

WALLOWA COUNTY PLANNING COMMISSION
7:00 pm July 25, 2023
Wallowa County Courthouse
Agenda

1. **Planning Commission Meeting Minutes** from June 27, 2023
2. **FINDINGS: VAR#23-04 EAVES-BRIMM** – Submitted by Amanda Brimm on behalf of Jesse Eaves and Yoshioka, Diana Trustee et. al. for 903 SW Thorpes Lane, Enterprise, Oregon 97828. The proposed variance would reduce the minimum lot size from 5 acres to approximately 1.7 acres. The property description is Township 02 South, Range 44 East, Section 02, tax lot 401, and is zoned Enterprise Single/Double Family Residential (R-2) inside the city limits of Enterprise and Industrial (M-1) outside the city limits.
3. **FINDINGS: CUP#23-02 CLEMENTS** – Submitted by Keith Clements, the proposed Conditional Use Permit is a request for a Home-based Occupation in the form of a small engine repair and maintenance business operating out of the shop in the Rural Residential/Joseph Urban Growth Area (R-1/J-UGA) zone. The property in question is described as Township 02 South, Range 45E, Section 32CB, and tax lot 2906. It is more commonly known as 810 South College Street, Joseph, Oregon 97846 and consists of approximately 0.78 acres.
4. **FINDINGS: CUP#23-03 CITY OF JOSEPH** – Submitted by Dan Larman on behalf of the City of Joseph, the proposed Conditional Use Permit is a request for an 80-ft tall communications tower that will support drinking water system improvements. The subject parcel is in zoned Industrial (M-1) where communications towers are permitted conditionally. The property in question is described as Township 02 South, Range 45E, Section 30, and tax lot 2200. It is more commonly known as 201 Walters Street, Joseph, Oregon 97846 and consists of approximately 2.2 acres.
5. **Other Business:**

The next Planning Commission meeting is scheduled for August 29, 2023.

Planning Commission Minutes June 27, 2023

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on May 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)
Ramona Phillips
Gay Fregulia
Chris Bullat
Jim Nave

STAFF:

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

OTHERS PRESENT:

Linda Courtney
Keith Clements
Jesse Eaves
Carl and Deena McFetridge
Lucas Stangel
Dan Larman
Levi Tickner
Teah Jones
Amanda Brimm

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 June 27, 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.

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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?
[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.

1. May 30, 2023 Minutes

CM Phillips moves to approve the minutes of the May 30, 2023 Planning Commission meeting.

CM Bullat seconds the motion.

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[CM Phillips – Yes;
CM Thompson – Yes;
CM Fregulia – Yes;
CM Bullat – Yes;
CM Nave – Yes;

Motion Passes 5-0-0]

2. JONES CUP#23-01 FINDINGS

PD Goebel presents the Findings Report.

CM Phillips moves to approve the Findings Report for CUP#23-01.
CM Bullat seconds the motion.

[CM Phillips – Yes;
CM Thompson – Yes;
CM Fregulia – Yes;
CM Bullat – Yes;
CM Nave – Yes;

Motion Passes 5-0-0]

3. EAVES-BRIMM VAR#23-04

PD Goebel presents the Staff Report.

Applicant Brimm notes there was a divorce decree that ordered the partition, and the property has now been inherited by the couple's respective children. The heirs have come to agreement on this approach. She asserts that since the partition is not changing the zoning, it will not affect the land use potential and therefore, not increase traffic.

CM Nave requests clarification on the parcel's current ownership.

Applicant Brimm lists the owners on the deed.

CM Nave asks who will own the property if it is split.

Applicant Brimm describes how the property ownership will be split between the mother and father's children. Diana Yoshioka and Garry Connolly will retain ownership of the property within the city limits and Jesse Eaves will retain the property within county jurisdiction. Ms. Brimm is the official applicant because all the landowners do not live in

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Wallowa County and she notes that all parties have agreed to Ms. Brimm's representation with the application.

