

ATTACHMENT D – STAFF REPORT

File Number: 921-19-000135-PLNG

Applicants/Owners: Dan Van Vactor, Revocable Living Trust of Dan Van Vactor and Jane Lilley

Requests: Place a 2,560 square feet (SF) 64’L x 40’W x 23’6”H single family dwelling in conjunction with a Measure 49 authorization (E124707).

Decision: Approval, with conditions

Decision Date: October 3, 2019

Appeal Deadline: October 15, 2019

Location: The subject parcel is located where Threemile Creek crosses Threemile Road, approximately 0.6 mile north of its intersection with Rock Creek Dam Road, approximately 3.2 miles west of Wamic, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Acct #</u>	<u>Acres</u>
4S 12E 0 1300	15116	79.2

Zoning District: A-1 (160), Exclusive Farm Use zone in Wasco County

Past Actions: MIP 91-106 Land Partitioning actions
MIP-91-119
PAR-92-103
PLAPAR 14-09-0007

M37-06-119 Measure 37 claim
M49 E124707 Measure 49 final order

Procedure Type: Administrative Action

Prepared By: Will Smith, Senior Planner

I. APPLICABLE STANDARDS

A. Oregon Department of Land Conservation and Development Measure 49 Final Order: E124707

B. Wasco County Land Use & Development Ordinance (LUDO)

Chapter 3 – Basic Provisions

Section 3.210, Exclusive Farm Use Zone

Section 3.210.F. Property Development Standards

Section 3.210.H. Agricultural Protection

Chapter 10 – Fire Safety Standards

Section 10.110 Siting Standards – Locating Structures for Good Defensibility

Section 10.120 Defensible Space – Clearing and Maintaining a Fire Fuel Break

Section 10.130 Construction Standards for Dwellings and Structures -Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

Section 10.140 Access Standards – Providing Safe Access to and Escape From Your Home

Section 10.150 Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response

Chapter 20 – Site Plan Review

Section 20.050 Off Street Parking

II. BACKGROUND

A. Legal Parcel: The subject parcel is identified as “Parcel 2 of Partition Plat 2014-0015 as recorded December 23, 2014.” It is consistent with the definition of Legal Parcel in LUDO Chapter 1, Section 1.090 – Definitions, because it is a parcel in a duly recorded partition

B. Site Description: The subject lot does not contain any structures. The existing driveway to access the proposed home site is approximately 0.5 mile long and begins at a sharp bend in Threemile Road, winding through open grass land and into irrigated ponderosa pine understory before emerging on a plateau where the home is proposed to be constructed. The current use of this area is an agricultural field; the home is proposed to be set on the southern edge of the farmed field. The home site is located on the high point of the property, with southern facing slopes beginning about 50’ feet south of the home site, and descending at 10-20% to an irrigation ditch, and then Threemile Creek which runs west to east just south of the property’s southern border line.

C. Surrounding Land Use: Property immediately to the east is undeveloped. Further east there are irrigated farmlands and the southern portion of the Pine Hollow residential area. Wamic is approximately 2.7 miles east. Property immediately to the north is owned by the applicant and contains agricultural uses and a single family dwelling. There are two parcels with actively farmed fields immediately to the west. The White River Wildlife Area, managed by the Oregon

Department of Fish and Wildlife, and the Mt. Hood National Forest are located further to the west and north. Properties to the south are either undeveloped or in Farm Use. Slopes vary due to Threemile Creek south of the subject parcel, but are generally flat or gentle outside of its area of effect. Vegetation is mostly open grass land, farmland, Oregon oak and Ponderosa Pine forests. Farm Service Agency identifies farm use in the area as planted fields (hay, wheat).

- D. Land Use History:** In 2005, the owner (Van Vactor), made application for, and received approval for a Ballot Measure 37 claim M37-06-119 (11/28/2006) to construct one single family dwelling on this property. The owner was notified of the passage of Ballot Measure 49 which might limit or prohibit approved development. They subsequently applied to the State of Oregon for approval of a single family dwelling under Measure 49, which was authorized by Final Order E124707. As described below in Finding III.A., the authorization in Final Order E124707 is applied to this application for a new dwelling on this parcel.

III. FINDINGS:

A. Oregon Department of Land Conservation and Development Measure 49 Final Order: E124707

Based on the analysis set forth above, this claim is approved, and the claimant qualifies for two home site approvals. As explained in section III above, after taking into account the number of existing lots, parcels or dwellings, the claimant is authorized for one dwelling on tax lot 1300 and one additional dwelling on tax lot 1400 of the Measure 37 claim property, subject to the following terms:

FINDING: The applicant is applying for one single family dwelling in accordance with his existing Measure 49 claim. This subject parcel is tax lot 4S 213E 0 1300, described in the final Measure 49 order as “tax lot 1300” which is entitled to “one dwelling.” No dwellings currently exist on tax lot 1300, as confirmed by aerial photos from County GIS and a staff site visit to the subject property on September 12, 2019. Staff finds that the request complies with Criterion A.

