

**WALLOWA COUNTY PLANNING COMMISSION**  
**7:00 pm May 30, 2023**  
**Wallowa County Courthouse**  
**Agenda**

1. **Planning Commission Meeting Minutes** from April 25, 2023
2. **CUP#23-01 JONES** – Submitted by Justin and Lindsey Jones. The proposed is a request for a Home-based Occupation in the form of a Bed and Breakfast in the Exclusive Farm Use (EFU) zone. The property in question is described as Township 02 South, Range 44E, Section 16, and Tax Lot 500. It is more commonly known as 61256 Small Graffi Road, Enterprise, Oregon 97828 and consists of approximately 23.1 acres.
3. **AMD#23-02 ARTICLE 1 REVISE BED AND BREAKFAST** – 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. The Planning Commission was unable to agree on revisions to the Bed and Breakfast definition at the February 28, 2023 hearing. On May 3, 2023, the Board of Commissioners remanded the Bed and Breakfast definition for an additional public hearing to gather further public comment and give the Planning Commission another opportunity to develop a recommendation to update the definition.
4. **Other Business:**

**The next Planning Commission meeting is scheduled for June 27, 2023.**

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## Planning Commission Minutes April 25, 2023

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on April 25, 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)  
 Ramona Phillips  
 Kim Tippet  
 Chris Bullat  
 Gay Fregulia (via Zoom after minutes approval)

**STAFF:**

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

**OTHERS PRESENT:**

Justin Jones

**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 April 25, 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]

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

## Planning Commission Minutes April 25, 2023

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?

***[nothing voiced]***

- 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.

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### 1. February 25, 2023 Minutes

**CM Tippet** moves to approve the minutes of the February 25, 2023 Planning Commission meeting.

**CM Phillips** seconds the motion.

**[CM Phillips – Yes;**

**CM Thompson – Yes;**

**CM Tippet – Yes;**

**CM Bullat – Yes;**

**Motion Passes 4-0-0]**

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**Planning Commission Minutes**  
**April 25, 2023**

**2. JONES CUP#23-01**

**PD Goebel** presents the Staff Report.

**Applicant Jones** presents his application. Their goal is to convert the house from a long-term rental into a place where his mother can reside for extended periods and Bed and Breakfast when she is not in town.

**CM Bullat** notes that the homes are on the same well; however, the homes are on different parcels. The definition of Bed and Breakfast states, "An accessory use within a single family dwelling or accessory structure appropriate for the zone **on the same parcel**." He interprets the "on the same parcel" clause to apply to both a single-family dwelling and accessory structures; therefore, this proposal would not meet the definition.

**CM Phillips** ask why the applicant is removing the rental as a housing option for a renter.

**Applicant Jones** responds that they would like to have a place for his mother to stay for extended periods.

**CM Tippet** asks if someone will be staying in the Bed and Breakfast house while guests are present.

**Applicant Jones** responds that they were not planning to have someone in the Bed and Breakfast house, but their home is within 500 ft (less than a minute walking) distance.

**CM Tippet** notes that the Bed and Breakfast definition requires someone be "on-site" while guests are present. She interprets "on-site" to be in the same house.

**Applicant Jones** notes that it would be helpful for him to have a clear definition of "on-site" and "on the same parcel" vs. a tract. He also notes that when the house was rented out, he was able to keep a close eye on the property. He notes that the surveyor that made a map of his property used "parcel" vs. "tract" in the opposite manner.

**CM Bullat** reiterates that he interprets the "on the same parcel" clause to apply to both a single-family dwelling and accessory structures; therefore, this proposal would not meet the definition.

**PD Goebel** reads a letter of support into the record.

**GM Thompson** notes that this application also does not fit her interpretation of this Bed and Breakfast being an "accessory use" within a single-family dwelling. The proposal would make the Bed and Breakfast the primary use.

**Planning Commission Minutes**  
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**CM Tippet** would recommend having someone in the house while guests are present.

**Applicant Jones** notes that he would be ok with that being a condition of the permit as he could finish the daylight basement of the proposed Bed and Breakfast with a place for him or his wife to stay while guests are present. He also formally requests that the record remain open for the next seven days.

**CM Phillips** adds that having someone in the Bed and Breakfast seems like too much to require given that their residence is so close.

**CM Bullat** notes that even if someone stays in the proposed Bed and Breakfast overnight, that does not meet the requirement that the house function primarily as a residence.

**Applicant Jones** adds that it is a single-family dwelling that he owns.

**CM Thompson** believes that converting the basement would make the home into the applicant's secondary residence.

**CM Phillips** would rather the applicant's mother stay with the applicant than remove a rental opportunity from the county.

**Applicant Jones** counters that they have been providing and continue to provide affordable rental housing. This proposal is intended to provide his mother with a place to stay for extended periods where she can be close to the family, but also have a more independent living situation.

**PD Goebel** notes that the record remains open and asks if the Commissioners would like to suspend the conversation until the May meeting.

**CM Phillips** asks whether the absent Commissioners will be able to weigh in on the discussion and vote on the application next month or if it will be restricted to the present Commissioners here today.

**PD Goebel** responds that he will check with the county's legal counsel, but he believes that if an absent Commissioner listens to the recording and reads the record, they can vote next meeting.

**CM Fregulia** adds that her only concern is that the definition for Home-based Occupation says that the primary use must be as a residence. This application does not fit that definition.

## Planning Commission Minutes April 25, 2023

**PD Goebel** reads the definition of residential use from Article 1 and notes there is no definition for a residence.

**PD Goebel** notes that the record is open for seven days, closing at 5 pm on May 2, 2023. He will send out a message that any absent Planning Commissioner must review the record prior to the next meeting if they wish to vote on the application.

**Applicant Jones** requests a definition of residence as this seems critical to the decision-making process. In his view, he owns the residence as his secondary residence, and he would be in the residence when guests are present.

