

## ATTACHMENT D – STAFF REPORT

**File Number:** 921-18-000052-PLNG

**Applicant:** Robert N. Rose Jr.

**Owner:** Carolyn Segui

**Request:** Subject to Standards Review to replace an existing single family residence with a 70'L x 40'L x 16'T (2,800SF) double-wide mobile home, and construct a 60'L x 40'W x 18'T (2,400 SF) agricultural barn. Development also includes placement of a bridge and removal of junk resulting in resolution of a long-standing violation.

**Decision:** Approved, with **Conditions**

**Decision Date:** May 10, 2018

**Appeal Deadline:** May 22, 2018

**Location:** The subject property is located north and south of Upper Mill Creek Road, west of Wells Road, approximately 1.7 miles west of Suicide Grade Road, approximately 9 miles southwest of The Dalles, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Acct #</u>	<u>Acres</u>
1N 12E 0 4500	7027	311.98

**Zoning:** F-2 (80), Forest

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

**Past Actions:** CUP-98-116/TUP-98-107-WAF28, hardship dwelling, ENF-98-104-WAF28-A, violation – trash, and CUP-73-122-H, mobile home (determined to be pre-existing use and permit not required)

**Procedure Type:** Administrative Action

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

## I. APPLICABLE STANDARDS

### A. Chapter 15 – Administration & Enforcement

Section 15.020 - Zoning Approval

### B. Chapter 13 – Nonconforming Uses, Buildings and Lots

Section 13.050, Verification of Nonconforming Use

Section 13.060, Restoration or Alteration of Nonconforming Use

### C. Chapter 3 – Basic Provisions

#### 1. Section 3.120 – Forest (F-2) Zone

Section 3.123 - Uses Permitted Subject to Type I Review

Section 3.127 - Property Development Standards

Section 3.129 - Additional Standards

#### 2. Section 3.920 - Sensitive Wildlife Habitat Overlay (EPD-8)

Section 3.924 - Permitted Uses

### D. Chapter 10 – Fire Safety Standards

Section 10.110, Siting Standards – Locating Structures for Good Defensibility

Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

Section 10.130, Construction Standards for Dwellings and Structures - Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home

Section 10.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response

## II. BACKGROUND

**A. Legal Parcel:** The subject property was created in its current configuration by Warranty Deed Book 144, Page 420, recorded with the Wasco County Clerk on October 16, 1961. It is consistent with the definition of Legal Parcel in the Wasco County Land Use and Development Ordinance because it was created by deed prior to the enactment of subdivision and partition regulations in Wasco County (September 4, 1974).

**B. Site Description:** The subject parcel is enrolled in a forest tax deferral program. It was involved in the 2013 Government Flats fire. One of the two mobile homes and some detached accessory buildings on the property were destroyed in the fire. Mill Creek Road goes through the center of the property nearly dividing it in half. Property located north of the road contains south-facing slopes averaging 50-60%. That portion of the property only contains trees in the draws located between hills. The remainder is open grassland. Mill Creek flows along the southern side of Mill Creek Road. Slopes along the road are generally north-facing and range from 4-10%. The portion of the property located approximately 300' south of Mill Creek Road contains north-facing slopes averaging 90-100%. The majority of that area is heavily treed with small areas of grasslands. The developed portion of the property is located less than 300' south of the road near the eastern property line.

- C. **Surrounding Land Use:** Property located along Mill Creek Road has an elevation of approximately 1,520' Above Sea Level (ASL), then rises to elevations in excess of 2,600' ASL. Slopes and vegetation within ¼ mile of the subject parcel are nearly identical to the subject parcel. Properties located to the east, south, and a portion of the property located to the north do not have a history of being used for any farm or forest use. Property to the west is in forest production, while a portion of property located to the north has a history of being used for grazing.

