent.

☐ Yes – Comment _____

A(2). Please verify that all spark arrestors will be installed to cap all chimneys and stove pipes. (The spark arrestors must meet NFPA standards)

☒ Yes – Comment _____

B(1). Please verify the following for all decks:

Decks will be kept clear of fire wood, flammable building material, dry leaves and needles, and other flammable chemicals.

☒ Yes – Comment _____

Decks less than three feet above ground will be screened with noncombustible corrosion resistant mesh screening material with openings ¼" or less in size.

☒ Yes – Comment _____

When required by standard **10.110(B)(2)/11.110(B)(2)** decks will be built of fire resistant material.

☒ Yes – Comment _____

All flammables will be removed from the area immediately surrounding the structure to be stored 20' from the structure or enclosed in a separate structure during fire season.

☒ Yes – Comment _____

B(2). Please confirm that all openings into and under the exterior of the building including vents and louvers, will be screened with noncombustible corrosion resistant mesh screening material with openings of ¼" or less.

☒ Yes – Comment _____

B(3). Please acknowledge that you will limb up all trees overhanging the building to 8' above the ground, as required by fire fuel break requirements, that vegetation will be trimmed back 10 feet away from any chimney or stove pipe, and that trees overhanging the building will be maintained free of all dead material.

☒ Yes – Comment _____

B(4). Please verify that the utilities will:

Be kept clear along their route if your private utility service lines are not underground

☒ Yes – Comment _____

Have a single point of access to the building if service is not provided underground.

☒ Yes – Comment _____

Include a clearly marked main power disconnect switch at the pole or off grid power source for all electrical service to new buildings and structures. This has been located on the site plan.

☒ Yes – Comment _____

B(5). Please confirm that a stand pipe will be provided 50 feet from the dwelling and any structure served by a plumbed water system. This has been located on the site plan.

☒ Yes – Comment _____

ACCESS 10.140/11.140 – Please confirm that access onto and through your property meets the following standards (Note: please show route, width, and alignment of access drives on the site plan):

A(1). New or improved driveways will be built and maintained to all weather design standards.

(2-3" of $\frac{3}{4}$ minus over 6-8" of pitrun base rock OR capable of supporting 75,000 lbs GVW)

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

A(2). Minimum widths – 12' to 16', depending on number and severity of curves – will be maintained.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B(1). Corners will meet the minimum curve radius (20' or 48') required for large vehicles.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B(2). Average grade or slope will be 10% or less. Short sections, 100' or less, may reach 12%.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B(3). Turnouts 40' long by 20' wide will be provided at least every 400'.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

C(1). Minimum clearance of 13' vertical and 14' horizontal will be maintained for emergency vehicles.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

C(2). Fire fuel break extending 10' both sides of driveway center line will be maintained.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

D. Driveways longer than 150' will end with a 95' diameter turnaround (or 120' hammerhead).

☐ Yes – Comment _____ ☒ No, See Attached Fire Safety Plan

E. Bridges and culverts will support 75,000 lbs gross vehicle weight.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

F. Gates will provide minimum clearance width of 14' and will be operable by emergency responders in accordance with access standards.

☒ Yes – Comment _____

G. Legible signs will be installed to identify parking limitations, fire lanes, on site water source, electrical service shut off, and any necessary posted weight limits. Signs will be maintained in accordance with requirements.

☒ Yes – Comment _____

H. Roads leading to the property will allow emergency response at a reasonable rate of speed with little risk of damage to equipment or roads themselves;

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

OR..... The following improvements to public and private roads have been determined to be necessary:

All necessary improvements will be made and maintained to ensure basic access to the property.

☒ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

ON-SITE WATER 10.150/11.150 – On site water requirements will be met in the following way:

NOTE: Select either A or B. Previous requirements to install NFPA sprinkler systems have been found to conflict with State Building Codes.

A. The proposed dwelling is 3,500 SF or smaller and will be located within a fire protection district.

☐ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

B. The proposed dwelling is 3,500 SF or smaller, will be located outside a fire protection district, and will provide at least 4,000 gallons of water on site for fire protection.

☐ Yes – Comment _____ ☐ No, See Attached Fire Safety Plan

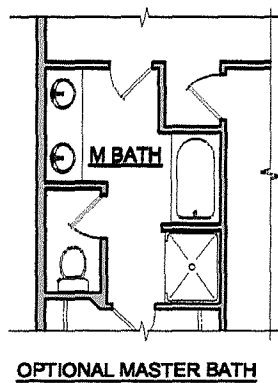
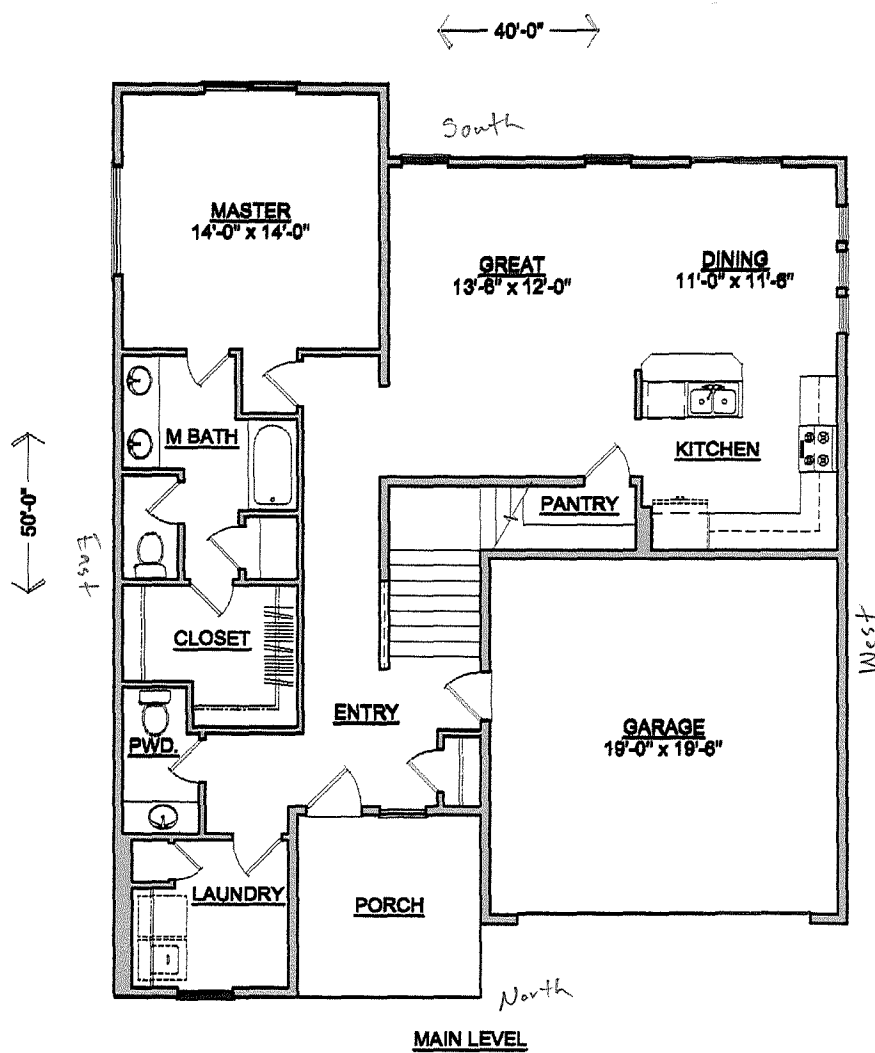
I/we acknowledge receipt of the full **WC LUDO Chapter 10/NSA LUDO Chapter 11 – Fire Safety Standards** text and illustrations applicable to the land use or building permit request at the time of application. I/we have reviewed and certify that the standards have been reviewed and understood. I/we further certify that all responses to the above questions and improvement designs and locations shown on the site plan are true and accurate, and that all planned future compliance will be achieved within one year and maintained in perpetuity.

X  _____
Owner Signature

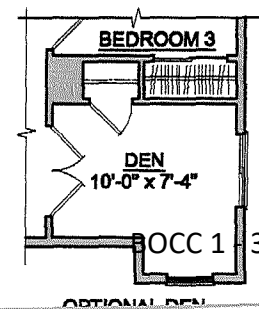
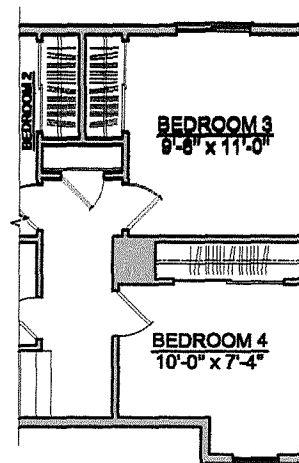
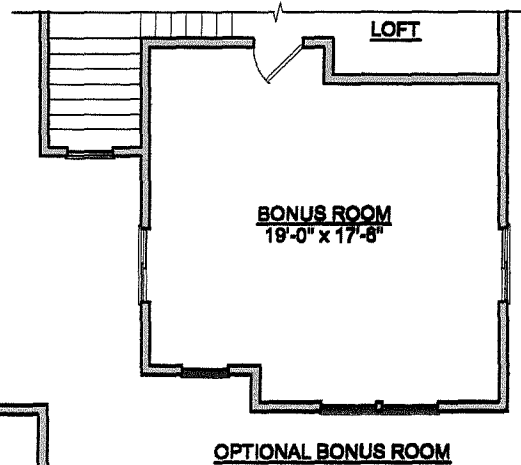
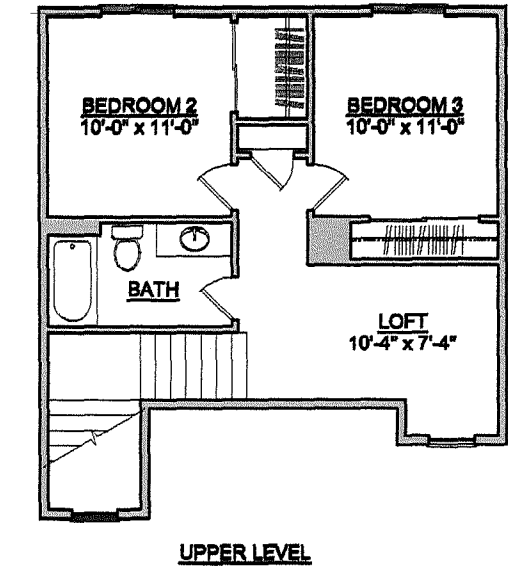
12-31-19
Date

X  _____
Owner Signature


12-31-19
Date



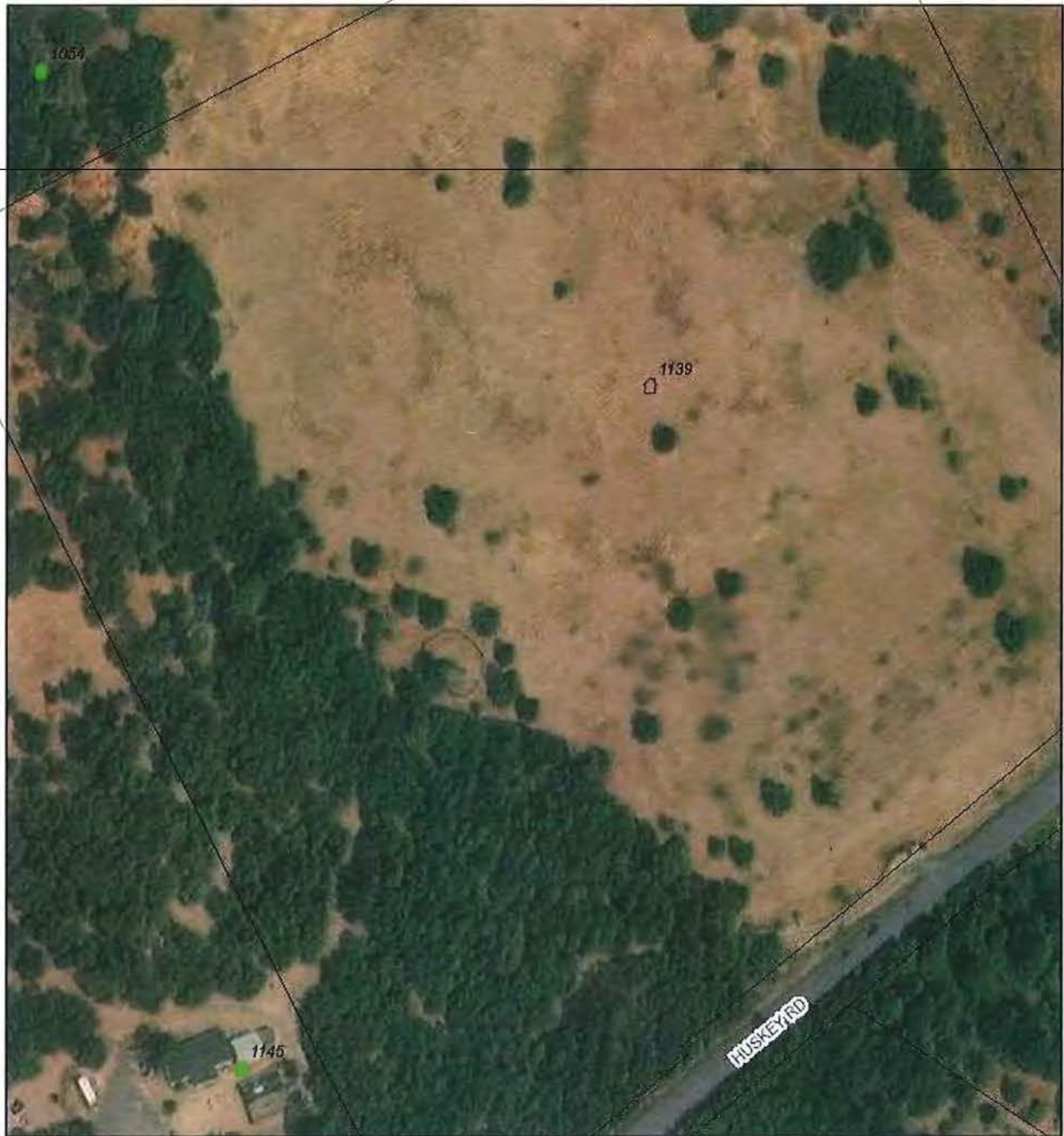
Parkland



Shop

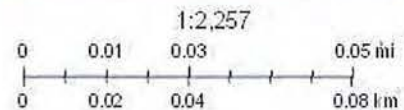
<p>North Elevation</p> <p>Front View</p> <p>24'</p> <p>50'</p> <p>Finished Grade</p>	<p>South</p> <p>Rear View</p> <p>24'</p> <p>50'</p> <p>Finished Grade</p>
<p>West</p> <p>Side View 1</p> <p>24'</p> <p>40'</p> <p>Finished Grade</p>	<p>East</p> <p>Side View 2</p> <p>24'</p> <p>40'</p> <p>Finished Grade</p>
<p align="center">ELEVATION DRAWING</p> <p> <input type="checkbox"/> Natural Grade <input checked="" type="checkbox"/> Finished Grade <input checked="" type="checkbox"/> Dimensions (L x W x H) </p> <p> Elevation drawings must be drawn to scale. Use additional pages if necessary. See back for more information. </p> <p> <input checked="" type="checkbox"/> Each grid equals 5' x 5' at a scale of 1"=10', or <input type="checkbox"/> Each grid equals 2.5' x 2.5' at a scale of 1"=5' </p> 	

ArcGIS Web Map



10/31/2019, 12:25:30 PM

- | | | |
|--------------|--------------------|---------------------|
| Taxlots | City | Legal Status |
| Railroad | Public Access | UNKNOWN |
| Roads | Private | YES |
| State | Road Labels | POTENTIAL |
| County | | PENDING |

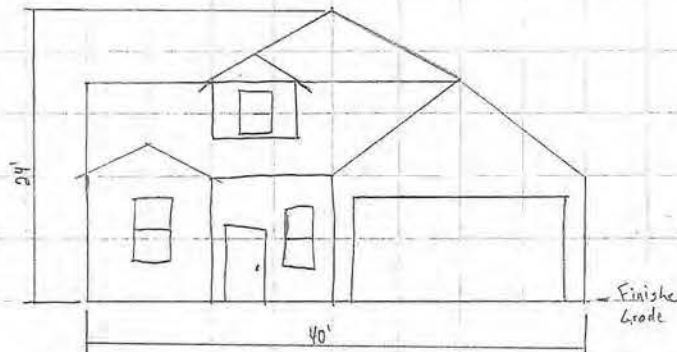


NRCS, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Wasco County GIS, Lane County, Assessor, Wasco County GIS

Wasco County Planning
This Map is for Informational Purposes Only.

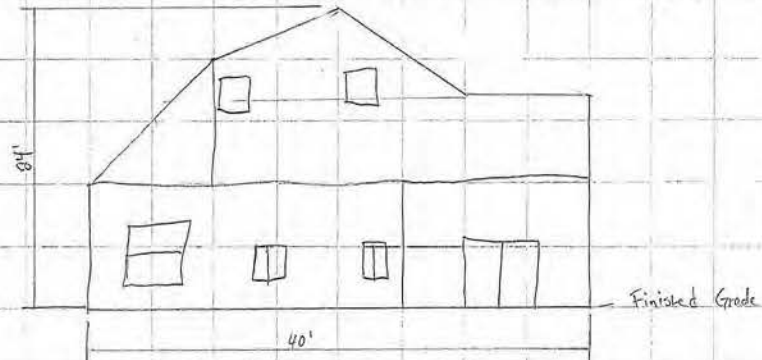
Front View

North



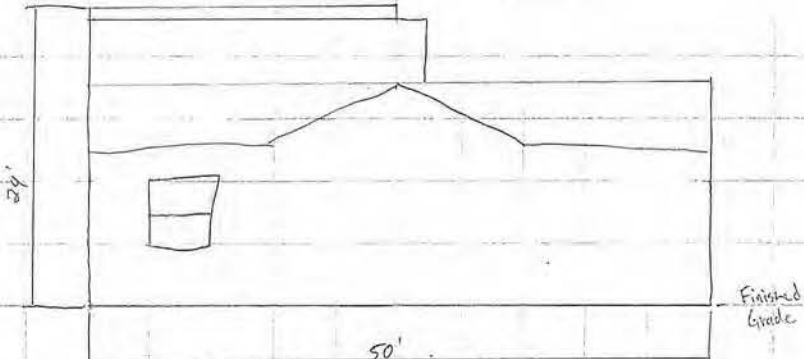
Rear View

South



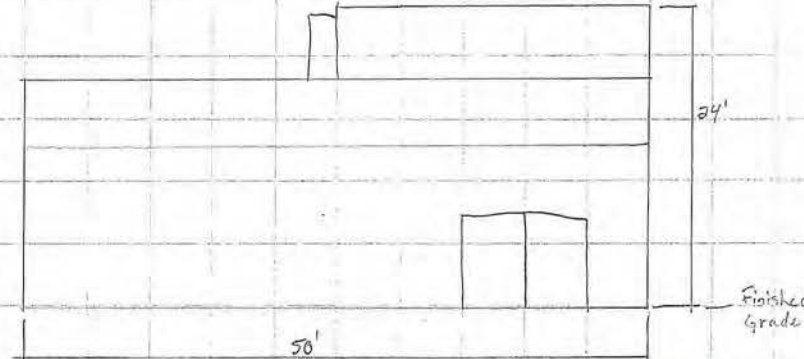
Side View 1

West



Side View 2

East



ELEVATION DRAWING

Proposed Home

- ☐ Natural Grade
- ☒ Finished Grade
- ☒ Dimensions (L x W x H)

Board of County Commissioners Agenda Packet

January 19, 2022

Elevation drawings must be drawn to scale. Use additional pages if necessary. See back for more information.

- ☒ Each grid equals 5' x 5' at a scale of 1"=10', or
- ☐ Each grid equals 2.5' x 2.5' at a scale of 1"=5'



BOCC 1-353



- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
 - ☒ Property lines
 - ☒ Roadways
 - ☒ Waterways
- ☒ Existing structures (location & size)
- ☒ Proposed structures (location & size)
- ☒ Septic tanks and drain fields
- ☒ Existing & proposed services including wells, electricity, etc.
- ☒ Driveway & access to public/private roads
- ☒ Significant land forms & slopes

- ☒ Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
- ☒ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☒ Indicate 50' fire break surrounding new buildings.

- ☒ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☒ All proposed signs
- ☒ Location & height of outdoor storage & screening devices

- ☒ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☒ Location of irrigation systems



File #:

(select one)

四

☐

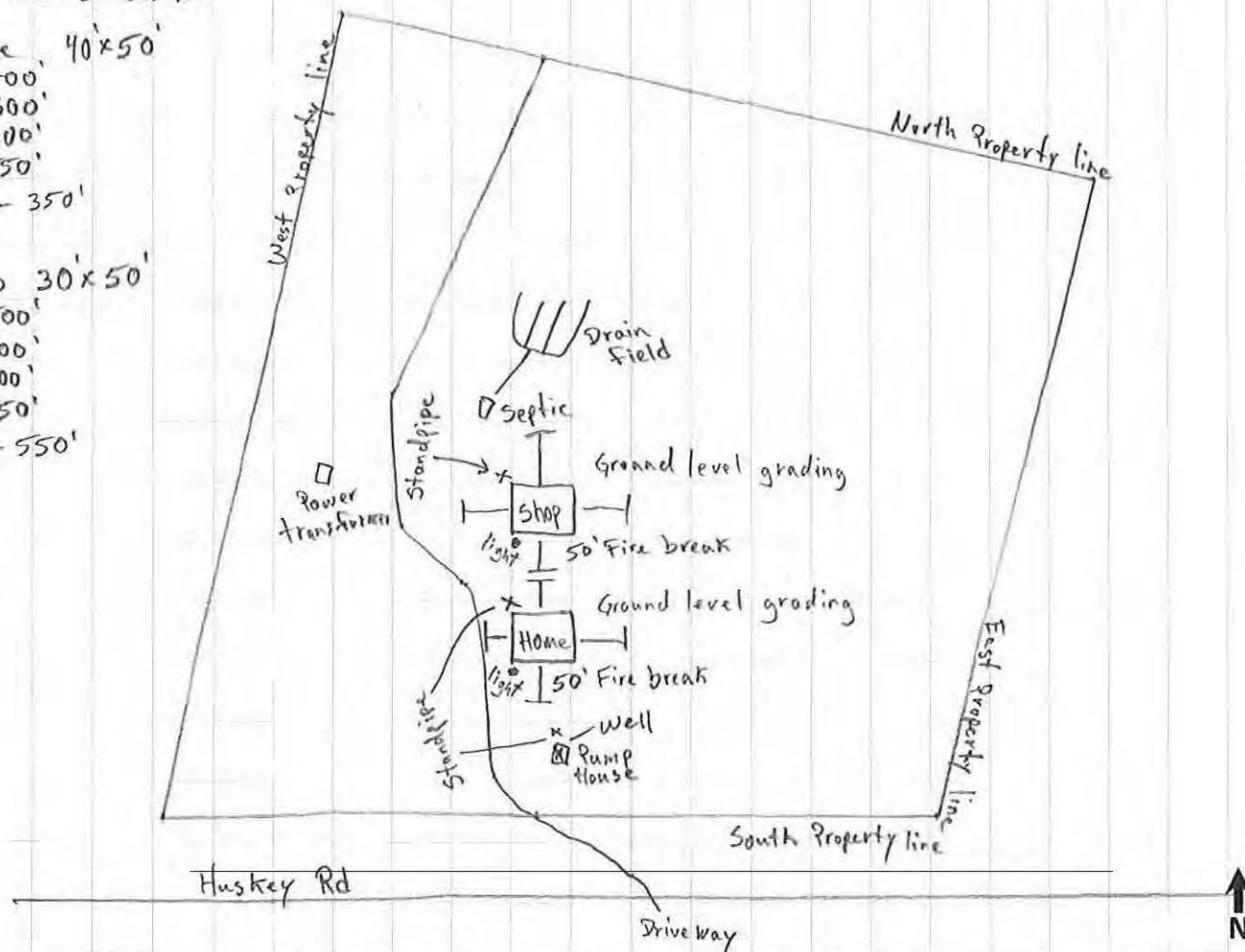
~~BOCC 1 - 354~~

Property line setbacks

Home 40'x50'
 North - 700'
 South - 300'
 East - 400'
 West - 550'

Huskey Rd - 350'

Shop 30'x50'
 North - 500'
 South - 500'
 East - 400'
 West - 550'
 Huskey Rd - 550'



SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☒ Property boundary & development area dimensions
- ☒ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
- ☒ Proposed structures (location & size)
- ☒ Septic tanks and drain fields (ALL existing and proposed)
- ☒ Existing & proposed services including wells, electricity, etc.
- ☐ Driveway & access to public/private roads
- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
- ☒ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☒ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☒ Location & depth of proposed grading, filling, ditching and excavating
- ☒ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE:

(select one)

1:50 ☐

1:100 ☐

1:200 ☐

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

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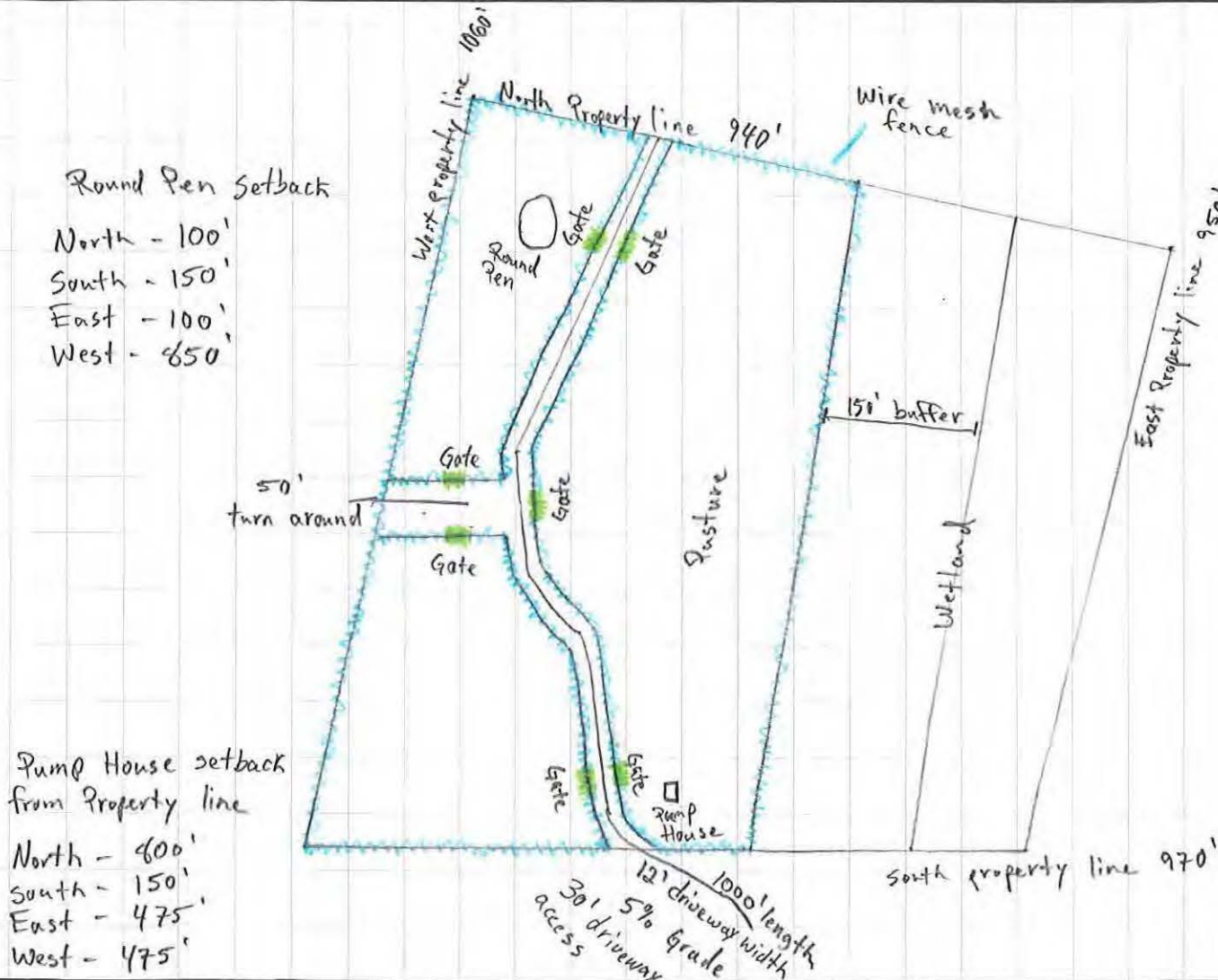
NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☐ Outside lighting fixtures
- ☐ All proposed signs
- ☐ Location & height of outdoor storage & screening devices

Landscaping Plan

- ☐ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.



SITE PLAN MAP

Map, Tax Lot #: _____
 Applicant: Adrian Lopez
 File #: _____

SCALE:

(select one)

- 1:50 ☒ 0 25 50
 1:100 ☐ 0 50 100
 1:200 ☐ 0 100 200



Trees

● Oak trees

● Pine/Fir trees
most are over
50' tall

All trees will
remain for
screening



SITE PLAN CHECKLIST

SITE PLANS MUST SHOW THE FOLLOWING:

- ☐ Property boundary & development area dimensions
- ☐ Setback distances from proposed structures to all:
 - ☐ Property lines ☐ Roadways ☐ Waterways
- ☐ Existing structures (location & size)
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- ☐ Significant land forms & slopes

Fire Safety Information

- ☐ Indicate driveway width, length, and grade. Long drives should provide turnouts every 400'.
- ☐ Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- ☐ Indicate 50' fire break surrounding new buildings.

NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- ☐ Location & depth of proposed grading, filling, ditching and excavating
- ☐ Outside lighting fixtures
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Landscaping Plan

- ☒ Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- ☐ Location of irrigation systems

DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.

SITE PLAN MAP

Map, Tax Lot #: _____

Applicant: Adrian Lopez

File #: _____

SCALE:

(select one)

1:50 ☐

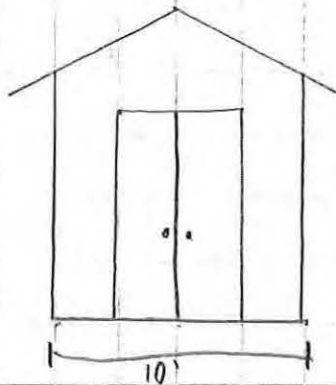
1:100 ☐

1:200 ☐

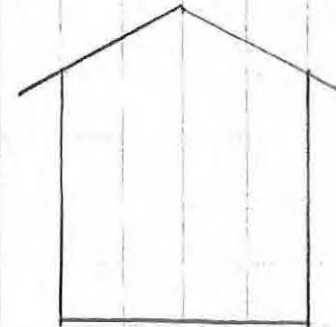


Pump House

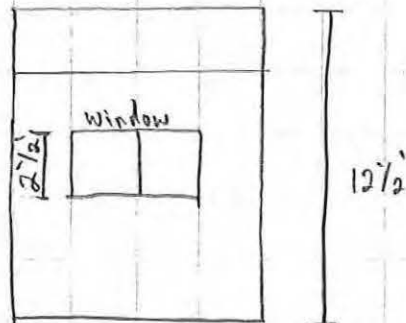
Front View



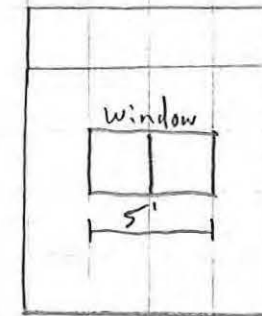
Rear View



Side View 1



Side View 2



ELEVATION DRAWING

☐ Natural Grade ☒ Finished Grade ☒ Dimensions (L x W x H)

Elevation drawings must be drawn to scale. Use additional pages if necessary. See back for more information.

☐ Each grid equals 5' x 5' at a scale of 1"=10', or
☒ Each grid equals 2.5' x 2.5' at a scale of 1"=5'



Same color and material as Home

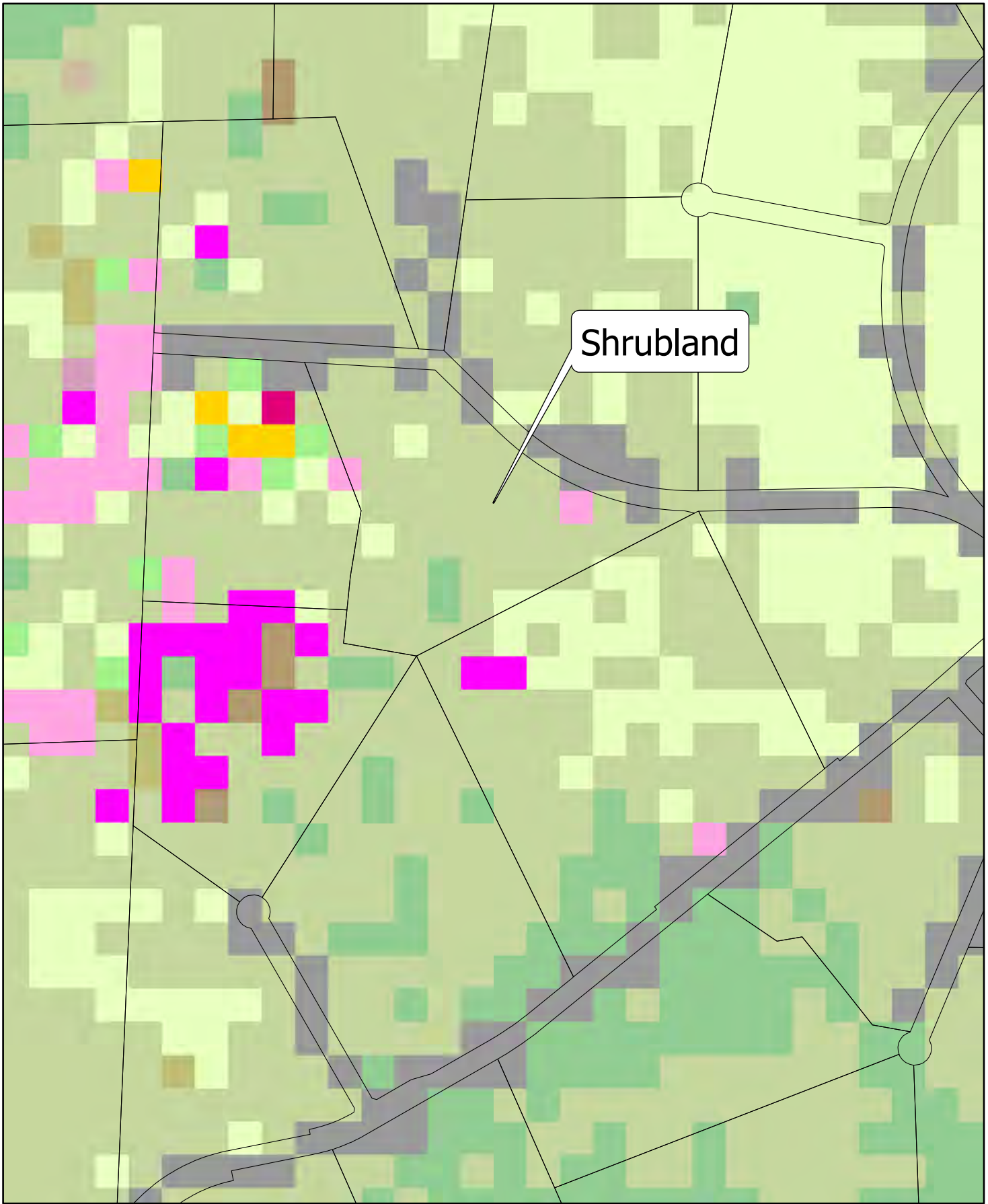
Farm Management Plan

The proposed farm will be breeding meat goats for profit and will be ran by myself. I plan on starting my own heard so that will take years to develop and breed a full heard of around 12 females and one stud, maybe around 4 years or so. Beginning with a few females and a male, I will breed and keep the offspring with the traits I want. The remanding animals will be sold at an auction or to a private party once a year. Goats are well known to eat most plants including poison oak, there is a good possibility they will also be rented to people once the full heard is established.

On the property there is a 50' round pen that will be used to load the animals into the trailer to be moved/sold. The pen made of 12 corral panels hooked together and is not permanent. It has been painted a non reflective dark green that has been approved. A proposed 30'x50' shop will be used to store a tractor, implements, animal feed, and supplies. The proposed fencing indicated on the site plan is split into pens that I will use to move the heard to graze when necessary. The stud is separated from the females when they are not in heat so it is required to have him in a different area. In Oregon the general guidelines for goats to acres ratio is 3-5 head to acre, depending on bred.



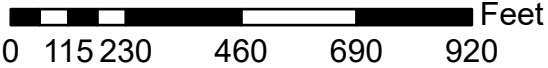
Subject Parcel



2N 11E 11 1600



Taxlots



Feet

This product is for informational purposes and has not been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Kelly Howsley - Glover <kellyg@co.wasco.or.us>

Goat farm, dwelling, agricultural structures and fencing in the NSA

THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>

Thu, Sep 9, 2021 at 9:36 AM

To: Kelly Howsley - Glover <kellyg@co.wasco.or.us>

Cc: Jeremy Thompson <jeremy.l.thompson@state.or.us>, MEYERS Andrew R * ODFW
<Andrew.R.MEYERS@odfw.oregon.gov>

Kelly,

ODFW still does not have a concern regarding this proposal. We support the fencing of sensitive areas, such as a wetland area. While strand wire fencing is more hospitable to deer movement, in this scenario woven wire will not have an impact on the deer or elk, as there are no known migratory corridors within the area, and the proposed development is in an area already impacted by human presence, especially considering that within 1500 meters to the west is a large block of commercial orchards, and 1500 meters to the north lies the city of Mosier.

Impacts to the oak habitat were addressed through limiting the removal of trees on this property. The understory component within the area proposed for development is already impacted due to the previous land uses and adjacent human development.

Let me know if you need any further clarification.

Jeremy Thompson

District Wildlife Biologist

Mid-Columbia District, ODFW

3701 W. 13th. St.

The Dalles, OR 97058

541-967-6794 office

541-980-8524 cell

541-298-4993 fax



[Quoted text hidden]



AGENDA ITEM

Fee Schedule Ordinance Hearing

[STAFF MEMO](#)

[PROPOSED CHANGES TO BUILDING CODES FEES](#)

[ORDINANCE 22-001 WASCO COUNTY AMENDED UNIFORM FEE
SCHEDULE](#)

[MOTION LANGUAGE](#)



MEMORANDUM

SUBJECT: Fee Schedule Update

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY CLARK

DATE: JANUARY 11, 2022

BACKGROUND INFORMATION:

The Wasco County Fee Schedule was updated in the fall of 2021 with an effective date of January 4th. However, due to the length of time required by the State to update the Building Codes Fees, they were not included in the fall update. The fees being proposed are unchanged from those provided to the Board during the fall update hearings.

Minor changes have been made to the Ordinance since the January 5th Hearing: Appendix D had not been referenced in the Ordinance language on page one; not all appendices were titled with their corresponding letter designation. Both of these non-substantive errors have been corrected.

Today is the second of two hearings to update the Building Codes Fees; following staff presentation and questions, the Board may move to adopt the Amended Uniform Fee Schedule Ordinance.



**Proposed Fee Schedule Wasco County
Building Codes Services**

	WASCO COUNTY (CURRENT)	WASCO COUNTY (PROPOSED)
STRUCTURAL PERMIT FEES		
In accordance with OAR 918-050-0100(1)(c) and (2)(c)(A), Building Valuation is determined per the ICC Building Valuation Data Table current as of April 1 of each year.		
Valuation:		
\$1-\$2,000.00	\$60.00	\$69.00
\$2,001.00-\$25,000.00	\$60.00 for the first \$2,000.00 plus \$9.40 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00	\$69.00 for the \$2,000.00 plus \$10.81 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00-\$50,000.00	\$276.20 for the first \$25,000.00 plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00	\$317.63 for the \$25,000.00 plus \$8.05 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00-\$100,000.00	\$451.20 for the first \$50,000.00 plus \$4.70 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00	\$518.88 for the first \$50,000.00 plus \$5.41 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 and up	\$686.20 for the first \$100,000.00 plus \$3.90 for each additional \$1,000.00 or fraction thereof.	\$789.13 for the first \$100,000.00 plus \$4.49 for each additional \$1,000.00 or fraction thereof.
OTHER INSPECTIONS AND FEES		
Residential Fire Sprinkler 13R (standalone/closed system) fee includes plan review (13D multipurpose/continuous loop requires Plumbing)		
0 to 2000 sq. ft. area covered	\$98.00	\$112.70
2001 to 3600 sq. ft. area covered	\$103.50	\$119.03
3601 to 7200 sq. ft. area covered	\$139.75	\$160.71
7201 sq. ft. and greater	\$186.25	\$214.19
Prescriptive solar photovoltaic system-fee includes plan review	\$160.00	\$184.00
Non-Prescriptive solar photovoltaic system-requires plan review	Use structural Permit Fee table above	Use structural Permit Fee table above
Phased plan review - \$60.00 application fee plus 10% of the total project building permit fee not exceed \$1500.00 for each phase (in addition to standard structural plan review)	Phased plan review - \$69.00 application fee plus 20% of the total project building permit fee not exceed \$1500.00 for each phase (in addition to standard structural plan review)	
Deferred plan review – 65% of the building permit fee calculated using the deferred portion valuation with a \$156.00 minimum (in addition to standard structural plan review)	Deferred plan review – 65% of the building permit fee calculated using the deferred portion valuation with a \$179.40 minimum (in addition to standard structural plan review)	
After hours inspections outside of normal business hours	\$ 78.00 per hour	\$89.70 per hour during work week. Double time rate with 4 hour minimum on



**Proposed Fee Schedule Wasco County
Building Codes Services**

(minimum charge 2 hours)		weekends and holidays
Re-Inspection fee	\$78.00 per each	\$89.70 per each
Inspections for which no fee is specifically indicated	\$78.00 per hour	\$89.70 per hour
Demolition Permit Fee	Not Specified	\$130.00 (Residential) \$215.00 (Commercial)
Pre-Application Consultation/Consultation Fee	Not Specified	\$89.70 1 hour minimum
Temporary Certificate of Occupancy	Not Specified	\$160.00 for 30 days only (Residential) \$320.00 for 30 days only (Commercial)
Ag Exempt Request Fee	Not Specified	\$50.00
Plan Review Fees	65% of structural permit fee	65% of structural permit fee
Fire and Life Safety Plan Review Fees	40% of structural permit fee	40% of structural permit fee
Additional plan review required by changes, additions, or revisions to approved plans	\$65.00 per hour (Residential) \$78.00 per hour (Commercial)	\$74.75 per hour (Residential) \$89.70 per hour (Commercial)
Expedited Plan Review Fee	Not Specified	\$320.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
MECHANICAL PERMIT FEES		
ONE & TWO FAMILY DWELLINGS:		
Minimum permit fee	\$60.00 (Residential)	\$69.00 (Residential)
Furnace/Burner including ducts and vents		
Up to 100K BTU/hr.	\$12.00	\$13.80
Greater than 100K BTU/hr.	\$12.00	\$13.80
Heating/Cooling/Stove/Vents		
Ductwork only	\$12.00	\$13.80
Unit Heater (suspended, wall, and floor)	\$12.00	\$13.80
Wood/Gas/Pellet fireplace insert or free standing stoves	\$12.00	\$13.80
Repair/alter/add to mechanical appliance	\$12.00	\$13.80
Evaporative cooler (permanent)	\$12.00	\$13.80
Air Conditioner	\$12.00	\$13.80
Ventilation system, not a portion of HVAC system	\$12.00	\$13.80
Ventilation fan connected to a single duct	\$9.00	\$10.35
Attic/Crawl space fans	\$9.00	\$10.35
Range hood/other kitchen equipment	\$9.00	\$13.35



**Proposed Fee Schedule Wasco County
Building Codes Services**

Clothes dryer exhaust	\$9.00	\$10.35
Floor furnace including vent	\$12.00	\$13.80
Hydronic hot water system	\$24.00	\$27.60
Gas Piping Outlets		
1-4 outlets	\$24.00	\$27.60
Additional outlets	\$3.00	\$3.45
Exterior medium pressure ea. 100'	\$24.00	\$27.60
Air-handling units including ducts/Heat pumps/Mini split system		
Any size	\$12.00	\$13.80
Incinerators		
Domestic – installation or relocation	\$12.00	\$13.80
Miscellaneous Fees		
Hourly Rate (number of hours)	\$78.00	\$89.70
Other heat/cool/vent/appliance (not indicated)	\$12.00	\$13.80
COMMERCIAL:		
Minimum permit fee	\$60.00 (Commercial)	\$69.00 (Commercial)
Valuation:		
Up to \$3,500.00	\$60.00	\$69.00
\$3,501 to \$10,000.00 – for the 1 st \$3,500.00 plus \$1.20/\$100.00 or portion thereof above \$3,500.00	\$60.00	\$69.00 for the 1 st \$3,500.00 plus \$1.38/\$100.00 or portion thereof above \$3,500.00
Over \$10,001.00 – for the 1 st \$10,000.00 plus \$3.00/\$1,000.00 or portion thereof above \$10,000.00	\$138.00	\$158.70 for the 1 st \$10,000.00 plus \$3.45/\$1,000.00 or portion thereof above \$10,000.00
Investigative Fee	Actual Cost	Actual Cost
Re-inspection fee	Not Specified	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$ 78.00 per hour	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Plan Review Fee, if required	50% of subtotal	50% of subtotal
Request by government agency under ORS 190	Not Specified	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Expedited Plan Review Fee	Not Specified	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)



**Proposed Fee Schedule Wasco County
Building Codes Services**

PLUMBING PERMIT FEES		
NEW SINGLE FAMILY DWELLINGS		
Minimum Permit Fee - Residential	\$60.00	\$69.00
New single family dwelling 1 bath/ 1 kitchen – includes the 1 st 100' of each site utility, hose bibbs, icemakers, underfloor low-point drains, and rain drain packages	\$252.00	\$289.80
Each add'l bath (1/2 bath counts as whole)	\$90.00	\$103.50
Each add'l kitchen	\$60.00	\$69.00
Each add'l 100' of site utilities or fraction thereof; storm, water, and sanitary sewer	\$36.00	\$41.40
Each fixture residential (for new, additions, and alterations)	\$24.00	\$27.60
Re-pipe water supply	Not Specified	\$100.00
Manufactured Dwellings		
Site utilities-first 30 lineal feet refer to Manufactured Home Permit		
Each additional 100' of site utilities of fraction thereof	\$36.00	\$41.40
RV and Manufactured Dwelling Parks		
Base Fee (include the 1 st 10 or fewer spaces	\$384.00	\$441.60
Each additional space	\$33.00	\$37.95
COMMERCIAL		
Minimum Permit Fee – Commercial	\$60.00	\$69.00
Each fixture (for new, additions, and alterations)	\$24.00	\$27.60
Site utilities ea. 100' or fraction thereof	\$36.00	\$41.40
Residential fire sprinkler 13D (continuous loop/multipurpose) – fee includes plan review		
0 to 2000 sq. ft., area covered	\$98.00	\$112.70
2001 to 3600 sq. ft., area covered	\$103.50	\$119.03
3601 to 7200 sq. ft., area covered	\$139.75	\$160.71
7201 sq. ft. and greater	\$186.25	\$214.19
Miscellaneous Fees		



**Proposed Fee Schedule Wasco County
Building Codes Services**

Backflow device/backwater valve	\$24.00	\$27.60
Re-Inspection fee	\$78.00	\$89.70
Inspections which no fee specified	\$78.00	\$89.70
Request by government agency under ORS 190	Not Specified	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Medical Gas Piping		
\$1 to \$10,00 valuation	\$270.00	\$310.50
\$10,000.00 and greater Valuation	\$270 for the 1 st \$10,000.00 plus \$1.80 for each add'l \$100.00 or fraction thereof	\$310.50 for the 1st \$10,000.00 plus \$2.07 for each add'l \$100.00 or fraction thereof
Investigative Fee	Actual Cost	Actual Cost
Re-inspection fee	Not Specified	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$ 78.00 per hour	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Plan Review fee, if required	50% of subtotal	50% of subtotal
Expedited Plan Review Fee	Not Specified	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
ELECTRICAL PERMIT FEES		
NEW SINGLE FAMILY DWELLINGS-SERVICE AND ATTACHED GARAGE INCLUDED		
Minimum Permit Fee - Residential	\$78.00	\$89.70
1,000 sq. ft. or less	\$127.00	\$146.05
Each additional 500 sq. ft. or portion thereof	\$23.00	\$26.45
Limited Energy	\$30.00	\$34.50
Each manufactured home or modular dwelling service or feeder	\$78.00	\$89.70
New Multifamily – total # of units		
Use 1 and 2 Family rates above for largest sq. ft. unit – cost of largest unit ____/2 x number of remaining number		
Multifamily limited energy, by floor	\$54.00	\$62.10
Services or Feeders (installation, alteration, relocation)		
200 amps or less	\$95.00	\$109.25
201 to 400 amps	\$113.00	\$129.95
401 to 600 amps	\$187.00	\$215.05



**Proposed Fee Schedule Wasco County
Building Codes Services**

601 to 1,000 amps	\$245.00	\$281.75
Over 1,000 amps or volts	\$563.00	\$647.45
Reconnect Only	\$63.00	\$72.45
Temp. Services or Feeders (installation, alteration, relocation)		
200 amps or less	\$63.00	\$72.45
201 to 400 amps	\$86.00	\$98.90
401 to 600 amps	\$125.00	\$143.75
601 to 1,000 amps	\$204.00	\$234.60
Over 1,000 amps or volts	\$469.00	\$539.35
Branch Circuits (new, alteration, extension per panel)		
Fee for branch circuits with purchase of a service or feeder fee:		
Each branch circuit	\$4.80	\$5.52
Fee for branch circuits without purchase of a service or feeder fee:		
First branch circuit	\$65.00	\$74.75
Additional branch circuits	\$4.80	\$5.52
Miscellaneous (service or feeder not included)		
Each pump or irrigation circle	\$78.00	\$89.70
Each sign or outline lighting	\$78.00	\$89.70
Signal, circuit or a limited-energy panel, alteration or extension	\$63.00 Commercial \$78.00 Residential	\$72.45 Commercial \$89.70 Residential
Hourly rate (number of hours)	\$78.00	\$89.70
Request by government agency under ORS 190	Not Specified	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Investigative fee	Actual Cost	Actual Cost
Re-inspection fee	Not Specified	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$ 78.00 per hour	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Master Individual Inspection Fee	Not Specified	\$89.70 per hour (minimum 2hours)
Plan Review fee, if required	50% of subtotal	50% of subtotal
Expedited Plan Review Fee	Not Specified	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
Minimum Permit Fee – Commercial	\$78.00	\$89.70
MANUFACTURED DWELLING PERMIT FEES		



**Proposed Fee Schedule Wasco County
Building Codes Services**

Installation fee (includes placement, concrete slabs/runners/foundations when prescriptive, electrical feeder, and plumbing/cross-over connections up to 30 lineal feet)	\$192.00	\$220.80
Re-inspection fee	\$78.00	\$89.70
State fee	\$30.00	\$34.50
Investigative fee	Actual Cost	Actual Cost
RENEWABLE ENERGY SYSTEMS PERMIT FEES		
5kva or less	\$95.00	\$109.25
5.01 to 15kva	\$113.00	\$129.95
15.01 to 25kva	\$187.00	\$215.05
Solar ea. Add'l kva 25.01 to 100 max	\$7.50	\$8.63
Wind 25.01 to 50kva	\$245.00	\$281.75
Wind 50.01 to 100 kva	\$563.00	\$800.00
Wind 100.01 or greater	Not Specified	\$920.00
Service or feeders of 601 to 1,000 amps-additional to previous range	\$245.00	\$281.75
Service or feeders over 1,000 amps or volts-additional to previous range	\$563.00	\$647.45
Re-inspection fee	\$78.00	\$89.70
Plan Review, if required	50% of subtotal	50% of subtotal
RV PARK & ORGANIZATIONAL CAMP PERMIT FEES		
VALUATION:		
\$1.00 to \$500.00	\$15.00	\$17.25
\$501.00 to \$2,000.00	\$15.00 for the first \$500.00, plus \$2.00 for each additional \$1,000.00 or fraction thereof, to and including \$2,000.00	\$17.25 for the first \$500.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$45.00 for the first \$2,000.00, plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00	\$51.75 for the first \$2,000.00, plus \$10.35 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$252.00 for the first \$25,000.00, plus \$6.50 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00	\$289.80 for the first \$25,000.00, plus \$7.48 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$414.50 for the first \$50,000.00, plus \$4.50 for each additional \$1,000.00 or	\$476.68 for the first \$50,000.00, plus \$5.18 for each additional \$1,000.00 or fraction thereof,



**Proposed Fee Schedule Wasco County
Building Codes Services**

	fraction thereof, to and including \$100,000.00	to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$639.50 for the first \$100,00.00, plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00	\$735.43 for the first \$100,00.00, plus \$4.03 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,039.50 for the first \$5,000.00, plus \$2.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00	\$2,345.43 for the first \$5,000.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
Over \$1,000,001.00	\$3,539.50 for the first \$1,000,00.00, plus \$2.00 for each additional \$1,000.00 or fraction thereof	\$4,070.43 for the first \$1,000,00.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof
MISCELLANEOUS BUILDING FEES		
Request by government agency under ORS 190 (IGA)	Not Specified	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Permit Reinstatement fee – to renew already expired permit, as eligible; subject to State Surcharge	Not Specified	\$100.00, plus State Surcharge (Only applicable to expired permits that fall within the current code cycle of permit)
Permit Extension fee – to extend expiration on active permit	Not Specified	\$80.00 (For first time only) After first extension \$50.00 each
Refund Processing Fee - for repayment of costs of administration	Not Specified	\$100.00 or 25% of any fee to be refunded, whichever is less for the processing of a permit application
Copy fees	Not Specified	\$1.00 for each



IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF AMENDING WASCO COUNTY'S UNIFORM FEE SCHEDULE FOR VARIOUS COUNTY DEPARTMENTS

ORDINANCE 22-001

THE BOARD OF COMMISSIONERS OF WASCO COUNTY OREGON DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE

Wasco County provides core services to all citizens which are paid for through the annual tax base. On the whole, the County endeavors to proactively provide access to services in alignment with our Vision and Mission statements.

In some instances, special services are required or necessitated by various state statutes, or to meet the needs of citizens who have requests outside of core services. The purpose of this Ordinance is to outline the fees to be collected by Wasco County Departments for performing services, and to establish a uniform fee schedule.

Section 2. AUTHORITY

The Ordinance is enacted pursuant to the authority granted to general law Counties by [ORS 203.035-ORS 203.065](#) and by [ORS 192.440](#).

Section 3. FEE SCHEDULE

Fees shall be charged and collected by the indicated Department before the filing, recording or copying of subject documents shall be completed. A table of all County fees can be found in Appendix A, B, C and D. Other fees may apply as assessed under Oregon Revised Statutes.

Section 4. ENACTMENT PROVISIONS (1)

(1) CONFORMANCE WITH LAW

Except as expressly provided herein, this Ordinance shall in no way be a substitute for or eliminate the necessity of conforming with any and all State and Federal laws, rules and regulations including but not limited to the payment of all other fees required by law and other Ordinances which are now or may be in the future in effect which relate to the requirements provided in the Ordinance.

(2) SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portion of this Ordinance.

(3) EFFECTIVE DATE

This Ordinance shall take effect on April 5, 2022 upon its adoption, and all previous orders, resolutions or ordinances setting fees conflicting with the provisions of this Ordinance are hereby repealed and will be of no further force and effect.

Regularly passed and adopted by the Board of Commissioners of the County of Wasco, State of Oregon, by a __ to __ vote on this 19th day of January, 2022.

