

WALLOWA COUNTY PLANNING COMMISSION
7:00 pm February 28, 2023
Wallowa County Courthouse
Agenda

1. **Planning Commission Meeting Minutes** from January 31, 2022
2. **CUP#22-13 BECK FINDINGS** – Submitted by Jodi and Douglas Beck, the request is for a Relative Farm Assistance Dwelling in the Exclusive Farm Use (EFU) zone. The property in question is described as Township 01 South, Range 46E, Section 00, and Tax Lot 2000. It is more commonly known as 87143 Three Lakes Lane, Enterprise, Oregon 97828 and consists of approximately 135 acres.
3. **VAR#22-04 DESPAIN-STANGEL FINDINGS** – Submitted by Erik DeSpain, the proposed variance would reduce the minimum lot size from 5 acres to 2 acres and all property boundary line setbacks from 25 feet to 5 feet. The property is owned by Stangel Industries and is described as Township 01 South, Range 44 East, Section 35, tax lot 100, and is zoned Industrial (M-1). It is more commonly known as 66464 Lewiston Highway, Enterprise, Oregon 97828 and is currently 23.25 acres.
4. **AMD#23-01 ARTICLE 29 UPDATE** – The Wallowa County Planning Commission requested an amendment to Wallowa County Land Development Ordinance Article 29, Airport Protection Zone Overlay. The amendment proposes to reinstate Footnote 14 with Table 1 and add a Figure to help interpret Table 1.
5. **AMD#23-02 ARTICLE 1 REVISE BED AND BREAKFAST AND BUNKHOUSE DEFINITIONS** – The Wallowa County Planning Commission requested an amendment to Wallowa County Land Development Ordinance Article 1, Introductory Provisions. The amendment is intended to clarify what qualifies as a Bed and Breakfast and how a Bunkhouse may be used.
6. **Other Business:**

The next Planning Commission meeting is scheduled for March 28, 2023.

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Planning Commission Minutes January 31, 2023

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on January 31, 2023. This meeting was held via Zoom, a video conferencing application, and in the Thornton Conference Room of the Courthouse. The following were present:

COMMISSIONERS (CM):

Georgene Thompson (Chair)
Jim Nave
Chris Bullat
Rob DeSpain
Ramona Phillips
Kim Tippet

STAFF:

Franz Goebel, Planning Director (PD)
Jean Jancaitis, Department Specialist (DS)

OTHERS PRESENT:

Valerie Elliott
Carol Beals
Erik DeSpain
Dick Stangel
Bob Stangel
Terry DeSpain
Doug Beck
Jodi Beck
Claire Melville
Bryce Melville
Sty Nichols
Todd Morrow

PRESENT via ZOOM:

none

[Please note that draft and adopted findings, staff reports, written testimony, and the official Planning Commission meeting audio record are available for review and/or purchase in the Planning Department.]

Public Hearing Procedure

Ladies and Gentlemen, I call the regular January 31, 2023, hearing session of the Wallowa County Planning Commission to order. My name is Georgene Thompson, and I am the Chair of the Planning Commission for Wallowa County, Oregon. The members of the Planning Commission are appointed by the Wallowa County Board of Commissioners, and we all serve as volunteers.

Now I would like to introduce the current members of the Commission who are present tonight, and the staff of the Planning Commission, who have prepared the materials we will consider. [Introductions of members and staff]

Planning Commission Minutes January 31, 2023

We conduct two types of hearings, legislative and quasi-judicial. Legislative hearings involve the making of rules, either new ones or revisions to existing rules. In these cases, we recommend our conclusions to your elected lawmakers, the County Commissioners, who always take the final action on legislative issues.

Oregon law requires that persons who attend land-use hearings are advised of certain rights and duties before the quasi-judicial hearing begins. We must tell you about approvals criteria, the raise-it-or-waive rule, and the right to have the record left open.

First approval criteria: the law requires the County to list the applicable County and State zoning criteria. A County Planner will do so in a few minutes. The law requires us to identify those standards of which an applicant must satisfy in order for the County to approve an application. Each of the standards must be supported by substantial evidence in the record. Make sure to direct your testimony, claims, or evidence toward the criteria which you believe applies to the application.

Second, the raise-it-or-waive-it rule. The law says that any issue which might be raised in an appeal of the decision after this hearing must be raised before the record of this hearing is closed, you cannot raise the issue on appeal. You must identify the issue clearly enough so that the County and all parties have an opportunity to respond to the issue.

Third, the right to have the record remain open. The law grants the participant the right, upon proper request, to have the record of the hearing remain open for at least seven days. The request must be made before the conclusion of this hearing. The participant is the applicant or anyone who has submitted written or oral testimony regarding the application. The request may be made at any time during the initial hearing but must be made prior to the time the Planning Commission Chair announces that the hearing is closed. Once the hearing is closed, there is no longer a legal right to have the record remain open for additional evidence.

1. Does any commission member wish to disqualify, himself or herself for any personal or financial interest in these matters, or does any commission member wish to report any significant ex parte or pre-hearing contacts and explain/share what you have heard? **CM DeSpain notes that he is the brother of the applicant for VAR#22-04; however, he feels that he can be impartial in his assessment of the proposal.**
 - a. Does any member of the audience wish to challenge the right of any commissioner to hear these matters? **[nothing voiced]**
 - b. Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of the County in these matters? **[nothing voiced]**
2. Oregon Land Use Laws require that any issue to be appealed must be raised during this hearing; failure to raise issues at this hearing will invalidate their further appeal.

CM Thompson opens the quasi-judicial hearing and proceeds to the first agenda item.

**Planning Commission Minutes
January 31, 2023**

1. November 28, 2022 Minutes

CM Phillips moves to approve the minutes of the November 28, 2023 Planning Commission meeting.

CM DeSpain seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

CM Tippet – Yes;

CM Nave – Yes;

CM Bullat – Yes;

CM DeSpain – Yes;

Motion Passes 6-0-0]

2. RAMSDEN CUP#22-12 FINDINGS

PD Goebel presents the Findings Report.

CM Phillips moves to approve the minutes of the November 28, 2023 Planning Commission meeting.

CM DeSpain seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

CM Tippet – Yes;

CM Nave – Yes;

CM Bullat – Yes;

CM DeSpain – Yes;

Motion Passes 6-0-0]

The application is approved.

3. BECK CUP#23-13

PD Goebel presents the Staff Report. He notes that, while the application is submitted as a Conditional Use Permit, a Relative Farm Assistance Dwelling is a permitted use in the Exclusive Farm Use Zone. Article 15 does require that it have public hearing review.

Applicant Jodi Beck describes the proposal. She and her husband, Doug, run a commercial farm operation and find that as they age, they see the need for help now and more so in the

**Planning Commission Minutes
January 31, 2023**

future. The Relative Farm Assistance Dwelling would be for her daughter and son-in-law to help with farm operations.

CM Thompson notes there were not written comments submitted prior to the meeting.

CM Tippet asks what kind of farming operation they run.

Applicant J. Beck responds that they own 160 acres and lease 400 acres. They have 60 goats and typically raise cattle yearlings.

PD Goebel reads a letter in opposition from Carol Beals submitted at the meeting.

Ms. Beals asserts that the goats Applicant J. Beck mentioned are her daughter's and not hers and that the Becks do not own any cattle at this time.

Applicant Doug Beck responds that they do currently have cattle.

CM Thompson corrects the staff report that the Becks own a 160-acre tract, not just the 135-acre parcel.

Ms. Beals distributes photos of the Beck/Melville's goats on the Three Lakes Road and worries about them getting onto Zumwalt Road. She also distributes a CD of their court case resolving animal trespass on her property.

CM Thompson notes that the only criteria addressed in Ms. Beals' comment letter is the assertion that Applicant D. Beck is not a farm operator. She believes the Becks have adequately demonstrated that he is the farm operator. She asserts that animal trespass is not the purview of the Planning Commission.

CM Phillips offers that she and her husband both had day jobs while they ranched full-time. She does sympathize with the animal trespass, but agrees with CM Thompson.

Ms. Beals adds that she has a CRP contract with NRCS where grazing is not allowed. She said the NRCS thought the goats were hers and this jeopardizes the contract.

PD Goebel asks if the area is designated open range and there is no consensus. [subsequent research revealed that it is not designated open range]

CM Thompson reiterates that she does not believe a fencing issue can be addressed by the Planning Commission as it is irrelevant to the criteria for a Relative Farm Assistance Dwelling application.

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CM Bullat asks if the applicant must demonstrate that they meet the financial criteria to be qualify as a farm.

CM Thompson and PD Goebel note that the financial criteria must be met for a Primary Farm Dwelling, which the Becks have, but the financial criteria are not listed for a Relative Farm Assistance Dwelling.

CM Thompson notes that there are financial criteria listed for Farm Dwellings, but not under the Relative Farm Assistance Dwelling.

Ms. Beals offers that Article 9, Conditional Use Permit states that, "The use will not create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous." She maintains that the loose goats will create excessive traffic congestion.

PD Goebel responds that, while the application form is labeled a "Conditional Use", it is a "permitted use" under Article 15, Exclusive Farm use that is subject to public hearing; therefore, Article 9 criteria do not apply.

DS Jancaitis notes that what is at issue is whether the Relative Farm Assistance Dwelling will cause a problem with the neighbor's ability to exercise their rights to farm, not whether the neighbors' goats will interfere.

CM Nave asks if the house will be permanent or if it is required to be removed once assistance is no longer needed.

PD Goebel answers that code does not require the removal of the home.

CM Thompson asks if the home location could move out of the farmed ground.

Applicant D. Beck offers that farming is his full-time occupation and he hires part-time help to run the operation, but that help has become difficult to find.

CM Beals ask Applicant D. Beck whether his daughter is going to help him farm.

Applicant D. Beck responds in the affirmative.

Applicant J. Beck is willing to move the home location outside the previously cultivated area.

CM Tippet asks whether the son-in-law and daughter have full-time jobs.

Applicant J. Beck responds that the son-in-law has a full-time job, but that her daughter does not.

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CM Bullat asks if the new dwelling will share the same water and power.

Applicant J. Beck responds that it will and there is already water to the potential new home site on the west side of Zumwalt Road.

CM Thompson closes the testimony portion of the hearing.

CM Phillips moves to approve CUP#22-13 with the condition that a new plot plan is submitted where the Relative Farm Assistance Dwelling is on the west side of Zumwalt Road and not in a location where the soil is classified as of "statewide importance".

CM DeSpain seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

CM Tippet – No;

CM Nave – Yes;

CM Bullat – Yes;

CM DeSpain – Yes;

Motion Passes 5-1-0]

The application is approved.

4. DESPAIN-STANGEL VAR#22-04

PD Goebel presents the Staff Report.

Applicant DeSpain provides the following additional information:

Planning Commission Minutes January 31, 2023

Eric DeSpain Application

Review criteria-area variance for section 10.025

Acreage size and setback

- 01. The size of 2 acres plus for this application is appropriate for the business proposed in this area. Due to the topography of this property the 5 total acres required is not readily available as usable land and would not be utilized to any potential. This ordinance is restrictive to economic growth in M-1 zone if 5 acres is required per business when not all businesses require this amount of property. This business only requires 2 plus acres to be viable. To add more acreage that is not suitable or needed makes it impractical to comply with the ordinance.
- 02. With these variances in place this business would be an outright use in M-1 zones.
- 03. This is a very low impact business which will have no detriment to the public welfare or injurious to other property in the area with lot size or variance on setbacks.
- 04. The exception is necessary to allow the economics of this project to succeed. Without these exceptions this project is not possible. If this is denied it will prevent the property rights of the owners to utilize the property with this project.
- 05. The variance requested is the minimum which allows this project to be feasible. The way the property is configured 2 plus acres is appropriate for the project due to lay of the land. The 5 foot set back allows for more efficient use of the property and economic use.
- 06. There is no live water associated with this partial.

Property Owner Dick Stangel presents the additional information. He notes that the topography limits the utility of the remaining portion of the parcel between the area proposed to partition and the creek to the north. He emphasizes that the project is not financially viable if Applicant DeSpain must purchase additional acreage.

Applicant DeSpain adds that he has another similar operation in Enterprise, and it is very low impact.

PD Goebel reads two letters of opposition into the record.

CM Bullat explains that no part of the storage units can extend into the setback, whether a variance to the setback distance is granted or not.

Applicant DeSpain adds that they have already leveled the lot and claims that it will improve the drainage in the area. Regardless, he wants neighbors to be happy. He proposes that a professional of some type visit the site and make recommendations to protect the neighboring properties. Neighbors are welcome to join the discussion.

Todd Morrow, owner of the neighboring RV park, testifies that he has not been negatively impacted by drainage problems from the subject property in the past.

Bob Stangel asks Todd whether there is a culvert under the driveway to Morrow's property. He adds that the new grading should improve water conveyance.

Todd Morrow notes that there are two culverts.

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CM Bullat asks how the property will be accessed.

Applicant DeSpain shows how it will be accessed on the maps submitted with the application.

CM Nave dismisses the drainage concern as something that is not under the Planning Commission's purview.

Applicant DeSpain notes that the same types of planned storage units were installed in Enterprise many years ago with zero setback and they have not caused any drainage issues.

CM Thompson expresses that she is not sure that the financial viability of a project qualifies as a 'hardship' caused by zoning that should be recognized as a valid reason for a variance.

Applicant DeSpain notes that the project is not economically viable without the variances.

Bob Stangel notes that the variance ordinance allows for a variance where the ordinance interferes with substantial use of your property rights.