### III. FINDINGS:

#### Wasco County Land Use & Development Ordinance

##### A. Chapter 15 – Administration & Enforcement

###### *Section 15.020 - Zoning Approval*

- A. *The Director, the Director's designee or other Approving Authority shall not give zoning approval on any development or use of land, including land divisions and property line adjustments on a property that is not in full compliance with all applicable provisions of this Ordinance, regardless of whether the applicant(s) or current owner(s) created the violation.*

**FINDING:** County records show an active enforcement file on the subject property. A prior citizen complaint was received about the amount of junk on the property including old vehicles and buildings that are nearly falling down. Chapter 1, Section 1.090 of the County LUDO defines "junk yard" as:

*Junk Yard - Any property where persons are engaged in breaking up, dismantling, sorting, distributing, buying or selling of any scrap, waste materials or junk.*

The applicant stated that he plans to build the bridge so that he can clean up the property and haul the junk off-site. Once this is completed, he will begin building the new structures. A condition of approval is included in the Notice of Decision requiring the bridge to be placed, as approved by Oregon Department of Fish & Wildlife, prior to any development on the subject parcel.

Section B. below allows zoning approval to be authorized in certain circumstances when a violation of the Code exists. Based on review of Section B. an exception can be authorized because approval of the request will result in resolution of the enforcement issue. With the proposed condition of approval staff finds that the request complies with Criterion A.

*B. Zoning approval may be authorized if:*

- 1. It results in the property coming into full compliance with all applicable provisions of the Wasco County Land Use and Development Ordinance. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or*
- 2. It is necessary to protect public safety; or*
- 3. It is for work related to and within a valid easement over, on or under an affected property.*

**FINDING:** The applicant states that he will be cleaning up the property prior to any new construction.

A **condition** of approval is included in the Notice of Decision requiring all junk/debris to be removed from the subject parcel prior to issuance of zoning approval on a building permit application. With the proposed **condition** of approval, no zoning authorization will be issued on a building permit application until the property is brought into compliance.

With the proposed **condition** of approval staff finds that the request complies with Criterion B.

**B. Chapter 13 – Nonconforming Uses, Buildings and Lots**

*It is necessary and consistent with the establishment of this Ordinance that all uses and structures incompatible with permitted uses or structures in each zone be strictly regulated and permitted to exist only under rigid controls. The purpose of such regulation and control is to discontinue a nonconforming use or structure, change a nonconforming use or structure to a conforming status, or allow alterations to a nonconforming use or structure that do not increase the level of adverse impact on the neighborhood, or are required for the use or structure to comply with state or local health or safety requirements.*

**Section 13.050 - Verification of Nonconforming Use**

*Must meet lawfully established and discontinuance or abandonment criteria below.*

A. *Lawfully Established: For a nonconforming use to be verified as lawfully established it shall be consistent with all of the following:*

1. *The nonconforming use has not been expanded in size or area or changed in purpose or use beyond what was lawfully established;*

**FINDING:** As discussed below in 3.a., the existing mobile home was placed on the subject parcel in 1973. The 1973 mobile home still exists on the subject parcel and has not been expanded in size or area, nor has it changed in its purpose as a residence therefore staff finds that the request complies with Criterion 1.

2. *The property on which the nonconforming use is located meets the definition of legal parcel in Chapter 1 of this ordinance;*

**FINDING:** The subject property was created in its current configuration by Warranty Deed Book 144, Page 420, recorded with the Wasco County Clerk on October 16, 1961. It is consistent with the definition of Legal Parcel in the Wasco County Land Use and Development Ordinance because it was created by deed prior to the enactment of subdivision and partition regulations in Wasco County (September 4, 1974). Staff finds that the request complies with Criterion 2.

3. *The nonconforming use was lawfully established on or before the effective date of the provisions of this ordinance prohibiting the use verified by either a. or b. below. No unlawful use of property existing at the time of the effective date of the provisions of this ordinance shall be deemed a nonconforming use.*

- a. *Type I Verification: Lawfully established is verified by non-discretionary evidence including but not limited to zoning approval or County Assessor records verifying the date of establishment. This type of verification is not subject to any review process because it does not involve the exercise of any discretion or judgment. If the*

*applicant wishes documentation of this it shall be done as a Land Use Verification Letter.*

**FINDING:** On September 10, 1973, the owner, Segui, appeared before the Wasco County Planning Commission to request approval of a conditional use permit to place a mobile home on the subject parcel. A previously existing mobile home had been removed from the parcel approximately one month before the hearing. The Commission determined that the new trailer could be placed on the property and be allowed to continue as a pre-existing use because of the recent removal of the prior mobile home. The Commission also unanimously determined that no conditional use permit was required. The mobile home has existed on the property since the Planning Commission made this determination therefore staff finds that the request complies with Criterion a.

