

ATTACHMENT D –STAFF REPORT

File Number: PLASTS-16-11-0009

Applicant: Bustos & Hernandez Construction

Owner: Orchard View Farms

Request: Subject to Standards Review to construct three 90'L x 44'W x 20'T buildings (3,610 SF) for agricultural farm housing for 153 people.

Decision: Approval, with conditions

Decision Date: November 23, 2016

Appeal Deadline: December 5, 2016

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

Past Actions: None

Procedure Type: Administrative Action

Prepared By: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

Wasco County Land Use & Development Ordinance (LUDO)

A. Chapter 3 – Basic Provisions

Section 3.210, A-1(160), Exclusive Farm Use Zone

Section 3.215.G., Uses Permitted Subject to Standards/Type II Review – Accessory Farm Dwelling

Section 3.216, Property Development Standards

Section 3.218, Agricultural Protection

Section 3.219.B., Additional Standards – Accessory Farm Dwelling

B. 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

II. BACKGROUND

A. Legal Parcel:

1. 1N 13E 22 800: The subject parcel was created by Deed Volume 14, Page 432, recorded with the Wasco County Clerk on April 28, 1961. The property is consistent with the definition of “(Legal) Parcel” in LUDO Section 1.090 – Definitions, because it was created by deed prior to the existence of subdivision and partition regulations in Wasco County (9/4/1974).
2. 1N 13E 22 700 and 1N 13E 23 1000: This parcel was created by Warranty Deed 73-1877, recorded with the Wasco County Clerk on August 20, 1973. The subject property is consistent with the definition of “(Legal) Parcel” in LUDO Section 1.090 – Definitions, because it was created by deed prior to the existence of subdivision and partition regulations (9/4/1974).

Due to setback concerns, on November 15, 2016, the owners consolidated all three tax lots into one tax lot with the Assessor’s Office.

- B. Site Description:** The subject property lies south of Pleasant Ridge Road approximately 0.5 mile southeast of its intersection with Threemile Road. Slopes on the property are northwest-facing and average 12-13%. The subject property contains approximately

61.12 acres. According to Wasco County Assessor records, as of June 30, 2013, structural development on the subject property included: 1N 13E 22 800: one single family dwelling, a loft barn, three general purpose sheds and an irrigation system; 1N 13E 22 700: utility building, two general purpose sheds and an irrigation system; and 1N 13E 23 1000: irrigation system. The majority of the property is planted in cherry orchard. Approximately 2.2 acres of land at the northwest corner of the property is not planted in orchard and two small areas are not farmed due to their unproductive soil or their use for parking and storage of fruit bins. This area contains natural grass and dozens of trees (Oregon white oak).

- C. Surrounding Land Use:** All surrounding properties are in the A-1(40), Exclusive Farm Use Zone with the exception of property to the southeast which is zoned A-1(160), Exclusive Farm Use. Property to the north contain west-facing slopes ranging from 5-25%, property to the east contains west-facing slopes averaging 8-17%, property to the south contains north/northwest-facing slopes from 11-27%, and property to the west contains northwest-facing slopes averaging 10-15%. All surrounding properties are in farm use, primarily orchard and hay, with some grazing occurring. Areas not in farm use contain structural development or are in natural grass with some trees.

III. FINDINGS:

A. Chapter 3 – Basic Provisions

Section 3.210, A-1(160), Exclusive Farm Use Zone

Section 3.214 - Uses Permitted Subject to Standards/Type II Review

The following uses may be permitted on a legal parcel on lands designated Exclusive Farm Use (A-1) Zone subject to the Section 3.216 - Property Development Standards, Section 3.218 - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review only if the request includes off-street parking, off-street loading or bicycle parking, as well as any other listed, referenced or applicable standards:

- G. Accessory Farm Dwelling(s):** *An accessory farm dwelling is a single family dwelling occupied by a person or persons principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. Accessory farm dwelling includes all types of residential structures allowed by applicable state building code. Accessory farm dwellings are also subject to Section 3.219 B. below.*

FINDING: Criterion G. states the accessory farm dwelling “is a single family dwelling” however it also includes “all types of residential structures allowed by applicable state building code”. Multi-unit seasonal farm labor housing is permitted by the Uniform Building Code which is used by the State of Oregon. Further, Section 2.10.B.2.G. discusses the permissible use of “attached multi-unit residential structures as accessory dwellings.