ATTEST:

WASCO COUNTY BOARD
OF COMMISSIONERS

Kathy Clark
Executive Assistant

Kathleen B. Schwartz, Commission Chair

Steven D. Kramer, Vice-Chair

APPROVED AS TO FORM:

Scott C. Hege, County Commissioner

Kristen Campbell
Wasco County Counsel

APPENDIX A: County Fee Schedule

Fees Across All County Departments		
Service Description	Fee Amount	Applicable Statute
Miscellaneous Copies/Printing/Transmission		
Black and white copies <i>8.5" x 11" or 8.5" x 14"</i>	\$0.25 per page	County Ordinance
Black and white copies <i>11" x 17"</i>	\$1.03 per page	County Ordinance
Color copies <i>(any size listed above)</i>	\$1.03 per page	County Ordinance
Providing content on media <i>(zip disk, jump drive, CD, etc.)</i>	\$15.45 per media plus actual costs of services	County Ordinance
Printing computer labels	\$41.20 plus actual printing and label cost	County Ordinance
Electronic transmission of documents <i>(Fax, email, FTP, or similar transmission.</i> <i>If printing of copies is required to redact information or to get records into the appropriate form, subset, etc., copy fees and research time will also apply.)</i>	\$5.15 per transmission plus actual costs of services	County Ordinance
Research and Professional Services Fees		
Basic Research Fee <i>(Only upon availability of staff)</i>	\$41.20 per hour, one hour minimum, <i>unless specified by Department fee schedule</i>	County Ordinance
Professional Services / Complex Analysis	See specific Department fee schedule	County Ordinance
Public Record Request Fees		
Certification of a Public Record <i>(Licenses, etc.)</i>	\$3.75 per record	<u>ORS 205.320</u>
Public records request, general (Cost is request-dependent and is sum of research, copies, transmission, etc.)		
Administrative Services		
Service Description	Fee Amount	Applicable Statute
FINANCE DEPARTMENT		
Placing a stop payment on a Wasco County issued check	\$34.00 per check	County Ordinance
Returned item (non-sufficient funds, closed account, etc.) deposited to Wasco County bank account	\$26.00 per check	County Ordinance
INFORMATION SERVICES DEPARTMENT		
Professional Services	\$124.00 per hour	County

		Ordinance
GIS Mapping : <i>See Appendix C</i>		
LEGAL SERVICES		
County Counsel Fees. <i>Please contact Administrative Services for estimate.</i>	At current hourly rate	County Ordinance
Land-based and Civil Services		
Service Description	Fee Amount	Applicable Statute
ASSESSMENT AND TAXATION DEPARTMENT		
Assessment mapping changes and new plat	\$556.00 base fee	County Ordinance
Additional lot created	\$51.00 each	County Ordinance
Additional map affected	\$51.00 each	County Ordinance
Lot line adjustment	\$257.00 each	County Ordinance
Calculation of farm/forest disqualifications (To be applied against penalty if the account is disqualified within 90 days)	\$41.00 per hour, one hour minimum	County Ordinance
CLERK'S OFFICE		
Land-based Recording Fees <i>All documents presented for recording must be "required or permitted by law to be recorded"</i>		
Deed and Mortgage Records	\$105.00 for the 1st page,	ORS 205.320 and County Ordinance
<u>Breakdown of fees:</u>	<u>\$5.00 for each page after</u>	
Clerk Recording Fee	\$5.00 per page	
Public Land Corner Preservation Fund	\$10.00 per document	
Geographic Information Systems (GIS) Fund	\$19.00 per document	
Assessment & Taxation Fund	\$10.00 per document	
Oregon Land Information System (OLIS) Fund	\$1.00 per document	
Affordable Housing Alliance Fund	\$60.00 per document	
Lien Records	\$76.00 for the 1st page,	ORS 205.320 and County Ordinance
<u>Breakdown of fees:</u>	<u>\$5.00 for each page after</u>	
Clerk Recording Fee	\$5.00 per page	
Assessment & Taxation Fund	\$10.00 per document	
Oregon Land Information System (OLIS) Fund	\$1.00 per document	
Affordable Housing Alliance Tax	\$60.00 per document	
Partition Plat, Replat, and Property Line Adjustment Plat		ORS 205.320 and County Ordinance
Surveyor Fee, Property Line Adjustment Plat, Single-Parcel Partition Plat or Replat	See Surveyor's Office fees	
Assessor and Tax Collector Fees	See Assessment and Taxation	
Recording Base Fee (includes A&T Fund, OLIS Fund, GIS Fund, Public Land Corner Preservation Fund, General Clerk Fee)	\$90.00 per document	
Affordable Housing Alliance Fund	\$60 per document	

Clerk Recording Fee	\$5.00 per page	
County Court Approval (if required)	\$10.00	
Copy Fees	\$3.00 per page	
Subdivision and Subdivision Replat;		ORS 205.320
Surveyor Fee, Subdivision and Subdivision Replat,	<i>See Surveyor's Office fees</i>	and
Condominium	<i>See Assessment and Taxation</i>	County
Assessor and Tax Collector Fees	\$90.00 per document	Ordinance
Recording Base Fee, 20 lots or less	\$110.00 per document	
Recording Base Fee, 21 lots or more		
<i>(includes A&T Fund, OLIS Fund, GIS Fund, Public Land Corner Preservation Fund, General Clerk Fee)</i>	\$60.00 per document	
Affordable Housing Alliance Fund	\$5.00 per page	
Clerk Recording Fee	\$10.00	
County Court Approval (if required)	\$3.00 per page	
Copy Fees		
Non Standard Documents	\$20.00 per document	ORS 205.327
Documents Describing More Than One Transaction	\$5 per additional transaction or title	ORS 205.236(4)
Location of Record <i>(land records are available online free of charge. See the Digital Research Room on the Wasco County website)</i>	\$3.75 location fee plus \$0.25 per page	ORS 205.320
Recording Image Subscription <i>(download of images recorded in the Clerk's office and provided on media)</i>	\$0.25 per page/image plus cost of media if applicable	County Ordinance
Marriage Fees		
Marriage License	\$50.00	ORS 205.320 and ORS 106.045
Civil Marriage Ceremony <i>(in office, by appointment only)</i>	\$117.00	Senate Bill 27
Staff Witness for Ceremony	\$16.00 per staff member	County Ordinance
Certified Copy of Marriage License	\$7.75	ORS 205.320
Time Waiver of 3-day Waiting Period	\$16.00	County Ordinance
Certificate of Parental Consent for Marriage of a Minor	\$16.00 per minor	County Ordinance
Amending a Filed Marriage Record	\$25.00	
Domestic Partnership Declaration		
Registration	\$50.00	ORS 205.320
Certified Copy of a Domestic Partnership Declaration	\$7.75	ORS 205.320
Elections Reports		
Request for List of Electors	\$25.00 plus 2.5¢ per 100 names	OAR 165-002-0020 Section 1

PLANNING DEPARTMENT*See Appendix B*

County and ORS

PUBLIC WORKS DEPARTMENT

Petition for Road Vacation	\$515.00	County Ordinance
Permit for Mass Gathering	\$515.00	County Ordinance
Permit for Motor Vehicle Road Rally	\$1030.00	County Ordinance

SURVEYOR'S OFFICE

Survey Filing (Reviewed, filed and indexed)	\$195.00 plus \$55 per page over 2 pages	ORS 209.260
Property Line Adjustment Survey Filing (Reviewed, filed and indexed)	\$265.00 plus \$55.00 per page over 2 pages	ORS 209.260
Single-Parcel Partition Plat, or Single Parcel Replat Review (Reviewed, filed and indexed)	\$500.00 per plat	ORS 92.100 and County Ordinance
Multiple-Parcel Partition Plat or Replat Review (Reviewed, filed and indexed)	\$655.00 per plat	ORS 92.100 and County Ordinance
Subdivision or Subdivision Replat Review (Reviewed, field-checked, filed and indexed)	\$735.00 per subdivision plus \$70.00 per lot	ORS 205.350 and County Ordinance
Condominium Plat Review (Reviewed, field-checked, filed and indexed)	\$790.00 per condominium, plus \$70.00 per unit	ORS 205.350 and County Ordinance
Re-check or Re-design Review	50% of the original review fee	County Ordinance
Affidavit Review (Correction, Consent, Post-Monumentation, etc.)	\$55.00 per affidavit recorded	ORS 92.170 and County Ordinance
Marking the Record Upon the Surveyor's Copy of an Original Plat (For Road Vacation, etc.)	\$55.00 per recorded document	ORS 271.230(2) and County Ordinance
Research	\$80.00 per hour after the first hour	County Ordinance
Large Format Printing or Copying	\$1.05 per square foot, \$2.05 minimum	County Ordinance

Public Safety Services		
Service Description	Fee Amount	Applicable Statute
COMMUNITY CORRECTIONS DEPARTMENT		
Community Service Work Program Placement	\$40.00	County Ordinance
DNA Sample Draw	\$25.00	County Ordinance
Drug Testing	\$20.00 per sample for in-lab tests \$10.00 for instant tests	County Ordinance
Inter-County Transfer Request	\$50.00	County Ordinance
Interstate Compact	\$100.00	County Ordinance
Probation/Post Prison/Parole Supervision	\$40.00 per month	County Ordinance
Travel Permit	\$5.00 each permit	County Ordinance
Treatment Program Intake	\$155.00	County Ordinance
Treatment Assessment	\$155.00	County Ordinance
Treatment Assessment Update	\$85.00	County Ordinance
Unexcused Assessment No-Show Fee	\$55.00	County Ordinance
Treatment: Individual Counseling Session	\$130.00	County Ordinance
Treatment: Group Session	\$50.00	County Ordinance
Program Curriculum Book	\$30.00	
Electronic Monitoring Setup	\$25.00	County Ordinance
Electronic Monitoring Daily Fee	\$5.00	County Ordinance
SHERIFF'S OFFICE		
Civil Fees	Per Statute	<u>ORS 21.300</u>
Concealed Handgun License	Per Statute	<u>ORS 166.291(5)(a)</u>
Fingerprinting	\$20.00 per card or \$20.00 for electronic submission	County Ordinance
OLCC Liquor License (<i>regular and special event</i>)	\$25.00 per permit	<u>ORS 471.166 (7)</u>
Real Property Foreclosure Sheriff Sale	\$800.00 deposit (<i>Applicants will be billed for actual costs</i>)	<u>ORS 18.930(5)</u>

Sheriff Incident Reports* <i>(No charge for victim for first copy)</i>	<i>and employee time.)</i> 1–24 pages: \$15.45 per report 25–49 pages: \$20.60 per report 50+ pages: \$51.50 per report	County Ordinance
Videos	\$15.45 plus staff time*	County Ordinance
* Research/Staff Time – fee is based on salary and fringe benefits of the employee charged with the task (such as document research, retrieval, review or redaction), converted to an hourly rate. Time is charged in 15-minute increments with a 15-minute minimum. Call the Sheriff's Office for an estimate when research or staff time is needed.		County Ordinance
BUILDING CODES DEPARTMENT		
See Appendix D		County Ordinance

Wasco County Planning Department Fees

Effective January 4, 2022 per County Commissioner Ordinance 21-001

Consolidated Permit Process: For applications requiring more than one type of review, the full fee shall be paid for the primary/most expensive review and 50% for each additional review. Type I fees accompanying Type II-IV reviews will be waived.

Type I – Ministerial	Fee
Address – New or Change	\$79
Land Use Verification Letter (Not Involving Land Use Decision)	\$158
Marijuana Production	\$1,044 + \$80/hour after 10 hrs
Non-Structural Sign-Off – MNN (e.g., LUCS)	\$95
Structural Without Land Use Application – MNS	\$326
Telecommunications Tower – Collocation	\$1,674

Type II – Administrative	Fee
Conditional Uses	
• Aggregate and Other Subsurface Resources	\$2,661
• Exclusive Farm Use, Non-Farm Dwelling	\$2,136
• Farm Ranch Recreation	\$1,716
• F-F(10) Dwelling Without Farm or Forest Use	\$1,401
• Other	\$1,401
• Power Generating Facility (EFSC approval and required review)	\$80/hr
• Power Generating Facility (Commercial)	\$5,286 + \$1,000/tower
• Power Generating Facility (Non-Commercial)	\$1,940 + \$1,000/tower
Extension of Time for Land Use Approval	\$535
Legal Parcel Determination	\$540 + \$80/hour after 5 hours
LUDO Interpretation or Similar Use Determination	\$80/hr
Major Modification of Approval (notice is required)	\$116 + \$80/hr
National Scenic Area (NSA)	
• Expedited (Used listed in Section 3.110 of Wasco County NSALUDO)	\$1,332
• Expedited (Removal or Demolition)	\$351
• Full Review (Fences and Accessory Structures Less Than 500 SQ)	\$1,086
• Full Review	\$2,996
Non-Conforming Use Review (verification, restoration or alteration)	\$1,086
Partition, Property Line Adjustment, or Replat (not involving public or private roads)	
• Property Line Adjustment	\$1,642
• Partition or Replat	\$1,642
Site Plan Review (parking, loading, and home occupations)	\$666
Subject to Standards	
• Aggregate Overlay Significant Determination	\$666
• Dwelling (Accessory, Large Tract Forest, Lot-of-Record, Primary, Relative)	\$1,401
• EPDs (Environmental Protection Districts)	\$719
• Guest House	\$561
• Rural Residential (R-R(10)) Dwelling	\$719
• Marijuana Processing and/or Wholesale	\$2,136 + hourly rate of \$80 after 20 hours
• Other	\$719
• Utility Facilities Necessary for Public Service	\$2,570

Temporary Use Permit	\$771
Temporary Use Permit Renewal (e.g., Medical Hardship Dwelling)	\$456
Variance (Administrative) – Less Than 50% Deviation From Stated Standard	\$771

Type III Action – Planning Commission	Fee
Appeal to Planning Commission: ORS 215.416(11)(b); full refund if upheld	250
Mobile Home Park / RV Park	\$2,241
Other Reviews Directed to Planning Commission by Ordinance	\$1,611
Partition, Property Line Adjustment, or Replat (involving public or private roads approvals)	
• Property Line Adjustment	\$2,062
• Single Parcel Partition or Replat	\$2,062
• Multiple Parcel Partition or Replat	\$2,062
Planned Unit Development – Preliminary/Final Plat Review	Prelim. \$3,816 Final \$830 + \$50 per lot
Subdivision – Preliminary/Final Plat Review	Prelim. \$4,160 Final \$830 + \$50. Per lot
Variance – 50% or Greater Deviation From Stated Standard	\$1,086

Type IV Action – Board of County Commissioners	Fee
Appeal to Board of Commissioners	\$1,296
Goal Exception	\$1,821 + hourly rate of \$80/hour after 20 hours
Zone Change	\$1,821 + hourly rate of 80/hour after 20 hours
Open Space Lands Tax Assessment	\$981
Road Dedication	\$945
Road Naming/Re-Addressing (full fee + half fee for each address changed); not land use decision	\$210
Subdivision Lot Line Vacation per ORS 368.326	\$403

Miscellaneous	Fee
Amendment to Land Use Application Request (after pre-notice; prior to approval)	\$368
Complex Projects – As Determined by Planning Director (See Policy and Process)	\$80/hr
Continuance/Extension Request of Planning Commission or Board Hearings	\$525
LUBA Remand and Review	\$315
Outdoor Mass Gathering	
• Less than 3000 people	\$2,625
• 3,000 or more, or 120 hrs or more	\$4,725
Pre-Application Conference - <i>\$250 of the \$500 applies towards land use application if applied for within 90 days of conference.</i>	\$525
Research / Records Request	\$47/hr
Withdrawal of Application – Refunds	
• Before completeness is determined	75% Total
• After completeness is determined	50% Total
• After Pre-Notice or Notice of Decision is mailed	No Refund
Withdrawal of Appeal After Received	No Refund
Work Commenced Without Required Land Use Approval	Additional 100% of Total Review Fee
Work Commenced in NSA Without Required Land Use Approval	Additional 100% of Total Review Fee

Code Compliance	Fee
Administrative Overhead hourly rate	\$80/hr
Appeal to Hearing's Officer	\$100
Continued Non-Compliance	\$52/month
Recordation of Compliance Document	\$101
<i>Other compliance penalty charges exist as established in Compliance Ordinance (WCCCNAO)</i>	

FEE SCHEDULE ATTACHMENT - POLICY & PROCESS

- MNN: There is no fee for LUCS issued with a building permit.
- MNS: Examples include building permits, manufacture home placement permit and agricultural exempt permit applications.
- Fee Waivers:
 - 1) **Applicability**: A Fee Waiver is applicable to Planning Department fees only. All "Other Departmental Fees" must be paid in full or documentation provided that they have been waived, at the time of application submittal.
 - 2) **Ministerial Sign off with Administrative Review**: If an applicant pays for and receives approval of Type II (Administrative/Discretionary) review, all ministerial sign offs associated with that review shall be waived. This includes Building Permit Application, Manufactured Home Placement Permit Application, Agricultural Exempt Permit Application, Land Use Compatibility Statement, Water Rights Application, and Department of State Lands Permit Application.
 - 3) **Individuals**: Any individual may request a Fee Waiver from the Planning Director of any development review or appeal fees. To be granted a waiver (or portion of a fee waiver) an individual must provide documentation of household income at or below 150% of the federal poverty level. To prove a hardship, applicants must provide federal tax returns, pay stubs or annual benefit statements. Assistance will be provided based on the availability of funding. Waivers must be approved and granted by the Planning Director prior to submittal of an application or appeal.
 - 4) **Appeal**: Any organization or individual may appeal the Planning Director's decision not to grant a Fee Waiver (or portion thereof) to the Board of County Commissioners.
- Complex Projects: Complex projects involve more resources of the planning and other county departments due to their complexity and their overall impacts on the community. As such, complex projects may even require the hiring of outside assistance. For these types of large-scale projects that require a great deal of departmental resources to review, the county will require the applicant to sign a memorandum of agreement to compensate the county for actual costs incurred to complete the review and process in a timely manner. The agreement shall include details with regards to deposit and the scheduling of payments. If an applicant refuses to enter into a memorandum of agreement or if the applicant and the county fail to reach an agreement, the application will not be processed.

FEE SCHEDULE ATTACHMENT – ADDITIONAL FEE WAIVER SPECIFICS

As part of a fee waiver request, the planning director can require documentation of income at or below 150% of the federal poverty level (FPL) to prove financial need. 150% of the federal poverty level is a measure frequently used by other agencies nationwide to prove individuals' financial need. This measure can be

adjusted for household size. Those at or below 150% of the federal poverty level are in poverty. The percentage of the federal poverty level of an individual's income can be calculated using online calculators (http://www.lccaa.net/eligibility_calculator, <http://www.safetyweb.org/fpl.php>).

Documentation that the County can accept to serve as proof of income includes:

- Tax returns (use the adjusted gross income figure)
- Pay stubs (use two months of them)(calculators are available online)
- Annual benefit statements for social security and other benefits, or cancelled checks from the Social Security Administration.

An alternate method to prove an individual's financial need is to require institutional documentation of receipt of public assistance such as TANF (food stamps), SNAP (food stamps for families), Section 8 housing, Medicaid, etc..

The following chart outlines 150% of the federal poverty level.

2021 Federal Poverty Guidelines - 150% of the Federal Poverty Level (FPL)								
Household Size	1	2	3	4	5	6	7	8
150%	\$19,320	\$26,130	\$32,940	\$39,750	\$46,560	\$53,370	\$60,180	\$66,990

2019 Federal Poverty Guidelines								
Household Size	1	2	3	4	5	6	7	8
100%	\$12,880	\$17,420	\$21,960	\$26,500	\$31,040	\$35,580	\$40,120	\$44,660
150%	\$19,320	\$26,130	\$32,940	\$39,750	\$46,560	\$53,370	\$60,180	\$66,990

Appendix C: GIS Services

GIS Services - Standard Labor Rate \$60/Hour		
Map Prices - Custom Maps		
Size	Price	Additional Copies (ea)
8.5 x 11	\$8.00	\$1.50
11 x 17	\$9.00	\$2.00
18 x 24	\$13.00	\$13.00
24 x 36	\$16.00	\$16.00
24 x 40	\$26.00	\$26.00
36 x 48	\$36.00	\$36.00
Maps which take longer than 15 minutes to make (excluding printing time) are charged at our shop rate		
	Available Data Layers	(Fees allowed per ORS 190.050)
Layer	Price	Notes
Addresses	\$52.00 Each	
Extract of Assessor's Database	\$308.00	Table Schema
Roads	\$52.00 Each	
Tax Code Areas	\$47.00	
Taxlot Maps	N/A	See Also The Oregon Map
Taxlots	\$1/parcel or \$1,150 for entire County	See Also Our Online Map
Other Groups/Layers - \$48.00 each	Contains	Notes
Labor Rate	\$86.00 per hour	
Administrative Boundaries	Columbia Gorge Urban Renewal District, City of The Dalles Watershed, School Districts, NWCPUD Subdivisions, Transition Lands Study Area, Wasco County Boundary	
Populated Places	City Limits, Urban Growth Boundaries, Rural Service Centers	See Also State Data
Tax Codes	Tax Codes	
Zoning - Cities	Zoning - Cities	
Zoning - Environmental Protection Districts	Zoning - Environmental Protection Districts	
Zoning - Wasco County	Zoning - Wasco County	
<p>We require payment in advance from companies we have not done business with in the past. Credit card payments get charged an additional amount (depending on how much the base purchase is) to match what the companies charge the County. Checks should be made out to Wasco County GIS, and sent with a note stating which layers are being requested. Send it to:</p> <p>Wasco County IS Department Attn: GIS 2705 E 2nd St, The Dalles, OR 97058</p>		



Fee Schedule Wasco County Building Codes Services

Appendix D

STRUCTURAL PERMIT FEES	
In accordance with OAR 918-050-0100(1)(c) and (2)(c)(A), Building Valuation is determined per the ICC Building Valuation Data Table current as of April 1 of each year.	
Valuation:	
\$1-\$2,000.00	\$69.00
\$2,001.00-\$25,000.00	\$69.00 for the \$2,000.00 plus \$10.81 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00-\$50,000.00	\$317.63 for the \$25,000.00 plus \$8.05 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00-\$100,000.00	\$518.88 for the first \$50,000.00 plus \$5.41 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 and up	\$789.13 for the first \$100,000.00 plus \$4.49 for each additional \$1,000.00 or fraction thereof.
OTHER INSPECTIONS AND FEES	
Residential Fire Sprinkler 13R (standalone/closed system) fee includes plan review (13D multipurpose/continuous loop requires Plumbing)	
0 to 2000 sq. ft. area covered	\$112.70
2001 to 3600 sq. ft. area covered	\$119.03
3601 to 7200 sq. ft. area covered	\$160.71
7201 sq. ft. and greater	\$214.19
Prescriptive solar photovoltaic system-fee includes plan review	\$184.00
Non-Prescriptive solar photovoltaic system-requires plan review	Use structural Permit Fee table above
Phased plan review - \$60.00 application fee plus 10% of the total project building permit fee not exceed \$1500.00 for each phase (in addition to standard structural plan review)	Phased plan review - \$69.00 application fee plus 20% of the total project building permit fee not exceed \$1500.00 for each phase (in addition to standard structural plan review)
Deferred plan review – 65% of the building permit fee calculated using the deferred portion valuation with a \$156.00 minimum (in addition to standard structural plan review)	Deferred plan review – 65% of the building permit fee calculated using the deferred portion valuation with a \$179.40 minimum (in addition to standard structural plan review)
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Re-Inspection fee	\$89.70 per each
Inspections for which no fee is specifically indicated	\$89.70 per hour
Demolition Permit Fee	\$130.00 (Residential) \$215.00 (Commercial)



Fee Schedule Wasco County Building Codes Services

Pre-Application Consultation/Consultation Fee	\$89.70 1 hour minimum
Temporary Certificate of Occupancy	\$160.00 for 30 days only (Residential) \$320.00 for 30 days only (Commercial)
Ag Exempt Request Fee	\$50.00
Plan Review Fees	65% of structural permit fee
Fire and Life Safety Plan Review Fees	40% of structural permit fee
Additional plan review required by changes, additions, or revisions to approved plans	\$74.75 per hour (Residential) \$89.70 per hour (Commercial)
Expedited Plan Review Fee	\$320.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
MECHANICAL PERMIT FEES	
ONE & TWO FAMILY DWELLINGS:	
Minimum permit fee	\$69.00 (Residential)
Furnace/Burner including ducts and vents	
Up to 100K BTU/hr.	\$13.80
Greater than 100K BTU/hr.	\$13.80
Heating/Cooling/Stove/Vents	
Ductwork only	\$13.80
Unit Heater (suspended, wall, and floor)	\$13.80
Wood/Gas/Pellet fireplace insert or free standing stoves	\$13.80
Repair/alter/add to mechanical appliance	\$13.80
Evaporative cooler (permanent)	\$13.80
Air Conditioner	\$13.80
Ventilation system, not a portion of HVAC system	\$13.80
Ventilation fan connected to a single duct	\$10.35
Attic/Crawl space fans	\$10.35
Range hood/other kitchen equipment	\$13.35
Clothes dryer exhaust	\$10.35
Floor furnace including vent	\$13.80
Hydronic hot water system	\$27.60
Gas Piping Outlets	
1-4 outlets	\$27.60
Additional outlets	\$3.45
Exterior medium pressure ea. 100'	\$27.60
Air-handling units including ducts/Heat pumps/Mini split system	
Any size	\$13.80
Incinerators	
Domestic – installation or relocation	\$13.80
Miscellaneous Fees	
Hourly Rate (number of hours)	\$89.70
Other heat/cool/vent/appliance (not indicated)	\$13.80
COMMERCIAL:	
Minimum permit fee	\$69.00 (Commercial)
Valuation:	
Up to \$3,500.00	\$69.00
\$3,501 to \$10,000.00 – for the 1 st \$3,500.00 plus	\$69.00 for the 1st \$3,500.00 plus \$1.38/\$100.00 or portion



Fee Schedule Wasco County Building Codes Services

\$1.20/\$100.00 or portion thereof above \$3,500.00	thereof above \$3,500.00
Over \$10,001.00 – for the 1 st \$10,000.00 plus \$3.00/\$1,000.00 or portion thereof above \$10,000.00	\$158.70 for the 1 st \$10,000.00 plus \$3.45/\$1,000.00 or portion thereof above \$10,000.00
Investigative Fee	Actual Cost
Re-inspection fee	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Plan Review Fee, if required	50% of subtotal
Request by government agency under ORS 190	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Expedited Plan Review Fee	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
PLUMBING PERMIT FEES	
NEW SINGLE FAMILY DWELLINGS	
Minimum Permit Fee - Residential	\$69.00
New single family dwelling 1 bath/ 1 kitchen – includes the 1 st 100' of each site utility, hose bibbs, icemakers, underfloor low-point drains, and rain drain packages	\$289.80
Each add'l bath (1/2 bath counts as whole)	\$103.50
Each add'l kitchen	\$69.00
Each add'l 100' of site utilities or fraction thereof; storm, water, and sanitary sewer	\$41.40
Each fixture residential (for new, additions, and alterations)	\$27.60
Re-pipe water supply	\$100.00
Manufactured Dwellings	
Site utilities-first 30 lineal feet refer to Manufactured Home Permit	
Each additional 100' of site utilities or fraction thereof	\$41.40
RV and Manufactured Dwelling Parks	
Base Fee (include the 1 st 10 or fewer spaces)	\$441.60
Each additional space	\$37.95
COMMERCIAL	
Minimum Permit Fee – Commercial	\$69.00
Each fixture (for new, additions, and alterations)	\$27.60
Site utilities ea. 100' or fraction thereof	\$41.40
Residential fire sprinkler 13D (continuous loop/multipurpose) – fee includes plan review	
0 to 2000 sq. ft., area covered	\$112.70
2001 to 3600 sq. ft., area covered	\$119.03
3601 to 7200 sq. ft., area covered	\$160.71
7201 sq. ft. and greater	\$214.19
Miscellaneous Fees	
Backflow device/backwater valve	\$27.60
Re-Inspection fee	\$89.70
Inspections which no fee specified	\$89.70
Request by government agency under ORS 190	Cost of Inspector plus, travel & mileage to and from areas requested for inspections



Fee Schedule Wasco County Building Codes Services

Medical Gas Piping	
\$1 to \$10,00 valuation	\$310.50
\$10,000.00 and greater Valuation	\$310.50 for the 1st \$10,000.00 plus \$2.07 for each add'l \$100.00 or fraction thereof
Investigative Fee	Actual Cost
Re-inspection fee	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Plan Review fee, if required	50% of subtotal
Expedited Plan Review Fee	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
ELECTRICAL PERMIT FEES	
NEW SINGLE FAMILY DWELLINGS-SERVICE AND ATTACHED GARAGE INCLUDED	
Minimum Permit Fee - Residential	\$89.70
1,000 sq. ft. or less	\$146.05
Each additional 500 sq. ft. or portion thereof	\$26.45
Limited Energy	\$34.50
Each manufactured home or modular dwelling service or feeder	\$89.70
New Multifamily – total # of units	
Use 1 and 2 Family rates above for largest sq. ft. unit – cost of largest unit ____/2 x number of remaining number	
Multifamily limited energy, by floor	\$62.10
Services or Feeders (installation, alteration, relocation)	
200 amps or less	\$109.25
201 to 400 amps	\$129.95
401 to 600 amps	\$215.05
601 to 1,000 amps	\$281.75
Over 1,000 amps or volts	\$647.45
Reconnect Only	\$72.45
Temp. Services or Feeders (installation, alteration, relocation)	
200 amps or less	\$72.45
201 to 400 amps	\$98.90
401 to 600 amps	\$143.75
601 to 1,000 amps	\$234.60
Over 1,000 amps or volts	\$539.35
Branch Circuits (new, alteration, extension per panel)	
Fee for branch circuits with purchase of a service or feeder fee:	
Each branch circuit	\$5.52
Fee for branch circuits without purchase of a service or feeder fee:	
First branch circuit	\$74.75
Additional branch circuits	\$5.52
Miscellaneous (service or feeder not included)	
Each pump or irrigation circle	\$89.70
Each sign or outline lighting	\$89.70
Signal, circuit or a limited-energy panel, alteration or	\$72.45 Commercial



Fee Schedule Wasco County Building Codes Services

extension	\$89.70 Residential
Hourly rate (number of hours)	\$89.70
Request by government agency under ORS 190	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Investigative fee	Actual Cost
Re-inspection fee	\$89.70
After hours inspections outside of normal business hours (minimum charge 2 hours)	\$89.70 per hour during work week. Double time rate with 4 hour minimum on weekends and holidays
Master Individual Inspection Fee	\$89.70 per hour (minimum 2hours)
Plan Review fee, if required	50% of subtotal
Expedited Plan Review Fee	\$245.00 per hour 2 hour minimum Overtime Fee (if applicable 1.5 times the Base Rate)
Minimum Permit Fee – Commercial	\$89.70
MANUFACTURED DWELLING PERMIT FEES	
Installation fee (includes placement, concrete slabs/runners/foundations when prescriptive, electrical feeder, and plumbing/cross-over connections up to 30 lineal feet)	\$220.80
Re-inspection fee	\$89.70
State fee	\$34.50
Investigative fee	Actual Cost
RENEWABLE ENERGY SYSTEMS PERMIT FEES	
5kva or less	\$109.25
5.01 to 15kva	\$129.95
15.01 to 25kva	\$215.05
Solar ea. Add'l kva 25.01 to 100 max	\$8.63
Wind 25.01 to 50kva	\$281.75
Wind 50.01 to 100 kva	\$800.00
Wind 100.01 or greater	\$920.00
Service or feeders of 601 to 1,000 amps-additional to previous range	\$281.75
Service or feeders over 1,000 amps or volts-additional to previous range	\$647.45
Re-inspection fee	\$89.70
Plan Review, if required	50% of subtotal
RV PARK & ORGANIZATIONAL CAMP PERMIT FEES	
VALUATION:	
\$1.00 to \$500.00	\$17.25
\$501.00 to \$2,000.00	\$17.25 for the first \$500.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$51.75 for the first \$2,000.00, plus \$10.35 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$289.80 for the first \$25,000.00, plus \$7.48 for each



Fee Schedule Wasco County Building Codes Services

	additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$476.68 for the first \$50,00.00, plus \$5.18 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$735.43 for the first \$100,00.00, plus \$4.03 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,345.43 for the first \$5,000.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
Over \$1,000,001.00	\$4,070.43 for the first \$1,000,00.00, plus \$2.30 for each additional \$1,000.00 or fraction thereof
MISCELLANEOUS BUILDING FEES	
Request by government agency under ORS 190 (IGA)	Cost of Inspector plus, travel & mileage to and from areas requested for inspections
Permit Reinstatement fee – to renew already expired permit, as eligible; subject to State Surcharge	\$100.00, plus State Surcharge (Only applicable to expired permits that fall within the current code cycle of permit)
Permit Extension fee – to extend expiration on active permit	\$80.00 (For first time only) After first extension \$50.00 each
Refund Processing Fee - for repayment of costs of administration	\$100.00 or 25% of any fee to be refunded, whichever is less for the processing of a permit application
Copy fees	\$1.00 for each



MOTION

SUBJECT: Uniform Fee Schedule Ordinance

I move to approve Ordinance 22-001 In the Matter of Amending Wasco County's Uniform Fee Schedule for Various County Departments



AGENDA ITEM

Bargain Sale & Deed to City of Dufur

[STAFF MEMO](#)

[PHOTO](#)

[MAPS](#)

[LAND TRANSFER AGREEMENT](#)

[DEED](#)

[MOTION LANGUAGE](#)



MEMO

TO: Wasco County Board of Commissioners
Cc: Tyler Stone, County Administrator

From: Arthur Smith, Public Works Director

Date: December 27, 2021

Subject: City of Dufur acquiring county rock pit

Back in April of 2021, I was approached by the City of Dufur to discuss the possibility for them to acquire a five acre lot located along Dufur By-pass Road that was owned by the county. This lot was the site of an old rock pit that the county has owned since 1924. The city needed additional buffer land to meet the DEQ setback requirements for their sanitary sewer treatment project.