- B. Discontinuance or Abandonment: For a nonconforming use to be verified as lawfully established it must not have been discontinued or abandoned according to the following criteria. Based on the circumstances, the Director shall determine whether discontinuance or abandonment shall be reviewed as a Type I or Type II process as described in [A](#) above.*
- 1. The reference period for determining whether an abandonment or interruption of a nonconforming use or an aspect thereof has occurred shall be twelve (12) consecutive months in any of the ten (10) years preceding the date of the application. Proof of intent to abandon is not required to determine that a nonconforming use has been discontinued or abandoned.*

**FINDING:** The mobile home has existed on the subject parcel since 1973 and was never removed or abandoned therefore staff finds that the request complies with Criterion 1.

- 2. An abandonment or interruption of a use may arise from the complete cessation of the actual use for a twelve (12) month period even if improvements to support the use remain in place.*

**FINDING:** The use, an existing mobile home, has been occupied continuously since its placement in 1973. The use has not been abandoned or interrupted for a period of 12 months or more therefore staff finds that the request complies with Criterion 2.

- 3. An interruption or abandonment for a twelve (12) month period that constitutes less than full cessation of the use or a portion thereof may result in a declaration of a continuing use, but of a lesser intensity or scope than what would have been allowable if the nature and extent of the use as of the date it became nonconforming had continued, even if improvements to support the full use remain in place.*

**FINDING:** The existing mobile home has been occupied continuously since its placement in 1973. The use has not been abandoned or interrupted for a period of 12 months or more therefore staff finds that the request complies with Criterion 3.

- 4. A change in the nature of the use may result in a determination that the use has been abandoned or has ceased for a twelve (12) month period if there are no common elements between the activities of the previous use and the current use.*

*Factors to be considered in determining whether there has been a change in the nature of a use shall include, but are not limited to, consideration of the type of activities being*

*conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.*

**FINDING:** The existing mobile home has been occupied continuously since its placement in 1973. The use has not been abandoned or interrupted for a period of 12 months or more therefore staff finds that the request complies with Criterion 4.

**Section 13.060 - Restoration or Alteration of Nonconforming Use**

*Restoration or alteration of a nonconforming use or structure shall be reviewed according to Section 2.060(A)(9) and limited to the applicable criteria below and Verification of Nonconforming Use in Section 13.050 above. Any other restorations or alterations shall conform to all of the criteria of this ordinance.*

*Maintenance, repair, alteration, restoration or replacement of a lawfully implemented or established dwelling in the Exclusive Farm Use or Forest Zone shall be governed by those zones and not be subject to the alteration language in Chapter 13. However, these dwellings will be subject to a Chapter 6 or 7 Variance Review if they cannot meet all of the provisions of the Wasco County Land Use and Development Ordinance, and must comply with all current health and safety ordinances including but not limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Damage Prevention (Chapter 22).*

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C. *Alteration of a nonconforming use including but not limited to any combination of the following:*

- Replacing a structure not damaged or destroyed by fire, other casualty or disaster;*
- Expanding a structure beyond its current size;*
- Relocating a structure to a different location on the same legal parcel;*

**FINDING:** The request is to replace an existing single-wide mobile home with a new residence in a different location on the same legal parcel. All applicable criteria are addressed below.

1. *Alteration will result in no greater adverse impact on the neighborhood or shall result in less of an adverse impact on the neighborhood considering the criteria listed below.*

a. *Residential Uses Only*

(1) *The nonconforming use is in compliance with all conditions or limitations associated with its creation or approval;*

**FINDING:** The existing mobile home was placed on the subject property in 1973, prior to the existence of building permit requirements (9/4/1974) for Wasco County. It is considered to be legally placed and in compliance with limitations associated with its creation. Staff finds that the request complies with Criterion (1).

(2) *The comparative visual appearance between the existing nonconforming use and the proposed alteration;*

**FINDING:** The proposed homesite is located approximately 200' west of the existing homesite. This site previously contained a mobile home that was destroyed in the Government Flats fire in 2013. Both development sites are screened from Mill Creek Road by dozens of mature trees and are difficult to see from the road. The proposed residence will be a double-wide mobile home. It will be newer in age than the 1973 mobile home. Though it will be similar to the existing mobile home modern mobile homes have become more visually pleasing than the older styles. As proposed staff finds that the visual appearance of the new home will be improved over the older home and the request complies with Criterion (2).