**CM Bullat** responds that the home proposed for the Bed and Breakfast would still not be someone's primary residence.

**Applicant Jones** reiterates that if others think differently, the condition of him or his wife being in the proposed Bed and Breakfasts while guests are present is a condition that they can comply with.

**CM Tippet** responds that the applicant's proposal would help with her decision-making.

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

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### 3. OTHER BUSINESS

- **PD Goebel** reminds the Planning Commissioners that the Board of Commissioners are considering AMD#23-01 and AMD#23-02 on May 3 at 10:00 am and 10:30 am in the Thorton Room of the County Courthouse if they would like to attend.

**CM Bullat** moves to adjourn the meeting.

**CM Tippet** seconds the motion.

[**CM Phillips** – Yes;  
**CM Thompson** – Yes;  
**CM Tippet** – Yes;  
**CM Bullat** – Yes;  
**CM Fregulia** – Yes;

**Motion Passes 5-0-0]**

**Meeting was adjourned at 8:52 PM**

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Jean Jancaitis

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Date

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

**STAFF REPORT**  
**CUP#23-01**  
**JONES HBO B&B**

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**APPLICANT:** Justin and Lindsey Jones  
61228 Small Graffi Road  
Enterprise, OR 97828

**OWNER:** Same

**REQUEST:** To permit a Home-Based Occupation in the form of a Bed and Breakfast, in an existing residence for a maximum of (4) people and (2) vehicles. The residence is not on High Value Farmland.

**LOCATION:** The property description is Township 02S, Range 44E, Section 16, Tax Lot 500, Ref#1229, Address: 61256 Small Graffi Road, Enterprise, OR 97828.

**PARCEL CHARACTERISTICS:** The parcel contains about 23.09 acres and there are a total of approximately 60 acres in the 3-parcel tract. The Zoning is Exclusive Farm Use (EFU) and access is from Black Marble Lane, a County road, and then Small Graffi Road, a Private Road. The parcel borders EFU on all sides. There is one farm dwelling on the parcel, and one farm dwelling on each of the other two parcels of the tract for a total of 3 legal residences on the tract.

**OTHER INFORMATION:**

Exhibits in this packet:  
Permit application with narrative, maps and floor plans.

**PREVIOUS PLANNING DEPARTMENT AND OTHER AGENCY ACTIONS:**  
LLA#15-04, 05, 06

**STAFF COMMENT:**  
This application is for a Home Based Occupation (HBO) in the form of a Bed and Breakfast (B&B). The landowners intend to use an existing residence as the B&B. The landowners currently live on a different parcel on the tract.

**REVIEW CRITERIA:**  
Article 1, General Provisions  
Article 5, Public Hearing Review  
Article 9, Conditional Use  
Article 15, Exclusive Farm Use

Article 35, Home Based Occupation

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 1, GENERAL PROVISIONS

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

*[...]*

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 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. B&Bs must have staff on site overnight. 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.*

#### 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.*

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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.*

**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 9, CONDITIONAL USE PERMIT**

**SECTION 9.020, REVIEW CRITERIA:** *After taking into account location, size, design, and the general nature of the proposed use; the hearing body must determine that the development will comply with all of the following criteria to approve a Conditional Use Permit.*

- 01. *The proposed use will be consistent with the purpose of [and is allowed conditionally in] the zone in which the use proposed.*
- 02. *The use will not create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.*
- 03. *The proposed use will not overburden the public services of water, sewer, storm drainage, electrical service, fire protection, and school.*
- 04. *The site is suitable to accommodate the proposed use, such as: topography, soils, and parcel size.*
- 05. *The proposed use will not interfere with uses permitted on adjacent parcels.*
- 06. *The application satisfies the pertinent criteria of Article 36, Salmon Habitat Restoration.*

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

**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.*

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*SECTION 15.020, BUILDINGS AND ACTIVITIES PERMITTED CONDITIONALLY: In the EFU Zone, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of Article 9 (Public Hearing Review).*

04. *Home-based occupations as provided Article 35, Home-Based Occupation. Home-based occupations may not be authorized in structures accessory to resource use. A home-based occupation located on high-value farmland may employ only residents of the home.*

#### **ARTICLE 35, HOME BASED OCCUPATION**

*SECTION 35.020, DEFINITION: Home-Based Occupation shall mean an activity carried on within a residence, within an accessory structure, or on the premise of a residence, which is intended to produce an income. The occupation must be accessory to the primary residential use and in compliance with the applicable requirements of this ordinance.*

01. *A Home-Based Occupation permit will not be required for:*
- A. *Storage of tools used to generate off-premise income.*
  - B. *Farm and forest uses.*
  - C. *Activities which have no material negative impacts including:*
    - 1. *The making of objects in the residence which are sold elsewhere, including but not limited to: arts and crafts, quilting, sewing, or toys, or*
    - 2. *A mail order business, including but not limited to: selling Avon (or other cosmetics), Fuller Brush, toys, or other items, or*
    - 3. *A service which is conducted within the residence, including but not limited to: computer programming, data entry, consulting, accounting, and bookkeeping, if*
      - a. *The business does not have any employees.*
      - b. *The business does not have a sign.*
      - c. *Customers do not come to the residence to conduct business.*
      - d. *The business does not produce noise, dust, odor, or other nuisance that is in excess of that which is usual and customary in the zone where the property is located.*

*SECTION 35.025, REVIEW CRITERIA: Applications for Home-Based Occupations shall be found to comply with the following criteria:*

01. *AREA: A Home-Based Occupation shall be restricted to no more than 25 percent of the gross square feet of the principal residence and 2,000 square feet of accessory buildings normally associated with uses permitted in the zone in which the property is located EXCEPT:*
- A. *Bed and Breakfasts are excluded from the square footage criteria.*
  - B. *Other uses that provide overnight accommodations in conjunction with a home-based occupation.*

