



Wasco County Planning Department

“Service, Sustainability & Solutions”

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www.co.wasco.or.us/planning/planhome.html

NOTICE OF DECISION

FILE # PLACUP-10-08-0018

DATE: August 17, 2011

REQUESTS: Conditional Use Permit and a Subject to Standards Review for the conversion of an existing unlawfully placed 2-story dwelling (384 square foot footprint, with approximately 367 square feet of attached deck) into a hunting cabin/lodge, and approval of a 14' x 8' x 8' tall wood storage building.

DECISION: Denial

APPLICANT/OWNER INFORMATION:

Applicants/ Thomas G. Delzell and Julia N. Rouzie
Owners 2543 NE Chalmers Way
McMinnville, OR 97128

Contact: Owners

PROPERTY INFORMATION:

Township	Range	Section	Tax Lot No.(s)	Acres	Acct. #	Zoning
1N	12E	18	1100	40	216	F-2(80)/EPD-8

Address: None

Location: On a Private Easement Road located approximately 1.4 mile west of Ketchum Road, approximately 2.3 miles south of Vensel Rd./Chenowith Creek Rd./Ketchum Rd., approximately 8 miles southwest of The Dalles, Oregon

ATTACHMENTS:

STAFF REVIEWER: Dawn Baird, Associate Planner

- A. Time Limits & Appeal Information
- B. Vicinity Map
- C. Staff Report

After recording, return to:
Wasco County Planning & Development Dept.

If any finding or conclusion of this decision is held invalid, neither the remainder of this decision, nor the application of any other finding, conclusion or condition herein shall be affected thereby.

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.

SIGNED THIS 17th day of August, 2011, at The Dalles, Oregon.

Dawn Baird, Associate Planner
Wasco County Planning & Development Office

State of Oregon)
County of Wasco)

Signed or attested before me on August 17, 2011, by Dawn Baird.

Notary Public – State of Oregon

ATTACHMENT A – TIME LIMITS & APPEAL INFORMATION

APPEAL PROCESS:

The date of this decision is August 17, 2011. The decision of the Director shall be final unless an appeal from an aggrieved party is received by the Director within twelve (12) days of the mailing date of this decision, Monday, August 29, 2011, 4:00 p.m., or unless the Planning Commission or County Court on its own motion orders review within twelve (12) 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 and Development Office. Notice of Appeal forms may also be obtained at the Wasco County Planning and Development Office. The filing fee for an appeal is \$250.00. Fees are refunded if appellant prevails.

If no appeal is filed, or if this decision is upheld by the Approving Authority, the Planning Department will turn this matter over to the Code Compliance Officer, and the enforcement process will continue.

FINDINGS OF FACT:

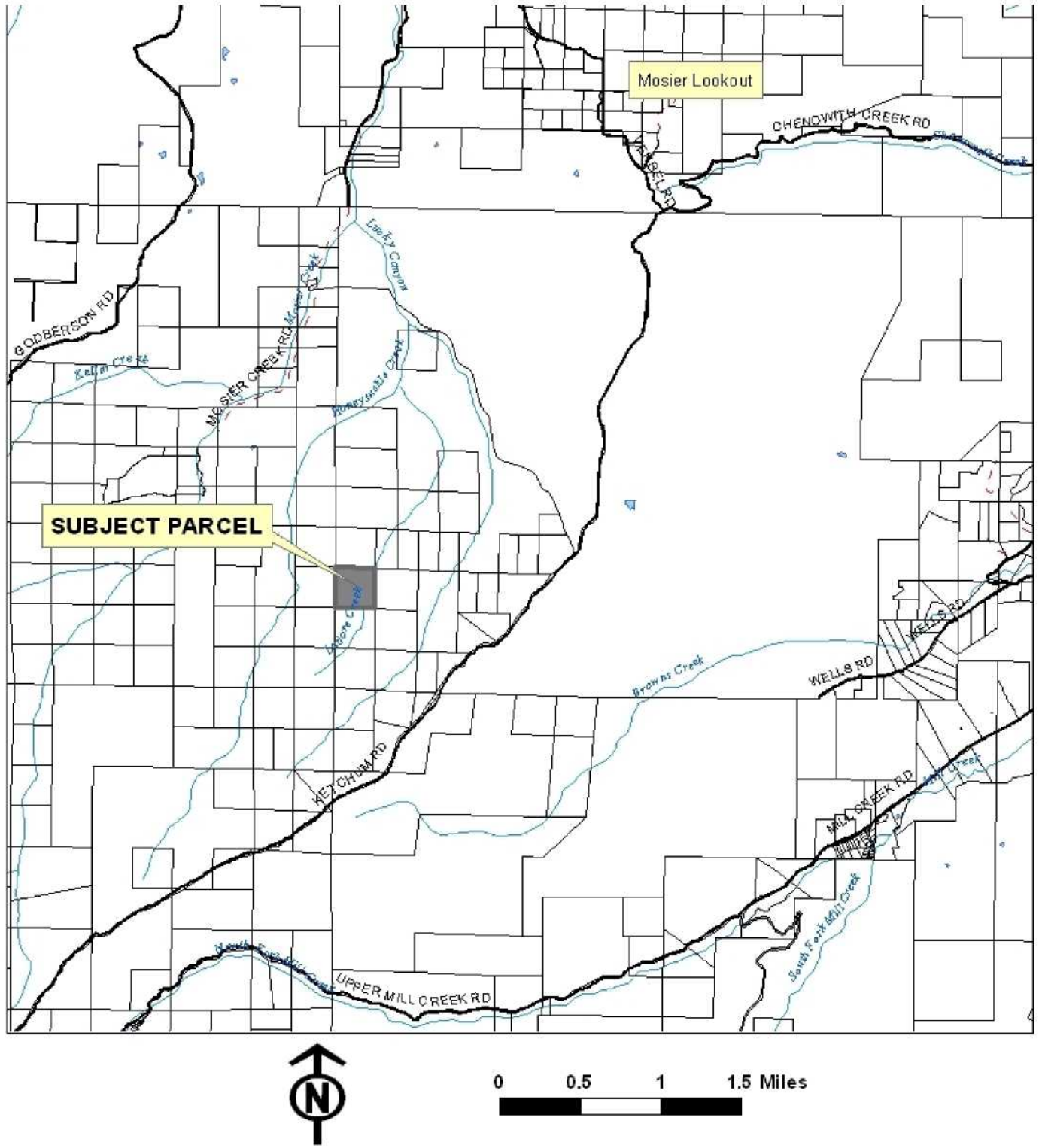
Findings of fact approving this request may be reviewed at the Wasco County Planning & Development Office, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: www.co.wasco.or.us/planning/planhome.html, click on Current Land Use Actions. There is a table for National Scenic Area applications and a table for regular County applications. Each table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

WE NEED YOUR HELP! Our goal is to provide excellent customer service for the people of Wasco County. Please participate in the public Service Evaluation Survey found on our website: <http://co.wasco.or.us/planning/planhome.html> If you cannot access this link please contact us at (541) 506-2560. Thank You.