*(3) The alteration shall not change the manner or purpose of the use;*

**FINDING:** The request is to replace a single-wide mobile home with a double-wide mobile home. Both are used for single family dwelling purposes therefore staff finds that the request complies with Criterion (3).

*(4) The proposed alteration shall not result in greater nonconformity to property line setbacks or resource buffer requirements unless the alteration will extend a structure further away from and perpendicular to the property line or resource. Any proposal that would extend an existing structure further toward the property line or resource, or expand an existing structure parallel into a setback or buffer shall also be subject to Chapters 6 & 7, Variances and any other applicable review criteria;*

**FINDING:** The minimum setback requirement from all property lines is 40', the resource buffer requirement from Mill Creek is 100' and from unnamed wetlands is 50'. The altered location will locate the new home farther from the eastern property line than currently exists. As discussed in III.C., Section 3.127, the proposed the new home exceeds all setback requirements. Staff finds that the request complies with Criterion (4).

*(5) Relocation shall result in conformity with all property line setbacks and resource buffer requirements unless there is no other location on the property that could comply with all setback and buffer requirements and the relocation would remove the structure from an undesirable location according to the Wasco County Land Use and Development Ordinance such as a water buffer or floodplain. If the relocation cannot conform to all setback and buffer requirements the application shall also be subject to Chapters 6 & 7, Variances and any other applicable review criteria;*

**FINDING:** The new location of the mobile home will be farther from existing property lines. As proposed the new home will meet all property development standards and resource buffer requirements therefore staff finds that the request complies with Criterion (5).

*(6) The alteration must be consistent with Health and Safety Regulations including but not limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Damage Prevention (Chapter 22);*

**FINDING:** The subject parcel will be required to comply with public health requirements for the subsurface septic disposal system. The property is not located within a flood hazard or geologic hazard overlay zone. Chapter 10 – Fire Safety Standards is addressed below in C.

*(7) Other factors which impact the character or needs of the neighborhood;*

**FINDING:** The replacement of a single family dwelling with a new single family dwelling will have no impact on the character or needs of the neighborhood because the property will continue to be used for the same use. Staff finds that the request complies with Criterion (7).

2. *The Planning Director may impose conditions of approval on any alteration of a nonconforming use, structure(s) or other physical improvements permitted under this section when deemed necessary to ensure the mitigation of any adverse impacts. Such conditions could include but are not limited to:*
  - a. *Special yards and spaces.*
  - b. *Fences and walls.*
  - c. *Special parking and/or loading provisions.*
  - d. *Street dedication and improvements.*
  - e. *Control of points of vehicular ingress and egress.*
  - f. *Special provisions for signs.*
  - g. *Landscaping and maintenance of grounds.*
  - h. *Control of noise, light, vibration, dust, odor, fumes, glare, smoke, or other similar nuisances.*
  - i. *Limitation of time for certain activities.*
  - j. *A time period in which a proposed use shall be developed.*
  - k. *A limit of total duration of use.*

**FINDING:** Conditions of approval are included throughout this report to ensure the replacement dwelling will have no adverse impacts on surrounding properties or the neighborhood therefore staff finds that the request complies with Criterion 2.

## **C. Chapter 3 – Basic Provisions**

### **1. Section 3.120 – Forest (F-2) Zone**

#### ***Section 3.123 - Uses Permitted Subject to Type I Review***

*The following uses are permitted on a legal parcel on lands designated Forest (F-2) Zone subject to Section 3.217 - Property Development Standards, Chapter 10 – Fire Safety Standards, as well as any other listed, referenced or applicable standards.*

- C. *Alteration, restoration or replacement of a lawfully established dwelling and/or accessory residential or non-residential building or structure (non-discretionary) on any part of the legal parcel subject to Sections 3.127 A.2.a. - Addition, Modification or Relocation Setbacks & 3.129 A. - Replacement Dwelling Standards (Dwellings only). Any replacement dwelling and/or accessory building and structure need not be replaced in kind but must be replaced in the same location. Replacement dwellings and/or buildings and structures in a different location are subject to Section 3.124 A. below.*

**FINDING:** The request is to replace an existing single-wide mobile home with a double-wide mobile home, construct a 60'L x 40'W x 18'T agricultural barn. Development also includes placement of a bridge and removal of junk resulting in resolution of a long-standing violation. Sections 3.127 and 3.129 are addressed below. Chapter 10- Fire Safety Standards is addressed in C.

