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WASCO COUNTY PLANNING COMMISSION HEARING

November 6, 2018

3:00 p.m.

The Columbia Gorge Discovery Center

5000 Discovery Drive

The Dalles, OR 97058

CALL TO ORDER

- Members Present: Chair Russ Hargrave, Vice-Chair Brad DeHart, Vicki Ashley, Mike Davis, and Lynne MacIntyre, Alternates Kate Willis and LeRoy Booth
- Absent Members: Chris Schanno and Jeff Handley
- Staff Present: Planning Director Angie Brewer, Long Range Planner Kelly Howsley Glover, Senior Planner Will Smith, Associate Planners Dawn Baird, Daniel Dougherty, and Brent Bybee, Assistant Planner Lisa Johnson, Planning Coordinators Brenda Coleman and Jensi Smith

Vice-Chair DeHart opened the meeting at 3:01 p.m. to swear in the two new alternate members of the Commission. Planning Commission Alternates **Kate Willis** and **LeRoy Booth** recited the oath/affirmation in the following manner:

'I do solemnly swear (or affirm) that I will support the Constitution and laws of the United State and the State of Oregon, and that I will diligently apply the ordinances of Wasco County, and that I will faithfully discharge the duties of Wasco County Planning Commissioner to which office I have been appointed.'

Vice-Chair DeHart then temporarily adjourned the Planning Commission Hearing for commencement of the Citizen's Advisory Group Meeting to begin at 3:03 p.m.

Chair Hargrave re-opened the Planning Commission Hearing at 3:09 p.m.

Chair Hargrave asked for comment on non-agenda items. New County Commissioner-elect Kathy Swartz introduced herself and thanked the Commission for all their work. She noted she was in attendance to learn and said she welcomes feedback from folks.

Chair Hargrave asked for comments on any of the Minutes. None noted.

Commissioner Ashley moved to accept as previously reviewed and updated Minutes from March 7, 2017

Commissioner Davis second.

Chair Hargrave called for the vote.

The motion was unanimously approved 5 to 0, 2 absent (Commissioner Handley and Commissioner Schanno).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair DeHart – yes
Commissioner Ashley – yes
Commissioner MacIntyre – yes
Commissioner Davis – yes
Commissioner Schanno – absent
Commissioner Handley – absent
Alternate Willis – Non-Voting
Alternate Booth – Non-Voting

Commissioner Ashley moved to accept as previously reviewed and updated Minutes from April 11 & 18, 2017 and January 2, 2018.

Commissioner Davis second.

Chair Hargrave called for the vote.

The motion was unanimously approved 5 to 0, 2 absent (Commissioner Handley and Commissioner Schanno).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair DeHart – yes
Commissioner Ashley – yes
Commissioner MacIntyre – yes
Commissioner Davis – yes
Commissioner Schanno – absent
Commissioner Handley – absent
Alternate Willis – Non-Voting
Alternate Booth – Non-Voting

Chair Hargrave stated the Planning Commission Hearing has been called to order for the purpose of considering the recommendation from the Citizen's Advisory Group (CAG) to

approve the Work Tasks 5-8. (File numbers 921-18-000098, 921-18-000099, 921-18-000100, 921-18-000108) of periodic review, Wasco County 2040.

Chair Hargrave then went over the ground rules for how to conduct the hearing in the following manner:

The procedure I would like to follow tonight is:

- Planning Department Report.
- Members of the audience who wish to speak in favor of the proposal.
- Members of the audience who wish to speak in opposition to the proposal.
- Planning Commission will close hearing and begin deliberation.
- Planning Commission will ultimately make a recommendation to the Board of County Commissioners regarding the proposal. The Board of County Commissioners will take final local legislative action.
- The hearing is scheduled for 2 hours. We will try to conclude the hearing by 5:00 PM. Testimony will be limited to 3 minutes per audience member.

The Rules of Evidence are as follows:

- No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- Testimony and evidence must be directed toward the criteria applicable to the subject hearing.

Disclosure of Interest:

- Does any commission member wish to disqualify themselves for any personal or financial interest in this matter? None noted.
- Does any member of the audience wish to challenge the right of any commission member to hear this matter? None noted.
- Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter? None noted.

Chair Hargrave called for the Staff Report.

Long Range Planner Kelly Howsley-Glover reviewed the updates that were discussed at the CAG work session. Approval of Tasks 5-8 were recommended by the Citizen's Advisory Group after thorough review on October 9, 2018. She reviewed the slide presentation to provide an overview that had been updated from feedback from the work session. (See Attachment A)

Group discussion:

Long Range Planner Kelly Howsley-Glover asked for questions.

Chair Hargrave asked about the 95% number presented regarding Agritourism. He wondered if it were more predominately in South County. **Long Range Planner Howsley-Glover** responded it was true for most areas of the county, with the exception of Petersberg, which was the 5%. Those folks weren't that interested in Agritourism and didn't see much opportunity for this in their area. **Chair Hargrave** stated interest in the section about incentives, where would we get the money for this? Would there be other incentives, other than fee reductions? **Long Range Planner Howsley-Glover** stated it would be through fee reductions. This would also be working with our partners to actively pursue grants.

