

FILED WASCO CTY
THE DALLES OR.

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

JUN 21 9 08 AM '99

KAREN R. LEBRETON
COUNTY CLERK

ORDINANCE

NO. 99-114

IN THE MATTER OF PROPOSED POST-ACKNOWLEDGMENT)
LEGISLATIVE AMENDMENTS TO THE WASCO COUNTY)
LAND USE AND DEVELOPMENT ORDINANCE, CHAPTER 3)
(SECTION 3.220, "FOREST-FARM" ZONE), AND CHAPTER)
5 (CONDITIONAL USE REVIEW) (FILE NUMBER LUA-99-101)
-ZO-L))

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in terms for the transaction of public business and a majority of the Court being present; and

IT APPEARING TO THE COURT: That between January 1, 1999, and March 31, 1999, Wasco County Planning staff met on six occasions to review proposed amendments to the Wasco County Land Use and Development Ordinance (LUDO) to make the LUDO consistent with State law and to make the Ordinance responsive to citizen concerns; and

IT FURTHER APPEARING TO THE COURT: That on Tuesday, May 4, 1999, in the Columbia Gorge Community College Board Room #1.139, The Dalles, Oregon, the Wasco County Planning Commission met to conduct a legally notified legislative public hearing on the above matter. Chair Sandee Burbank read aloud the rules of evidence. The Planning Commission reviewed the record and received all testimony and evidence, then closed the public hearing; and

IT FURTHER APPEARING TO THE COURT: That the Planning Commission then deliberated, and based upon the full record and evidence and testimony presented, voted 7-0 to recommend to the County Court the approval of the proposed ordinance amendments via Resolution 99-102; and

IT FURTHER APPEARING TO THE COURT: That on 1:30 p.m. on June 9, 1999, in the Wasco County Courtroom, Room 202, of the Wasco County Courthouse, in The Dalles, Oregon,

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this Court met to conduct a legislative public hearing on the above matter. The members of the Court were determined to be qualified to hear the matter; and

IT FURTHER APPEARING TO THE COURT: That the Court reviewed the record of the Planning Commission, heard the staff report and received all testimony and evidence from the parties, then closed the hearing for further input. The Court then deliberated, resulting in a 3-0 vote to adopt the proposed legislative amendments to the Wasco County Land Use and Development Ordinance, Chapters 3 (Section 3.220, "Forest-Farm" zone), and 5 (Conditional Use Review), as proposed by staff and recommended for approval by the Wasco County Planning Commission. Based upon the full record and evidence and testimony presented, the Court being fully apprised in the premises, did hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Proper notice was given and the hearing was held in accordance with procedural rules for legislative hearings and in conformity with said requirements as set forth in the Wasco County Comprehensive Plan.
2. Three (3) members of the County Court were present and were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by the Court;
3. In making its decision, the Court recognizes the procedural and legal requirements of the Wasco County Comprehensive Plan and the Wasco County Land Use and Development Ordinance and weighed fully each requirement in arriving at its decision.
4. In making its decision, the County Court recognizes the findings of fact in the staff report, including the Recommendation from the Wasco County Planning Commission Recommendation dated May 4, 1999.

CONCLUSIONS OF LAW

1. The Court adopts the Conclusions of Law as set forth in the staff report dated June 9, 1999, finding that the proposed amendments to the text of the Wasco County Land Use and Development Ordinance are consistent with applicable State Law, Oregon Administrative Rules, the interpretations found in relevant case law and the requirements of the Wasco County Comprehensive Plan and Land Use and Development Ordinance.

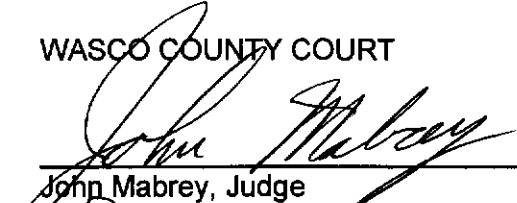
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2. The recommended amendments to Chapters 3 (Section 3.220, "Forest-Farm" zone), and 5 (Conditional Use Review) of the Wasco County Land Use and Development Ordinance are the result of the review procedure performed by staff.