CM Thompson closes the testimony portion of the hearing.

CM Nave requests a reread of the "use variance" language.

PD Goebel quotes Section 10.025(4), "That the exception is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this ordinance."

CM Bullat asks if the hardship would persist if the setback was only reduced to 10 feet.

CM Nave expresses the opinion that the Planning Commission should only consider the request as outlined by the applicant.

CM Nave thinks that the proposal seems to be a good use of the property.

CM DeSpain notes that the proposed use is an outright use.

CM Nave asks whether the variance would carry to a new owner if the use changed.

PD Goebel responds that a new owner continuing the approved use would not, but if the new owner proposed a different use, the setback variance would be reevaluated through the Zone Permit process.

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CM Nave moves to approve the variance requested in VAR#22-04 to reduce the required acreage from five acres to a minimum of 2 acres.

CM Bullat seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

CM Tippet – Yes;

CM Nave – Yes;

CM Bullat – Yes;

CM DeSpain – Yes;

Motion Passes 6-0-0]

CM Nave moves to approve the variance requested in VAR#22-04 to reduce the required setbacks from 25 feet to five feet with the condition that drainage is developed to protect neighboring property and that the variance approval will transfer with the property as long as the use does not change from what was provided in the application.

CM Tippet seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

CM Tippet – Yes;

CM Nave – Yes;

CM Bullat – Yes;

CM DeSpain – Yes;

Motion Passes 6-0-0]

Both variance requests are approved.

CM Thompson closes the quasi-judicial hearing to move on to other business.

5. OTHER BUSINESS

- **PD Goebel** offers that there will be two proposed amendments on the February agenda—one to Article 1, Introductory Provisions and the second to Article 29, Airport Overlay Zone.

CM Phillips moves to adjourn the meeting.

CM Nave seconds the motion.

[CM Thompson – Yes;

CM Phillips – Yes;

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**CM Tippet – Yes;
CM Nave – Yes;
CM Bullat – Yes;
CM DeSpain – Yes;**

Motion Passes 6-0-0]

Meeting was adjourned at 8:31 PM

Jean Jancaitis

Date



WALLOWA COUNTY
Planning Department
101 S River Street #105
Enterprise, Oregon 97828
541-426-4543 ext. 1170

FINDINGS
 Zone Permit
 CUP#22-13
 BECK

**IN THE MATTER OF THE REQUEST
 FOR A RELATIVE FARM DWELLING IN THE
 EXCLUSIVE FARM USE (EFU) ZONE**

)
) **FINDINGS OF FACT, CONCLUSIONS, AND**
) **DECISION OF THE WALLOWA COUNTY**
) **PLANNING COMMISSION**
)

RE: Beck Zone Permit CUP#22-12 (permitted use subject to public hearing)

The request was deemed to be complete on December 19, 2022. It was properly advertised in the Chieftain on January 18, 2023 and noticed to landowners within 500 ft and other interested parties on December 20, 2022. The request came before the Wallowa County Planning Commission on January 31, 2023 with a Decision on February 28, 2023. The Planning Commission having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral testimony in the above-referenced hearing, and being fully advised, makes the following findings of fact and decision.

APPLICANT:

Jodi and Douglas Beck
 87143 Three Lakes Lane
 Enterprise, OR 97828

OWNER:

Same

REQUEST:

To permit a Relative Farm Assistance Dwelling on Farmland.

LOCATION:

The property description is Township 01S, Range 46E, Section 00, Tax Lot 2000, Ref#907, Address: 87143 Three Lakes Lane, Enterprise, OR.

**PARCEL
 CHARACTERISTICS:**

The parcel is approximately 163 acres. The Zoning is Exclusive Farm Use (EFU) and access to the primary farm dwelling is from Three Lakes Lane, a county road. The access for the new dwelling would be from Zumwalt Road which bisects the property and is a county road. The parcel borders EFU on all sides. There is one farm dwelling on the tract. The property is not predominantly high value farmland.

PREVIOUS LAND USE ACTIONS:

The conforming farmland parcel was created by partition plat 2011-65526.
 ZP#11-13 for a Farm Dwelling

FINDINGS

BECK CUP#22-13
 February 28, 2023
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REVIEW CRITERIA:

Article 5, Public Hearing Review (permitted use in zone but requiring public hearing)
 Article 15, Exclusive Farm Use

Article 36, Salmon Habitat Recovery
 Other applicable zoning ordinances or goals of Wallowa County Land Development
 Ordinance and/or laws of the State of Oregon

ARTICLE 5, PUBLIC HEARING REVIEW**SECTION 5.025, NOTICE OF PUBLIC HEARING:**

01. *Public Hearing Review requires notice of hearing be given to all owners of property lying within:*
[...]
 C. *Five hundred (500) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.*

The Director will provide notice to other parties should it be determined their interests may be affected by the proposal or they have other need for notice. The notice shall be mailed or otherwise delivered no later than ten days prior to the hearing date.

02. *Notice of public hearing shall be placed in a newspaper of general circulation no later than 10 days prior to the hearing date nor greater than twenty 20 days prior to the hearing date.*
03. *Notice of public hearing shall be posted on the Wallowa County Courthouse Public Notice Board no later than 10 days nor greater than 20 days prior to the hearing date.*

FINDING 1: The Planning Commission finds the public hearing was properly noticed in the Wallowa County Chieftain, was posted on the Wallowa County Courthouse Public Notice Board, and a notice was sent to all property owners within 500 feet of the subject property as detailed above.

SECTION 5.045, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES:

01. *The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to ensure the use or development complies with the applicable standards and criteria.*

FINDING 2: The Planning Commission finds that it can impose Conditions of Approval to ensure the use or development complies with the applicable standards and criteria and will have minimal impact on adjacent parcels.

ARTICLE 15, EXCLUSIVE FARM USE (EFU)**FINDINGS**

BECK CUP#22-13

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SECTION 15.010, PURPOSE: *The purpose of the Exclusive Farm Use (EFU) Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain or improve the quality of air, water and land resources of the county. It is also the purpose of the EFU zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308. The intention of the Exclusive Farm Use Zone is to guarantee the preservation of the areas classified as farm use free from conflicting non-farm uses.*

The EFU zone has been applied to lands designated as Agriculture in the Comprehensive Plan. The provisions of the EFU zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

SECTION 15.015, PERMITTED USES: *In the Exclusive Farm Use Zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions and exceptions set forth by this ordinance:*

[...]

12. *Subject to the provisions of Article 5, Public Hearing Review, a dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm provided that:*
 - A. *A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.*

FINDING 3: The Planning Commission finds that a relative farm assistance dwelling is a permitted use in the EFU zone, is subject to a public hearing, and is therefore correctly heard before the Commission. The Commission finds that Douglas Beck is the full-time farm operator, has a commercial operation on the property comprised of livestock raising and sales, will continue to play the predominant role in the management and farm use of the farm, and needs assistance in the management of the farm. The Commission further finds that the relative farm dwelling will be occupied by his daughter, and her family, whose assistance is needed in managing the farm.

- B. *A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.*

FINDINGS

BECK CUP#22-13

February 28, 2023

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FINDING 4: The Planning Commission finds that the relative farm dwelling will be located on the same parcel as the dwelling of the farm operator and is on real property used for farm use.

- C. *The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

FINDING 5: The Planning Commission finds that the landowner is willing to record a document meeting the requirements above with the County Clerk, and approval of this application is conditioned thusly.

ARTICLE 36, SALMON HABITAT RECOVERY

The application shall satisfy the pertinent criteria of Article 36, Salmon Habitat Restoration.

FINDING 6: As this proposal does not impact any fish bearing waterways or habitat, the Commission finds that a management plan is not necessary.

PUBLIC COMMENTS:

There was one written comment received in opposition to the application. The comment asserted that the applicant was not a farm operator and did not have a commercial operation. It further noted concerns over livestock breaching fences and creating excessive and hazardous traffic. The commentor also gave oral testimony at the hearing reinforcing those assertions.

FINDING 7: The Planning Commission finds that the applicant provided adequate testimony to demonstrate that they are both a farm operator and a commercial farm. While the commenter did provide evidence of previous animal trespass, this, and the other voiced concerns, are not relevant to the applicable criteria for a Relative Farm Dwelling.

CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application subject to the Conditions of Approval. Failure to meet these conditions in a timely manner may result in the revocation of this permit by the review authority.

The Zone permit CUP #22-13 to place a relative farm dwelling on the parcel has met all criteria and is approved.

CONDITIONS OF APPROVAL:

FINDINGS

BECK CUP#22-13

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The Planning Commission finds that the following conditions can be met as imposed since the applicant is willing and the Commission finds reasonable evidence to support the conclusion that they are feasible.

1. Revise the location of the Relative Farm Dwelling to the West Side of Zumwalt road on soils that are not “soils of statewide importance”.
2. File a Conflict Acknowledgment Statement with the Wallowa County Clerk’s office. The Form is available in the Planning Department office.

DECISION:

Based upon the information submitted, the comments of interested parties and the findings, the review authority finds this application satisfies all review criteria and is hereby approved as presented and conditioned. The vote on the motion is 5 in favor and 1 opposed with 0 abstaining.

FEBRUARY 28, 2023

DATE OF ACTION

GEORGENE THOMPSON, CHAIR
WALLOWA COUNTY PLANNING COMMISSION

This decision may be appealed to the Wallowa County Board of Commissioners pursuant to Article 7, Appeal. The provisions of Notice of Intent to Appeal accompanied by the appeal fee must be received by the Wallowa County Planning Department by 5:00 pm March 12, 2023.

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BECK CUP#22-13

February 28, 2023

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WALLOWA COUNTY
Planning Department
101 S River Street #105
Enterprise, Oregon 97828
541-426-4543 ext. 1170

FINDINGS

Variance
 VAR#22-04
 DeSpain

**IN THE MATTER OF THE REQUEST
 FOR TWO AREA VARIANCES IN THE M-1
 (INDUSTRIAL) ZONE.**

)
) **FINDINGS OF FACT, CONCLUSIONS, AND**
) **DECISION OF THE WALLOWA COUNTY**
) **PLANNING COMMISSION**
)

RE: DeSpain Area Variance VAR#22-04 (Referred from PD to the Planning Commission)

The request was deemed to be complete on November 29, 2022, and noticed to landowners within 500 ft and other interested parties on November 30, 2022. Because the Planning Department received a comment letter of opposition, it was referred to the Planning Commission and heard on January 31, 2023 with a decision of February 28, 2023. It was properly advertised in the Chieftain on January 18, 2023. The request came before the Wallowa County Planning Commission on January 31, 2023 with a decision on February 28, 2023. The Planning Commission having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral testimony in the above-referenced hearing, and being fully advised, makes the following findings of fact and decision.

APPLICANT:

Erik DeSpain
 203 East Alamo Street
 Enterprise, OR 97828

OWNER:

Stangel Industries and Machine Shop
 PO Box 157
 Enterprise, OR 97828

REQUEST:

Two Area Variances, one to reduce the minimum parcel size from 5 acres to 2 acres and the second to reduce all property boundary line setbacks from 25 feet to 5 feet. The use is for placement of storage sheds and a proposed shop.

LOCATION:

The property description is Township 01S, Range 44E, Section 35, Tax Lot 100, Ref#459, Address: 66464 Lewiston Highway, Enterprise, OR

PARCEL CHARACTERISTICS:

The tax lot contains about 23.25 acres. The Zoning is Industrial (M-1) and access is from Lewiston Highway, a state highway. The parcel is bordered by Exclusive Farm Use to the north, east and west and

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Industrial land to the south. The northern portion of the parcel has a house and multiple accessory buildings.

PREVIOUS LAND USE ACTIONS:

None

COMMENT:

There are two area variance requests in this application, one is for a parcel size less than minimum parcel size identified for the zone, the other is for reducing a required setback from the property line. A variance application requires Administrative Review, with notice sent to surrounding neighbors. Per review requirements of *SECTION 10.015, REVIEW PROCEDURE*, if an objection is filed by a party entitled to notice, then the application shall be referred to the public hearing process. In this case, an objection was filed by a party entitled to notice, and application was forwarded to the Planning Commission for public hearing review.

REVIEW CRITERIA:

Article 5, Public Hearing Review
 Article 10, Variance Procedure
 Article 22, Industrial (M-1)
 Article 36, Salmon Habitat Recovery
 All other applicable zoning ordinances or goals of Wallowa County Land Development Ordinance and/or laws of the State of Oregon

ARTICLE 5, PUBLIC HEARING REVIEW

SECTION 5.025, NOTICE OF PUBLIC HEARING:

01. *Public Hearing Review requires notice of hearing be given to all owners of property lying within:
 [...]

 - C. *Five hundred (500) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone;**The Director will provide notice to other parties should it be determined their interests may be affected by the proposal or they have other need for notice. The notice shall be mailed or otherwise delivered no later than ten days prior to the hearing date.**
02. *Notice of public hearing shall be placed in a newspaper of general circulation no later than 10 days prior to the hearing date nor greater than twenty 20 days prior to the hearing date.*
03. *Notice of public hearing shall be posted on the Wallowa County Courthouse Public Notice Board no later than 10 days nor greater than 20 days prior to the hearing date.*

FINDINGS

DeSpain #22-04
 February 28, 2023
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FINDING 1: The Planning Commission finds that application was appropriately noticed, posted and advertised.

SECTION 5.040, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES:

01. *The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to ensure the use or development complies with the applicable standards and criteria.*

FINDING 2: The Planning Commission finds that conditions of approval are necessary to comply with applicable standards and criteria.