The land itself had no value to my department, (it is zoned A-160) but the remaining aggregate did have real value. Some of the five acre pit had been mined out, but I estimated that the site still contained at least 30,000 cubic yards of material for future use.

So, the City of Dufur and Wasco County legal counsels worked up a Bargain and Sale Deed that conveys the property to the city, but allows the county to retain all mineral rights and ability to conduct mining operations on the property.

This agreement benefits both parties, while still protecting the county's needs, and I support the BOC signing this deed.

Thank you

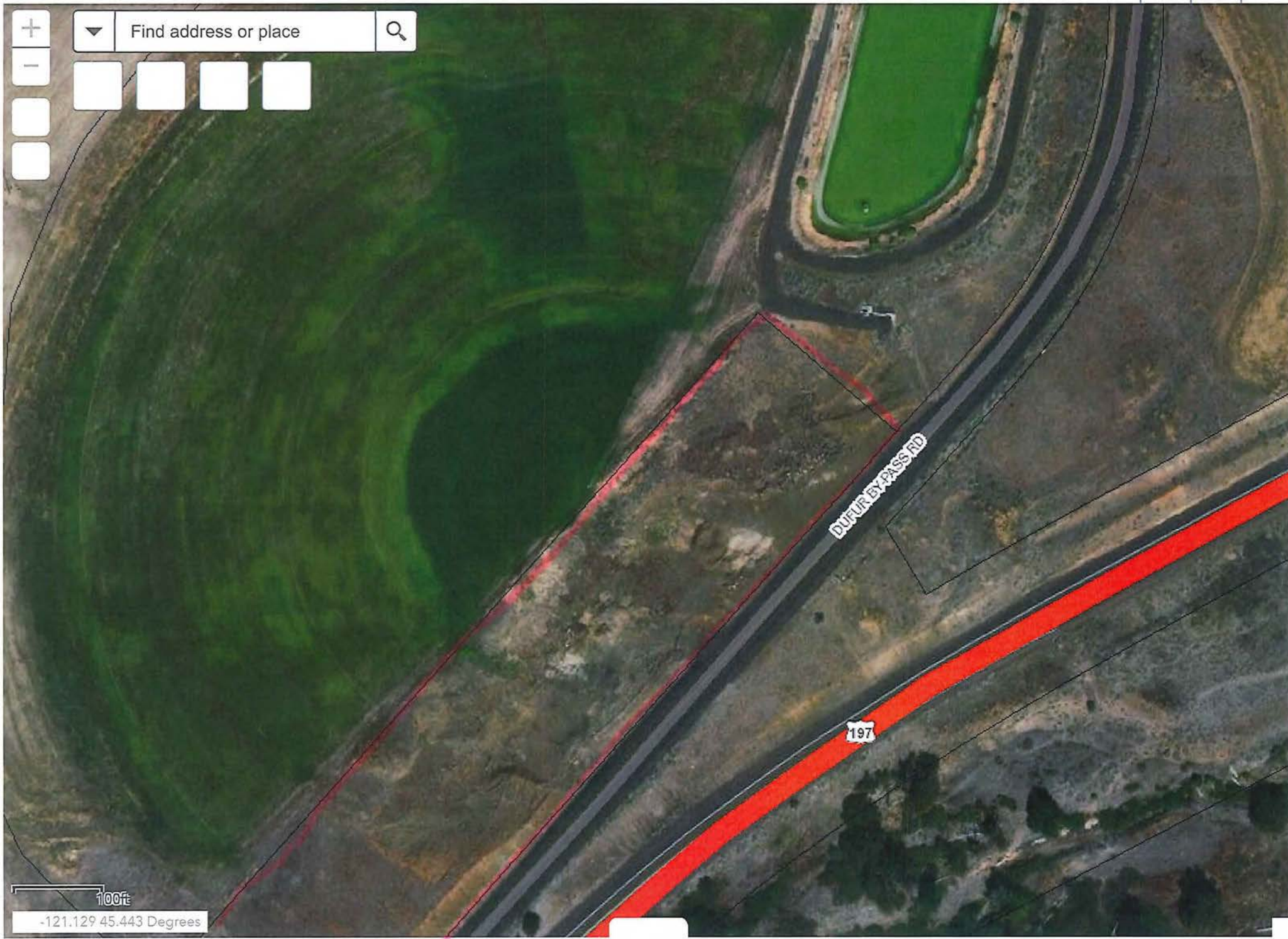
Arthur Smith
Public Works Director







Find address or place



-121.129 45.443 Degrees

LAND TRANSFER AGREEMENT

THIS LAND TRANSFER AGREEMENT (“**Agreement**”) is made as of the 19th day of January, 2022 (“**Effective Date**”), by and between Wasco County (“**Grantor**”), and the City of Dufur (“**Grantee**”).

ARTICLE 1 TRANSFER

1.1 Agreement to Donate. Subject to the terms and conditions hereinafter set forth, Grantor, in consideration of and subject to the covenants and agreements herein contained, agrees to transfer, and Grantee agrees to accept, that parcel of land consisting of approximately five (5) acres described as follows:

A parcel of land lying in the SE ¼ SE ¼ of Section 35, and the SW ¼ SW ¼, Section 36, Township 1 South, Range 13, East of the Willamette Meridian, and being a portion of that property described in those certain deeds to Roy P. Barnet and Lola E. Barnet, recorded in Book 112, page 71, and Book 120, page 520, Wasco County Record of Deeds; said parcel being more particularly described as follows: Beginning at a point 30 feet North of Engineer’s center line station 1449+80 of the former The Dalles-California Highway (Dufur-Tygh Valley Section), said point being North 235.7 feet and East 142.6 feet of the one quarter corner common to sections 35 and 36, Township 1 South, Range 13 East of the Willamette Meridian. Running thence North 41° 51’ East, 30 feet northerly and parallel to the former The Dalles-California Highway, 1090 feet to a point; thence North 48° 09’ West 200 feet to a point; thence South 41° 51’ West 1090 feet to a point; thence South 48° 09’ East to the place of beginning, containing 5.014 acres.

1.2 Consideration. Grantee acknowledges that Grantor has agreed to convey the Property to Grantee subject to the terms of this Agreement for Three Thousand Dollars and 00/11 (\$3,000.00) for the sole purpose of enabling Grantee to use the property to serve the public as additional buffer land required to meet the DEQ setback requirements for Grantee’s sanitary sewer treatment project. Grantee agrees to accept the Property for such purpose subject to the terms, conditions, rights and reservations contained herein in consideration of the conveyance of the Property by Grantor.

1.3 Reservation. Grantor expressly retains any and all mineral rights to the Premises and reserves the non-assignable right to operate a mineral and aggregate mining operation on the site, provided that such operation(s) shall continue only so long as Grantor shall, at its own expense comply with all laws and regulations of any state, federal or other public authority respecting the use of said premises for mining. This shall include, but not be limited to regulations, permits, site recovery requirements and other requirements of the following: a) Wasco County permit regulations; b) DOGAMI permits and regulations; c) MSHA Regulations; and d) DEQ permits and regulations.

1.4 Right of Reentry. Grantee agrees that should it ever: a) cease using the Property for any purpose other than buffer land required to meet the DEQ setback requirements for Grantee’s sanitary sewer treatment project; or b) in any way substantially interfere with Grantor’s Reservation and/or related ongoing mineral or mining operations as follows and as determined by Grantor’s sole reasonable discretion,” Grantor shall have the right of reentry and, on reentry, all rights of Grantee, its assigns or successors, shall terminate subject to any loan

agreements and mortgages and related security interests existing as of the date of conveyance.

ARTICLE 2 TITLE

2.1 Title Examination. Grantee shall have until the date that is fifteen (15) days from and after the Effective Date in which to examine title to the Property. Any examination of title shall be at Grantee's sole option, cost and expense.

2.2 Survey. Grantee shall have until the date that is fifteen (15) days from and after the Effective Date in which it may obtain a survey of the Property or to determine the status of the Property as a lawful lot or parcel at Grantee's sole option, cost and expense.

2.3 Title Objections. Grantor shall not be obligated to cure, or attempt to cure, anything contained in the title records or shown on a survey to which Grantee objects. Grantee's sole remedy in the event of any unacceptable title or survey objection shall be to either accept title subject to such objection, or to terminate this Agreement and decline to accept the transfer.

ARTICLE 3 INSPECTION PERIOD

3.1 Right of Inspection. Grantee shall have fifteen (15) days following the Effective Date to make or have performed a physical inspection of the Property.

3.2 Right of Termination. Grantee shall have the right to terminate this Agreement if Grantee determines in its sole discretion that Grantee does not desire to own the Property. If Grantee terminates, Grantee and Grantor shall have no further rights and obligations hereunder except those which expressly survive termination of this Agreement.

ARTICLE 4 CLOSING

4.1 Time and Place. This transaction shall Close on or before 5:00 Pacific Time on the 15th Day following the Effective Date. (the "**Closing Date**"). Time is of the essence with respect to the Closing Date.

4.2 Grantor's Obligations at Closing. At Closing, Grantor shall deliver to Grantee a duly executed bargain and sale deed which deed shall be subject to a right of reentry in favor of Grantor should Grantee ever: a) cease using the Property for any purpose other than buffer land required to meet the DEQ setback requirements for Grantee's sanitary sewer treatment project; or b) in any way substantially interfere with Grantor's Reservation and/or related ongoing mineral or mining operations as follows and as determined by Grantor's sole reasonable discretion.

4.3 Grantee's Obligations at Closing. Grantee shall deliver to Grantor \$3,000.00 and any additional documents requested by Grantor or required to consummate the transaction.

4.4 Closing Costs.

(a) Grantee shall pay all fees involved in this transaction and all fees for recording the Deed and any other recorded instruments affecting the conveyance and all other charges or hard costs associated with this transfer.

(b) Each party shall be responsible for its own internal costs.

ARTICLE 5 POST-CLOSING CONDITIONS AND OBLIGATIONS

5.1 Conditions of Transfer. In consideration of, and as an inducement for, Grantor's transfer of the Property to Grantee, Grantee hereby agrees to the following terms and conditions:

(a) Grantee shall not grant, permit or suffer any mortgage, lien, assessment or other encumbrance on the Property without the written consent of Grantor which may be granted or denied in Grantor's sole discretion; and

(d) Grantee will operate in compliance with all environmental laws and, in the event of a release of any hazardous or toxic substance, or pollutant, shall take all steps necessary to remediate the release and return the property to its original condition or as approved by the appropriate regulatory body.

5.2 Enforceability. The post-closing conditions agreed to in this Article shall survive closing and bind the parties, their successors, assigns and transferees. They shall be enforceable as covenants running with the land, as equitable servitudes, by an action on a contract or as otherwise allowed by law.

ARTICLE 6 DISCLAIMERS, INDEMNIFICATION AND WAIVERS

6.1 Disclaimer. IT IS UNDERSTOOD AND AGREED THAT GRANTOR IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS OR COMPLIANCE WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF THE PROPERTY DOCUMENTS OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF GRANTOR TO GRANTEE, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. **GRANTEE ACKNOWLEDGES AND AGREES THAT UPON CLOSING GRANTOR SHALL TRANSFER AND CONVEY TO GRANTEE AND**

GRANTEE SHALL ACCEPT THE PROPERTY “AS IS - WHERE IS - WITH ALL FAULTS”. GRANTEE HAS NOT RELIED AND WILL NOT RELY ON, AND GRANTOR IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY GRANTOR, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING.

6.2 Indemnification. Upon closing:

(a) Grantee expressly assumes responsibility and liability for all causes of action (including under any environmental law), losses, damages, liabilities (whether based on strict liability or otherwise), costs and expenses (including expert or attorneys’ fees and court costs) of any and every kind or character, known or unknown, arising from or relating to any physical conditions, violations of any applicable laws and any and all other acts, omissions, events, circumstances or matters regarding the property; however, Grantee is not responsible, except for acts or omissions it or its invitee causes.

(b) Grantee hereby waives, relinquishes and releases Grantor from and against any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including expert and attorney fees) of any and every kind, known or unknown, that Grantee might have asserted or alleged against Grantor at any time by reason of or arising out of the condition of the Property, any violations of applicable laws (including without limitation environmental laws) and any and all other acts, events, circumstances or omissions relating to the Property. Grantor shall have no responsibility or liability for any investigation, cleanup, remediation or removal of hazardous substances or environmental conditions on or related to the Property; however, Grantee is not responsible, except for acts or omissions it or its invitee causes.

6.3 The terms of Section 7 shall survive Closing.

**ARTICLE 7
REMEDIES**

7.1 Prior to Closing. In the event of a default prior to Closing by either party hereunder, the non-defaulting party’s exclusive remedy shall be to terminate this Agreement, in which event neither party shall have any further obligations and this Agreement shall be null and void.

7.2 Post-Closing. In addition to the remedies provided for herein, any provision of this Agreement that survives Closing may be enforced in any manner authorized by law. If the nature of the alleged breach or default is such that it may be cured, the party declaring a breach or default shall provide the other party written notice thereof and a minimum of 30 days to cure the alleged breach or default.

7.3 Right of Reentry. And further, if Grantee should ever: a) cease using the Property for any purpose other than buffer land required to meet the DEQ setback requirements for

Grantee's sanitary sewer treatment project; or b) in any way substantially interfere with Grantor's Reservation and/or related ongoing mineral or mining operations as follows and as determined by Grantor's sole reasonable discretion," Grantor shall have the right of reentry and, on reentry, all rights of Grantee, its assigns or successors, shall terminate subject to any loan agreements and mortgages and related security interests existing as of the date of conveyance.

ARTICLE 8 MISCELLANEOUS

8.1 Assignment or transfer. Grantee may not assign or transfer its rights or obligations under this Agreement without first obtaining Grantor's written approval. No transfer or assignment by Grantee shall release Grantee of its obligations hereunder unless otherwise agreed in writing by Grantor.

8.2 Notices. Any notice, request or other communication required or permitted to be given hereunder shall be in writing and shall be delivered by hand or mailed by certified mail, return receipt requested, postage prepaid and addressed to each party at its address as set forth below.

The parties' respective addresses for notice purposes are as follows:

If to Grantor: Wasco County
ATTN: Administrative Officer
511 Washington St. Suite 101
The Dalles, OR 97058

If to Grantee: City of Dufur
ATTN: Mayor
175 NE 3rd St
Dufur, OR 97021

8.3 Modifications. This Agreement cannot be changed orally, and no agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

8.4 Successors and Assigns. This Agreement and the rights and obligations herein shall not be assigned or otherwise transferred without the approval of the non-assigning party, which may be granted or denied in that party's sole discretion. Unless agreed otherwise, the terms and provisions of this Agreement shall apply to and bind the permitted successors and assigns of the parties hereto.

8.5 Entire Agreement. This Agreement, including any Exhibits, contains the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such

subject matter.

8.6 Further Assurances. Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement.

8.7 Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement.

8.8 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

8.9 Applicable Law. This Agreement shall be governed by the laws of Oregon. Venue shall be in the Circuit Court for Wasco County or the Federal District Court for Oregon.

8.10 No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Grantor and Grantee only and are not for the benefit of or enforceable by any third party.

8.11 No Joint Venture. This Agreement is not intended, nor shall it be deemed or construed to create a partnership or joint venture between Grantor and Grantee, nor to make Grantor in any way responsible for the debts or obligations of Grantee.

8.12 Parties. The terms ‘Grantor’ and ‘Grantee’ shall include each party’s respective officers, employees and agents.

8.13 Termination of Agreement. It is understood and agreed that if either Grantee or Grantor terminates this Agreement pursuant to a right of termination granted hereunder, such termination shall operate to relieve Grantor and Grantee from all obligations under this Agreement, except such obligations as are specifically stated herein to survive the termination.

8.14 Oregon Statutory Land Use Disclaimer.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES

OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

City of Dufur

Wasco County Board of Commissioners

Signature

Kathleen B. Schwartz, Chair

Title

Steven D. Kramer, Vice-Chair

Date

Scott C. Hege, County Commissioner

APPROVED AS TO FORM:

Kristen Campbell, County Counsel

Until a change is requested,
All tax statements shall be sent to:
City of Dufur, Oregon
PO Box 145
Dufur, OR 97021

After recording, return to:
City of Dufur, Oregon
PO Box 145
Dufur, OR 97021

The true and actual consideration for this conveyance is: THREE THOUSAND and no/100 (\$3,000.00) and Conveyance for Public Benefit.

STATUTORY BARGAIN AND SALE DEED

WASCO COUNTY, OREGON, a State of Oregon Municipality, Grantor, conveys to the CITY OF DUFUR, OREGON, a State of Oregon Municipality, Grantee, the following described real property, all situated in Wasco County, Oregon:

A parcel of land lying in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 1 South, Range 13, East of the Willamette Meridian, and being a portion of that property described in those certain deeds to Roy P. Barnet and Lola E. Barnet, recorded in Book 112, page 71, and Book 120, page 520, Wasco County Record of Deeds; said parcel being more particularly described as follows:

Beginning at a point 30 feet North of Engineer's center line station 1449+80 of the former The Dalles-California Highway (Dufur-Tygh Valley Section), said point being North 235.7 feet and East 142.6 feet of the one quarter corner common to sections 35 and 36, Township 1 South, Range 13 East of the Willamette Meridian. Running thence North 41° 51' East, 30 feet northerly and parallel to the former The Dalles-California Highway, 1090 feet to a point; thence North 48° 09' West 200 feet to a point; thence South 41° 51' West 1090 feet to a point; thence South 48° 09' East to the place of beginning, containing 5.014 acres.

THIS CONVEYANCE IS SUBJECT TO A POSSIBILITY OF REVERTER:

Notwithstanding any other provision herein, this conveyance is subject to a possibility of reverter whereby ownership of this property will immediately revert to the Grantor in the following scenarios: 1) should the described property (after the period of THREE (3) years, from the date hereof) no longer be used by Grantor for a public sewer system or setback area; or 2) should Grantee in any way substantially interfere with Grantor's Reservation and/or related ongoing mineral or mining operations as follows and as determined by Grantor's reasonable discretion.

AND FURTHER SUBJECT TO A RESERVATION AS FOLLOWS:

Grantor, WASCO COUNTY, OREGON, retains mineral rights to this property and reserves the non-assignable right to operate a mineral and an aggregate mining operation on the site, provided

that such operation(s) shall continue only so long as Wasco County shall, at its own expense, comply with all laws and regulations of any state, federal or other public authority respecting the use of said premises for mining. This shall include, but not limited to regulations, permits, site recovery requirements and other requirements of the following:

1. Wasco County permit regulations.
2. DOGAMI permits and regulations.
3. MSHA Regulations
4. DEQ permits and regulations.

STATUTORY NOTICE:

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

GRANTOR

WASCO COUNTY, OREGON

Scott Hege, County Commissioner

Steve Kramer, County Commissioner

Kathleen Schwartz, County Commissioner

State of Oregon)
) ss.
County of Wasco)

This instrument is acknowledged before me on the ____ day of _____ 2021,
by Scott Hege, Steve Kramer and Kathleen Schwartz, County Commissioners of Wasco County,
Oregon.

Notary Public for Oregon
My Commission Expires:_____

DEED OF DEDICATION ACCEPTED by Mayor and Recorder, as authorized and on behalf of
the City of Dufur, Oregon.

Merle Keys, Mayor

Kathleen Bostick, Recorder

State of Oregon)
) ss.
County of Wasco)

This instrument is acknowledged before me on the ____ day of _____ 2021,
by Merle Keys as Mayor and Kathleen Bostick, as recorder as authorized and on behalf of the
City of Dufur, Oregon.

Notary Public for Oregon
My Commission Expires:_____



MOTION

SUBJECT: Bargain Sale & Deed

I move to approve the Land Transfer Agreement and Statutory Bargain Sale and Deed conveying property to the City of Dufur, retaining County mining rights, for consideration of \$3,000.



AGENDA ITEM

Coordinated Homeless Response Pilot Program

[MCCAC LETTER OF INTEREST](#)

[SELECTION NOTIFICATION](#)

[DRAFT LEGISLATION](#)



**Mid-Columbia
Community
Action Council**

Mid-Columbia Community Action Council
Serving Hood River, Wasco, and Sherman Counties
312 E. 4th St, The Dalles, OR 97058
606 State St, Suite 1B, Hood River, OR 97031
Tel: (541) 298-5131
www.MCCAC.com

December 9, 2021

RE: AOC/LOC City-County Coordinated Homeless Response Pilot

Ms. Ariel Nelson and Ms. Lizzy Atwood,

On behalf of the Mid-Columbia region and the local governments of Hood River, Wasco and Sherman Counties, the City of Hood River and the City of The Dalles; Mid-Columbia Community Action Council (MCCAC) is submitting this formal letter of interest for the AOC/LOC City-County Coordinated Homeless Response Pilot. Each of the three County Commissions mentioned above along with the City of Hood River and the City of The Dalles Unhoused Taskforce have met to discuss this opportunity and unanimously agree that our region would make a great pilot community and would recommend that Mid-Columbia Community Action Council serve as the lead agency, coordinating with each participating County and City government. Each governing body understands the short- and long-term commitments to the degree that they are known and clear within the documents available.

Being a rural region of the state with a three-county population of just over 50,000, the Mid-Columbia community of service providers consider their service territory as the entire Hood River, Wasco and Sherman County region. Our regional structure is unique in that we include two defined rural communities and one community defined as frontier, according to the Oregon Office of Rural Health's geographic definitions. With 26 of Oregon's 36 counties considered either rural or frontier, allowing a region like ours to participate in this pilot would bring critical balance and a better representation of the needs of our entire state. Our region would also make a great pilot due to our diverse demographical makeup that includes Latinx and Native community members. Including our three-county region in this pilot will help us create and implement an equity-centered, coordinated approach to serving our houseless friends and neighbors residing in the Mid-Columbia region.

To ensure coordination and demonstrate the region's commitment to addressing houselessness, in September 2021, MCCAC advocated for and received funding from Providence Health Systems to develop a five-year regional strategic plan to prevent and eliminate houselessness in Hood River, Wasco and Sherman Counties. MCCAC has hired a consultant to lead the strategic plan development process and we are in the process of forming the Mid-Columbia Regional Houseless Collaborative who will be charged with creating our regional strategic plan. The Collaborative will consist of elected officials from across the region, culturally specific organizations, Native and/or Tribal service providers, persons with lived experience, the Mid-Columbia Housing Authority, the regional Coordinated Care Organization, the Mid-Columbia Center for Living (MCCFL, the regional behavioral health provider) and others who operate within the region's houseless service system. The plan will include, at a minimum, the following elements as articulated in our Consulting Services Request for Proposals (RFP):

- Shared set of values
- Mission statement
- Vision statement
- Equity statement
- Data sets that drive plan goals and strategies

- Stakeholder and community member outreach and interviews to anecdotally inform the plan; including interviews with those with lived experience, communities of color, Native, Latinx and LGBTQIA+ community members
- Core set of plan goals with accompanying metrics
- Implementation strategies and timelines to achieve the plan goals
- Designated organizations to carry out the strategies
- Reporting structure
- Funding Plan

The Mid-Columbia Community Action Council along with Hood River, Wasco, and Sherman Counties and the City of Hood River and The Dalles understand what it means to participate in the City-County Coordinated Pilot and will work together to dedicate, seek out and/or divert existing resources to ensure that the strategic plan developed will be implemented. As stated above, the regional strategic plan will include a plan for funding to ensure the plan can be implemented. We also understand the draft concept that has been laid out and there is general agreement to abide by the terms, unless we have provided specific comments or concerns about aspects of the proposal.

All in all, the Mid-Columbia Region is known for collaboration amongst its tight knit group of service providers. Over the past year we were awarded a \$3.1 million collaborative Emergency Solutions Grant (ESG-CV2) to provide homeless services from March of 2021 through September of 2022. MCCAC led the grant application process and the collaborative consists of six regional service providers, in addition to MCCAC. This includes the Mid-Columbia Housing Authority, The Next Door Inc. (culturally responsive organization, serving Native and Latinx community members), Nch'I Wana Housing (culturally specific, serving Native community members), the Oregon Human Development Corporation (OHDC, culturally specific, serving the Latinx population), Bridges to Health and Hood River Shelter Services. The region's ESG-CV2 application was the highest scoring application within the 26 county HUD Rural Continuum of Care and was prioritized for additional funding by OHCS.

In addition to the ESG collaborative, MCCAC also received \$1.5 million in funding from the Oregon Legislature (House Bill 5006) in 2021 for the development of a Navigation Center in The Dalles. The City of The Dalles further demonstrated its commitment to addressing homelessness in the region by committing \$500,000 in funding towards the development of the Navigation Center. This regional Navigation Center will provide non-congregate sheltering along with the co-located services of multiple providers. MCCAC will make the Navigation Center their future offices and co-located agencies will include Nch'I Wana Housing, the OHDC, One Community Health (the regional Federally Qualified Health Clinic), MCCFL, the Columbia Gorge Health Council/Bridges to Health, the Next Door Inc. and the Mid-Columbia Housing Authority.

It is also worth mentioning that MCCAC, in partnership with an affordable housing developer, has gained site control of a parcel of land in The Dalles and plans to develop approximately 75 Permanent Supportive Housing (PSH) units, should we be awarded state funding in the 2022 Oregon Housing and Community Services funding cycle. The project will include coordinated service provision from many of the above-mentioned providers and approximately 30 of these PSH units will be dedicated to serve formerly homeless Veterans.

The influx of the time limited resources above has allowed our scrappy, rural community to do some of its best work to date in addressing and/or mitigating the impacts of houselessness. In the past year we have more than doubled the number of emergency winter shelter beds serving the region from around 5,000 shelter bed nights in 2020-2021 to over 11,000 shelter bed nights for the winter of 2021-2022. Thanks to strong partnership with The City of The Dalles, MCCAC was able to develop the region's first year-round shelter on city owned property. The City of The Dalles also helped with site infrastructure, including purchasing five of the 18 pallet shelter units, providing 10 shelter beds on the site and installing water and sewer at the site allowing for the installation of a shower and restroom trailer that serves shelter clients.

In Hood River, Hood River Shelter Services collaborated with MCCAC, the City of Hood River and a private landowner to develop a 26-bed emergency winter shelter site with a use agreement extending from 2021-2025. As you can see, our region has significant momentum and the will to address houselessness that is rooted in equity and collaboration. We have been successful in bringing in additional resources to better serve the community but as those resources come to an end, developing a sustainable model for our future will be critical. We strongly feel that participation in this pilot will help us get there.

With this momentum and a lot of work already in process, we would like to request that the AOC/LOC proposal allow for funding received to also be utilized for plan implementation in addition to coordination and communication. Should we be chosen to participate as a pilot community the funds provided will be utilized to provide staffing capacity for the coordination of the Mid-Columbia Houseless Collaborative, staffing for implementing the funding plan developed by the Collaborative and communication resources to ensure that our community members understand the value of our work to prevent and eliminate houselessness. The potential resources made available in this pilot could go a long way to helping the Mid-Columbia region solidify an ongoing coordination structure while also helping us achieve some of the goals to be laid out in our strategic plan.

Thank you for the opportunity to respond to this pilot concept and I would like to commend AOC and LOC for their attentiveness to the issue of houselessness. For your reference, below I have provided links to some recent news articles about the collaborative work we are already doing in the Mid-Columbia region. Do not hesitate to reach out to me with any questions or concerns.

Best Regards,



Kenny LaPoint
Mid-Columbia Community Action Council
Executive Director
Phone #: 541.848.1667
Email: klapoint@mccac.com

The Mid-Columbia Community Action Council 2021-2024 Strategic Plan

www.mccac.com/strategic-plan

Navigation Center Development

www.columbiagorgenews.com/news/government/mccac-to-lead-navigation-center-development/article_538be15a-0a8d-11ec-85f8-fbd16d778c9d.html

Regional Collaborative Awarded \$3.1 Million to Address Houselessness

www.gorgenewscenter.com/2021/03/24/regional-collaborative-awarded-3-1-million-to-address-houselessness/

Dear Mid-Columbia Communities,

Thank you for submitting your letter of interest for the City/County Coordinated Homeless Response pilot. **Your proposal has been selected as one of the current six pilots to be included in the bill!** Thank you for the time you and your colleagues put into the thoughtful response you submitted.