NOW, THEREFORE, THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The Wasco County Land Use and Development Ordinance is hereby amended for Chapters 3 (Section 3.220, "Forest-Farm" zone), and 5 (Conditional Use Review), to bring that document into compliance with State Statutes, Oregon Administrative Rule (OAR) 660, Division 33, and other changes requested by staff and Planning Commission. The revised Wasco County Land use and Development Ordinance wording adopted by these ordinance amendments is attached as Exhibit A.

SIGNED this 16th day of June, 1999.

WASCO COUNTY COURT



John Mabrey, Judge



Scott McKay, Commissioner

Absent

Dan Ericksen, Commissioner

Approved as to Form:



Eric Nisley
Wasco County District Attorney

{Permitted Uses...}

10. Agricultural Produce Stand (subject to Chapter 20). (Revised 1-92)
11. The breeding, boarding and training of horses for profit. (added 2-89)
12. Climbing and passing lanes within the right-of-way existing as of July 1, 1987. (added 2-89)
13. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result. (added 2-89)
14. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed. (added 2-89)
15. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways. (added 2-89)
16. **Guest house subject to standards in Section 4.170.**

C. Uses Permitted Conditionally

In the "F-F" Forest-Farm zone, the following uses and activities and their accessory buildings and uses are permitted when authorized by the Approving Authority upon satisfactory demonstration of compliance with the standards of this Ordinance as required in Chapter 5 and this Section:

1. Additional single-family dwellings, including mobile homes, in conjunction with a commercial farm or forest use subject to income requirements in Section 3.210 D.2. or D.3. (amended 6-98).
2. A single-family dwelling, including mobile home, not provided in conjunction with a forest or farm use.
3. Commercial activities that are in conjunction with farm use.
4. Exploration mining and processing of aggregate and other mineral resources or other subsurface resources.
5. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
6. Parks, playgrounds, or community centers owned and operated by a governmental agency or a non-profit community organization.

7. Home occupations, subject to chapter 20.
8. Energy facilities and commercial energy facilities subject to the provisions of Chapter 19.
9. Personal-use airports for airplanes and helicopter pads, including associate hangar, maintenance and service facilities.
10. Public or private schools.
11. Churches.
12. The propagation, cultivation, maintenance and harvest of aquatic species. (added 2-89)
13. Solid waste disposal site as provided in ORS 215.283(2)(j).
14. Sanitary landfill.
15. Facilities to manufacture alcohol from farm or timber waste.
16. Kennels.
17. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels. (added 2-89)
18. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels. (added 2-89)
19. Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels. (added 2-89)

D. Conditional Use Approval Standards

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following review criteria shall apply to a conditional use applied for in subsection C. of this section. These standards apply only to lands outside of the designated Transition Lands Study Area (TLSA), as mapped by the Wasco County Planning Office.

1. **The proposed use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use.**

2. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.

E. Property Development Standards

1. Property Size - The minimum property size is ten (10) acres with a 330 foot minimum average lot width.
2. Lot Coverage - No more than ten percent (10%) of any lot or parcel may be occupied by non-farm or forest dwellings and their accessory buildings allowed by this section. (added 2-89)
3. Setbacks - In the "F-F (10)" zone no structure other than a fence or sign shall be located closer than twenty-five (25) feet from the right-of-way of a public road (front yard), twenty-five (25) feet from side yard property lines and forty (40) feet from the rear yard property line.
4. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.
5. Height - Maximum height for all structures shall be thirty-five (35) feet. **Height is measured from average grade.**
6. Stream Setbacks - All structures, or similar permanent fixtures (except hydroelectric facilities) shall be set back from the high water line or mark along all streams or lakes a minimum distance of one hundred (100) feet when measured horizontally at a right angle.
7. Signs - Signs shall not extend over a public right-of-way or project beyond the property line.
 - a. Signs shall not be illuminated or capable of movement.
 - b. Signs shall be limited to twelve (12) square feet in area and shall describe only uses permitted and conducted on the property which the sign is located.
 - c. Signs advertising the sale or rental of the premise and temporary in nature are permitted provided the sign is erected no closer than ten (10) feet from the right-of-way of a public road.
8. Parking - Off street parking shall be provided in accordance with Chapter 4.
9. Fire and Safety Standards (added 2-89) - All dwellings, and other structures as specified, shall institute the following fire safety measures for protection of the development and of surrounding areas:

- a. If the development includes a plumbed water system, at least one standpipe shall be placed a minimum of fifty (50) feet from the dwelling; and
- b. [~~If electricity is provided, service separate from the dwelling shall be provided for the pump delivery water to the standpipe in (a), above;~~] **Separate power service independent of the dwelling shall be provided for the pump utilized in a. above, and shall be provided by a public utility. Any exception to this requirement shall be approved in writing by a state licensed fire engineer; and**
- c. Any chimney or stovepipe on any structure for use with a woodstove or fireplace shall be screened to prevent discharge of sparks or other burning material; and
- d. **A minimum water flow equal to twenty (20) gallons per minute for fifty (50) minutes, for a total water capacity of one thousand (1,000) gallons shall be provided. This water source shall be available year-round, and must be usable by the rural fire protection provider (if applicable).**
- e. [~~d.~~] Power and telephone should be located underground where practicable. *Practicable is defined as 'feasible in the circumstances' by Blacks Law Dictionary. For the purposes of this section, practicable means whether the power lines can be physically put underground without undue hardship or difficulty because of circumstances in the land that are unique to this development. Cost alone does not allow for a determination that power lines cannot be located underground.* (added 6-98); and
- f. [~~e.~~] If a water supply, such as a swimming pool, pond, stream or lake, exists within one hundred (100) feet of the driveway or road at a reasonable grade, then access to within fifteen (15) feet of the water's edge should be provided for pumping units. **Access shall be a minimum of twelve (12) feet in width, maximum twelve percent (12%) grade, with a fourteen (14) foot vertical clearance. The access road shall have a fifty thousand (50,000) pound carrying capacity. Access roads over one hundred fifty (150) feet in length shall provide a turn-around area for vehicles.** (added 6-98); and
- g. [~~f.~~] Exterior roofing shall be of fire-resistant materials (added 6-98); and
- h. [~~g.~~] The owners of the dwelling and structures shall: maintain a primary fuel-free break area surrounding all structures; clear and maintain a secondary fuel-free break area according to the chart below. This break shall consist of removal of fire fuels from the ground, shrubs from under large trees, and tree limbs within five (5) feet of the ground (added 6-98); and

Size of Fuel Break Safety Zone by Percent Slope

<u>Slope</u>	<u>Feet of Primary Safety Zone</u>	<u>Feet of Additional Down Slope</u>
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

~~i. [h.]~~ The owners of the dwelling and structures shall: maintain setbacks from ridgetops, cliffs and bluffs. The steeper the slope, the greater the flame length, the hotter the flame front and the faster the rate of fire spread. This is primarily due to preheating of the vegetation upslope from the fire, increased draft of fresh air to the fire from below (added 6-98); and

Setback from Major Slope Changes in Conjunction with Fuel Break Safety Zone (The definition of a major slope change is a change in slope 10% or greater.)

<u>On a slope change</u> <u>Where the downhill slope is</u>	<u>Feet of Setback</u>
10%	50
20%	75
25%	100
40%	150

~~i. [i.]~~ Driveways and Private Roads shall be maintained to a level that is passable for fire equipment (added 6-98); and

1. Driveway and private roads shall be built and maintained to provide a minimum of twelve (12) foot width, a minimum curve radius of forty-eight (48) feet and a vertical clearance of thirteen feet (13), six (6) inches.
2. Grades shall not exceed an average of 8% with a maximum of 12% on short pitches.
3. Vehicle Passage Turnouts – Driveways in excess of two hundred (200) feet in length, shall provide twenty (20) foot wide by forty (40) foot long turnouts at a maximum spacing of ½ the driveway length or four hundred (400) feet, whichever is less. Existing driveways may be used as a turnout if they meet the spacing requirements above.
4. Deadend driveways over one hundred (150) feet in length shall have turnarounds of not less than a forty-eight (48) foot radius.

