



PLANNING DEPARTMENT

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*Pioneering pathways to prosperity.*

# **WASCO COUNTY PLANNING** **COMMISSION AGENDA PACKET**

**FOR**

Hearing Date: December 4, 2018  
Hearing Time: 3:00 pm  
Hearing Location: The Gorge Discovery Center  
Lower Level Classroom  
500 Discovery Drive  
The Dalles, Oregon 97058

Continuation of Heltzel/Fuentes Appeal, File #921-  
18-000017



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Date: November 27, 2018  
To: Wasco County Planning Commission  
From: Wasco County Planning Office  
Subject: Submittal for Hearing dated December 4, 2018 for Continuance of the Hearing dated November 6, 2018 for the Appeal of 921-18-000017 request for a commercial horse boarding facility.

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*Pioneering pathways to prosperity.*

November 27, 2018

TO: Planning Commission

FROM: Dawn Baird, Associate Planner *DB*

SUBJECT: Written comments received at the November 6, 2018, Planning Commission Hearing; and items received during the 14 days the record was kept open

Attached are written comments presented at the November 6<sup>th</sup> Planning Commission hearing. Also attached are written comments submitted during the open record period of 14 days following the November 6<sup>th</sup> hearing.

**Written Comments Following Wasco County Planning Commission Hearing on  
November 6, 2018**

**File Number 921-18-000017-PLNG**

**Applicant: Jon Heltzel**

**Owners: Solo Properties LLC, Mark Fuentes and Carrie Fuentes**

**Submitted by Edward McCabe, MD, PhD, and Linda McCabe, PhD, 953 Quartz Drive,  
Immediately North of the Fuentes Property; Kevin McCabe, PhD, 960 Quartz, Immediately  
Northeast of the Fuentes Property; Scott Jensen, AICP Candidate, Planner;  
Other Parties in Opposition to this Project**

We wish to thank the Commissioners and the staff for the care you have taken in evaluating this proposal for development of a commercial horse boarding facility for 5 horses in the Columbia Gorge National Scenic Area (NSA). This commercial venture is proposed on a 20.59 acre lot zoned A-2 (80), Small Scale Agriculture in the General Management Area of the NSA.

We will not reiterate points that we have already made in our appeals and the written comments submitted before the Hearing except to challenge points made by the Applicant and Owners at the Hearing, and to respond to the Applicant's and Owners' comments.

### **General Concern**

The current application remains incomplete and should be denied. The planning process has identified numerous serious deficiencies and gaps in the application that we hope the Applicant will properly address according to the NSALUDO before applying again.

It appears that agency comments regarding the number of horses appropriate for the property have been based on the entire 20 acres. This is incorrect because at least 6 of those acres are not suitable for pasturing, and 20 acres is far more than the largest possible fenced area based on drawings and "approximately 3,000 linear feet of fence". These agency comments should be updated to reflect the actual area devoted to pasturing, not simply the parcel size.

We understand the Planning Commission can require periodic reports from the Applicant and Owners describing compliance with the conditions. While we believe the application should be denied, if you do choose to approve the application it will be important for the public, staff, and the applicant that any conditions of approval are clear, objectively measurable, and have an enforcement mechanism that does not depend on complaints made by neighbors. It should be up to the Applicant and the County to ensure compliance, not the neighbors.

**Carrie Fuentes asserted at the Hearing that she (and she may have included in this statement Mark Fuentes and/or Jon Heltzel) offered to meet with the neighbors on Rocky Prairie about the proposed development and the neighbors refused to meet with her.**

Ms. Fuentes's assertion that she offered to meet with us before the application was submitted and we refused to meet is simply not true. There was no offer to meet with all of the neighbors before the application was submitted, after it was submitted, or at any time prior to the Hearing.

Mr. Heltzel did send an email to Kevin McCabe, dated July 24, 2018, in which he said, "I would like to provide you a brief summary of my application for your records to help explain the appearance of incompleteness." (PC 1-129) This email was sent at the suggestion of Dawn Baird according to email she sent to Kevin McCabe (PC 1-128) Kevin McCabe responded to Mr. Heltzel on July 25, 2018 with an email in which he said, "I would prefer communications move through the official channels following the proper processes laid out by the County, State, and National Scenic Area. This way the official record of the proceedings will include all potentially relevant information." (PC 1-129) The email from Mr. Heltzel to Kevin McCabe was the only outreach to the neighbors by the Applicant or Owners, and occurred more than four months after the application was submitted.

At the Hearing, Mr. Heltzel in rebuttal noted that he and Pacific Power employees crossed the boundary between the Fuentes property and that of Amy Conroy, immediately southwest of the Fuentes property, to evaluate the power box, and justified not contacting Ms. Conroy, because they used a 10 foot Pacific Power right of way (ROW). This may be a legitimate use of the ROW, but it does not suggest a position of open communication with a highly impacted neighbor.

**Ms. Fuentes assertion at the Hearing that she will have at most one class per day remains ambiguous.**

The Applicant and Owners "Request for clarification of Notice of Decision – Conditions of Approval," subheading "Clients," reference the Staff Report (PC 1-142), "The proposed operation will offer one class for horse owners only per day." (This sentence has been struck through in the Staff Report in the packet prepared for the Hearing, though it was present in the original Staff Report, page 6). We support the limitation of "one class for horse owners only per day."

The Applicant and Owners appear to be questioning the phrase "...horse owners only...", but they state "the income from stabling a few horses is only a small part of the overall income that is required to be viable" (PC 1-137) and that it is not "a financially viable operation in a facility with such few (5) boarders." (PC 1-142) In other words, it is not financially viable without addition of more horses, or more clients/students for education in their school or by increasing the number of sessions per day and/or opening their school to students other than boarders.

This issue raises the question of the true purpose of this project. It is being considered (PCV 1-26) as “a commercial horse boarding facility” with buildings, 3,000 linear feet of fence, gates and underground utilities. But the Applicant and Owners state that it is not fiscally viable as a commercial horse boarding facility.

Therefore, their business plan requires increased educational activities in the school they are building. But the original proposal said nothing about these educational activities and only came to light because of an article about Ms. Fuentes and her work (“From the Wisdom of Horses: Equine-Assisted Learning is the heart of Triskele Rivers,” Summer 2018 issue of The Gorge Magazine, pages 70-73). This facility might also be a yoga studio, since the article shows a picture of youth on yoga mats “practicing mindfulness,” and the article talks about mindfulness exercises, mindful eating, and breathing exercises involving the “downward facing dog pose.” While some specifically horse related educational activities such as horse riding or horse care may be commonly associated with a commercial horse boarding facility, these other activities do not seem to fit as a part of the commercial horse boarding use despite the Applicant’s assertions.

If the Planning Commission is to entertain approval of this project the definition of “class” as in one class per day needs to be specified. Is a class given that designation when: working with one horse boarder; a group of horse boarders; a group that contains boarders and non-boarders; or a group that contains only non-boarders? The Gorge Magazine article stated that they currently offer “mindfulness programs and workshops for both kids and adults... (and) individual one-on-one programs.” Which programs or workshops would be considered a “class”?

Ms. Fuentes said at the Hearing that they do not provide therapy. However, at the end of the article in the Gorge Magazine (page 73) it is stated, “Triskele Rivers offers classes for kids and adults, as well as people who have experienced trauma.” The latter says they will help traumatized individuals, which could reasonably be interpreted as a kind of therapy.

Staff indicated in the Hearing that it had been very hard to learn what was actually going to be occurring at this commercial horse boarding facility. We do not think we yet understand the full nature, use and scope of activities planned on this site.

The lack of clarity in purpose and use of the facility, the shifting responses of the Applicant and Owners in the course of the application, the violation of the use of a commercial horse boarding facility with the added use of a school and/or yoga studio, and the lack of financial viability of the commercial horse boarding facility are grounds for denial of their application for a commercial horse boarding facility by the Planning Commission. It is important to remember that this is a conditional use, in other words the Applicant is asking for permission to do something other than an outright permitted use. In any application it is the Applicant’s responsibility to demonstrate compliance with all relevant code sections. The Planning

Commission has no obligation to approve a conditional use application that fails to address all code sections to the satisfaction of the Commission.

**Ms. Fuentes said sand surfaces will not be a problem for the horses, since they use feeders and do not feed on the ground.**

In our written comments prior to the Hearing, we noted (page 14) regarding use of sand where horses feed:

We anticipate that the applicants will respond that they will use feeders and will not feed on the ground; however, anyone with experience with horses will know that they will spill food from the feeder onto the ground and will ingest the spilled feed from the ground. As lovers of horses, we are concerned with the apparent lack of knowledge about or disregard of the applicant for the health and well-being of the horses under their care.

What we anticipated is exactly what Ms. Fuentes said at the Hearing.

We understand that the Wasco County Planning Commission is not an arbiter for the health of horses. However, it shows a considerable level of arrogance to ignore a very specific recommendation from OSU that sand should not be used in “livestock feeding areas (especially horses).” We are concerned this approach will also impact the Applicant’s and Owners’ interpretations of the restrictions placed on the development.

**The Applicant and Owners are building a school/yoga studio on agricultural land under the guise of a commercial horse boarding business; they say they need other money making activities, since the commercial horse boarding facility is not financially viable.**

It is extremely concerning to us and should be to the Commission that the Applicant and Owners state that their commercial horse boarding facility is not financially viable (PC 1-137, 1-142), since a commercial horse boarding facility is the stated purpose of their application. Therefore, they argue that they need to add components that they state are part of any commercial horse boarding facility (verbal comments from Ms. Fuentes at the hearing and PC 1-132-133) for the project to be fiscally viable. But these components are not part of other commercial horse boarding facilities we have observed in our experience as horse boarders and owners. We have addressed this in our written comments submitted before the hearing (pages 7-8).

One key aspect of a “horse boarding facility” is the provision of services to the boarded horses and their owners. But the Applicant and the Owners state (PC 1-133), “Just like any equine facility, training and workshops are open to the public as well as boarders.” This is stated as fact, but, is not our experience. If the Applicant and Owners wished to demonstrate that their proposal is in line with typical commercial horse boarding facilities, then they have had ample opportunity to submit evidence to support their position. There is a very good reason why

these facilities are not open to the public and why boarders would not want their horses used by the public: liability. The rate of serious injury to horseback riders/riding hour is higher than for motorcycle riders or auto racers (<https://www.cdc.gov/mmwr/preview/mmwrhtml/00001626.htm>), and the rate of non-fatal horse related injuries is over 100,000 per year (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2564310/>). Any boarder would need to be sure that they had substantial insurance to protect them from this liability if their horse was to be used by the public. Linda and Ed McCabe had an umbrella insurance policy for their horse operation in Colorado and developed an LLC to protect personal resources from liability even though they did not work with the public; people feed apples, carrots, etc. over fences and horses escape through fences, and the public can be harmed. For a family with one horse, the potential liability would not be worth the risk. Liability is another reason why there may not be more boarding facilities in the area (written comments submitted before the Hearing, pages 19-20).

If the commercial horse boarding facility cannot be financially viable as such, then the Applicant and Owners are building this complex of structures for reasons other than commercial horse boarding. If it is not a viable operation as just a commercial horse boarding facility, then is this truly a commercial horse boarding use? Or is there some other use to which the commercial horse boarding is an accessory? Without adequate evidence to support that this is indeed a commercial horse boarding use we do not see how the Planning Commission could approve the application as it stands.

#### **ADTs were not resolved at the hearing**

The number of average daily trips to this property was not resolved satisfactorily at the Hearing and remains a serious concern. Staff noted that this may not impact the road, but it will impact the neighbors. As we noted in our written comments before the Hearing (page 8), the calculations specified have not been provided (PC 1-134).

In addition, the material on PC 1-134 is contradicted by statements by the Applicant and Owners in the Hearing and in their written comments. They say that horse owners will come at different times of the day, but they have said that many of the owners will be school age, and school age owners will come after school. The Applicant and Owners need to be consistent in their own statements. That lack of consistency means that the specifics of what is being approved are unclear.

This lack of detail and consistency represents a ground for denial at this time.