Staff finds that the request complies with Criterion C.

**Section 3.127 - Property Development Standards**

A. *Setbacks*

1. *New Buildings and Structures: No structure other than a fence, sign, road or retaining wall less than four (4) feet in height shall be located closer than forty (40) feet from the right of way of a public road and all other property lines. Dwellings and structures accessory to dwellings shall also meet all siting standards and setbacks listed for dwellings or structures in the F-2 zone.*

**FINDING:** The applicant proposes setbacks as follows:

Required Setback	Proposed Setback – Residence	Proposed Setback – Barn	Consistent?
North – 40' (front)	200'	180'	Yes
East – 40' (side)	370'	415'	Yes
South – 40' (rear)	1,245'	1,240'	Yes
West – 40' (side)	5,000+/-'	4,800+/-'	Yes

Staff finds that all proposed setbacks exceed the requirements in the Forest Zone and the request complies with Criterion 1.

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3. *Waterways*

- a. *Resource Buffers: All bottoms of foundations of permanent structures, or similar permanent fixtures shall be setback from the high water line or mark, along all streams, lakes, rivers, or wetlands. (Added 4/12)*

- (1) *A minimum distance of one hundred (100) feet when measured horizontally at a right angle for all water bodies designated as fish bearing by any federal, state or local inventory.*

**FINDING:** Mill Creek is identified as a fish bearing stream and a 100' minimum setback is required. The proposed replacement dwelling is located approximately 200' south of Mill Creek. The proposed barn will be located approximately 245' south of Mill Creek. Staff finds that the proposed residence and barn exceed the 100' setback requirement from Mill Creek.

Staff contacted Rod French, Wildlife Biologist, Oregon Department of Fish & Wildlife regarding the proposed bridge placement across Mill Creek. In an e-mail dated May 4, 2018, Mr. French stated that they will need to submit bridge plans and receive an approved Fish Passage Plan from ODFW before proceeding with a bridge. A **condition** of approval is included in the Notice of Decision requiring the applicant or owner to obtain an approved Fish Passage Plan from ODFW prior to any new construction.

Staff submitted notice of the request to the Oregon Department of State Lands (DSL) on May 3, 2018. DSL states that the national wetlands inventory shows a wetland/waterway on the property and the property includes designated essential salmonid habitat. DSL requires a state permit for any amount of fill, removal and/or other ground alteration in essential salmonid habitat and within adjacent off-channel rearing or high-flow refugia with a permanent or seasonal surface water connection to the stream. DSL states that it appears that the proposed project may impact essential salmonid habitat and therefore may require a permit. A condition of approval is included in the Notice of Decision requiring the applicant/owner to contact the DSL Resource Coordinator for permit information and requirements. The current coordinator is listed at the following website: <http://www.oregonstatelands.us/DSL>.

With the proposed **conditions** staff finds that the request complies with Criterion (1).

*(2) A minimum distance of fifty (50) feet when measured horizontally at a right angle for all water bodies designated as non-fish bearing by any federal, state or local inventory.*

**FINDING:** The subject parcel contains two seasonal drainageways identified on the National Wetland Inventory map. The proposed development is located over 750' east of the closest drainageway. Staff finds that the request complies with Criterion (2).

*B. Height: Maximum height for all structures shall be thirty five (35) feet. Height is measured from average grade.*

**FINDING:** The proposed replacement dwelling will be 16' tall and the barn will be 18' tall. Staff finds that all structures will be less than 35' in height and that the request complies with Criterion B.

*C. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740 - Flood Hazard Overlay (EPD 1).*

**FINDING:** As identified on Wasco County's GIS map, the closest FEMA designated flood zone is located 2.6 miles east of the subject parcel therefore staff finds the request complies with Criterion C.