Alternate Booth asked for more info about going off the grid. Would we offer references, places consumers could go to get information? Would there info for people to find out what is available, what are best practices? **Long Range Planner Howsley-Glover** didn't feel that was the recommendation from the public. She stated direction from **Director Brewer** is all about education. **Long Range Planner Howsley-Glover** stated there are some guidelines and restrictions as government workers on what we can recommend. There is a grey area for us in terms of what is considered education. **Vice-Chair DeHart** stated there could be another method such pointing folks to Department of Energy that has data to share. **Alternate Booth** stated we would want to provide incentives, to point them somewhere. **Director Brewer** noted technology is always changing. We do care about outreach and education, helping our applicants with an efficient process but there is a fine line about recommendations to specific businesses. We will definitely point to strategies when we get into Ordinance amendments. We could direct them to agencies. **Commissioner Davis** said it would be about educating the public, point them to partner agencies, direct them to state supported loans, etc. He noted that it is fairly organic, helping to educate the public, being able to dialog with the client. **Director Brewer** noted that incentives are not only monetary. It might be land use incentives as far as density increases. It could be procedural efficiencies where something might qualify for an expedited review process. There are a lot of strategies that we can get into later in this process.

Chair Hargrave asked if there were any other question. There were none. He thanked staff.

Chair Hargrave asked if there were any audience members that would like to speak in favor. **Shelia Dooley** introduced herself and noted she is in favor. She noted her support for keeping the forests lands. She stated she has some concerns with the Agritourism. She has some concerns about increased fire risks, emergency response time, road capacity, parking, sanitation, and concerns about wildlife. She believed these would be addressed later during the LUDO update. **Chair Hargrave** asked **Ms. Dooley** if her concerns were about the specific recommendation. **Ms. Dooley** responded that Agritourism in very general, noting her belief that specific parts of this will be addressed later.

Chair Hargrave asked if anyone else wanted to speak in favor. There were none.

Chair Hargrave asked if anyone wanted to speak in opposition. There were none.

The Legislative public hearing was closed at 3:40 p.m. to move to deliberations.

Commissioner MacIntyre made a motion to recommend the Planning Commission adopt of the proposed amendments to the Comp Plan and recommend their approval to the Board of County Commissioners.

Commissioner Davis seconded.

Chair Hargrave asked for further discussion. There was none.

Chair Hargrave called for the vote.

The motion was unanimously approved 5 to 0, 2 absent (Commissioner Handley and Commissioner Schanno).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes

Vice-Chair DeHart – yes

Commissioner Ashley – yes

Commissioner MacIntyre – yes

Commissioner Davis – yes

Commissioner Schanno – absent

Commissioner Handley – absent

Alternate Willis – Non-Voting

Alternate Booth – Non-Voting

Long Range Planner Howsley-Glover stated that Work Task 3 is done. She shared that the Road Show for the next Work Tasks will start again after the first of the year, most likely in March or April. This will include big topics like minimum parcel size, housing and other hot topics. She plans to send out a lot of information over the next few months. There currently aren't any plans for CAG meetings or Planning Commission Hearings in December or January.

Chair Hargrave stated these recommendations will be sent to the BOCC on the following dates: December 19, 2018 and January 16, 2019.

Chair Hargrave closed the Legislative Hearing at 3:44 p.m.

QUASI JUDICIAL HEARING 921-18-000017-PLNG Appeal by Kevin McCabe et.al., of the Planning Director's Decision of a request for a Commercial Horse Boarding Facility

Chair Hargrave opened the Quasi-Judicial hearing at 3:44 p.m. He asked **Associate Planner Baird** for script of the hearing proceedings. **Associate Planner Baird** passed out the packet of information. She noted there were some new comments that were received late this afternoon.

Chair Hargrave recommended that members take 10 minutes to review new comments received since packet was sent to the Commission earlier.

Chair Hargrave stated we will now open the public hearing on agenda item 921-18-000017PLNG, an appeal by Kevin McCabe et. al., from the Planning Director's approval of a Conditional Use Permit and Scenic Area Review for a commercial horse boarding facility for 5 horses, and to construct a 60'L x 23.75'W x 30'H (2,856 square foot (SF), including the first and second floor) horse barn for commercial horse boarding, with two attached sheds measuring 36'L x 10'W x 10'H (360 SF), and 60'L x 11.75'W x 10'H (705 SF) for a total of 3,921 SF, a 60' diameter x 20'H round pen, a 30'L x 20'W x 12'H equipment shed, a 16'L x 12'W x 10'H loafing shed, approximately 3,000 linear feet of fencing with 12'L x 5'H and 6'L x 5'H gates, and underground utilities including subsurface septic disposal system.

The property is described as 2N 11E 11, tax lot 2200; Account number 327.