- 1. Each dwelling must be on a separate lot or parcel, and must be contained within the property on which the claimant is eligible for Measure 49 relief. The establishment of a dwelling based on this home site authorization must comply with all applicable standards governing the siting or development of the dwelling. However, those standards must not be applied in a manner that prohibits the establishment of the dwelling, unless the standards are reasonably necessary to avoid or abate a nuisance, to protect public health or safety, or to carry out federal law.*

FINDING: The request is for one single family dwelling on one legal parcel. No land division is proposed. The subject parcel was specifically identified in the Measure 49 Final Order as being eligible for a dwelling. All applicable standards for a dwelling in this zone are addressed below in the Findings for Chapters 3 and 10. They are applied to avoid a nuisance, protect public health and safety, and carry out state and federal law. These standards are not applied in a manner that prohibits the establishment of the proposed dwelling. Staff finds that the proposal complies with Criterion 1.

- 2. This home site authorization will not authorize the establishment of a dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).*

FINDING: No land division is proposed. The proposed single family dwelling will not create a public nuisance, public health and safety concern, because it must comply with all health and safety laws and requirements. The proposed dwelling is not a use prohibited or restricted by federal law, and is not proposed or authorized in violation of ORS 195305(3) or 195.300(14). The former addresses land use regulations being enacted prior to the claimant’s acquisition date, and the latter defines a “Land use regulation.” Staff finds that the proposal complies with Criterion 2.

3. *The number of lots, parcels or dwellings a claimant may be eligible to establish under a Measure 49 home site authorization is reduced by the number of lots, parcels and dwellings currently in existence on the Measure 37 claim property and contiguous property in the same ownership, regardless of whether evidence of their existence has been provided to the department. If, based on the information available to the department, the department has calculated the number of currently existing lots, parcels or dwellings to be either greater than or less than the number of lots, parcels or dwellings actually in existence on the Measure 37 claim property or contiguous property under the same ownership, then the number of additional lots, parcels or dwellings a claimant may establish pursuant to the home site authorization must be adjusted according to the methodology stated in Section 6(2)(b) and 6(3) of Measure 49.*

FINDING: As noted in the finding above, DLCD’s Measure 49 Final Order E124707 approved one single family dwelling on a legally created parcel. The request from the applicants is for one single family dwelling on one legal parcel. Staff finds that the proposal complies with Criterion 3.

4. *Temporary dwellings are not considered in determining the number of existing dwellings currently on the property. The claimant may choose to convert any temporary dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site pursuant to a home site approval. Otherwise, any temporary dwelling is subject to the terms of the local permit requirements under which it was approved, and is subject to removal at the end of the term for which it is allowed.*

FINDING: The subject parcel is vacant; there are no temporary dwellings on the subject parcel, and none are proposed. Staff finds that the proposal complies with Criterion 4.

5. *A home site approval only authorizes the establishment of a new dwelling on the property on which the claimant is eligible for Measure 49 relief. No additional development is authorized on contiguous property for which no Measure 37 claim was filed.*

FINDING: Final Order E124707 approved one single family dwelling on one legal parcel on this eligible property. No additional development is required or approved as part of this request, and no development on contiguous property is authorized or addressed by this review. Staff finds that the proposal complies with Criterion 5.

6. *The claimant may use a home site approval to convert a dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site. If the number of dwellings existing on the property on which the claimant is eligible for Measure 49 relief exceeds the number of home site approvals the claimant qualifies for*

under a home site authorization, the claimant may select which existing dwellings to convert to authorized home sites.

FINDING: This proposal is for one dwelling on tax lot 1300. There are no dwellings, or any other development, on the subject parcel. M49 claim Final Order E124707 approved one single family dwelling on tax lot 1300, in addition to the dwelling on tax lot 1400. Staff finds that the proposal complies with Criterion 6.

7. *A home site approval does not authorize the establishment of a new dwelling on a lot or parcel that already contains one or more dwellings.*

FINDING: The current request is for one dwelling on tax lot 1300, consistent with the Measure 49 claim Final Order. There are no dwellings, or any other development, on the subject parcel. Staff finds that the proposal complies with Criterion 7.