ARTICLE 10, VARIANCE PROCEDURE

SECTION 10.010, PURPOSE: *The purpose of a variance is to permit justifiable departures from the requirements of this ordinance where their strict application would impose a serious and unfair hardship upon the property owner. A use variance will allow property to be used for a purpose not generally permitted within the zone and will be authorized only upon a showing of the extraordinary hardship according to the criteria provided below. An area variance will allow an exception to certain dimensional or density requirements for a use that is generally permitted within the zone, upon a showing of special circumstances and practical difficulty according to the criteria set forth below.*

SECTION 10.015, REVIEW PROCEDURE: *A variance shall be subject to administrative review. If in the opinion of the administrative review authority, the proposed use may be in conflict with the purposes of this ordinance or if objection has been filed by a party entitled to notice, the application will be referred to the public hearing review process.*

FINDING 3: The Planning Commission finds that because an objection was filed by a party entitled to notice when the review was being heard by the Planning Director under administrative review, the application was appropriately referred to the public hearing process.

SECTION 10.025, REVIEW CRITERIA-AREA VARIANCE: *An area variance may be granted subject to any reasonable conditions based upon the following findings:*

01. *That there are special circumstances or conditions affecting the property that do not normally apply to other property and that such circumstances or conditions make it impossible or impractical to comply with the ordinance.*
02. *That the exception conforms to the purpose of this ordinance and is necessary for the proper design and/or function of the subdivision or partition.*

FINDINGS

03. *That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.*
04. *That the exception is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this ordinance.*
05. *The variance requested is the minimum variance which would alleviate the difficulty.*
06. *The application satisfies the pertinent criteria of Article 36, Salmon Habitat Restoration.*

FINDING 4: The Planning Commission finds that, based on the application materials submitted, and oral testimony provided by the applicant and owner, the applicant meets all of the criteria listed above.

ARTICLE 22, INDUSTRIAL (M-1)

SECTION 22.010, PURPOSE: *The purpose of this zone is to provide areas for industrial activities which may require large land areas and to preserve those areas from being developed with such uses as residential that would inhibit or eliminate the future potential for industrial development.*

SECTION 22.015, PERMITTED USES: *The following uses, substantially similar uses, and their accessory uses are permitted in the Industrial Zone subject to Administrative Review.*

[...]

07. *Wholesale businesses, storage buildings, or warehouses.*

[...]

FINDING 5: The Planning Commission finds that the proposed use is permitted in the zone.

SECTION 22.025, PROPERTY DEVELOPMENT STANDARDS: *The following standards are applicable to permitted and conditional developments in the Industrial Zone.*

[...]

02. **PARCEL SIZE:** *In the Industrial Zone the minimum lot size shall be five acres except if either a community water or sewer system is available for use then minimum lot area may be two acres, or if both are available for use the minimum lot area shall be determined by the user provided that in no instance shall the lot be less than 0.5 acre.*

03. **SETBACKS: PROPERTY LINE** - *Not less than 25 feet - exception fences, roads, and signs.*

[...]

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FINDING 6: The Planning Commission finds that the area variances are required because the proposed partition does not meet the minimum parcel size or minimum setbacks for the zone.

ARTICLE 36, SALMON HABITAT RECOVERY

The application shall satisfy the pertinent criteria of Article 36, Salmon Habitat Restoration.

FINDING 7: The Planning Commission finds that proposed use does not impact a fish-bearing stream and therefore Article 36 requirements do not apply.

PUBLIC COMMENTS:

Comments submitted included the following concerns:

- That part of the property was zoned EFU.
- That grading on the property could increase runoff to neighboring properties to the south, and damage structures.

FINDING 8: The Planning Commission finds the property is zoned entirely M-1, Industrial. Further, the Commission finds that mitigating concerns over drainage problems created by grading of the property is not in the purview of the Commission and is a private matter. However, acknowledging the drainage concern by applying a condition of approval which requires developing a drainage plan is acceptable.

CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application subject to the Conditions of Approval. Failure to meet these conditions in a timely manner may result in the revocation of this permit by the review authority.

The Variance VAR #22-04 to reduce the minimum parcel size to 2 acres and the minimum setback from all property lines to 5' is approved with conditions.

CONDITIONS OF APPROVAL:

The Planning Commission finds that the following conditions can be met as imposed since the applicant is willing and the Commission finds reasonable evidence to support the conclusion that they are feasible.

1. Any change of Use on the property revokes the setback variance.

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2. Applicant shall develop a drainage plan which addresses concerns of increased run-off caused by the development, draining onto, and causing damage to neighboring properties to the south.

DECISION:

Based upon the information submitted, the comments of interested parties and the findings, the review authority finds this application satisfies all review criteria and is hereby approved as presented and conditioned. The vote on the motion is 6 in favor and 0 opposed with 0 abstaining.

FEBRUARY 28, 2023

DATE OF ACTION

GEORGENE THOMPSON, CHAIR

WALLOWA COUNTY PLANNING COMMISSION

This decision may be appealed to the Wallowa County Board of Commissioners pursuant to Article 7, Appeal. The provisions of Notice of Intent to Appeal accompanied by the appeal fee must be received by the Wallowa County Planning Department by 5:00 pm March 12, 2023.

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WALLOWA COUNTY
Planning Department
101 S River Street #105
Enterprise, Oregon 97828
541-426-4543 ext. 1170

STAFF REPORT

ARTICLE 29 – AIRPORT PROTECTION ZONE - AMD#23-01

- Petitioner:** Wallowa County Planning Director at the direction of the Planning Commission
- Request:** To amend the text of Wallowa County Land Development Ordinance Article 29, Airport Protection Zone, a Major Amendment.
- Contents:** This staff report/request file is organized the following way:
 Staff Comment
 Applicable Criteria for the review of the proposal/major amendment
 Exhibit A: Current Article 29, Airport Protection Zone (NOT IN PACKET)
 Exhibit B: Proposed changes to Article 29, with strikeout and replaced text
 Exhibit C: Final proposed Article 29 (NOT IN PACKET)

Staff Comment:

The Planning Commission (PC) requested that the Planning Director (PD) submit this proposal to amend Article 29, Airport Protection Zone by replacing a previously deleted footnote. In 2008, the Board of Commissioners (BOC) approved a text amendment (proposed by a private citizen) to Article 29 which “deleted” footnote 14 from Table 1. Table 1 describes the allowable uses and review processes for areas adjacent to a runway. Prior to that amendment, residential development was not allowed in the areas flanking the runway. Deletion of the footnote “allowed” residential development in these areas. The BOC’s 2008 decision to remove the footnote, however, was not noticed to the state Department of Land Conservation and Development (DLCD), a requirement for Comprehensive Plan amendments. Neither the Federal Aviation Administration (FAA) nor the Oregon Department of Aviation (ODAV) were noticed of the proposal or decision, as is required for amendments affecting areas adjacent to airports. These notices allow the agencies to appeal decisions to which they are opposed. In 2022, after DLCD and ODAV were made aware of the 2008 decision, both departments voiced opposition, citing non-conformance with ODAV airport design guidelines, guidelines developed for public

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safety. The PC's objective in this amendment is to:

- Bring the Wallowa County Comprehensive Plan into conformance with DLCD notice requirements for an amendment, state goals and guidelines (required criteria by Article 8, Section 8.025(01)(A).
- Be consistent with the ODAV/DLCD airport design guidelines.
- Protect the safety of and in the best interest of the public (required criteria Section 8.025(01)(C).

Failure to pass this amendment will result in an ongoing discrepancy between a decision approved at the County level, but not acknowledged by the state.

As this amendment, if implemented, may involve more than 10 acres, it is proposed as a major amendment. As such, the proposal must be heard before a minimum of two public hearings, one which must be before the Board of Commissioners (BOC). Normally, the PC holds the first hearing and makes a recommendation to the BOC. The recommendation to the BOC may be to:

- 1) approve the amendment as presented;
- 2) approve the amendment with suggested edits and alterations; or
- 3) deny the amendment.

The BOC then holds the final hearing(s) and makes the final decision to adopt, adopt with edits, or to not adopt the amendment.

Review Criteria:

- Article 5, Public Hearing Review;
- Article 8, Amendments;
- And other applicable zoning ordinances or goals of Wallowa County and or laws of the State of Oregon.

Reference:

- Article 29, Airport Protection Zone

ARTICLE 5, PUBLIC HEARING

SECTION 5.010, PURPOSE: The Public Hearing Review procedures set forth in this article are designed to provide the means of reviewing applications for uses and developments which may have a significant impact on neighboring uses and developments; amendments to the land use plan; zoning map or implementing ordinances; the health, safety, or welfare of the citizens; or on the provision of public services; therefore, they require review in an open and public forum.

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SECTION 5.025, NOTICE OF PUBLIC HEARING:

[See section 8.030]

SECTION 5.040, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES:

01. The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to ensure the use or development complies with the applicable standards and criteria.

ARTICLE 8, AMENDMENTS

SECTION 8.010, PURPOSE: The purpose of this article is to provide for change in needs, desires, and rate of development in Wallowa County. Revisions to the land use plan, to the text of this ordinance, to the land use plan map, and to the zoning map affecting areas more than ten acres in size will be regarded as major amendments to be processed as a legislative action. Small tract zone changes on areas less than ten acres in size adjacent to the proposed zone will be regarded as minor amendments to be processed as Quasi-Judicial actions.

SECTION 8.015, AUTHORIZATION TO INITIATE AMENDMENTS: Amendments may be initiated in one of the following ways:

01. By resolution of the County Court referring a proposed amendment to the commission.
02. By action of the Planning Commission.
03. By request of the Planning Director, said request relating to actions deemed necessary to bring the zoning map or land use plan map into compliance with state law.
04. By petition from a resident or residents of Wallowa County and/or owners of land within Wallowa County - said petition must be accompanied by the appropriate fee.

SECTION 8.020, AMENDMENT REQUEST CONTENT: Requests for major and minor amendments shall be filed with the Planning Department. Requests shall include the following information:

01. Party initiating the amendment.
02. In the case of an amendment to the land use plan or text of this ordinance, the portions

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that are to be deleted, if any, and the proposed replacement or addition.

03. In the case of an amendment to the land use plan map or zoning map, the request should identify the areas to be directly affected by the current map classification or zone.
04. Statements demonstrating compliance with the applicable review criteria of section 8.025.

SECTION 8.025, REVIEW CRITERIA: Requests for amendments shall be reviewed for conformance to the applicable criteria:

01. Major amendments shall meet the following:
 - A. The proposed amendment is in conformance with statewide planning goals and guidelines and other applicable state laws.
 - B. The proposed amendment is in conformance with all other elements of the land use plan and land use plan map.
 - C. The proposed amendment is in the public interest and serves the purpose and intent of the local planning process.

[...]

SECTION 8.030, NOTICE OF HEARING:

01. Notice of public hearing before the Planning Commission for the purpose of considering an amendment brought forth under this article shall be published in a newspaper of general circulation for three consecutive weeks prior to the hearing date.
02. The notice of public hearing shall be designed to reasonably inform the public of the nature and intent of the proposal and shall, at a minimum, contain the following information:
 - A. Date, time, and place of the hearing.
 - B. Party initiating the amendment.

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- C. General description of the proposed amendment and notification to the public of the hours and place where the amendment can be reviewed in its entirety.
03. If the proposed amendment is determined by the Planning Director to affect a limited area of the County, mailed notice of the hearing shall be provided to all owners of property directly affected by the amendment and to all owners of property lying within:
- A. One hundred (100) feet of the exterior boundary of the subject property where the subject property is wholly or in part within an urban growth boundary;
 - B. Two hundred and fifty (250) feet of the exterior boundary of the subject property where the subject property is outside an urban growth boundary and not within a farm or forest zone;
 - C. Five hundred (500) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.

[See Staff Comment above]

In addition, mailed notice of the hearing shall be given to all parties the Director may have reason to believe are substantially affected by the proposed amendment. Mailed notice of hearing shall be provided no less than 15 days prior to the hearing date.

SECTION 8.035, AMENDMENT REVIEW PROCESS:

- 01. Amendment proposals brought forth under this article shall be conducted in the manner prescribed in the conduct of hearings ordinance unless supplemented by rules adopted prior to the commencement of the evidentiary portion of the hearing.
- 02. At least two public hearings shall be held on a major amendment unless it is deemed by the Planning Director that a joint meeting by the Planning Commission and the County Court is sufficient.
- 03. The Planning Commission shall hear and review the proposal for compliance with the applicable review criteria. The Planning Commission shall adopt findings of fact demonstrating the proposals compliance or non-compliance with each review criterion. The Planning Commission shall place the findings, conclusions, and recommendations in

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writing and forward the same to the County Court.

04. Following receipt of the Planning Commission's recommendation, the County Court shall, within 90 days, hold a second public hearing. Based upon testimony taken at the second hearing together with the Planning Commission's recommendation and testimony from the first hearing, the Court shall adopt findings demonstrating the proposal's compliance or non-compliance with the applicable review criteria. The decision shall be set forth in writing and shall specify findings and conclusions of the Court.
05. The County Court may, at its own discretion, hold both of the required hearings.

Conclusions: To be developed at hearing.

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Exhibit B: Proposed changes to Article 29, with strikeout and replaced text**ARTICLE 29****AIRPORT PROTECTION ZONE**

SECTION 29.010, PURPOSE: In order to carry out the provisions of this protection zone, there is hereby created an overlay zone which includes all of the land lying beneath the airport imaginary surfaces. This protection zone is intended to encourage and support the continued operation and vitality of public use airports with non-precision instrument approaches by preventing the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls deemed essential to reduce potential safety hazards in order to protect the health, safety, and welfare of the people of Wallowa County.