The request is to construct three 90'L x 44'W x 20'T buildings (3,610 SF) for agricultural farm labor housing for 153 people. Each building proposes seven separate housing units, each containing a restroom. Six of the units can house up to eight persons and contain 324 square feet. One unit will house up to three persons and will contain 138 square feet. Each unit has a portable gas fired cooking unit and sink outside the back door.

The application states that Orchard View Farms, Inc. (OVF) is a Bailey family owned operation that owns 666.17 acres of taxable property in Wasco County. OVF operates three labor camps in Wasco County including the current request.

Sections 3.216 - Property Development Standards, 3.218 - Agricultural Protection, and 3.219 – Additional Standards, are addressed below. Chapter 10 is addressed in B. below. As proposed, the request complies with Criterion G.

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.

FINDING: Surrounding properties are all in farm use with properties to the north, east, southwest and west being planted in orchard and land to the southeast in hay and cattle grazing. Based on existing farm use the required setback from all property lines is 200'.

On August 15, 2016, staff visited the subject property. The proposed agricultural labor housing will replace approximately 24 individual cabins which could house approximately 4 people each.

On November 15, 2016, the owners submitted a request to the Wasco County Assessor to consolidate the three tax lots (two legal parcels) into one tax lot (one legal parcel). In addition, the owner’s representative agreed that a new deed would be recorded with the Wasco County Clerk that states that the intent is to consolidate these three tax lots into one legal parcel for planning purposes. A **condition** stating this is included in the Notice of Decision. This deed shall be recorded with the County Clerk prior to issuance of zoning approval on a building permit application.

Setbacks are measured from the new consolidated parcel boundaries. The owner proposes the following setbacks:

Required Setback	Proposed Setback	Consistent?
200’ (North)	300’	Yes
200’ (East)	1,000+’	Yes
100’ (South)	500+’	Yes
100’ (West)	300+’	Yes

All proposed setbacks exceed the 200’ requirement in the Exclusive Farm Use Zone therefore 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 wetland.*

(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.

FINDING: There are no identified streams, lakes or rivers on the subject property, however National Wetland Inventory maps identify a riverine wetland feature 214’ north of the development footprint. As proposed, the request complies with Criterion a.(1) because all new development will be located over 100’ from the identified wetland.

b. *Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740 - Flood Hazard Overlay (EPD 1).*

FINDING: There is no identified floodplain on the subject parcel or surrounding properties, therefore the request complies with Criterion b.

- 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 to construct three 90'L x 35'W x 20'T buildings (3,610 SF), each 20' in height. As proposed the request complies with Criterion B. because all three structures will be less than 35' tall as measured from average grade.

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

FINDING: The request is to construct three 90'L x 35'W x 20'T buildings (3,610 SF) within an existing farm labor housing camp, located more than 270' from the closest road, therefore Staff finds that the vision clearance will exceed thirty (30) feet.

(***)

- 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.

During a site visit to the property on November 15, 2016, it was noted that there is an existing outdoor security light south of the proposed development site. No additional outdoor lighting is proposed except porch lights on the new buildings. 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 nonreflective, opaque materials. With the proposed **condition**, the request complies with Criterion E.

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

FINDING: The request is for three agricultural labor housing buildings. Each building will contain seven units, for a total of 21 dwelling units. Chapter 20, Section 20.050, Off-Street Parking, requires three spaces per two dwelling units.