The criteria for approval of the applications include: Review Authority: Chapter 2, Section 2.050.B.1., Appeals of Decision of Director, of the Wasco County National Scenic Area Land Use and Development Ordinance (LUDO). Review Criteria from the LUDO include:

Wasco County National Scenic Area Land Use & Development Ordinance (NSA-LUDO)

A. Chapter 3 – Basic Provisions

Section 3.130, A-2, Small Scale Agriculture (GMA) Section 3.130.D.2., Uses Permitted Subject to Review, Agricultural Structures Section 3.130.D.3., Uses Permitted Subject to Review, Agricultural buildings Section 3.130.E.3., Uses Permitted Conditionally, Boarding of horses Section 3.130.G, Property Development Standards

B. Chapter 4 – Supplemental Provisions Section 4.040, Off-Street Parking Section 4.070, Off-Street Loading Section 4.080, General Provisions – Off-Street Parking and Loading

C. Chapter 5 – Conditional Use Review Section 5.020, Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used Section 5.030, Conditions Section 5.040, Revocation of Conditional Use Permit

D. Chapter 11 – Fire Safety Standards Section 11.110, Siting Standards, Section 11.120, Defensible Space Section 11.130, Construction Standards for Dwellings and Structures Section 11.140, Access Standards, Section 11.150, Fire Protection or On-Site Water Required

E. Chapter 14 – Scenic Area Review Section 14.100, Provisions for all new development Section 14.200, Key Viewing Areas Section 14.300, Scenic Travel Corridors Section 14.400, Landscape Settings Section 14.500, Cultural Resources – GMA Section 14.600, Natural Resources – GMA

Section 14.700, Recreation Resources - GMA Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA

The procedure I would like to follow is:

- Disclosure of Interest, Ex Parte Contact or Potential Conflicts
- Reading of the Rules of Evidence
- Planning department will present their report
- Those who wish to speak in favor of the proposal
- Those who wish to speak in opposition of the proposal
- Rebuttal
- Close the hearing and record and begin deliberation
- If enough information is available the Planning Commission will make a decision today.

Disclosure of Interest:

- Does any planning commissioner wish to disqualify themselves for any personal or financial interest in this matter? Does any planning commissioner wish to report any significant ex parte or pre-hearing contacts? None noted.
- Does any member of the audience wish to challenge the right of any planning commissioner to hear this matter? None noted.
- Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter? Any disclosure for personal interest or financial? None noted.
- Did any Planning Commission conduct a site visit to the subject property? None noted.
- Clarifying who is a 'Party': Anyone can speak for or against the proposal today but only those who have 'Party' status would be able to appeal the decision reached by this commission. A 'Party' is defined as 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.

The Rules of Evidence are as follows:

- No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.

- Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- Testimony and evidence must be directed toward the criteria applicable to the subject hearing or to criteria that the party believes apply to the decision.
- Failure to raise an issue with sufficient specificity may preclude raising it before the Land Use Board of Appeals.
- Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Wasco County to respond to the issue precludes an action for damages in circuit court.
- Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing. (PC Only)
- Failure of persons to participate in the public hearing, either orally or in writing, precludes that person's right of appeal to the Board of Commissioners. Written testimony submitted prior to the hearing constitutes participation in the hearing

Staff Report: Chair Hargrave called for the Staff Report.

Associate Planner Dawn Baird introduced herself and presented her Staff Report in the following manner: (See Attachment B)

Discussion during presentation:

Grounds for Appeal Reason #6 – **Associate Planner Baird** acknowledged the concern about ADT (average daily trips) **Associate Planner Baird** talked to the Public Works director who had stated this is one best roads in the Mosier area, noting the road could take the traffic.

Grounds for Appeal Reason #8 - **Associate Planner Baird** noted her site visits were in the spring and summer. She also noted that no agencies had concerns. The original staff report, manure breaks down after a couple days, with no runoff concerns.

During the presentation of the Staff Report **Associate Planner Baird** noted the property owner has asked for changes to the original conditions for approval.

- Business hours – **Associate Planner Baird** noted there are no county ordinances that show hours/days that a facility cannot provide services other than Chapter five (5.030) CUP – allows staff and commission to place reasonable conditions on any operation. It is typical that staff limit hours that will include one day a week to give reprieve to neighbors. This is a horse boarding operation that does not include commercial events. Staff feels it is appropriate to limit operations to employees seven days a week. She recommends retention of the limit, with one day a week with no commercial activity.
- Condition G4 regarding maintenance of trees on property. **Associate Planner Baird** stated the applicant/owners sited info that was a county ordinance, but this property would be governed by the NSA ordinance.

- **Associate Planner Baird** offered to read all of the Conditions of Approval, stating if members of the Commission had already reviewed them, she wouldn't review. No members indicated they wished to have staff read them out loud.
- **Associate Planner Baird** stated the appellant had made mention of the kitchen/restroom building. **Associate Planner Baird** apologized and said this had been left over from a previous report that is no longer applicable. This language will be struck from the report. The applicant is not proposing a kitchen/restroom building. There will be no kitchen facility, there will only be a restroom in the barn. There is also reference to a dwelling in the original report that will be struck as well.
- **Associate Planner Baird** reviewed the Planning Commission options.
- **Associate Planner Baird** concluded her staff report and asked for questions.

Planning Commission Questions:

Vice-Chair DeHart asked about the road approach permit. **Associate Planner Baird** noted there isn't currently one on file.