SECTION 29.015, COMPLIANCE: In addition to complying with the provisions of the underlying zones, uses and activities shall comply with the provisions of this protection zone. In the event of any conflict between any provisions of this protection zone and the underlying zones, the more restrictive provision shall apply. This Article shall apply to all County lands beneath the imaginary surfaces and impact areas generated by a public airport. Private airports shall conform to applicable State and federal regulations.

SECTION 29.020, SPECIAL DEFINITIONS:

01. **AIRPORT PROTECTION ZONE:** An overlay zone whose boundaries include all lands lying beneath a public airport's imaginary surfaces. See Table 1 for limitations and restrictions on allowed uses in the Airport Protection Zone.
02. **AIRPORT ELEVATION:** The highest point of an airport's useable runway, measured in feet above mean sea level.
03. **AIRPORT NOISE IMPACT BOUNDARY:** Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Dnl.
04. **AIRPORT OBSTRUCTION:** Any structure, tree, plant, or use of land which exceeds height limits established by the airport imaginary surfaces.
05. **AIRPORT SPONSOR:** The owner, manager, or other person or entity designated to represent the interests of an airport.
06. **AIRPORT IMAGINARY SURFACES:** Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface. The dimensions of the imaginary surfaces are based on a non-precision instrument approach utility

runway.

Approach Surface: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

- A. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 2000 ft.
- B. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.
- C. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5000 feet.

Primary Surface: A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 ft.

Runway Protection Zone (RPZ): An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet. [NOTE: the outer width of the RPZ is specified by airport type in OAR 660, Division 13, Exhibit 4]

Transitional Surface: Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of

seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

- 07. **PLACE OF PUBLIC ASSEMBLY:** A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.
- 08. **UTILITY RUNWAY:** A runway that is constructed and intended to be used by aircraft of 12,500 pounds maximum gross weight or less.

29.022 NOTICE OF LAND USE AND PERMIT APPLICATIONS: Except as otherwise provided herein, written notice of applications for permitted land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within the imaginary surfaces of this protection zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of permitted land use or limited land use applications.

- 01. Notice of land use shall be provided for by the relevant level of review as specified by Section 29.025.
- 02. In addition to the notice provided for above, notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 5,000 feet of the sides or ends of a runway.

SECTION 29.024, AVIGATION EASEMENT

Within the imaginary surfaces of the protection zone, the owners of properties that are the

subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

SECTION 29.025, USES NOT ALLOWED, PERMITTED USES, AND CONDITIONAL USES WITHIN THE AIRPORT APPROACH SAFETY ZONE:

Applications for land use or building permits for properties within the boundaries of this protection zone shall comply with the requirements of this chapter as provided herein.

01. To meet the standards and reporting requirements established in FAA regulations, Part 77, no structure shall penetrate into the airport imaginary surfaces as defined above under Section 29.025.
02. **Conflicts.** Whenever there is a conflict in height limitations prescribed by this protection zone and the underlying zone, the lowest height limitation fixed shall govern; however, the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
03. **Noise.** Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 DnI, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 DnI. [NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]
04. **Outdoor lighting.** No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect

light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

05. **Glare.** No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.
06. **Industrial emissions.** No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.
07. **Communications Facilities and Electrical Interference.** No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this protection zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radiocommunication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.
08. **Limitations and Restrictions on Allowed Uses in the Runway Protection Zone (RPZ), Approach Surface, and Airport Direct and Secondary Impact Areas:** The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this section, a limited use means a use that is allowed subject to special standards specific to that use.

Table 1: Limitations and Restrictions on Allowed Uses (see Figure 1 for an illustration of zone and surface configurations)

	RPZ ¹	Approach Surface	Direct Impact Area	Secondary Impact Area
Public Airport	L ²	L ⁹	P	P

	RPZ¹	Approach Surface	Direct Impact Area	Secondary Impact Area
Residential	N	L ¹⁰	L ¹⁴	P
Commercial	N	L ⁹	L ¹⁵	P
Industrial	N	L ⁹	P	P
Institutional	N	L ⁹	L ¹⁵	P
Farm Use	P ³	P ³	P ³	P ³
Roads/Parking	L ⁴	P	P	P
Utilities	L ⁵	L ⁵	L ⁵	L ⁵
Parks/Open Space	L ⁶	P	P	P
Golf Courses	L ⁷	L ^{7 9}	L ⁷	L ⁷
Athletic Fields	N	L ⁹	L ¹⁴	P
Sanitary Landfills	N	N	N	N
Water Treatment Plants	N	N ¹²	N ¹⁶	N ¹⁶
Mining	N	L ¹¹	L ¹¹	L ¹¹
Water Impoundments	N	N ¹²	N ¹⁶	N ¹⁶
Wetland Mitigation	N	L ¹³	L ¹³	L ¹³

P = Use is Permitted

L = Use is Allowed Under Limited Circumstances (See Footnotes)

N = Use is Not Allowed

Table 1 Footnotes:

1. No structures shall be allowed within the Runway Protection Zone. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Farming practices that minimize wildlife attractants are encouraged.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, powerlines and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the airport sponsor and the Department of Aviation.
6. Public assembly facilities are prohibited within the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife

attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this Chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.

8. Within 10,000 feet from the end of the primary surface of a nonprecision instrument runway, and within 50,000 feet from the end of the primary surface of a precision instrument runway.
9. Public assembly may be allowed in an approach surface only if the potential danger to public safety is minimal. In determining whether a proposed use is appropriate, consideration shall be given to: proximity to the RPZ; density of people per acre; frequency of use; level of activity at the airport; and other factors relevant to public safety. In general, high density uses should not be permitted within airport approach surfaces, and nonresidential structures should be located outside approach surfaces unless no practicable alternatives exist.
10. Residential densities within approach surfaces should not exceed the following densities: (1) within 500 feet of the outer edge of the RPZ, 1 unit/acre; (2) within 500 to 1,500 feet of the outer edge of the RPZ, 2 units/acre; (3) within 1,500 to 3,000 feet of the outer edge of the RPZ, 4 units/acre.
11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this Chapter regulating water impoundments.
12. Water impoundments are prohibited within 5,000 feet from the edge or end of a runway.
13. Wetland mitigation required for projects located within an approach surface or airport direct or secondary impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the airport sponsor, the Department of Aviation, the FAA, and wetland permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces. See Section .090 for best management practices for airports located near significant wetlands or wildlife habitat areas.
14. Within the transition surface, residential uses and athletic fields are not permitted.
~~(Removed via AMD#08-02 on 10/06/2008)~~
15. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals, and dormitories, are not permitted.
16. See Section .035 prohibiting or regulating water impoundments within 5,000 and 10,000 feet of the end or edge of a runway.

Figure 1. Planning Template for Public Use Airport with Only Visual Approaches

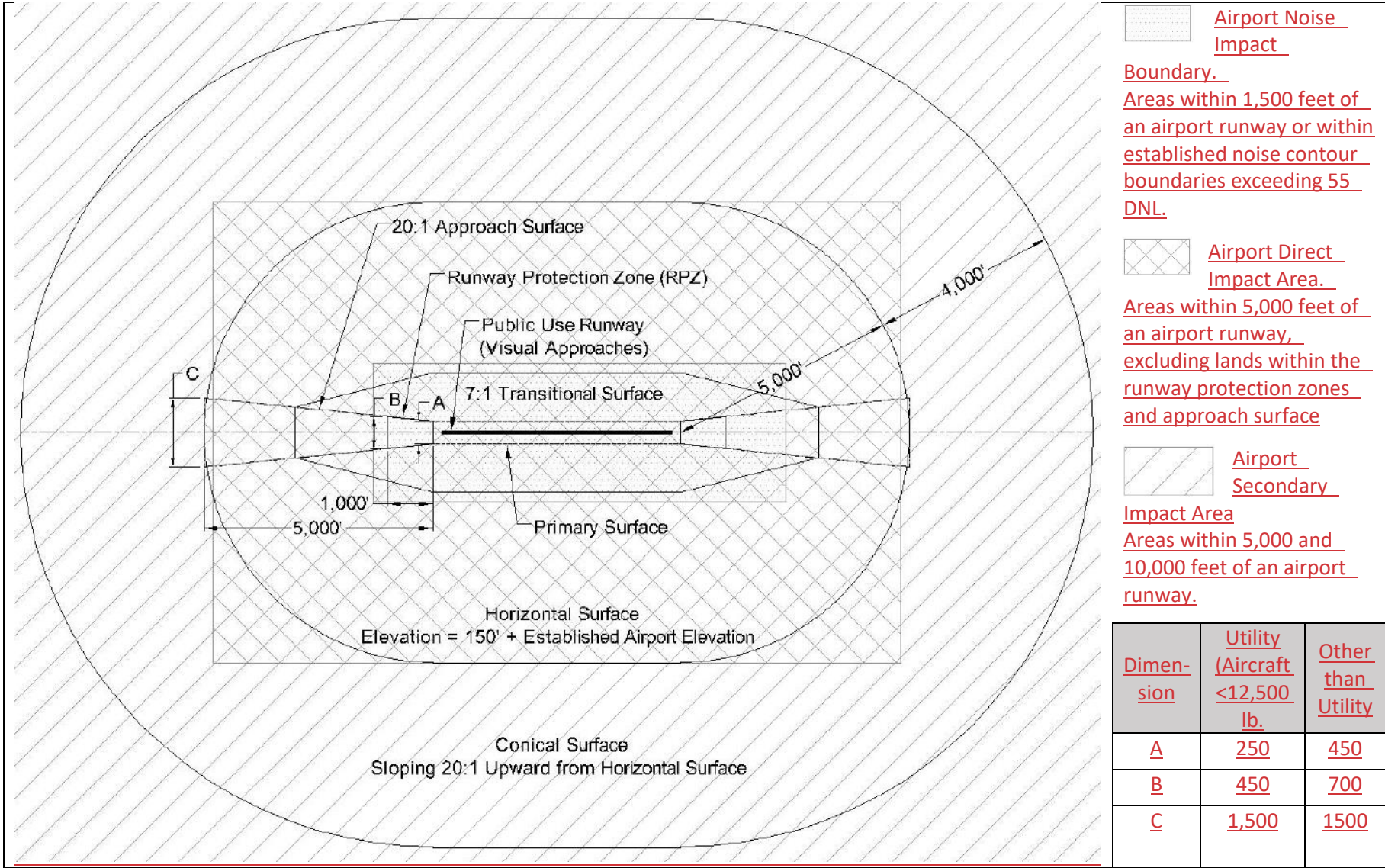


Figure 1. Planning Template for Public Use Airport with Only Visual Approaches

SECTION 29.026, LEVEL OF REVIEW: As determined in Table 1 of Section 29.025, Permitted Uses will be subject to Administrative Review and Limited Uses will be considered as Conditional Uses and will be subject to Public Hearing Review.

SECTION 29.028, HEIGHT LIMITATIONS ON ALLOWED USES: All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this protection zone, the underlying zone height limitations shall control.

01. Except as provided in subsections 02 and 03 of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.
02. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the review authority may authorize structures up to 35 feet in height.
03. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

SECTION 29.030, PROCEDURES: An applicant seeking a land use or limited land use approval in an area within this protection zone shall provide the following information in addition to any other information required in the permit application:

01. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The Planning Department shall provide the applicant with appropriate base maps upon which to locate the property.
02. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.
03. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation and the FAA.

SECTION 29.035, WATER IMPOUNDMENTS

01. No new or expanded water impoundments of one-quarter acre in size or larger are permitted within 5,000 feet from the end or edge of a runway.
02. The establishment of a new water impoundment one-quarter acre in size or larger within 5,000 to 10,000 feet from the edge or end of a runway may be permitted only upon determination that such water impoundment, with reasonable and practicable mitigation measures, is not likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces. [NOTE: FAA Part 77 discourages water impoundments within 50,000 feet of a runway within an approach surface.]
 - A. **Process.** An application for approval of a new water impoundment shall be considered utilizing the review process applied to applications for conditional use permits. In addition to the parties required by law to be mailed written notice of the public hearing on the application, written notice of the hearing shall be mailed to the airport sponsor, the Department of Aviation, the FAA, and the FAA's technical representative.
 1. Prior to filing its application, the applicant shall coordinate with the airport sponsor, the Department of Aviation, the FAA, and FAA's technical representative regarding the proposed water impoundment, its short and long term potential to significantly increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces, and proposed mitigation.
 - a) For water impoundments individually or cumulatively exceeding five (5) acres in size on the subject property, the applicant shall prepare a draft bird strike study as provided in subsection .2 of this section. The airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative shall have 45 days to review the study draft. Their comments shall be included and addressed in a final bird strike study.
 - b) For water impoundments that do not individually or cumulatively exceed five (5) acres in size on the subject property, the bird strike study requirements in subsection 2 of this section may be reduced or waived upon agreement by the airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative if the applicant can demonstrate, to the satisfaction of the airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative that the proposed water impoundment, with appropriate short and long term mitigation, will not result in a

significant increase in hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces. As used herein, "appropriate mitigation" means small scale measures of proven reliability that can be applied in perpetuity and that the applicant has the financial resources to support.