ATTACHMENT B – MAPS

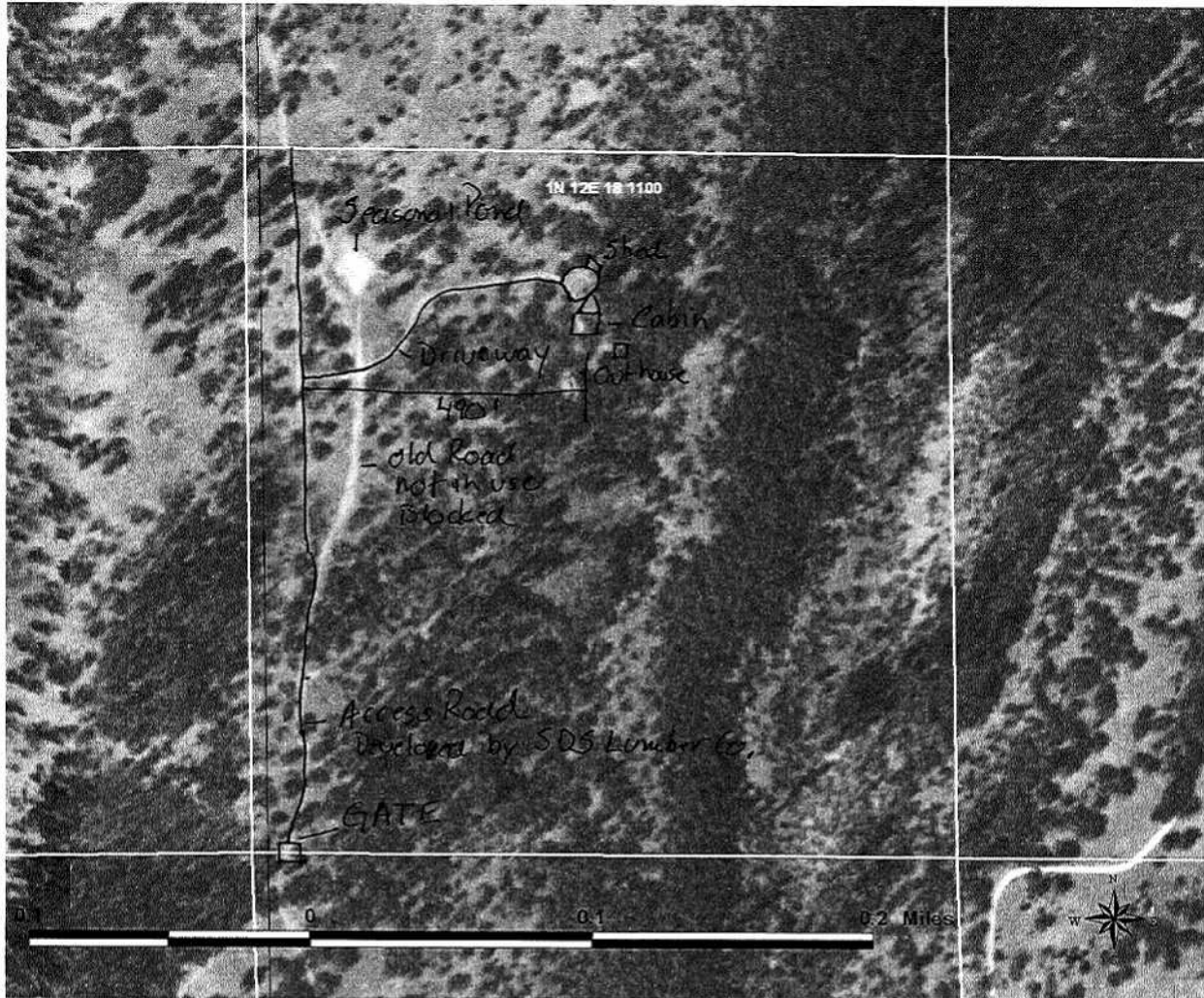
VICINITY MAP

1N 12E 18, Tax Lot 1100



SITE PLAN

1N 12E 18, Tax Lot 1100



ATTACHMENT C – STAFF REPORT

File Number: PLACUP-10-08-0018

Applicants/Owners: Thomas G. Delzell and Julia N. Rouzie

Requests: Conditional Use Permit and a Subject to Standards Review for the conversion of an existing unlawfully placed 2-story dwelling (384 square foot footprint, with approximately 367 square feet of attached deck) into a hunting cabin/lodge, and approval of a 14' x 8' x 8' tall wood storage building.

Decision: Denial

Decision Date: August 17, 2011

Appeal Deadline: August 29, 2010

Location: The subject property is located on an access road located approximately 1.4 mile west of Ketchum Road, approximately 2.3 miles south of Vensel Rd./Chenoweth Creek Rd./Ketchum Rd., approximately 8 miles southwest of The Dalles, Oregon; further described as:

<u>Existing</u>	<u>Previous</u>
1N 12E 18 1100	1N 12E 0 1815

Zoning District: F-2(80)/EPD-8, Forest/Sensitive Wildlife Habitat Overlay (Big Game Winter Range)

Contiguous Ownership: None

Past Actions: None

Procedure Type: Administrative

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. Wasco County Land Use & Development Ordinance (WCLUDO)

1. Chapter 2 – Development Approval Procedures
 - Section 2.060.A.1. (Conditional Use Review)
 - Section 2.060.A.6. (Uses Permitted Subject to Standards)
 - Section 2.080 (Notice)
 - Section 2.110.D (Conditions of Approval)
 - Section 2.120 (Notice of Decision by the Director)

2. Chapter 3 – Basic Provisions

a. Section 3.120 - Forest Zone

Section 3.120D.18 (Conditional Uses - Private seasonal accommodations for fee hunting or fishing operations occupied on a temporary basis)

Section 3.120.F. (Conditional Use Approval Standards)

Section 3.120.I. (General Development Standards)

Section 3.120.J. (Siting Requirements for Compatibility of New Dwellings and Accessory Structures)

b. Section 3.920 - Division 8 - Sensitive Wildlife Habitat Overlay

3. Chapter 5 – Conditional Use Review

Section 5.020 (Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used)

Section 5.030 (Conditions)

4. Chapter 10 – Fire Safety Standards

Section 10.110 (Siting Standards – Locating Structures)

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)

B. Wasco County Comprehensive Plan

Goal #4 – Forest Lands

Chapter 15, Goals and Policies, Section D., Goal 4 – Forest Lands, Policies 3 and 4

Chapter 2 – Physical Characteristics, K., Forest Resources

II. AFFECTED AGENCIES

Oregon Dept. of Forestry (wildfire protection)

Oregon Dept. of Fish & Wildlife (Big Game Winter Range Area)

Wasco County Assessor (taxation)

Mid-Columbia Building Codes Services (building/electrical/plumbing/mechanical permits)

III. COMMENTS: Surrounding property owners and interested agencies were provided notice of this request on May 4, 2011, and given 15 calendar days to submit comments. One comment was received:

Joshua Harper, property owner: (E-mail, July 21, 2011) Assumes the previous owner built the cabin and Mr. Delzell was lied to about the legality of the structures on the

property by the previous owner or their agents; feels the structures should be legalized and taxes collected for the county.

