

## ATTACHMENT D – STAFF REPORT

**File Number:** PLACUP-17-12-0001

**Applicant/Owner:** Retha Smith

**Request:** Temporary Use Permit Renewal for the continued use of a second dwelling for a family hardship

**Decision:** **Approval**, with Conditions

**Decision Date:** January 4, 2018

**Appeal Deadline:** January 16, 2018

**Location:** The subject parcel is located south of Shellrock Road, approximately 0.3 mile west of its intersection with Heberlein Road Heights Road, approximately 9 miles southwest of Dufur, Oregon; more specifically described as:

| <u>Existing Tax Lot</u> | <u>Acct#</u> | <u>Acres</u> |
|-------------------------|--------------|--------------|
| 2S 12E 22 700           | 10076        | 19.17        |

**Zoning:** Exclusive Farm Use Zone, A-1 (160)

**Environmental Protection District:** The subject parcel is also located within Environmental Protection District 8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range)

**Past Actions:** PLATUP-15-06-0001 (Temporary Use Permit for a family hardship), PLATUR-13-03-0001 (renewal of a Temporary Use Permit for a Family Hardship), PLATUR-11-02-0002 (renewal of a Temporary Use Permit for a Family Hardship), CODENF-11-01-0005 (expired Temporary Use Permit), TUP-02-104/VAR-02-104 (Temporary Use Permit for a hardship dwelling; Variance to siting requirements, LOC-89-LUCS (single family dwelling), LOC-88-BP (accessory building – garage), Conditional Use Permit 82-111 (single family dwelling)

**Procedure Type:** Administrative Action

**Prepared By:** Dawn Baird, Associate Planner

## I. APPLICABLE STANDARDS

### Chapter 8 – Temporary Use Permits

Section 8.050, Issuance of Permits

Section 8.070, Temporary Use of a Mobile Home (Family Hardship)

## II. BACKGROUND

- A. Legal Parcel:** The subject parcel was legally created as Parcel 1 of Minor Partition 79-159, recorded with the Wasco County Clerk on July 17, 1979. The property is consistent with the definition of “(Legal) Parcel” in LUDO Section 1.090 – Definitions, because it was created by a duly recorded partition.
- B. Site Description:** The subject parcel contains south and southwest-facing slopes of approximately 8-20%, with the steepest slopes along on the southwest corner of the property lying along Shellrock Road. The property is enrolled in a forest deferral taxation program. The property is planted in trees with small natural openings near the center of the property, the northern 1/3 of the property, and the southwest corner of the property. Structural improvements on the property include a stick-built dwelling constructed around 1990, a general purpose building, and a manufactured home. In areas without trees, the ground cover is natural grass. The subject parcel contains an easement for powerlines near the eastern property line and several small drainageways with water draining from north to south.
- C. Surrounding Land Use:** All surrounding properties contain south- or southeast-facing slopes. Properties to the north and east have slopes averaging less than 5%. Property to the south has slopes averaging 8-17%, and property to the west average 10-15%. Properties to the north, east and south contain planted crops (wheat/hay) and are enrolled in a farm deferral program, and land to the west is planted in trees and is enrolled in a forest deferral program. Surrounding lands contain many seasonal drainageways that drain into Larch Creek, located approximately 0.3 miles south of the subject parcel.

## III. FINDINGS:

### Wasco County Land Use & Development Ordinance

#### Chapter 8 – Temporary Use Permit

##### *Section 8.050 Issuance of Permits*

- A. Temporary permits shall be issued for the time period specified by the Approving Authority but may be renewable upon expiration as an Administrative Action if all applicable conditions can again be met.*

**FINDINGS:** The most recent Temporary Use Permit was approved by the Planning Commission on December 1, 2015, and the appeal period ended on December 15, 2015.

The conditions of approval from the 2015 Temporary Use Permit include:

A. “Temporary Use Permit:

1. Submit an amended site plan showing an accurate setback from the second dwelling to the property line to the north. If this permit is renewed and the second dwelling does not meet the minimum setback requirement of 100’, the owner will be required to apply for a variance to the minimum setback requirement.
2. The Temporary Use Permit is valid for a period of two years, but may be renewed upon expiration if all applicable conditions can be met. Any future renewal of this permit shall use the procedure as the original permit.
3. The hardship dwelling (mobile home) shall be removed from the property within 60 days of expiration of the permit or when no longer needed to care for Retha Smith.
4. Second Septic System: The second septic system shall be decommissioned at the termination of the temporary use. The tank shall be filled with sand/dirt/concrete and shall be field verified by the Wasco-Sherman County Health Dept. and documentation provided to the Planning Dept.