2. An application shall not be deemed complete for land use review purposes until the applicant has filed with the Director the final bird strike study addressing comments from the airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative. When no bird strike study is required, the application shall not be deemed complete until the applicant has filed with the Director correspondence or other proof demonstrating agreement among the airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative that no bird strike study is required.

B. **Bird Strike Study.** A bird strike study required under this section shall contain at least the following information:

1. A description of the proposed project, its location in relation to the airport, and the bird strike study area, which shall include at least the project site, the airport property, all lands within 10,000 feet from the end or edge of the airport runway, and other surrounding habitat areas which form the local bird ecosystem.
2. A description of bird feeding, watering and roosting habitats in the bird strike study area, including discussion of feeding behavior and food sources and identification of loafing, watering, roosting and nesting area locations.
3. A description of existing and planned airport operations and air traffic patterns and any available history of bird strike incidents.
4. Wildlife surveys and documentation of existing bird species, populations, activities and flight patterns in the bird strike study area. The surveys shall address bird species and their composition; bird population estimates and densities per unit area; feeding behavior; food sources; seasonal use patterns; frequency of occurrence; location of loafing, roosting and nesting areas; and analysis of the relation of bird flight movements to airport traffic patterns and navigational safety. The airport sponsor shall provide approach and departure air space information up to five statutory miles from the airport.
5. An evaluation of the anticipated effects of the proposal on the population density, behavior patterns, movements and species composition of birds

within the bird strike study area and of the impact of these effects on air navigation and safety considering possible mitigation.

6. Identification and evaluation of proposed and alternative short and long term mitigation measures that would prevent a significant increase in hazardous movements of birds feeding, watering or roosting in areas across runways and approach surfaces that otherwise might result from the proposed use. The evaluation shall discuss the proven reliability of proposed measures, their effectiveness over both the short and long term, their costs, and the applicant's financial ability to assure their perpetual implementation, i.e. ongoing implementation for as long as a potential bird strike hazard persists.
7. Such other information as is recommended by the FAA's technical representative or is required to demonstrate compliance with the requirements of subsection .3 of this section.

C. **Required Findings.** The determination whether a proposed new water impoundment, with reasonable and practicable mitigation measures, is likely to significantly increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces shall be based upon the proposal's potential, both in the short term and in the long term, to significantly increase bird strike hazards to air navigation, and the appropriateness, effectiveness and affordability of proposed mitigation measures or other conditions needed to reduce bird strike hazards. In determining compliance with this standard, the findings shall address each of the following factors:

1. The demonstrated overall effectiveness and reliability of proposed measures and conditions, in both the short and long term and under similar circumstances and conditions, to avoid a significant increase in bird strike hazards to air navigation. Experimental measures or measures not based on accepted technology and industry practices shall be considered ineffective, inappropriate and of unproven reliability.
2. The economic, social and environmental impacts of proposed measures to the neighboring community and the affected natural environment.
3. The applicant's ability to pay for necessary short and long-term mitigation measures, including fallback measures that may be required if initially proposed mitigation measures prove ineffective, and to assure the perpetual implementation of those measures for as long as a potential bird strike hazard persists. An applicant's failure to demonstrate its financial ability to assure the perpetual implementation of necessary and appropriate

measures shall render those measures unreasonable and impracticable for purposes of the application.

4. The applicant's ability to accurately monitor the effectiveness of mitigation over time.
5. The potential impacts to navigational safety and air travel if the applicant cannot perform necessary mitigation measures or maintain those measures in perpetuity, or if those measures prove to be ineffective at avoiding a significant increase in bird strike hazards to air navigation.
6. The applicant's reclamation plan.

D. Mitigation Measures and Approval Conditions. A decision approving an application shall require, as conditions of approval, all measures and conditions deemed appropriate and necessary to prevent in perpetuity a significant increase in hazardous movements of birds feeding, watering or roosting in areas across runways and approach surfaces.

1. Only customary measures based on accepted technology and industry practice may be considered and imposed as approval conditions.
2. Serious consideration shall be given to all measures and conditions recommended by the Department of Aviation and the FAA and FAA's technical representative. Generally, such measures and conditions shall be attached to a decision approving an application unless findings are adopted, supported by substantial evidence, demonstrating why such measures and conditions are not necessary to reduce bird hazard impacts resulting from the water impoundment to an insignificant level.
3. A decision to approve shall require from the applicant a performance bond or other form of secure financial support. Such bond or security shall be in an amount sufficient to assure perpetual implementation of appropriate and necessary mitigation measures for as long as a potential bird strike hazard persists.
4. A decision to approve shall require appropriate monitoring of the effectiveness of mitigation over time. Upon request, monitoring data and reports shall be made available to the airport sponsor, the Department of Aviation, and the FAA and FAA's technical representative. The decision shall allow for modifications to approval conditions should existing mitigation measures prove ineffective at preventing a significant increase in hazardous movements of birds feeding, watering or roosting in areas across runways and approach surfaces. Modifications to approval conditions shall be

considered utilizing the review process applied to applications for conditional use permits.

E. **Exemptions.** The requirements of this section shall not apply to:

1. Storm water management basins established by an airport identified under ORS 836.610.
2. Seaplane landing areas within airports identified under ORS 836.610

SECTION 29.040, WETLANDS MITIGATION

01. Notwithstanding the requirements of Section 29.040, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Section 29.040 shall be allowed upon demonstration of compliance with this requirements of this Section.
02. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Section 29.040 are recognized as lawfully existing uses.
03. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and areas regulated under Section 29.040 is encouraged.
04. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within areas regulated under Section 29.040 shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:
 - A. It is not practicable to provide off-site mitigation; or
 - B. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.
05. Wetland mitigation permitted under subsection 04 of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.
06. Applications to create, enhance or restore wetlands that are proposed to be located

within approach surfaces or within areas regulated under Section 29.040, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

- A. The affected wetlands provide unique ecological functions, for threatened or endangered species or ground water discharge; and
 - B. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
07. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Division of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.
08. A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

SECTION 29.045, NONCONFORMING USES

01. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this protection zone.
02. Notwithstanding subsection 1. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.
03. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this protection zone.



WALLOWA COUNTY
Planning Department
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STAFF REPORT

ARTICLE 1 – INTRODUCTORY PROVISIONS - AMD#23-02

- Petitioner:** Wallowa County Planning Director at the direction of the Planning Commission
- Request:** To amend the text of Wallowa County Land Development Ordinance Article 1, Introductory Provisions, a Major Amendment.
- Contents:** This staff report/request file is organized the following way:
 Staff Comment
 Applicable Criteria for the review of the proposal/major amendment
 Exhibit A: Current Article 1, Introductory Provisions (NOT IN PACKET)
 Exhibit B: Proposed changes to Article 1, with strikeout and replaced
 Exhibit C: Final proposed Article 1 (NOT IN PACKET)

Staff Comment:

The Wallowa County Planning Commission (PC) requested that the Planning Director (PD) submit this proposal to amend Article 1, Introductory Provisions, by updating the definition of Bed and Breakfast (B&B), Section 1.065.021 and Bunkhouse, Section 01.065.25. B&Bs are a conditional use in all zones allowing Home Based Occupations (HBOs) and are intended as a secondary means of augmenting the income of the homeowner or occupant. Currently, the definition of B&B allows the use of accessory structures as sleeping areas for guests and does not specify that the operator must reside in the residence, leading to concerns that B&B's can become de facto short-term rentals (STRs) or motels that do not meet commercial building code. Motels and STRs are limited to specific commercial or recreational zones, whereas HBOs are allowed in most zones. Clarifying that B&Bs are limited to a residence, and within that residence the operator shall reside, prevents misuse or misapplication of the code.

The PC's objective in amending the definition of Bunkhouse is due to concerns that Bunkhouses, which are defined as "normally a small, rough, simple building meant to provide temporary sleeping quarters. Bunkhouses do not have kitchens and meals are normally taken elsewhere, as in a mess hall. Bunkhouses are accessory non-residential buildings normally provided in conjunction with resource use, but they may be used for recreational overnight lodging...", are potentially being approved and used for full-time residences where a residence

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is not allowed. As well, the PC is concerned that bunkhouses, as accessory structures, not residential structures, may be jeopardize the safety of the guests if used for a B&B or STR. Limiting the size of the Bunkhouse and specifying that bunkhouses cannot be used as an STR or B&B can remedy concerns. This also aligns the Bunkhouse definition with that of an “Accessory Structure” (1.065.004) in that: “ the **accessory structure will not be used as a residence or rental unit.**”

As this amendment, if implemented, may involve more than 10 acres, it is proposed as a major amendment. As such, the proposal must be heard before a minimum of two public hearings, one which must be before the Board of Commissioners (BOC). Normally, the PC will hold the first hearing and make a recommendation to the BOC. The recommendation to the BOC may be to:

- 1) approve the amendment as presented;
- 2) approve the amendment with suggested edits and alterations; or
- 3) deny the amendment.

The BOC then holds the final hearing(s) and makes the final decision to adopt, adopt with edits, or to not adopt the amendment.

Review Criteria:

- Article 5, Public Hearing Review;
- Article 8, Amendments;
- And other applicable zoning ordinances or goals of Wallowa County and or laws of the State of Oregon.

Reference:

- Article 1, Introductory Provisions

ARTICLE 5, PUBLIC HEARING

SECTION 5.010, PURPOSE: The Public Hearing Review procedures set forth in this article are designed to provide the means of reviewing applications for uses and developments which may have a significant impact on neighboring uses and developments; amendments to the land use plan; zoning map or implementing ordinances; the health, safety, or welfare of the citizens; or on the provision of public services; therefore, they require review in an open and public forum.

SECTION 5.025, NOTICE OF PUBLIC HEARING:

[See section 8.030]

SECTION 5.040, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES:

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01. The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to ensure the use or development complies with the applicable standards and criteria.

ARTICLE 8, AMENDMENTS

SECTION 8.010, PURPOSE: The purpose of this article is to provide for change in needs, desires, and rate of development in Wallowa County. Revisions to the land use plan, to the text of this ordinance, to the land use plan map, and to the zoning map affecting areas more than ten acres in size will be regarded as major amendments to be processed as a legislative action. Small tract zone changes on areas less than ten acres in size adjacent to the proposed zone will be regarded as minor amendments to be processed as Quasi-Judicial actions.

SECTION 8.015, AUTHORIZATION TO INITIATE AMENDMENTS: Amendments may be initiated in one of the following ways:

01. By resolution of the County Court referring a proposed amendment to the commission.
02. By action of the Planning Commission.
03. By request of the Planning Director, said request relating to actions deemed necessary to bring the zoning map or land use plan map into compliance with state law.
04. By petition from a resident or residents of Wallowa County and/or owners of land within Wallowa County - said petition must be accompanied by the appropriate fee.

SECTION 8.020, AMENDMENT REQUEST CONTENT: Requests for major and minor amendments shall be filed with the Planning Department. Requests shall include the following information:

01. Party initiating the amendment.
02. In the case of an amendment to the land use plan or text of this ordinance, the portions that are to be deleted, if any, and the proposed replacement or addition.
03. In the case of an amendment to the land use plan map or zoning map, the request should identify the areas to be directly affected by the current map classification or zone.
04. Statements demonstrating compliance with the applicable review criteria of section 8.025.

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SECTION 8.025, REVIEW CRITERIA: Requests for amendments shall be reviewed for conformance to the applicable criteria:

01. Major amendments shall meet the following:
 - A. The proposed amendment is in conformance with statewide planning goals and guidelines and other applicable state laws.
 - B. The proposed amendment is in conformance with all other elements of the land use plan and land use plan map.
 - C. The proposed amendment is in the public interest and serves the purpose and intent of the local planning process.

[...]

SECTION 8.030, NOTICE OF HEARING:

01. Notice of public hearing before the Planning Commission for the purpose of considering an amendment brought forth under this article shall be published in a newspaper of general circulation for three consecutive weeks prior to the hearing date.
02. The notice of public hearing shall be designed to reasonably inform the public of the nature and intent of the proposal and shall, at a minimum, contain the following information:
 - A. Date, time, and place of the hearing.
 - B. Party initiating the amendment.
 - C. General description of the proposed amendment and notification to the public of the hours and place where the amendment can be reviewed in its entirety.
03. If the proposed amendment is determined by the Planning Director to affect a limited area of the County, mailed notice of the hearing shall be provided to all owners of property directly affected by the amendment and to all owners of property lying within:
 - A. One hundred (100) feet of the exterior boundary of the subject property where the subject property is wholly or in part within an urban growth boundary;
 - B. Two hundred and fifty (250) feet of the exterior boundary of the subject

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property where the subject property is outside an urban growth boundary and not within a farm or forest zone;

- C. Five hundred (500) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.

[See Staff Comment above]

In addition, mailed notice of the hearing shall be given to all parties the Director may have reason to believe are substantially affected by the proposed amendment. Mailed notice of hearing shall be provided no less than 15 days prior to the hearing date.

SECTION 8.035, AMENDMENT REVIEW PROCESS:

01. Amendment proposals brought forth under this article shall be conducted in the manner prescribed in the conduct of hearings ordinance unless supplemented by rules adopted prior to the commencement of the evidentiary portion of the hearing.
02. At least two public hearings shall be held on a major amendment unless it is deemed by the Planning Director that a joint meeting by the Planning Commission and the County Court is sufficient.
03. The Planning Commission shall hear and review the proposal for compliance with the applicable review criteria. The Planning Commission shall adopt findings of fact demonstrating the proposals compliance or non-compliance with each review criterion. The Planning Commission shall place the findings, conclusions, and recommendations in writing and forward the same to the County Court.
04. Following receipt of the Planning Commission's recommendation, the County Court shall, within 90 days, hold a second public hearing. Based upon testimony taken at the second hearing together with the Planning Commission's recommendation and testimony from the first hearing, the Court shall adopt findings demonstrating the proposal's compliance or non-compliance with the applicable review criteria. The decision shall be set forth in writing and shall specify findings and conclusions of the Court.
05. The County Court may, at its own discretion, hold both of the required hearings.