*D. Signs: Signs shall not extend over a public right-of-way or project beyond the property line.*

*1. Signs shall not be illuminated or capable of movement.*

*2. Signs shall be limited to twelve (12) square feet in area and shall describe only uses permitted and conducted on the property on which the sign is located.*

3. *Signs advertising the sale or rental of the premise and temporary in nature are permitted provided the sign is erected no closer than ten (10) feet from right of way of public road.*

**FINDING:** No signs are proposed or required for the replacement dwelling and barn. Staff finds that Criterion D. is not applicable to the request.

- E. *Parking: Off street parking shall be provided in accordance with Chapter 20 - Site Plan Review when and if necessary.*

**FINDING:** Chapter 20, Section 20.050 – Off-Street Parking, requires one parking space for each single family dwelling. The subject parcel is 311 acres in size and contains suitable parking areas for multiple cars near and around the proposed development. Staff finds that the request complies with Criterion E.

- F. *Lighting: All outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials.*

**FINDING:** The application does not indicate the placement of any new outdoor lighting however it is not unusual for a dwelling or detached accessory building to contain one or more lights by the door(s). A **condition** of approval is included in the Notice of Decision advising the owner that outdoor lighting must be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials. With the proposed **condition**, the request complies with Criterion E.

- G. *New Driveways: All new driveways which access a public road shall obtain a Road Approach Permit from the Wasco County Public Works Department.*

**FINDING:** There is an existing driveway south of Mill Creek Road leading to the proposed homesite however there is no existing Approach Permit on file with the Wasco County Public Works Department. A **condition** of approval is included in the Notice of Decision requiring the applicant to obtain a Road Approach Permit from the Wasco County Public Works Department prior to issuance of zoning approval on a building permit application. With the proposed **condition** of approval staff finds that the request complies with Criterion G.

### **Section 3.129 - Additional Standards**

#### **A. Replacement Dwelling standards**

1. *A replacement dwelling must have:*
  - a. *Intact exterior walls and roof structures;*
  - b. *Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;*
  - c. *Interior wiring for interior lights;*

- d. Heating system; and
- e. Must be removed, demolished or converted to a non-residential use within three months of the completion of a replacement dwelling if it is replaced.

**FINDING:** The existing single-wide mobile home contains intact exterior walls and roof structure, indoor plumbing consisting of a kitchen sink, toilet and bathing facilities, is connected to a septic system, has interior wiring for interior lights, and a heating system. The applicant has not proposed to live in the old mobile home while placing the new home therefore a **condition** of approval is included in the Notice of Decision requiring that the single-wide mobile home be removed within three months of placement of the new double-wide mobile home. With the proposed **condition** of approval staff finds that the request complies with Criterion 1.

## **2. Section 3.920 - Sensitive Wildlife Habitat Overlay (EPD-8)**

### **Section 3.926 - Siting Standards**

- B. *In the area designated Big Game Winter Range the following siting standards shall be applied as a condition of approval for all new dwellings. In the area designated Area of Voluntary Siting Standards the following siting standards shall be by voluntary agreement of the applicant.*
  - 1. *New dwellings shall be located within three hundred feet (300') of public roads or easement or private roads or easements existing as of October 22, 1997, unless it can be found that:*
    - a. *Habitat values (browse, forage, cover, access to water) are afforded equal or greater protection through a different development pattern; or,*
    - b. *The siting within three hundred feet (300') of such roads or easements would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least impact on wildlife habitat possible considering browse, forage cover, access to water, and minimizing length of new access roads.*

**FINDING:** The subject parcel is located within the Big Game Winter Range. All new development is located within 250' of Mill Creek Road.

Staff contacted Jeremy Thompson, Wildlife Biologist, Oregon Department of Fish & Wildlife, on May 3, 2018. Mr. Thompson responded by e-mail on the same date and stated: "It appears the proposed dwelling will be closer to the existing roadway, ODFW has no concern with the dwelling impacting wildlife resources." Staff notes that the new home will be a similar distance from Mill Creek Road as the existing dwelling, while the agricultural barn will be approximately 50' further from the road.

A **condition** of approval is included in the Notice of Decision requiring all new structural development to occur within 300' of Mill Creek Road. With the proposed **condition** of approval the request complies with Criterion 1.