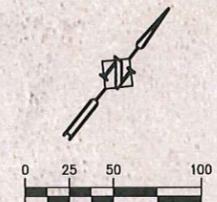
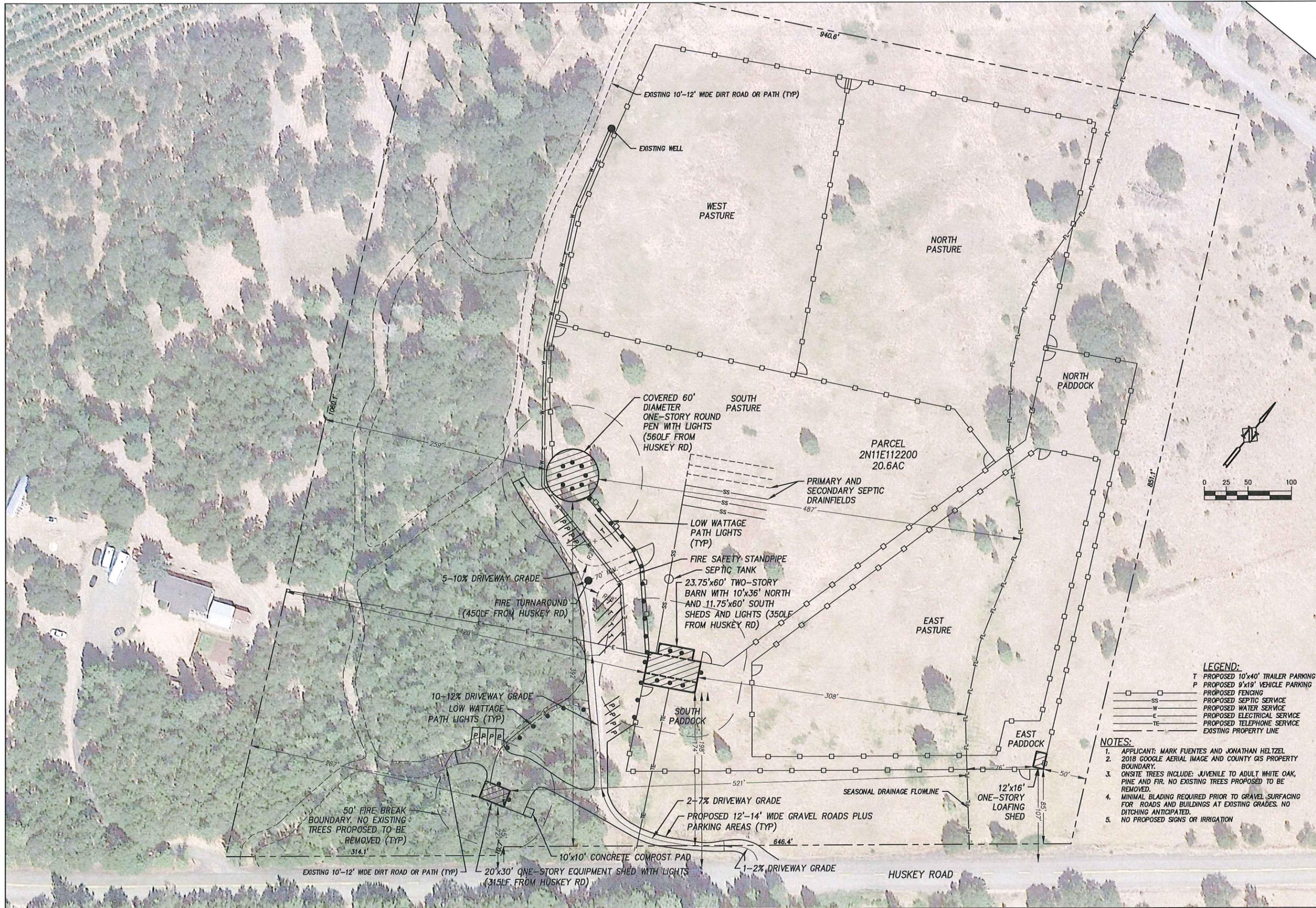
**Hours of operation**

If the Commission decides to approve this application, then we support Condition E.1. (PC 1-29) “Hours of Operation: Hours of operation for training of horses and their owners are limited to 8 a.m. – 8 p.m., Monday – Saturday. Feeding and care of horses can occur outside of these hours.” The Applicant and Owners have appealed this condition (PC 1-137), arguing that they need the income from Sunday to be financially viable.

As noted above, the application is for a commercial horse boarding facility with a limit of five horses. If the project is not viable with those limitations, then it is unclear why the Applicant and Owners are pursuing this plan. The Applicant and Owners propose to make the project financially viable through money making activities outside of the limits of a commercial horse boarding facility.

**Summary**

There are numerous grounds for denial of this application that we have summarized above and in previous submissions. We recommend denial of the current application. If the Applicant and Owners still believe this to be a viable project, then they can submit a new application clearly addressing all the applicable criteria.



- LEGEND:**
- T PROPOSED 10'x40' TRAILER PARKING
  - P PROPOSED 9'x19' VEHICLE PARKING
  - PROPOSED FENCING
  - SS PROPOSED SEPTIC SERVICE
  - PROPOSED WATER SERVICE
  - PROPOSED ELECTRICAL SERVICE
  - PROPOSED TELEPHONE SERVICE
  - - - EXISTING PROPERTY LINE

- NOTES:**
1. APPLICANT: MARK FUENTES AND JONATHAN HELTZEL
  2. 2018 GOOGLE AERIAL IMAGE AND COUNTY GIS PROPERTY BOUNDARY.
  3. ONSITE TREES INCLUDE: JUVENILE TO ADULT WHITE OAK, PINE AND FIR. NO EXISTING TREES PROPOSED TO BE REMOVED.
  4. MINIMAL BLADING REQUIRED PRIOR TO GRAVEL SURFACING FOR ROADS AND BUILDINGS AT EXISTING GRADES. NO DITCHING ANTICIPATED.
  5. NO PROPOSED SIGNS OR IRRIGATION

**CONCEPT PLAN**

**Mark Fuentes & Jon Heltzel Horse Facility**

Taxlot 2N 11E 11 2200, Wasco County, OR

**SUMMERSETT CIVIL ENGINEERING**  
 202 Oak Street, Suite 140  
 Hood River, OR 97031  
 (541) 352-9313

DESIGNED:	MF	DATE:	11/16/2018
DRAWN:	SSS	CHECKED:	MF

NO.	DESCRIPTION	DATE	NO.	DESCRIPTION	DATE

SHEET NO. **1** OF **1**

JOB NO. 18-09-28



Dawn Baird <dawnb@co.wasco.or.us>

*NOTE: The first 2 e-mails in this chain were provided to the P.C. on 11/6/18; the remainder is new. DB*

**File #921-18-000017**

6 messages

amyhop <amyhop@gorge.net>

Tue, Nov 6, 2018 at 11:07 AM

To: dawnb@co.wasco.or.us

Drainage tubes on the NE section of the Fuentes property with a significant size berm that was created to channel the runoff from rain and snowmelt. If the county did not have a reason to create such a large berm for the runoff they would not have spent the time and money to do so.

Dates of the planning staff visits to said property appear to have been during the dry months and Mr. Fuentes assertion of his first hand knowledge of the runoff is ludicrous. Mr Fuentes and family are rarely seen on the property especially during winter when there is frequently 2 feet of snow on the ground.

It is particularly insulting for Mr Fuentes to claim Mr McCabe imagines the amount of runoff due to the "lack of access to our property ". You can see where the drainage is from the road.

It is interesting that an absentee owner who rarely visits the property would have such intimate knowledge of the year round weather impact.

Sincerely, Amy Conroy

Sent via the Samsung Galaxy S@ 5 ACTIVE™, an AT&T 4G LTE smartphone

**4 attachments**



**20181106\_101950\_resized.jpg**  
705K



**20181106\_102028\_resized.jpg**  
699K



**20181106\_101911\_resized.jpg**  
796K

**20181105\_115911\_resized.jpg**  
700K



**amyhop** <amyhop@gorge.net>  
To: dawnb@co.wasco.or.us

Tue, Nov 6, 2018 at 11:57 AM

Photos of the 20 acre pasture where the imaginary herd of 7 horses live. Photo 1 is at the gate into the pasture, 2 is taken from the western corner of my property, overlooking Jesus ' s cherry orchard with the barn on the 40 acres and photo 3 is from below, looking towards the barn through the pasture. No horses appear to be present.

Wayne Huskey use to keep cattle there and it is used occasionally for a few horses but not on a year round basis. Jesus Lopez and Ron Carroll both keep 2 horses regularly, but they are not pastured together and they are far away from the other residents of Rocky Prairies homes. As is the 20 acre pasture that has never had any complaints. It's far away.

For the County planning office to say that "the flies stay with the horses", is comical bordering on ridiculous. That conjures up the image of Pigpen in the Charlie Brown /Snoopy comic strip. With the strong winds that we frequently get up here, the flies ain't staying with the horses.

The people who live here are not being arbitrary about not wanting to be subjected to a commercial horse operation, and in keeping with agricultural compatibility in the neighborhood, a vineyard or orchard would be more suitable.

Sincerely, Amy Conroy

Sent via the Samsung Galaxy S® 5 ACTIVE™, an AT&T 4G LTE smartphone

### 3 attachments



**20181106\_101235\_resized.jpg**  
551K



**20181106\_095602\_resized.jpg**  
424K



**20181106\_101224\_resized.jpg**  
507K

**Dawn Baird** <dawnb@co.wasco.or.us>  
To: amyhop <amyhop@gorge.net>

Tue, Nov 6, 2018 at 1:25 PM

Thanks, Amy, I will pass your e-mails out at the hearing, but maybe you could refrain from comparing staff's findings to a cartoon script, and using words like "comical" and "bordering on ridiculous". It's really not very nice or professional. I realize this is a controversial topic, but let's be kind, okay?

Thanks,

Dawn

[Quoted text hidden]

--



**Dawn Baird | Associate Planner**  
**PLANNING DEPARTMENT**

[dawnb@co.wasco.or.us](mailto:dawnb@co.wasco.or.us) | <http://www.co.wasco.or.us/departments/planning/index.php>  
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*Note: This correspondence does not constitute a Land Use Decision per ORS 197.015.*

*It is informational only and a matter of public record.*

**Planning for the Future. Wasco County 2040.**

**[Get involved](#)**

amyhop <amyhop@gorge.net>

Sun, Nov 11, 2018 at 11:41 PM

To: Dawn Baird <dawnb@co.wasco.or.us>, amyhop@gorge.net, Kasey Ellam <kclm98@hotmail.com>

No, what I said is it is not inappropriate. Or unkind. What is inappropriate is Planning not knowing what the policy of Pacific Power is and assuming that anyone should acquiesce the property of one person to another person by the idiotic or idioalic supposition that they ,the Fuentes have a right to imposing their questionable horse stable into our community on Rocky Prairie

My question is, how many times is one allowed to use ridiculous ,arbitrary, comical in an arbitration?

You claim

That the work was posted on August 30th, but because the Fuentes rebuttal or, in their minds "cause celebrity" was not posted until, October 18th, first time we, the affected, got to read Mark Fuentes comments, that I did not get 60 days before the hearing, but 4 days, on Friday before we all got to sort this out

Sent via the Samsung Galaxy S® 5 ACTIVE™, an AT&T 4G LTE smartphone

[Quoted text hidden]

amyhop <amyhop@gorge.net>

Sun, Nov 11, 2018 at 11:06 PM

To: Dawn Baird <dawnb@co.wasco.or.us>, amyhop@gorge.net

Short schwrift. Why do you side with the Fuentes when they don't live here? ?

And have no intention to. So ,they don't have to live with what they bestow on the people who live in the Rocky Prairie community.

No one here hates horses but what we have is a community that the Fuentes have never participated in.

And

All that leaves me with is that I hope you are given the same felling and shit on that we have been subjected to.

[Quoted text hidden]

**Dawn Baird** <dawnb@co.wasco.or.us>  
To: amyhop <amyhop@gorge.net>

Tue, Nov 13, 2018 at 6:14 AM

Thank, you, Amy. I will be sure to pass your comments on to the Planning Commission.