Commissioner Ashley questioned the hours of operation for CUPs. **Associate Planner Baird** stated specific hours are not in ordinance. **Associate Planner Baird** referenced another property in this same subdivision that has limited hours. **Commissioner Ashley** asked if this was a newer trend. **Associate Planner Baird** said it was not something that was used a lot a long time ago. **Associate Planner Baird** stated that if the Commission felt it was not appropriate, they could strike this section of the conditions of approval, or make changes they feel necessary.

Alternate Booth questioned the issue of the trees. If Mother Nature came along and took out the trees, would the owner be responsible to replace? **Associate Planner Baird** replied yes, if the property was in the National Scenic Area, as the requirements are very specific. **Director Brewer** added that if there is an existing land use decision that that had a binding requirement, the condition of approval would require it to be maintained. If there is a property had not been through a land use approval process, there would not be anything binding that they could be held to, as they would have if there was a condition of approval for the land use decision. The requirement would be triggered by new development. **Chair Hargrave** wanted to clarify that it would only be if there was a land use decision for that property. **Director Brewer** noted they would only be able to enforce this if there had been a conditional of approval for the land use. There would not be any way to enforce replacement if there were not a decision with a condition of approval to rely on. If there had been this condition for approval the land owner would have to comply with the decision. **Director Brewer** stated again this rule applies to all property in the NSA. These standards apply when someone goes through the approval property. If they have not been through that process, there are no conditions that the property owner can be held to.

Commissioner Ashley asked if a fire that takes out large amount of trees, with species like the Oak trees that don't have anywhere to purchase them to be replaced, the property owner wouldn't be able to be replace them. **Director Brewer** stated the rule is triggered by new development, to protect a backdrop or screening area. If the property owner has been through the process for development with these conditions, then yes, they would be required to replant to keep the health of the forest. **Commissioner Ashley** asked that if a whole area were taken out, would all land owners be required to replace them? **Director Brewer** stated that if they had a condition of approval for development of the property, they would be required to fulfill that condition. She also noted that we don't have a tree count for every piece of property. The intent of that rule is to have vegetation for screening purposes.

Vice-Chair DeHart if in the event of a catastrophic fire, if the improvements were taken out, couldn't the screening come back in as a requirement if we excluded it as a requirement in this on the occasion of a catastrophic event, couldn't the screening be brought back as a condition for a later approval? **Director Brewer** stated that if she understood the question correctly, if the trees were eliminated for some reason, if they proposed new development on that landscape, could we require additional trees in the future? The answer is definitely yes. It would be a new land use application that would require a new scenic area analysis. Associate Planner Baird stated it is not just retention of trees for visual subordination, this is a wild life habitat.

Chair Hargrave asked for any other questions. There were none.

Chair Hargrave asked the group to take time to read the new information that was submitted today, after the packet had been sent to the Commission. After 10 minutes, **Chair Hargrave** asked if the Commission members needed more time to read the materials. Two members suggested they would need more time to thoroughly review the materials. The consensus was to have members read the materials later. **Associate Planner Baird** suggested it would be better to have testimony done today. **Chair Hargrave** agreed to have all testimony today and would have a continuance of the hearing, allowing for time to read the materials and accept any additional materials that may come in.

There was discussion on whether the appellant or the applicant/owner should go first. **Scott Jensen** who stated he was representing the appellant, **Dr. Kevin McCabe** suggested that the appellant should go first. **Director Brewer** shared with the Chair, according to the ordinance that the applicant should be the first to present. **Chair Hargrave** asked them to come forward and state their name.

Applicant/owner Carrie Fuentes gave testimony. She wanted to clarify what the business uses for terms. They use clinic, workshop, or training interchangeably. The confusion of the terms being used are semantics. They feel the main concern is the hours of operation and the number of people on the property at any one time. She noted they will respect and observe these

parameters. She said their objection is to having this limitation on Sundays, given this is the day that most people and clinicians are free for workshops. They are agreeable to having the limited day be Monday, Tuesday or Wednesday for limited hours. She stated their workshops are extremely low impact and are intermitted. At their other facility, there have not been any complaints about the horses or their activities in the last four years. They are extremely careful about the care of the horses, the land, the manure management and how they run any activity for the horses. Part of the barn agreement they have with the very few boarders, maybe two to three boarders, with only five horses, is that the horses will be participants in the workshops whether the owners sign up or not. The boarders are happy about this arrangement as they often do not have time to give the horses the attention. This is very common in other boarding facilities. Their workshops include relational horsemanship and ground skills. Participants focus on consensual leadership and communication. The confusion about how the work with participants is that often these skills that are learned through working with the horses can transfer to other aspects of their lives. This has led people to make assumptions, that they are doing 'therapy'. They do not provide any type of therapy, mental health or physical therapy. However, they do request that workshops are open to the public, as long as there are eight or less participants. In the Wasco County exemption for AG buildings, equine facilities is a building located on a farm and used by a farmer owner or the public for stabling or training equine, riding lessons, and training clinics. She feels their workshops fall under training clinics. They have been challenged by the assumptions about the training workshops or clinics, stating they will not be doing therapy. She regrets that the neighbors did not reach out to them. They offered to talk to anybody who had concerns about what they were proposing. They strive to have the least impact on the land while doing the training. They strive to preserve the integrity of the land which is why they have the track system. The horses are feed 24/7 with hay, with limited times to graze. She thanked the Commission.