Next Steps – Response requested by end of day Friday, January 7

The most recent version of the draft bill language being submitted to legislative counsel is attached, without current pilot selections (though these will be added shortly). This draft is based on the pilot outline you previously reviewed and committed to in your proposal and must be finalized next week to meet the bill submission deadlines for the upcoming short session. **Please review the draft bill and grant language (below) as soon as possible and contact myself and Lizzy Atwood Wills at the Association of Oregon Counties as soon as possible or by end of day Friday, 1/7 at the latest with the following information:**

- **Any updates/changes to related to your originally submitted pilot proposal, particularly the participating communities;**
- **Confirm that the following grant language appropriately reflects your pilot communities. The bill also needs to specify one jurisdiction as the fiscal lead/grantee that will contract with DAS to receive the funding, so please indicate which jurisdiction should be named in the bill as receiving the grant** (note that your IGA will ultimately govern how funding is distributed among jurisdictions. The bill language also allows additional jurisdictions to be added to your IGA/pilot later if that is something you are interested in pursuing):
 - *\$1,000,000 for a response system consisting of the Mid-Columbia Community Action Council, Hood River County, Wasco County, Sherman County, the City of The Dalles, the City of Hood River and any other jurisdictions who are parties to the intergovernmental agreement forming the response system*
- **Confirm that the draft bill language/requirements (attached) still work for your pilot or share any questions or concerns.**

If we do not hear from you, we will assume your community is comfortable with supporting this bill language.

Thank you for your understanding with these tight legislative deadlines and please feel free to call me or Lizzy to discuss any of this in more detail. Your quick response ensures we can address any needed changes in the drafting process and begin the short legislative session with a strong bill.

We are also working this week to confirm the draft language can be supported by all pilots as well as additional stakeholder partners. The bill sponsor will be working with your local legislators to encourage them to sign on, and to assist in supporting passage in session. We encourage you to reach out to your legislators for their support. Please feel free to ask them to sponsor the bill and to contact Representative Jason Kropf to sign on. Stay tuned for ways you can engage in the legislative process for the short session, we look forward to working with you to pass this bill!

Thank you,

Ariel



D R A F T

SUMMARY

Requires Oregon Department of Administrative Services to periodically conduct performance audit of public agencies to determine compliance with laws that require procurements from qualified nonprofit agencies for individuals with disabilities. Requires department to publish results of audit on department's website and to certify compliance or failure to comply. Permits department to impose fines for noncompliance.

Requires public agencies that terminate or decline to renew contracts with qualified nonprofit agencies for individuals with disabilities to require contractor to submit to department in writing detailed information about pay rate and benefits contractor provided to employees. Requires department to supervise transitions between contracts with qualified nonprofit agencies for individuals with disabilities that public agencies terminate or decline to renew and new contracts with successor service providers. Requires department to impose fines for failures to comply with or violations of requirements that apply to such transitions.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to requirements for procurements from qualified nonprofit agencies for individuals with disabilities; creating new provisions; amending ORS 279.850 and 279.853; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 279.850 is amended to read:

279.850. (1)(a) Except as provided in paragraph (b) of this subsection and subject to paragraph (c) of this subsection, a public agency that intends to procure a product or service on the procurement list that the Oregon Department of Administrative Services established under ORS 279.845 shall, in accordance with the department's rules, procure the product or service at the

price the department establishes from a qualified nonprofit agency for individuals with disabilities, provided that the product or service is of the appropriate specifications and is available within the period the public agency requires.

(b) A public agency may procure a product or service that is on the procurement list described in paragraph (a) of this subsection from a person other than a qualified nonprofit agency for individuals with disabilities if:

(A) All of the qualified nonprofit agencies for individuals with disabilities on the procurement list that applies to the public agency have a record in the previous three years of repeatedly violating, or are not now in compliance with, applicable local ordinances or resolutions that govern labor standards; and

(B) The person, for a period of 90 days after the person enters into an agreement with the public agency, offers to employ the employees of a qualified nonprofit agency for individuals with disabilities from which the public agency would have procured the product or service but for the failure of the qualified nonprofit agency for individuals with disabilities to comply with an applicable local ordinance or resolution that governs labor standards.

(c) If a public agency may choose to procure a product or service from more than one qualified nonprofit agency for individuals with disabilities, the public agency may give a preference to the qualified nonprofit agency for individuals with disabilities that best demonstrates that the qualified nonprofit agency for individuals with disabilities:

(A) Complies with all applicable local ordinances and resolutions that govern labor standards; and

(B) Provides wages, health care benefits, alternative dispute resolution services and pension or other retirement arrangements that, in the aggregate, are better than the average package of wages, health care benefits, alternative dispute resolution services and pension or other retirement arrangements that private employers provide to employees that perform the same or similar job duties:

1 (i) In the same industry in which the qualified nonprofit agency for indi-
2 viduals with disabilities engages; and

3 (ii) In the county in which the qualified nonprofit agency for individuals
4 with disabilities will deliver the product or perform the service.

5 (2)(a) A public agency may require in any agreement with a qualified
6 nonprofit agency for individuals with disabilities under ORS 279.835 to
7 279.855 that the qualified nonprofit agency for individuals with disabilities
8 comply with applicable local ordinances or resolutions that govern labor
9 standards.

10 (b) A public agency may disqualify a qualified nonprofit agency for indi-
11 viduals with disabilities from entering into an agreement with the public
12 agency under ORS 279.835 to 279.855 for a period of three years if the public
13 agency:

14 (A) Determines that the qualified nonprofit agency for individuals with
15 disabilities repeatedly violated local ordinances or resolutions that govern
16 labor standards during the term of an agreement with the public agency
17 under ORS 279.835 to 279.855; or

18 (B) Finds that the qualified nonprofit agency for individuals with disa-
19 bilities has a record in the previous three years of repeatedly violating ap-
20 plicable local ordinances or resolutions that govern labor standards.

21 (3) In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4) and
22 279C.335, the Legislative Assembly intends that the department, public
23 agencies and qualified nonprofit agencies for individuals with disabilities
24 cooperate closely. The department on behalf of public agencies and qualified
25 nonprofit agencies for individuals with disabilities may enter into contrac-
26 tual agreements, cooperative working relationships or other arrangements
27 that are necessary to effectively coordinate and efficiently realize the objec-
28 tives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 and any other law
29 that governs a procurement of products or services.

30 **(4)(a) The department shall conduct a periodic performance audit**
31 **of public agency procurement to ensure that public agencies are com-**

plying with the requirements of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335. The department may by contract delegate to another agency or to a private contractor with appropriate experience the authority to conduct the audits required under this subsection. The department shall ensure that each public agency that is subject to the requirements of this section undergoes an audit least once every five years.

(b) Each public agency shall provide the department, at the department's request, with information the department determines is necessary to conduct the audit required under this subsection.

(c) The department shall publish the results of each performance audit on the department's website and, upon concluding the audit, shall in writing either certify that the public agency has complied with the requirements of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 or make a finding of noncompliance.

(5) The department, upon finding noncompliance under subsection (4)(c) of this section, may impose a fine upon the noncompliant public agency in an amount the department specifies by rule. The department shall deposit the proceeds of any such fine into the State Treasury to the credit of the General Fund.

(6) The department may adopt rules necessary to carry out the department's duties under this section.

SECTION 2. ORS 279.853 is amended to read:

279.853. (1)(a) If a public agency or a qualified nonprofit agency for individuals with disabilities terminates or declines to renew a contract procured under ORS 279.850 for janitorial services, grounds maintenance services or security services and the public agency enters into a new contract for the same services, the public agency shall provide in the new contract that the successor service provider, during a period that ends 90 days after the date on which the public agency enters into the new contract, offer employment to the individuals with disabilities who worked 28 hours or more per week under the terminated or nonrenewed contract at the time the contract ended,

at wages and with health benefits as favorable as, or more favorable than, the wages and health benefits the individuals with disabilities received under the terminated or nonrenewed contract.

(b) If the successor service provider under paragraph (a) of this subsection is not a qualified nonprofit agency for individuals with disabilities, the public agency shall provide in the new contract that the successor service provider, during a period that ends 90 days after the date on which the public agency enters into the new contract, offer employment to all individuals who worked 28 hours or more per week under the terminated or nonrenewed contract at the time the contract ended, except managers and supervisors, at wages and with health benefits as favorable as, or more favorable than, the wages and health benefits the individuals received under the terminated or nonrenewed contract.

(2) A successor service provider that provides the same services under a new contract as provided under the terminated or nonrenewed contract may require an individual whom the successor service provider hires under subsection (1) of this section to undergo the hiring procedures and demonstrate during a probationary period the qualifications that the successor service provider establishes for new hires.

(3) To ensure that a successor service provider pays wages and provides health benefits as favorable or more favorable than the wages and health benefits that the contractor paid or provided under a contract a public agency procured under ORS 279.850, the public agency, upon terminating or declining to renew the contract, shall require in writing that the contractor submit in writing to the Oregon Department of Administrative Services:

(a) The hourly rate or salary the contractor paid to each employee the successor service provider will continue to employ;

(b) A detailed summary of benefits and coverages and a summary plan description for any benefits the contractor provided to employees; and

(c) Any other information the department deems necessary to specify the minimum wage rate and benefits that a successor service provider must pay or provide under a new contract in order to ensure that wages and benefits under the new contract are as favorable or more favorable than the wages and benefits the contractor paid or provided under the contract that the public agency terminated or declined to renew.

(4) The department, in accordance with the requirements of this section, shall supervise and approve all transitions between contracts that public agencies have terminated or declined to renew and new contracts. The department shall determine whether the public agency, the contractor and the successor service provider complied with the requirements of this section and, if the department determines that compliance has occurred, shall certify the compliance in writing.

(5) The department shall impose a fine of not more than \$5,000 upon a public agency, a contractor or a successor service provider, as appropriate, for each of the public agency's, the contractor's or the successor service provider's failures to comply with or violations of the requirements of this section. The department shall deposit the proceeds of all such fines into the State Treasury to the credit of the General Fund.

(6) The department may adopt rules necessary to carry out the department's duties under this section.

SECTION 3. (1) The amendments to ORS 279.850 and 279.853 by sections 1 and 2 of this 2022 Act become operative on January 1, 2023.

(2) The Oregon Department of Administrative Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the department, on and after the operative date specified in subsection (1) of this section, to undertake and perform the duties, functions and powers conferred on the department by the amendments to ORS 279.850 and

1 **279.853 by sections 1 and 2 of this 2022 Act.**

2 **SECTION 4. This 2022 Act takes effect on the 91st day after the date**
3 **on which the 2022 regular session of the Eighty-first Legislative As-**
4 **sembly adjourns sine die.**

5



AGENDA ITEM

Recycling & Hazardous Waste Search App

[STAFF MEMO](#)

[VENDOR QUOTE/PURCHASE AGREEMENT](#)

[MOTION LANGUAGE](#)



MEMORANDUM

SUBJECT: RECOLLECT APP FOR TRICOUNTY HAZARDOUS WASTE & RECYCLING PROGRAM WEBSITE

TO: BOARD OF COUNTY COMMISSIONERS

FROM: MORGAINE RIGGINS AND DAVID SKAKEL

DATE: 12/28/2021

BACKGROUND INFORMATION:

Part of the Tri-County Hazardous Waste & Recycling Program's mission is to provide recycling and education outreach, as well as contamination reduction of collected recyclables, in Wasco, Hood River, and Sherman Counties. As recycling rules have changed, providing clear information can be a challenge and many residents of the Tri-County area are looking for answers. One solution is to provide an app on our homepage that allows users to search items they are unsure about and find out where they can be disposed of in the Tri-County area.

The app, called the "Waste Wizard" is hosted by ReCollect and is widely used among various municipalities' solid waste districts. For Tri-County Hazardous Waste & Recycling Program's purposes, residents of the Tri-County area will have the ability to search for items based on their zip codes, allowing them to get answers specific to their location. With searches being defined by zip code, it will account for the subtle differences in recycling and garbage collection within the Tri-County area. This app will not only include items that are recyclable, but also items that are hazardous waste, compost, or garbage, and can be tailored to include items and information specific to each service area. Additionally, part of the app package is the ability for users to download the app onto their phone, as well providing an event calendar. This event calendar will be for residents to keep track of household hazardous waste collection events, and receive reminders via email if they choose.

A beneficial feature provided by ReCollect with the purchase of their services is an on-going detailed analytics report. The analytics report will allow Tri-County Hazardous Waste & Recycling Program to see: how many searches per zip code, what the top searches are, and how much usage the app receives. By having insight into what residents are searching, Tri-County Hazardous Waste & Recycling Program will be able to fill in the gaps of its education and outreach methods.

ReCollect is a sole source provider for an app of this nature, as well as an approved Sourcewell vendor. Tri-County Hazardous Waste & Recycling program does not currently have a contract with ReCollect, but has received a quote. If approval is granted by the Board of County Commissioners, Tri-County Hazardous Waste & Recycling Program will take the app before their Steering Committee to seek further approval.

Attached: ReCollect Quote PDF

Example of Waste Wizard: <https://www.walkingmountains.org/sustainability-hub/recycling-and-waste-diversion/eagle-county-waste-wizard/>

Wasco County, OR (copy)

Morgaine Riggins

morgainer@co.wasco.or.us

541-506-2526

David Skakel

davids@co.wasco.or.us

Reference: 20220103-143525720

Quote created: January 3, 2022

Quote expires: March 31, 2022

**Recollect Systems Inc**

3381 Cambie Street, Suite 528

Vancouver, BC V5Z 4R3

CA

Quote created by: Darin Sheasgreen

Account Executive

darin.sheasgreen@recollect.net

3605645565

Total **\$8,307.05**

PRODUCTS & SERVICES	SKU	QUANTITY	PRICE
Essential Success Package	SCS-PKG-ESS	1	\$0.00 / year
Mobile App	SWR-OPT-MOB-STD	1	\$2,801.00 / year

PRODUCTS & SERVICES	SKU	QUANTITY	PRICE
Multi-Community Waste Wizard	SWR-PRD-WIZ-MUL	1	\$6,091.00 / year
Event Calendar	SWR-PRD-CAL-EVT	1	\$881.00 / year
Website Tool	SWR-OPT-WEB-STD	1	\$0.00 / year
SUBTOTALS			PRICE
Annual subtotal			\$9,773.00
OTHER FEES			PRICE
Bundle discount			-\$1,465.95

Total	\$8,307.05
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<div>Comments</div> <div>Wasco County Sourcewell ID# 26214 ReCollect Sourcewell ID# 041521-RCS</div>
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Purchase Terms

Standard Conditions:

- 1. All references to dollars or "\$" above refer to United States dollars
- 2. Based on a 12-month Service Agreement
- 3. Payment terms are Net 30 with annual, quarterly, or monthly invoicing
- 4. Prices valid through expiration date
- 5. Pricing based on user ~15,000 service addresses
- 6. This quote is subject to the Terms and Conditions outlined at <https://recollect.net/help-tou>

Signature

Signature

Date

Printed name

ReCollect General Terms and Conditions

This page tells you the terms and conditions upon which RECOLLECT SYSTEMS INC. (“**ReCollect**”), a British Columbia company, will supply software-as-a-service, development services, hosting services and any other products or services (as applicable, the “**ReCollect Services**”) to Customers. These terms and conditions are applicable to every person, company, partnership, municipality, state, province or other business organization or governmental entity who subscribes for or agrees to purchase any ReCollect Services (“**you**” or “**Customer**”). By ordering any ReCollect Services from ReCollect, you agree to be bound by these terms and conditions as part of the Agreement (as defined below). Except for Section 3 of these terms and conditions, to the extent of any inconsistency, these terms and conditions may be superseded by other terms and conditions contained in ReCollect’s quotation, the Customer’s purchase orders or other documents. Unless otherwise expressly agreed in writing signed by ReCollect, to the extent of any inconsistency, Section 3 of these terms and conditions will supersede any terms and conditions contained in any of Customer’s acknowledgments, invoices, purchase orders or other documents, and Section 3 of these terms and conditions will be incorporated by reference into the Agreement.

1. DEFINITIONS

1. “**Agreement**” means the agreement between ReCollect and Customer under which ReCollect agrees to provide the ReCollect Services to Customer.
2. “**Customer Content**” means
 1. all materials and intellectual property created, acquired, or licensed by Customer and provided to ReCollect (whether or not created, acquired or licensed by Customer independently of, or as part of, the work undertaken pursuant to the Agreement), including all content, information, documentation, data, designs, specifications, and names, trade names, trade-marks, and logos used by Customer; and

2. any modifications, enhancements, adaptations or derivative works of any Customer Content.
3. **"Damages"** means any losses, liabilities, damages or out-of-pocket expenses (including reasonable legal fees and expenses) whether resulting from an action, suit, proceeding, arbitration, claim or demand that is instituted or asserted by a third party, or a cause, matter, thing, act, omission or state of facts not involving a third party.
4. **"Intellectual Property Rights"** includes all patents, inventions, trade-marks, service marks, registered designs, integrated circuit, topographies, including applications for any of the foregoing, as well as copyrights, design rights, know-how, confidential information, trade secrets, and any other similar rights in the United States, Canada and in any other country.
5. **"ReCollect Content"** means any intellectual property including text, graphics, photos, designs, trademarks, or other artwork that ReCollect creates or provides to Customer as part of or in the course of providing the ReCollect Services.
6. **"Term"** means the term of the Agreement.
7. **"User"** means an end user of the ReCollect Services provided under the Agreement.
8. **"User Data"** means any and all data, including personal information, that is collected from any User of the ReCollect Services.

2. FEES AND PAYMENT TERMS

1. **Fees.** The Customer will pay all fees as they become due and payable pursuant to the Agreement (the **"Fees"**). Fees are based on ReCollect Services purchased and not actual usage. Payment obligations are non-cancellable and fees paid are non-refundable. Quantities purchased cannot be decreased during the Term.
2. **Payment terms.** Unless we otherwise agree, Customer will pay the Fees annually in advance within 30 days of the receipt of an invoice from ReCollect. Such payments will be due 30 days following the date of ReCollect's invoice. The Customer is responsible for providing ReCollect with complete and accurate billing and contact information and notifying ReCollect of any changes to such information.

3. **Taxes.** The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchase of the ReCollect Services. If ReCollect has the obligation to pay or collect Taxes for which Customer is responsible, ReCollect will invoice the Customer for the amount of the Taxes and Customer will pay the amount to ReCollect unless it first provides ReCollect with a valid tax exemption certificate authorized by the appropriate taxing authority.
4. **Overdue charges.** ReCollect has the right to apply an overdue fee of 1.5% per month (equivalent to 19.6% per year) to accounts which are not paid by the due date.
5. **Suspension of service.** If any amounts owing by Customer are 30 or more days overdue, ReCollect may, without limiting its other rights and remedies, suspend its provision of ReCollect Services to the Customer until such amounts are paid in full.
6. **Payment Disputes.** ReCollect will not exercise its rights under Sections 2.4 and 2.5 if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

3. INTELLECTUAL PROPERTY RIGHTS

1. All proprietary rights to any software included in the ReCollect Services (excluding any Customer Content included therein) shall at all times remain with ReCollect. Customer acknowledges that the ReCollect Services and ReCollect Content are proprietary to ReCollect and that all rights thereto are owned by ReCollect. Customer further acknowledges that the ReCollect Services and ReCollect Content contain trade secrets of ReCollect and that the ReCollect Services and ReCollect Content are protected by Canadian and international copyright and other intellectual property laws and treaties. Under no circumstances will a copy of any software included in the ReCollect Services be provided to Customer.

2. Customer shall not reverse engineer or directly or indirectly allow or cause a third party to reverse engineer the whole or any part of the ReCollect Services.
3. Customer represents and warrants that it either owns or has permission to use Customer Content, and it hereby grants ReCollect a limited and non-exclusive license to use Customer Content during the Term in connection with the ReCollect Services.
4. ReCollect represents and warrants that it either owns or has permission to use the ReCollect Content, and it hereby grants Customer a limited and non-exclusive license to use the ReCollect Content during the Term in connection with the ReCollect Services.
5. ReCollect further represents and warrants that the provision of the ReCollect Services will not infringe any third party Intellectual Property Rights enforceable in Canada or the United States, provided that if ReCollect believes or it is determined that any part of the software comprising the ReCollect Services has or may have violated a third party's Intellectual Property Rights, ReCollect may choose to either modify the ReCollect Services to be non-infringing (while substantially preserving their utility) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, ReCollect may terminate the Agreement without penalty other than to refund any portion of the Fees attributable to the period following the date of such termination.
6. Customer hereby grants ReCollect a worldwide, perpetual, irrevocable, royalty-free licence to use and incorporate into the ReCollect Services (and services provided to third parties by ReCollect) any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or its representatives relating the ReCollect Services.

4. SECURITY OF USER DATA AND PRIVACY

ReCollect's Obligations.

1. In the course of providing the ReCollect Services, ReCollect may collect, use, store, retain, transfer, disclose and/or dispose of ("**Handle**" or "**Handling**") User Data.

2. ReCollect's Handling of User Data is subject to its "[Terms of Use and Privacy Policy](#)" in effect from time to time, as posted to its website.
3. ReCollect will only Handle User Data to the extent required to provide the ReCollect Services.
4. The ReCollect shall perform its obligations under the Agreement in compliance with all applicable privacy laws.

Customer's Obligations

1. Customer shall not Handle User Data except in compliance with applicable privacy laws. Customer is solely responsible for the use of User Data and the ReCollect Services by its employees, contractors, agents and representatives, and shall ensure that all such persons comply with applicable laws, including applicable privacy laws, regarding the Handling of User Data.
2. Customer shall take all reasonable measures to ensure that the ReCollect Services are protected against use or access by unauthorized persons.
3. Customer shall notify the ReCollect at the first reasonable opportunity if it becomes aware that any User Data accessible through the ReCollect Services is stolen, lost, or accessed by unauthorized persons.
4. Customer will not use the ReCollect Services to store or transmit
 1. infringing, libelous, or otherwise unlawful or tortious material,
 2. material in violation of third-party privacy rights, or
 3. code, files, scripts, agents or programs intended to do harm, including, for example, computer viruses or malware.
5. Customer's access to the ReCollect Services is subject to the ReCollect's reasonable rules and restrictions in effect from time to time. The ReCollect will provide the Customer notice in writing of any such rules and restrictions or changes thereto.

5. CONFIDENTIALITY

1. **Definition of Confidential Information.** "Confidential Information" means all information disclosed by a party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"), whether orally or in writing, that is designated as confidential

or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. The ReCollect's Confidential Information includes the ReCollect Services, and each party's Confidential Information includes the terms and conditions of the Agreement (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs and business processes disclosed by such party. However, Confidential Information does not include any information that

1. is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party;
 2. was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party;
 3. is received from a third party without breach of any obligation owed to the Disclosing Party; or
 4. was independently developed by the Receiving Party.
2. **Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but not less than reasonable care):
1. not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Agreement; and
 2. except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need that access for purposes consistent with the Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of the Agreement to any third party other than its affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its affiliate, legal counsel or accountants will remain responsible for such affiliate's, legal counsel's or accountants' compliance with this Section 8.2.
3. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled

disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

6. REPRESENTATIONS AND WARRANTIES

1. **Representations and Warranties.** ReCollect represents and warrants that it will use commercially reasonable efforts to provide the ReCollect Services under the Agreement. Each party represents and warrants that it has validly entered into the Agreement and has the legal capacity to do so. Each party represents and warrants that it holds all licenses, rights, and authority necessary to enter into and perform its obligations under the Agreement. Except as expressly provided in Section 3 and in this Section 6.1, neither party makes any representation or warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law.
2. **Disclaimer.** The ReCollect Services are provided on an "as-is" and "as available" basis. ReCollect does not warrant that the ReCollect Services will operate error free or without interruption. Without limiting the foregoing, in no event shall ReCollect have any liability to Customer or any third party for personal injury (including death) or property damage arising from failure of the ReCollect Service to deliver an electronic message, however caused and under any theory of liability, even if ReCollect has been advised of the possibility of such damage.

7. LIMITATION OF LIABILITY.

1. Neither party's liability with respect to the Agreement will exceed one million dollars (\$1,000,000). The above limitation applies whether an action is under

contract, tort (including without limitation, negligence and strict liability), or any other legal theory, provided that the above limitation will not apply to limit Customer's obligations regarding the payment of Fees. In no event shall ReCollect be liable to Customer or any third party for lost profits, lost revenues, lost savings, or incidental, consequential, indirect, punitive or special damages howsoever arising, including without limitation arising out of the operation of or inability to operate the ReCollect Services.

8. INDEMNITY

1. **Indemnification by ReCollect.** Subject to Section 7, ReCollect shall, both during and following the Term, indemnify and save harmless Customer and its officers, directors, employees and agents from and against any and all Damages incurred or suffered by any of those indemnified persons where such Damages were caused by:
 1. a breach by ReCollect of its obligations under the Agreement; and/or
 2. any wilful, unlawful or negligent act or omission of ReCollect.
2. **Indemnification by Customer.** Subject to Section 7, Customer shall, both during and following the Term, **indemnify** and save harmless ReCollect and its officers, directors, employees and agents from and against any and all Damages incurred or suffered by any of those indemnified persons where such Damages were caused by:
 1. a breach by Customer of its obligations under the Agreement;
 2. unauthorized use of Customer's identification codes or passwords; and/or
 3. any willful, unlawful or negligent act or omission of Customer.

9. GENERAL

1. **Governing Law.** These terms and conditions are governed by and will be interpreted and construed in accordance with the governing law applicable in the jurisdiction of residence of the Customer.
2. **Assignment.** The Customer may not transfer or assign its rights and obligations under the Agreement without obtaining ReCollect's prior written consent.

3. **Amendments.** The Agreement may not be modified or amended except by written amendment by the parties hereto.
4. **Entire Agreement.** The Agreement together with these terms and conditions constitutes the entire agreement and understanding between the parties with respect to the matters dealt with herein. All previous agreements, understandings, and representations, whether written or oral, between the parties have been superseded by the Agreement. For greater certainty, the Customer warrants that it has not relied on any representation made by ReCollect which has not been stated expressly in the Agreement, or upon any descriptions, illustrations or specifications contained in any document including publicity material produced by ReCollect.
5. **Relationship of the parties.** The parties are independent contractors. The Agreement does not create a partnership, joint venture, agency, fiduciary or employment relationship between the parties.
6. **Severability.** Any provision of these terms and conditions or the Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability and shall be severed from the balance of these terms and conditions or the Agreement as applicable without invalidating or affecting the remaining provisions in that or any other jurisdiction, which remaining provisions shall continue in full force and effect.
7. **Waiver.** No provision of these terms and conditions or the Agreement may be waived except in writing by the party providing the waiver. No failure or delay by either party in exercising any right under these terms and conditions or the Agreement will constitute a waiver of that right.

Privacy Policy

To learn more about how ReCollect protects connected payment accounts, please see our [Payments Privacy Policy](#).

Last Revised: January 27th 2021

Application of this Privacy Policy

When this Privacy Policy mentions "**ReCollect**," "**we**," "**us**," or "**our**," it refers to **ReCollect Systems Inc.**, the entity that acts as the Data Processor of your information. ReCollect provides mobile and web applications on behalf many local governments and commercial organizations (collectively, "**Our Clients**"). This privacy policy applies to each natural person ("**you**" or "**your**") using our web and mobile applications (collectively, the "**Services**"), which may have been branded under the name of one of Our Clients, as well as any interactions you may have directly with ReCollect, be it through reporting a problem or feedback to us or other communication. This policy does not apply to interactions between you and any of Our Clients.

Information We Collect and How We Use It

We collect information to provide, maintain, and improve our Services. There are two categories of information we collect: information you give to us and information we collect automatically when you use our Services. By providing information to us and using our Services, you consent to our processing of your personal information as set forth in this policy. You can withdraw consent at any time by cancelling your use of our Services or by writing to us – see *Accessing, Updating, Deleting or Correcting Your Information* below.

Information You Give to Us

Some of our Services require you to provide information directly to us, such as your street address, postal code, phone number or email address. We always try to collect the minimal amount of information required in order to provide the Services you request. The information we collect depends on which Services you use:

Information Collected by the Schedule Tool: In order to provide you with accurate schedule information for your location, we collect your address, including its street address number, street name, and city.

Information Collected when you sign up for Notifications: When you sign up for event notifications, we collect contact information that is required to send you those notifications. This may include your email address, your phone number and/or your twitter username, depending on the notification method(s) you select.

Information Collected by our Recycling and Waste Disposal Instructions Service: In order to provide you with accurate recycling and disposal instructions for your location, we require that you enter your postal code, and in some locations, we may also require street address number, street name, and city. Your postal code and other address details may also be used to provide estimated driving distances and times to nearby recycling locations.

Information Collected When You Report Problems or Feedback: If you use our Services to report a problem or submit feedback, we may ask for your email address or other information. This information will be used to solve your problem and reply with a solution or a response. We may also provide you with the option of sending your current location or a photo to us which we use to help understand and resolve any problems you may be experiencing with our Services.

Information Collected When You Schedule a Pickup or Dropoff: In certain locations, we provide a service for scheduling or requesting either the collection or dropoff of items such as bulky waste or yard waste. When you schedule these types of requests, we may require personal information, including your name, home address, phone number, email address, account number, and the items you wish to have disposed. The information we collect depends on the specific requirements of the disposal program you are participating in, as determined by Our Clients.

Information Collected when you use ReCollect to pay for a service: In certain locations, we provide the ability to pay for a service, such as the collection of bulky waste. In order to facilitate those types of requests, we may

collect credit card details, a postal code for verification, and an email address for sending a receipt.

Information We Collect Automatically When you Use Our Services

When you use our Services, we automatically collect information, including some personal information, about the Services you use and how you use them.

Usage Information: As with most technology services, ReCollect's servers collect and log information when you use our Services. This includes your IP Address, information about the content you are viewing (e.g. its URL), the time that content is accessed, and the type of browser and device you are using. This information is used in order to monitor the use of our Services and to help ensure the security of our Services, such as by helping to detect and prevent intruders from accessing your personal information. It is also used to report aggregated information about who is using our Services so that we can make improvements to the experience for everyone.