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02. *PARTICIPATION/EMPLOYEES: A Home-Based Occupation shall employ, on site, no more than three full-time or part-time persons.*
03. *COMPATIBILITY OF ACTIVITY: The residence, accessory buildings, or any new structures or reconstruction approved for use by the Home-Based Occupation shall conform to the area and shall not be non-conforming in terms of color, materials, design, construction, lighting, landscaping or the lack of landscaping. Also, the proposed use shall not unreasonably interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.*
04. *TRAFFIC GENERATION: The permitted activity should not generate a greater volume of vehicular traffic than is usual and customary in the zone where the property is located.*
05. *NOISE: The permitted activity shall not generate any noise that is in excess of that which is usual and customary in the zone where this property is located.*
06. *EQUIPMENT/RESTRICTIONS: Any equipment used in the activity and processes shall not create vibrations, glare, fumes, odors, or electrical interference that is detectable to normal sensory perception at the property lines.*
07. *HAZARDS: Within a residence; no equipment, process, or materials shall be used which will change the fire-rating or structure separation, fire wall, or ventilation requirements of the building shall be permitted. Attached garages shall not be considered part of the residence for the purpose of this ordinance. Accessory buildings, attached garages, or new structures permitted with the use shall meet all structural and life safety requirements for the use and activity. No hazardous materials shall be stored or used on the premise in quantities greater than customary for residential use unless specified and approved at the time of application. No Home-Based Occupation shall be permitted which presents a potential health or safety hazard to the area from discharges into the air, water, or ground; from surface run-off; or from increased need for vector control.*
08. *STORAGE AND USE OF YARD: All storage of materials and equipment associated with the Home-Based Occupation shall be enclosed unless specified and approved at the time of the application.*
09. *SIGNS: Signs shall conform to the provisions of Article 34, Signs.*
10. *PARKING: Parking shall be off-street and conform to the provisions of Article 33, Parking, Section 33.015(03).*

NOTE: *The existence of Home-Based Occupations shall not be used as justification for a zone change [ORS 215.448(4)].*

#### **ARTICLE 36, SALMON HABITAT RECOVERY**

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

#### **STAFF SUGGESTED CONDITIONS OF APPROVAL:**

- CUP terminates with the transfer of the property.
- A Bed and Breakfast must provide a morning meal. The type of meal will be determined by the applicant.
- A Bed and Breakfast must have someone on-site, overnight, while guests are present to oversee the operation of the rental.

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- Because the parcel is in and bordered by the EFU zone, the applicant shall file a Conflict Acknowledgment Statement with the Wallowa County Clerk's office.
- Guest's dogs must be leashed and supervised at all times when outdoors.

**CONCLUSIONS:** To be developed at the hearing.

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☒ I HAVE REVIEWED REVIEW ARTICLE 35, HOME-BASED OCCUPATIONS:  
<https://co.wallowa.or.us/community-development/land-use-planning/ordinance-articles/>

☒ I AM APPLYING FOR A BED AND BREAKFAST

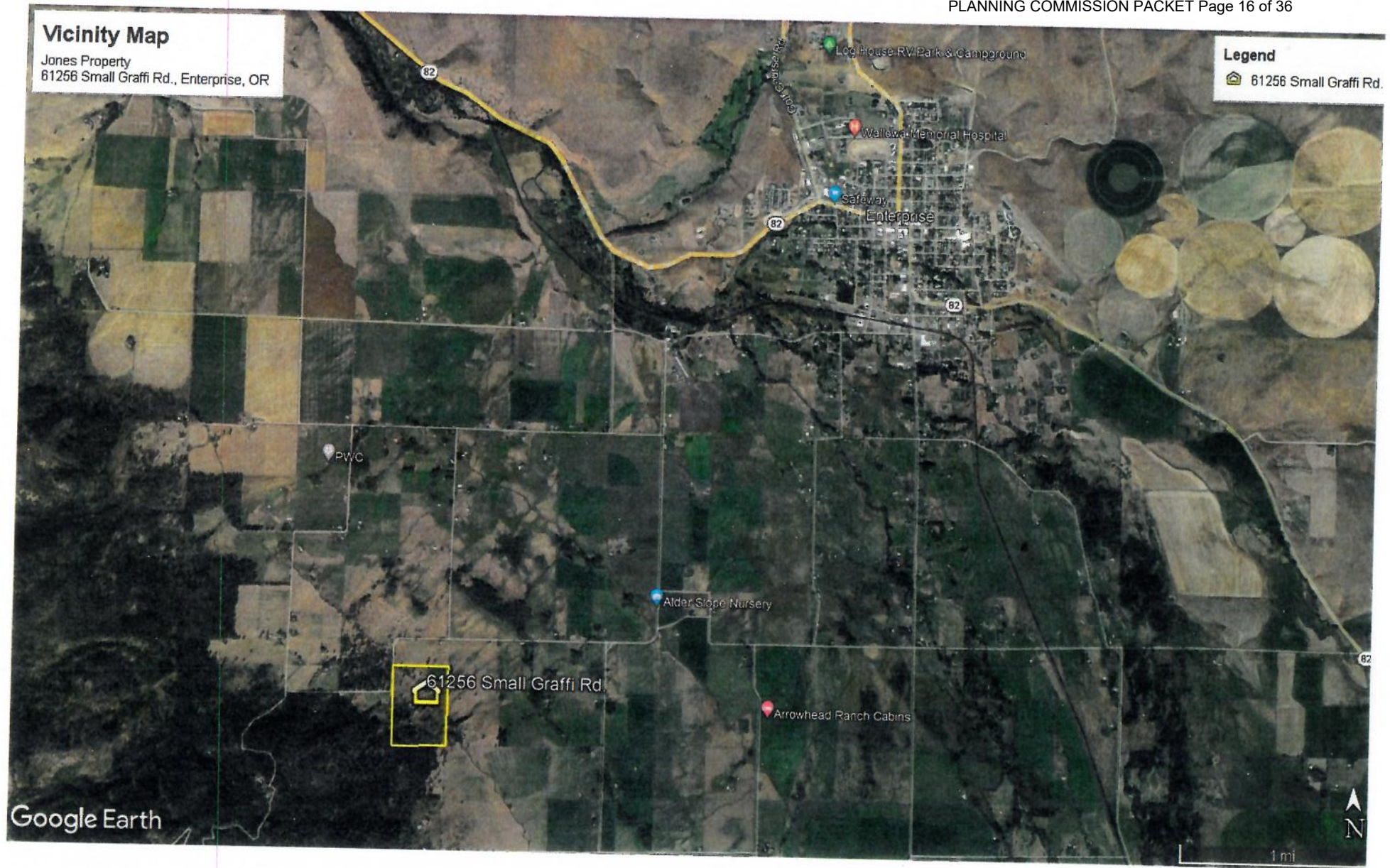
DESCRIPTION OF THE PROPOSED HOME-BASED OCCUPATION:

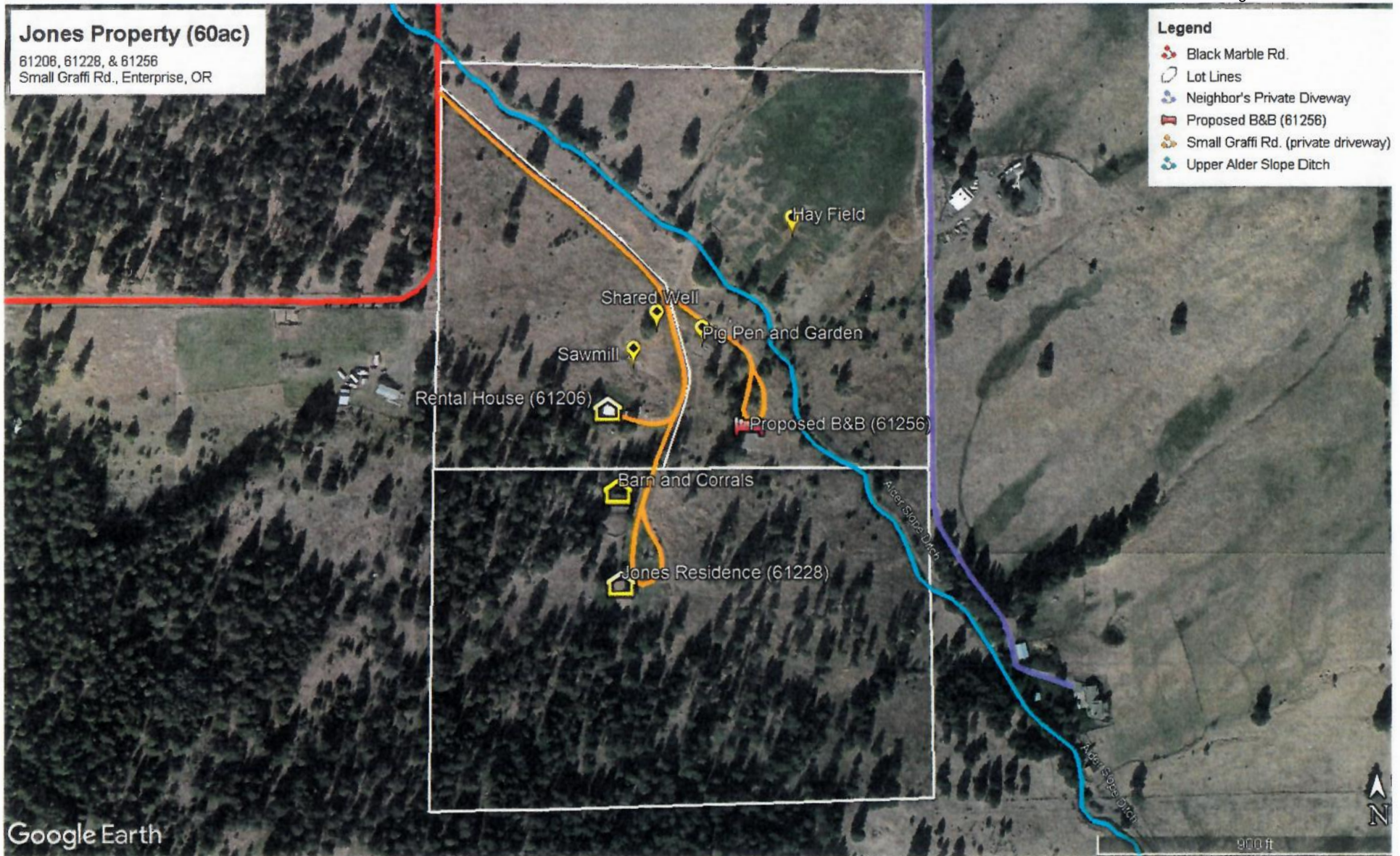
Bed and breakfast for maximum of 4 guests and 2 vehicles.

Please check all the following statements that apply to your proposed Home-Based Occupation.

The Home-Based Occupation will:	YES	NO
1. Have employees that do not live on the subject property.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Store business-related items (equipment, vehicles, construction materials, etc.) outside of a fully enclosed structure.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Require buildings to be altered from normal residential uses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Require oversized accessory buildings.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Use more than two vehicles.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Use heavy equipment or tools that create noise and vibration.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Use paint, solvents, oils, or other noxious/toxic chemicals.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Operate outside of normal business hours (Mon. through Fri., 9 am-5 pm).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Have significant impacts on the neighbors and/or neighborhood traffic.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Have deliveries by vehicles. Exceptions-include deliveries by UPS or other parcel services.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11. Have retail sales on-site.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Occupy more than 25% of the gross square feet of the principal residence or more than 2,000 square feet of accessory buildings normally associated with uses permitted in the zone.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Be conducted with more than one other business on your property.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Alter the appearance of the residential or farm/forest neighborhood.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Post a sign for the business on the property.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

For all statement where you responded 'YES', please attached a narrative describing the activity and how you plan to mitigate the possible effects on your neighbors and neighborhood.