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Conclusions: To be developed at hearing.

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Exhibit B: Proposed changes to Article 1, with strikeout and replaced text**PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS****Article 1** **INTRODUCTORY PROVISIONS**

SECTION 1.010, TITLE: This ordinance shall be known as the Wallowa County Land Development Ordinance of 1995.

SECTION 1.015, PURPOSE: The purpose of this ordinance is to implement the Wallowa County Land Use Plan through a comprehensive system of land use, land division, and land improvement regulations designed to conserve and protect the land, air, and water resources of the county and to promote the health, safety, and welfare of its citizens. In addition to the general objectives, the Comprehensive Land Use Regulation Program set forth in this ordinance seeks to assure patterns of land use and development that are consistent with the adequate provision of public services and which minimize threats to life and property from natural hazards such as floods. It is the intent of this ordinance to balance the rights of the property owner and the needs of the citizens by insuring the constitutional guarantees of "due process" and "equal protection".

SECTION 1.020, SCOPE AND COMPLIANCE:

01. The provisions of this ordinance set forth standards and criteria regulating the use, division, and improvement of all lands within the un-incorporated area of the County of Wallowa in the state of Oregon. In addition to complying with the provisions of this ordinance; all land use, land division, or land improvement must comply with all other local, state, or federal laws. With regard to federally controlled lands, the county seeks the highest possible degree of intergovernmental coordination and compliance with the management of these public lands consistent with the Wallowa County Comprehensive Land Use Plan.
02. No person shall engage nor cause to occur a use or development which does not comply with the regulations contained in this ordinance. Building, Local, or State Officials shall not issue a permit for the use or the construction, reconstruction, or alteration of a structure or part of a structure for which an approval, as required by this ordinance, has not been obtained.
03. A use or development shall be approved only by the Planning Director, Planning Commission, Wallowa County Board of Commissioners, or other designated review authority and only in accordance with the provisions of this ordinance. The Planning Director shall not issue a permit or approve other uses of land which has been divided or otherwise developed in violation of this ordinance, regardless of whether or not the applicant created the violation, unless the violation can be rectified as part of the development review process.

PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS

SECTION 1.025, COMPLIANCE WITH THE LAND USE PLAN: Actions initiated under this ordinance shall be consistent with the Wallowa County Comprehensive Land Use Plan.

SECTION 1.030, ORDINANCE ADMINISTRATION AND INTERPRETATION: The Wallowa County Planning Director is responsible for the administration of this ordinance. The provisions of this ordinance are held to be the minimum requirements for fulfilling its objectives. Where conditions imposed by any provision of this ordinance are less restrictive than comparable provisions of this ordinance or any other ordinance, regulation, or law; the more restrictive provision will prevail.

SECTION 1.035, EFFECT OF ORDINANCE ON PENDING APPLICATIONS:

01. This ordinance applies to land use, land division, and land improvement proposals which have not been submitted to the Planning Department prior to the effective date of this ordinance. The Wallowa County Zoning Ordinance of 1977, the Wallowa County Subdivision Ordinance of 1977, and the Wallowa County Land Development Ordinance of 1987 apply to all zoning and land division applications submitted to the Planning Department prior to the effective date of this ordinance.
02. Applications submitted under the provision of the ordinances to be repealed which are subsequently denied or for which approval or preliminary approval has expired shall be submitted and reviewed pursuant to the provisions of this ordinance upon re-application.
03. The provisions of this ordinance apply to remedial actions taken on violations of previous land use ordinances and regulations which are hereby repealed.

SECTION 1.040, FEES AND PENALTIES:

01. No person shall commence a use or development, file an instrument dividing a parcel of land, or undertake other land improvements or developments which are regulated by this ordinance without first obtaining a valid permit or authorization to do so from the Planning Department.
02. An application filed under the provisions of this ordinance shall not be accepted by the Planning Department unless accompanied by the full filing fee as set forth in the fee ordinance.
03. Any person who violates the provisions of this ordinance by: failing to obtain the valid permit or authorization prior to commencing a use or development, filing an instrument dividing a parcel of land, or undertaking other land improvements which are regulated by this ordinance shall - in addition to other remedies provided by law and this ordinance - be assessed a permit filing fee of three times the amount set forth in the fee ordinance.

PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS

SECTION 1.045, SEVERABILITY: The provisions of this ordinance are severable. If any section, subsection, paragraph, clause, or phrase of this ordinance is found to be invalid by a court of competent jurisdiction; that decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 1.050, REPEAL:

01. The enactment of this ordinance hereby repeals the following ordinances and all amendments to these ordinances:

**WALLOWA COUNTY ZONING ORDINANCE OF 1977
WALLOWA COUNTY SUBDIVISION ORDINANCE OF 1977
WALLOWA COUNTY LAND DEVELOPMENT ORDINANCE OF 1987**

02. The repeal, expressed or implied, of any ordinance by the enactment of this ordinance does not release or extinguish any duty, condition, penalty, forfeiture, or liability incurred under such repealed ordinance unless a provision of this ordinance expressly provides such a release; and the ordinance repealed is deemed to remain in force for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability and for authorizing the prosecution, conviction, and punishment of the person or persons violating the provisions of the repealed ordinance.

SECTION 1.055, EFFECTIVE DATE:

01. This ordinance, and all maps adopted herewith, shall become effective at such time as they are properly filed with the Wallowa County Clerk.
02. Amendments to the text of this ordinance and to any map adopted herewith shall become effective at such time as they are properly filed with the Wallowa County Clerk unless the order of enactment specifies a later effective date.

SECTION 1.060, CONSTRUCTION OF ORDINANCE:

01. **CONSTRUCTION** - When used in this ordinance, the words: shall, will, must, and is to are always mandatory and not discretionary. The words: should and may are permissive. The present tense includes the past and future tenses. The future tense includes the present. The singular number includes the plural and the plural includes the singular.
02. **NUMBER OF DAYS** - Whenever a certain number of days is specified in this ordinance, or in any permit issued, condition of approval, or in any notice given as set forth in this

PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS

ordinance; the number of days shall mean consecutive calendar days unless specifically identified as meaning business days.

03. **ROUNDING OF QUANTITIES** - Whenever the ordinance requires consideration of distances, number of dwelling units, parking spaces, or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers, such numbers are to be rounded to the next highest whole number when the fraction is 0.5 or more and to the next lowest whole number when the fraction is less than 0.5 provided that quantities expressed as area of land are to be rounded only in the case of square footage and shall not be rounded in the case of acreage.
04. **GENDER** - As used in the ordinance, the masculine shall include the feminine and the feminine shall include the masculine.

SECTION 1.065, DEFINITIONS: For the purpose of this ordinance and as used in this ordinance, the following words and phrases are so defined:

001. **ABUTTING** - Adjoining with a common lot or parcel line (exception - where two or more lots or parcels adjoin only at a corner or corners, they shall not be considered as abutting unless the common lot or parcel line between the two lots or parcels measures eight or more feet in a single direction).
002. **ACCEPTED FARMING PRACTICE** - A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. As applied to composting operations on high-value farmland, "accepted farming practice" includes composting operations that either 1) compost only materials produced on the subject tract, or 2) compost materials brought from off-site and processed alone or in conjunction with materials generated on the subject tract, and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract.
003. **ACCESS** - The place, means, or way by which pedestrians or vehicles shall have ingress and egress to a property or use.
004. **ACCESSORY STRUCTURE OR USE** - A structure or use that is incidental, consistent with, and subordinate to the primary structure or use on the same unit of land. On EFU or Forest land, an accessory structure is—a detached structure, the use of which is customarily incidental to that of the primary structure or the primary use of the land and which is located on the same lot or parcel as the primary structure or use, and that the accessory structure will not be used as a residence or rental unit.
005. **ADJACENT** - Near or close by; may be contiguous, abutting, adjoining; or separated by a

PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS

roadway, alley, or natural separation. (Same as abutting.)

006. **ADVERSELY AFFECTED** - A party's use and enjoyment will be negatively impacted by a land use decision due to identified consequences from the proposed use or development. Examples of adverse effects may include noise, odors, increased traffic, or potential flooding.
007. **AGRICULTURAL BUILDING** - Any structure that is considered to be an "agricultural building" as defined in ORS 455.315 on a lot or parcel that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner 1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and 2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.
008. **AGRICULTURE/FARMING/FARM USE** - The current employment of land; including that portion of such lands under buildings, supporting accepted farming practices for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale or produce of: livestock, poultry, fur-bearing animals, honeybees, or dairying and sale of dairy products, stabling or training of equines, or any other agricultural or horticultural use or farm use, animal husbandry, or combination thereof. "Farm use" including the preparation and storage of the agricultural products grown on and/or off site for primary or secondary marketing. It does not include the use of land subject to the provisions of ORS Chapter 321 or the construction and use of dwellings customarily provided in conjunction with farm use. It does include:
- A. Land subject to the Food Security Act of 1985 as amended by the Food Agriculture Conservation & Trade Act of 1990 (CRP).
 - B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry.
 - C. Land planted in orchards or other perennial prior to maturity.
009. **AGRI-TOURISM** - A common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hayrides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.

PROPOSED CHANGES HIGHLIGHTED FOR ARTICLE 1, INTRODUCTORY PROVISIONS

- 010. **AIRPORT** - The strip of land used for taking off and landing aircraft, together with adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- 011. **AIRPORT OVERLAY ZONE** - An area in which special land use regulations are established to ensure the safety of an airport operation.
- 012. **ALTER/ALTERATION** - A change, addition, or modification in either construction or use of a building, structure, or land use.
- 013. **AMENDMENT** - A change in the text or maps of this ordinance, resolutions, or related regulations pertaining to land use including: the Comprehensive Land Use Plan, Goals and Policies, and the Zoning Articles.
- 014. **ANCHORING DEVICE** - A device utilized to anchor a float or dock consisting of not less than six cubic feet of concrete reinforced with rebar or a maximum of two devices equaling six cubic feet of concrete reinforced with rebar.
- 015. **APPEAL** - A request that a decision by the staff, Planning Commission, and/or County Board of Commissioners be reviewed by a higher authority.
- 016. **APPLICANT** - The property owner (or contract-purchaser, attorney, or representative holding a valid signed approval by the owner) requesting approval of a proposed land use action by a review authority.
- 017. **APPROVED R-V HOOKUP** - An approved R-V Hookup is a wastewater collection hookup which has been approved under the Plumbing Code of the Uniform Building Code.
- 018. **ASSESSOR** - The County Assessor of Wallowa County.
- 019. **ASSOCIATED TRANSMISSION LINES** - Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- 020. **AUXILIARY** - As used in Article 16 and 27, means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- 021. **BED AND BREAKFAST** – (B&B) An accessory use within a single-family dwelling or ~~accessory structure appropriate for the zone on the same parcel. Accessory structures~~

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~~may be, but not limited to, a second dwelling, a portion of a barn, or a bunkhouse. Accessory structures must be approved as living quarters. Up to five bedrooms may be available for rent. Rooms are rented for less than 30 days. The B&B's manager must have bestaff on-site in the house overnight while guests are present. Breakfast is required; however, breakfast is defined by the owner/operator. Other meals are optional. B&Bs must meet the criteria of Articles 33, Signs, 34, Parking, and 25, Flood, Wildfire and Natural Hazards. Incidental use (5% of days the B&B is available for rent) may involve Other Overnight Accommodations.~~

B&Bs are Home Based Occupations (HBO) and are allowed in all zones which allow HBOs. Requires a Conditional Use Permit (CUP) and Public Hearing Review. Also, must meet the criteria of applicable Oregon Administrative Rules (OARs). HBO rules apply (Article 35), however, Unincorporated Communities may have their own rules regarding the level of review which will take precedent. B&Bs must pay Transient Lodging Tax.

- 022. **BOND** - Any form of security including: cash deposit, security bond, collateral, property, or credit instrument submitted to guarantee performance by a developer, builder, or land owner.
- 023. **BOOM** - A series of logs fastened end to end and anchored to the lake bottom and/or docks in such a manner as to provide a barrier to boat traffic.
- 024. **BUILDING** - Any structure used or intended for supporting or sheltering any use or occupancy.
- 025. **BUNKHOUSE** - normally a small, rough, simple building meant to provide temporary sleeping quarters. Bunkhouses do not have kitchens and meals are normally taken elsewhere, as in a mess hall. Bunkhouses are accessory non-residential buildings normally provided in conjunction with resource use, but they may be used for recreational overnight lodging. Bunkhouses requested for non-resource use will be subject to Administrative Review and are limited to a maximum of 500 square feet. As Bunkhouses are non-residential buildings, they cannot be used as a short-term rental, a Bed and Breakfast, or as a long-term residential rental (>30 days). Bunkhouses are not exempt, regardless of size, from requirements outlined in Article 25.
- 026. **CAMPGROUND(S), Also OTHER OVERNIGHT ACCOMMODATIONS – (OOA)** An area devoted to overnight temporary use for vacation, recreation, or emergency purposes but not for residential purposes. A camp site may be occupied by, but not limited to, a tent, platform tent, teepee, travel trailer, or recreational vehicle. Spaces may be occupied for less than 30 days.