To clarify what was said at the public hearing, all property owners were sent a copy of the Notice of Decision on August 30th. This notice directed you to our website which contained all of the information the decision was based on. It included surrounding property owner comments, as well as applicant and owner comments.

The appeal was filed with our office on September 14th. Public notice of the hearing was provided to you and all affected parties and agencies on October 17th. We received information from the applicant and property owner prior to October 25th, so these comments were addressed in staff's recommendation. It was not possible to address the appellants' comments in the report because they came in after the report was finalized, however all comments came in after the report was prepared. The Planning Commission, appellants, applicant, and property owner were sent a full copy of the 308 page record one week prior to the hearing as required by law.

Regarding Pacific Power & Light regulations, yours is not the only "hook-up" to their power. The Fuentes could always bring it onto their property another way, however it would likely cost more. Which direction their power comes from and its cost is not a planning issue.

Have a great day,

Dawn  
[Quoted text hidden]

Received 11/6/18 PC Hearing  
D Baird

## REPLACEMENT OF ALL TREES

The county has placed a condition of approval that no trees be removed and that all trees on the property be replaced if damaged, diseased, or die for any reason.

In the staff's response to our request to remove certain trees from the requirement to be replaced under any circumstance the staff recommends that this condition remain on the grounds that Mr Thompson stated that it is important to retain all of the 6 acres of white oaks on the west end of the property. They also based their recommendation that all trees be replaced based on the grounds that they provide backdrop from KVA's

Though Mr Thompson has stated that he has no problem with the request because only one building will be in the trees and no trees will be removed, he does not state that all or any trees are required to be replaced in case of damage.

We have proposed to the staff that we be able to work with Mr Thompson or other agencies listed in the Woodland Fish and Wildlife attachment in order to ensure that the intention of preserving the oaks for habitat is met as the staff's requirement to maintain and replace all trees contradicts the best practices outlined in the attachment on pg PC 1-143.

We do not object to maintaining these oaks in the best way for the intention of wildlife preservation.

**Our objection however is with the requirement to replace all trees on the entire property in case of any damage or death from any cause.**

Throughout staff report findings 14.200 the county has concluded that the *"proposed structures will be visually subordinate from KVA's" "based on distance from KVA's, the use of dark earth-tone colors, and non reflective materials on the exterior of all buildings" not* based on the use of any existing trees. It was also concluded that *"no new trees need to be planted to achieve visual subordination"*

In Staff summary grounds for appeal page PC 1-16 the staff is basing its conditions that **all** the trees be replaced on the grounds that they are backdrop trees and has submitted a diagram using sight lines from key viewing areas that are topographically visible but not visible currently due to trees on surrounding properties: 1. the trees in the foreground are obviously not backdrop trees however are included in this condition of approval. 2. the trees beside and beyond the building which are outside of the background sight lines also do not provide a backdrop to the buildings. We have drawn a diagram over the staff's diagram using their sight lines demonstrating which trees we agree to be essential backdrop trees.

To require that all trees on the entire 20 acre property be replaced under any circumstance is excessive, is impossible to achieve in the case of widespread destruction from disease, drought, or fire for the many other reasons that we outlined in PC 1-130 through 141 that were not addressed in the staff's response. As well, replanting an entire forested area under these circumstances is solely required of our property not others in the scenic area.

Again, we do not object to maintaining these oaks in the best way for the intention of wildlife preservation. We are solely requesting that certain trees be removed from the condition to be replaced under any circumstance.

1. We request that all of the foreground trees be removed from the condition to be replaced in case of death or damage as they are not backdrop trees.

2. We request that any tree not directly behind the structures from the KVA's be removed from this requirement as they are also not backdrop trees.

3. We propose that only those trees essential for backdrop as shown in our diagram be left under the condition to be replaced if damaged or dead.

Received 11/6/18 PC hearing  
DBard

Clarify Business:

We use "clinic, worksop and/or training" interchangeably. The workshops we provide are an inherent part of an equine facility. We see some of the confusion around these terms as being semantics. We imagine the main concern being the operating hours and number of people on the property at any one given time, we respect and will observe these parameters.

Our trainings/workshops are extremely low impact, intermittent and always involve horsemanship related activities. At this time we live in very close proximity to our neighbors and there has never been a complaint around the horses or any activity that is provided. We are extremely conscientious in how we care for horses, the land, manure management and how we run any horsemanship activities.

Part of the barn agreement for the few boarders (maybe 2-3 boarders) is that their horses will be participants in the workshops whether they sign up or not. The boarders enjoy this arrangement since many are not able to give their horses the attention they need due to busy schedules. This is very common in other boarding facilities and any clinics are open to the public to sign up, as stated in the Wasco county's definition of an equine facility. Again, our average number being **8 participants**. Workshops are never more than once a day, and never 7 days a week (average is 3 times a week). This would likely be less during winter.

We would request that the requirement to not run workshops on Sundays, when most people are off work and school, be changed to Mondays.

Our training/workshop are focused on relational horsemanship and ground skills. Through learning relational horsemanship skills participants focus on consensual leadership and communication as the main focus. The confusion around how I work with participants is that often these skills learned through working with the horses can transfer to other aspects of their lives. This unfortunately has lead people so make an assumption that we are doing "therapy".

We regret than none of the neighbors were willing to discuss any concerns with us, as we would have been very open to talking and elevating any fears that have been generated by misinformation. We continue to be open to dialogue.

So to clarify we do not provide mental or any type of physical therapy as stated multiple times and the type of trainings/workshops we do are an inherent part of equine facilities not "commercial events"

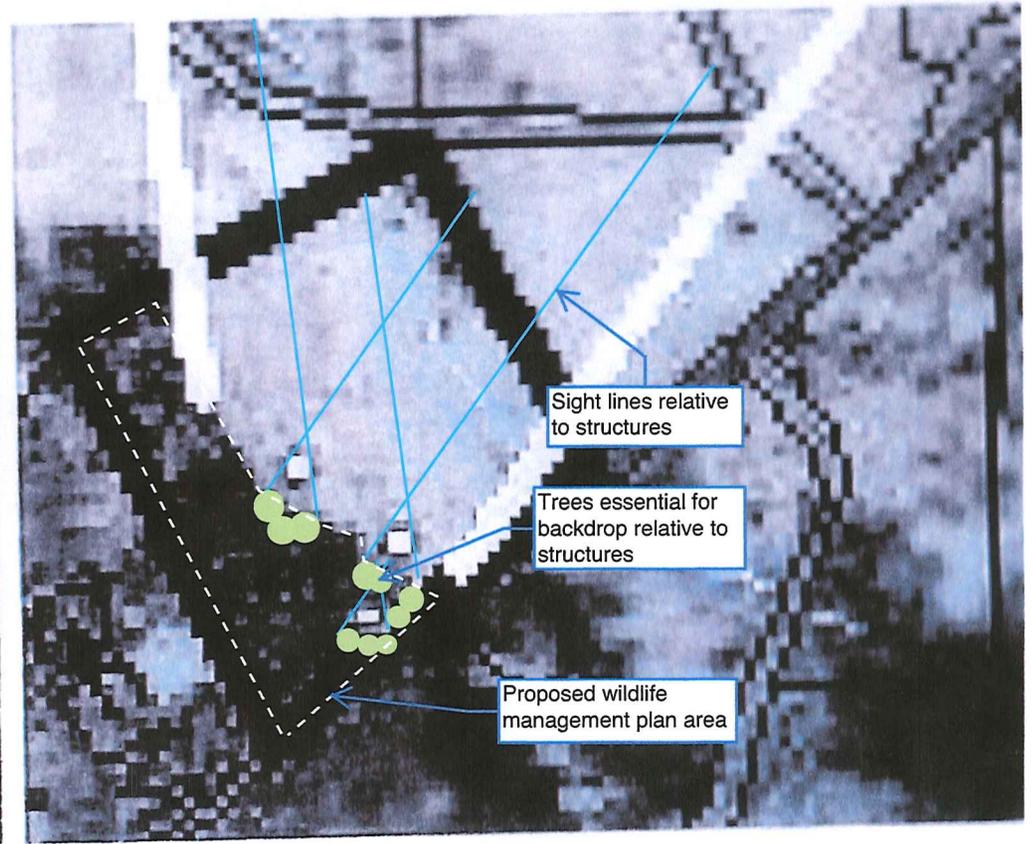
READ WASCO COUNTY EQUINE FACILITY (Farm Agriculture/Equine Building Exemption Request)

**Equine Facility:** means a building located on a farm and used by the farm owner or the public for:

- a. Stabling or training equines
- b. Riding lessons and training clinics

e retained. Staff recommends that this construction be restricted to

Rec. into Record  
11/06/18



points out that the request was for horse boarding and training and was not clear in its requirements that it was open to the general public. Several grounds for appeal introduce the owner will exceed the scope of this approval. If the applicant/owner exceeds the scope of the permit, the permit can be revoked. If they want to hold training outside of

Rec. into Record  
11/06/18-JS

1

**Prepared by: Scott Jensen, AICP Candidate, Planner; Deficiencies and Flaws in File Number  
921-18-000017-PLNG  
Prepared for Public Hearing, November 6, 2018  
Applicant: Jon Heltzel  
Owner: Solo Properties LLC, Mark Fuentes**

**Edward McCabe, MD, PhD, and Linda McCabe, PhD, 953 Quartz Drive, Immediately North of  
the Fuentes Property; Kevin McCabe, PhD, 960 Quartz, Immediately Northeast of Fuentes  
Property; and Prepared by: Scott Jensen, AICP Candidate, Planner;  
Other Parties in Opposition to this Project**

Please note that the pages referenced will be in the format: PC 1-page relating to the page number in the Wasco County Planning Commission Agenda Packet for Hearing Date: November 6, 2018.

### **Background of the Application**

This is an application for a commercial horse boarding facility for 5 horses in the Columbia Gorge National Scenic Area (NSA). This commercial venture will occur on a 20.59 acre lot zoned A-2 (80), Small Scale Agriculture in the General Management Area of the NSA.

The NSA Land Use Development Ordinance (LUDO) maintains that the size of a structure needs to be appropriate for its use and should not be larger than required.

**Application was incomplete on April 12, 2018 and remained incomplete through the date of the Notice of Decision on August 30, 2018 and the date of the Public Hearing, November 6, 2018.**

### **Key Dates on Cover Page**

The Land Use Application Cover Page states "Date Received 3/21/18" and the "Date Complete 4/12/18" with both initialed RM for Wasco County Planning Department staff, Riley Marcus. Ms. Marcus subsequently resigned from the Wasco County Planning Department.

### **Requirement of Planning Map not met**

The National Scenic Area Land Use and Development Ordinance for Wasco County (LUDO), Chapter 14, Section 14.020 - Complete Application Submittal Requirements for a Scenic Area Review, B. Site Plan (pages 14.2 – 14.3) includes the following:

## B. Site Plan

The site plan shall be prepared at a scale of 1" = 200' or a scale providing greater detail which clearly indicates the following information:

### ALL DEVELOPMENT

1. Boundaries, dimensions, and size of the subject parcel.
2. Location, size, and shape, of all existing and proposed buildings and structures on the subject parcel.
3. Access: Indicate all existing and proposed points of ingress and egress and whether they are public or private.
4. Location, dimensions and method of improvement of all roads, access drives, trails, and parking areas with individual parking spaces and internal circulation patterns.  
  
Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve (12) percent with turnouts provided at a minimum of every five hundred (500) feet.
5. Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, telephone and power poles and lines. Telephone and power supply systems shall be underground whenever practical.
6. The location of the pond, stream, tank or sump with storage of not less than 1,000 gallons if the well or water system is not capable of delivering twenty (20) gallons per minute.
7. The location of a standpipe (water spigot) a minimum of fifty (50) feet from each flammable structure if the development includes a plumbed water system.
8. Location, size and dimension of all yards and setbacks and all spaces between buildings.
9. Lighting: General nature and location (not including interior building lighting).
10. Outdoor storage and activities, if permitted in the zone, showing type, location and height of screening devices, including trash and recycling storage locations and their pick up locations.
11. Location and depth of all proposed grading, filling, ditching and excavating unless a grading plan Page 14-3 Chapter 14 – Scenic Area Review is required by F below.
12. North arrow and map scale.