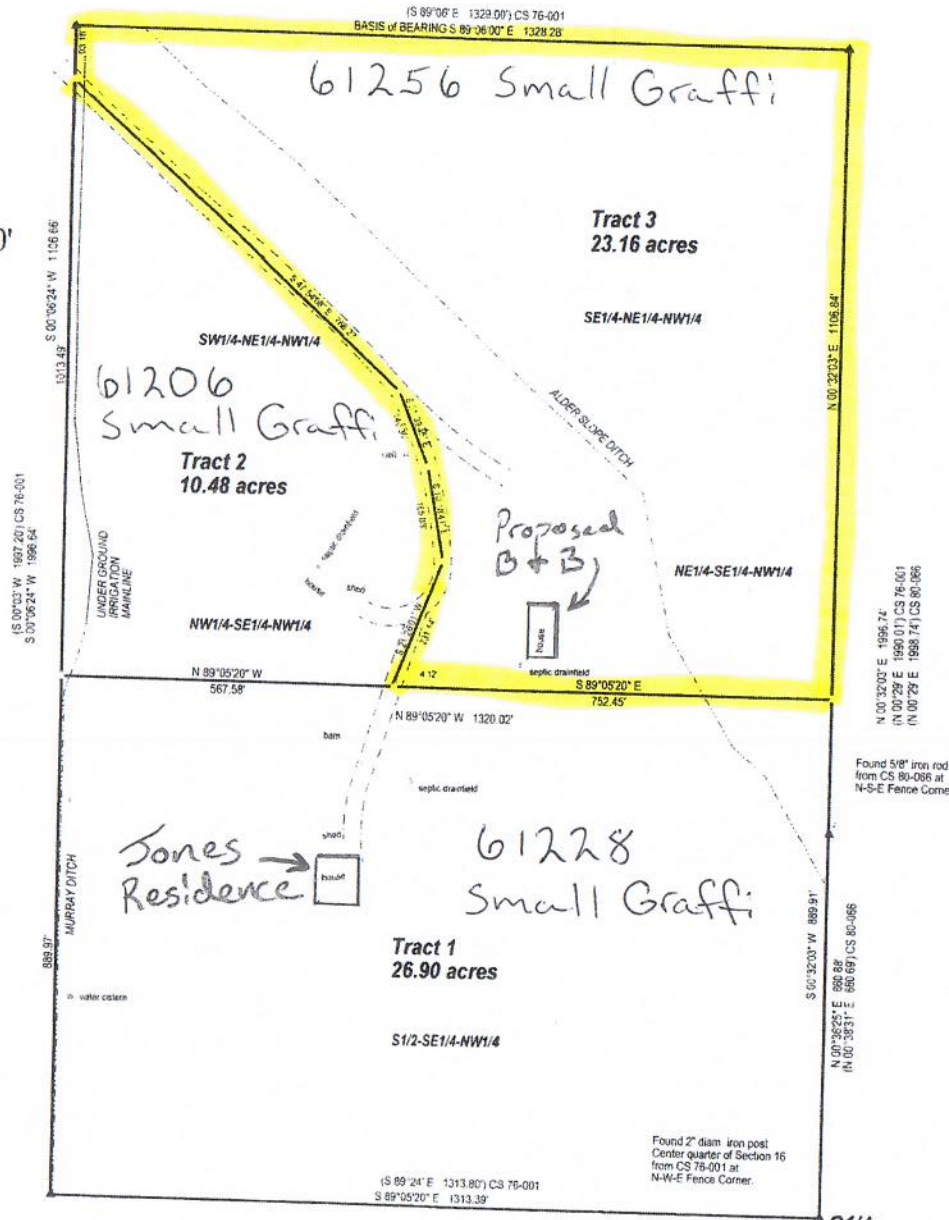
# Record of a Lot Line Adjustment Survey

in the East half of the Northwest quarter of Section 16, Township 2 South, Range 44 East, of the Willamette Meridian, Wallowa County, Oregon.

## LEGEND

- ▲ Monument Found, 5/8 ins. diam. iron rod from CS 76-001. (unless otherwise noted)
- Monument Set, a 5/8 ins. diam. x 30 ins. long iron rod with yellow plastic cap marked "TIMBERLINE SURVEYS PLS 1015"
- Found 2 ins. diam. galvanized iron pipe set by client.
- Property Boundary
- Record Subdivisional Lines
- Existing Traveled Way
- Irrigation Ditch
- Irrigation Mainline Risers
- Irrigation Collection Box
- Septic Tank
- Well
- Water Cistern
- (1329 00') CS 76-001 Record Data as noted

Scale ~ 1" = 150'



## NARRATIVE

This survey was conducted for the purpose of a Lot Line Adjustment at the request of Justin F. Jones. This survey recovers four monuments from CS 76-001 and finds them to be harmonious with record information and lines of occupation (fences). The Basis of Bearing for this survey is the record bearing between the said monuments along the North line of the clients property. This survey sets four monuments along an existing traveled way and monuments a line parallel with the South boundary through a 2 inch diameter galvanized iron pipe, set by the client, as directed by the client for the Adjusted Lot Lines. Additional improvements were tied as shown. A portion of the Alder Slope Ditch was surveyed, the remainder was digitized from Google Earth imagery.