Staff Response: The law requires property owners or their agent to provide full disclosure about the status of the property and structures at the time of sale, and provides a remedy for property owners to sue for damages. Being lied to about the property and/or structures is not adequate justification to disregard the law.

IV. HISTORY OF THE REQUEST

- A. On December 29, 2008, a warranty deed was filed transferring ownership of the subject property from Harlon & Martina Rains to Thomas Delzell and Julia Rouzie. The illegal residence and wood storage structure existed on the property at the time of transfer.
- B. The existing illegally placed lodge/cabin is taxed by the Wasco County Assessor as a residence. According to their records, the residence contains approximately 384 square feet, and has a wood deck. It was first placed on the tax roll in 2003, but it could have existed prior to 2003.
- C. In early April, 2009, a verbal complaint was submitted to the Wasco County Code Compliance Officer that the existing buildings were illegally constructed. The formal written complaint was received on April 29, 2009. In August, 2009, the County Court gave the Code Compliance Officer directions on how to pursue and manage complaints about existing illegal structures.
- D. In October, 2009, the first enforcement letter was sent to the property owners by Keith Cleveland, Code Compliance Officer. The owners contacted Wasco County and planning staff advised the owners that a single family residence was not permitted on contiguous parcels less than 240 acres in size; however, there are other uses permitted outright, subject to standards, and conditionally, in the F-2, Forest zone.
- E. On August 6, 2010, the owners submitted an application for a conditional use permit for a seasonal hunting lodge/cabin. The request was determined to be incomplete on September 10, 2010. Additional information was submitted and the request was found to be complete on April 16, 2011.

V. FINDINGS

A. Wasco County Land Use & Development Ordinance

1. Chapter 2 – Development Approval Procedures

- a. Sections 2.060.A.1., Conditional Use Review, and A.6., Uses Permitted Subject to Standards

The above referenced LUDO sections provide that the Director will have the authority to review a Conditional Use Permit, and a Use Permitted Subject to Standards as Administrative Actions.

STAFF FINDING: The request is consistent with a.

- The proposed Conditional Use Permit and Subject to Standards Review is being reviewed by the Director as an administrative action in accordance with the Basic Provisions of Sections 2.060.A.1. and 6. The applicable Ordinance provisions and required findings are outlined in this report.

- b. Section 2.080, Notice, requires notice to the general public and certain specified individuals and agencies.

STAFF FINDING: Public notice was given, as specified by Section 2.080 of the Wasco County Land Use & Development Ordinance, ten days prior to this decision (May 4, 2011). Upon issuance of a decision, notice will again be given, and a twelve day appeal period provided.

- c. Section 2.110.D, Conditions of Approval
This section sets forth the parameters for imposing the recordation of conditions of approval on developments.

STAFF FINDING: The proposed use will require conditions to protect the public from potentially deleterious effects of the proposed use, fulfill the need for public service demands created by the proposed use. Because all future property owners and the public are required to have access to the conditions of approval associated with this review, the County Planning Department will record the entire notice of decision, including all of the conditions of approval, with the Wasco County Clerk's Office upon expiration of the appeal period.

2. Chapter 3 – Basic Provisions

- a. Section 3.120 – Forest zone
In the "F-2" Forest Zone, specific uses and activities and their accessory buildings and uses may be permitted, on a legal parcel, when authorized by the Approving Authority upon satisfactory demonstration of compliance with the general provisions and exceptions set forth by this Ordinance and Chapter 10 – Fire Safety Standards.

FINDING: All pertinent standards and criteria are addressed in this report.

- The subject parcel is 40 acres in size and was created by Contract 74-0758, recorded with the Wasco County Clerk on April 12, 1974. It is consistent with the definition of Legal Parcel in LUDO Section 1.090, Definitions.
- Subsection F., Conditional Use Approval Standards, is addressed in 2).
- Subsection I., General Development Standards, is addressed in 3).
- Subsection J., Siting Requirements for Compatibility of New Dwellings and Accessory Structures is addressed in 4).
- Chapter 5 – Conditional Use Review, is addressed in 3.
- Chapter 10 – Fire Safety Standards is addressed in 4.

- 1) Section 3.120.D.18., states that private seasonal accommodations for fee hunting or fishing operations occupied on a temporary basis may be approved upon findings that the request complies with the following requirements:
 - a) Accommodations are limited to no more than fifteen (15) guest rooms as that term is defined in the Oregon Structural Specialty Code.
 - b) Only minor incidental and accessory retail sales are permitted.
 - c) Accommodations shall only be occupied seasonally and temporarily for the purpose of hunting and fishing during seasons authorized by the Oregon Department of Fish and Wildlife.

FINDING: If the request is approved, with conditions, it is consistent with 1).

- The applicant has requested approval of a Conditional Use Permit and Subject to Standards Review to resolve a violation of the Wasco County Land Use Ordinance, and convert an existing illegally constructed 384 square foot single family dwelling into a cabin for seasonal hunting accommodations for temporary guests, and approval of detached lean-to building to store wood.
- If approved, the hunting lodge/cabin will house 6 overnight guests at a time.
- No retail sales are proposed. If the request is approved, a condition is included stating that only minor incidental and accessory retail sales are permitted.
- The owner's request is to convert an illegally constructed dwelling into a hunting lodge/cabin named Twin Peaks Lodge. The application states that this will be a seasonal operation with three primary seasons: Fall, Spring and Summer
 - Fall/Winter – September 1st to December 31st.
Grouse (shotgun only)
September: Archery only – Deer, Elk, Turkey
October: Rifle only – Black Tail Deer
November: Rifle only, Elk
 - Spring: Turkey hunt shotgun only
 - Summer: Special Hunts to be developed pending Fish and Game research. Early summer season will also be used for property management, i.e., fire prevention and property safety. In addition, some property guide and orientation service may be provided for Fall and Winter hunters.
- According to Jeremy Thompson, Wildlife Biologist, Oregon Dept. of Fish & Wildlife, The Dalles Region, no special hunts are being developed for the summer. In addition, in an e-mail dated August 1, 2011, Mr. Thompson states that the overall game density is generally not high enough on "small parcels" to fully support continued hunting opportunities, and he has concerns about potential trespass issues on adjacent properties unless the owner has made arrangements with his neighbors to hunt on their property. Mr. Thompson further

states that it is his opinion that hunters will not be able to consistently find game on a 40 acre parcel.

- The property owner did not provide any contracts or agreements showing he had permission from adjacent property owners to hunt on their property.
- The application states that early summer will be used for property management, specifically fire prevention/property safety and reforestation. The criterion states that the cabin can only be occupied seasonally and temporarily for the purpose of hunting and fishing, not to provide overnight accommodations for the owner when he is on the property managing the land for fire prevention or planting new trees. This proposed use of the cabin is inconsistent with Section 3.120.D.18. If the request is approved, a condition is included limiting use of the cabin to hunting seasons authorized by the Oregon Department of Fish and Wildlife.
 - d) Fishing accommodations must be located within 1/4 mile of fish-bearing waters.