13. Significant terrain features and landforms.
14. Bodies of water and watercourses.

#### NON RESIDENTIAL DEVELOPMENT

15. Signs: Locations, size, height, material and method of illumination.
16. Loading: Location, dimensions, internal circulation and access from public right-of-way.
17. General locations for all temporary facilities associated with a commercial event.

A critical phrase is: "The site plan shall be prepared at a scale of 1" = 200' or a scale providing greater..." The Site Plan that has been submitted with the Notice of Public Hearing continues to be hand drawn quite roughly and still does not have a scale associated with it.

The site plan does not have: boundaries, dimensions, and size of the subject parcel (B.1); the precise location, size, and shape, of all... proposed buildings and structures on the subject parcel (B.2); the location, dimensions and method of improvement of all parking areas with individual parking spaces and internal circulation patterns, or evidence that the applicant has recognized the need for access drives to be constructed to a minimum of twelve (12) feet in width with turnouts provided at a minimum of every five hundred (500) feet (B.4); the precise location of wells or other water supplies, sewage disposal systems, telephone and power poles and lines or recognizing that power supply systems should be underground whenever practical, as they are in this area of Rocky Prairie (B.5); the location, size and dimension of all yards and setbacks and all spaces between buildings (B.8); outdoor lighting location (B.9); location of outdoor storage activities that for this site plan would be the impermeable surface for storage of manure and bedding waste, such as straw or sawdust, through the rainy season without runoff (B.10); map scale and accurate north arrow (B.12), since the hand drawn north arrow is parallel to the lot boundary that runs roughly from the southeast to the northwest (compare Site Plans, PC 1-33 and PC 1-34 with the GIS Vicinity Map, PC 1-32); or the locations, size, height, material and method of illumination of the required signs (B.15). Therefore, of the 16 required elements for a complete application, nine are missing, incomplete or inaccurate.

We are not the first to draw attention to the problematic site plan. In an email from Patrick Baird, Tribal Historic Preservation Officer for the Nez Perce Tribe, to Ms. Dawn Baird, dated July 2, 2018 (PC 1-89), he said, "There is little meaningful written description of the project elements, and the site plan is nearly illegible." Mr. Baird and others were sent an amended site plan, which is assumed to be the one in the Notice of Public Hearing that was described above as incomplete in nine of sixteen required elements.

Similarly, Steven McCoy, Staff Attorney of Friends of the Gorge in a letter to Ms. Baird, dated July 20, 2018 (PC 1-108 - 119) states (page PC 1-108):

An application must not be accepted until any omissions or deficiencies have been corrected by the applicant, *Id.* Approval of a land use application not accompanied by a complete and adequate application violates the county's scenic area ordinance, denies the public any meaningful opportunity to comment on the proposed development, and results in a decision not based on substantial evidence. Such a decision is subject to reversal as held by the Gorge Commission unanimously in the *Eagle Ridge* case. CRGC No. COA-S-99-01 (June 22, 2001). It is similarly unlawful for the County to use conditions of approval to defer the submission of complete and adequate materials. *Eagle Ridge* at 9-10.

After detailing the requirements for a complete application, Mr. McCoy added (Italics per his letter) (PC 1-110), *"Without the above-mentioned required information, neither the County nor any other reviewing agency can accurately evaluate the potential impacts of the development. In addition, this information is required in order to afford the public a meaningful opportunity to comment on the proposed development."*

An email from William Smith to Kevin McCabe, dated June 13, 2018 said (PC 1-123, could be confused with PC 1-129), "...my understanding is that it (File Number 921-18-000017-PLNG) is currently incomplete...", adding, "It does seem like it might change..." However, it must be noted that this statement by Mr. Smith that the file was "incomplete" was two months and one day after the application was officially noted as "Complete" by Ms. Marcus in the Wasco County Planning Department.

An email from Ms. Baird to Kevin McCabe, dated July 26, 2018, stated (PC 1-128):  
I was assigned this application after the resignation of Riley Marcus, Associate Planner. When I received the application, the first notice had already gone out, thus giving the appearance of the application being complete. I had some concerns about the application, felt that there were many gaps in information and proceeded to procure the missing information through a series of emails with Mr. Heltzel and through a site visit to the property with Will Smith on July 19, 2018. No complete or incomplete letter was sent to the applicant. It was through dozens of emails that the information was gathered. At the present time, I believe the County has all of the information necessary to make a decision in this matter.

While we strongly disagree that the application is complete and it would appear that Mr. McCoy representing the Friends of the Columbia Gorge also reached the same conclusion, Ms. Baird's email gives us insight into how we arrived at this point with the application.

Our interpretation is that Ms. Marcus erroneously declared the application Complete on April 12, 2018 and then left the Wasco County Planning Department. The Planning Department recognized that the application was incomplete, but rather than acknowledging that fact publicly, the Department's staff assisted Mr. Heltzel in moving toward an application that the Planning Department deemed complete. We applaud the Planning Department for working so closely with the applicant and assisting him with the process. As the son, daughter-in-law and grandson of a federal civil servant, we were brought up to understand that to be the role of civil servants.

However, our understanding of ORS 215.427(2) (<https://www.oregonlaws.org/ors/215.427>) is that the Planning Department should have notified Mr. Heltzel within 30 days of receipt of the application, i.e. by April 21, 2018, that the application was incomplete and exactly what information was missing. That was not done for reasons that remain unknown. However, this gave the applicant and the owner the misimpression that their application had been approved on April 12, 2018, and may have led to pressure on the Planning Department Staff to accept this incomplete application as complete. If our understanding of ORS 215.427(2) is correct, then the violation of this statute must be addressed.

The Staff Report attempts to use a condition to resolve the problem of the missing required information in the Site Plan. In the section on Fire Safety Standards, it is stated (PC 1-58): The site plan does not adequately show access and turnaround for emergency vehicles or turnouts. A **condition** (bold in original) of approval is included in the Notice of Decision requiring the applicant/owner to submit a site plan, drawn to scale, showing the location of the driveway, turnaround for all traffic entering and exiting the property, and turnouts every 400' along the driveway.

This does not say that this information should be added to the site plan drawn to scale, but one must be submitted. As Mr. McCoy noted (above), "It is... unlawful for the County to use conditions of approval to defer the submission of complete and adequate materials. *Eagle Ridge* at 9-10."

Staff noted (PC 1-2) that they often accept hand drawn site plans not drawn to scale "that had sufficient info to make a decision." We have asserted that there is insufficient information for the neighbors, the community and the County to review and comment adequately on this highly complex commercial project with 0.17 acre of usable space under roof (see below).

**In summary, the application was incomplete when it was declared complete on April 12, 2018, and remains incomplete. A decision cannot be made on an incomplete application.**

#### **A. Chapter 3 – Basic Provisions, Section 3.130, A-2 Small Scale Agriculture (GMA)**

##### **Length of fence permitted is incompatible with the Site Plan.**

The Staff Recommendation states: under Scenic Area Review (PC 1-35) "to construct... approximately 3,000 linear feet of fencing" (PC 3-37); "The request is to place approximately 3,000 linear feet of fencing encompassing 14 acres of pasture to keep horses from leaving the property."; and (PC 1-59) "The request includes construction of... approximately 3,000 linear feet of fencing..."

We support this staff recommendation to limit the length of fence to 3,000 linear feet. However, the perimeter of a 14 acre square would be 3,124 linear feet or "approximately 3,000 linear feet of fencing." Diagram 1 (PC 1-46) shows significant cross fencing that would approximately double the fencing length.

This discrepancy in fence length could have been resolved with a proper Site Map.

This is yet another example of the many inaccuracies and the incomplete nature of this application. We question whether these inaccuracies are due to a lack of care in completion of the application or with an intent to minimize the impression of the impact of this proposal.

**We support the staff recommendation to limit the fencing to 3,000 linear feet. We also argue that an incomplete and inaccurate application should not be approved.**

**Useable area under roofs is excessive.**

The Staff Report states (PC 1-55), "Proposed buildings will cover less than ¼ acre of the 20.59 acre parcel." If one adds up the areas of the buildings listed under Scenic Area Review (PC 1-35) the total useable area under roofs is 7,467 square feet or 0.17 acre. We are unaware of any other building complex on a lot in Rocky Prairie that has an area under roofs approaching this size.

The applicant states regarding the 5 shed bays on the south side of the barn (PC 1-132), "the sheds could provide appropriate shelter for more (than 5 horses)." In the applicant's own words this area is larger than the minimum necessary for the use, meaning they admit to the size of the building being larger than is necessary. This violates the LUDO.

**Therefore, we conclude that the area of the buildings is unnecessarily excessive and needs to be downsized to an area compatible with the use, per the LUDO, and the neighborhood.**

**A kitchen in this commercial space has not been adequately addressed.**

A kitchen is noted under Chapter 11 – Fire Safety Standards under materials and colors (PC 1-29) as part of a kitchen/restroom building. This is also noted in a Finding under Section 14.200, Key Viewing Areas (PC 1-68), regarding the visibility of "the proposed kitchen/restroom building." We include it here, because it is another deficiency in the Site Plan (PC 1-33) that could have been remedied with proper Site Plan.

Our understanding is that a kitchen in a commercial setting is considered a commercial kitchen with requirements, including regulatory review, very different than for a kitchen in a residential setting.

It is unclear why a kitchen is being included in this application, since commercial events have been removed. In addition, having a kitchen in a commercial space places additional requirements on the applicant that have not been met, for example, review by the appropriate state agency, such as the Oregon Department of Agriculture, Food Safety Division.

The kitchen should not be approved as part of this application for a commercial horse boarding facility with the limited information that has been provided. Information is required, which should include at least use, size and regulatory review.

#### Continued concerns over operations:

We remain concerned that there is no one on site 24-7. This is a key aspect of safe commercial horse boarding operations as evidenced by this article from the magazine the Owner cites in their rebuttal, Equus Magazine.

#### 7 steps to find the best boarding barn

<https://equusmagazine.com/horse-world/7-steps-find-boarding-barn-53520>

#### “VISIT AND ASK QUESTIONS”

“Your questions will be specific to your own needs, but here are a few that might make your list:

- Is someone onsite 24/7?”

This is a concern we have regularly raised around the safety of the horses, and tops this list of questions to ask. As planned, no one will be on site 24-7.

Further, as a discussion of commercial horse boarding operations, and the Owner’s assertion that “There is no hidden ‘educational facility’ beyond the educational components inherently associated with a typical commercial horse boarding operation as mentioned above.” Nowhere in the Equus article does it mention educational programs, let alone EAL programs as something to look for, suggesting it is not a normal component of commercial horse boarding operations. The language used below by the Owner and their peers does not mirror any language we were able to find around commercial horse boarding operations. We feel this claim is unsupported and the commission should not consider this an established function of a commercial horse boarding operation.

<https://www.triskelerivers.com/eal>

In our program, horses are seen as equal partners in supporting learning opportunities during shared experiences. Through a combination of body/breath work, sharing territory, and mindful interactions we explore connecting to our senses and intuition as we communicate and interact with these sentient beings.

<http://horseteachingandhealing.com/different-ea-models/>

**EQUINE ASSISTED LEARNING (EAL)**  
*aka Equine Facilitated Experiential Learning (EFEL)*  
*or Equine Facilitated Learning (EFL)*

Equine Assisted Learning (EAL), Equine Facilitated Experiential Learning (EFEL) or Equine Facilitated Learning (EFL) refer to activities done with horses geared toward experiential learning. Equine assisted learning or equine facilitated experiential learning activities are typically offered to groups. The difference between equine assisted learning and equine assisted therapy is one of the confusing concepts in the emerging field of equine assisted work. Learning activities can be used to reengage students in academic learning as well as with high risk adolescents in alternative school programs. Typically, the clients participate in an activity with the horses on the ground, and the trained facilitator guides the learning process. Rather than focusing on personal issues, the focus is on concepts and principles, as in character concepts for example.