Mr. Jon Heltzel signed in and gave testimony. He stated he builds rustic barns and AG building in the Gorge and was approached by owners to build the barn for storage of hay, tack, for commercial horse boarding. He worked with the Planning Department to find out the necessary steps required get the facility approved. He worked with the owners to finalize the design of the facility. They designed a barn for the care of the horses, equipment shed for the tools, a covered round pen for the training of the horses, fencing layout with gate, septic, water and power and the infrastructure locations. He filed the application in early March. In early August, after much scrutinizing from all involved, the commercial horse boarding was approved, with conditions. The application met the conditions for approval.

Chair Hargrave asked if anyone else wanted to come forward to speak in favor.

Applicant/owner Mark Fuentes signed in and gave testimony. He shared written testimony and diagrams with the Commission. (See Attachment C) He referenced the diagrams, noting the differences from the original staff recommendations. He noted there may not be enough water in their well to meet the stated requirements in the Condition of Approval. He also stated not

being allowed to use the well for irrigation; they would not be able to meet this requirement. He is asking to have foreground trees replacement requirement removed from the conditions.

Chair Hargrave asked if anyone else wanted to come forward to speak in favor. No others spoke in favor of the application.

Dr. Kevin McCabe and his representative **Mr. Scott Jensen** signed in and provided testimony. They thanked the Chair, Commissioners and staff for their time to review the appeal. **Dr. McCabe** stated he wants to maintain party status.

Dr. McCabe stated he feels the facts in the application have been consistently misrepresented, with facts constantly changing. He noted the incomplete proposal, siting the incomplete site map was as a concern with the lack of detail. He is concerned they will not be allowed to raise further concerns once they see exactly what these buildings will be, what purpose they will serve. The kitchen that was mentioned earlier by staff, the changing on this issue exemplifies the constant changing nature of this proposal. The average daily trips are still not clearly defined and do impact the neighbors. The track – first was described as a grassy track, then a sacrificial area in the applicants notes, along with a reference about footing covered by sand from OSU, which OSU itself does not recommend using sand for the safety of horses. The track runs through the wetlands, again against OSU recommendations. The applicant and owner stated originally there were no wetlands, presumably because they did not consult the maps. When the owners were shown the maps, they then denied there were seasonal wetlands streams on their property, even though there are three culverts that feed it. The owners stating the neighbors don't know what goes on there because we don't have access to the property, but this area is clearly visible from Huskey Road and Quartz Drive. The watershed flows onto the neighboring property line to the north of his parent's property. He stated the owners say there will only be one class per day, this has been changed many times, now stating they want multiple classes a day. This would be students, not just owners.

Dr. McCabe continued testimony: There are additional deficiencies and flaws with the application. The County rules for what is considered a complete application that includes a clear site plan were not followed. There is an absence of a proper site plan for this incredibly complex commercial project. It would be an inconsequential cost for the owner to have a detailed site plan drawn up. The inability to comment on this final site plan inhibits our ability to challenge what is going to be final and sited on this property. We understand there is legal precedence that states the detailed site plan cannot be a condition of approval. The 3,000 feet of fence is incompatible with their site plan and barley goes around the 14 acres of pasture described. The usable area under roost is .17 acres which seems excessive and violates the NSA LUDO regarding minimum size. The applicant and owner appear to be seeking an educational use in an Agricultural setting. There are limitations on commercial exemptions for the well water and the implications of that. They talk about wetting down the track systems to reduce dust. He is concerned this is not an applicable use for this water. There are significant

restrictions on tree removal, which they themselves challenge, which we believe this makes this development impossible. They state, there's an impossible condition, that these horses will not cause bare ground, when the bare sacrificed area is required when the fenced lane is inadequate. The fact that this proposal does not add a commercial horse boarding facility but just moves horse boarding capacity from Hood River to Mosier. We remain concerned about the wellbeing of the horses with no one on the site 24/7. For these reasons we feel the application should be denied, at least postponed until the neighbors, county and community have the ability to review the complete application including a detailed site plan.

Mr. Scott Jensen introduced himself, stating his is a practicing Planner. He shared some documents with the Commission. (See Attachment D) He wanted to address some technical points: (1) On any land use application, it is on the applicant to prove they have complied, and that has not happened here. When talking about site plans, the staff's response to our grounds for appeal was that site plans are hard, expensive and not everyone can do it. He stated he applauds staff for working with homeowners, small farmers for what they can do. This is a commercial project, not a homeowner. They should be able to do a site plan to scale. He shared into evidence is a copy of the Wasco County Planning Application Forms website page, noting the language 'All applications must include – the application form itself, and a site plan.' If you click on the site plan link, you get a like site plan with a check list of the things you need to have to have a complete site plan, and submit a sample. That's well within the capabilities of any commercial project. Besides that, they would have to have engineered drawings to get building permits. In his experience, typically you take the 30% drawings for construction on a site plan, and that is what you submit for a land use application. So, many of the issues that we have written and talked about, could have been handled for the presence of a site plan.