PD Goebel adds that the application file contains a letter signed by each landowner allowing for Ms. Brimm to represent them.

CM Thompson opens the floor for comments.

Teah Jones comments on the proposal. She is concerned that traffic will increase and that there is potential for another house. At this time, the road and sewer line are not maintained by either the county or city. She notes that the City of Enterprise did not approve another partition unless a second access is developed in case of an emergency. She maintains that the divorce decree only allowed for the partition of a one-acre property from the whole.

Applicant Brimm states that her understanding of the decree is that the property would be divided into three parcels, not two.

CM Thompson reminds the group that the decision before the Planning Commission is whether the parcel can be divided, not one concerning the parcel's development.

PD Goebel notes that the comment letter submitted was very difficult to follow because the exhibits did not contain parcel-identifying information. He also adds that the applicant would still need to apply for the partition if the variance is granted because it involves the approval of the new survey and legal descriptions by the county surveyor. Additionally, access would need to be defined, and any easements would need to be formally recorded. The partition will be an Administrative process that notices the neighbors, but does not involve a public hearing.

Applicant Brimm responds to Ms. Jones' concerns noting that this decision is not about land use or development, but a partition. The partition will not change how many people are using the road or services.

CM Nave asks if someone lives in the house on the subject property.

Carl and Deena McFetridge respond that they are the current residents, and they plan to continue to live there if the partition is approved.

CM Nave asks how the shop is used.

Jesse Eaves responds that he uses the shop as a woodshop, and he parks his RV next to it.

CM Nave asks about the surrounding land use.

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Multiple examples of permitted uses are provided from both Planning Commissioners and meeting participants, including the county's public works facility, grazing, and residential uses.

CM Nave ask who owns and maintains Thorpe Lane.

Teah Jones responds that Thorpe Lane is in both city and county jurisdiction; however, it is privately owned and maintained. The road supposed to be maintained by the landowner as a condition of dividing the original, larger property.

CM Thompson adds that the responsibility of maintaining the road will remain with the landowner/s.

PD Goebel notes that the Planning Commissioners could add a condition that the landowners maintain their portion of the road.

CM Thompson closes the testimony portion of the hearing.

CM Bullat moves to approve VAR#23-04.

CM Nave seconds the motion.

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

Motion Passes 5-0-0]

4. CLEMENTS CUP#23-02

PD Goebel presents the Staff Report.

Applicant Clement is a veteran and a trained helicopter mechanic and has worked at various places in the county. He would like to start his own business now. The community has expressed a need for small engine repair, and he hopes to fill that need.

CM Nave asks, if the land is within the Joseph Urban Growth Area, why the county is hearing the application.

PD Goebel responds that the city has jurisdiction within city limits and the Urban Growth Agreement between the city and the county prescribes how applications are jointly

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reviewed when they fall within the Urban Growth Area. The City of Joseph was notified of the application and provided no comment.

Applicant Clement adds that he has city services but pays double for the privilege.

CM Bullat confirms that the subject property is surrounded by a residential area and that there is a small engine repair business within two blocks of the property.

PD Goebel reads a comment in favor of the proposal into the record. He notes it was the only comment letter.

CM Thompson asks if there is a requirement to protect the ditch from potential harm from business operations.

PD Goebel responds that the protections required by the county are only applied to streams and rivers, not irrigation ditches; however, the ditch company and county Water Master were noticed of the application and provided no comments.

CM Thompson asks if there is enough customer parking.

Applicant Clement explains the extent of his property and the amount of customer parking it contains.

CM Thompson is concerned about noise and aesthetic issues. She wants to ensure that any business equipment as well as all parts and materials are not visible.

Applicant Clement responds that he does have an outdoor shed for storage behind the shop.

CM Bullat reminds the applicant of the county's sign regulations. The total area of both sides may not exceed four square feet.