<https://www.thebalancecareers.com/how-to-start-a-horse-boarding-business-125491>

## **B. Chapter 4 – Supplemental Provisions**

### **Average Daily Trips**

Section 4.120 B states clearly that Average Daily Trips (ADT) will be calculated either based on the latest ITE Trip Generation Report or in a way approved by the "City Engineer" (we presume City should say County) through the pre-application conference. Since no record of an alternate ADT calculation is in the record and no ITE based trip calculations, we do not see how any findings related to ADT can be supported. This section is not optional, and no variance request is evident in the application. As staff has mentioned previously there is a public need served by recognizing the capabilities of the general public and allowing some flexibility. We agree that such a policy is reasonable when considering residential and possibly some farm use development applications, and presume this is the reason for the option involving the Engineer. This application is for a commercial use and should not be given the same deference as a homeowner or small farm use related project. Even so there is no reason the applicant could not have proposed a method of trip generation acceptable to the County Engineer at a pre-application conference. They did not do so and are required to use ITE trip generation option.

## **C. Chapter 5 – Conditional Use Review**

**The water is limited to 5,000 gallons of water per day by commercial exemption and this water cannot be used for irrigation; therefore the proposed plan is not viable.**

Robert Wood, State of Oregon Watermaster, District 3, has stated (PC 1-48) that as a commercial horse boarding facility the owners are limited to 5,000 gallons of water per day. This water can be used for commercial purposes, e.g. by employees for restroom use, hand washing, etc., and washing the horses. The water from the well under this limit cannot be used, for example, for irrigation of pastures.

A condition of approval noted two sentences later (PC 1-48) prohibits removal of any trees on the property unless diseased and dying, and then they need to be replaced by trees of the same species. These new trees may need irrigation during the first 1-3 dry seasons, which cannot be done. Therefore, the dead and dying trees may not be replaced. The applicant has contested this condition, but this condition is based on the NSA LUDO and we support this condition.

The "track" system (PC 1-49) involving a 40 foot wide path around the internal pastures, described by the applicants as a "wandering path so that the horses can move and not be confined." The Staff Report states (PC 1-49), "Based on the number of horses proposed for the facility, the horses would not even create a trail through the grass." With our 31 years of experience as owners of a 35 acre horse breeding ranch in Colorado, we are not reassured. In addition, in the photograph of the track (PC 1-49), the track is bare. Given the definition of "pasture" as "land or a plot of land used for grazing" (Merriam-Webster: <https://www.merriam-webster.com/dictionary/pasture>), we consider the "track" to be pasture. Therefore, the track pasture cannot be watered. If any portion of the track or other pasture is grazed bare to any extent, then we will consider this a violation of this condition. This is highly likely to occur. (See below, where we learn that the track will be bare.)

This water cannot be used for other disallowed uses, such as watering the round pen to keep dust down.

**The limits on water use prevent the plan from being viable. If the plan is not viable, then it should not be approved at this time, rather than be disallowed by violation of a condition after the applicant has invested significantly in this project.**

#### **Chapter 5 Conditional Use Review Section 5.020**

Regarding several staff findings around pests, odor, air quality and other nuisances in this section, statements such as the following, "Staff notes that there are currently seven horses being grazed on property located west of the and adjacent the cidery. There have been no complaints or concerns raised by the owners of the cidery that flies from these horses have been a problem for their operation...." or "Staff points out that there is a private property on Rocky Prairie that is 40 acres that currently maintains seven horses on the southern 20 acres. Horses have existed on this property located to the northwest for decades" and similar references to the presence of seven horses on a specific neighborhood property. This is then used to dismiss concerns from neighbors, as no complaints have been lodged against this property.

We and other neighbors we have inquired with are unaware of the grazing of seven horses on this specific property; there are usually ~1-4 horses on this pasture of a full 20 acres, not the 5 horses on select areas of the ~14 acres allowed for in this conditional approval. Further, we have seen this smaller number of horses in the north pasture suggesting they do rotate their grazing, reducing impacts from these horses. The findings based upon this "seven horses" information, if unsupported by evidence of these seven horses present for decades, must be reconsidered.

In the course of inquiring with neighbors, as well as with concerns raised in the communications with staff, stories of horses knee deep in mud through the winter, biting horse flies, odor, air quality etc. have been noted with respect to a previous tenant of my current property (960 Quartz Dr.). Many of the specific concerns raised by Cyndi Hardy (personal communications) and Mary Kurz (PC 1-101) come from this much more relevant experience, and support concerns raised by the McCabes.

On March 24, 2017, a contractor for the Owner stuck a tracked bobcat with a brushcutter about a foot deep in the mud near the shared property line with 960 Quartz. While it eventually worked itself free, these tracked vehicles are designed to distribute weight over much far greater area than that of horses. In conjunction with stories from current and former neighbors around horses being knee deep in mud, we remain concerned about vegetation loss, mud and runoff, corequisite dust in the dry season, and the safety of the horses.

#### **D. Chapter 11 – Fire Safety Standards**

##### **Grounds for appeal 4**

The staff response indicates they verified on site the location of the equipment shed inside the Oregon White Oak wildlife habitat area. The finding of staff is no trees would need to be cut down. We question how staff was able to determine the location of the proposed shed based on the site maps submitted by the applicant (PC 1-33 and 34) because the maps appear to show two similar but not identical locations. Which location did staff determine that no trees would need to be removed from?

The staff report does not make findings regarding the road area immediately adjacent to the shed also being clear of trees. The building area and adjacent road section together make up the footprint that must be clear, i.e. without removing any trees. Another unaddressed consideration is the root structure of the existing trees. If the goal is to minimize impact and not cause the failure of these trees there must be sufficient clear area around the trees, free of either digging or compaction concerns. Root systems for Oregon White Oak include shallow systems that can be up to twice the spread of the crown. It is likely that the trees in this wildlife area have interwoven root systems such that damage to root structure of one tree is likely to have damaged other root structures at the same time. Any root systems covered with impervious surfaces may also negatively impact the water uptake for a particular tree, increasing the vulnerability to fire and tree failure.

While it is possible this project could meet all the bulleted points of section 11.120 this is not at all certain without at minimum a site plan and landscape plan drawn to scale. We would like to point out that the paragraph immediately preceding the bullet points noted by staff make it highly unlikely the applicant can demonstrate compliance with the text above the bullet points. In defensible space "Trees should be grouped. Groups of trees shall be spaced to avoid creation of a continuous tree canopy". This would mean in that 15,000 square foot area of defensible space there need to be significant gaps in the tree canopy that simply are not present and cannot reasonably be created without the removal of a significant number of

trees. In order to be useful as a fire break it is likely that there would need to be some sort of continuous gap in the tree canopy surrounding the building.

The original staff report section D. Chapter 11 - Fire Safety Standards says in the findings of fact: "Fire safety standards require a 50' fire break to be maintained around all buildings. The fire break will be mown grass no taller than 4" tall." This finding does not allow for shrubs or groups of trees, otherwise it would have had to include those details in the finding. Based on this finding an unknown but likely substantial number of trees would be required to be removed, making this finding at odds with other findings.

Even with these concerns it may be possible for the applicant to site the vehicle shed. It is their responsibility to demonstrate that it can be met at this point in the development process, and not at some later date. We see no possible way to demonstrate this compliance without a site plan and landscaping plan, both drawn to scale, as is required for any application of this nature. Until the applicant can prove their ability to fully comply with this and every other relevant section of code it is the responsibility of the County to deny the application.

#### **Grounds for appeal 5**

Section 1.030 of the NSALUDO ordinance defines the purpose of the ordinance, among other things: "to promote public health, safety, convenience, and general welfare", "to conserve natural resources", "to promote safety from fire", and "to assist in rendering adequate police and fire protection". All of these appear before any mention of individual economic related purpose. It is probably safe to say based on this that the public health, safety, and fire protection are key points to consider when evaluating any proposed project.

If the proposed development was for an outright or previously permitted use Staff's finding that the existing non-conforming driveway was sufficient might be reasonable. However this application concerns a change of use. Not just any change of use, this is adding an expressly commercial use. In our experience a change of use is the best if not only opportunity for a jurisdiction such as the County to bring a property up to current code. To pass on this opportunity is to fail in the County's responsibility to its constituents.

The Staff's assertion that that the trees in the fire break area are acceptable largely fails based on the presence of a continuous tree canopy creating a direct connection between the unmanaged land and the fire break area, similar to above.

Staff appears to rely on the Fire Chief's statement to say the project has adequately demonstrated that they can meet the fire code. The Fire Chief said he saw no issues as long as the project met the fire code. Such a statement is not a determination that the project does and even can meet the code. The applicant must demonstrate that they can meet the code before they gain land use approval.

## **Their appeal**

The applicant does not want to fully improve the access easement across their property. Depending on the access easement language this may be reasonable, as long as the easement includes the full road width and fire break area, is clear about who bears the cost of future construction and maintenance, and permission for the adjacent property owner to develop this road at need is recorded in some irrevocable way such as a deed restriction.

## **E. Chapter 14 – Scenic Area Review**

**Condition G.3. (PC 1-30) Ground disturbance shall be minimized to the greatest extent possible. All ground disturbance resulting from development shall be revegetated no later than the next planting season (Oct.-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation as does not survive.**

**The condition essentially that no bare ground will be caused by horses is a condition that will not be met.**

We boarded our breeding horses at a commercial facility for two years before purchasing our ranch that we owned for 31 years, and we maintained ownership of our two stallions after selling our ranch to our manager of 17 years until the stallions passed. Therefore, we have more than 35 years of experience with horses and to say that there will be no bare ground caused by the horses as a condition that can be met goes against all of that experience.

Horses are “prey” animals and social animals, and they will congregate in certain areas in which they feel safe and comfortable. Examples that we have seen include areas around water tanks and loafing sheds, and where they are fed in anticipation of feeding times. If they have neighboring horses across a fence then they will often gather in a selected area for communication and comfort. Other sites of congregation are not as obvious to humans. These areas of congregation are subject to compaction by hooves and overgrazing on a small but very real scale. As noted below, the 40 foot wide track system sacrifice area “road” leaves a bare area. The applicants have said that they will provide ground cover/bedding in the loafing shed, but in our experience the traffic in and out of the loafing shed will create bare areas extending numerous feet beyond the opening of the shed.

**The condition that the horses will cause no bare ground does not match with what is known about equine husbandry and with evidence provided by the applicant. If the application puts forth a plan that is not viable then it should not be approved at the outset, rather than be shut down after the applicant and owner have made significant investments.**

**The 40 foot wide bare track system sacrifice area is visible from the Key Viewing Areas and has not been reviewed for its visual impact from the KVAs.**

The “track” system (PC 1-49) involving a 40 foot wide path around the internal pastures is described by the applicants as a “wandering path so that the horses can move and not be confined.” The Staff Report states (PC 1-49), “Based on the number of horses proposed for the facility, the horses would not even create a trail through the grass.” With our 31 years of experience as owners of a 35 acre horse breeding ranch in Colorado, we are not reassured. In addition, in the random photograph of the track added by staff (PC 1-49), the track is bare. We originally considered this track to be pasture, given the definition of “pasture” as “land or a plot of land used for grazing” (Merriam-Webster: <https://www.merriam-webster.com/dictionary/pasture>). Therefore, we posited that the track pasture could not be watered, since that would be pasture irrigation.

However, whereas previously it was stated (PC 1-49) “Based on the number of horses proposed for the facility, the horses would not even create a trail through the grass,” now the track system becomes more complicated and inconsistent with that previous information when the applicant’s respond to Appeal #7 (PC 1-135):

The track system allows for a sacrificial area (as defined in the OSU extension handbook) to be used by the horses in a way that promotes movement over a large distance without over grazing or trampling the pastures when wet. The track system will have a variety of footings such as sand, gravel and bark chips along the way which promotes good hoof health and also serves to minimize mud and dust.

This new information raises several concerns, not least of which is why the track system is no longer grass without even a trail through it, but is now a 40 foot wide bare track? OSU defines “sacrifice areas” (<http://smallfarms.oregonstate.edu/sfn/w15protectpastures>) as “areas that have been prepared for concentrated livestock impact for an extended time, protecting more sensitive areas from negative effects of livestock activity. Animal impact at inappropriate times can damage soil profiles and health, creating irregular ‘pugged’ areas (Photo 1), compaction, and death of desired plants (Photo



Photo 1. “Pugging” resulting from livestock impact on wet soils.