### **Section 3.927 - Fencing Standards**

*The following fencing standards could apply to new fences constructed as a part of development of a property in conjunction with conditional use permit. These standards shall be a voluntary agreement by the applicant.*

*New fences in the Big Game overlay zone are designed to permit wildlife passage. The following standards are guidelines approved by the County after consultation with the Oregon Department of Fish and Wildlife:*

- A. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.*
- B. A 3-wire or 4-wire fence with the bottom wire at least 18 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire to avoid injury to animals.*
- C. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.*

**FINDING:** The applicant proposes to graze horses and raise cattle north of Mill Creek Road on the subject parcel. The applicant states that there is some old barbed wire fencing around portions of the perimeter of the property.

Staff contacted Jeremy Thompson, Wildlife Biologist, Oregon Department of Fish & Wildlife, regarding the request. Mr. Thompson said ODFW has no concern with the new dwelling impacting wildlife resources.

A **condition** of approval is included in the Notice of Decision limiting the placement of new barbed wire fencing to those areas used for cattle grazing. All other new fencing should be smooth wire fencing that complies with A. – C. With the proposed **condition** of approval the request complies with Section 3.927.

### **Section 3.928 – Other Provisions**

- A. The County shall notify the Oregon Division of State Lands and the Oregon Department of Fish and Wildlife of any development application for land within a wetland identified on the National Wetlands Inventory maps.*

**FINDING:** Mill Creek is identified as a wetland on the National Wetland Inventory Maps. A portion of the request includes placing a bridge to cross Mill Creek. Notice of the request was submitted to the Oregon Department of State Lands and the Oregon Department of Fish & Wildlife on May 2, 2018. Comments were received from Rod French explaining ODFW’s requirements for placing a bridge to cross Mill Creek. A previous condition of approval required the applicant or owner to obtain approval of a Fish Passage Plan from ODFW prior to placement of the bridge. Staff finds that the request complies with Criterion A.

### **C. Chapter 10 – Fire Safety Standards**

*Section 10.110, Siting Standards – Locating Structures for Good Defensibility*

*Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break*

*Section 10.130, Construction Standards for Dwellings and Structures - Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure*

*Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home*  
*Section 10.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have*  
*Some Fire Protection Available Through Manned or Unmanned Response*

**FINDING:** The request is for a Subject to Standards Review to replace an existing single family residence with a 70'L x 40'L x 16'T double-wide mobile home, and construct a 60'L x 40'W x 18'T agricultural barn. Development also includes placement of a bridge and removal of junk resulting in resolution of a long-standing violation.

The fire safety standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

The subject property is not located within a structural fire protection district but has wild fire protection from the Oregon Department of Forestry. The property previously contained up to three mobile homes and contains defensible space around each former development site. The applicant proposes to place the new home on a previous mobile home site that contains cleared areas. This site and the proposed barn site have the ability to meet all fire safety standards.

The Oregon Dept. of Forestry (ODF) should be informed of dates when heavy equipment is being used on the property so they can be aware of the potential increase in fire danger. To ensure ODF is aware of construction dates, the applicant or owner shall submit a copy of an approved Oregon Department of Forestry "Permit to Operate Power Driven Machinery," prior to issuance of zoning approval on a building permit application. A condition of approval stating this is included in the Notice of Decision.

The property owners have completed a Fire Safety Standard Self-Certification Form, and it is located in the Planning Department file. By signing the self-certification form, the owners have acknowledged that they understand these standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under Files 921-18-000052-PLNG. A **condition** making current and future owners aware of this is included.

With the proposed **condition** of approval in the Notice of Decision staff finds that the request complies with Chapter 10 – Fire Safety Standards.

# ATTACHMENT E – LIGHTING STANDARDS

## Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY PUBLISHING CORP.

### What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

### Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values.

**Glare** Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

**Light Trespass** Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

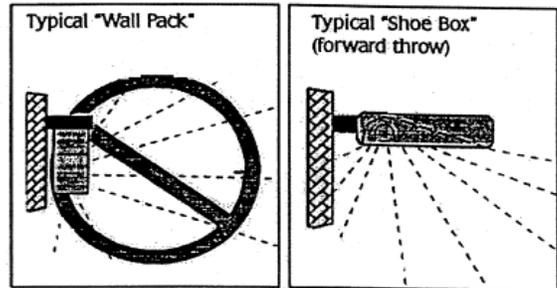
**Energy Waste** Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. We waste over a billion dollars a year in the United States needlessly lighting the night sky.

