ATTACHMENT H

WASCO COUNTY PLANNING
AND DEVELOPMENT
2705 EAST SECOND ST.
THE DALLES OR 97058
12:56 PM (DN

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

FILE NUMBER: _____

APPEAL OF LAND USE DECISION

ORIGINAL PLANNING DEPARTMENT FILE NUMBER: PLASAR-15-01-0004

Date Received: **Planner Initials:** **Date Complete:** **Planner Initials:**

APPELLANT INFORMATION

Name: Confederated Tribes and Bands of the Yakama Nation

Mailing Address: P.O. Box 15146

City/State/Zip: Seattle, WA 98115

Phone: (206) 321-2672 **Email:** anthony@galandabroadman.com

joe@galandabroadman.com

APPEAL INFORMATION

1. Appeal Type

   ☐ Administrative Decision to the Planning Commission: Fee = $250
   ☑ Planning Commission Decision to the Board of County Commissioners: Fee = $ 250.00

   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: October 14, 2016

   Date Submitted: October 14, 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:

   The Yakama Nation is a federally recognized sovereign nation, signatory to the Treaty of 1855 (June 9, 1855, 12 Stat. 951). The decision impacts the Yakama Nation's Treaty rights. As such, it qualifies as an affected unit of local government.

   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.

The decision violates the Yakama Nation's Treaty protected rights.
The decision violates the National Scenic Area Land Use Development Ordinance.

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:

The Yakama Nation has additional evidence demonstrating the impact of the project on its Treaty rights. The Planning Commission removed the Staff's recommended Treaty Rights Conditions, disregarding the impact on the Yakama Nation that was highlighted by the Nation in a comment letter and over staff's objections at the hearing.

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

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

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

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

The Tribal Leadership for the Yakama Nation met to determine whether it would appeal the Planning Commission's decision on October 12, 2016. Because of the short timeline to file an appeal, it was not practicable to delay filing the appeal in order to contact the other parties.

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:

None

I have paid all outstanding fees associated with prior appeals: ☐NO ☑YES

SIGNATURES

Anthony Broadman, Counsel for Yakama Nation 10/13/16

Name, Title Date

R. Joseph Sexton, Counsel for Yakama Nation 10/13/16

Name, Title Pro Hac Vice Admission Pending Date

Additional petitioner(s):

Name Address

Name Address

Name Address

Name Address