## REFERENCE DATA

CS 76-001  
CS 80-066  
Deeds  
Microfilm Number 071200

WALLOWA COUNTY SURVEYOR  
RECEIVED 11/14/15  
FILED 11/14/15  
INDEX CS 2014-025

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

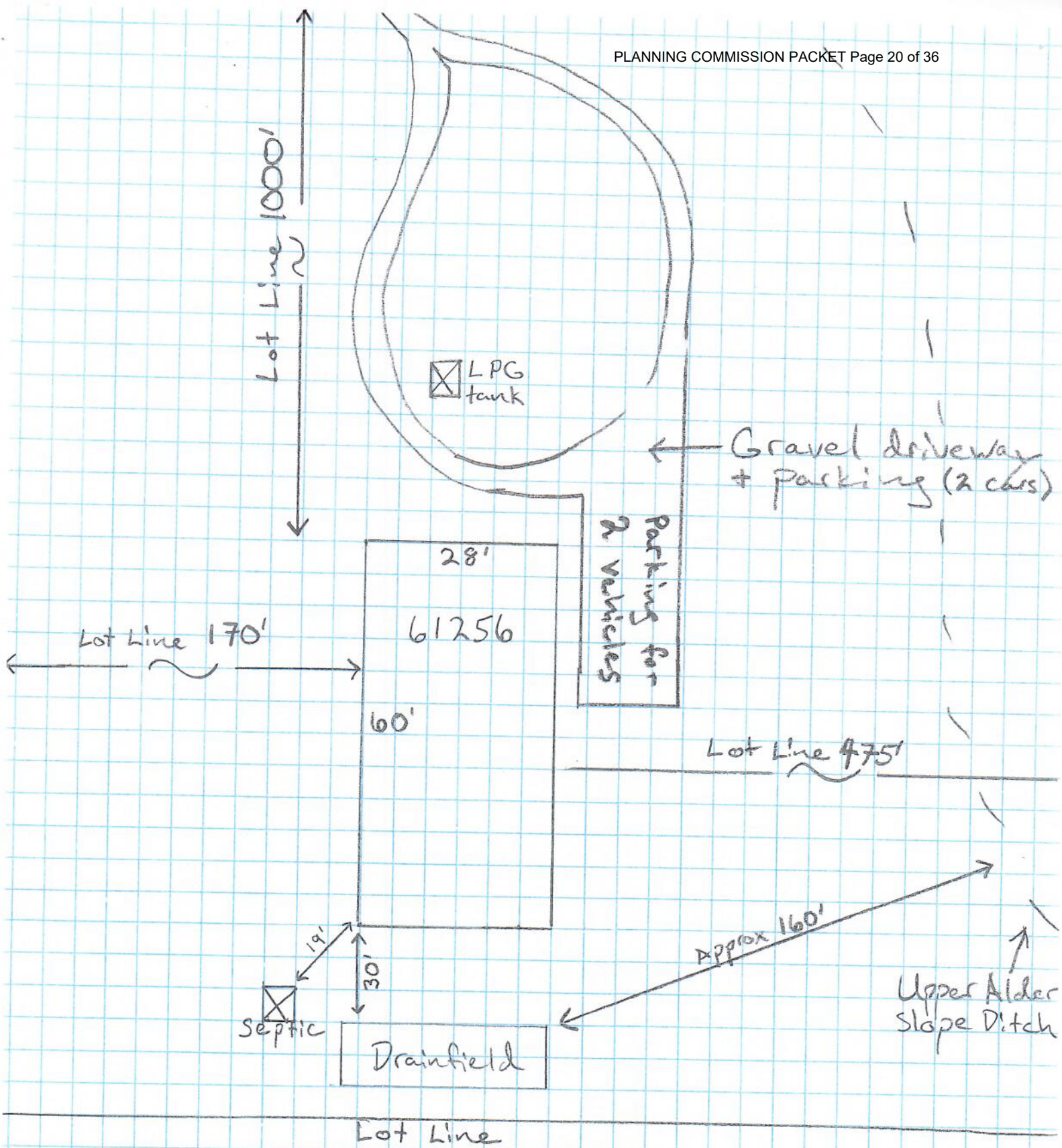
*Richard A. Shaver*  
OREGON  
22-2-1974  
RICHARD A. SHAVER  
1015

Timberline Surveys  
P.O. Box 61  
Wallowa, Oregon 97855  
Phone 541-885-2605  
Registration expires  
8/30/2016