21 units/2=10.5=11; 11 x 3 spaces = 33 spaces required

The applicant provided a site plan identifying off-street parking for the agricultural labor housing but it is unclear if there are 33 spaces available. A **condition** of approval is included in the Notice of Decision requiring the owner to submit a parking plan identifying the location of a minimum of 33 parking spaces for off-street parking. With this **condition** of approval, 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: The request is for construction of three agricultural labor housing buildings. There is an existing driveway located south of Pleasant Ridge Road that serves the development site, however there is no Approach Road Permit on file with the Wasco County Public Works Department for this driveway. Criterion G. requires all new driveways and increase/change of use for an existing driveway to obtain an Approach Road Permit. The public road, Pleasant Ridge Road, is under the jurisdiction of Wasco County, therefore a **condition** of approval is included in the Notice of Decision requiring the property owner to obtain an Approach Road Permit for the existing /proposed driveway. With this **condition** of approval 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. *Farm-Forest 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 seasonal farm labor housing is located on land currently in orchard production. This is a use permitted in Section 3.214 therefore 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 a Planning Department signature on the building permit. With the proposed **condition**, 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. The request complies with Criterion B.

Section 3.219.B., Additional Standards – Accessory Farm Dwelling

- A. *Accessory Farm Dwelling:*

1. *The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-*

round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. The applicant shall submit a Farm Management Plan to provide evidence of this;

FINDING: Orchard View Farms (OVF), owner of the subject parcel has submitted a request to construct three 90'L x 36'W x 20'T buildings for seasonal farm labor housing. OVF owns 807.3 acres of orchard land and leases 1,752.1 acres of orchard land. Their fresh packing facility is capable of packing 15,000 tons of fresh cherries annually and in 2015 had gross fruit sales of over \$35 million. The subject parcel is one of eight properties owned or managed by OVF that contain farm labor camps. The owner proposes to replace existing farm labor housing to place the proposed buildings. The application states that at the peak of the season (harvest) OVF employs 700-800 migrant seasonal workers for picking fruit. The owner provided a Farm Management Plan that details the overall OVF farming operation. The request complies with Criterion 1.

2. *The accessory farm dwelling will be located:*

(***)

d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the ranch operation registered with the Dept. of Consumer & Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. Accessory farm dwellings approved Section H. shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

FINDING: The request is to construct three multi-unit residential buildings for farm labor housing. This housing is allowed by State Building Code, and previous housing was approved by Oregon Occupational Safety and Health Division (OSHA). Staff finds the request complies with Criterion d.

3. *There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;*

FINDING: The request is for seasonal labor housing, not full-time farm help. There is one single family dwelling on the property occupied by the previous property owner, but this dwelling will not assist in housing 153 people. Therefore the request complies with Criterion 3.

4. *In addition to the requirements in subsection a - c. of this section, the primary farm dwelling to which the proposed dwelling would be accessory satisfies the following;*

- a. *The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in Section 1.090 and ORS 215.203, and produced in the last two years or three of the last five years, one (1) of the following:*

(***)

- (2) *On land identified as high-value farmland, and produced at least (*\$110,000 (2009 dollars adjusted for inflation at an annual rate of 2.375%) in gross annual income and,*

FINDING: The request is to construct three multi-unit farm labor housing units on property currently planted in orchard for seasonal farm labor. Wasco County LUDO Chapter 1, Section 1.090, Definitions, defines High Value Land:

High Value Land (Per OAR 660-33-020(8)(a) - Means land in a tract composed predominantly of soils that are:

- a. *Irrigated and classified prime, unique, Class I or II; or*
- b. *Not irrigated and classified prime, unique, Class I or II.*

In addition to that land described above, high value farmland, if in Eastern Oregon, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa. (Added 12/96)

This subject property is located in Eastern Oregon and includes tracts growing specified perennials (orchard). As of November 4, 1993, the property was planted in orchard, therefore it complies with the definition of "High Value Land."

The property owner, Orchard View Farms, operates orchards on over 2,500 acres of land. 2016 income was \$35 million, with 2015 income also in the millions of dollars. Based on the above, the request complies with Criterion a.

- b. *In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.*

FINDING: Staff did not consider the sale or purchase of livestock in verifying the gross income of the farm, therefore Criterion b. is not applicable to this request.