Photo 2. Close up of pugged soil. Note prevalence of weeds vs. grass in this heavily compacted and damaged area.

2).”

That same article from OSU discusses “Siting Sacrifice Areas”: and says “The top of inclined land, sandy or rocky areas, and naturally dry or well-drained areas make good choices, as long as they are safe for livestock. These same areas can make good temporary winter exercise areas if the soil is frozen or at least not sodden and susceptible to damage from livestock hooves. Sacrifice areas should not be located in low spots, flood-prone areas, wetlands, or near ponds

or waterways.” OSU specifically states: Sacrifice areas should not be located in low spots,... wetlands...” It should be noted that the long axis of the roughly triangular track system sacrifice area is in the wetland (Site Plan, PC 1-33, and Satellite view with wetland, PC 1-81). Therefore, this track system sacrifice area needs to be re-sited.

We were concerned about the use of sand in the track system, because of our experience with horses and knowledge that they are at risk for sand colic, as described in Equus: <https://equusmagazine.com/management/the-facts-about-sand-colic-in-horses-8507>). The OSU article states, regarding sand, in a Table on materials: “Not recommended for livestock feeding areas (especially horses).” We anticipate that the applicants will respond that they will use feeders and will not feed on the ground; however, anyone with experience with horses will know that they will spill food from the feeder onto the ground and will ingest the spilled feed from the ground. As lovers of horses, we are concerned with the apparent lack of knowledge about or disregard of the applicant for the health and well-being of the horses under their care.

This track system sacrifice area will be a 40 foot wide path (PC 1-49) that we learn will be an area bare of grass and covered with some other material, such as “sand, gravel and bark chips.” This will have the appearance of a 40 foot wide road. Since both the Barn and the Loafing Shed are visible from Key Viewing Areas (KVAs) (PC 1-62), therefore this 40 foot wide bare track system sacrifice area “road” needs to be assessed for its visual impact from KVAs. In addition, since the Barn is next to the bare area that will appear as a road from the KVAs, the color of the material in this sacrifice area needs to be reviewed, because if it is lighter in color than the Barn, then it will highlight the Barn from the KVAs.

**The track system sacrifice area “road”: is in a low lying wetland against OSU advice and it should be re-sited; it should not have water used from the 5,000 gallon commercial exemption to wet it down in dry times, which means dust from it will be a problem; and once it is re-sited it needs to be assessed for visual impact on KVAs.**

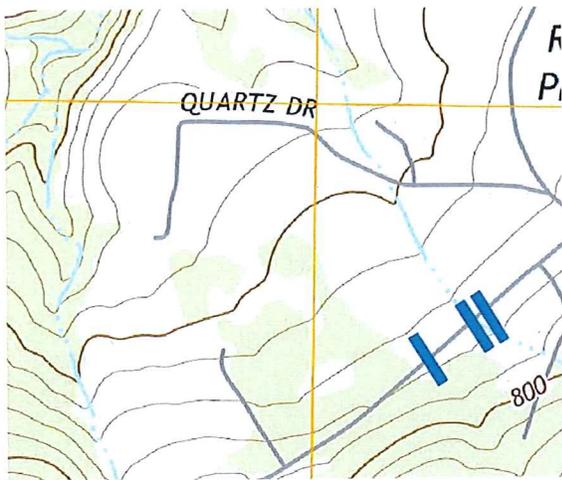
**H. Grounds for Appeal 8 (PC 1-11) The Wetland is recognized on maps as running into and through the Fuentes/Solo Property and can be seen as doing so from public access on Huskey Road and Quartz Drive.**

The Owners claim that we lack knowledge of the watercourses on Rocky Prairie, by stating they have owned the property for thirteen years and we do not have access to their property to see what goes on there. The Owners do not reside on Rocky Prairie and are rarely seen on this property, whereas we reside on Rocky Prairie year-round, and have for over 6 years. They claim that because we do not have access to their property, we cannot know of the water that flows through their property; however, from Huskey Rd, the shared property line, Quartz Dr and the McCabe property north of Quartz Drive, we can clearly see the flow into the drainage, the drainage itself, and the outflow of the drainage onto the property north of Quartz. We regularly walk or run the neighborhood. Further, we have one culvert that flows onto our property north of Huskey that is equivalent to each of the 3 that flow onto their property. This culvert serves less of the hill above Huskey than each of the culverts that flow onto the Owner’s

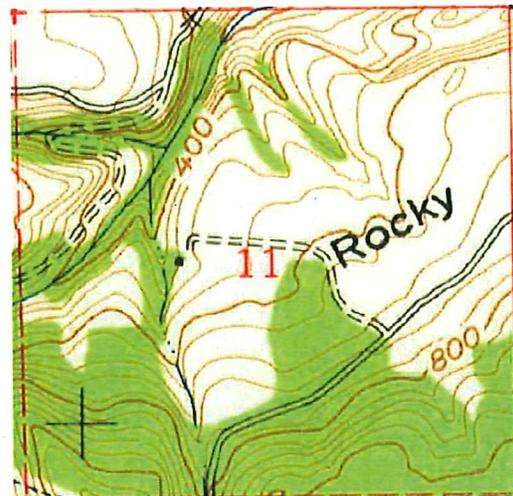
property, and it runs continuously for ~6 months of the year. It flows under our driveway, so we see it daily.

In the topographical maps below (obtained from USGS US Topo and Historical Topographic Map Collection, White Salmon Map Page), you will see a contemporary and a 1957 rendering of the drainage. Blue rectangles indicate the location of the culverts. The flow from the northmost of the paired culverts is directed by a large berm into the flow of the middle culvert. Since Huskey Rd was improved in the 1957-2012 time-frame, the topography has changed. The flows from these culverts did at some point cause erosion significant enough to be noted on a topographical map (note the curve of the topo lines to the Southeast in the 2017 map in line with the flow from the culverts that is not present in the 1957 map). Further, the 2017 map has designated the drainage as an intermittent/seasonal stream as denoted by the intermittent blue line. The drainage from the third, southernmost culvert flows into the main drainage around the 640' elevation line, leading to the increased topographical change in the 600' elevation line.

Photos are provided from summertime of the drainage. We have previously provided photos from winter and spring from the property immediately downstream showing significant water flow that could not possibly daylight on the downstream property. Given this is a seasonal drainage, photos provided only from summer, and site visits by staff have only been conducted in dry season months, we continue to assert that this drainage is more significant than is being presented to the commissioners.



2017



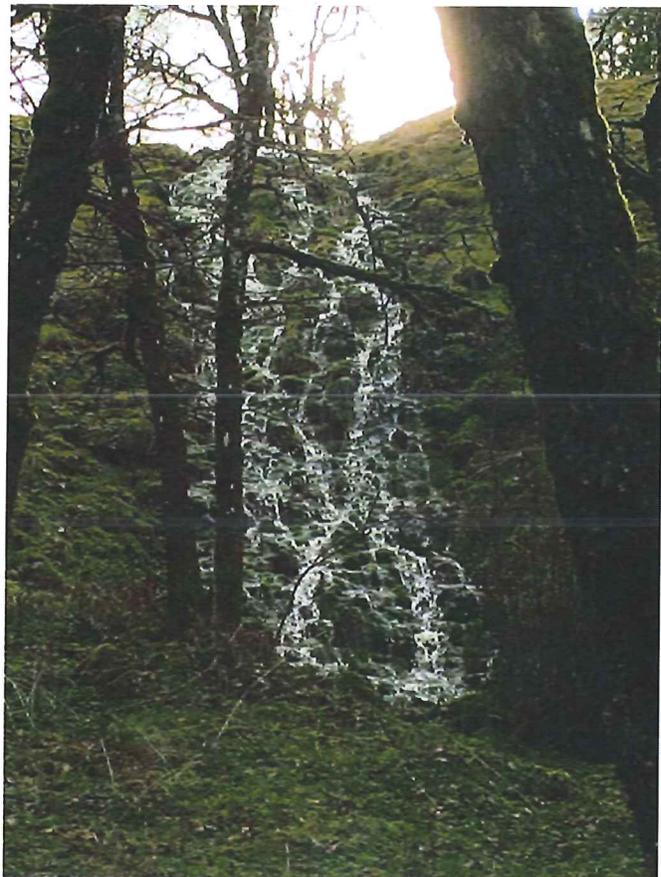
1957

The falls from this wetland on the property north of Quartz, known locally as Elizabeth Falls after one of the previous owners, Elizabeth Daniel, is recognized by a path direction sign, and

we show the Upper and Lower Falls and Upper Falls flowing into Oak Canyon taken on January 12, 2018.







Therefore, this is a robust wetland that will be impacted negatively by this development.

**This is an active and robust seasonal creek that will be impacted negatively by this proposal.**

## No US Army Corps of Engineers Determination of Jurisdiction

The Staff Report, Section 14.600 Finding 6g states, "Staff is not aware of any applicable federal laws pertaining to this wetland but has checked with multiple state agencies."

From The US Army Corps of Engineers web page regarding jurisdiction:

<https://www.nwp.usace.army.mil/Missions/Regulatory/Jurisdiction.aspx>

"Waters of the United States

These waters are regulated under Section 404 of the Clean Water Act. These include navigable waters, lakes, ponds, small streams, ditches, and adjacent wetlands. Isolated waters such as old river scars, cutoff sloughs, prairie potholes and abandoned construction and mining pits may also be waters of the United States. An important point is that waters of the United States include natural areas as well as areas that are man-made. If you are unclear about whether you have waters of the United States in your project area, please check with your local Corps Project Manager."

From the staff report, it does not appear that the US Army Corps of Engineers was contacted as they state they contacted state agencies, and state agencies do not comment for the federal government. This is concerning given this seasonal stream/wetland clearly denoted in USGS topographical maps as a seasonal/intermittent stream, and thus is in the National Wetland Inventory (<https://www.fws.gov/wetlands/data/mapper.HTML>). This stream is in a watershed that flows into Rock Creek, a protected salmon habitat where Mosier School students release salmon fry in a program involving the Tribes and USFW, and could clearly fall under their jurisdiction. Without a determination of jurisdiction from the US Army Corps of Engineers, the staff cannot complete due diligence to determine if any federal laws apply.

### 14.100 C

The staff report bases its finding on "an exhaustive compatibility analysis" of the neighborhood to determine a maximum permissible size for the barn. This analysis is not included in the staff report. Without this analysis included in the staff report it is not possible for anyone to review or comment on the analysis, or for any findings to be based upon it.

It is worth noting that no matter what this analysis came up with the proposal also has to comply with requirement (LUDO) that the building be the minimum size necessary to accomplish the proposed function.

### 14.600 F

To comply with this section the applicant must demonstrate that the proposed project is in the public interest. The applicant says that because there are few commercial horse boarding operations in the area there is a public need for horse boarding options. Staff finds that because there are so few commercial horse boarding operations in the area there is a public

interest in a new one. This finding cannot be supported based on this information alone, because the lack of horse boarding facilities does not mean there is a demand for them. It is just as possible that commercial horse boarding options are so limited in the area because they do not advertise on the internet or there simply is no demand for them. This could be because people board their horses on their own land, or at locations below the threshold to be considered commercial horse boarding.

Even if the County finds there is a public interest and public demand for commercial horse boarding this proposal still does not serve the public interest. The applicant has stated that they will be moving their existing commercial horse boarding operation from Hood River to the subject property (PC 1-181). This one statement is problematic in two key ways. First, it shows the existence of a commercial horse boarding operation substantially closer than the nearest one the staff search revealed. Secondly this statement is clear about moving a commercial horse boarding operation, not creating a new one. The end result being even if approved there will be no new commercial horse boarding capacity for the area.

Without adequate findings of a public interest being served there is no justification for potential impacts to wetland areas.



Rec. into Record  
11/06/18 - JS

Dawn Baird <dawnb@co.wasco.or.us>

---

**File #921-18-000017**

1 message

amyhop <amyhop@gorge.net>  
To: dawnb@co.wasco.or.us

Mon, Nov 5, 2018 at 1:06 PM

Wasco County Planning,

Attachment 1 shows the power supply clearly on my property.