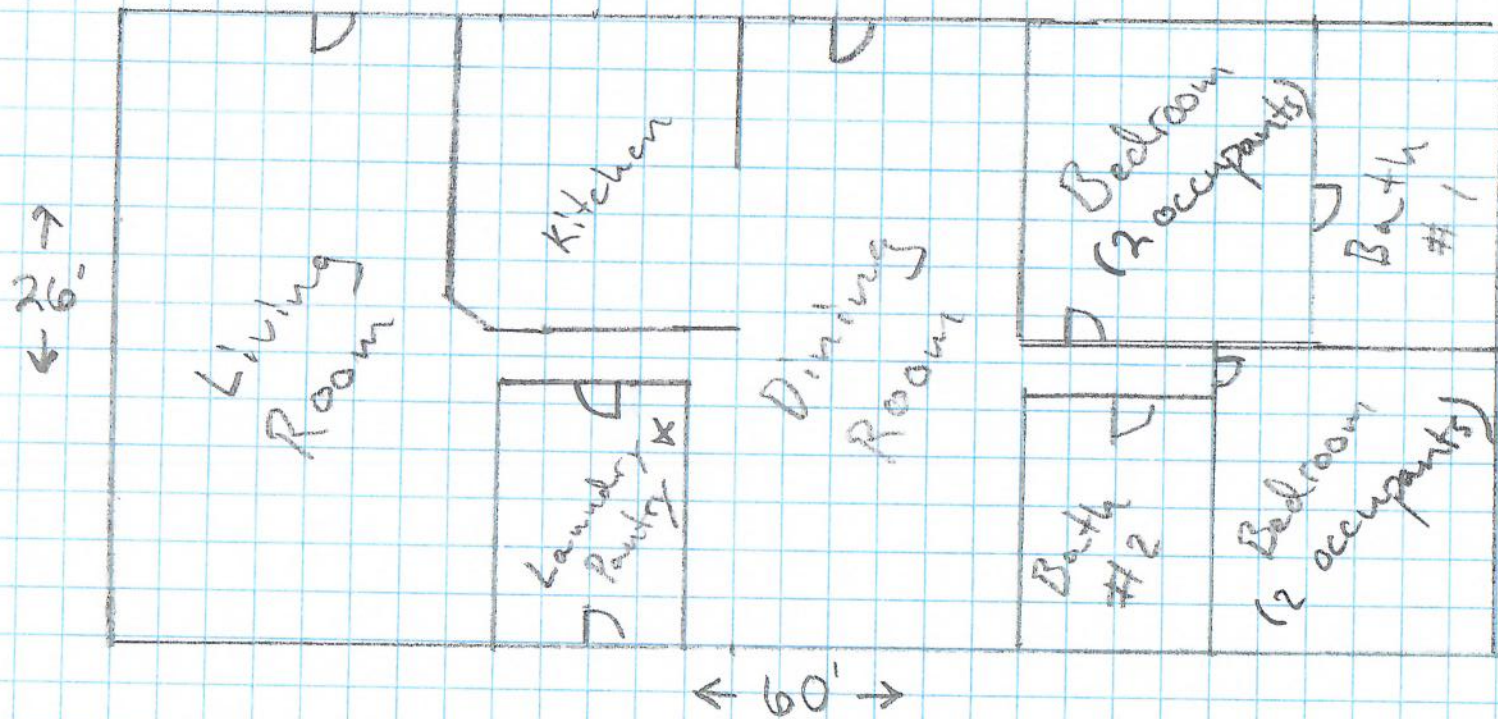
CS 2014-025

C1/4





## 61256 Small Graffi Floor Plan



Max. Occupants 4 people

## House Rules

**61256 Small Graffi Rd., Enterprise, OR 97828**

Welcome, we are pleased to have you in our home. We hope you enjoy your stay, and we will do all we can to ensure you are comfortable. Please let us know if any issues come up. While you are staying with us, please treat our home like it is your own and observe the following rules:

- Only the approved number of guests may be present at the house at any time. Please, no parties or events.
- Up to two cars (or one car and a trailer) may be parked at the house in the designated parking area.
- Please adhere to the designated check-in and check-out times.
- No smoking. Smoking is prohibited at all locations on the property.
- Guests are allowed to use the fenced yard immediately adjacent to the house and may walk the driveway to the public road. Please do not enter the pastures or other portions of the property, and do not feed livestock or wildlife.
- No more than two dogs are allowed and they must be kept in the fenced dog run (pets are not allowed in the house). Dogs must not bark and if barking occurs this will be in violation of the rules. Dogs may be walked on leash on the driveway.
- Please do not play loud music, speak loudly or make other loud noise during quiet hours from 8pm to 8am.
- While we will conduct standard cleaning after your visit (e.g. vacuuming, wipe surfaces, etc.), please do not create a mess that requires excessive or deep cleaning. Please remove your shoes as you enter the house. Before you leave please remove sheets from the bed and take all dirty sheets and towels to the laundry area; start a load of laundry before you leave. Please clean all dishes and put them in the drying rack.
- Place all trash and recycling in the designated bins.
- Use of the outdoor BBQ and fire pit is by permission only in accordance with Oregon Department Forestry's Public Fire Restrictions.
- No commercial film or photography is allowed without written permission.

Wallowa County  
Planning Department  
101 S River Street #105  
Enterprise, OR 97828



Justin and Lindsey Jones  
61228 Small Graffi Rd.  
Enterprise, OR 97828

May 2<sup>nd</sup>, 2023

Dear Wallowa County Planning Commission,

This letter is regarding our application for a Home-Based Occupation in the form of a Bed and Breakfast at 61256 Small Graffi Rd, Enterprise, OR, 97828 (CUP#23-01). We request the following information be included in the record with our application.

We intend to use the single-family dwelling associated with this application primarily as a residence for family for six months or more on an annual basis. As an accessory use when the dwelling is not in use as a residence, our goal is to use the dwelling to host guests as a Bed and Breakfast.

We believe our proposal meets the definition of Bed and Breakfasts (B&B) in accordance with Article 1 (General Provisions) of the review criteria. Our proposal is for accessory use of a single-family dwelling and includes staff on-site overnight and breakfast for guests.

We also believe our proposal meets the definition of a Home-Based Occupation in accordance with Article 35 (Home Based Occupation). Our proposal is for an activity within a residence, with the Home-Based Occupation activity accessory to the primary use as a residence.

Our application includes assurances that our Home-Based Occupation will comply with all criteria as described in Article 9 (Conditional Use Permit), including house rules and statements from all neighbors immediately adjacent to the parcel in support of our application.

During the meeting of the Wallowa County Planning Commission on April 25, 2023, several concerns were raised by Commissioners regarding our application. One concern had to do with the fact that the Bed and Breakfast is on a different parcel than our primary residence (i.e., our home). Article 1 defines a Bed and Breakfast as "an accessory use within a single-family dwelling or accessory structure appropriate for the zone on the same parcel." Our application is for the use of a single-family dwelling, not an accessory structure. There are no criteria in Article 1 that require a single-family dwelling to be on the same parcel as the applicant's primary residence (i.e., home) to be a Bed and Breakfast. Likewise, the definition of Home-Based Occupation in Article 35 does not require the occupation activity to occur on the same parcel as the applicant's primary residence. The definition in Article 35 reads: "Home Based Occupation shall mean an activity carried on within a residence, within an accessory structure, or on the premise of a residence, which is intended to produce an income. The occupation must be accessory to the primary residential use and in compliance with the applicable requirements of this ordinance." This

definition states that the primary use of the building must be residential, and the income producing activity must be accessory to that primary use, but it does not require that residence to be on the same parcel as the applicant's home. An applicant's secondary residence may be the site of a Home-Based Occupation if the primary use is residential. As neither Article 1 nor Article 35 require the Bed and Breakfast to be on the same parcel as the applicant's primary residence, the fact that the single family dwelling we propose to use as a Bed and Breakfast is on a different parcel than our home is irrelevant in the consideration of our application.

