



Wasco County Planning Department

"Service, Sustainability & Solutions"

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

NOTICE OF INTENT TO APPEAL/ PETITION REQUEST FOR REVIEW



FILE #APL- _____ of ORIGINAL APPLICATION #(s) PLASAR-11-10-0014

Date Submitted: _____ Date determined complete: _____ Fee: _____

Appellant(s) Information: _____

Name Karen Easton and David Kuehn

Mailing Address 902 Woodward St

Sunnyside WA 98944

Phone (H) 509 8377771 (W) 5094399549 Email EastonK@Embarqmail.com

APPEAL INFORMATION

1. Appeal Type

- Planning Director to the Planning Commission: Fee = \$250
- Planning Commission to the County Court: Fee = \$571

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: 12/23/11

Date Submitted: 12/13/11

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:

Owner of Property

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.

Please see additional pages 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 County Court 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 County Court?

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.

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 request for a de novo hearing for appeal of a quasi-judicial plan amendment shall be decided by the Court as a nonpublic hearing item, except that the Court 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:

Dated this 13 day of December, 2011.

Petitioner name: David Kuehn

Petitioner signature: David C Kuehn

Address: 902 Woodward

Sunnyside WA 98944

Phone No(s): 509 439 9549

Additional petitioner(s):

Name: Karen Easton Name: _____

Address: 902 Woodward Address: _____

Sunnyside WA 98944 _____



Answers for question #4

We purchased our land with the intention of building a house and garage on a lot that was previously approved by the commission. The property is in a neighborhood with power and water already on the lot. Therefore it is wrong to apply the no building on less than 40 acres SMA rule to this lot. We have continued to pay taxes at this buildable rate despite the ruling back in 2007 and the letter we received regarding the new restrictions in 2008. We did so in good faith as we feel that we are innocent victims of an improperly designated SMA land use designation. The title search did not disclose that the land had been offered up to the forestry department and deemed a low priority and could have been redesignated as a GMA. The previous owner states he did not pursue the change as he had already been given permission to build from the commission. Since the property was sold before the 3 years was up to convert the land under the section 8 ruling, it has been interpreted that the offer was no longer valid.

I have met with the top staff from both Senator Patty Murray's office and Senator Wyden's office that declined to offer us a legislative solution to this unique case and recommended we find an administrative solution with the forestry department.

I have offered the property to the Forestry Department and the Friends (to avoid further conflict), but neither organization can purchase the property at the full economic use value due to their own particular guidelines, unless the building is approved. At this point the cost of doing an appraisal is apparently more than the worth of the property (if we can't build on it) so they have no incentive to even do that. That alone is a form of proof that we have been dealt a situation that by trying to maintain the Law of the national scenic act to this area, it has resulted in a "taking" of our property. The right thing to do is redesignate the property as a GMA or at least treat it as a GMA..

In our appeal we would like to point out that there is no viable economic use to our property base on the SMA Guidelines

A. One single-family dwelling per legally created lot or consolidated parcel not less than 40 contiguous acres. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with SMA Policy 13 in Part II, Chapter 2: Forest Land. (Revised: U.S. Sec. Ag. concurrence 7/1/11)

We are currently not allowed to build as a result of the lot $\frac{3}{4}$ acres.

B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.C below.

Building a garage is of no economic use without a house to go with it.

C Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

Not applicable unless we have a house first

D. New utility facilities.

Not applicable

E. Fire stations. – we have contacted both the fire stations nearest the area and have statements from both of them stating that there is no indication that a fire station is necessary or needed in this area..

F. Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

Not applicable without the cottage

G. Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines).

Not applicable without the cottage

H. Community parks and playgrounds.

This is a private neighborhood of mainly retired homeowners with no need for a playground, and does not fit with the intended use of the land within the homeowners of the neighborhood. The other homeowners have lots large enough to construct their playground equipment on their own properties without purchasing a piece of land estimated at 120,000 to put up a swing set. This is not a reasonable probability in this setting.

I. Road and railroad construction and reconstruction

Not applicable as it is a small piece of land between 2 houses and a creek below.