8. *If the claimant transferred his ownership interest in the Measure 37 claim property prior to the date of this order, this order is rendered invalid and authorizes no home site approvals. Provided this order is valid when issued, a home site approval authorized under this order runs with the property and transfers with the property. A home site approval will not expire, except that if a claimant who received this home site authorization later conveys the property to a party other than the claimant's spouse or the trustee of a revocable trust in which the claimant is the settlor, the subsequent owner of the property must establish the authorized dwellings within 10 years of the conveyance. A dwelling lawfully created based on a home site approval is a permitted use.*

FINDING: The subject parcel is vacant; it does not contain any dwellings. The claimant has not transferred his ownership interest since the original Measure 37 claim. A new dwelling, lawfully created based on this home site approval, is the proposed use and is permitted by the Final Order. Staff finds that the proposal complies with Criterion 8.

9. *Because the property is located in an exclusive farm use zone, the owner must comply with the requirements of ORS 215.293 before beginning construction.*

FINDING: ORS 215.293 addresses dwellings in an Exclusive Farm Use (EFU) or Forest zone, requiring as a condition of approval of a single family dwelling that “the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner’s successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.” This ORS requirement is addressed in Chapter 3 of the WC LUDO by requiring a condition of approval that the owner sign and record a “Forest Farm Management Easement” (Attachment F). With that condition set forth below in Section 3.218 – Agricultural Protection, staff finds that the proposal complies with Criterion 9.

10. *If an owner of the property is authorized by other home site authorizations to subdivide, partition, or establish dwellings on other Measure 37 claim properties, Measure 49 authorizes the owner to cluster some or all of the authorized lots, parcels or dwellings that would otherwise be located on land in an exclusive farm use zone, a forest zone or a mixed farm and forest zone on a single Measure 37 claim property that is zoned residential use or*

is located in an exclusive farm use zone, a forest zone or a mixed farm and forest zone but is less suitable for farm or forest use than the other Measure 3 7 claim properties.

FINDING: There is only one homesite approved by this request for this tax lot, so no clustering is proposed. Staff finds that the proposal complies with Criterion 10.

11. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, this home site authorization will not authorize the use of the property unless the claimant first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the subject property imposed by private parties.

FINDING: The applicant is advised that current and future structural development must obtain building permits from Wasco County Building Codes Services, septic approval from North Central Public Health District, land use approval from the Wasco County Planning Department, and any other applicable permits from local, state, or federal agencies. A **condition** of approval is included to ensure the applicant is aware of this requirement. With this condition, staff finds that the proposal complies with Criterion 11.

B. Wasco County Land Use and Development Ordinance

Chapter 3 – Basic Provisions

Section 3.210, Exclusive Farm Use Zone

Section 3.216 - Property Development Standards

Property development standards are designed to preserve and protect the character and integrity of agricultural lands, and minimize potential conflicts between agricultural operations and adjoining property owners. A variance subject to WCLUDO Chapter 6 or Chapter 7 may be utilized to alleviate an exceptional or extraordinary circumstance that would otherwise preclude the parcel from being utilized. A variance to these standards is not to be used to achieve a preferential siting that could otherwise be achieved by adherence to these prescribed standards.

A. Setbacks

1. Property Line

- a. All dwellings (farm and non-farm) and accessory structures not in conjunction with farm use, shall comply with the following property line setback requirements:*

(1) If adjacent land is being used for perennial or annual crops, the setback shall be a minimum of 200 feet from the property line.

- (2) *If adjacent land is being used for grazing, is zoned Exclusive Farm Use and has never been cultivated or is zoned F-1 or F-2, the setback shall be a minimum of 100 feet from the property line.*
- (3) *If the adjacent land is not in agricultural production and not designated Exclusive Farm Use, F-1 or F-2, the setback shall be a minimum 25 Feet from the property line.*

(***)

FINDING: All adjacent properties are zoned EFU. Property to the north and west are being cultivated and will require a 200’ setback. Property to the south and east have never been cultivated and require a 100’ setback.

Required Setback	Proposed Setback - Dwelling	Consistent?
North – 200’	200’	Yes
East – 100’	900’	Yes
South – 100’	1,100’	Yes
West – 200’	920’	Yes

The proposed setbacks meet or exceed the requirements in the Exclusive Farm Use Zone. Staff finds that the request complies with Criterion a.

2. *Waterways*

a. Resource Buffers: All bottoms of foundations of permanent structures, or similar permanent fixtures shall be setback from the high water line or mark, along all streams, lakes, rivers, or wetlands.

(1) A minimum distance of one hundred (100) feet when measured horizontally at a right angle for all water bodies designated as fish bearing by any federal, state or local inventory.

(2) A minimum distance of fifty (50) feet when measured horizontally at a right angle for all water bodies designated as non-fish bearing by any federal, state or local inventory.

(3) A minimum distance of twenty five (25) feet when measured horizontally at a right angle for all water bodies (seasonal or permanent) not identified on any federal, state or local inventory.