FINDING: There are no fish-bearing waters in the vicinity.

- e) Other conditions imposed by the Approving Authority deemed necessary.

FINDING: If the request is approved, other conditions are imposed throughout this report as deemed necessary by the Approving Authority.

2) Section 3.120.F., Conditional Use Approval Standards

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following review criteria shall apply to a conditional use applied for in subsection D. of this Section:

- a) The proposed use will not significantly increase the fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

STAFF FINDING: The request for private seasonal accommodations for fee hunting is inconsistent with criterion a).

- **Merriam-Webster Dictionary defines “significant” as:**
 - 1: having meaning; especially : SUGGESTIVE <a significant glance>
 - 2a : having or likely to have influence or effect : IMPORTANT <a significant piece of legislation>; also : of a noticeably or measurably large amount <a significant number of layoffs> <producing significant profits> 2b : probably caused by something other than mere chance <statistically significant correlation between VITAMIN deficiency and disease>
- Written comments dated May 13, 2011, were submitted by David Jacobs, Unit Forester, Central Oregon Division, The Dalles Unit, Oregon Department of Forestry. He states that “while ODF does not regulate hunting, they deal with the results of human caused fires whether intentional or otherwise. The existence of a cabin in the forest zone provides

opportunities for human activities that can cause fires. While the applicant has mechanisms in place to try and prevent fires from starting they cannot assure that all activities that could result in fires will not happen. The increase in human activities can result in potentially new fire starts, and the increase of structures in the forest zone greatly increases ODF's cost for fire suppression and increases the risk to our firefighters”.

- Mr. Jacobs further states: “The applicant intends to provide “nearly 1,200 gallons” of water on the site. Since the lot is not within a structural fire protection district the applicant should either provide an NFPA approved sprinkler system or a 4,000 gallon water source as identified in part ‘B’ of Section 10.150 of the Wasco County Fire Safety Standards. It does not appear that they have met these criteria.”
- ODF has concerns with any new dwellings or structures in the forest zone. People and their activities start fires and regardless of the amount of prevention and good intentions, the more people and structures in the forest zone, the harder it is for ODF to suppress fires when there are other hazards in the way (people and structures).
- Because of the history of people and their activities starting fires, staff finds that this is a statistic that occurs not merely by chance, and the approval of the building will significantly increase fire suppression costs and risks to fire suppression personnel, therefore, the request does not comply with criterion a).
 - b) The landowner for the use shall sign and record in the deed records for the County a Forest-Farm Management Easement document binding the landowner and 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 30.93.936 or 30.93.937.

FINDING: If the request is approved, a condition will be included requiring the owners to record in the deed records for Wasco County, a Forest-Farm Management easement.

3) Section 3.120.H., General Development Standards

- a) **Setback** - No structure other than a fence or sign shall be located closer than forty (40) feet from the right-of-way of a public road and all other property lines. Dwellings and structures accessory to dwellings shall also meet all siting standards and setbacks listed for dwellings or structures in the F-2 zone.

FINDING: If the request is approved, with a condition, the request complies with criterion a).

- The request is for a Conditional Use Permit and a Subject to Standards Review to legalize an illegally constructed residence as a hunting cabin/lodge, and a tool storage building for reforestation.
- The site plan from the property owners is not drawn to a usable scale, so staff viewed 2009 aerial photographs to approximate the distances of the existing illegal cabin and shed from property lines. Existing structures are located at least 200' from all property lines:

Structure	West (front)	North (side)	South (side)	East (rear)
Cabin	600'	300'	600'	1,000'
Wood shed	600'	200'	700'	1,100'

- If the request is approved, a condition is included requiring the owners to submit a new site plan, drawn to scale, showing all items listed and required on the site plan form provided to them by the Planning Dept. The required site plan shall not be drawn on an aerial photograph so it can be reproduced.
- Additional siting and setback standards are addressed in 3) and 4).
 - b) Height - Maximum height for all structures shall be thirty-five (35) feet. Height is measured from average grade.

FINDING: The existing illegally constructed cabin is 16' in height, and the wood storage structure is 8' in height, therefore, the request complies with criterion b).

- c) Stream and Lake Buffers: All structures, or similar permanent fixtures (except hydroelectric facilities) shall be set back from the high water line or mark along all streams or lakes a minimum distance of one hundred (100) feet when measured horizontally at a right angle.

FINDING: The request is consistent with criterion c) because both structures are located over 650' west of Ladore Creek.

- d) Lighting - All 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 nonreflective, opaque materials.

FINDING: If the request is approved, with a condition, the request is consistent with criterion d).

- The site plan does not identify any outside lighting, however, the owners need to be aware of the County's outdoor lighting standards.
- A condition is included requiring all exterior lighting to be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties and roadways. The exterior of shielding and hooding materials shall be composed of nonreflective, opaque materials.

4) Siting Requirements for Compatibility of New Dwellings and Accessory Structures

The following siting criteria shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:

- a) Site Selection for Least Impact - Siting shall result in the least possible impact on nearby or adjoining forest or agricultural lands.

FINDING: The request is inconsistent with criterion a).

- i. Siting shall ensure that forest operations and accepted farming practices will not be curtailed or impeded.

FINDING: If the request is approved, with a condition, it complies with i.

- According to data from the Soil & Water Conservation District, there are no identified farm operations on contiguous properties, and the closest identified farm use is located approximately 6/10 mile to the southeast. (Ketchum Ranch).
- According to data from the Soil & Water Conservation District, there are no identified forest operations on contiguous properties, and the closest identified forest use is located approximately 6/10 mile to the southeast. (Fulton). Though many of the ownerships within ¼ mile of the property contain 40-80 acres, there is at least one property that exceeds 200 acres, one that exceeds 400 acres, and one timber company ownership in excess of 600 acres. These three ownerships are enrolled in a forest deferral program. Staff makes the assumption that these three ownerships are being used for commercial forest use.
- To minimize potential conflicts between the existing lodge/cabin and farm and forest uses in the vicinity, if the request is approved, a condition is included requiring the owners 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 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 prior to Building Permit Authorization).

- ii. Siting shall minimize the amount of forest or farm land removed from production for access roads, service corridors, the dwelling and accessory structures.

FINDING: The request is inconsistent with criterion ii.

- There are two existing driveways on the property. Driveway #1 leaves the easement road and travels directly north to a pond. Driveway #2 leaves the easement road and travels directly east to, and encircles the existing structures, making a complete circular driveway.
- Driveway #1 is approximately 575 feet long, and driveway #2 is approximately 1,225 feet long, for a total of approximately 1,800 feet of driveway, or approximately 0.34 mile.
- The existing buildings were constructed in violation of Wasco County LUDO regulations, without any building permits. It was built without consideration of the amount of forest or farm land removed from production for the access roads and structures. The structures are located too far from the road, and the driveways are too long to meet criterion ii.

