



Wasco County Planning Department
"Service, Sustainability & Solutions"
 2705 East Second St. • The Dalles, OR 97058
 (541) 506-2560 • wcplanning@co.wasco.or.us
 www.co.wasco.or.us/planning

PLAAPL-16-12-0006
 OF
 FILE NUMBER: PLASTS-16-08-0006

APPEAL OF LAND USE DECISION

ORIGINAL PLANNING DEPARTMENT FILE NUMBER: Plasts-16-08-006

Date Received: _____ Planner Initials: _____ Date Complete: _____ Planner Initials: _____

APPELLANT INFORMATION

Name: Greg Stanley

Mailing Address: 1715 E 12th Street / 3930 Pleasant Ridge Road

City/State/Zip: The Dalles, OR 97058

Phone: 541-993-1543 Email: greg@cosmc.org greg5@cosmc.org

APPEAL INFORMATION

1. Appeal Type

- Administrative Decision to the Planning Commission: Fee = \$250
- Planning Commission Decision to the Board of County Commissioners: Fee = \$ _____

If appellant prevails at Planning Commission or a subsequent appeal, the \$250 fee for the initial appeal shall be refunded per ORS 215.416(11)(b). This is not applicable for any subsequent appeal costs.

2. Appeal Deadline: December 5, 2016

Date Submitted: December 1, 2016

All appeal documents filed with Wasco County must be delivered to the Wasco County Planning Department Office by postal service or in person. Documents faxed are not considered filed. An appeal will not be considered timely unless received no later than 4:00 p.m. on the deadline stated on the Notice of Decision or Resolution. AN APPEAL IS NOT CONSIDERED COMPLETE UNTIL BOTH THE SIGNED NOTICE OF APPEAL AND FILING FEE ARE RECEIVED.

3. Party Status: State how the petitioner(s) qualifies as a party to this matter:

Appellant is adjacent landowner, within the notification areas described in Section 2.080 A.2. Appellant would be adversely affected by the development.

Party includes the following:

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

4. Grounds for appeal: List the **specific** grounds relied upon in the petition request for review (e.g. ordinance criteria not met, procedural error, etc.) Additional pages may be attached.

See attached.

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

The appeal is to the Board of Commissioners?

NO YES

I request the hearing to be DeNovo or partial DeNovo?

NO YES

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

Appeal is to the Planning Commission. LUDO Section 2.160.H.

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

NA

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

I have attempted to gain the consent of the other parties associated with this file?

NO YES

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

NA

The request for a DeNovo hearing for appeal of a quasi-judicial plan amendment shall be decided by the Board of Commissioners as a nonpublic hearing item, except that the Board may make such provision for notice to the parties

and may take such testimony as it deems necessary to fully and fairly address significant procedural or substantive issues raised. The Court shall grant the request only upon findings that:

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

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

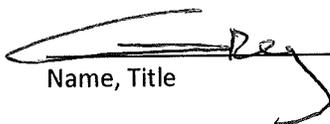
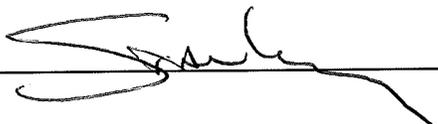
List prior appeals filed:

_____	_____
_____	_____
_____	_____

I have paid all outstanding fees associated with prior appeals:

NO YES

SIGNATURES

 _____  _____ 12/1/16
Name, Title Date

Name, Title Date

Additional petitioner(s):

Name Address

Name Address

Name Address

Name Address

Grounds for Appeal

- A. Approval of the application is inconsistent with LUDO Section 3.214G and OAR 660-033-0135(1)(c) because the director misinterprets “farm use of the land”. See Staff Report dated November 23, 2016 (SR), p. 3.
- B. The applicant fails to provide substantial evidence of compliance with the approval criteria contained within LUDO Section 3.214G and OAR 660-033-0135(c). The application does not provide substantial evidence that 153 workers are required to farm the land, seasonally or otherwise. See SR p. 4.
- C. The director’s interpretation and application of the approval criteria in LUDO Section 3.219.B.A is contrary to law. See SR p. 8.
- D. It is inconsistent with LUDO 21.120 and Statewide Land Use Planning Goal 3 to consolidate the tax lots for the purpose of compliance with the approval criteria which would allow for the proposed development. See SR p. 5.
- E. The application fails to include substantial evidence with respect to compliance with the parking plan required by LUDO Chapter 20, Section 20.050. It is insufficient to find this criterion is met solely through an approval condition. See SR p. 6.
- F. The application fails to include substantial evidence with respect to access. It is insufficient to find compliance with the criteria solely through an approval condition requiring an Approach Road Permit. See SR p. 7.
- G. The director’s approval fails to properly consider and mitigate adverse impacts of the development on existing, nearby development and permitted uses, including but not limited to the impacts of noise, traffic and other nuisance conditions which are inconsistent and incompatible with normal farm use of the land.
- H. The director’s interpretation and application of LUDO 3.219.B.A.3 is incorrect. See SR pp. 7-8.
- I. The director’s finding that the application complies with LUDO 3.219.B.A.3 is not supported by substantial evidence. See SR pp. 7-8.
- J. The director’s interpretation and application to the present request of LUDO Chapter 1, Section 1.090, “High Value Land”, and OAR 660-33-020(8)(a) is contrary to law. See SR p. 9.
- K. The approval conditions are insufficient to assure compliance with the applicable criteria, including failing to require that all farmworker housing be associated with farm use of the land, as provided by law.