Mr. Scott Jensen continued: The applicant talks about equine facilities and how they need to have the ability to do this equine assisted therapy learning in order to make their project viable. He wanted to point out that they are no longer talking about commercial horse boarding. It is not semantics when it comes to planning law. The difference between training and experiential learning – they are specific things. Commercial horse boarding quite possible could include things like riding or grooming lessons. He believes it has less to do with having horses around while you do things. He is not completely clear on what they do but it sounds like it goes farther afield from things you do at a horse boarding facility. The applicants have also stated that they have in their boarding agreement a clause that says that any horses boarded there will be used for this activity. He believes that is a problem because if their horses are being used for this activity for the 'public', they are presumably getting some sort of remuneration for this activity, possibly a lesser boarding rate. That begs the question – if commercial horse boarding is not generating the revenue for this operation, what use is? He doesn't know what that use is, but it is in that equine therapy realm, which is beyond the realm of commercial horse boarding. Staff stated they looked for commercial horse boarding in the area and relied on the applicants take on there being a lack of these facilities in the area. The problem being that just because there is a lack of facilities, you cannot conclude there is a demand for that service. It is just as easy to

say there is a lack of horse boarding facilities because there is not a need. People may be boarding with friends or on their own property, but just because there aren't a number of commercial horse boarding facilities, it does not mean there is a public demand or interest. As **Dr. McCabe** noted, this isn't adding horse boarding capacity, this is just adding capacity. The applicant talked about wanting to be good neighbors, not wanting there to be anxiety over the project, but the first his clients had heard about the project was months after the application was submitted, he believed at the suggestion of staff. They are not aware of any effort to contact the neighbors prior to submitting the application. He believes that would have been the time to talk to the neighbors, as you are developing something, not sometime after they say they have an issue. The applicant has talked about not having to remove any trees. He questions how that can be possible without a site plan drawn to scale and a landscaping plan that identifies all the trees on the property. If that information were available, it would be very easy to see if there is a problem with the trees. Because of the lack of site plan, we can't answer that question. The applicant has stated there is a problem with their water use, not being able to use for irrigation, creating a situation where they cannot irrigate if any new trees are needed to be planted. We agree that is a problem and needs to be solved and presented to you, showing to your satisfaction how they have solved that before they should move forward. Otherwise, if they don't have a solution to solve that, the commercial facility is built, and a tree dies, they cannot replace that tree, the only other option is to revoke the Conditional Use. They have put one or two million dollars into building this, but now because they didn't have the water/irrigation issue sorted out ahead of time, they will be out that money and it will just sit there. Lastly, he spoke about the fire code issues. As noted by staff, there is bulleted list of things that need to be done for a fuel fire break. The staff comments actually include a paragraph from the code. He read from Chapter 11, Section 11.120: Trees shall be grouped. Groups of trees shall be spaced to avoid creation of continuous tree canopy. He said that when he looks at the site picture, the site plan submitted by the applicants, it looks like that is in the middle of a continuous canopy. He is not sure how you can have no continuous tree canopy without cutting down trees. Again, they need to demonstrate that they can do it before they are given permission to do it. To sum up: This is a very light scratching of the surface of the deficiencies of this application. He stated there is no way forward for this application that does not go forward with more appeals. There are grounds for appeal for everything. He would like to suggest that the Planning Commission deny the application outright and allow the applicants to go back, do the work that was supposed to be done, and come back with answers to all these questions. Thank you very much.

Ms. Amy Conroy introduced herself and signed in. She would like to request Party status as she is an adjacent land owner. She identified her property on the map, requesting to see the aerial photo in **Associate Planner Baird's** presentation. Her concerns are the original notice she received did not include the barn. She was asked to comment on that, which made it very difficult. Secondly, she feels it is disingenuous for the Fuentes to say they did not want to cause any anxiety, noting they had not reached out to all of us. Today is the first time she had heard that, stating she had not spoken to them prior to the application submission. She doesn't feel it

is her place to say “yes you can ” or “no you can’t”. She would have been happy to walk the property with them, looking at where they are planning on siting the facility. She feels she will be the most impacted. She referred to the small open space on the aerial photo, indicating where her house is sited; the barn will be straight through the woods, directly across from her house. She stated it will have a significant impact on the quality of life and it will devalue her property. She stated she grew up with horses; she is not opposed to horses but knows there are impacts of having horses, the smells, and the flies. Where is the manure slab going to go? Will it be between her house and the barn? This has not been addressed. She noted she has had the property surveyed. She knows where all the property lines are, having lived there for 17 years. The power box that the county is proposing to connect to is on her property. No one has contacted her about connecting to it. She noted it is not a large area to trench, but it was put on her property for the development of her property, not for the general use of anyone who comes along. The power company has come out and looked at the power box and the survey markers. He said it is on her property and they do not get in between disputes over who has access to property. He also told her that if she wanted to develop her property, commercially, with a smile, he stated that if she wanted to put a grow operation on it, she would need that power. She stated that if she wanted to pull the mobile home off and build a house and use the slab from the mobile home to put in a turkey barn, which would be along the lines of Agriculture, she would have to bring in another power source, at her own expense. She stated that wasn’t taken into consideration, or that she was not even consulted about it. The applicants are absentee owners, not around during the winter. She noted long power outages and large quantities of snow and talked about the runoff in those conditions. She talked about the photos being taken in July. She said the runoff happens at the end of spring when the snow is melting. She felt it was brushed aside and treated as irrelevant. **Ms. Conroy** said she sent in photos, but wasn’t able to get pictures that showed the runoff. If she had known it would be necessary to demonstrate how much water flows through the tunnels under Huskey road showing the runoff, adding there are berms to funnel the runoff to the next tunnel. She stated it funnels the runoff of the seasonal creek, saying you won’t see it if it isn’t the wet season. The City of Mosier and a group of people spent a lot of time to develop Rock Creek Park, spent a lot of time and planning with agencies, mainly the Department of Wildlife, to get it going. They did not want to have the windsurfing and recreation site there because that is a river that, a stream, a watershed, where fish actually spawn in. It dries up in the summer, but fish spawn in there and everything from up there funnels down to it. She appreciates all the time and energy into preparing this, very informative and thanked the Commissions efforts.