B. Miscellaneous Conditions:

1. Outdoor 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 nonreflective, opaque materials.
2. Any new fencing shall comply with the following requirements:

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.”

The original conditions of approval can still be met and they are included in the Notice of Decision. With the proposed conditions of approval staff finds that the request complies with Criterion A.

*B. Renewal of a temporary permit shall follow the same procedure as the initial application.*

**FINDINGS:** The requested renewal of the Temporary Use Permit is following the same administrative review by staff as the original permit. Staff finds that the request complies with Criterion B.

**Section 8.070, Temporary Use of a Mobile Home (Family Hardship)**

A. *During a family hardship condition where the condition relates to the aged, infirm or to persons otherwise incapable of maintaining a separate residence, the Director may authorize the placement of a mobile home on a lot if the following criteria are met:*

1. *The request for the mobile home is submitted in writing. Such a request shall state the nature of the hardship, the names of the persons who will occupy such dwelling, the relationship of the occupants of such dwelling to the residents, and the estimated period of time the dwelling will remain on the property.*

**FINDINGS:** The applicant submitted in writing on the Temporary Use Permit application a request that stated the nature of the hardship, the names of the family members who will occupy the temporary dwelling (Greg Smith, son), their relationship to the owner, and the estimated period of time the dwelling will remain on the property. This information is located in the Temporary Use Permit file (PLATUR-17-12-0001) in the Planning Department.

2. *The additional dwelling will use the same subsurface sewage disposal system used by the existing dwelling and that said sewage disposal system is adequate to accommodate the additional dwelling. If the additional dwelling is to utilize a public sanitary sewer system, such a condition will not be required.*

**FINDINGS:** On December 1, 2015, the Planning Commission approved a variance to allow a separate septic system to be installed for the temporary hardship dwelling. Findings from the final staff report state:

Due to topographical constraints, this temporary hardship dwelling is unable to utilize the same subsurface septic system. Mr. John Zalaznik, RS, of the Wasco County Public Health Department submitted written testimony that a second dwelling connected to the current septic system would, “potentially create a public health hazard or water pollution”. This criterion is not met and this is addressed in greater detail in the findings for the variance request.

The variance approval runs with the existing hardship dwelling on the subject parcel, and will only become invalid upon removal of the temporary mobile home. Staff finds the mobile home has been on the subject parcel since 2002, therefore, the variance approval continues to be valid.

3. *The additional dwelling is a mobile home or recreational vehicle as defined in Section 1.090 of this Ordinance.*

**FINDINGS:** The existing hardship dwelling is a double-wide mobile home. Photographs of the dwelling are located in File PLATUR-13-03-0001. Staff conducted a site visit to the subject parcel on October 12, 2015, to confirm that the existing manufactured home matches the description and location of the home in the 2013 photographs.

4. *The additional dwelling shall be located within 100’ of the primary dwelling.*

**FINDINGS:** On December 1, 2015, the Planning Commission approved a variance to allow the hardship dwelling to be located over 100’ from the primary dwelling. Findings from the 2002 staff report justify

the need for the hardship dwelling to be located over 100' from the primary dwelling. Staff finds that the variance approval runs with the existing Temporary Use Permit on the subject parcel. The Variance will only become invalid upon removal of the temporary mobile home or expiration of the Temporary Use Permit.

5. *The location and use of the additional dwelling otherwise conforms to the provisions established for the zone district.*

**FINDINGS:** Staff finds that with the exception of the approved variance affecting Criteria 2 & 4 above, the request complies with all location and use provisions established for a temporary hardship dwelling in this zone.

- B. *Temporary placement of an additional dwelling shall be granted for the time period specified by the Director but may be renewable upon expiration if all applicable conditions can be met. In no case shall a temporary placement be authorized for a period exceeding two (2) years, unless the temporary placement is renewed.*

**FINDINGS:** A **condition** is included limiting approval of this Temporary Use Permit to two (2) years, unless the Temporary Use Permit is renewed.

- C. *The Director shall determine whether or not the conditions described in this section warrant approval of the request to place an additional dwelling on the property. The Director may require a doctor's statement showing that the person is incapable of maintaining a separate residence and needs to be near a family member for care and supervision. The Director may also require the applicant to provide any other evidence as he deems necessary to make that determination.*

**FINDINGS:** The property owners submitted a doctor's statement, dated November 21, 2017, which states it is in Mrs. Smith's best interest to have a family member in close proximity to help care for her health needs. This statement is located in the current application file.

- D. *Upon expiration of the time period for which the temporary placement was authorized, the property owner shall have sixty (60) days in which to remove the additional dwelling from the property, unless an extension is granted as prescribed above.*

**FINDINGS:** A **condition** is included requiring the mobile home to be removed from the subject parcel within 60 days of the expiration of the Temporary Use Permit unless an extension is granted, or when it is no longer being used by Mrs. Smith, whichever comes first.