CM Thompson reminds the applicant that there are state and federal regulations around the storage of hazardous materials.

CM Thompson closes the testimony portion of the hearing.

CM Bullat notes he would have expected more resistance to the business in a residential area, but no one submitted comments against it.

CM Thompson would like to propose a condition that any outdoor storage be screened.

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CM Bullat would like conditions around noise and traffic to prevent potential conflicts with the neighboring residents.

CM Phillip moves to approve CUP#23-02 with the conditions that all business materials stored outside the shop be screened from view and that if the county receives three substantiated complaints about 1) business material visibility; 2) noise and/or 3) traffic without successful mitigation efforts, the permit approval will be reviewed by the Planning Commission.

CM Nave seconds the motion.

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

Motion Passes 5-0-0]

5. CITY OF JOSEPH CUP#23-03

PD Goebel presents the Staff Report.

Applicant Larman introduces the application. The City of Joseph has contracted with Anderson Perry and Associates, Inc. for a water system upgrade. The project includes installing a communications tower for remote water meter readings and better operational control of the water distribution system.

CM Thompson confirms that it is not going to be a cellular communication tower for cell phones.

Applicant Larman adds that the city would not approve other uses of the tower and there is another tower already close by.

CM Thompson asks whether the tower nearby is being used and if not, county code requires it to be removed.

PD Goebel adds that the landowner of the neighboring tower was notified of the application.

CM Bullat asks if the tower will have flashing lights.

Applicant Larman responds that the tower will meet all Oregon Department of Aviation and Federal Aviation Administration lighting requirements.

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CM Thompson closes the testimony portion of the hearing.

CM Nave moves to approve CUP#23-03.

CM Phillips seconds the motion.

[**CM Phillips – Yes;**

CM Thompson – Yes;

CM Fregulia – Yes;

CM Bullat – Yes;

CM Nave – Yes;

Motion Passes 5-0-0]

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

6. OTHER BUSINESS

CM Thompson requests that staff research the communication tower that is not being used to confirm whether it needs to be taken down.

CM Phillips was asked by a realtor if the Rawls glamping tents were approved.

PD Goebel responds that two tents were approved, and CM Phillips can direct similar questions to planning staff.

CM Phillips asks for an update on the Park's CUP application for a Bed and Breakfast in a yurt behind their house.

PD Goebel provides an update. The application was appealed to the Board of Commissioners and then to the Oregon Land Use Board of Appeals (LUBA). LUBA remanded the decision directing the county to draft more complete findings. He believes all parties have come to an agreement and the approval of the permit stands.

PD Goebel relays the Board of Commissioner's request that the Planning Commission discuss how to increase and encourage more public participation.

CM Fregulia notes that, sadly, unless it impacts them personally, citizens usually choose not to participate.

The other commissioners agree.

CM Bullat points out that if it is something that people care about, they participate.

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CM Nave asks what the impetus for the request was.

PD Goebel responds that the Commissioners were concerned about the lack of public comment on the Bed and Breakfast definition update.

CM Thompson suggests an article in the Chieftain.

PD Goebel relays the idea that the agenda be posted on the county's Facebook page.

CM Nave acknowledges that our current notification system is legally required but antiquated.

CM Phillips notes that they are always considering the public in their decisions. She believes that they are appointed to be representatives of the community, so the public does not have to be as involved. Of course, they do welcome participation and input from the public.

PD Goebel announces that CM Thompson is not seeking reappointment when her term ends in December. The Planning Department will be coordinating the recruitment and application process.

CM Nave moves to adjourn the meeting.

CM Thompson seconds the motion.