Another concern was whether our Bed and Breakfast would have staff on site overnight as required in Article 1. As stated during the April 25 meeting, our home is less than 500 ft from the proposed Bed and Breakfast with a clear view between buildings. The term "on site" is not defined in the review criteria, but we argue that within 500 feet and in clear line of sight of the Bed and Breakfast is a reasonable interpretation of the term and meets the requirements of Article 1. Our home is located close enough to the Bed and Breakfast to allow us to ensure guests follow all house rules. We assume the County permitted other Bed and Breakfasts with similar levels of proximity for staff. We understand the Planning Commission made a proposal to replace the term "on site" with "in the house" in Article 1. However, that change was not final at the time of our application and should not be criteria for the approval of our application.

A third concern raised by the Commission was whether the Home-Based Occupation would be the primary use of the single-family dwelling and therefore the application would fail to meet the terms of Article 35. As stated above, our proposal is to use the building primarily as a residence for our family, with Bed and Breakfast use as accessory to the primary residential use. On an annual basis, the majority of the nights the building will be occupied will be as residential use. Additionally, as a condition of the permit, we are willing to create a 3<sup>rd</sup> bedroom in the daylight basement of the Bed and Breakfast that would not be available to guests and may be used by family when the residence is serving as a Bed and Breakfast.

Finally, the Commission raised a concern that the approval of this application would result in the loss of a long-term rental unit from the rental market in Wallowa County. While we are sensitive to the housing challenges in our community and appreciate the concern of the Commission, a change in the market availability of long-term rental units is not relevant to the review criteria associated with this application.

Thank you for your time and consideration. We appreciate your volunteer service to our community.

Sincerely,



Justin and Lindsey Jones

**jjancaitis@co.wallowa.or.us**

**From:** Beth <gbmorris312@gmail.com>  
**Sent:** Thursday, April 20, 2023 3:33 PM  
**To:** Plansec@co.wallowa.or.us  
**Cc:** Justinfairnjones@gmail.com; George  
**Subject:** CUP#23-01 Justin and Lindsay Jones, 61256 Small Graffi Road

We are commenting on the above request for a bed and breakfast.

We have no objection to this permit under the following conditions:

- Justin and Lindsay continue to live on the adjacent property.
- The House Rules are adhered to.
- The issuance of the permit applies only to the Joneses and is not transferable to new owners.

Our concerns would be noise and loose dogs. The House Rules clearly address both of those items so there shouldn't be any disturbance to the peacefulness of Alder Slope. Justin and Lindsay have been good neighbors, so we are confident they will be just as good landlords.

We appreciate the opportunity to comment.

George and Beth Morris  
 81772 Black Marble Lane

Sent from [Mail](#) for Windows



FROM THE DESK OF

# LISA ARMSTRONG-ROEPKE

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May 1, 2023

Jean Jancaitis  
Wallowa Planning Department  
Enterprise, OR 97828

Dear Jean,

This letter is in support of CUP 23-01 requested by Justin & Lindsey Jones, 61256 Small Graffi Road, Enterprise, Oregon.

I am a neighbor immediately adjacent to the Jones' property with a common fence running East to West on the South side of my acreage. My address is 81748 Black Marble Lane.

I see no significant impact to my property with this requested use. I have a healthy/great rapport with the Jones Family. I have found them to be consistently helpful, quiet & respectful neighbors.

Feel free to contact me if you have any further questions.

Sincerely,

Lisa Armstrong-Roepke

541.263.1677

larmstrongroepke@gmail.com



[jjancaitis@co.wallowa.or.us](mailto:jjancaitis@co.wallowa.or.us)

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**From:** vicky jones <vikjones71@hotmail.com>  
**Sent:** Tuesday, May 2, 2023 12:31 PM  
**To:** [jjancaitis@co.wallowa.or.us](mailto:jjancaitis@co.wallowa.or.us)  
**Subject:** CUP#23-01

Jean,

I am writing in regards to the above mentioned case involving Justin and Lindsey Jones application for a B & B at 61256 Small Graffi RD

We are the neighbors at 81774 Black Marble LN directly east of and bordering the property in question.  
We have no objections to this being approved due to the following

- Has been an established rental for years
- Owners reside adjacent to house, so monitoring is not an issue
- There will be no greater influx of traffic vs a normal rental over a period of time
- The primary residents will be family (grandparents) spending time with family

Any questions or further discussion on this feel free to contact Randy or Vicky Jones (no relation)  
At 541 212 5545 Randy or 541 212 7646 Vicky  
Thank You for your consideration  
Randy and Vicky Jones



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

## STAFF REPORT

**The Board of Commissioners approved updates to the Bunkhouse definition, but remanded the Bed and Breakfast definition update. This is the original Staff Report for changes to both definitions.**

### 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:**

## **STAFF REPORT**

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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.

## **STAFF REPORT**

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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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Art 1, Introductory Provisions, AMD# 23-02

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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.

#### **STAFF REPORT**

Art 1, Introductory Provisions, AMD# 23-02

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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

The definition of “accessory structure or use” is included for reference:

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.

Proposed changes (red text was part of the original proposal and the blue text changes were added at the February 28, 2023 Planning Commission meeting):

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 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 threefive bedrooms may be available for rent. Rooms are rented for less than 30 days. The B&Bs operatormanager must have—reside in the house and 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.

**STAFF REPORT TO THE BOARD OF COMMISSIONERS**

Art 1, Introductory Provisions, AMD# 23-02

March 13, 2023

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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.