- b) Dwelling and Accessory Structure Set Backs - To satisfy a), dwellings and their accessory structures shall be sited a minimum of 100 feet from property lines. This set back is intended to limit the

potential for conflict (including increased fire risk) between residential use and existing or potential resource use on surrounding parcels. Exceptions to this requirement may be granted outside the standard variance procedure in Chapter 6, if the applicant can demonstrate that the siting the dwelling within 100 feet but not less than 40 feet from the public right of way or property line better accomplishes the objectives listed in a).

FINDING: The existing buildings are located a minimum of 300' from all property lines, therefore, the request is consistent with criterion b).

- c) **Clustering of Development** - Clustering development near or among existing structures and in as limited a portion of the site as practical is considered preferable when developing in the Forest Zone. The applicant may be required to demonstrate that development has been clustered sufficiently to limit impacts on the undeveloped portion of the parcel or tract.

FINDING: The request is inconsistent with criterion c).

- Staff considers buildings to be clustered when the buildings, or a portion of the buildings are located within 100' of each other.
- The existing illegally constructed cabin and wood shed are located within 100' of each other, and are considered to be clustered, however, the shed and outhouse are located approximately 200' apart and are not considered to be clustered.
- The arrangement of existing illegally constructed structures is not clustered to limit impacts on the undeveloped portion of the parcel because it is located nearly 500' from the road and impacts the entire northwest quarter of the parcel. If the buildings had been reviewed and approved by the Planning Dept., the buildings would have been placed closer to the road to limit the impacts on the undeveloped portion of the 40 acre parcel.

- d) **Good Proximity to Public Roads** - Siting close to existing roads is generally considered preferable and may be required of the applicant if it best accomplishes the overall intent of the siting requirements.

FINDING: The request is inconsistent with criterion d).

- Development standards in the Big Game Winter Range Area require all structures to be located within 300' of the road providing access to the property.
- Existing illegally constructed buildings are located approximately 490' east of the existing easement road that provides access to the property. This distance is too long to be considered "good proximity" to the easement. If the buildings had been permitted by Wasco County, they would have been required to be within 300' of the easement road.

- e) **Development Located on Least Productive Portion of Land** - Siting development on that portion of the parcel least well suited for

growing trees is considered preferable. The applicant may be required to demonstrate that the location of development will impact the least productive portion of the parcel or tract.

FINDING: Based on soils data from the Soil & Water Conservation District, the request complies with criterion e)

- The subject parcel contains three soil types:
 - 49B, Wamic loam, 1-5% slopes. The cubic foot site class rating for this soil is 6 for Ponderosa pine trees.
 - 50F, Wamic loam, 40-70% slopes. The cubic foot site class rating for this soil is 6 for Ponderosa pine trees.
 - 51D, Wamic-Skyline complex, 2-20% slopes. This soil is a complex soil, meaning it combines two soils together. This soil unit contains 75% Wamic, and 25% Skyline. The cubic foot site class rating for the Wamic part is 6 (for Ponderosa pine trees); there is no cubic foot site class rating for the Skyline part.
- Both of the existing buildings are located on soil identified as 51D, Wamic Skyline complex, which is the least productive soil on the property.
 - f) Road Maintenance Required - If road access to the dwelling is by a road owned and maintained by the County, a private party, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or maintenance agreement allowing permanent access to a dwelling site. The road use permit or maintenance agreement may require the applicant to agree to accept full or partial responsibility for road maintenance.

FINDING: If the request is approved, with a condition, it is consistent with criterion f).

- The road providing access to the property was created by Deed Volume 142, Page 408, recorded with the Wasco County Clerk on November 3, 1960 as a “logging road easement” and is not owned or maintained by Wasco County, a private party, GLM or the USFS. Maintenance, if any, is provided by private property owners using the road. The access road is considered to be a Private Easement Road.
- If the request is approved, a condition is included requiring the owners to sign and record with the Wasco County Clerk a Road Disclosure Acknowledgment making current and future owners aware that the road providing access to the property is maintained by property owners, and will not be maintained a governmental agency or private party.
 - g) Authorization for Domestic Water Supply - The applicant shall provide evidence to the approving authority that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water or surface water. For purposes of this section, evidence of a domestic water supply means:

- i. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
- ii. A water use permit issued by the Water Resources Department for the use described in the application; or
- iii. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.

FINDING: If the request is approved, with a condition, the request is consistent with criterion g).

- Criterion g. requires the applicant to provide evidence that the domestic water supply is from a source authorized under the Department of Water Resources Oregon Administrative Rules. The applicant states that domestic water is hauled onto the property as needed; this is inconsistent with criterion g).
 - The application states that the property's water source is a seasonal pond and a seasonal creek.
 - Staff contacted the County Watermaster's Office on June 2, 2011, to find out if this property has the ability to use either water source for domestic or emergency purposes. According to the Watermaster's Office, a water right is required to use either source for any purpose, and there is no water rights permit approval on the property.
 - As submitted, the request does not comply with g). However, if the request is approved, the following condition is included: The owner shall provide proof of a domestic water supply consisting of one of the following:
 - Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - A water use permit issued by the Water Resources Department for the use described in the application; or
 - Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.
- h) **Forest Stocking Requirements** - Approval of a dwelling shall be subject to the following requirements:
- i. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract

is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;

- ii. The director or the director's designee shall notify the county assessor of the above condition at the time any decision to permit a dwelling is approved;
- iii. The property owner of a parcel more than 30 acres in size, shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that the minimum stocking requirements have not been met;
 - (1) Upon notification by the assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements. If the tract does not meet those requirements the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation and impose (ORS 321.359) the additional tax.
 - (2) The landowner for the dwelling shall sign and record in the deed records for the county a Forest Farm Management Easement 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 30.93.936 or 30.93.937.

FINDING: If the request is approved, with conditions, it complies with criterion h).

- Per criterion ii., the County Assessor is notified of all decisions made by the Planning Director.
- If the request is approved, with a condition requiring the owners to sign and record with the Wasco County Clerk, a Forest Farm Management Easement, prohibiting the landowner and future owners from pursuing a claim or cause of action alleging injury from farm or forest practices.
 - b. Section 3.920 - Division 8 - Sensitive Wildlife Habitat Overlay zone
The purpose of this overlay district is to conserve important wildlife areas by providing supplementary development standards; to promote an important environmental, social, and economic element of the area; and to permit development compatible with the protection of the wildlife resource.

- 1) Siting Standards: In the area designated Big Game Winter Range the following siting standards shall be applied as a condition of approval for all new dwellings: New dwellings shall be located within three hundred feet (300') of public roads or easement or private roads or easements existing as of October 22, 1997, unless it can be found that:
 - a) Habitat values (browse, forage, cover, access to water) are afforded equal or greater protection through a different development pattern; or,
 - b) The siting within three hundred feet (300') of such roads or easements would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least impact on wildlife habitat possible considering browse, forage cover, access to water, and minimizing length of new access roads.

FINDING: The request is inconsistent with 1).