(***)

FINDING: Two waterways exist on or near the parcel. Threemile Creek is located approximately 1,150’ south of the proposed development location. An irrigation ditch is closer at 225’ south, according to the

applicant's site plan. Both water bodies are farther than 100' away from the proposed dwelling. Staff finds that the request complies with Criterion 2.

- B. Height: Except for those uses allowed by Section 4.070 - General Exception to Building Height Requirements, no building or structure shall exceed a height of 35 feet. Height is measured from average grade.*

FINDING: The request is for a single family dwelling to be 23'6" H, which is less than the 35' height requirement. Staff finds that the request complies with Criterion B.

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

- D. Signs*

FINDING: The subject parcel is not a corner property, and no signs are proposed. Staff finds that Criteria C. and D. are not applicable to this request.

- E. Lighting: 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 waterways. Shielding and hooding materials shall be composed of non-reflective, opaque materials.*

FINDING: The application does not indicate the placement of any new outdoor lighting however it is not unusual for a dwelling to contain one or more outdoor lights. A **condition** of approval is included in the Notice of Decision advising the owner that outdoor lighting must be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and waterways. Shielding and hooding materials shall be composed of non-reflective, opaque materials. With the proposed **condition**, staff finds that the request complies with Criterion E.

- F. Parking: Off street parking shall be provided in accordance with Chapter 20.*

FINDING: Parking is addressed below in Section 20.050. The finding for that section concludes the proposed development is in compliance with Chapter 20. Given this information, Staff finds that the request complies with Criterion F.

- G. New Driveways: All new driveways and increases or changes of use for existing driveways which access a public road shall obtain a Road Approach Permit from the appropriate jurisdiction, either the Wasco County Public Works Department or the Oregon Dept. of Transportation.*

FINDING: Staff was unable to locate a Road Approach Permit on file for either tax lot 4S 12E 0 1300 (where the dwelling is proposed to be located) or 1400 (also accessed in part by this driveway). A **condition** of approval is located in the Notice of Decision stating that prior to zoning approval of any building permit, a Road Approach Permit shall be applied for with the Wasco County Public Works Department, and the approved permit shall be supplied to the Wasco County Planning Department. With that condition, staff finds that the request complies with Criterion G.

Section 3.218 - Agricultural Protection

The uses listed in Section 3.214 - Uses Allowed Subject to Standards and Section 3.215 - Conditional Uses must meet the following standards:

- A. *Forest Farm Management Easement: The landowner is required to sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or case of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

FINDING: The proposed farm dwelling is located in an area of Wasco County that is in commercial agricultural production. Properties to the west and north of the subject parcel contain crops. Because surrounding lands are in commercial farm use in the Exclusive Farm Use Zone, the owner must sign a Forest Farm Management Easement as described in Criterion A. A **condition** of approval is included in the Notice of Decision requiring the property owner to sign and record a Forest Farm Management Easement (see Attachment F) with the Wasco County Clerk prior to obtaining Planning Department approval on the building permit application. This condition also fulfills requirements listed above in Criterion 9 of Measure 49 Final Order E124707. With the proposed **condition**, staff finds that the request complies with Criterion A.

- B. *Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process: The landowner will receive a copy of this document.*

FINDING: The Farm Mediation Ordinance is being provided to the property owner as Attachment G. Staff finds that the request complies with Criterion B.

Chapter 10 – Fire Safety Standards

FINDING: The fire safety standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be made 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. A **condition** of approval stating this is included in the Notice of Decision.

Though not specifically addressed in Chapter 10, it is essential that each new dwelling in Wasco County 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.

Section 10.110, Siting Standards – Locating Structures for Good Defensibility

FINDING: The dwelling is proposed to be placed on a flat section of the property. All the slopes to the north, east, and west are also flat. To the south the land begins to drop down toward an irrigation ditch and then Threemile Creek. Initial slopes are 5-10%. On a September 12, 2019 site visit, staff confirmed that steeper slopes in excess of 30% are at least 50' from the proposed development. Staff finds that the request complies with Section 10.110.

Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

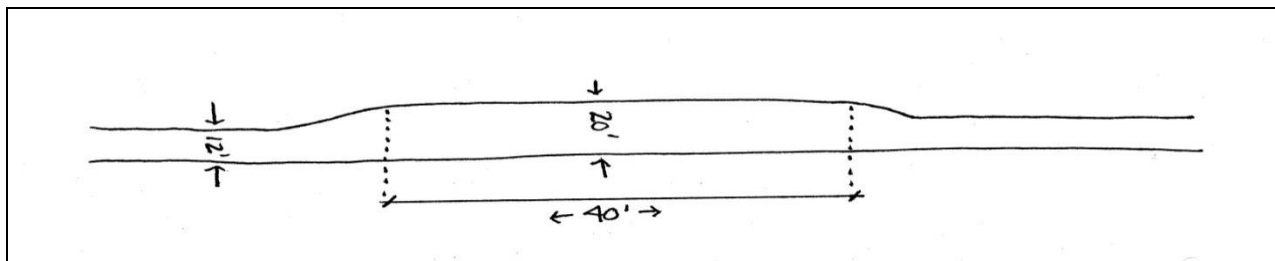
FINDING: The applicant's site plan marks out where at least 50' of defensible space around the proposed dwelling can be maintained. On a September 12, 2019 site visit staff confirmed that most of that area is already either low grass or spaced out trees and the applicant will be able to comply with the defensible space standard of a minimum of 50' around the structure with limbing and mowing. Staff finds that the request complies with Section 10.120.