OOAs are not HBOs. OOAs and Campgrounds must be an accessory use to the principal

Commented [JJ1]: Suggested additional limitation

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use of the parcel and are allowed in all zones which allow Campgrounds. Also, must meet the criteria of applicable Oregon Administrative Rules (OARs). Campground rules apply, however, Unincorporated Communities may have their own rules regarding the level of review which will take precedence. Must abide by Transient Lodging Tax Code where applicable.

027. **CHURCH** - Building and premises used for the conduct of regular religious services which may include a Sunday School and a residence for the pastor - but does not include academic schools operated by a church.
028. **COMMERCIAL** - Any activity or use involving the exchange of products or services for compensation in the course of business. "In the course of business" means the use or activity must involve repeated transactions, but does not include the isolated exchange of products or services for compensation. It is not necessary for a commercial use or activity to be conducted for profit in order to be commercial. In addition, compensation may include a trade for goods or services or the receipt of donations.
029. **COMMERCIAL ACTIVITIES IN CONJUNCTION WITH FARM USE** - The processing, packaging, treatment, wholesale distribution, and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies, and services directly related to the production and harvesting of agricultural products. Such uses include the following:
- A. Storage, distribution, and sale of: feed, fertilizer, seed chemicals, and other products used for commercial/ agricultural uses.
 - B. Farm product receiving plants including: processing, packaging, and reshipment facilities excluding canneries.
 - C. Livestock feed or sales yards.
 - D. Storage, repair, or sale of: fencing, irrigation pipe, pumps, and other commercial farm-related equipment and implements.
 - E. Farm equipment storage and repair facilities.
 - F. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers.
 - G. Veterinarian clinic.
 - H. Horticultural specialties, such as: nurseries or greenhouses for retail sales of plants and products.

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- I. Slaughtering of animals including attendant, retail, and wholesale sales which may be conducted outside an enclosed building.
 - J. Wineries which may include retail sales.
 - K. Other such uses which may be construed as similar to the uses listed above.
030. **COMMERCIAL DAIRY FARM** - A commercial dairy farm is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Article 15 from the sale of fluid milk.
031. **COMMERCIAL POWER GENERATING FACILITY** - A facility for the production of energy and its related or supporting facilities that:
- A. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow "Farm Use" and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;
 - B. Is intended to provide energy for sale; and
032. **COMMERCIAL TREE SPECIES** - Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.
033. **COMMISSION** - The Wallowa County Planning Commission.
034. **COMMUNITY BUILDING** - A facility owned and operated by a governmental agency or a non-profit community organization when the primary purpose of the facility is for education, recreation, social welfare, community improvements, or public assembly.
035. **COMMUNITY SEWAGE SYSTEM** - An on-site sewage system which serves more than one lot or parcel or more than one condominium unit or more than one unit of a planned unit development and is approved by the Oregon State Department of Environmental Quality as a community system.
036. **COMPREHENSIVE PLAN** - The Plan adopted by the County Board of Commissioners for the guidance of growth and development of the County which is prepared and adopted in conformance with ORS Chapter 92, ORS Chapter 197, and ORS Chapter 215.

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- 037. **CONDITIONAL USE** - A use which requires review and either approval, approval with conditions, or disapproval by a review authority.
- 038. **CONTIGUOUS** - Connected in such a manner as to form a single block of land.
- 039. **COUNTY** - The County of Wallowa in the State of Oregon.
- 040. **COUNTY BOARD OF COMMISSIONERS** - The County Board of Commissioners of the County of Wallowa in the State of Oregon.
- 041. **COUNTY ROAD** - A road and appurtenances which have been accepted by the County Board of Commissioners by dedication, deed, or grant of right-of-way.
- 042. **CREST** - The highest points forming the moraine closest to the surface of Wallowa lake.
- 043. **CRITERIA** - A general rule upon which a finding, judgment, or decision can be based.
- 044. **CUBIC FOOT PER ACRE** - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
- 045. **CUBIC FOOT PER TRACT PER YEAR** - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
- 046. **DATE OF CREATION AND EXISTANCE** - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- 047. **DATE OF FILING** - The date an application is deemed to be complete.
- 048. **DE NOVO** - A hearing by the appeal authority as if the action had not been previously heard including: the admission of new testimony and as if no decision had been rendered - except that all testimony, evidence, and other materials from the record of the previous consideration shall be included in the record of the review. A new hearing which takes into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.
- 049. **DEPARTMENT** - Wallowa County Planning Department.

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- 050. **DESTINATION RESORT** - A self-contained development providing visitor oriented accommodations and developed recreational facilities in a setting with high natural amenities.
- 051. **DOCK** - A floating structure attached to the shore which is used for the purpose of boat tie-up or water related recreation containing a waterside area occupied and/or by vessels.
- 052. **DWELLING** - One or more rooms containing one kitchen and occupied by one family. A dwelling shall not be used as a rental for vacation or resort occupancy unless approved under other provisions of this ordinance. It may be referred to as a residence. A modular home is considered a dwelling under the terms of this ordinance.
- 053. **DWELLING: MULTI-FAMILY** - A building or portion thereof designed for occupancy by two or more families living independently of each other.
- 054. **DWELLING: SINGLE-FAMILY** - A residential structure containing one family.
- 055. **EASEMENT** - A grant of the right to use the property of another for a specific purpose - may be either appurtenant or in gross.
- 056. **EAST SIDE** - That area beginning at the publicly owned dock facility at the North end of Wallowa Lake and extending along the Eastern shore remaining no more than 200 feet from the high water mark terminating at the river inlet on the South end of Wallowa Lake.
- 057. **EMPLOYEE** - All persons working for another for wages or salary.
- 058. **FARMWORKER HOUSING** - Housing limited to occupancy by farmworkers and their immediate families, no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.
- 059. **FARM OPERATOR** - A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- 060. **FARM OR RANCH OPERATION** - All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.
- 061. **FARM STAND OR STRUCTURE** - A structure that is designed and used for the sale of farm crops and livestock as provided in Article 15. A food stand is considered to be a farm stand structure.
- 062. **FARM USE** - The current employment of land including that portion of such lands under buildings and supporting accepted farming practices for the primary purpose of obtaining

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a profit in money by: raising, harvesting, and selling crops. Or, by feeding, breeding, management, and/or sale or produce of: livestock, poultry, fur-bearing animals, honeybees, dairying and the sale of dairy products, and/or stabling or training of equines. Or, by any other agricultural, horticultural, or farm use, animal husbandry, or combination thereof. "Farm use" including the preparation and storage of the agricultural products grown on and/or off-site for primary or secondary marketing. It does not include the use of land subject to the provisions of ORS Chapter 321 or the construction and use of dwellings customarily provided in conjunction with farm use. It does include:

- A. Land subject to the Food Security Act of 1985 as amended by the Food Agriculture Conservation & Trade Act of 1990 (CRP).
 - B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry.
 - C. Land planted in orchards or other perennial prior to maturity.
063. **FEE-BASED ACTIVITY TO PROMOTE THE SALE OF FARM CROPS OR LIVESTOCK** - As applied to farm stands, an agri-tourism activity as defined herein that is directly related to the sale of farm crops or livestock sold at the farm stand, and that meets the standards of Article 15.015.32.
064. **FINAL PLAT** - A map and/or other writings prepared in conformance with an approved tentative plan for a subdivision, partition, re-plat, or property line adjustment which is filed with the Planning Department to be determined final and must be filed with the County Clerk prior to filing deeds which divide land or adjust property lines.
065. **FINDINGS** - As required in ORS 215.416(8), written statements of fact, conclusions, and determinations based upon the evidence at hand presented relative to the criteria and standards for such review and accepted by the review authority in support of a decision.
066. **FLOAT** - A floating structure anchored off-shore which is used for boat tie-up, water related recreation, or any type of structure used as a pedestrian platform over water, such as: boarding float, boat slip, marina, or floating walkway.
067. **FOREST LANDS** - as defined in Goal 4, are those lands acknowledged as forest lands, or, in the case of a plan amendment. Forest lands shall include:
- A. Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
 - B. Other forested land that maintain soil, air, water, and fish and wildlife resources.

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068. **FOREST OPERATION** - Any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).
069. **FOREST USE** - AForest use@ shall mean: all land used for the purpose of raising and harvesting timber and forest products and shall include land used for grazing livestock, maintaining watersheds, fish and wildlife habitat, recreational activities, and other open space uses or combinations thereof.
070. **FUEL BREAK** - An area of non-combustible materials or slow burning plants or the absence of vegetation around a structure.
071. **GOLF COURSE** - An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of this ordinance means a nine- or 18-hole regulation golf course or a combination nine- and 18-hole regulation golf course consistent with the following:
- A. A regulation 18-hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
 - B. A regulation nine-hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
 - C. Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
072. **HIGH-VALUE FARMLAND** - Land in a tract composed predominantly of soils that are:
- A. Irrigated and classified prime, unique, Class I, or Class II.
 - B. Not irrigated and classified prime, unique, Class I, or Class II.
 - C. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 1993. "Specified perennials" means perennials grown for market or research purposes

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including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa.

The soil class, soil rating, or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement of agreement from the Soil Conservation Service that the soil class, soil rating, or other soil designation should be adjusted based on new information. Soil classes, soil ratings, or other soil designations used in or made pursuant to this definition are those of the Soil Conservation Service in its most recent publication for that class, rating, or designation before November 4, 1993.

- 073. **HOME BASED OCCUPATION** - A limited business activity that is accessory to a residential use. Home occupations are conducted primarily within a residence or a building normally associated with uses permitted in the zone in which the property is located and are operated by a resident or employee of a resident of the property on which the business is located.

- 074. **IMPROVED LOT** - A legally created lot which has been provided with either community water service or sanitary sewer service or both.

- 075. **INDUSTRY** - The on-site production of goods and products which may include: retail, wholesale, or service businesses. Industrial uses include: manufacturing, producing, processing, assembling, packaging, warehousing, shipping and receiving of goods and materials, bulk storage of fuels and related materials, and similar uses. Industrial uses are typically highly developed enterprises of a commercial nature which require a large land area. Uses defined as "Industrial" are usually inappropriate in residential or urban growth zones or recreational areas due to: aesthetics, largess, and high-level development. Home-based occupations and other small-scale operations are specifically excluded from types of industries allowed in this zone - except as provided in Article 22, Industrial, Section 22.015(11).

- 076. **IRRIGATED** - Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider.

- 077. **KITCHEN** - Any space within a building designed to be used for cooking and preparing food - may contain a sink (excluding bar sinks), range, stove, or microwave. The following criteria will be considered by the Planning Director in determining whether a space is designed as a kitchen: if the size and location of counters and cabinets will facilitate food storage, preparation, and cooking; if the number, size, and location of electrical outlets exceed those normally used for activities not associated with a kitchen; if the area is plumbed for a sink; and if the area is separated from the main living space so as to form

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a room which is not suitable for a bathroom.

078. **LAWFULLY CREATED LOT OR PARCEL** - A lawfully created lot or parcel shall be defined as a separate unit of land created by one of the following:
- A. A parcel of land in a recorded subdivision and legally created under the law in force at the time.
 - B. A parcel created by a land partitioning as defined in ORS 92.010.
 - C. By deed or land sales contract if there were no applicable planning, zoning, or partitioning ordinances, codes, or regulations.
 - D. Does not include a unit of land created solely to establish a separate tax account.
079. **LIVING HISTORY MUSEUM** - A facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.
080. **LOT** - A unit of land that is created by a subdivision of land.
081. **MAJOR PARTITION** - A partition which includes the creation of a road or street.
082. **MANUFACTURED HOME** - Any mobile or manufactured home. It must have a H.U.D. label or State of Oregon insignia of compliance. Mobile Homes older than 1969 models will not be allowed unless brought up to H.U.D. current standards.
083. **MAP** - A final diagram, drawing, or other writing concerning a partition.
084. **MEDICAL HARDSHIP** - A temporary circumstance caused by serious illness or infirmity, authorized by a licensed medical practitioner (Medical Doctor, Physician Assistant or Nurse Practitioner).
085. **MINING, AGGREGATE** - This use includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery

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operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

086. **MOBILE HOME** - A vehicle or structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; is intended for human occupancy; and is being used for residential purposes.
087. **MOBILE HOME PARK** - A place where four or more mobile homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership. The primary purpose is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.
088. **MODULAR HOME** - Modular Homes must comply with design standards of Article 18, Recreation Residential, Section 18.030
089. **NET METERING POWER FACILITY** - A facility for the production of energy that:
- A. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;
 - B. Is intended to offset part of the customer-generator's requirements for energy;
 - C. Will operate in parallel with a utility's existing transmission and distribution facilities;
 - D. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;
090. **NON-COMMERCIAL/STAND ALONE POWER GENERATING FACILITY** - A facility for the production of energy that:
- A. Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;

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- B. Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to; and
 - C. Operates as a standalone power generator not connected to a utility grid.
091. **NON-CONFORMING STRUCTURE OR USE** - A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective and not conforming to the requirements of the zone in which it is located.
092. **NRCS WEB SOIL SURVEY** - Official source of certified soils data available online that identifies agricultural land capability classes, developed and maintained by the Natural Resources Conservation Service as of January 1, 2016, for agricultural soils that are not high-value, and as of December 6, 2007, for high-value agricultural soils.
093. **OPEN PLAY FIELD** - A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.
094. **OPPONENT** - The individual or group opposing the applicant's request, or the applicant's attorney, or the applicant's qualified representative.
095. **ORS** - Oregon Revised Statutes.
096. **OUTDOOR MASS GATHERING** - A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 500 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).
097. **OVERNIGHT LODGING, OTHER OVERNITE ACCOMMODATIONS** – See campgrounds.
098. **OWNER** - An individual, firm, association, syndicate, partnership, or corporation having any proprietary interest in land for which an application for a land use or land division under these regulations and other applicable laws has been filed.
099. **PARCEL** - A unit of land that is created by a partitioning of land.
100. **PARKING SPACE** - A delineated area for the temporary storage of motor vehicles.