Mobile Device Information: ReCollect collects additional information about your mobile device when you use a mobile application that is powered by ReCollect. This includes the type of device (e.g. whether Mac, PC, iPhone, Samsung Galaxy, iPad, etc.), the operating system (e.g. Windows, iOS, Android) and version, a unique identifier, and crash data when a software defect occurs. This information is used to improve the experience of ReCollect mobile applications, and fix software defects.

Cookies and Similar Technologies: ReCollect uses cookies to help improve your experience when you use our Services. These cookies help your web browser remember any information you have entered, such as your postal code or address, so you do not need to re-enter it every time you use the service. Cookies also allow us to gather information about how many people are using our Services, and how they use them so that we can make improvements to the overall experience. You may disable the use of cookies in your web browser's settings, but this may limit your use of ReCollect's Services.

How We Retain Your Information

ReCollect only keeps personal information for as long as it is needed to provide Services. Information about how you use our Services is recorded in our logs, which are automatically deleted after 30 days. Securely encrypted backups, which are only accessible by a limited number of ReCollect's staff, remain in existence for 30 days. Except where we are required to retain your information for legal reasons, your personal information will be permanently deleted no more than 90 days after:

- a reported problem or feedback issue has been resolved;
- you cancel a notification or other on-going Service for which your personal information was collected; and
- a one-time Service such as a scheduled collection or drop-off of items such as bulky waste or yard waste has been completed.

How We Share and Disclose Your Information

ReCollect engages third party companies as service providers to process your information, such as securely running our Services on a cloud-computing platform. These providers have limited access to your personal data and are contractually obligated to protect and only use your information for the purposes it was disclosed, consistent with this Privacy Policy.

We may also disclose your name, address and other contact information to Our Clients as needed in order for Our Clients to provide a service you have requested such as bulky item pickup.

If you use ReCollect to pay for a service, such as a collection of bulky waste, we will disclose your payment method details with our third-party payment processor in order to facilitate the transaction.

International Data Transfers

ReCollect - a wholly owned subsidiary of Routeware Global - is based in Canada. All personal information is transmitted securely and stored on servers which are located in secure data centres in the United States of

America. Information will be accessed only by ReCollect or by employees or agents of ReCollect, and only for the purposes described in this Privacy Policy.

If you are an individual located in the European Economic Area, please note that ReCollect complies with European Union data protection laws, specifically in regard to International Data Transfers. ReCollect - a wholly owned subsidiary of Routeware Global - is based in Canada, a country deemed to have an adequate level of data protection by the European Commission.

Accessing, Updating, Deleting or Correcting Your Information

You may request to access your information, or update, delete or correct any of your information we hold by contacting support@recollect.net or in writing, using the address in the "Contacting ReCollect" section below. If you are an individual located in the European Economic Area, you have certain additional statutory rights to your personal data, including the 'right to be forgotten', the right to lodge a complaint with a supervisory authority, and the right to data portability under the General Data Protection Regulation.

ReCollect uses services provided by Mapbox ("**Mapbox**"). The Mapbox API may be used to help find addresses, and is used to display maps and calculate directions and distances to certain locations. ReCollect does not transmit contact information to Mapbox (e.g. phone numbers, emails), but addresses entered into ReCollect may be submitted to Mapbox services to perform location queries. Please review [Mapbox's Privacy Policy](#) in order to understand how Mapbox uses the data it collects.

Security

Security is one of the biggest considerations in everything ReCollect does. We conduct annual security audits with a third party security auditor. This auditor is certified by Information Systems Audit and Control Association (ISACA) as a Certified Information Systems Auditor, certified in Risk and Information Systems Controls (CRISC), and Certified in the Governance of Enterprise IT (CGEIT).

Our security team investigates all reported security issues. If you believe you've discovered a bug in ReCollect's security, please get in touch at security@recollect.net (optionally using our [PGP key](#)). We will respond as quickly as possible to your report. We request that you not publicly disclose the issue until it has been addressed by ReCollect.

Language of the privacy policy

This privacy policy was initially created in English. Translations are provided for your convenience, but if there are any discrepancies between the English language version and a translated version, the English version shall take precedence.

Contacting ReCollect

For any questions about this Privacy Policy or our privacy practices, please email privacy@recollect.net, call +1 (360) 219-9803, or write to the following address:

ReCollect Systems Inc.
3381 Cambie Street, Suite 528
Vancouver, BC V5Z 4R3
Canada

Privacy Policy

This Privacy Policy applies to information that Mapbox, Inc. and/or its affiliates ("**Mapbox**," "**we**," "**us**," and "**our**") collect (A) when you use any of our websites, APIs or other online services (collectively, our "**Services**"), including third-party products and services that integrate with our Services, and (B) when you use third-party websites and applications that cite this Privacy Policy to provide us with feedback, event or shipping-related information (collectively, our "**Vendors**").

This Privacy Policy is intended to help you understand what data we collect, why we collect it, what we do with it, and your options regarding our collection and use of that data.

Corporate Accounts: If your account with us lists a corporate email address (a "**Corporate Email**"), then all references to "you" in this Privacy Policy shall also include the person or legal entity that controls the Corporate Email (for example, a person whose email is name@mapbox.com would be considered a Corporate Account of Mapbox). If you don't want your account to be a Corporate Account, you should use a personal non-corporate email address. For clarification, commonly known personal email account services (e.g., Gmail, Yahoo, Outlook) are not Corporate Email.

Information We Collect

1. **Account Information:** If you sign up for or an account or join an existing corporate account, we may collect information that you provide to us in connection with setting up the account, such as your username, name, email address and, for corporate accounts, your role. Further, in the course of using your account, you may provide us with additional information through your communications with us.

2. **Payment Information:** Payment is required for some of our Services, and we may ask you to provide certain information, including your name, address, email, and credit card information (collectively, “**Payment Information**”), in connection with processing your transactions. You may update your Payment Information through your account. All credit card processing for our Services is handled directly by our third-party PCI-certified payment provider, Stripe (and any information you provide to Stripe is governed by its [privacy policy](#)). Your Payment Information is encrypted and transmitted directly and securely to Stripe via HTTPS, and is not stored on our systems.
3. **Information from Third Parties:** We may receive information related to your use of our Vendor websites and services, including your username, name, email address, shipping address and your interaction with our Vendor. Common examples include signing up for an event or requesting shipment of a product from us. From time to time, we may also receive contact enrichment information from third parties.
4. **Website Logs and Cookies:** Whenever you visit or interact with our website, we automatically collect certain information about your browser and your interaction with our website, including (a) IP address, (b) browser and device type, (c) operating system, (d) referring web page, (e) the date and time of page visits, and (f) the pages accessed on our websites. We also use cookies and similar technologies to recognize and improve your use of our websites and, for accounts a user authenticated into, to retain records associated with each user, and you will not be able to access certain parts of our websites, including those that require a login, unless your device accepts cookies from us. You can find out more information about the cookies on our website and managing your browser’s cookie preferences for our website [here](#).

5. **APIs and SDKs:** We automatically collect certain technical information through our APIs and SDKs, including (a) IP address, (b) device and browser information, (c) operating system, (d) the content of the request, (e) the date and time of the request, (f) limited usage data, and (g) for our mobile SDKs, limited location data. We delete IP addresses after 30 days. In addition, when a mobile application uses our SDKs, it may send us certain limited location and usage data along with an ephemeral ID. This ephemeral ID changes hourly and we do not associate it or the unprocessed mobile location data with any personally identifying information, including names, permanent IDs, email addresses, IP addresses, or phone numbers. We also collect randomly-generated IDs for the limited purpose of analyzing the use of our APIs and SDKs, including the number of active users. We will delete the randomly generated IDs and the content of requests made to our APIs after 5 years.
6. **Vision SDK:** We automatically collect certain information whenever the Vision SDK is in use, including (a) IP address, (b) device and browser information, (c) operating system, (d) the content of the API requests, (e) the date and time of the request, (f) limited location and usage data, (g) limited front-facing camera imagery and video, (h) a randomly generated ID, (i) accelerometer data and (j) detected road feature data.
7. **Hosted Data:** In using your account, you may upload data to us via Mapbox Studio, Mapbox Studio Classic, our Dataset API or our Upload API ("**Hosted Data**") so that Mapbox can host it for you as part of providing our Services. We delete Hosted Data upon your request, however, due to our highly available, distributed implementation of our hosting solution, artifacts of Hosted Data may remain on Mapbox systems after you delete the file in your account. We will delete those artifacts in accordance with our standard platform maintenance practices after we either receive a specific request from you to delete the Hosted Data artifacts (along with sufficient information

to identify which data you want to ensure are deleted) or we receive a request from you to delete your account.

8. **Feedback:** You and/or your end users may provide us with feedback regarding our Services (e.g., in the form of email, suggestions for how to improve our maps, etc).

How We Use the Information We Collect

1. **Account Information:** We use the account information we collect to provide our Services to you, to maintain your accounts, and to process your transactions. This information is necessary for us to provide the Services to you. We may combine account information with data we receive from other sources. We also may use certain information, such as your email address, to help you by telling you about new Mapbox products or features that may be of interest to you and by providing you with examples of how Mapbox products and services can be used. We have a legitimate interest in improving and marketing our Services. If you receive promotional emails from Mapbox, you can opt out by following the instructions in those emails.
2. **Payment Information:** We use payment information solely for billing purposes, which is necessary to provide the Services.
3. **Information from Third Parties:** We may use the information you provide to our Vendors in connection with the event or transaction (including shipments and deliveries), to improve our Services, and to provide you with information about our Services and/or the event or transaction. In addition, from time to time we obtain data from contact enrichment providers for sales and marketing purposes. We have a legitimate interest in improving and marketing our Services and certain data collection is necessary in order to provide the Services. You may opt out of receiving promotional communications from us at any time.

4. **Website Logs and Cookies:** We use cookies, website logs and other similar data and technologies (i) to preserve information so you will not have to re-enter it during your visit or on subsequent visits to our site; (ii) to maintain sessions for authenticated users; (iii) to monitor metrics about our site such as the number of visitors and pages viewed; (iv) for internal diagnostic and analytic purposes (v) to improve our website and the services we provide, and (vi) to market our Services to you. We may combine this data with information we receive from other sources. We have a legitimate interest in improving and marketing our Services and certain data collection is necessary in order to provide the Services.
5. **APIs and SDKs:** We use the data collected through our APIs and SDKs (1) for internal diagnostic and analytic purposes (2) to improve our mapping products and services (3) to provide our Services to end users of our customers and (4) to generate aggregated and anonymized usage statistics. We have a legitimate interest in improving our Services and certain data collection is necessary in order to provide the Services. You can find more information specifically about how we secure and use location data on our [telemetry page](#).
6. **Vision SDK:** We use the data collected from Vision SDK (a) for internal diagnostic and analytic purposes, (b) to improve our mapping products and services, (c) to provide our Services to end users of our customers and (d) to generate aggregated and anonymized usage statistics. We have a legitimate interest in improving our Services and certain data collection is necessary in order to provide the Services.
7. **Hosted Data:** We use Hosted Data to provide our Services to you.
8. **Feedback:** We may use the feedback that you provide for any purpose, including improving our Services. We have a legitimate interest in improving our Services for the benefit of all of our users.

When We Share the Information We Collect With Third Parties

1. **In General:** We are a global company and may transfer your information outside of the country where you live. However, we will not transfer personal information outside of the European Union unless the recipient is subject to suitable contractual safeguards to ensure that the personal information is processed in accordance with EU law. For more information, please email us at privacy@mapbox.com.
2. **Account Information and Information from Third Parties:** We may share your account information and information we receive from third parties with our service providers (e.g., hosted infrastructure providers) who need access to such information to carry out work on our behalf.
3. **Payment Information:** We may disclose Payment Information to (a) our payment provider, Stripe, as described above in the “Information We Collect” section, (b) billing and accounting service providers acting on our behalf and (c) in connection with “Rare and Limited Disclosures” described below.
4. **Website Logs and Cookies:** We share information about your device and interaction with our website with our service providers that host our website and provide marketing and analytics services to us. Certain marketing and analytics services that integrate directly into our website may collect information about your device, browser, and interaction with our websites (including by placing third-party cookies on your browser or other similar technologies). We do not control how these third parties use or share this information, which is subject to their privacy policies. You can find out more information about the cookies on our website and managing your browser’s cookie preferences for our website [here](#).

5. **APIs and SDKs:** If provided, we only share raw location data with our hosted infrastructure service providers. We share other data collected through your use of our APIs and SDKs with our hosted infrastructure and internal analytics service providers. In limited situations, we may also share API log data associated with a specific customer's account with that customer for the purpose of resolving billing questions. We also may share aggregated and anonymized usage statistics with other third parties.
6. **Vision SDK:** We share data collected through your use of Vision SDK with our hosted infrastructure and internal analytics service providers. In addition, we may share Vision SDK data with the person or entity that controls the account associated with the data. We also may share aggregated and anonymized usage statistics with other third parties.
7. **Hosted Data:** We use third parties to store, process and deliver the Hosted Data as directed by you (e.g., AWS and Cloudfront). We may share the Hosted Data with such service providers subject to obligations consistent with this Privacy Policy and any other appropriate confidentiality and security measures. We do not otherwise disclose Hosted Data except as directed by you or as described below in "Rare and Limited Disclosure".
8. **Feedback:** We may share your feedback with third parties, including our third-party suppliers and partners who help us provide the Services.
9. **Rare and Limited Disclosures:** We may share information in our possession in response to a request if we believe disclosure is in accordance with, or required by, any applicable law, regulation or legal process. For more information, see "Law Enforcement and Transparency," below.

Furthermore, we may share information in our possession if we have a good-faith belief that access, use, preservation, or disclosure of the information is reasonably

necessary to enforce our terms of service, detect, prevent, or otherwise address threats to our platform, or protect against harm to the rights, property or safety of Mapbox, our users, or the public as required or permitted by law.

Finally, we may also share the information we collect in connection with, or during negotiations of, any merger, sale of company assets, financing or acquisition of all or a portion of our business by another company. We may also share information among our current and future parents, affiliates, subsidiaries and other companies under common control and ownership.

Your Choices About What We Do with the Information We Collect

1. **Account and Payment Information:** Certain account information is optional, and you may choose not to provide it to Mapbox. Note that some of this account and payment information is necessary for related Services to function properly – for example, if you do not provide payment information, you cannot take advantage of features that require payment.
2. **Website Logs and Cookies:** You may delete cookies from your computer, and most browsers provide the option to block cookies. Note that if you block cookies placed by us (first party cookies), portions of our Services, including our website, may not work as intended. However, your access to our websites should not be affected if you disable third-party cookies placed by third parties that manage marketing and analytics aspects of our website. You can find out more information about the cookies on our website and managing your browser's cookie preferences for our website [here](#).
3. **APIs and SDKs:** If you are an end user of a product or service that integrates our Services, your privacy options will be largely determined by the developer of the product or service. In addition to any privacy options that the developer may have

provided you with, you may also be able to control the applications that can collect information about your precise location by using the settings available on your device, including [opting out of collection of telemetry data](#).

4. **Questions.** If you have any questions about how to limit the disclosure and/or use of your personal information to us, please email us at privacy@mapbox.com.

Your Access to and Control of the Information We Collect

1. **In General:** If you believe that information about you has been processed in violation of this Privacy Policy, applicable law, or, for transfers before July 16, 2020, the Privacy Shield Principles (see “U.S.-EU Privacy Shield and Swiss-U.S. Privacy Shield” below), please email us at privacy@mapbox.com. In accordance with applicable law, your privacy rights may include the following: (i) access personal information about you including: (a) confirming whether we are processing your personal information; (b) obtaining access to or a copy of your personal information; and (c) receiving an electronic copy of personal information that you have provided to us, or asking us to send that information to another company (the “right of data portability”), (ii) request correction of your personal information where it is incomplete or inaccurate, (iii) request deletion of your personal information, (iv) request restriction or object to the processing of your personal information, and (v) withdraw your consent to our processing of your personal information.
2. **Account Information, Hosted Data, and Payment Information:** You may exercise your privacy rights with respect to certain account information in the account pages we’ve made available to you, and you may exercise your privacy rights over other Account Information, Hosted Data or Payment Information that you have provided to us at any time by emailing us at privacy@mapbox.com. If you wish to delete or deactivate your account, please email us at privacy@mapbox.com, but note that we

may retain certain information as required by law or to protect our rights and property.

3. **Non-account Information:** If we have non-account information about you, such as your email address on our newsletter list, you may exercise your privacy rights with respect to this information. However, we may not be able to verify your identity for purposes of processing your request, as we do not have sufficient information to adequately verify your request if you do not have an account. To unsubscribe from our newsletter, please follow the instructions in the emails that you receive from us.
4. **Website Logs, Cookies, APIs and SDKs:** We temporarily retain IP addresses for security and accounting purposes. Given the temporary nature of this storage, it is generally not feasible for us to provide access to IP addresses or the logs associated with them.
5. **Feedback:** You may request that we update, correct or delete any feedback that you have provided to us by emailing us at privacy@mapbox.com, however we may have deleted or anonymized the feedback you had previously provided to us in a way that makes it infeasible for us to associate a particular piece of feedback with a particular user.

Your privacy rights under the California Consumer Protection Act (CCPA)

California consumers have the following privacy rights:

- to not receive discriminatory treatment by Mapbox for the exercise of privacy rights conferred by the CCPA;
- to request to know the personal information Mapbox has about you. You may access personal information associated with your Mapbox account, such as username,

email address, and associated account activity by logging into your Mapbox account;
and

- to request deletion of your personal information collected or maintained by Mapbox;
and
- to designate an authorized agent to make a verifiable consumer request related to your personal information on your behalf.

In order to submit a request to exercise your privacy rights, you may do one or more of the following:

- If you have a Mapbox account, login to your Mapbox account, go to Settings, and click “Delete account” and follow the instructions. By logging into your account, Mapbox can verify that you are the account holder. If you do not login to your Mapbox account to make this request, information associated with your Mapbox account will not be deleted, as we are not able to sufficiently verify your identity.
- You may, without logging into your Mapbox account, request deletion of your email address and associated personal information (if any) through this [form](#). Mapbox will email you a confirmation link at the email you provide in order to verify the request. You must click on the confirmation link in the verification email Mapbox sends you to verify the email belongs to you before Mapbox can process your request. A request through this form will only request to delete personal information from non-account-related sources (such as our newsletter email list). To delete account-related information, you must login to your Mapbox account to verify your identity.
- If you believe Mapbox has any personal information about you that is not account-related and not an email address and associated information, please email Mapbox at privacy@mapbox.com describing in detail the information you believe Mapbox has and how you believe Mapbox obtained it. Please note that without an email address,

it may not be possible for Mapbox to verify your identity to a reasonable degree of certainty to locate or delete any information.

- Alternatively, you may call 1 (833) 732-4082 and leave a voicemail requesting deletion of personal information. In your voicemail, leave your email address, if you have one. You must still complete the verification steps described above in order for Mapbox to verify your identity.

The CCPA provides California residents with the right to know what categories of personal information Mapbox has collected about them and whether Mapbox disclosed that personal information for a business purpose (e.g., to a service provider) in the preceding 12 months.

The categories of sources from which we collect personal information and our business and commercial purposes for using personal information are set forth above in the sections **Information We Collect**, **How We Use the Information We Collect**, and **When We Share the Information We Collect With Third Parties**.

For purposes of the CCPA, Mapbox does not "sell" personal information, nor do we have actual knowledge of any "sale" of personal information of minors under 16 years of age. You may complete this [form](#) to opt out of the disclosure of your personal information to third parties that are not our service providers. (If you also want to opt out of third-party cookies on our website, you can do so using your browser's cookie preferences. More information is available [here](#).)

If you wish to print this policy, please do so from your web browser or by saving the page as a PDF.

Law Enforcement and Transparency

1. **In General:** Although we acknowledge that government sometimes must act to protect citizens' safety and security, we strongly believe that current laws regulating

surveillance of individuals and access to user information need to be reformed. We have signed the Stop Watching Us petition and support the principles of the Reform Government Surveillance open letter to Congress.

We post anonymized information about all law enforcement requests in [our transparency report](#). Mapbox has never received a national security letter, FISA court order, or any other classified request for user information. If we ever receive such a request, we will review it carefully and make sure it follows the law (including the Fourth Amendment). If we believe a request is overly broad, we will seek to narrow it.

If we have a good faith belief that there is an emergency involving the danger of death or severe physical injury, we may disclose limited information necessary to prevent that harm.

2. **Account Information, Hosted Data, Store Data and Payment Information:** We require a subpoena or court order to provide information about your account, such as the name associated with the account, means of payment, and length of service. If we are ever forced to share identifiable information about you, we'll notify you with the full details of the request before we disclose it unless we are legally prohibited from doing so by law or court order.
3. **Website Logs, Cookies, APIs and Mobile SDKs:** We will only disclose information collected through our Services, including maps and associated data and location information, in response to a subpoena or court order.

International Data Transfers

1. We (Mapbox, Inc. and Mapbox International, Inc.) have withdrawn from the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks; however, we continue to comply with ongoing Privacy Shield obligations with respect to personal information transferred to us from the European Economic Area prior to July 16, 2020. To learn more about the Privacy Shield program, please visit <https://www.privacyshield.gov/welcome>.

After July 16, 2020, all transfers of personal information to us from the European Economic Area are undertaken pursuant to the Standard Contractual Clauses. If you wish to transfer data to us under the Standard Contractual Clauses, please see our [DPA](#).

Security

We take steps to ensure that your information is treated securely and in accordance with this Privacy Policy, as described on our Security page. Unfortunately, no system is 100% secure, and we cannot ensure or warrant the security of any information you provide to us. We have taken appropriate safeguards to require that your personal information will remain protected and require our third-party service providers and partners to have appropriate safeguards as well. To the fullest extent permitted by applicable law, we do not accept liability for unauthorized disclosure.

By using our Services or providing personal information to us, you agree that we may communicate with you electronically regarding security, privacy, and administrative issues relating to your use of our Services. If we learn of a security system's breach, we may attempt to notify you electronically by posting a notice on our Services, by mail or by sending an email to you.

Children's Information

The Services are not directed to children under 13 (or other age as required by local law), and we do not knowingly collect personal information from children.

If you are a parent or guardian and wish to review information collected from your child, or have that information modified or deleted, you may contact us as described below. If we become aware that a child has provided us with personal information in violation of applicable law, we will delete any personal information we have collected, unless we have a legal obligation to keep it, and terminate the child's account.

Other Websites

This privacy policy does not cover APIs and other services available on domains other than Mapbox.com, including without limitation Mapbox.cn and Mapbox.jp, which are instead governed by their respective privacy policies, if any, available therein.

Contact Us

We'd love to hear any questions, concerns or feedback you might have about this privacy policy. If you have suggestions for us, let us know at privacy@mapbox.com.

Changelog

- June 10, 2021: Update to reflect withdrawal from Privacy Shield, add Security and Children's Information section, stylistic clarifications throughout.
- December 15, 2020: Added clarifications re data collection and usage for mobile vs web SDKs.
- September 29, 2020: Clarified that Mapbox's Privacy Shield commitments remain in effect for historic transfers.

- August 3, 2020: Updated information that we collect to cover use of our SDKs without our APIs.
- July 27, 2020: Removed a reference to Privacy Shield.
- June 29, 2020: Added clarifications regarding "Your Choices About What We Do with the Information We Collect", including how to opt out of telemetry collection and where to email with questions.
- December 31, 2019: Added California Consumer Protection Act (CCPA)-specific disclosures; updated cookie disclosure and information on other domains.
- October 21, 2019: Updated list of marketing and analytics services.
- September 12, 2019: Added single sign-on terms.
- June 19, 2019: Minor changes to the privacy shield section.
- March 4, 2019: Updates to SDK collection provisions.
- February 21, 2019: Added language providing more clarity on our right to use information in the event of a dispute under the "Rare and Limited Disclosure" section.
- November 16, 2018: Added language describing information practices specific to Vision SDK.
- October 30, 2018: Added language clarifying limited use of randomly-generated IDs and sharing API logs for the purpose of resolving billing questions.
- August 13, 2018: Added language clarifying when this privacy policy applies to information received from Vendors.

- June 22, 2018: Added additional marketing and analytics services that integrate directly into our website.
- May 17, 2018: Added additional clarification as to how deletion of Hosted Data works.
- May 14, 2018: Added language to distinguish between website logs and API logs; added more information about cookies and similar technologies; updates to comply with GDPR disclosure requirements.
- November 16, 2017: Added clarifying language regarding corporate emails, removed online merchandise store, and updated policy to cover information submitted to Our Vendors.
- May 12, 2017: Added language regarding data collected through our soon to be launched online merchandise store.
- May 2, 2017: Updated the Privacy Shield certification language.
- April 14, 2017: Re-wrote the policy for the purposes of Privacy Shield certification.
- January 20, 2016: Updated to reflect EU Safe Harbor invalidation.
- July 24, 2015: We now participate in the EU Safe Harbor program.
- July 6, 2015: Added clarification regarding third party services, mobile data collection and user age requirements.
- March 27, 2015: Added guarantee that we will require a warrant for access to location information. Added exception to legal process requirements for life-threatening or similarly dire emergencies.



MOTION

SUBJECT: Hazardous Waste and Recycling Search App Quote/Purchase Agreement

I move to approve the ReCollect HHW & Recycling Search App Quote and Purchase Agreement.



AGENDA ITEM

Youth Think Update

[NO DOCUMENTS HAVE BEEN SUBMITTED FOR THIS ITEM – RETURN TO AGENDA](#)



AGENDA ITEM

SIP Community Service Fee

[STAFF MEMO](#)



MEMORANDUM

SUBJECT: Strategic Investment Program Community Service Fee Distribution

TO: BOARD OF WASCO COUNTY COMMISSIONERS AND CITY OF THE DALLES CITY COUNCIL

FROM: MATTHEW KLEBES, ADMINISTRATIVE SERVICES DIRECTOR

DATE: 12/29/21

BACKGROUND INFORMATION:

The Strategic Investment Program developed by the State of Oregon has a component that requires an applicant to pay a Community Service Fee each year of an abatement. This fee equals 25% of each year's tax savings, capped at \$2.5 million outside of a Strategic Investment Zone.

The distribution of the Community Service Fee can be set by formal agreement between the County, City where the development is located, AND tax districts listed in ORS 198.010 or ORS 198, which have a sum of property tax authority that equals or exceeds 75% of the total for all such districts. Property tax authority consists of the sum of a district's permanent and local option rate authority, whether used and unused but it excludes the levy/tax rates for bonded indebtedness.

If a distribution agreement is not reached within the 3 month period following Business Oregon's determination on the proposed project(s), Business Oregon may decide the distribution formula for our community. This 3 month period can be extended if a sufficient set of parties are having productive negotiations and require additional time to reach agreement. Business Oregon made a positive determination on the SIP agreement on December 17, 2021.

Per ORS the County shall see to the entire annual distribution of funds comprising the community service fee which can include but are not limited to some or all of the following:

- County
- City government where approved project is located
- Any other local taxing district that levies taxes on the property where the approved project is developed
- Local organizations or programs that provide relevant and significant community service

A distribution formula shall determine the exact percentage of the CSF received or retained and this schedule of distribution formula may vary from year to year. This distribution may also be mutually amended or revised at a later time. The County shall formally report the annual distribution formula to the State and confirm that the State need not establish such formula.

It is important to note some rationale as to why school districts are not included as part of the 75% of property tax authority in determining the distribution of the CSF. Oregon school districts are funded via a

State-wide funding formula. As such, unlike other taxing districts where local tax dollars go directly to the district, taxes generated by a school district go to the State-wide funding formula:

“Oregon uses a formula to provide financial equity among school districts. Each school district receives (in combined state and local funds) an allocation per student, plus an additional amount for each student enrolled in more costly programs such as Special Education or English Language Learners” (Secretary of State, Public Education webpage)

For reference, local distribution of the Community Service Fee generated by SIP agreements is primarily guided by OAR 123-623-1950

PROCESS FOR DETERMINING THE COMMUNITY SERVICE FEE

It is the Negotiating Team’s recommendation, even though not all taxing districts are part of the decision making process detailed by State OAR, that input be solicited from all taxing districts in the Tax Code Area of the development site (which includes the D21 School District and Columbia Gorge Community College), as to how they would like to see the CSF distributed.

Following this, a meeting will be called with two (2) representatives each from the City of The Dalles, Wasco County, and each of the relevant taxing districts listed in the ORS, to consider input, discuss, and arrive at an agreement for the distribution formula of Project 1’s CSF. A Memorandum of Understanding (MOU) may be used to finalize this agreement.

A decision related to Project 2’s CSF distribution will be made if/when Google decides and commences construction of a second datacenter.

NEGOTIATION TEAM RECOMMENDATION FOR THE CITY OF THE DALLES AND WASCO COUNTY

Reflecting the various needs throughout our community and the impacts of the development that generates the Community Service Fee, it is the Negotiating Team’s recommendation that the Community Service Fee from the first datacenter built under this project be distributed to all taxing districts in the Tax Code Area (TCA), consistent with the sum of each district’s permanent and local option rate authority, whether use or unused but excluding the levy/tax rates for bonded indebtedness.

Furthermore, as you know, the Strategic Investment Program recently approved by the City and County contemplates the construction and operation of up to two large data center projects within the County that will support the Company’s internet business. As a condition precedent to construction of the Project, Chapter 10.3.030.020(K) of the City of the Dalles Land Use Development Ordinance’s (“LUDO”) requires Mid-Columbia Fire and Rescue (MCFR) to evaluate the emergency response plan of the development and to determine fire protection and response needs associated with the Project.

Based on its review of Google’s emergency response plan, MCFR has determined that it is in need of increased staffing to support their emergency response to the Project and community, *particularly during the construction phase* of the project. During this construction period, MCFR will have demands placed on their services but will not have additional resources to provide said services.