- The subject property is located in the Big Game Winter Range. There is an existing road easement that runs north-south through the subject parcel that existed prior to October 22, 1997. Criterion 1) requires the “dwelling” to be located within 300’ of the existing easement.
- According to the property owner, existing buildings are located approximately 490’ east of the existing easement road, greater than the 300’ limit.
- For the house to be located more than 300’ from the road, the applicant must either show that (1) the existing development site provides equal or greater protection for habitat values; or (2) that requiring the dwelling within 300’ of the road requires the house to be located on irrigated land.
- There is no irrigated land on the subject parcel.
- Comments dated May 16, 2011, were submitted by Jeremy Thompson, District Wildlife Biologist, Oregon Dept. of Fish & Wildlife (ODFW), The Dalles Field Office. Mr. Thompson states that ODFW is charged with the protection and enhancement of Oregon’s fish and wildlife and their habitats for use and enjoyment by present and future generations. His comments regarding whether the location of the existing illegally built cabin provides equal or greater protection are summarized below:
 - The owner states that the “existing location provides better wildlife protection, due to keeping the structure away from access to other parties.” ODFW disagrees with this statement.
 - ODFW believes that clustering development and disturbances within sensitive wildlife habitat is preferred. (Planner note: during a telephone conversation, Mr. Thompson spoke of the other adjacent (illegal) development and indicated that if new uses were to be approved, they should be clustered near the property line so they are near the structural development on the other property).
 - ODFW requests that if any development is approved on this property, the County should require that it be entirely location within 300’ of the road easement. If the request is approved, a condition is included requiring the existing dwelling and outbuilding to be relocated to a site within 300’ of the road easement.

- Additional comments from Jeremy Thompson include:
 - The existing cabin will be used as a seasonal operation, and the application states that during the summer season, the owners will conduct “special hunts to be developed pending Fish and Game Research.” According to Mr. Thompson, ODFW has no plans to conduct any research into exploring the idea of additional hunting seasons in the summer.
 - The applicant’s description of available seasons during the spring and fall are accurate, although staff’s e-mails and telephone conversations with Mr. Thompson indicate that opportunities within the property may be limited.
 - E-mail comments received from Mr. Thompson on June 6, 2011: “Hunting does not create a negative impact on wildlife, however, vehicles, all terrain vehicles, and roads/driveways create a negative impact on wildlife. In my opinion the larger the tract, the lesser the disturbance to wildlife. That is our rationale behind clumping development, it maximizes the open space available. With larger tracts there is naturally the space available for animals to utilize more habitat without encountering human disturbance. That is also why our department supports the minimum lot sizes (large acreages) developed with agricultural and forest zones.”
- In an e-mail dated June 3, 2011, Robert Wood, Watermaster, District 3, Oregon Water Resources Dept., stated that he cannot find any water rights for a pond or for domestic use from any surface water source; however, the owners can file for water rights to make their use legal. It is unlikely that they would be able to get a year-round right to use water from a creek for domestic use. The property owners are permitted to drill a well for year-round water for domestic purposes.
- Staff finds the request inconsistent because the existing structures do not provide equal or greater protection to wildlife habitat as would sites within 300’ of the road. This finding is based upon the testimony of Jeremy Thompson, Wildlife Biologist, Oregon Dept. of Fish & Wildlife. Staff relies on state and federal agencies to provide assistance and information on certain matters during the review.

2) Fencing Standards: The following fencing standards could apply to new fences constructed as a part of development of a property in conjunction with conditional use permit. These standards shall be a voluntary agreement by the applicant.

New fences in the Big Game overlay zone are designed to permit wildlife passage. The following standards are guidelines approved by the County after consultation with the Oregon Department of Fish and Wildlife:

- a) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
- b) A 3-wire or 4-wire fence with the bottom wire at least 18 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire to avoid injury to animals.

- c) 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.

STAFF FINDING: With a condition, the request is consistent with 2).

- The owners have not proposed any new fencing as part of this request.
- If the request is approved, a condition is included requiring current and future property owners to comply with the above fencing standards.

3. Chapter 5 – Conditional Use Permit

Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise altered or denied upon authorization by Administrative Action in accordance with the procedures set forth in Chapter 2 of this Ordinance. In judging whether or not a conditional use proposal shall be approved or denied, the Administrative Authority shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

a. Section 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used.

- 1) The proposal is consistent with the goals and objectives of the Comprehensive Plan and implementing Ordinances of the County.

STAFF FINDING: Goals and objectives of the Comprehensive Plan and implementing ordinances are addressed in B., where the request is found to be inconsistent, therefore, staff finds the request for a hunting lodge/cabin and wood storage structure is inconsistent with criterion 1).

- The goals and objectives of the Comprehensive Plan are addressed in B.
 - 2) Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses.

STAFF FINDING: The request is consistent with criterion 2).

- (Location) The existing illegally constructed “hunting lodge/cabin” is located over 200’ from all surrounding properties, and approximately 750’ from the nearest building, another illegally constructed dwelling located on property to the west.
- (Size and Design) In considering this criterion, staff interprets the ordinance to place emphasis on the nature of the use, more than on the particular architectural characteristics of a proposed structure. In this instance, the proposal is for a hunting lodge/cabin containing approximately 314 square feet (including decks), and also includes a wood storage structure. The existing cabin is consistent in size and design with other structures within ¼ mile of the subject parcels

which range from 240 square feet to 1,074 square feet in size and include 1- and 2-story buildings. (No distinction is made between lawful and unlawful structures.)

- (Operational Characteristics) The existing cabin has been used as a residence for many years. It is not occupied on a permanent basis. There have been no complaints from owners of forest land in the area about the impact of the residence on forest operations. The original complaint submitted on the property was that the cabin was built without the appropriate building permits.
- Staff finds that if the request is approved, the existing cabin will not adversely affect surrounding properties based on the reasons stated above.
 - 3) The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities.

STAFF FINDING: If the request is approved, with a condition, the request complies with criterion 3).

- The existing illegally constructed building is served by a Private Easement Road located west of Ketchum Road. Roads are further addressed in 4).
- The subject parcel is are located within the boundaries of a structural fire protection district, however, it is located within the Oregon Dept. of Forestry boundaries for wildfire protection. Comments from the Oregon Dept. of Forestry regarding fire danger are addressed in 2.a.2).
- Chapter 10 – Fire Safety Standards is addressed in 4.
- Staff conducted a review (December 1, 2010 notice) on property located west of the subject parcel. At that time Sheriff Rick Eiesland stated that this area of the County is not regularly patrolled by the Wasco County Sheriff's Office, however, they will respond to calls from the area. Staff concludes the processing facility in this location will not significantly burden law enforcement agencies.
- There is no public sewer facility on the parcels. There is an existing outhouse on the property. Staff contacted John Zalaznik, Wasco-Sherman County Health Dept. regarding sanitation requirements for an outhouse. He stated that an outhouse requires a Construction/ Installation Permit, and possibly a site evaluation. He reviewed sanitation records and said it appears that the existing outhouse has no permit. If the request is approved, a condition is included requiring sanitation approval be provided for the outhouse prior to Planning Dept. building permit authorization.
- There is no public or private water facility on the parcel. Water for human consumption is hauled to the property as needed. Domestic water was addressed in 2.a.4)g), and water for fire protection is addressed in 4., Fire Safety Standards.
- No electrical service is proposed to be installed on the property. Telephone (land line) is not available, and cellular service is typically not available.