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101. **PARTITION** - Either an act of partitioning land or an area or tract of land partitioned under the provisions of this ordinance.
102. **PARTITION LAND** - To divide land into two or three parcels of land within a calendar year, but does not include:
- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for sale of real property, or the creation of cemetery lots.
 - B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land - reduced in size by the adjustment - complies with any applicable zoning regulations.
 - C. The division of land resulting from the recording of a subdivision or condominium plat.
 - D. A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213(2)(q) through (s) and 215.283(2) (p) through (r). However, any property divided by the sale or grant of property for state highway, county road, city street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further partitioned.
103. **PARTITION PLAT** - A final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition, replat, or property line adjustment.
104. **PARTY** - A person or organization who meets the following criteria:
- A. Participates in the hearing or review either orally or in writing.
 - B. And, either:
 - 1. Was entitled to notice of the application prior to the hearing or review; or
 - 2. Would be adversely affected (as previously defined) by a final action of the review authority or hearing body.
105. **PERFORMANCE AGREEMENT** - A performance bond executed by a security company duly

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licensed to do business in the state of Oregon in an amount equal to 110 percent of the estimated full cost of the work to be done as determined by the County Board of Commissioners and conditioned upon faithful performance thereof.

- 106. **PERSON** - An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity and includes any trustee, receiver, assignee, or similar representative.
- 107. **PERSONAL-USE AIRPORT** - An airstrip restricted - except for aircraft emergencies - to use by the owner; and on an infrequent and occasional basis, by invited guests; and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.
- 108. **PLANNING COMMISSION** - The Wallowa County Planning Commission.
- 109. **PLANNING DIRECTOR** - The Wallowa County Planning Director.
- 110. **PLAT** - A final map, diagram, drawing, replat, or other writing containing all descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision as specified by this ordinance.
- 111. **PLOT PLAN** - A drawing prepared to scale showing accurately and with dimensions all of the uses proposed for a development on a lot or parcel. The plot plan shall meet the requirements of this ordinance.
- 112. **PREPERATION** - As it applies to the definition of "Farm use" in ORS 215.203, preparation includes but is not limited to the cleaning, treatment, sorting or packaging of farm products or by-products.
- 113. **PRIMARY PROCESSING OF FOREST PRODUCTS** - The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.
- 114. **PRINCIPALLY ENGAGED IN FARM USE** - As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full-time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one resident of a household need meet the "principally engaged" test, or the test may be met collectively by more than one household member.

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- 115. **PRIVATE PARK** - Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- 116. **PRIVATE ROAD** - The entire right-of-way for vehicular and pedestrian traffic which does not provide for continuous and unrestricted rights of the public to travel across.
- 117. **PROCESSED** - As it applies to farm stands, processed crops and livestock means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption.
- 118. **PROPERTY LINE** - The division line between two units of land.
- 119. **PROPERTY LINE ADJUSTMENT** - The relocation of a common property line between two abutting properties where an additional unit of land is not created and where the existing unit of land reduced in size complies with the zoning requirements for lot size.
- 120. **PUBLIC PARK** - A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, park district, or other public entity or non-profit and that may be designated as a public park in the applicable comprehensive plan and zoning ordinance.
- 121. **PUBLIC ROAD** - A road over which the public has a right of use as a matter of public record.
- 122. **QUASI-JUDICIAL ACTION** - Under Oregon Land Use Law, an action involving application of adopted policies to specific land use or division proposals requiring findings of fact and conclusions to substantiate approval or disapproval.
- 123. **QUORUM** - A majority of the members of a hearing body appointed by the County Board of Commissioners - the lowest number required to be present at a meeting.
- 124. **RELATIVE** - A child, parent, stepparent, grandchild, grandparent, step grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.
- 125. **RESIDENTIAL CARE FACILITY** - A residential care, residential training, or residential

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treatment facility licensed by or under the Oregon Department of Human Resources for 6 to 15 individuals who need not be related. Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the facility.

126. **RESIDENTIAL CARE HOME** - A residential care, residential training, or residential treatment facility licensed by or under the Oregon Department of Human Resources for five or fewer individuals who need not be related. Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the facility.
127. **RESIDENTIAL USE** - A structure or use for occupancy as a human dwelling, such as: duplexes; apartments; boarding, lodging, or rooming houses; mobile/manufactured homes and mobile/ manufactured home parks; trailer houses and trailer house parks; and labor camps.
128. **RIGHT-OF-WAY** - The area between the boundary lines of an alley, easement, street, road, or highway.
129. **RIPARIAN AREA** - The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
130. **RIPARIAN MANAGEMENT CORRIDOR BOUNDARY** - An imaginary line which is a certain distance upland from the top of bank. For Wallowa County, this distance is specified in Article 28, Section 28.020(01).
131. **RIPARIAN MANAGEMENT CORRIDOR** - A Goal V & VI resource including the water, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. The riparian corridor is the Goal V & VI review area, but the review area also includes any wetlands identified by Division of State Lands or Wallowa County Natural Resources Technical Advisory Committee which extend beyond the corridor boundary.
132. **ROAD OR STREET** - The portion or portions of the right-of-way of a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land - excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes. Such road or street shall meet the requirements set forth in this ordinance.
133. **SALE OR SELL** - For the sale of real estate - every disposition or transfer of land legally divided or an interest or an estate.

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134. **SCENIC INTEGRITY** - Indicates the degree of intactness and wholeness of the Landscape Character; conversely, scenic integrity can also be a measure of the degree of visible disruption of the Landscape Character. A landscape with very minimal visual disruption is considered to have high scenic integrity. Those landscapes having increasingly discordant relationships among scenic attributes are viewed as having diminished Scenic Integrity. Scenic integrity is expressed and mapped in terms of Very High (Preservation), High (Retention), Moderate (Partial Retention), Low (Modification), Very Low (Maximum Modification) and Unacceptably Low. (See Aesthetics Sec 2 pp. 1-7 and Appendix 5-9 for full definitions of terms and preservation categories.)

135. **SETBACK** - A specified distance for the placement of a structure from, including but not limited to: a road, a right-of-way or easement, property lines, other structures, septic system, well, river or other waterway, or natural/man-made resource.

Roads, driveways, fences, signs and landscaping are exempt from setbacks.

136. **SHORT-TERM RENTAL – (STR)** Available in the R-2, R-3, and RCR zones. An STR is the use of a single-family dwelling by a short-term renter. STRs are not HBOs. No meals are required and no staff are required to be present on site. Must have a local property manager and a 24 hour emergency phone line with a maximum response time of 20 minutes.

STRs require a Zone Permit via Administrative Review and the number of guests and parking arrangements are permit specific. Additional rules specified in the zones apply. STRs must pay the Transient Lodging Tax and must meet the criteria of Articles 34, Signs and 25, Flood, Wildfire and Natural Hazards.

137. **SHORT-TERM RENTER** - Any person who exercises occupancy or is entitled to occupancy of premises by reason of a charge or fee paid or other consideration for a period of less than 30 calendar days - counting portions of days as full days.

138. **SIGN** - An identification, description, illustration, or device which is affixed to or represented - directly or indirectly - upon a building, structure, or land which directs attention to a product, place, activity, person, institution, or business. Each display surface of a sign shall be considered a sign.

139. **SKYLINE** - The line where the landform of the moraine meets the sky, as viewed from the sensitive view areas denoted on Map G5-2.

140. **SPECIFIED PERENNIALS** - Perennials grown for market or research purposes including, but not limited to: nursery stock, berries, fruits, nuts, Christmas trees, or vineyards - but not

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including: seed crops, hay, pasture, or alfalfa.

141. **STANDING** - Participation, either in person or in writing, during an open hearing process at the local level.
142. **STATEMENT OF UNDERSTANDING** - A document describing the rights and responsibilities of the applicant in the review of an application.
143. **STREAM** - A channel such as a river or creek that carries flowing surface water, including perennial streams, intermittent channels, and manmade irrigation and drainage channels.
144. **STREET** - The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic. It includes the terms: road, highway, lane, place, avenue, alley, or other similar designations.
145. **STREET CLASSIFICATIONS** - Streets - including public ways designated as roads, highways, lanes, places, circles, avenues, or other similar designations are classified as follows:
 - A. **Arterial** - A street designated as an arterial on the Comprehensive Land Use Plan or an element thereof which is used or is intended to be used as part of the principal network of through traffic within the county.
 - B. **Collector Street or County Feed Road** - A street designated as a collector street or county feeder road on the Comprehensive Land Use Plan or an element thereof which is used or is intended to be used principally for the movement of traffic between major arterial and local streets and roads within the County
 - C. **Local Street** - A street which is used or intended to be used for providing the primary access to abutting lots within a subdivision or partition.
 - D. **Cul-De-Sac** - A minor street having only one outlet for vehicular traffic with a turn-around at the opposite end which is not intended to be extended or continued to serve future subdivision or development on adjacent lands.
 - E. **Frontage Road** - A street which is parallel to and adjacent to a major arterial, limited access highway, or freeway; and provides access to abutting properties while relieving them of the effects or through traffic on the adjacent lands.
 - F. **Stubbed Street** - A street having only one outlet for vehicular traffic and is intended to be extended or continued to serve future subdivisions or development on adjacent lands.

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- G. **Half Street** - A street having only a portion of its width provided in one subdivision with the remainder of its width to be provided through the subdivision of adjacent property.
146. **STRUCTURE** - Any constructed or erected object which requires permanent location on the ground or is attached to something located permanently on the ground. Structures include but are not limited to buildings, decks, signs, towers, cranes, flagpoles, antennas, smokestacks, roads, trails, retaining walls, and overhead transmission lines. A structure, or what it is attached to, is firmly connected to the ground and may be on a foundation, post and pole, or on skids.
147. **STRUCTURAL ALTERATION** - Any change to the supporting members of a building including: foundations, bearing walls or partition columns, beams, girders; any structural change in the roof; or any structural change in the exterior walls.
148. **SUBDIVIDE LAND** - To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership on January 1, 1977.
149. **SUBDIVIDER** - Any person, firm, corporation, partnership, or association which causes land to be divided into a subdivision as defined herein.
150. **SUBDIVISION** - An act of subdividing land or an area or tract of land subdivided as defined herein.
151. **TEMPORARY STRUCTURE OR USE** - A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.
152. **TENTATIVE PLAN** - A map and other writings submitted for review and approval for a subdivision, partition, replat, or property line adjustment.
153. **TOP OF BANK** - Shall have the same meaning as Abankfull stage@ defined in OAR 141-85-010(2), meaning the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage. This elevation is also understood to mean Anormal high water.@
154. **TRACT** - One or more contiguous lots or parcels in the same ownership.
155. **TRAVEL TRAILER** - A vehicle or similar portable device designed or constructed to permit

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human occupancy for living and sleeping purposes and licensed as a recreational vehicle by the Oregon Department of Motor Vehicles.

- 156. **TRAILER PARK** - A lot which is operated on a fee or other basis as a place for the parking or placement of two or more occupied mobile homes or trailer houses.
- 157. **UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE** - Unless otherwise specified in the applicable Article, any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers , sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.
- 158. **USE** - The purpose for which land or a structure is designed, arranged, or intended; and for which it is occupied or maintained.
- 159. **VARIANCE** - A grant of relief from the requirements of the this ordinance which permits construction in a manner that would otherwise be prohibited by the ordinance.
- 160. **VISUALLY SUBORDINATE** - The relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape in any season, as viewed from the primary viewing areas and moraines viewshed area denoted on Map G5-2 of the Wallowa County Comprehensive Land Use Plan, Appendix 5-8 (hereafter referred to as Map G5-2).
- 161. **WATER AREA** - The area between the top of banks of a lake, pond, river, perennial or fish bearing intermittent stream, excluding man-made ponds.
- 162. **WATER IMPOUNDMENT** - Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.
- 163. **WEST SIDE** - That area beginning at the publicly owned dock facility at the North end of Wallowa Lake and extending along the Western shore remaining no more than 200 feet from the high water mark terminating at the river inlet on the South end of Wallowa Lake.
- 164. **WETLAND** - A wetland is the area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in

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saturated soil conditions@ (OAR 660-023-0100) and which includes all or a portion of a wetland as defined during the Division of State Lands (DSL) Fill and Removal Permit process or as identified by the WCNRTAC, whichever includes the larger area.

- 165. **YARD** - An open space on a lot which is unobstructed from the ground upward.
- 166. **YARD: FRONT** - A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to a building.
- 167. **YARD: REAR** - A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to a building.
- 168. **YARD: SIDE** - A yard between front and rear yard measured horizontally and at right angles from the side lot line to a building.
- 169. **YURT** – As it applies to Article 15, 16, and 27, a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- 170. **ZONE** - Classification of land by purpose and use; specific areas where requirements of density, use, coverage, landscaping, and parking may be applied. May include an overlay zone which applies specific conditions to all uses allowed in a zone based on physical or other characteristics.