5. *The county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section.*

If it is determined that an accessory farm dwelling satisfies the requirements Section 3.214 G above, One Single Family Dwelling Customarily Provided in Conjunction with Farm Use, a parcel may be created consistent with the minimum parcel size requirements in Section 3.217 A - Farm Divisions; and

FINDING: The request is for three multi-unit farm labor housing buildings to provide housing for seasonal farm labor. A single family dwelling is not proposed. The proposed buildings are for seasonal labor housing, not full time farm help. The subject property is operated as part of a 2,559.4 acre orchard operation by Orchard View Farms. Because the buildings contain multiple housing units, none of them can be considered as a single family dwelling customarily provided in conjunction with farm use. The request complies with Criterion 5.

6. *An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section 3.215 I, One Single Family Dwelling Not Provided in Conjunction with a Farm Use.*

FINDING: The request is to construct three multi-unit farm labor housing buildings to provide housing for seasonal farm labor. Lands containing and surrounding the proposed farm labor housing are highly productive for commercial agricultural production and none of the labor housing buildings can later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use. A **condition** of approval stating this is included in the Notice of Decision. With the proposed **condition**, the request complies with Criterion 6.

B. 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

FINDING: The owner requests approval to construct three 90'L x 44'W x 20'T multi-unit farm labor housing buildings.

The subject property is located within the boundaries of Mid-Columbia Fire & Rescue Pine Hollow/Wamic Fire District for structural fire protection.

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 PLASAR-16-10-0016.

The proposed homesite has direct access from Pleasant Ridge Road, and a 50 foot fuel fire break is provided around each building.

Though not specifically addressed in Chapter 10, it is essential that each new residential building in Wasco County has 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** is included requiring the owner to apply for a new address for each new building 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 (\$125) for each application to the Planning Department prior to issuance of zoning approval on a building permit application.

With the proposed **condition** of approval requiring the owner to apply for a new address for the house, the request complies with Chapter 10 – Fire Safety Standards.

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.

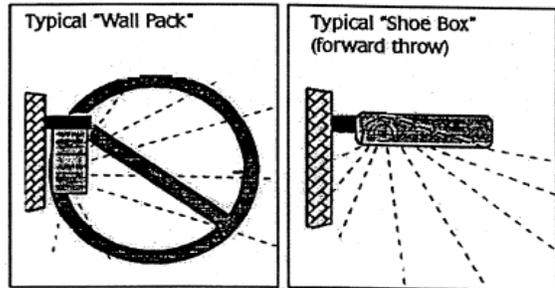
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. We waste over a billion dollars a year in the United States needlessly lighting the night sky.

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?

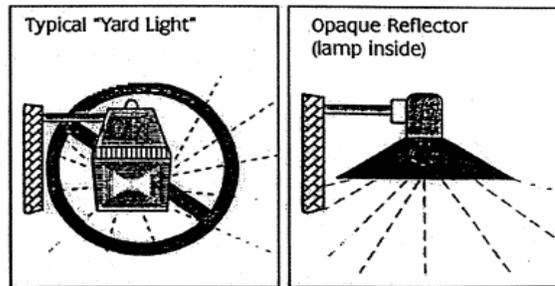
- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate areas 100 times more brightly than the

Some Good and Bad Light Fixtures



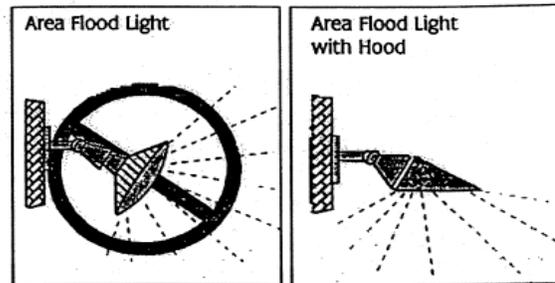
BAD

GOOD



BAD

GOOD



BAD

GOOD

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.