Section 10.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

FINDING: The applicant did not present his complete building plans, but did check off all the boxes on the self-certification form in reference to Construction Standards. A condition is included requiring the final design to comply with fire safe construction methods described in Section 10.130. With this condition, staff finds that the request complies with Section 10.130.

Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home

FINDING: The proposed home site has access from Threemile Road. Fire safety standards require a turnout at least every 400'. Turnouts are intended to allow vehicles to pass safely, especially during an emergency. The applicant submitted a site plan demonstrating proposed fire safety turnouts along the length of his driveway. A condition of approval is included requiring that the applicant adhere to that plan and establish 40L' x 20'W turnouts in accordance with Section 10.140 every 400'.



With this condition staff finds that the request complies with Section 10.140.

*Section 10.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have
Some Fire Protection Available Through Manned or Unmanned Response)*

FINDING: The proposed dwelling is in the Wamic Rural Fire Protection District, as well as that of the Oregon Department of Forestry. At 2,560 SF, it is less than the 3,500 SF that would require an onsite water source. Staff finds that the request complies with Section 10.150.

Chapter 20 – Site Plan Review

Section 20.050 – Off Street Parking

A. Residential

1. Single Family Dwelling One (1) space per dwelling unit.

FINDING: The proposal is for one single family dwelling. The access road to the proposed house is approximately a half mile long. At the house there is a hammerhead turnaround proposed as described above in Findings for Chapter 10. This driveway, and the hammerhead turnaround, will provide at least one parking space for this dwelling, and still leave room for emergency response access. Staff finds that the request complies with Criterion 1.

ATTACHMENT E – LIGHTING STANDARDS

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY PUBLISHING CORP.

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.

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.

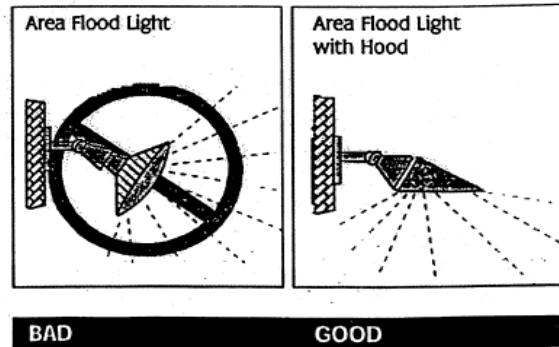
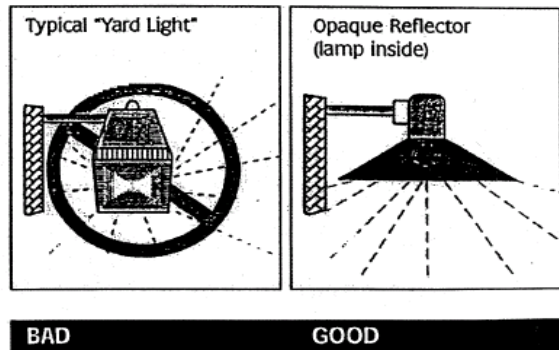
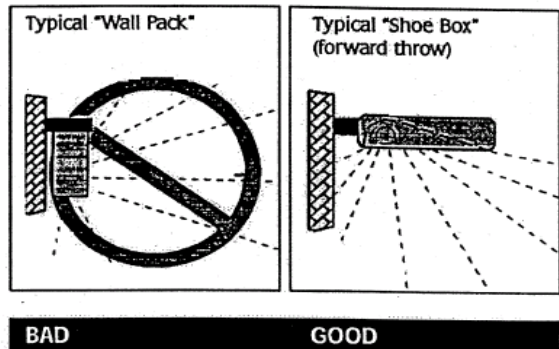
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. We waste over a billion dollars a year in the United States needlessly lighting the night sky.

Sky Glow Rays that beam uselessly above the horizon create murky skyglow – the "light pollution" that washes out our view of the stars.

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 areas 100 times more brightly than the

Some Good and Bad Light Fixtures



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. Such 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.