Attachment 2 is a copy of Pacific Power policy.

In reading the file packet the Planning Department sent regarding File #921-18-000017, page 14, Attachment D references the power source to be taken from my property. No one has contacted me about connecting into the power source or about trenching across my property to access it.

There is nothing in the deed to my property that states that is a shared power supply and Pacific Power policy clearly states " Pacific Power will not extend a line across the property of an unwilling landowner ".

Respectfully,

Amy Conroy

1145 Huskey Road  
Mosier, Oregon 97040

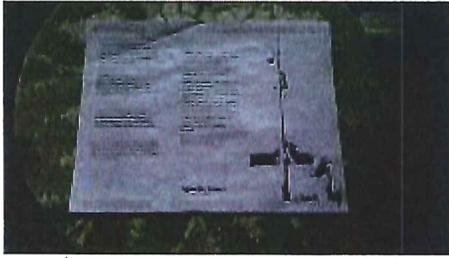
Sent via the Samsung Galaxy S@ 5 ACTIVE™, an AT&T 4G LTE smartphone

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**2 attachments**

20180905\_132621\_resized.jpg  
532K

20181102\_115016\_resized.jpg  
386K





Rec. into Record  
11/06/18 - JS

Dawn Baird <dawnb@co.wasco.or.us>

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**File #921-18-000017**

1 message

---

**amyhop** <amyhop@gorge.net>  
To: dawnb@co.wasco.or.us

Tue, Nov 6, 2018 at 11:07 AM

Drainage tubes on the NE section of the Fuentes property with a significant size berm that was created to channel the runoff from rain and snowmelt. If the county did not have a reason to create such a large berm for the runoff they would not have spent the time and money to do so.

Dates of the planning staff visits to said property appear to have been during the dry months and Mr. Fuentes' assertion of his first hand knowledge of the runoff is ludicrous. Mr. Fuentes and family are rarely seen on the property especially during winter when there is frequently 2 feet of snow on the ground.

It is particularly insulting for Mr. Fuentes to claim Mr. McCabe imagines the amount of runoff due to the "lack of access to our property". You can see where the drainage is from the road.

It is interesting that an absentee owner who rarely visits the property would have such intimate knowledge of the year-round weather impact.  
Sincerely, Amy Conroy

Sent via the Samsung Galaxy S@ 5 ACTIVE™, an AT&T 4G LTE smartphone

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**4 attachments**

20181106\_101950\_resized.jpg  
705K



20181106\_102028\_resized.jpg  
699K

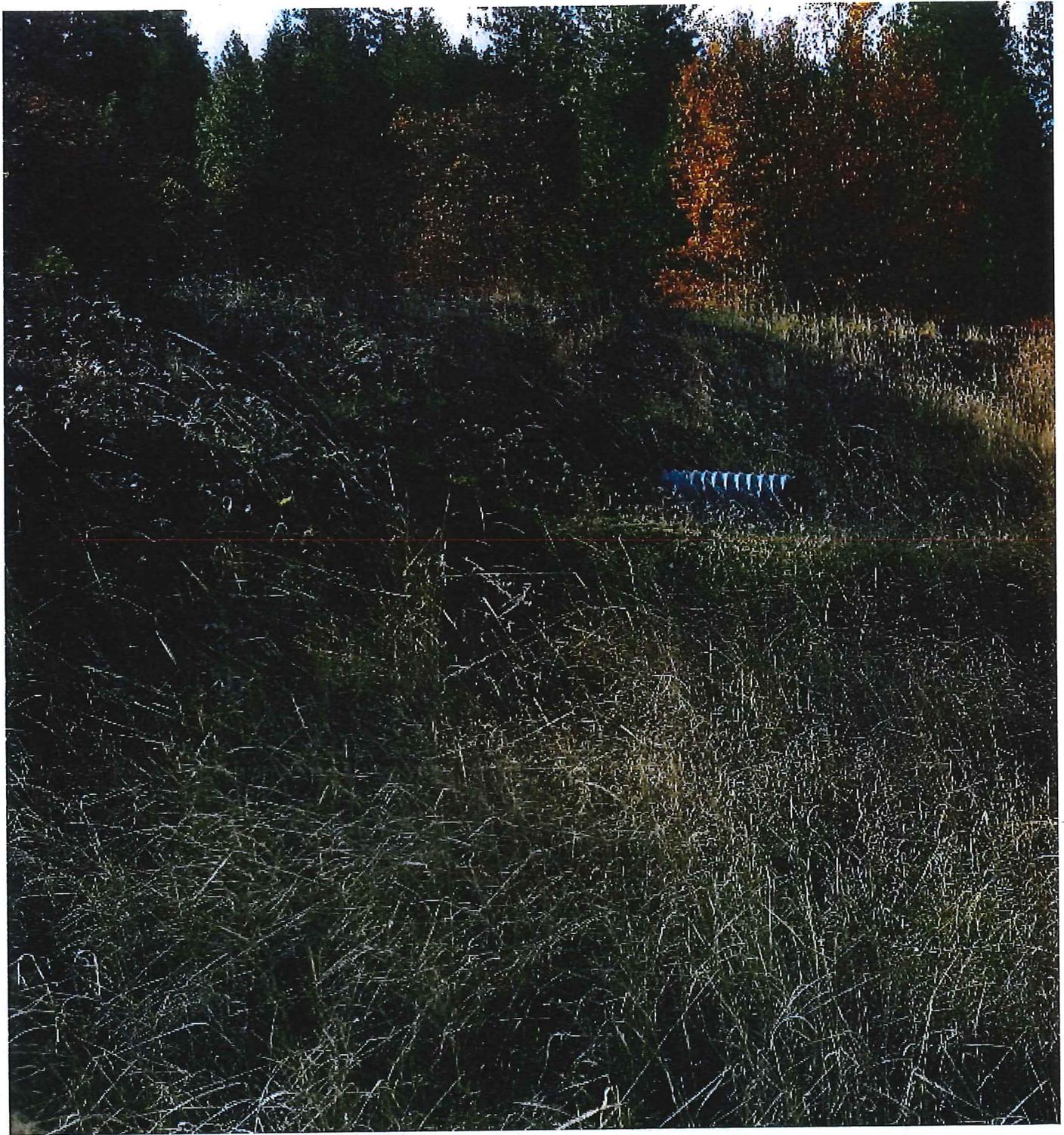
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796K



20181105\_115911\_resized.jpg  
700K











Rec. into Record  
11/06/18

Dawn Baird <dawnb@co.wasco.or.us>

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**File # 921-18-000017**

1 message

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amyhop <amyhop@gorge.net>

Tue, Nov 6, 2018 at 11:57 AM

To: dawnb@co.wasco.or.us

Photos of the 20 acre pasture where the imaginary herd of 7 horses live. Photo 1 is at the gate into the pasture, 2 is taken from the western corner of my property, overlooking Jesus ' s cherry orchard with the barn on the 40 acres and photo 3 is from below, looking towards the barn through the pasture. No horses appear to be present.

Wayne Huskey use to keep cattle there and it is used occasionally for a few horses but not on a year round basis. Jesus Lopez and Ron Carroll both keep 2 horses regularly, but they are not pastured together and they are far away from the other residents of Rocky Prairies homes. As is the 20 acre pasture that has never had any complaints. It's far away.

For the County planning office to say that "the flies stay with the horses", is comical bordering on ridiculous. That conjures up the image of Pigpen in the Charlie Brown /Snoopy comic strip. With the strong winds that we frequently get up here, the flies ain't staying with the horses.

The people who live here are not being arbitrary about not wanting to be subjected to a commercial horse operation, and in keeping with agricultural compatibility in the neighborhood, a vineyard or orchard would be more suitable.

Sincerely, Amy Conroy

Sent via the Samsung Galaxy S® 5 ACTIVE™, an AT&T 4G LTE smartphone

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**3 attachments**

20181106\_101235\_resized.jpg  
551K



20181106\_095602\_resized.jpg  
424K



20181106\_101224\_resized.jpg  
507K







Dawn Baird <dawnb@co.wasco.or.us>

**File #921-18-000017**

1 message

**amyhop** <amyhop@gorge.net>  
To: dawnb@co.wasco.or.us

Tue, Nov 6, 2018 at 11:07 AM

Drainage tubes on the NE section of the Fuentes property with a significant size berm that was created to channel the runoff from rain and snowmelt. If the county did not have a reason to create such a large berm for the runoff they would not have spent the time and money to do so.

Dates of the planning staff visits to said property appear to have been during the dry months and Mr . Fuentes assertion of his first hand knowledge of the runoff is ludicrous. Mr Fuentes and family are rarely seen on the property especially during winter when there is frequently 2 feet of snow on the ground.

It is particularly insulting for Mr Fuentes to claim Mr McCabe imagines the amount of runoff due to the "lack of access to our property ". You can see where the drainage is from the road.

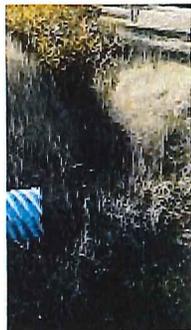
It is interesting that an absentee owner who rarely visits the property would have such intimate knowledge of the year round weather impact.  
Sincerely, Amy Conroy