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NOTICE OF DECISION

FILE #: PLASTS-16-08-0006

DECISION DATE: November 23, 2016

APPEAL DEADLINE: December 5, 2016

REQUEST: Subject to Standards Review to construct three 90'L x 35'W x 20'T buildings (3,610 SF) for agricultural farm housing for 153 people.

DECISION: Approved, with **Conditions**

APPLICANT: Bustos & Hernandez Construction, 2232 W 10th Street, The Dalles, OR 97058

OWNER: Orchard View Farms, 4055 Skyline Road, The Dalles, OR 97058

PROPERTY INFORMATION:

Location: The subject parcel is located south of Pleasant Ridge Road, approximately 0.5 mile southeast of the intersection of Threemile Road, approximately 2.3 miles south of The Dalles, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Acct#</u>	<u>Acres</u>
1N 13E 22 800	7836	8.06
1N 13E 22 700	7838	39.60
1N 13E 23 1000	7354	13.46

Zoning: A-1(40), Exclusive Farm Use Zone

Attachments:

Staff Reviewer: Dawn Baird, Associate Planner

- A. Conditions of Approval
- B. Time Limits & Appeal Information
- C. Maps
- D. Staff Report
- E. Lighting Standards
- F. Forest-Farm Management Easement
- G. Farm Mediation Ordinance

After recording, please return original to:
Planning Department

ATTACHMENT A – CONDITIONS OF APPROVAL

Pursuant to Wasco County Land Use Development Ordinance, Chapter 2 – Development Approval Procedures, Section 2.120.A., Notice of a Decision by the Director, the following shall be recorded as conditions of approval and binding upon the owners, developers or assigns. Prior to issuance of zoning approval on a building permit application, items under A. shall be met.

A. After the expiration of the 12-day appeal period and prior to any development, the owner(s) shall comply with the following condition:

1. Farm Management Easement: Sign and record with the Wasco County Clerk a completed Farm Management Easement for the nonfarm parcel (Attachment F).
2. New Deed: Record a new deed with the Wasco County Clerk which states the intent of the deed is to consolidate the three tax lots into one legal parcel for planning purposes. The owner shall provide the Planning Department with a copy of the new deed after it has been recorded.
3. Parking Plan: Submit a parking plan identifying the location of a minimum of 33 parking spaces for off-street parking.
4. Approach Road Permit: Obtain an Approach Road Permit from the Wasco County Public Works Department for the existing driveway approach south of Pleasant Ridge Road.
5. Address: Apply for a new address for each new building, and submit the County application fee (\$125) to the Planning Department (prior to issuance of zoning approval on a building permit application). An approved address shall be posted on both sides of a permanent post or mailbox within 30' of the driveway providing access to the dwelling. The address numbers shall be legible, reflective, and at least 2 ½ inches high. Application must be made a minimum of 2 weeks prior to issuance of zoning approval on a building permit application.

B. Miscellaneous Conditions

1. 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.
2. The proposed dwellings will not be later altered or used to satisfy the requirements for a dwelling not provided in farm use. Uses are limited to serve as accessory dwellings in conjunction with a farm use and in conjunction with the approved Farm Management Plan.

SIGNED THIS 23rd day of November, 2016, at The Dalles, Oregon.

Dawn Baird, Associate, Associate Planner
Wasco County Planning

State of Oregon
County of Wasco

Signed or attested before me on November 23, 2016, by Dawn Baird, Associate Planner.

Notary Public – State of Oregon

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

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

ATTACHMENT B – TIME LIMITS AND APEAL INFORMATION

No development shall occur until the appeal period has expired, conditions of approval are adhered to, and the final plat map recorded with the Wasco County Clerk.

Per Section 2.125 of the Wasco County Land Use and Development Ordinance, this approval shall expire: (1) when development has not commenced within two (2) years of the date of approval, or (2) the use approved is discontinued for any reason for one (1) continuous year or more. If the approval expires, a new application shall be made.