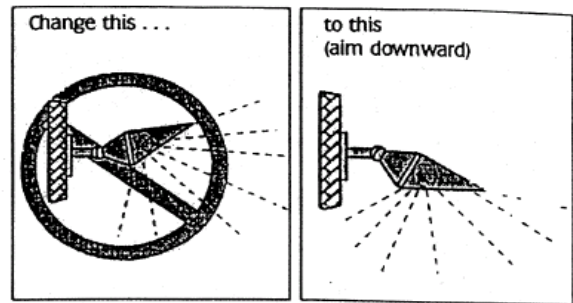
Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as brightly as a wasteful light does with a high-wattage bulb.

- 4** Choose energy-efficient low-pressure sodium (LPS) or high-pressure sodium (HPS) lamps wherever yellowish light will do the job. Use less efficient white lights only where ideal color rendition is important.
- 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!

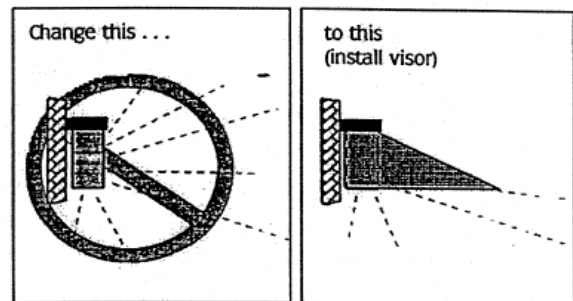
Replace bad lights with good lights.

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

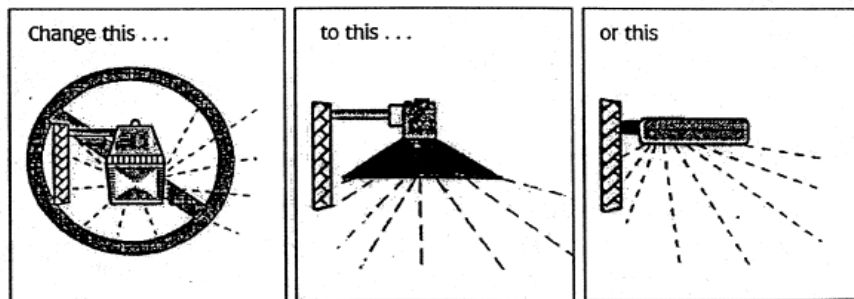
What You Can Do To Modify Existing Fixtures



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 Publishing Corp. (<http://www.skypub.com/>).

NELPAG and Sky Publishing Corp. 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.



Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138



PLANNING DEPARTMENT

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

AFTER RECORDING, RETURN TO:
Wasco County Planning Department
2705 E Second Street, The Dalles OR 97058

FOREST FARM MANAGEMENT EASEMENT
Prohibiting Pursuit of a Claim for Relief or Case of Action Alleging Injury From Farming or Forest Practices for Which no Action or Claim is Allowed Under ORS 30.936 or 30.937

Grantor(s) _____
Print name(s)

is/are the owner(s) of real property described as: _____

(as found in deed #: _____) and in accordance with the conditions set forth in the decision of Wasco County Planning Staff, as required by ORS 215.293, approving a(n):

(Planning Department File #: _____ Date: _____)

for Assessor's Map and Tax Lot # _____,

Grantor(s) hereby grant(s) to the public, (Grantees), of all property zoned for farm or forest use, a perpetual nonexclusive farm use and forest practices management easement as follows:

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use, Forest, or Forest-Farm zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm use or commercial forest operations on lands zoned for farm or forest use. Such operations may include farm use as defined in ORS 215.203 such as the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance with Federal and State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantors' property for residential purposes. Grantor(s) hereby give(s) an easement to the property owners of lands zoned for farm or forest use for the resultant impact on Grantors property caused by the farm use or forest management activities on such lands.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use, Forest, or Forest-Farm zone that may be required by Federal, State, and local land use laws and regulations.

This easement is appurtenant to all property zoned for farm or forest use, and shall bind the heirs, successors, and assignees of Grantor(s), and shall endure for the benefit of the owners of lands zoned for farm or forest use, their heirs, successors and assignees.

IN WITNESS WHEREOF, the Grantor(s) has/have executed this easement on ____ ____, 20____ (date).

Grantor (Owner) Signature

Grantor (Owner) Signature

(STATE OF OREGON)
(COUNTY OF WASCO)

Signed or attested before me on _____, 20____ (date)

By _____
(Name(s) of Grantor(s))

Signature of Notary

My Commission expires: _____

ATTACHMENT G – MEDIATION ORDINANCE

IN THE COUNTY COURT OF THE STATE OF OREGON

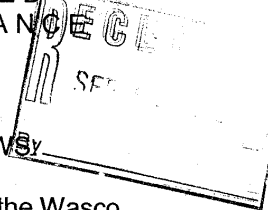
FILED
WASCO COUNTY

IN AND FOR THE COUNTY OF WASCO

2003 SEP 12 P 3:15

IN THE MATTER OF THE ADOPTION OF)
AN AMENDED ORDINANCE PROVIDING)
PROTECTION FOR GENERALLY ACCEPTED)
FARMING AND FORESTRY PRACTICES AND)
ESTABLISHING A COMPLAINT MEDIATION)
PROCESS.)