4) The proposed use will not unduly impair traffic flow or safety in the area.

FINDING: The request complies with criterion 4).

- The existing Private Easement Road to the property was originally established by Deed of Easement, Volume 142, Page 408, recorded with the Wasco County Clerk on November 5, 1960. The only detail provided about the Private Easement Road is that it is “an easement of right-of-way for a logging road.”
- Staff spoke with Marty Matherly, Wasco County Public Works Director, on December 6, 2010, regarding another proposed building on property directly west of the Delzell property. At that time, Mr. Matherly stated that Ketchum Road is not in good shape and it receives little maintenance. Though the existing use may not cause a significant impact on Ketchum Road, as more uses are approved in this area, there will be more impact on Ketchum Road, and it may require more maintenance in the future. Increased residential use is usually the reason why more maintenance is required; however, the proposed use will not overburden Ketchum Road or unduly impair traffic flow or safety in the area.

5) The effects of noise, dust and odor will be minimized during all phases of development and operation for the protection of adjoining properties.

FINDING: If the request is approved, with a condition, the request complies with criterion 5).

- (Noise) The hunting operation will create noise because rifles will be fired to bring down game animals and other wildlife species. This noise will not be excessive, and is similar to noise produced by any property owner who wants to hunt on their land.
- (Odor) The only potential odor created by the proposed use is smoke from a campfire or wood stove fire to heat the cabin. This odor is similar to smoke produced by existing legally placed dwellings in the area.
- (Dust) Construction of the hunting lodge/cabin was completed prior to any land use approval. No dust will be created through the construction of new buildings. However, there is an existing driveway west of the structural improvements. As long as the driveway meets fire safety standards, it will not create dust. If the request is approved, a condition is included in 4., Chapter 10 – Fire Safety Standards, that will require the owners to maintain the driveway in compliance with Section 10.140, Access Standards – Providing Safe Access to and Escape from your Home. With this condition, the request complies with 5.

6) The proposed use will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along streambanks and will not subject areas to excessive soil erosion.

FINDING: The request is inconsistent with criterion 6).

- **Sensitive Wildlife Habitat:** Sensitive wildlife habitat was discussed in III.A.2.b. where the request was found to be inconsistent with the EPD-8, Sensitive Wildlife Habitat Overlay zone.
- **Riparian Vegetation:** There is one creek, Ladore Creek, which flows in a north-south direction and is located near the center of the property. Existing illegally constructed structures will be located slightly over 500’ from this creek. Due to distance from the creek,

and since no proposed disturbance along or in the creek, the request will not significantly reduce or impair riparian vegetation along streambanks.

- Soil Erosion: The request does not propose any ground disturbance; therefore, soil erosion will not occur as a result of the proposed use.

7) The proposed use will not adversely affect the air, water, or land resource quality of the area.

FINDING: If the request is approved, with conditions, both a permanent and temporary facility complies with criterion 7).

- (Air) The existing building contains a wood stove. The proposed hunting lodge/cabiny will not adversely affect air quality because air pollution created by a wood stove is minimal. This pollutant is regulated by the Oregon Department of Environmental Quality via standards for woodstoves. The owners are reminded that a wood stove requires a Mechanical Permit from Mid-Columbia Building Codes Services, and they are required to obtain all applicable permits (building, mechanical, etc.) from Building Codes. If the request is approved, a condition stating this is included.
- (Water) There is an existing pit toilet on the property. The Health Department (Sanitation) does not have a permit on file for sanitation approval. If the request is approved, the owner will have to show compliance with all Wasco-Sherman County Health Department requirements. Compliance with all sanitation requirements will ensure groundwater quality in the area will not be adversely affected by the outhouse. If the request is approved, a condition is included requiring verification from the Wasco-Sherman County Health Department that the existing outhouse meets all applicable sanitation standards.
- (Land) The proposed use will have no impact on the land resource quality of the area because the use involves hunting animals, and will not discharge any hazardous materials onto the soil.

8) The location and design of the site and structures for the proposed use will not significantly detract from the visual character of the area.

FINDING: The request complies with criterion 8).

- The standard does not require that there be no visual impact, but that any impact is not significant. The development pattern on surrounding land consists of forest use along with scattered single family dwellings at low densities.
- The existing illegally placed dwelling and wood storage structure are light green and dark green with a natural wood deck. It is not highly visible from surrounding properties due to color, existing on-site trees and distance. It blends well into the area.

Based on the existing colors of the buildings, trees and distance, staff finds that it blends well with the area, and will not significantly detract from the visual character of the area.

9) The proposal will preserve areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.

FINDING: The request is consistent with 9).

- According to the inventory of historic landmarks, as inventoried by the Wasco County Historical Landmarks Committee (6/15/81 – present), there are no historic sites located on the subject parcels or surrounding properties.
- The inventory of natural areas as listed in the Wasco County Comprehensive Plan, Table 11A, does not identify any significant natural features on the parcels.
- Notification was sent to property owners within 750' of the subject parcels. No comments were received from affected agencies or adjacent property owners.
- Based on the above reasons, staff concludes that the proposed development will not interfere with areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.

10) The proposed use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use.

11) The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.

FINDING: The request complies with criteria 10) and 11).

- For the purpose of addressing these criteria, “surrounding lands” are considered to be those within ¼ mile of the subject parcels.
- There are nine tax lots within ¼ mile of the subject property. Six of the nine tax lots are enrolled in a forest deferral program with the Wasco County Assessor. No land within ¼ mile is enrolled in a farm deferral program with the Wasco County Assessor.
- Seven property owners within ¼ mile of the subject property own 40 acres, and one owner owns 80 acres. These acreages do not lend themselves to intensive forest use.
- The majority of land within ¼ mile of the subject parcels is slightly suitable for commercial forest production (51D, Wamic-Skyline complex, 2-20% slopes).
- The existing illegally placed structures are over 200' from all property lines, and there are existing trees to help separate them from surrounding properties.
- Based on distance, on-site tree screening, and poor quality soils on surrounding properties, staff finds that the proposed use will not significantly increase the cost of, or force a significant change in accepted forest practices on surrounding lands devoted to forest use.
- That said, any use permitted conditionally could potentially change or increase the cost of accepted farm or forest practices if it creates interference with existing farm or forest practices by complaining about and/or threatening legal action over farm practices. It must be recognized that it is impossible to prove with certainty that a forest processing facility will not conflict with nearby resource uses. It is possible however, to evaluate the likelihood of

potential conflicts and make a reasonable conclusion regarding potential changes to or increases in costs for resource practices based on review of factual evidence. To minimize potential conflicts between the proposed processing facility, if the request is approved, a condition was previously included requiring the owner to sign and record a Farm-Forest Management Easement prior to operation of the hunting lodge/cabin.

b. Section 5.030, Conditions

Such reasonable conditions as are necessary to ensure the compatibility of a conditional use to surrounding permitted uses as are necessary to fulfill the general and specific purposes of this Ordinance may be imposed in approving an application, pursuant to Section 2.110.D.