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- k. [f-]** Public Roads providing access to a driveway or access to the dwelling shall be brought to a level that is passable for fire/emergency equipment (added 6-98); and
- l. [k-]** Roads shall be built and maintained to provide a minimum eighteen (18) foot width, all weather surface, with a minimum curve radius of forty-eight (48) feet, and a vertical clearance of thirteen (13) feet, six (6) inches (added 6-98).
- 10. 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 ~~[the Columbia River. (Added 5-93)]~~ **waterways. The exterior of shielding and hooding materials shall be composed of nonreflective, opaque materials.**
- 11. **New Driveways – All new driveways which access a public road shall obtain a Road Approach Permit from the Wasco County Public Works Department.**

CHAPTER 5 CONDITIONAL USE REVIEW

SECTION 5.010 Purpose

A conditional use is an activity which is basically similar to the uses permitted in a particular zone but which may not be entirely compatible with the permitted uses. Therefore, a conditional use must be approved through the Administrative Action procedure to ensure that the use is compatible with the permitted uses in a **particular zone** and consistent with the general and specific purposes of this Ordinance and the Wasco County Comprehensive Plan. Conditions of approval may be imposed to ensure that any use may be made compatible with surrounding **permitted uses**, ~~[and that non-resource uses permitted in resource areas do not interfere with accepted resource management practices.]~~

SECTION 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used

Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise altered or denied upon authorization by Administrative Action in accordance with the procedures set forth in Chapter 2 of this Ordinance. In judging whether or not a conditional use proposal shall be approved or denied, the Administrative Authority shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

- ~~[A. The proposal is consistent with the goals and objectives of the Comprehensive Plan and implementing Ordinances of the County.]~~
- B. Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses **(not applicable to any request for a single family dwelling)**.
- C. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities.
- D. The proposed use will not unduly impair traffic flow or safety in the area.
- E. The effects of noise, dust and odor will be minimized during all phases of development and operation for the protection of adjoining properties.

- F. The proposed use will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along streambanks and will not subject areas to excessive soil erosion.
- G. The **impact of the** proposed use ~~[will not adversely affect]~~ **on** the air, water, or **on-site** land resource quality of the area **shall be considered and addressed in the Findings of Fact.**
- H. The location and design of the site and structures for the proposed use will not significantly detract from the visual character of the area.
- I. The proposal will ~~[preserve]~~ **not result in a significant adverse impact to** areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.
- ~~J. The proposed use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use. (Revised 1-92)~~
- ~~K. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use. (Revised 1-92)}~~

SECTION 5.030 Conditions

Such reasonable conditions as are necessary to ensure the compatibility of a conditional use to surrounding permitted uses as are necessary to fulfill the general and specific purposes of this Ordinance may be imposed in approving an application, pursuant to Section 2.110(D). Such conditions may include, but are not limited to, the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor.
- B. Establishing a special yard or other open space or lot area or dimension.
- C. Limiting the height, size, or location of a building or other structure.
- D. Designating the size, number, location, and nature of vehicle access points.
- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

- F. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- G. Limiting the location and intensity of outdoor lighting and requiring its shielding.
- H. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
- I. Designating the size, height, location and materials for a fence.
- J. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural, historic, or cultural resources.
- K. Other conditions to permit the development of the County in conformity with the intent and purpose of the conditional classification of uses.

~~SECTION 5.040 Invalidation of Conditional Use Permit~~

~~A conditional use permit will become invalid without special action if:~~

~~A. The permit is not exercised within one (1) year of the date of approval;~~

~~B. The use approved by the conditional use permit is discontinued for any reason for one (1) continuous year or more.~~

~~SECTION 5.050 Granting of Extensions~~

~~An applicant may request an extension of the validity of a conditional use permit approval. Such request shall be considered an Administrative Action and shall be submitted to the Director prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.~~

~~The Director may grant an extension of up to twelve (12) months in the validity of the conditional use permit approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.]~~

SECTION 5.060 Revocation of Conditional Use Permit (added 2-89)

Noncompliance with any condition placed on a conditional use permit shall be grounds for revocation of the permit. Revocation of a conditional use permit shall be considered a land use action and reviewed by the Planning Commission. The following procedures shall be