Mr. Ed McCabe wanted clarification on Party status, to confirm that if he had submitted written comment he would have Party status. **Chair Hargrave** confirmed that was correct.

Chair Hargrave asked if anyone else wanted to speak in support of the appeal. No one did.

Director Brewer spoke regarding the rule about the trees. She would like it on the record that that rule comes directly from the NSA Management Plan and is not a Wasco County addition in

any way. It has been problematic in implementation because things like fires do happen to large areas of land, and we have in the past interpreted to ensure that people have the ability to maintain their health of forest and we don't encourage the density that is unhealthy for a forest. There are spacing guidelines and requirements on landscaping in a handbook produced by the Columbia Gorge Commission and the Forest Service about safe spacing and species that do well in different landscapes. We try to use that information to inform housing, a very board vegetation requirement.

Alternate Booth asked if people would be required to remove trees. **Director Brewer** stated they would have the ability to remove trees to maintain the health of the landscape. Not that they would be required to but that they would have the ability to. **Alternate Booth** stated it is contradicting. **Director Brewer** noted it is landscape specific, forest specific. This has been informed by a landscape architect, not use making a call on a profession that is not ours. In a very broad sense, in many of our historical land use decisions, it is a broad brush blanket condition of approval because it is written that way. That is the very black and white interpretation that all trees must be retained. Over the years we have learned that discretion of land use decision process to encourage forest health so there is not an increased fire risk, but the intent is to retain that vegetative screening. **Alternate Commissioner Booth** said part of the confusion was the language that the canopy should not be separated.

Chair Hargrave asked if anyone else wish to speak in support of the Appeal. No one did.

Chair Hargrave asked if the Applicant would like to rebut any statements.

Mr. Heltzel had the following statement of rebuttal: Pacific Power owns the right away along the shared property line, with a ten foot width there. Permission of the adjacent property owner is not necessary. He has a copy of the proposal from Pacific Power for \$5K to install power because the transformer that was installed there is designed to link through so without going onto the neighbor's property, staying in the right-of-way , branch off and go 350 feet where the main barn location to supply a 200 amp main to it. To clarify it is a Private Pacific Power, they had it surveyed themselves, and they have the right of way on record. Only right of way needed was from Mark Fuentes, granting a 350 or 325 foot strip for the underground trench. **Commissioner Ashley** asked if there was an easement on property. **Mr. Heltzel** stated there is an easement on the property. He stated it is a Right of Way. This is typically how Pacific Power sets it up so they don't have dilemmas like this. They don't put power boxes inside 10 feet, when they do the installs; they keep it on shared areas so that they don't have conflicts like this. It is the property line and then ten feet. **Chair Hargraves** asked if it is in those ten feet. **Mr. Heltzel** said it is in those ten feet of Right of Way. **Chair Hargraves** asked if it is just a power box. **Mr. Heltzel** said it is a transformer. He said the one that is there now is designed to have a 7200 volt primary feed through it so 7200 volts goes through it. It can basically sting along and doesn't affect the current transformer.

Commissioner Ashley asked about the manure pit will it be concrete lined with a form of plastic to make it moisture proof. **Mr. Heltzel** replied it will be a six inch concrete pad that will be located next to the barn. The barn will be not be in the woods, it is basically center of the property, slightly south, slightly west. It would be so a tractor can come in and the cherry orchard owner next to the property has already called dibs on all the manure. **Commissioner Ashley** asked if it was like a pit. **Mr. Heltzel** replied yes.

Chair Hargraves asked if there were any other questions for **Mr. Heltzel**. There were none.

Amy Conroy asked to speak for clarification. The deed to her property states that it is a power easement of 7.5 feet. The box is outside of that. If she wanted to have a commercial operation of her own, it is possible she would have to bring more power at her expense. It is not 10 feet long on the deed to her property. She can supply that information if required.

Ms. Fuentes asked to speak for clarification. It was noted as a Point of Order that **Carrie Fuentes** is not on the application. **Chair Hargrave** stated there was time to allow everyone to speak. **Ms. Fuentes** was allowed to follow up.