**Sky Glow** Rays that beam uselessly above the horizon create murky skyglow – the "light pollution" that washes out our view of the stars.

### How do I switch to good lighting?

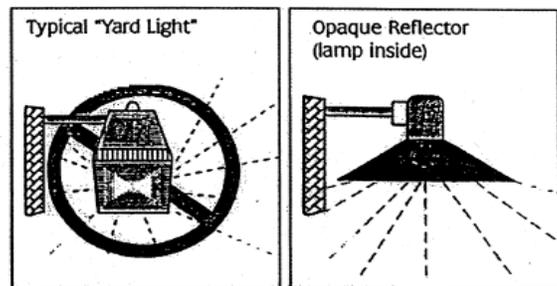
- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate areas 100 times more brightly than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

### Some Good and Bad Light Fixtures



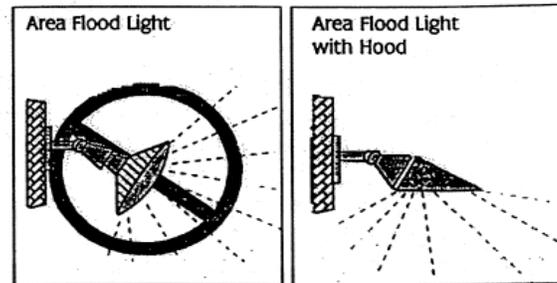
BAD

GOOD



BAD

GOOD



BAD

GOOD

full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2** Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Such fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3** Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go.

Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as brightly as a wasteful light does with a high-wattage bulb.

- 4** Choose energy-efficient low-pressure sodium (LPS) or high-pressure sodium (HPS) lamps wherever yellowish light will do the job. Use less efficient white lights only where ideal color rendition is important.
- 5** Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

**Replace bad lights with good lights.**

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

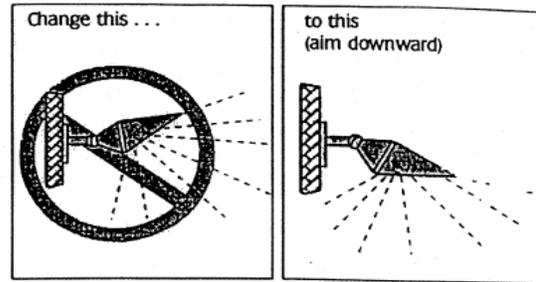
Presented by the

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

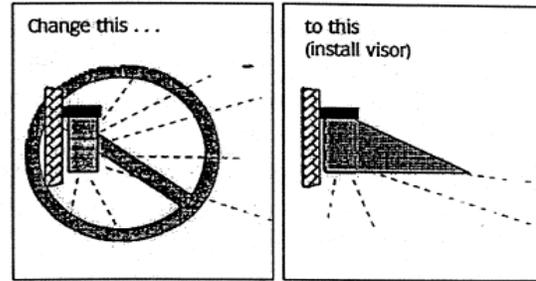
NELPAG and Sky Publishing Corp. support the **International Dark-Sky Association (IDA)** (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

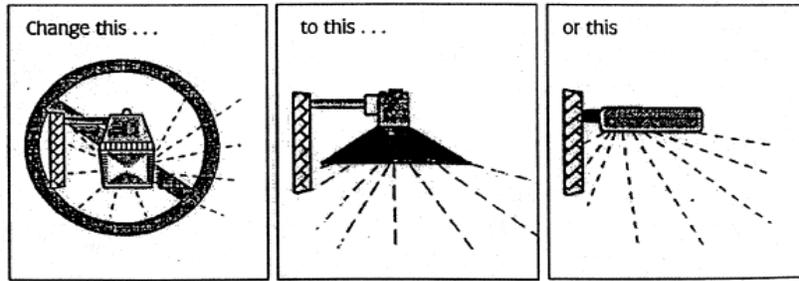
**What You Can Do To Modify Existing Fixtures**



**FLOOD LIGHT**



**WALL PACK**



**YARD LIGHT                      OPAQUE REFLECTOR                      SHOE BOX**



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