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

Motion Passes 5-0-0]

Meeting adjourns at 8:28 PM

Jean Jancaitis

Date



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

FINDINGS
Variance
VAR#23-04
Eaves-Brimm

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

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

RE: Eaves-Brimm Area Variance VAR#23-04 (Referred from Planning Director to the Planning Commission)

The request was deemed to be complete on April 17, 2023, and noticed to landowners within 250 ft and other interested parties on April 17, 2023. Because the Planning Department received a comment letter of opposition, it was referred to the Planning Commission and heard on June 27, 2023, with a decision of July 25, 2023. It was properly advertised in the Chieftain on June 14, 2023, as a result of referral to the Planning Commission. 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: Amanda Brimm
903 SW Thorpes Ln
Enterprise, OR 97828

OWNER: Diana Yoshioka, Gary Connolly, and Jesse Eaves
1614 D St
Sparks, NV 89431

REQUEST: An Area Variance to reduce the minimum parcel size in the M-1 Industrial zone from 5 acres to 1.72 acres for a proposed partition.

LOCATION: The property description is Township 02S, Range 44, Section 02, Tax Lot 401, Ref#1564, Address: 903 SW Thorpes St, Enterprise, OR

PARCEL CHARACTERISTICS: The tax lot contains about 4.83 acres. The portion in the county, about 1.72 acres, is zoned Industrial (M-1). The portion in the City of Enterprise, about 3.1 acres, is zoned Enterprise Residential (R-2). Access is from SW Thorpes Ln, a road partially in both the city and the county. The parcel is bordered by Enterprise R-2 to the north, and

County Industrial (M-1) to the south, with the dividing line being the Enterprise City limits. The northern portion of the parcel, within City limits, has a house/garage. The southern part of the parcel, in the County, has a shop/shed structure. The entire parcel is within the x500 FEMA floodplain.

PREVIOUS LAND USE ACTIONS:

None

COMMENT:

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:*
[...]
B. Two hundred 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;
[...]
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*

FINDINGS

EAVES-BRIMM #23-04

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Board no later than 10 days nor greater than 20 days prior to the hearing date.

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 no 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

EAVES-BRIMM #23-04

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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 22.025, 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.*

[...]

FINDING 5: 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 6: The Planning Commission finds that proposed use does not impact a fish-bearing stream and therefore Article 36 requirements do not apply.

FINDINGS

EAVES-BRIMM #23-04

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PUBLIC COMMENTS:

Comments submitted included the following concerns:

- That the proposal is attempting to circumvent subdivision rules.
- That maintenance of Thorpe Ln should be required.
- That previous actions by the City of Enterprise denied this partition because it was already completed.

FINDING 7: The Planning Commission finds that the evidence provided in public comment does not demonstrate that this partition has already been completed. The Commission also finds that approval of the variance does not approve a “subdivision,” as defined in WCLDO Article 1, Section 1.065 (150) nor does it conflict with previous City of Enterprise actions as documented in the record. Further, the Commission finds that mitigating concerns of road maintenance are not within the purview of this variance request.

CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application. The Variance VAR #23-04 to reduce the minimum parcel size to 1.72 acres is approved. This approval does not approve the actual partition, only the reduction in the minimum size of the partition. The owner will need to apply for a minor partition.

CONDITIONS OF APPROVAL:

There are no conditions of approval.

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 June 27, 2023 verbal vote to approve the application is 5 in favor and 0 opposed with 0 abstaining.

The July 25, 2023 vote to approve the Findings Report is __ in favor and __ opposed with __ abstaining.

FINDINGS

EAVES-BRIMM #23-04

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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 August 10, 2023.