MARION LEBRETON COATS
COUNTY CLERK
AMENDED
ORDINANCE



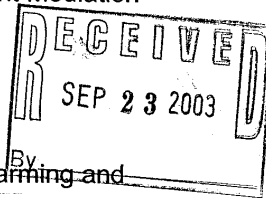
THE WASCO COUNTY COURT ORDAINS AS FOLLOWS

Section 1. SHORT TITLE. This Ordinance may be cited as the Wasco

County Farming and Forestry Practices Protection and Complaint Mediation

Ordinance.

Section 2. PURPOSE.



(1) Wasco County recognizes that complaints about farming and forestry practices will sometimes occur because these practices create odors, smoke, dust and noise and there is a close proximity of agricultural and forest lands to expanding urban and rural residential development.

(2) Wasco County recognizes that all resource use complaints have the potential of requiring immediate shutdowns or interruptions of farming and forestry practices which could result in significant economic consequences for resource users.

(3) The purpose of this Ordinance is therefore to provide a rapid complaint response and mediation process for resource use complaints by Wasco County residents in order to protect farming and forestry operations to the greatest extent possible from immediate shutdowns or interruptions.

1 – AMENDED ORDINANCE

Section 3. DEFINITIONS. As used in this Ordinance:

(1) "FACILITY" means any real or personal property, including appurtenances thereto and fixtures thereon, associated with a given use.

(2) "FARMING PRACTICE" means the cultivation, growing, harvesting, processing or selling of plants or animals of any kind, which lawfully may be grown, possessed and sold, including but not limited to fish, livestock, poultry, grapes, cherries, apples, pears, wheat, barley, Christmas trees and nursery stock.

(3) "FORESTRY PRACTICE" means any operation conducted on or pertaining to forest land, including but not limited to:

- (a) Reforestation of forest land;
- (b) Road construction and maintenance;
- (c) Harvesting of forest tree species;
- (d) Application of chemicals; and
- (e) Disposal of slash.

(4) "NONRESOURCE USE" means any facility, activity or other use of land which does not constitute a resource use, including but not limited to residential use.

(5) "RESOURCE USE" means any current or future generally accepted farming or forestry practice or facility conducted in compliance with applicable Wasco County Ordinances and Federal and State laws.

(6) "RESOURCE USE NUISANCE" means any current or future generally accepted farming or forestry practice or facility conducted in

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compliance with applicable Wasco County Ordinances and Federal and State laws, which may be considered offensive, annoying, or interferes with or otherwise affects the urban and rural residents of Wasco County.

(7) "RESOURCE USE" does not include:

(a) Any unlawful act;

(b) The willful growing of infested, infected or diseased plants or animals;

(c) Trespass which involves actual physical intrusion onto the property of another by a person or by a person's animals;

(8) "DESIGNEE" means a Case Developer, appointed by the Six Rivers Community Mediation Services Director.

(9) "COMPLAINT MEDIATION PROCESS"

(a) Means a procedure established by the Wasco County Court to provide a forum for the mediation of Wasco County residents complaints regarding farming or forestry practices or facilities, including, but not limited to: odors from domestic livestock operations; blowing smoke from heaters, smokers and slash burning; noise from machines, including those devices producing sounds designed for agricultural purposes in order to frighten predacious birds or animals away from agricultural crops; drift or contamination from chemical and fertilizer applications; hours of operation; and littering of County roads; and

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(b) Shall consist of at least two (2) mediators, working cooperatively in a co-mediation role. Both mediators shall maintain a neutrality and confidentiality throughout and beyond the process. The Six Rivers Community Mediation Services Director or Designee shall serve as a consultant to the Complaint Mediation Process. Consultation may come prior to, during or after the actual mediation, as appropriate.

(10) "PEER REVIEW BOARD" is a Board appointed, as needed, by the Wasco County Court to advise the Six Rivers Community Mediation Services on whether a disputed resource use activity is a generally accepted farming or forest practice or facility. The Board shall consist of 5 persons who regularly are involved in a resource use within the County, at least 3 of whom are regularly involved in the same type of disputed resource use being heard through the Complaint Mediation Process.

Section 4. PROTECTING RESOURCE USES.

(1) Wasco County shall not support a resource use nuisance complaint or claim for relief by nonresource uses or any persons or property associated therewith unless the resource use complaint response and mediation procedure of Section 5 of this Ordinance has been utilized.