FINDING: Conditions are imposed throughout this report to ensure that the proposed forest processing facility is compatible with surrounding permitted uses.

4. Chapter 10 – Fire Safety Standards

- a. Section 10.110, Siting Standards – Locating Structures for Good Defensibility
- b. Section 10.120, Defensible Space – Clearing & Maintaining a Fire Fuel Break
- c. Section 10.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a More Fire-Safe Structure
- d. Section 10.140, Access Standards – providing safe access to and escape from your home
- e. Section 10.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response

STAFF FINDING: If the request is approved, with conditions, the request is consistent with Chapter 10 – 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.
- The property owners have completed a Fire Safety Standard Self-Certification Form, and it is located in the Planning Dept. file. 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 Files PLACUP-10-08-0018/ PLASTS-10-08-0024. A condition making current and future owners aware of this is included.
- The private easement road providing access to the property is in poor condition. If the request is approved, a previous condition requires the owners to sign and record with the Wasco County Clerk a Road Disclosure Acknowledgement making current and future

owners aware that the road to the property is not maintained by any governmental agency or private party, but is maintained by the property owners using the road.

- During site visits to the property to the west on July 14, 2010, staff viewed the developed portion of the Delzell/Rouzie property and verified that the existing driveway complies with all fire safety standards for access.
- The existing cabin is located outside of a fire protection district, with no on-site water source. The owner submitted additional information in April, 2011, which states that there are three 300 gallon water tanks on his property, as well as a rolling tank with an undisclosed quantity of water. The total available on-site water is approximately 1,200 gallons. According to fire safety standards, the owner should have a minimum of 4,000 gallons permanently available or stored on the property. If the request is approved, a condition will be included requiring a minimum of 4,000 gallons of water to be permanently available or stored on the property. The owners shall submit a narrative explaining how the water would be available and used in the event of a wildfire in the area.

B. Wasco County Comprehensive Plan - Goal #4 – Forest Lands

The purpose of Statewide Goal 4 – Forest Lands is to conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The Comprehensive Plan establishes policies to guide new development on forest lands, and provides implementation measures to carry out the policies.

FINDING: The request for the conversion of an existing unlawfully placed dwelling into a hunting cabin/lodge on the subject property is inconsistent with the intent and purpose of Statewide Planning Goal 4 – Forest Lands.

- The property owners have made application for a Conditional Use Permit and a Subject to Standards Review for a hunting cabin/lodge in the Big Game Winter Range Area.
 1. **Policy 1:** Land use regulations and tax incentives should be designed to safeguard forest management operations on both private and public lands.

FINDING: The request is inconsistent with Policy 1.

- The subject parcel is not enrolled in a forest deferral program with the Wasco County Assessor. The application states that 8-10 acres on the eastern one-quarter of the 40 acre parcel will be replanted in spring, 2012 by Lava Nursery (Parkdale, Oregon).
- Implementation Measure 1 encourages resource management on those lands which meet the stocking and survival requirements of the Forest Practices Rules for Eastern Oregon. Though the subject parcel contains soils that are considered to be productive for commercial forest use, the land is not currently used for commercial forest use, but is used for residential and recreational use.

- As discussed throughout this report, human activity creates the majority of wild fires. Land use regulations severely limit the placement of residences in Forest zones so that forest operations can be protected.
- The Oregon Department of Forestry supports the limitation of residential use due to wild fire concerns.
 2. Policy 3: All physical development should be located such that it minimizes the risk of wildfire and allows for assistance in the control of wildfire.

FINDING: Fire safety standards, on-site water supply, and fire protection agency coordination is addressed in A.4.

3. Policy 4: Coordination with the Oregon Department of Forestry and Oregon Department of Fish and Wildlife should occur whenever possible during the land use review process.

FINDING: Staff has coordinated with the Oregon Dept. of Forestry (ODF) and Oregon Dept. of Fish & Wildlife (ODFW) and provided the appropriate notices to these agencies. Written comments were submitted by both agencies, and were considered in the decision making process.

- Written comments were submitted by ODFW on May 16, 2011, and were considered in the decision making process.
- The request for a hunting lodge/cabin for the existing cabin is not supported by ODFW for the following reasons:
 - The existing cabin is located more than 300' from the easement providing access to the property and does not provide better wildlife protection. Driveways provide a barrier to wildlife movement, which is one of the reasons why all new dwellings are required to be within 300' of the road in the Big Game Winter Range.
 - A site within 300' of the easement providing access to the property would result in the buildings being clustered with the existing building to the west. Clustering development maximizes the open space available. With more open space, animals can utilize the habitat without encountering human disturbance.
 - ODFW has no plans to schedule additional hunts, including the summer season.
 - Opportunities for hunting during the allowed seasons may be limited in this area.
- Written comments were submitted by ODF on May 13, 2011, and were considered in the decision making process.
- The request for a hunting lodge/cabin is not supported by ODF for the following reasons:
 - The subject property contains soil characteristics that are not typically conifer producing soils. The majority of the site is mostly capable of producing oak.
 - Approximately 8 acres of forest land are proposed to be replanted. Typically a planting operation of this size can be done with a crew in a few hours with some tools and planting bags that can be transported in a vehicle.
 - ODF does not regulate hunting but deals with the results of human caused fire.

- Mechanisms are in place by the owner to try and prevent fires from starting but they cannot assure that these mechanisms will eliminate the risk of fire created by the proposed activities.
- Human activities can result in new fire starts.
- The increase in the number of structures in the forest zone greatly increases ODF's cost for fire suppression and increases the risk to fire fighters.
- 1,200 gallons is not enough water to have on-site; should be required to have a minimum of 4,000 gallons.
- If the use is approved, requests owner to strictly adhere to the fire safety standards in the LUDO.
- If the use is denied, requests that the building be removed.

VI. CONCLUSIONS:

- A. The request is for a Conditional Use Permit and a Subject to Standards Review for the conversion of an existing unlawfully placed dwelling into a hunting cabin/lodge, and a wood storage building.
- B. The Comprehensive Plan designation for the property is Forest and the zone is F-2 (80) /EPD-8, Forest/Sensitive Wildlife Habitat Overlay (Big Game Winter Range) zone.
- C. Based upon the Findings in Section V, the request for a Conditional Use Permit and a Subject to Standards Review for the conversion of an existing unlawfully placed dwelling into a hunting cabin/lodge, and a wood storage building in Forest zone, in the Big Game Winter Range Area, is inconsistent with Statewide Planning Goal 4 – Forest Lands, Wasco County Comprehensive Plan, Chapter 15, Goals and Policies, Section D., Goal 4 – Forest Lands, and the Wasco County Land Use & Development Ordinance, Chapter 3 – Basic Provisions, Sections 3.120.F.1., J.1.a. and b., 3., and 4.; Section 3.920.F.2., and Chapter 5, Section 5.020.A. and F; therefore the request is denied.