Please Note!

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

APPEAL PROCESS:

The decision date for this land use review is **Thursday, November 23, 2016**. 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, **Tuesday, December 5, 2016, at 4:00 p.m.**, or unless the Planning Commission or Board of County Commissioners 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 Department. 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.**

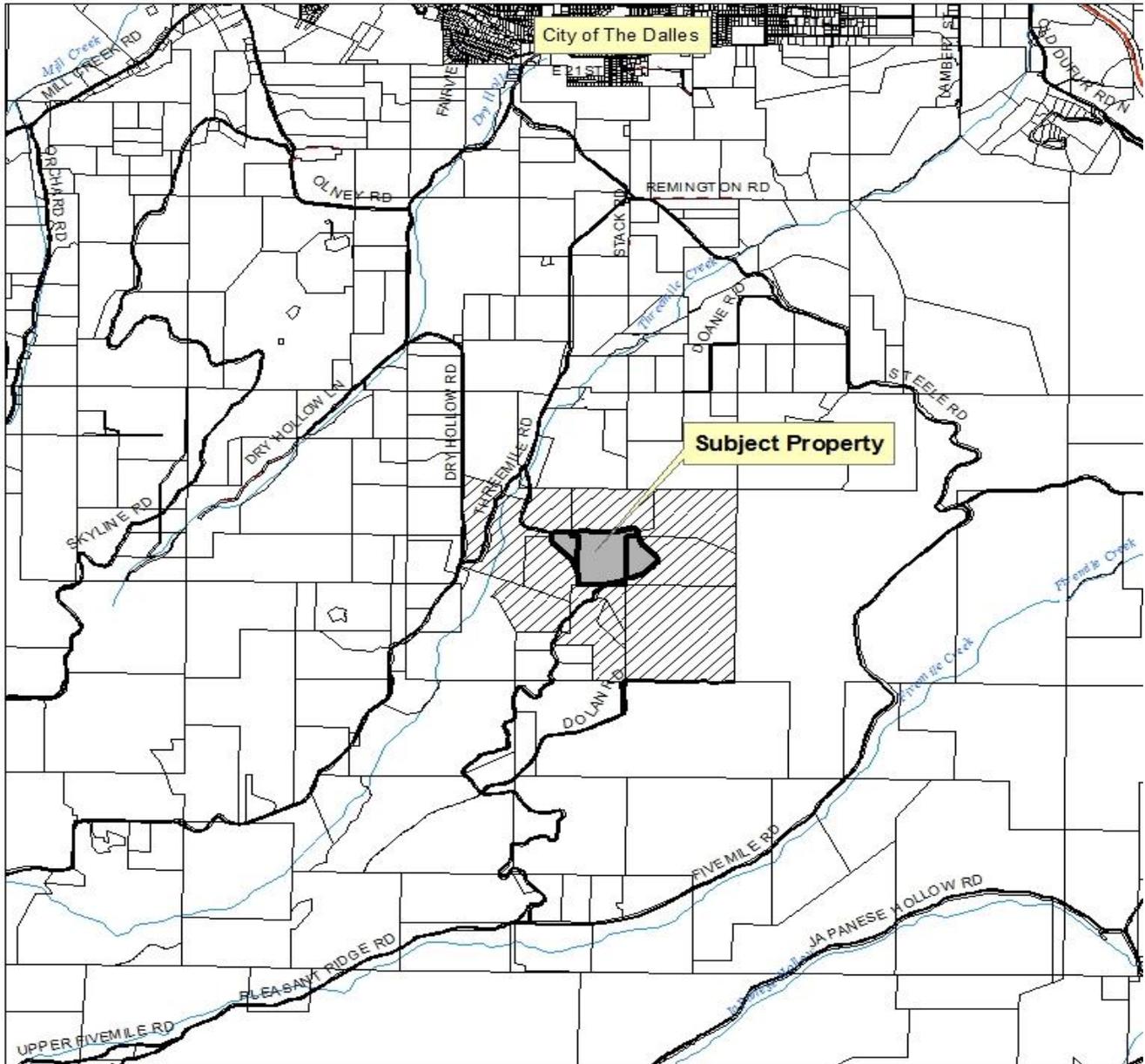
FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning Department, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: <http://co.wasco.or.us/planning/>. Click on Pending Land Use Actions. The table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

ATTACHMENT C – MAPS

Property Owner: Orchard View Farms
1N 13E 22, Tax Lots 700 & 800; 1N 13E 23, Tax Lot 1000

Location Map



ATTACHMENT C – MAPS

Property Owner: Orchard View Farms
1N 13E 22, Tax Lots 700 & 800; 1N 13E 23, Tax Lot 1000
Site Plan