Ms. Fuentes spoke about the manure. Right now it is given to orchardists and also that Dirt Huggers takes manure. She stated they are very consciousness about it, picking it up every day. The comment about the sand – they never said they were going to use sand. She stated they did go through **Associate Planner Baird** to let them know it would be fine to contact them. The applicants felt it would be intrusive to go to the neighbors about the facility. They just opened up the door to the neighbors, letting them know they could be contacted through email or phone. As for the assumption they are moving their horses, they do have horses on their property, these would be boarded horses. There are a lot of assumptions being made about the owners of those horses. Clarification again – they are not doing therapy. They are doing horsemanship skills, relational horsemanship skills, a lot of ground work. People learn how to groom; they learn how to work with the horses, this happens in numerous facilities. It is not always the owners that come to these. She is sorry that was not clarified very well in the beginning.

Commissioner Ashley asked if basically they are doing riding lessons. **Ms. Fuentes** stated they do not focus on the riding, it is more ground work, horsemanship skills, and there is some riding. It is leadership, communication with the horses. It might look a little different but it is all horsemanship skills. This happens in facilities all over the place. It isn't just the boarders; the workshops are not daily, just that they could be run on different days of the week. She would like to emphasize it is extremely quite compared to other types of equine activities. People learn the skills and advance to higher levels. It will be in a round pen that they will be working a lot, it's not even a big arena.

Alternate Booth asked how many a day? **Ms. Fuentes** said no more than one a day, not every day. Owners don't always have time for their horses; these are the people that are interested in their facility. Their horses will be getting attention in other ways. In the way they maintain with the track system help maintain the integrity of the land, so the horses don't destroy it.

Chair Hargrave asked if anyone else wanted to speak.

Mr. Fuentes spoke about the trees. In response to the closed canopy, you can go onto Google Earth. It shows many openings in the area, there is a continuous road going through there, not the most current depiction of this area. The area they intend to for the building has an opening in the canopy. As far as maintaining that, in the info he gave for the application in pages PC 138 -141 there is a lot of detail about the trees, their management, also included a link to the Woodland Fish & Wildlife pamphlet that has a guideline for government agencies to go by in regards to managing white oaks. They are not proposing to remove any trees. One of the guidelines state is for example 'open canopy stands generally have more complex plants, understories than closed canopy stands, and hence can support more diverse wildlife species. To increase diversity of wildlife species in a densely wooded oak stand, you might consider thinning the stand'. The requirement to replace each and every tree goes against, and maintaining all the trees is going against this. Once again we are not refuting that they maintain all the trees. There focus is on the condition they replace each and every tree in that area, for whatever reason.

Mr. Ed McCabe signed in and asked for clarification on how long do they have for written comment going forward? **Chair Hargrave** doesn't know the answer to that right now.

Chair Hargrave asked if anyone else wanted to speak. There were none.

Chair Hargrave closed the testimony of the hearing at 5:37 p.m. He stated they would go into deliberation once they have had a chance to read all the materials. He wanted to get clarification on how long comments would be taken. **Mr. Jensen** requested the record be left open for 14 days.

The Staff recommend a continuation until 3:00 p.m. on December 4, 2018. It was noted the record would be closed and materials reviewed before the Commission would meet again.

Commissioner Ashley moved to leave the record open for 14 days for written input as requested by the Parties.

Commissioner MacIntyre seconded.

Chair Hargrave asked for further discussion. There was none.

Chair Hargrave called for the vote.

The motion was unanimously approved 5 to 0, 2 absent (Commissioner Handley and Commissioner Schanno).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes

Vice-Chair DeHart – yes

Commissioner Ashley – yes

Commissioner MacIntyre – yes

Commissioner Davis – yes

Commissioner Schanno – absent

Commissioner Handley – absent

Alternate Willis – Non-Voting

Alternate Booth – Non-Voting

Commissioner Ashley moved to continue the hearing to a time and date certain, December 4, 2018 at 3:00 p.m. at the Columbia Gorge Discovery Center.

Commissioner MacIntyre seconded.

Chair Hargrave asked for further discussion. There was none.

Chair Hargrave called for the vote.

The motion was unanimously approved 5 to 0, 2 absent (Commissioner Handley and Commissioner Schanno).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes

Vice-Chair DeHart – yes

Commissioner Ashley – yes

Commissioner MacIntyre – yes

Commissioner Davis – yes

Commissioner Schanno – absent

Commissioner Handley – absent

Alternate Willis – Non-Voting

Alternate Booth – Non-Voting

Director Brewer's Report: She wanted to note the staff present at the Hearing. She asked the staff to identify themselves. **Associate Planners Brent Bybee** and **Daniel Dougherty** along with **Assistant Planner Lisa Johnson** were in attendance.

Director Brewer gave an update on Building Codes. There will be a joint work session with the County Commissioners and The Dalles City Council to review this at 5:30 p.m. on November 19th

Commissioner Ashley stated she had been asked if there is a local office for Building Codes.

Director Brewer stated there is an office at the current time, although she is not currently managing them.

| Hearing adjourned at 5:42 p.m.

Chair Rus Hargrave
Wasco County Planning Commission

Angie Brewer, Planning Director
Wasco County Planning & Development