FINDINGS

EAVES-BRIMM #23-04

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

FINDINGS
CUP#23-02
CLEMENTS

**IN THE MATTER OF THE REQUEST
FOR A HOME-BASED OCCUPATION
IN THE FORM OF A SMALL ENGINE REPAIR
SHOP IN THE URBAN GROWTH
RESIDENTIAL-JOSEPH (J-UGA) ZONE**

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

RE: CLEMENTS HBO CUP#23-02

The request was deemed to be complete on May 2, 2023. It was properly advertised in the Chieftain on June 14, 2023, and noticed to landowners within 500 ft and other interested parties on May 2, 2023. The request came before the Wallowa County Planning Commission on June 27, 2023. The Planning Commission deliberated and voted on the application on June 27, 2023, with a decision on July 25, 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:

Keith A. Clements
810 S College St./PO Box 421
Joseph, OR 97846

OWNER:

Same

REQUEST:

To permit a Home Based Occupation (HBO) in the form of a Small Engine Repair & Maintenance business, in an existing accessory structure in the Urban Growth Residential (J-UGA) zone.

LOCATION:

The property description is Township 02S, Range 45, Section 32CB, tax lot 2906, Ref#3407, Address: 810 S. College St., Joseph, OR.

**PARCEL
CHARACTERISTICS:**

The parcel contains less than 1 acre. The Zoning is Joseph Urban Growth Residential (J-UGA) and access is from E 9th St, a Joseph City Street. The parcel is bordered to the north by the City of Joseph General Residential zone, to the east, south and west by Joseph Select

Residential. The site is within the Urban Growth Area of Joseph. On the site is a residence and an accessory structure (shop), which will be remodeled for the proposed business.

PREVIOUS LAND USE ACTIONS:

ZP#19-42 SFD, Shop, Shed

REVIEW CRITERIA:

Article 1, Introductory Provisions
 Article 5, Public Hearing Review
 Article 9, Conditional Use
 Article 26, Urban Growth Residential
 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

[...]

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.

[...]

FINDING 1: The Commission finds that the application meets the definition of Home Based Occupation.

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:*

[...]

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;

FINDINGS

CLEMENTS HBO CUP#23-02

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[...]

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 2: 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 250 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 3: The Planning Commission has imposed 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 9, CONDITIONAL USE PERMIT

SECTION 9.015, REVIEW PROCEDURE: *Application for a Conditional Use Permit shall be subject to the public hearing review process.*

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.*

FINDING 4: The Planning Commission finds that a Home Based Occupation in the form of a Small Engine Repair shop is allowed conditionally in the J-UGA zone and that the use is consistent with the purpose of that zone.

FINDINGS

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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.*

FINDING 5: The Planning Commission finds that this HBO will not create an impact great enough to create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.

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.*

FINDING 6: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative and testimony supplied by the applicant that the number of customers and the type of use proposed will not violate the above criteria. The Commission further finds that the application satisfies Article 36 as no habitat is impacted.

ARTICLE 26, URBAN GROWTH RESIDENTIAL

SECTION 26.010, PURPOSE: *The purpose of the Urban Growth Zone is to provide areas for urbanized lands within established urban growth boundaries.*

SECTION 26.020, BUILDINGS AND ACTIVITIES PERMITTED CONDITIONALLY: IN THE URBAN GROWTH ZONE, THE FOLLOWING USES AND THEIR ACCESSORY USES ARE PERMITTED, SUBJECT TO THE PROVISIONS OF ARTICLE 9, CONDITIONAL USE PERMIT:

01. **PARK, PLAYGROUND, OR COMMUNITY CENTER.**
02. **GOLF COURSE.**
03. **SCHOOL.**
04. **HOSPITAL AND NURSING OR RETIREMENT HOME.**
05. **RADIO AND TELEVISION STATION TRANSMITTER OR TOWER.**
06. **CEMETERY.**
07. **HOME-BASED OCCUPATIONS.**
08. **SINGLE-FAMILY RESIDENCES ON ACREAGE LESS THAN THE MINIMUM REQUIRE BY SECTION 26.025 OF THIS ORDINANCE.**
09. **MOBILE HOME AND/OR TRAILER PARK.**
10. **MULTIPLE-FAMILY DWELLINGS.**

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FINDING 7: The Planning Commission finds that this Small Engine Repair shop is a Home-based Occupation and is a Conditional Use in the J-UGA zone, and that this application has been properly brought before the Planning Commission as part of the Conditional Use process.