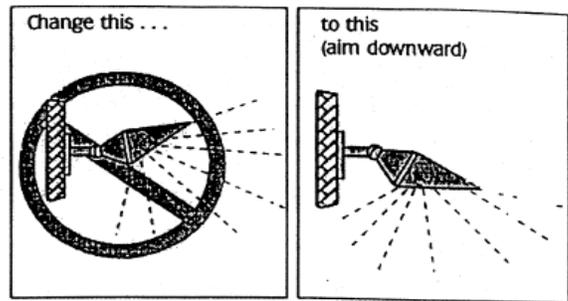
Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as brightly as a wasteful light does with a high-wattage bulb.

- 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!

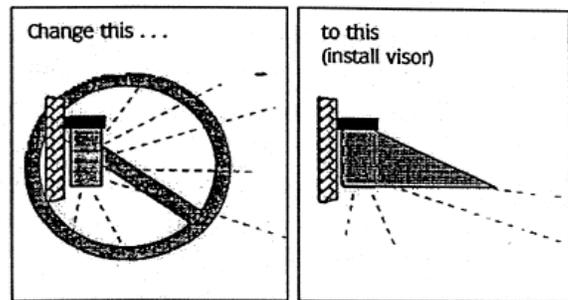
Replace bad lights with good lights.

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

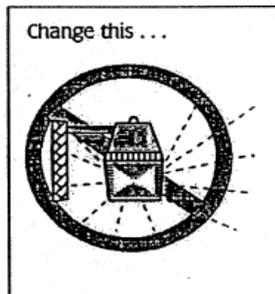
What You Can Do To Modify Existing Fixtures



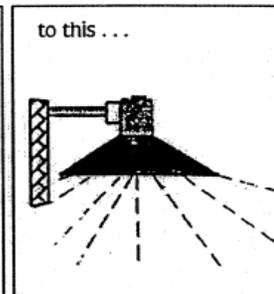
FLOOD LIGHT



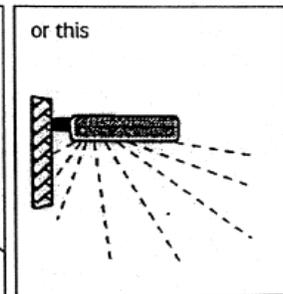
WALL PACK



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

FOREST-FARM MANAGEMENT EASEMENT

Owner Name: _____
Mailing Address: _____

_____, herein called the Grantors, are the
(Owner(s) Name

owners of real property described as follows:

Township 1N, Range 13 East W.M., Section 22, Tax Lot 800, Account 7836
Township 1N, Range 13 East W.M., Section 22, Tax Lot 700, Account 7838
Township 1N, Range 13 East W.M., Section 23, Tax Lot 1000, Account 7354

In accordance with the conditions set forth in the decision of Wasco County Planning Staff, dated November 23, 2016, approving a Subject to Standards Review (File #PLASTS-16-11-0009) to construct three 90'L x 35'W x 20'T buildings (3,610 SF) for agricultural farm housing for 153 people, Grantors hereby grant to the Owners of all property adjacent to the above described property, a perpetual nonexclusive 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/Forest-Farm zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, 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
After recording, please return original to: Wasco County Planning Department.



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. Grantors hereby waive all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantors' property for residential purposes and grantors hereby give an easement to adjacent property owners for such activities.

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

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantors have executed this easement on

_____, 201____.

Titleholders Signature

Titleholders Signature

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____ and _____, and acknowledged the above easement to be their voluntary act and deed.

Notary Public for Oregon

ATTACHMENT H – 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) **AMENDED**
FARMING AND FORESTRY PRACTICES AND) **ORDINANCE**
ESTABLISHING A COMPLAINT MEDIATION)
PROCESS.)

MARGIE LEBRETON COATS
COUNTY CLERK

RECEIVED
SEP 12 2003

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.

RECEIVED
SEP 23 2003

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.

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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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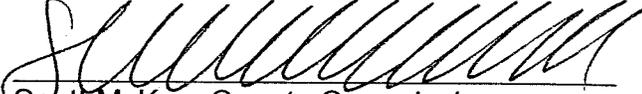
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DONE AND DATED this 3rd day of September, 2003

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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