(2) This Section applies regardless of:

- (a) The location of the purportedly affected nonresource use;
- (b) Whether the nonresource use purportedly affected existed before or after the occurrence of the resource use;

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- (c) Whether the resource use or nonresource use has undergone any change or interruption; and
- (d) Whether the resource use is inside or outside an urban growth boundary to the extent permissible under State law.

Section 5. RESOURCE USE COMPLAINT RESPONSE AND MEDIATION

PROCEDURE.

- (1) Initial resource use complaints involving farming or forestry practices or facilities shall:
 - (a) Be referred to the Six Rivers Community Mediation Services during regular operating hours or the Wasco County Sheriff's Office after hours and on weekends; and
 - (b) Be responded to as soon as possible.

- (2) The responding Six Rivers Community Mediation Services Agent or Designee shall:
 - (a) Use Six Rivers Community Mediation Services' procedures to respond to a complaint;
 - (b) Notify the Wasco County Court about the documented complaint as soon as possible and report on the effort and/or success in resolving the complaint.

- (3) If the initial contact is through the Wasco County Sheriff's Department, or any other law enforcement agency, the responding officer should:

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- (a) Contact the complainant and document the complaint; and
 - (b) Encourage the complainant to call or meet with the resource user and attempt a one-on-one resolution of the complaint; and
 - (c) Provide both complainant and resource user with written documentation of the complaint, including, but not limited to the name and address of complainant, the name and address of the resource user, and a description of the nature of the complaint; and
 - (d) Inform both parties that the complaint will be referred to Six Rivers Community Mediation Services and that they will be contacted by that agency; and
 - (e) Deliver a copy of the complaint to the Six Rivers Community Mediation Services as soon as possible.
- (4) If the complainant and resource user that are principles in a documented resource use complaint within Wasco County request assistance beyond that provided by the Case Developer, the Case Developer shall implement the Complaint Mediation Process.
- (5) The Complaint Mediation Process shall:
- (a) Set a date to hear the complaint from both complainant and resource user within a reasonable amount of time; and

Work with both complainant and resource user in an attempt to resolve the complaint.

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- (6) The Complaint Mediation Process may:
- (a) Request the Wasco County Court to set up a Peer Review Board for assistance in determining whether an activity or facility is a generally accepted farming or forestry practice or facility;
 - (b) Suggest recommendations for Peer Review Board members to the Wasco County Court; and
 - (c) Meet with the complainant and resource user any number of times if the Mediators determine that progress is being made toward a resolution of the complaint.

(7) If the Complaint Mediation Process is unable to resolve the complaint, the complainant and resource user shall be advised by the Six Rivers Community Mediation Services of their additional options including, but not limited to, seeking advice from private counsel.

Section 6. ___ LAND USE DECISIONS. The fact that Wasco County's Comprehensive Plan, Zoning Ordinances and land use decisions allow the siting, development or support of any particular use does not negate the provisions of this Ordinance intended to protect a resource use.

Section 7. ___ EFFECT ON OTHER REMEDIES. The provisions of this Ordinance shall not impair the right of any Wasco County resident to pursue any remedy authorized by applicable Wasco County Ordinances or Federal and State laws that:

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- (1) Concerns matters other than a resource use nuisance;
- (2) Does not expressly purport to prohibit or regulate a farming or forestry practice as a resource use nuisance; or
- (3) Prohibits or regulates the use or physical condition of resource use activities or facilities that adversely affect public health or safety.

Section 8. SEVERABILITY CLAUSE. If any portion of this Ordinance is held invalid by a Court of competent jurisdiction, such decision shall apply only with respect to the specific portion held invalid by the decision. It is the intent of Wasco County that the remaining portions of this Ordinance continue in full force and effect.

Section 9. EMERGENCY CLAUSE. This Ordinance being immediately necessary for the preservation of the public well being, an emergency is declared to exist and this Ordinance shall take effect immediately upon adoption.

Regularly passed and adopted by the unanimous vote of all members of the County Court of the County of Wasco, State of Oregon, present on this day.

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DONE AND DATED this 3rd day of September, 2003

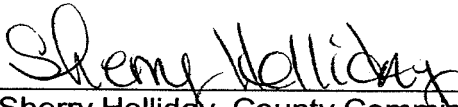
WASCO COUNTY COURT



Dan Ericksen, County Judge

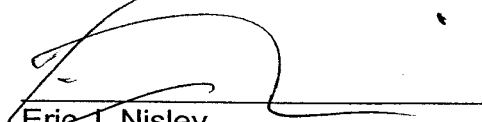


Scott McKay, County Commissioner



Sherry Holliday, County Commissioner

APPROVED AS TO FORM:



Eric J. Nisley
Wasco County District Attorney

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