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.*

FINDING 8: The Commission finds that an HBO for a Small Engine Repair shop, in this application, is accessory to the primary residential use and is in compliance with the applicable requirements of this ordinance.

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.*

02. **PARTICIPATION/EMPLOYEES:** *A Home-based Occupation shall employ, on site, no more than three full-time or part-time persons.*

FINDING 9: The Commission finds that the area for the HBO will not exceed 2,000 square feet of an accessory building nor employ more than three full-time or part-time employees. Therefore, the requirements of 35.025 have been met.

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.*

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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.*

FINDING 10: The Commission finds that as proposed the HBO will not generate any more traffic than customary for a single-family dwelling in this neighborhood. The Commission further finds that the proposed activity is not likely to generate 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.*

FINDING 11: The Commission finds that the above criteria are met as the proposed use will not require any out of the ordinary equipment or create hazards outside the normal uses found in a single-family dwelling.

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).*

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CLEMENTS HBO CUP#23-02

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

FINDING 12: The Commission finds that the proposed business as presented by the applicant meets the above criteria. If the applicant decides to have a sign, it shall meet the criteria of Article 34, Signs, which limits signage to four square feet in a residential zone. The property has ample space for parking. Storage or special equipment, outside the normal household supplies, will be visually screened as a condition of approval.

ARTICLE 36, SALMON HABITAT RECOVERY

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

FINDING 13: 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 public comment in support of the application. There were no comments in opposition.

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 Conditional Use Permit CUP #23-04 to operate a Home-based Occupation in the form of a Small Engine Repair shop has met all criteria and will be valid until the permitted use is discontinued for one full year.

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. This CUP is not transferable. If the property is conveyed to another entity, then this CUP is no longer valid.
2. All outdoor storage of equipment, parts and supplies must be visually screened from the surrounding neighbors and street. Visual screening may include vegetation, and/or fencing that is in keeping with the residential character of the neighborhood.

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CLEMENTS HBO CUP#23-02

July 25, 2023

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3. All hazardous materials must be within quantity limitations, containment, and disposal requirements of the Oregon Department of Environmental Quality.
4. This CUP shall be reviewed for compliance by the Planning Commission after 3 substantive nuisance complaints are received by the Planning Department in any consecutive twelve-month period. Substantive complaints shall be recorded with the Wallowa County Planning Department.

A substantive complaint is one that:

- A. Has first been attempted to be resolved by the owner/manager,
- B. Is not anonymous, and
- C. Is accompanied by corroborative evidence such as photographs or affidavits.

Complaints which have been, in the opinion of the Director, resolved, shall not count as substantive complaints.

Also, nothing in these Findings shall interfere with civil remedies sought by other affected individuals.

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 June 27, 2023 verbal vote to approve the application is 5 in favor and 0 opposed with 0 abstaining.

The July 25, 2023 vote to approve the Findings Report is ___ in favor and ___ opposed with ___ abstaining.

July 25, 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 August 10, 2023.

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

FINDINGS
CUP#23-03
CITY OF JOSEPH

**IN THE MATTER OF THE REQUEST
FOR A WIRELESS COMMUNICATION
TOWER IN THE INDUSTRIAL (M-1)
ZONE**

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

RE: CITY OF JOSEPH CUP#23-03

The request was deemed to be complete on May 17, 2023. It was properly advertised in the Chieftain on June 14, 2023, and noticed to landowners within 250 ft and other interested parties on May 22, 2023. The request came before the Wallowa County Planning Commission on June 27, 2023. The Planning Commission deliberated and voted on the application on June 27, 2023, with a decision on July 25, 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:** Dan Larman, Joseph City Administrator
201 N Main Street
Joseph, OR 97846
- OWNER:** City of Joseph
201 N Main Street
Joseph, OR 97846
- REQUEST:** To construct a communications tower as part of a city-wide drinking water improvement project.
- LOCATION:** The property description is Township 02S, Range 45E, Section 30, Tax Lot 2200, Ref#8702, Address: 201 Walters Street, Joseph, OR.
- PARCEL CHARACTERISTICS:** The parcel contains about 2.2 acres. The Zoning is Industrial (M-1) and access is from W Alder St. or Walters St. The parcel is bordered on all sides by M-1 zoning. The is a general utility building on the site.