If an agreement is reached to distribute the 1st CSF to all taxing districts in the TCA, it is also the Negotiating team’s recommendation that the City and County make a loan to MCFR in the sum of Seven-Hundred and Fifty Thousand Dollars (\$750,000.00) to be used for increased costs associated with the development’s Emergency Response Plan. These funds would be distributed to MCFR within thirty (30)

days of receipt of the Initial Payment as described in the SIP Agreement. As a condition to disbursing the loan amount to MCFR, a Promissory Note and related Staffing Aid Agreement will be finalized detailing that these funds shall be used in connection with the requirements of the approved Emergency Response Plan. This loan would be paid by MCFR over the course of the first project's 15 years of abatement either as a reduction any MCFR's CSF allocation or, if insufficient, any other legal means.

In summary, staff is looking for consensus on the proposed process for soliciting community input, and affirmation that the Negotiating Team's recommendation to distribute the first CSF to all taxing districts in the TCA as described above and subsequent loan agreement with MCFR, is supported by both City Council and the Wasco County Commission.

If City Council and/or County Commission are in agreement with the negotiation team's recommendation the two below motion language could be used:

MOTION LANGUAGE: *move to recommend distribution of Project 1's Community Service Fee to all taxing districts in the Tax Code Area consistent with the sum of each district's permanent and local option rate authority, whether use or unused but excluding the levy/tax rates for bonded indebtedness. Furthermore, I recommend that the distribution methodology for Project 2's CSF be determined when Project 2 commences construction.*

MOTION LANGUGAGE: Contingent upon approval of the recommended distribution method of the Project 1 Community Service Fee by taxing districts, I move to approve a loan to MCFR in the amount of \$750,000 from Project 1's Initial Payment to be paid back by MCFR over 15 years and direct staff to finalize an agreement and promissory note for signature by the City Manager and County Administrator.

Alternatively, the Council and/or Commission may modify or provide alternative direction for staff on the process and recommended methodology of distributing the Community Service Fees.



AGENDA ITEM

Transit Development Plan

[PRESENTATION](#)

Wasco County Transit Development Plan

County Commission

Agenda

- Project and Schedule Overview
- Future Service Opportunities
- Next Steps

Project and Schedule Overview



2021

2022

Future Service Opportunities Memo

- Introduction
- Needs Summary
- Assumptions for Future Service Opportunities
- Future Service Opportunities Evaluation
- Funding Scenarios
- Fiscally Constrained and Unconstrained Recommendations
- Next Steps

Routing Opportunities

Updates to Existing Routes

1. Add stops to the Blue Line
2. Add a clockwise version of the Blue Line
3. Convert the Blue Line from a counterclockwise loop to a figure-8 loop
4. Revise Blue Line for future transitional housing
5. Convert the Blue Line to an out-and-back line and add stops
6. Convert the Red Line from a loop to an out-and-back line and add stops – Option A
7. Convert the Red Line from a loop to an out-and-back line and add stops – Option B

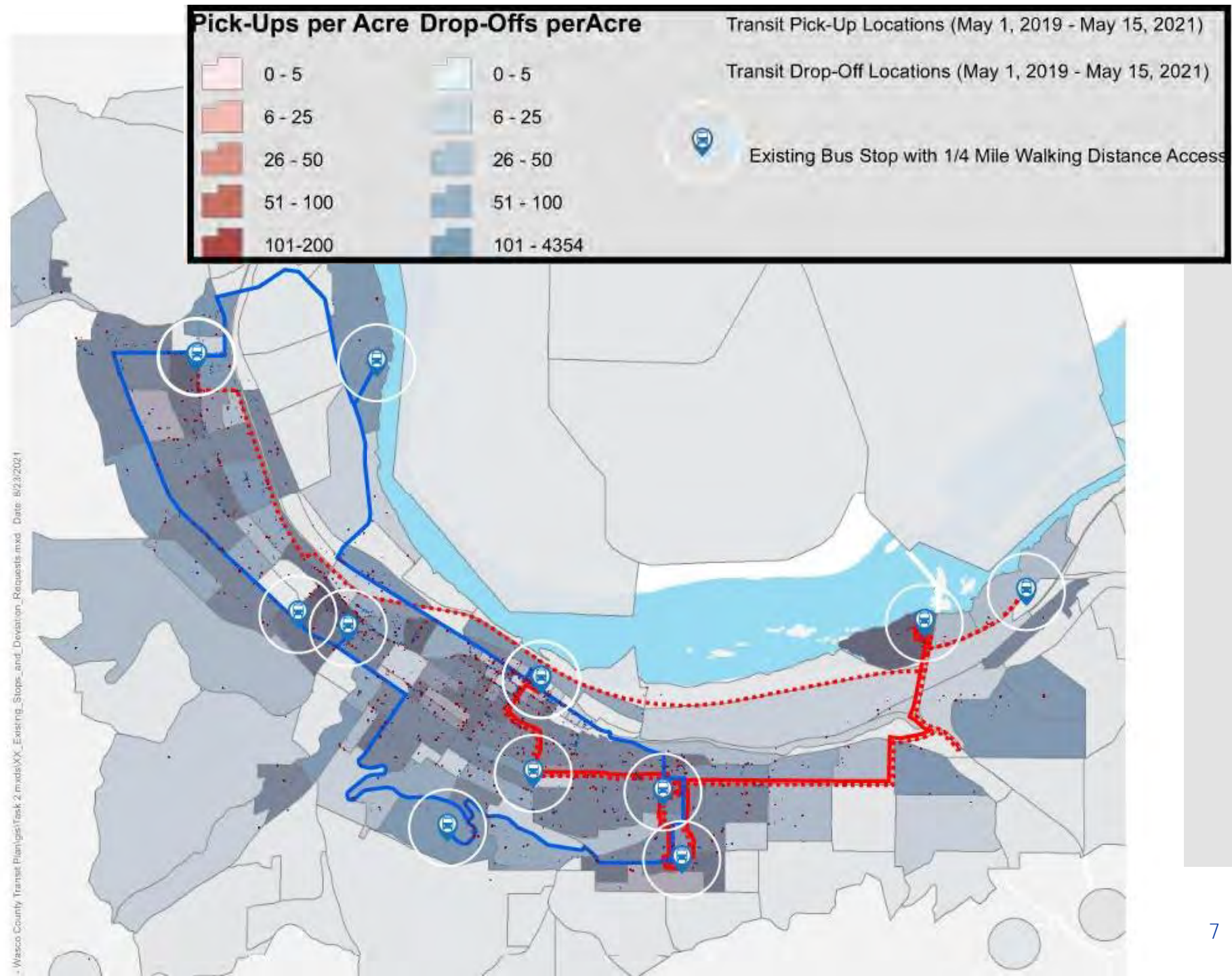
Creation of New Routes

1. New out-and-back route in The Dalles (via 10th Street)
2. New out-and-back route in The Dalles (via 6th Street)
3. New out-and-back route to Madras
4. New out-and-back route to Maupin

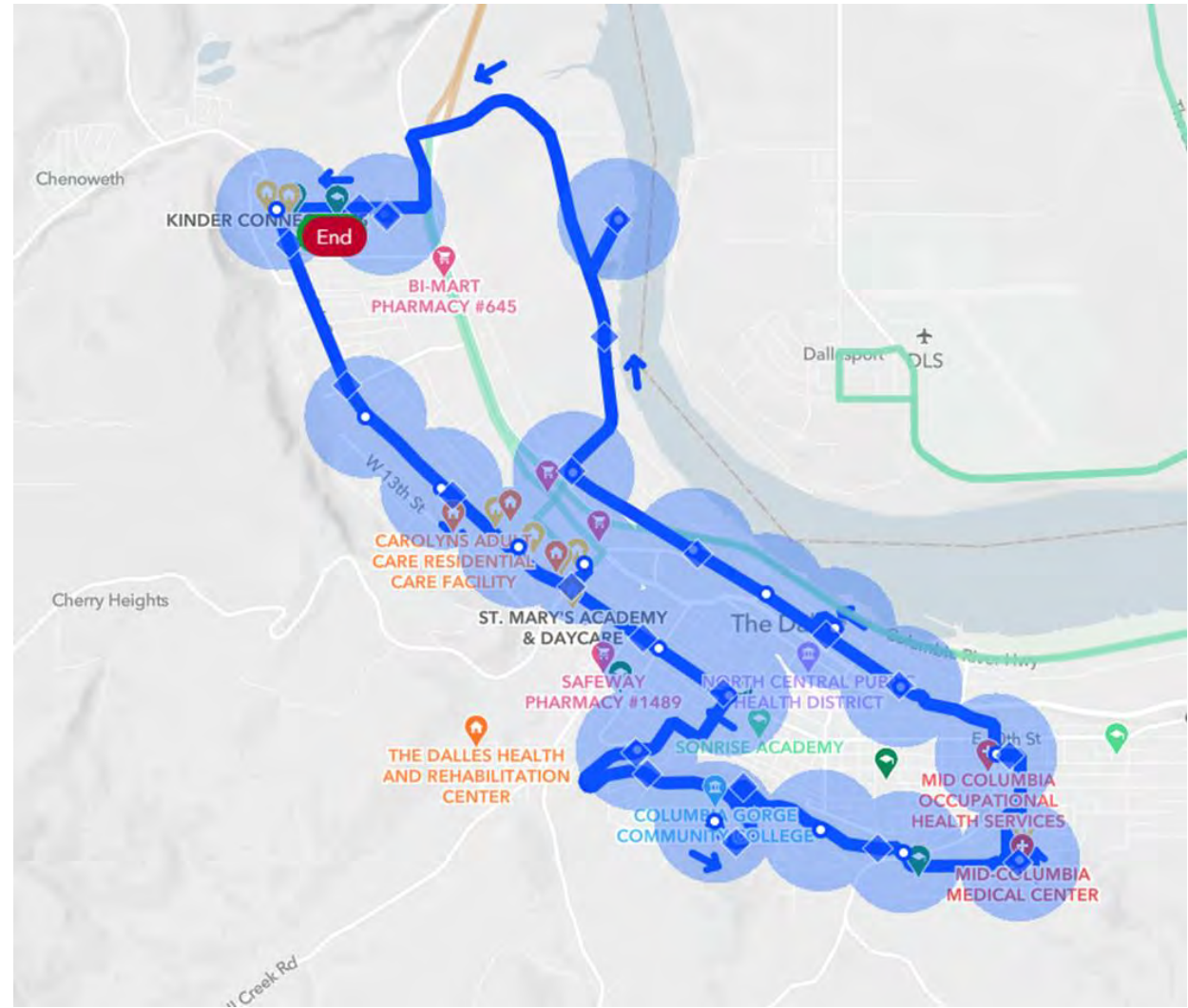
For all alternatives – need to support routes with stop amenities, walking, and biking facilities



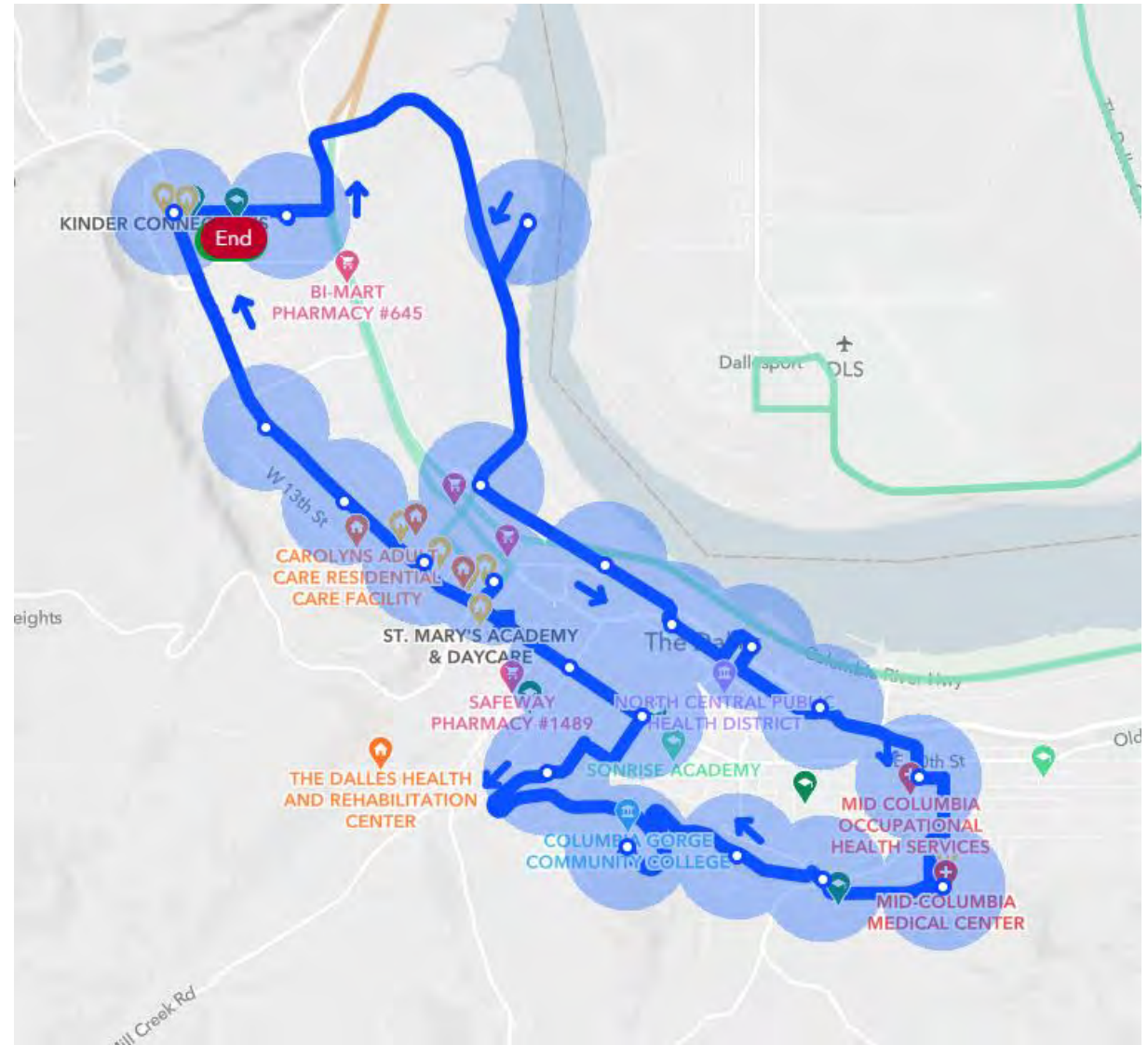
Existing Access to Transit Stops



Add Stops to Blue Line



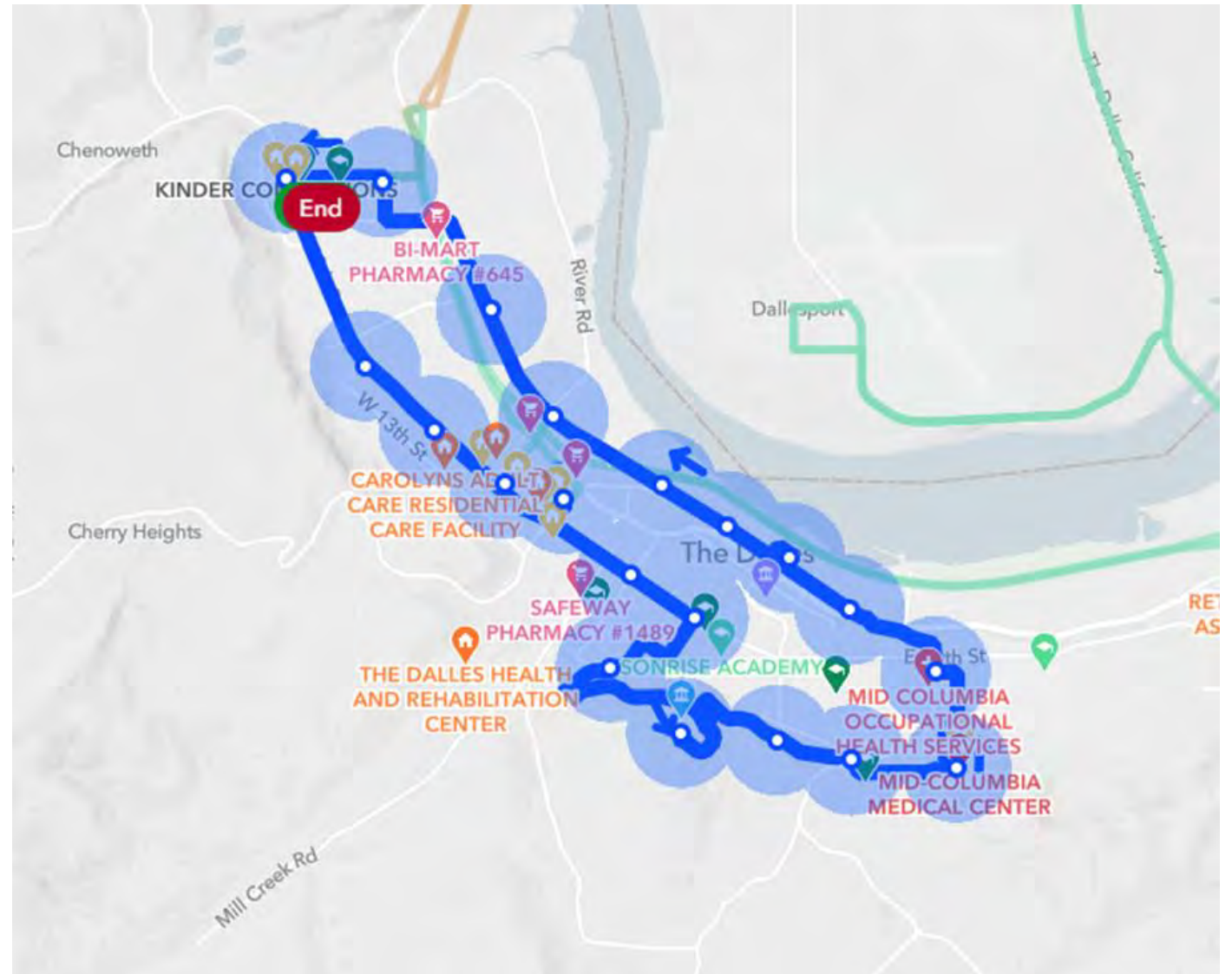
Add Clockwise Version of the Blue Line



Convert the Blue Line from a Counterclockwise Loop to a Figure-8 Loop



Revise Blue Line for Future Transitional Housing



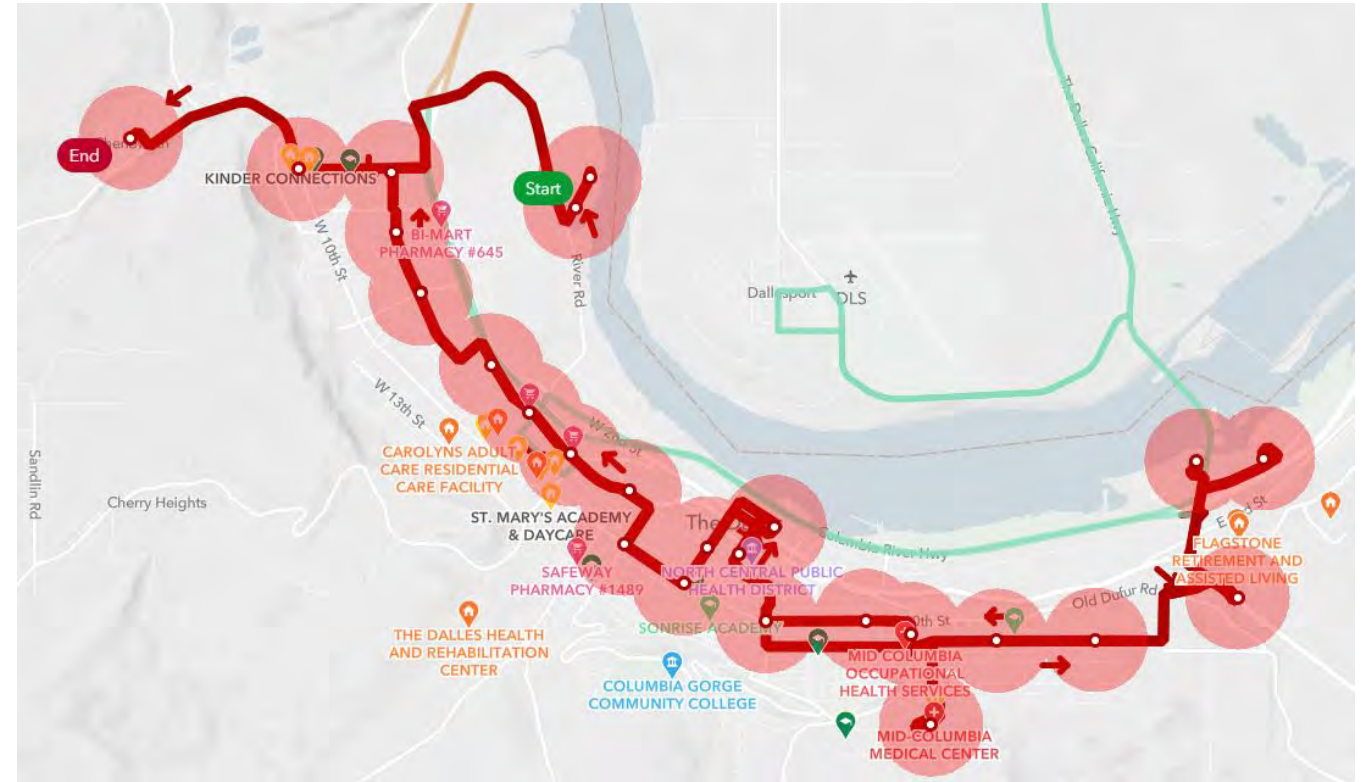
Convert the
Blue Line to
an Out-and-
Back Line and
Add Stops



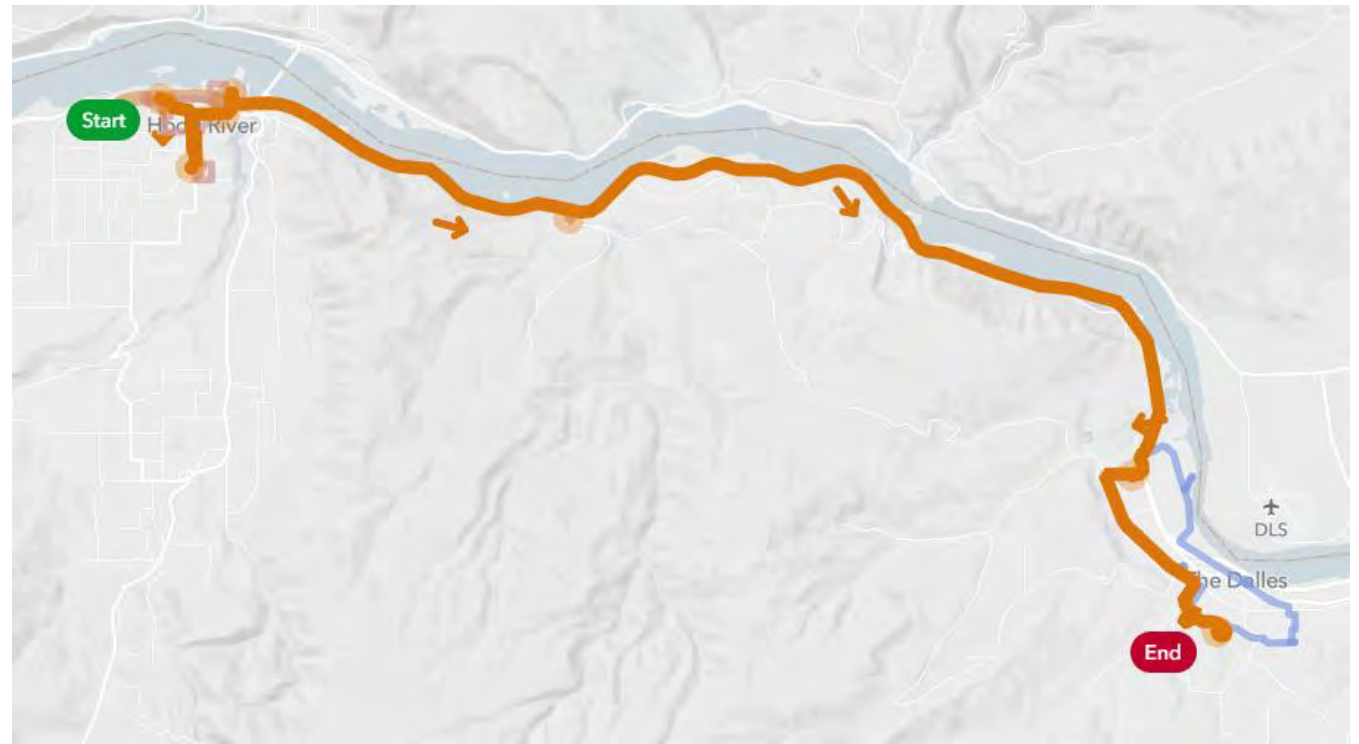
Convert the Red Line from a Loop to an Out-and-Back Line and Add Stops – Option A



Convert the Red Line from a Loop to an Out-and-Back Line and Add Stops – Option B



Extending The Dalles – Hood River Service to connect to CGCC



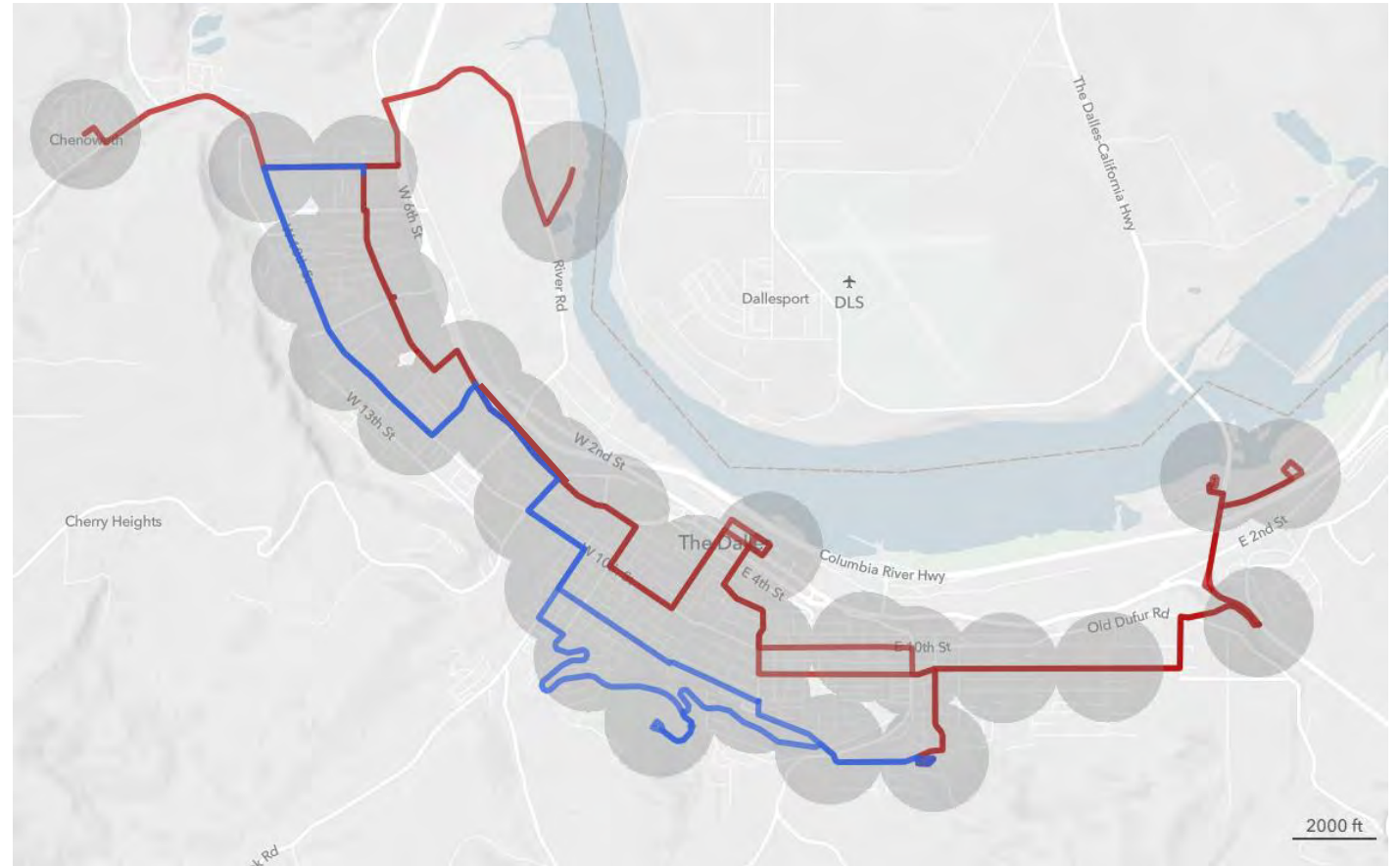
New Out-and-Back Route in the Dalles (via 10th Street)