The original temporary use permit (PLTUP-15-06-0001) permitted the installation of a second septic system to serve the temporary dwelling. A **condition** is included requiring the second septic system be decommissioned upon termination of the temporary use. The tank shall be filled with sand/dirt/concrete and shall be field verified by the North Central Public Health District and documentation provided to the Planning Department.

# 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.

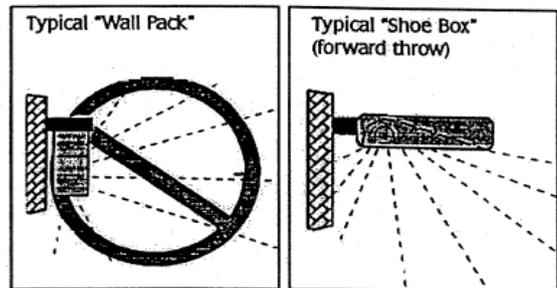
**Energy Waste** Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. We waste over a billion dollars a year in the United States needlessly lighting the night sky.

**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?

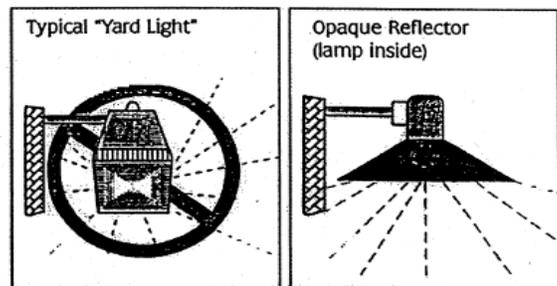
- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate areas 100 times more brightly than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

### Some Good and Bad Light Fixtures



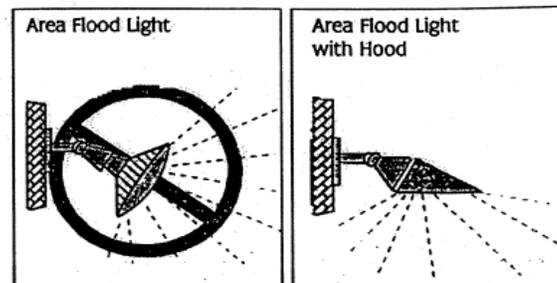
BAD

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.

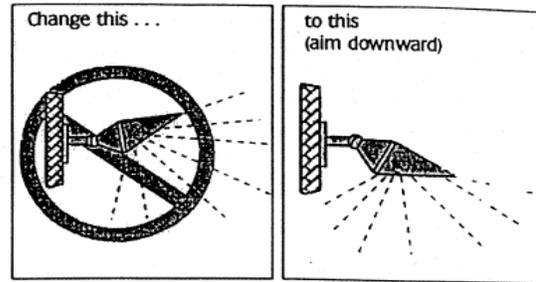
Presented by the

**New England Light Pollution Advisory Group (NELPAG)** (<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>) and **Sky Publishing Corp.** (<http://www.skypub.com/>).

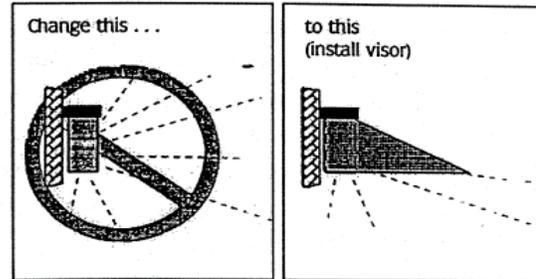
NELPAG and Sky Publishing Corp. support the **International Dark-Sky Association (IDA)** (<http://www.darksky.org/>).

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.

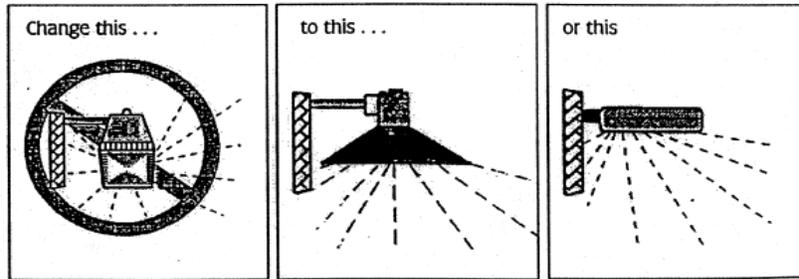
**What You Can Do To Modify Existing Fixtures**



**FLOOD LIGHT**



**WALL PACK**



**YARD LIGHT                      OPAQUE REFLECTOR                      SHOE BOX**



Sky Publishing Corp.  
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