Sent via the Samsung Galaxy S® 5 ACTIVE™, an AT&T 4G LTE smartphone

**4 attachments**



**20181106\_101950\_resized.jpg**  
705K

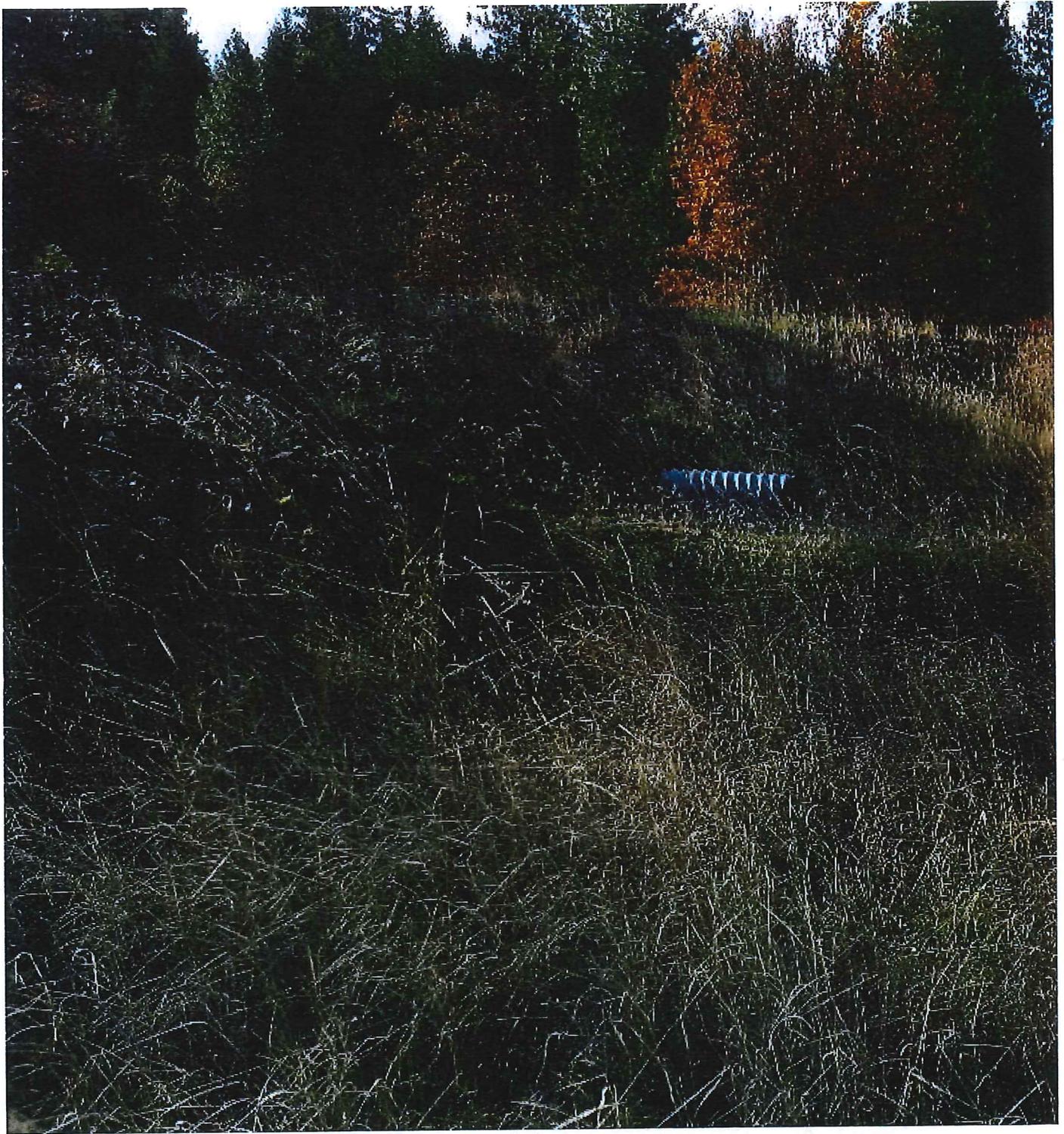


**20181106\_102028\_resized.jpg**  
699K

**20181106\_101911\_resized.jpg**  
796K

*Rec. into Record  
w/07/18*





Rec. into Record  
11/06/18 -JS

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# Application Forms

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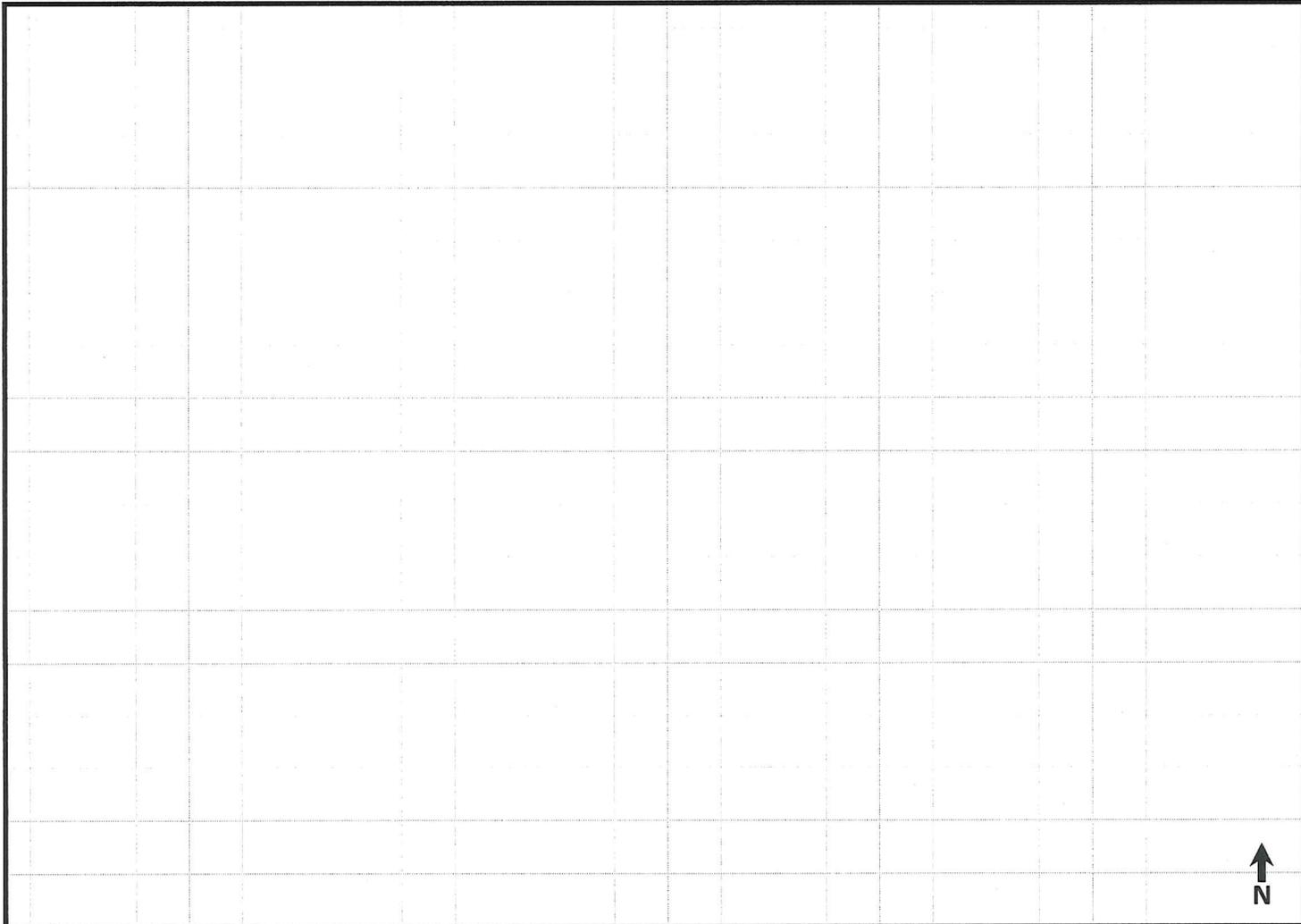
**Instructions:**

On this page you will find the information and forms necessary to make an application for development to the Wasco County Planning Department. Forms are also available for pick-up at the Wasco County Planning Department, at 2705 East Second Street, The Dalles Oregon. Please submit the relevant forms **unstapled**, with payment, in-person or by mail at the above address.

**All Applications Must Include the Following:**

- [Land Use Application Coverage](#) **OR** [Type 1 Application](#); **AND**
- [Site Plan](#)
- [Elevation Drawing](#)
- [Fire Safety Standards - Self Certification Form](#)

12:05 11/6/2



## SITE PLAN CHECKLIST

### SITE PLANS MUST SHOW THE FOLLOWING:

- Property boundary & development area dimensions
- Setback distances from proposed structures to all:
  - Property lines
  - Roadways
  - Waterways
- Existing structures (location & size)
- Proposed structures (location & size)
- Septic tanks and drain fields
- Existing & proposed services including wells, electricity, etc.
- Driveway & access to public/private roads
- Significant land forms & slopes

### Fire Safety Information

- Indicate driveway width, length, and grade. Long drives should provided turnouts every 400'.
- Location of a standpipe (water spigot) at least 50' from each building that includes plumbing.
- Indicate 50' fire break surrounding new buildings.

### NATIONAL SCENIC AREA APPLICATIONS MUST ALSO SHOW THE FOLLOWING:

- Location & depth of proposed grading, filling, ditching and excavating
- Outside lighting fixtures
- All proposed signs
- Location & height of outdoor storage & screening devices

### Landscaping Plan

- Location, height and species of existing & proposed individual trees & vegetation. Indicate if any are proposed to be removed.
- Location of irrigation systems



## SITE PLAN MAP

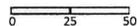
Map, Tax Lot #: \_\_\_\_\_

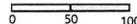
Applicant: \_\_\_\_\_

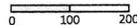
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SCALE:

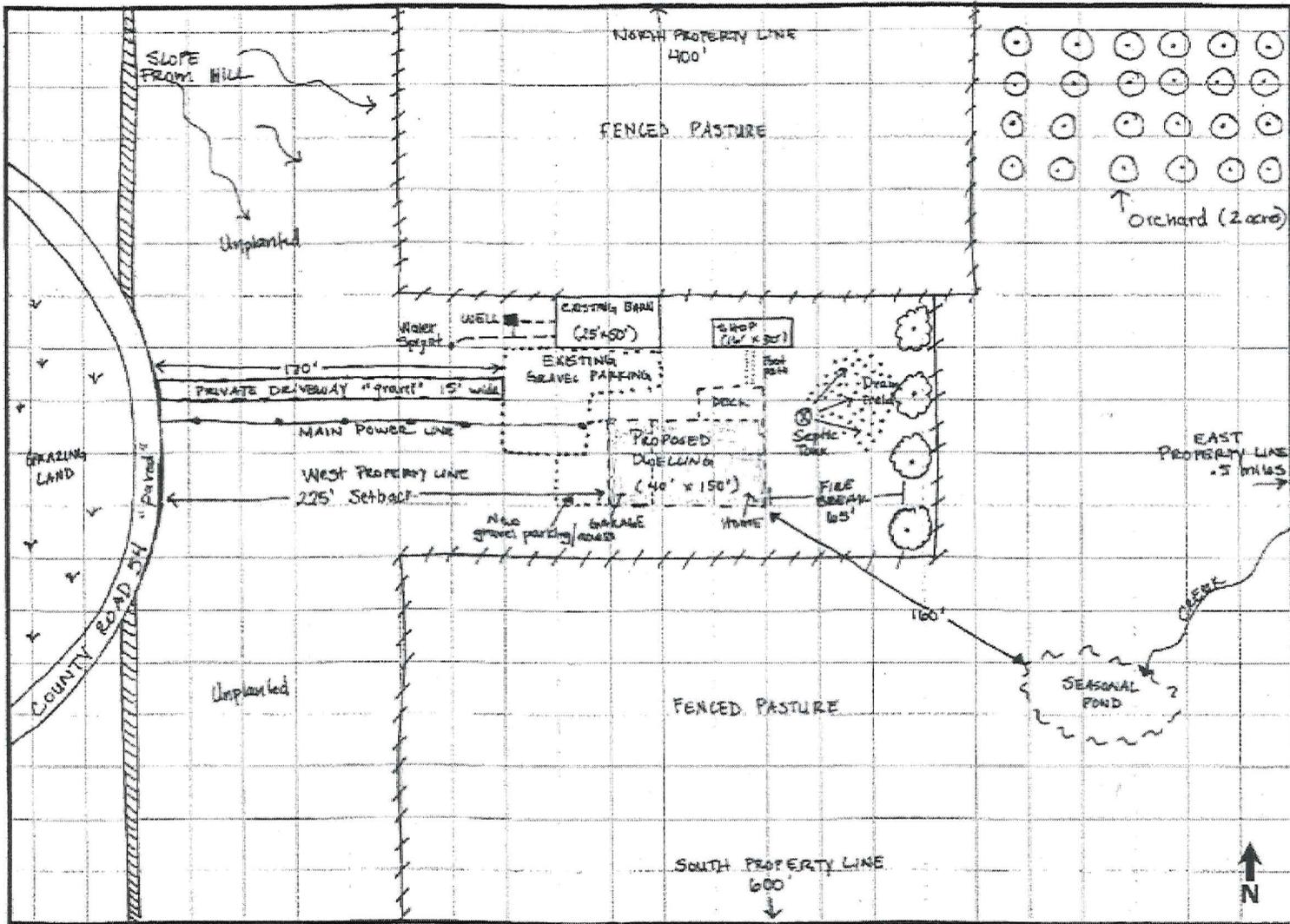
(select one)

1:50 

1:100 

1:200 

*DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.*



### SITE PLAN CHECKLIST

ALL SITE PLANS SHOULD SHOW THE FOLLOWING INFORMATION:

- Property boundary & development area dimensions
- Setback distances to all:
  - Property lines
  - Roadways
  - Waterways
- Existing structures (location & size)
- Proposed structures (location & size)
- Septic tanks and drain fields
- Wells and supply lines
- Driveway and connection to public/private roads
- Significant terrain features/land forms/slopes

#### Fire Safety Information

- Indicate driveway width, length, and grade. Long drives should provided turnouts every (400) feet.
- The location of a standpipe (water spigot) at least (50) feet from each flammable structure.
- Indicate (50) foot fire break surrounding new buildings.

#### THE FOLLOWING INFORMATION IS REQUIRED WITH ALL NATIONAL SCENIC AREA APPLICATIONS.

- All proposed grading, filling, ditching and excavating
- Outside lighting fixtures
- All proposed signs
- Location & height of outdoor storage & screening devices

#### Landscaping Plan

- The location, height and species of existing (and proposed) individual trees and vegetation. Indicate which are proposed to be removed.
- The location of automatic sprinkler systems or other irrigation.

*DISCLAIMER: The Planning Department may require additional site plan elements depending on development specifics.*

### SITE PLAN MAP



# SAMPLE

#### SCALE: (select one)

- 1:50
- 1:100
- 1:200