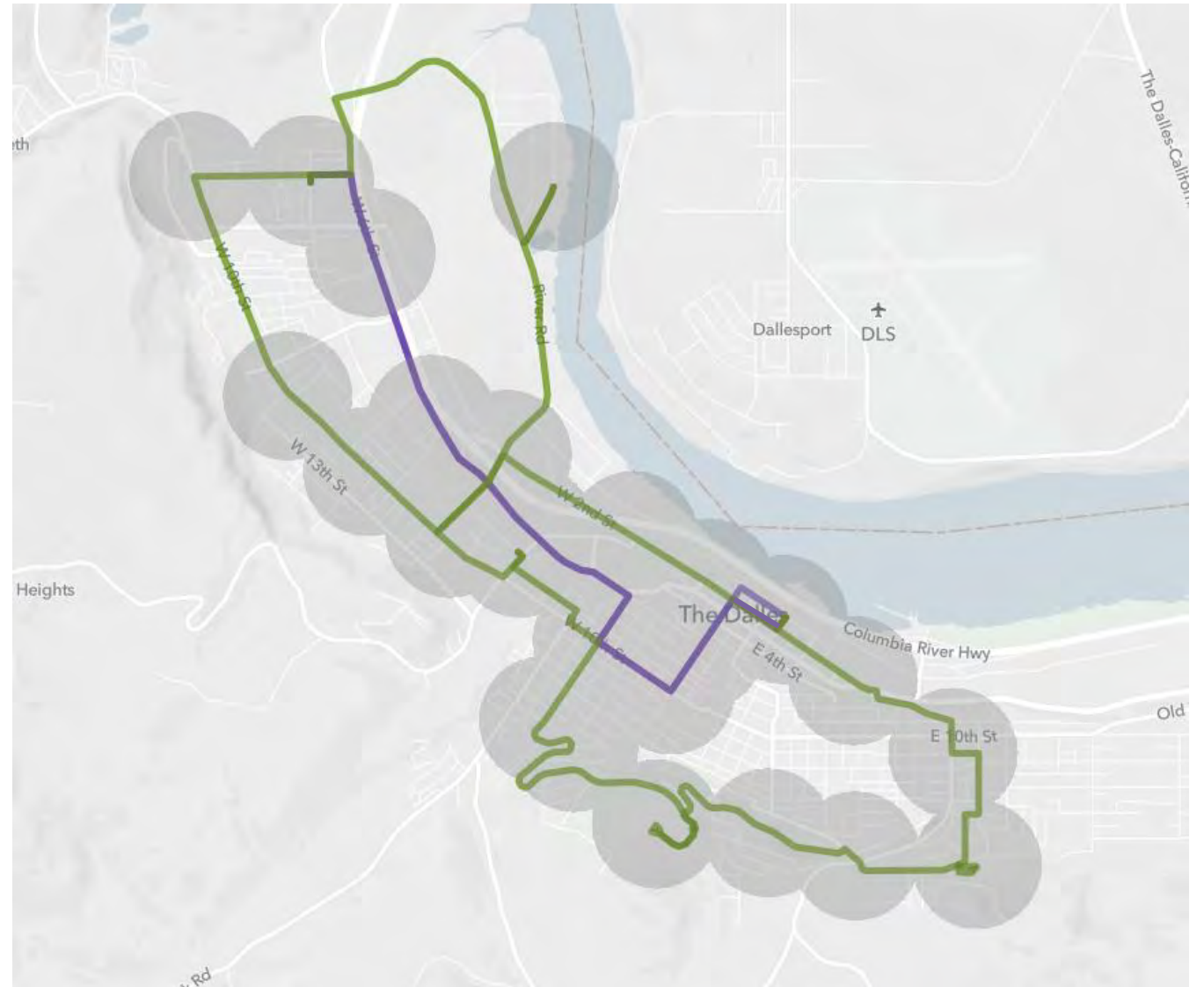
New Out-and-Back Route in the Dalles (via 6th Street)



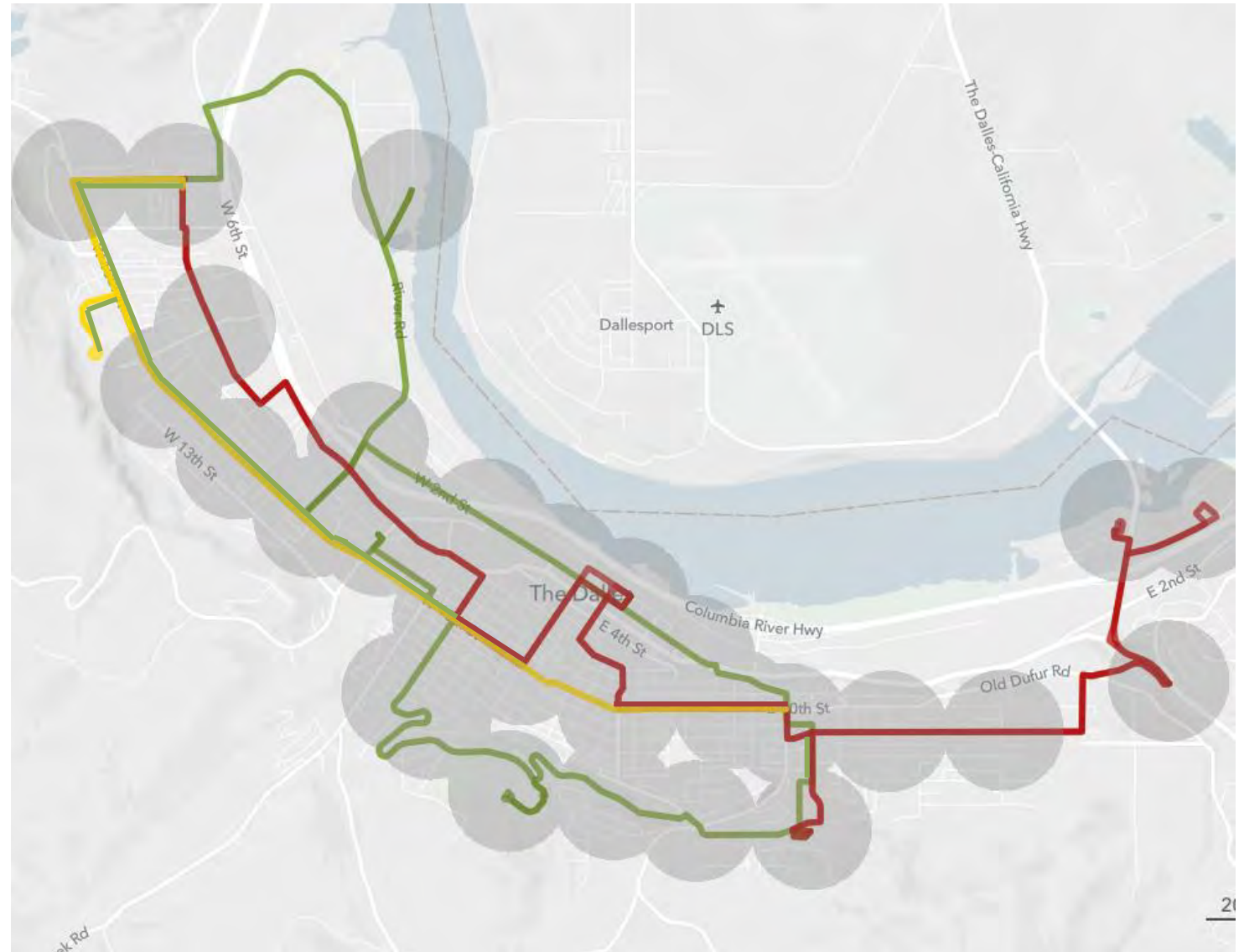
Potential Pair: Convert the Red and Blue Line to Out- and-Back Routes



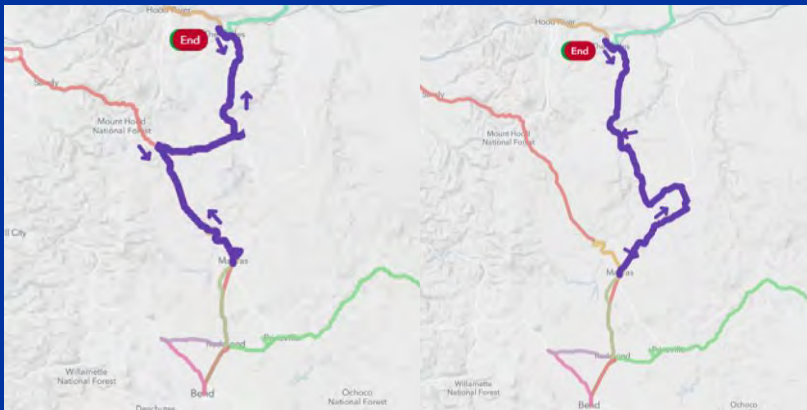
Potential Pair:
Convert the Blue
Line to a Figure-8
Loop and Replace
the Red Line with
a Short Out-and-
Back Route



Potential Pair:
Convert the Blue Line
to a Figure-8 Loop,
Convert the Red Line
to an Out-and-Back
Route, and add a
Short Out-and-Back
Route



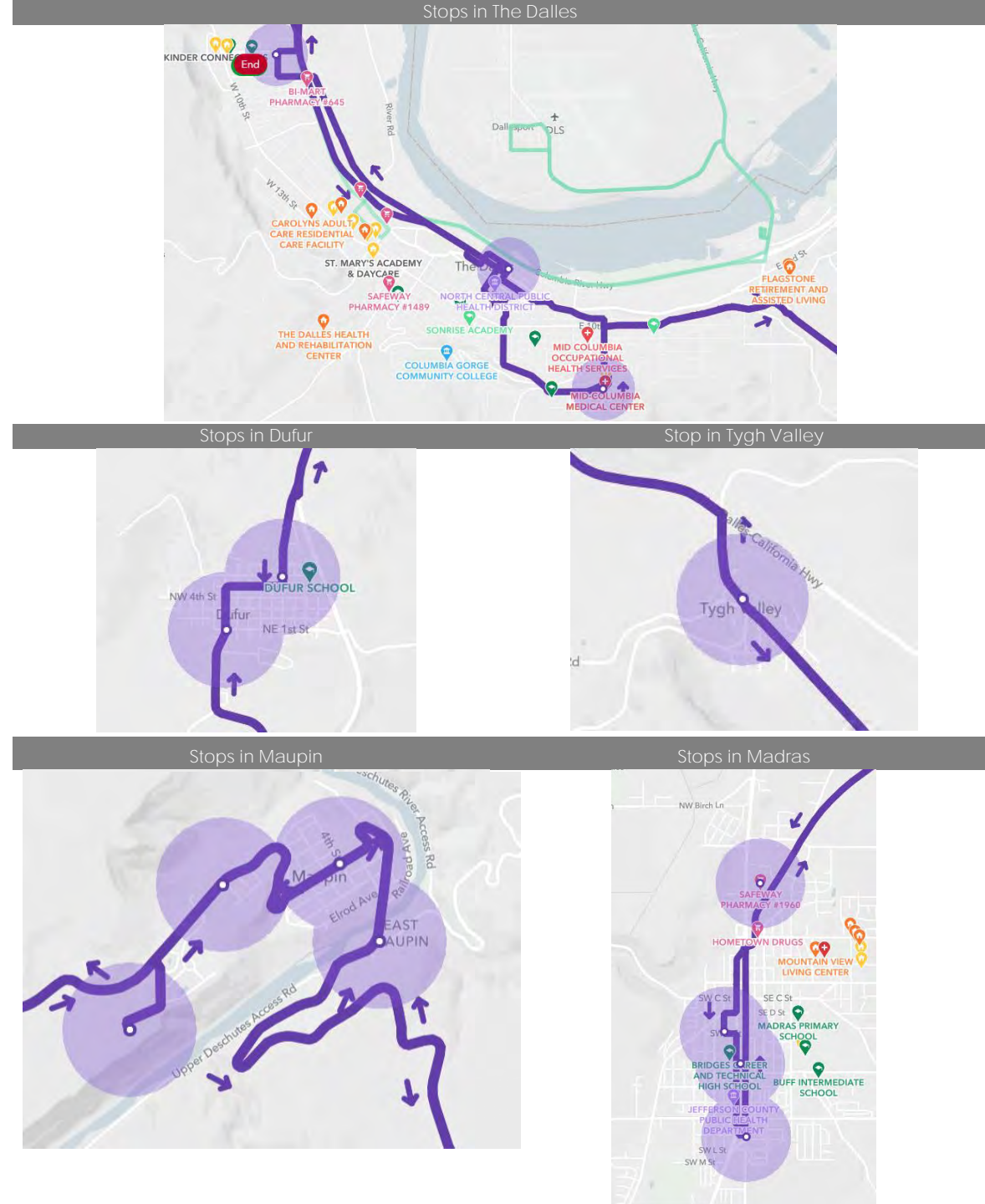
New Out-and-Back Route to Madras



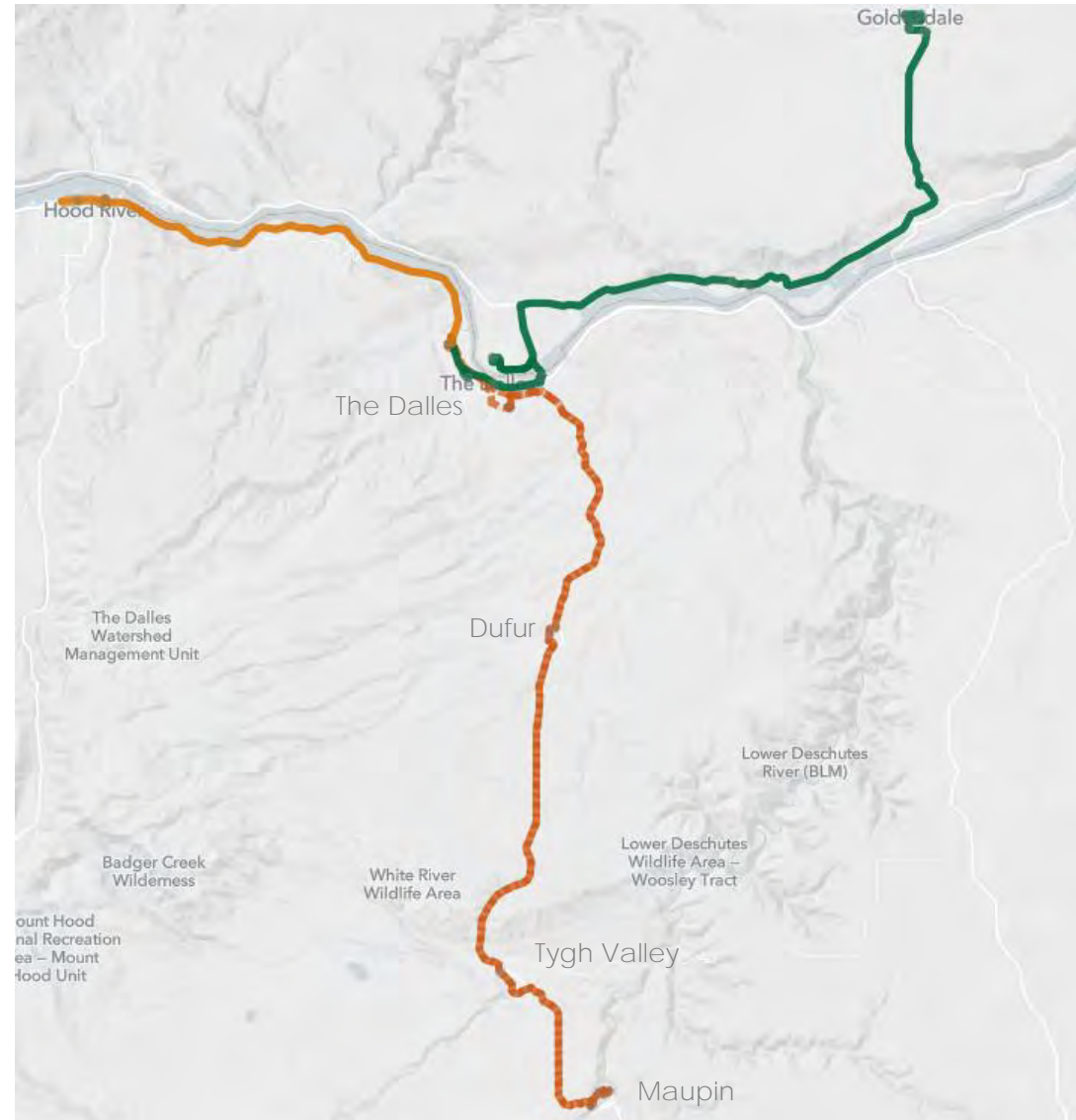
Route could be modified to serve Antelope/Shaniko or Warm Springs on certain runs or by request



New Out-and-Back Route to Madras



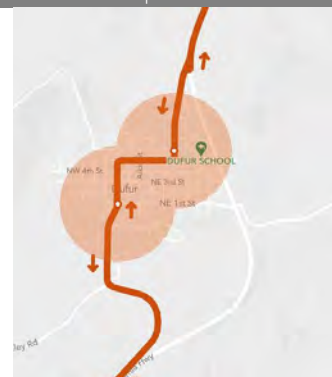
New Out- and-Back Route to Maupin



New Out- and-Back Route to Maupin



Stops in Dufur



Stop in Tygh Valley



New Out-and-Back Route Connecting Warm Springs Reservation, Madras, Shaniko, and Antelope



Service Opportunity	Travel Time (min.)	Population Served within ¼ Mile	Employment Served within ¼ Mile	Anticipated Net Annual Operating Cost	Capital Needed
Add Stops to Blue Line	59	7,060	3,780	+\$0	13 new bus stops
Add Clockwise Blue Line	59	7,060	3,780	+\$346,800	13 new bus stops 1 new bus
Convert Blue Line to Figure-8 Loop	61	6,620	3,507	+\$0	8 new bus stops
Revise Blue Line for Future Transitional Housing	52	7,354	3,877	+0	13 new bus stops
Convert Blue Line Out-and-Back Route	56	5,385	1,589	+\$0	12 new bus stops
Convert Red Line Out-and-Back Route – Option A	73	6,263	3,189	+\$216,750	15 new bus stops 1 new bus
Convert Red Line Out-and-Back Route – Option B	96	7,095	3,683	+\$216,750	16 new bus stops 1 new bus
Extend The Dalles - Hood River Service to connect to CGCC	133	1,707	1,214	+26,000	1 new bus stop
New 10th Street Route in The Dalles	43	4,309	1,558	\$216,750	8 new bus stops 1 new bus
New 6th Street Route in The Dalles	31	3,149	2,312	\$216,750	8 new bus stops 1 new bus
New Route to Madras (Two Times per Day, Twice per Week)	321	1,586	1,187	+\$100,000	11 new bus stops 1 new bus
New Route to Maupin (Two Times per Day, Twice per Week)	157	1,023	1,035	+\$49,000	7 new bus stops
New Route Connecting Warm Springs Reservation, Madras, Shaniko, and Antelope (Two Times per Day, Twice per Month)	197	569	154	+\$15,000	10 new bus stops

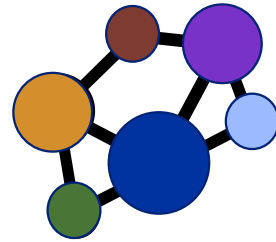
Service Enhancements

Service	Operating Hours Scenarios
Expand Fixed Route Service Hours	Existing: Weekdays (7:00 a.m. to 6:00 p.m.)
	Weekdays (6:00 a.m. to 8:00 p.m.)
	All days (6:00 a.m. to 8:00 p.m.)
Expand Dial-a-Ride Service Hours	Existing: Weekdays (7:00 a.m. – 6:00 p.m.) Saturday (9:00 a.m. – 4:00 p.m.)
	Weekdays (6:00 a.m. – 8:00 p.m.) Saturday (9:00 a.m. - 11:00 p.m.)
	Monday – Thursday (6:00 a.m. – 8:00 p.m.) Friday (6:00 a.m. - 11:00 p.m.) Saturday (9:00 a.m. - 11:00 p.m.) Sunday (9:00 a.m. - 8:00 p.m.)

Service Enhancements

Service Opportunity	Anticipated Net Annual Operating Cost
Expand Fixed Route Service Hours: Weekdays (6:00 a.m. to 8:00 p.m.)	+\$153,000
Expand Fixed Route Service Hours: All Days (6:00 a.m. to 8:00 p.m.)	+\$463,000
Expand Dial-a-Ride Service Hours: Weekdays (6:00 a.m. – 8:00 p.m.) & Saturday (9:00 a.m. - 11:00 p.m.)	+\$196,000
Expand Dial-a-Ride Service Hours: Monday – Thursday (6:00 a.m. – 8:00 p.m.) Friday (6:00 a.m. - 11:00 p.m.) Saturday (9:00 a.m. - 11:00 p.m.) Sunday (9:00 a.m. - 8:00 p.m.)	+\$327,000

Future Service Opportunities



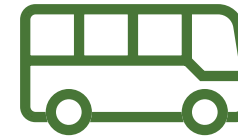
Coordination



Information and
Technology



Facility Improvements



Fleet Improvements

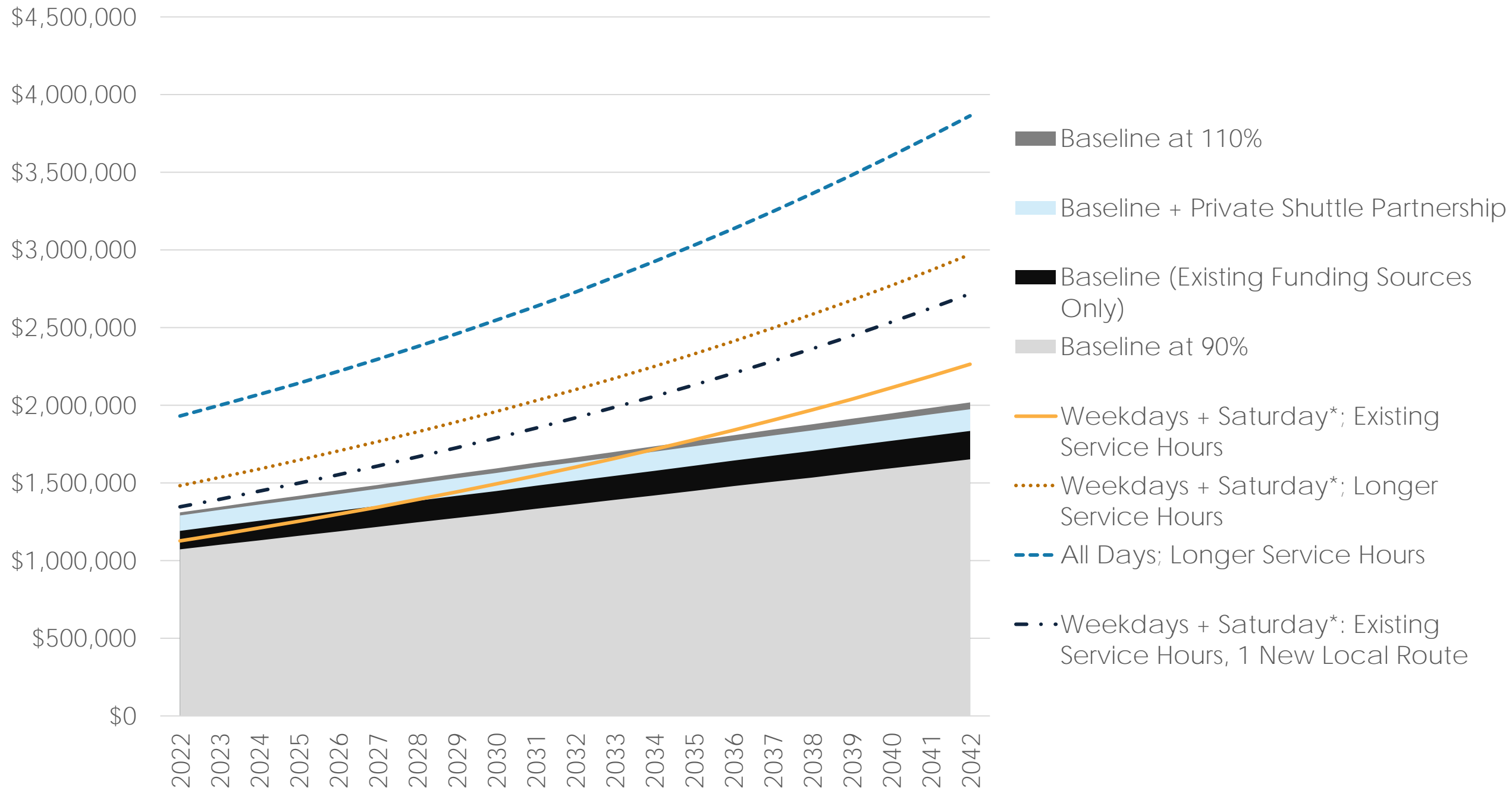
Funding Opportunities

- Federal Funding Opportunities
 - Section 5310 – Enhanced Mobility of Seniors & Individuals with Disabilities Formula Grant
 - Section 5311 – Rural Area Formula Grant
 - Section 5339 – Bus and Bus Facilities
 - Surface Transportation Block Grant
 - Potential New or Increased: Federal Lands Access Program
- State Funding Opportunities
 - Special Transportation Fund
 - Statewide Transportation Improvement Fund
 - STP Discretionary Bus Replacement Program
 - Potential New or Increased: Statewide Transit Network Program
- Local Funding Opportunities
 - Potential New or Increased: Partnership Programs
 - City Contribution
 - Local Taxes and Fees
 - Confederated Tribes of Warm Springs
 - Other Transit Provider Revenue

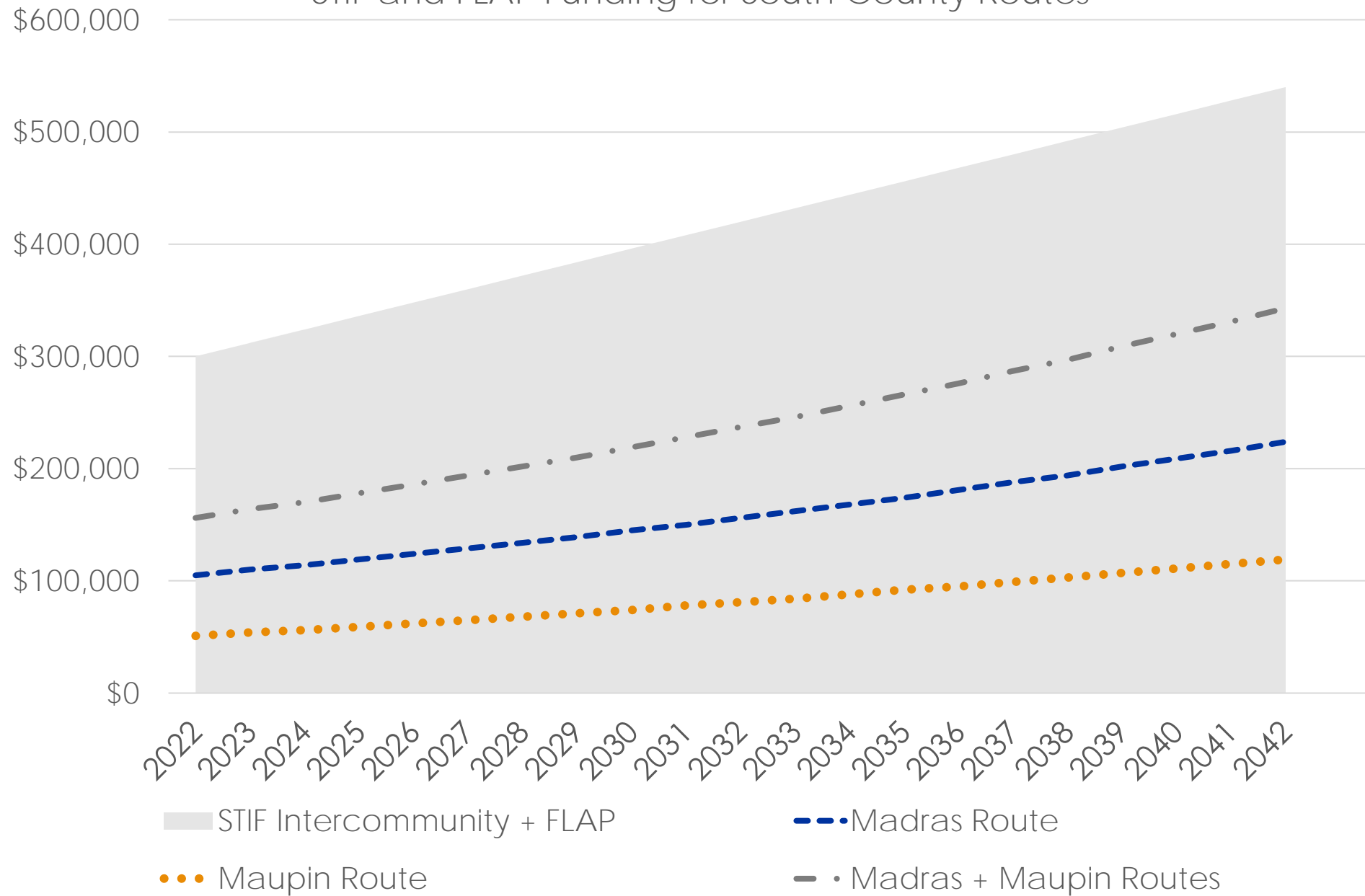
Funding Scenarios

- Baseline Funding
- Baseline at 90%
- Baseline at 110%
- Baseline + STIF Intercommunity + FLAP Grant
- Baseline + Private Shuttle Partnership

Funding Scenarios and Service Operating Scenarios



STIF and FLAP Funding for South County Routes



Draft Future Service Opportunities

Fiscally Constrained Recommendations

- Apply for grants to start new services
- Redistribute resources to utilize existing resources more effectively

Fiscally Unconstrained Recommendations

- Enhance service within The Dalles
- Provide a more inclusive schedule
- Provide additional connections throughout the region

Discussion

- What questions do you have about these opportunities?
- What would improve the service opportunities?
- What questions do you have about funding opportunities?
- What concerns do you have?
- What should be explored further?

Next Steps/ Adjourn

- Consultant team developing next set of memos describing goals and policies, future service design and programs that will prioritize improvements
- Gain feedback from Advisory Committee via meetings, from the public via survey