PREVIOUS LAND USE ACTIONS:

None

REVIEW CRITERIA:

Article 5, Public Hearing Review
 Article 9, Conditional Use
 Article 22, Industrial
 Article 36, Salmon Habitat Recovery
 Article 57, Wireless Communication Towers
 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:*

[...]

B. *Two hundred 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;*

[...]

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 250 feet of the subject property as detailed above.

SECTION 5.045, 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.*

FINDING 2: The Planning Commission has imposed no Conditions of Approval.

ARTICLE 9, CONDITIONAL USE PERMIT

SECTION 9.015, REVIEW PROCEDURE: *Application for a Conditional Use Permit shall be subject to the public hearing review process.*

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 is proposed.*

FINDING 3: The Planning Commission finds that a wireless communication tower is allowed conditionally in the M-1 zone and that the use is consistent with the purpose of that zone.

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.*

FINDING 4: The Planning Commission finds that this use will not create an impact great enough to create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.

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.*

FINDING 5: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative and testimony supplied by the applicant that the number of customers and the type of use proposed will not violate the above criteria. The Commission noted an existing tower on a neighboring parcel; however, it is not currently in use and no comments were received from the owner of the parcel. The Commission further finds that the application satisfies Article 36 as no habitat is impacted.

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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.*

01. *Retail, wholesale, or service business establishment.*
02. *Lumber yards and retail - including mill works.*
03. *Machine shops.*
04. *Bottling works.*
05. *Equipment storage yards.*
06. *Hauling, freighting, and trucking yards or terminals.*
07. *Wholesale businesses, storage buildings, or warehouses.*
08. *Manufacturing, compounding, assembling, or treating products.*
09. *Concrete or ready-mix plants.*
10. *Resource uses of the Exclusive Farm Use and Timber Grazing Zones.*
11. *Home-based occupation where a new dwelling is not proposed in conjunction therewith.*
12. *Hospitals, healthcare, and medical facilities.*
13. *Correctional, emergency services, and law enforcement facilities.*
14. *Other industrial uses as long as the impacts on surrounding properties and uses are no greater than that of the above permitted uses.*

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

[...]

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

[...]

FINDING 6: The Commission finds that a wireless communications tower is in compliance with the applicable requirements of this ordinance.

ARTICLE 36, SALMON HABITAT RECOVERY

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

FINDING 7: As this proposal does not impact any fish bearing waterways or habitat, the

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Commission finds that a management plan is not necessary.

ARTICLE 57, WIND GENERATION AND WIRELESS COMMUNICATION TOWERS

SECTION 57.010, PURPOSE: *The purpose of this article is to establish wind generation and wireless communication tower (Hereafter referred to as towers) regulations which are intended to:*

01. *Establish a comprehensive system for the regulation of towers covered by this ordinance.*
02. *Support the use and placement of towers for business use and electrical power generation.*
03. *Support the use of towers which are maintained in a safe and attractive condition which do not:*
 - A. *Create distractions that may jeopardize the public safety.*
 - B. *Distract from County or neighborhood scenic values.*
 - C. *Do not adversely impact resource and agricultural uses or wildlife.*
04. *Allow for the prompt and complete removal of towers and related structures when no longer needed.*
05. *Protect the public health, safety, and general welfare of Wallowa County citizens.*

SECTION 57.015, REVIEW PROCESS: *No person shall place, erect, construct, or otherwise maintain any wind towers or wireless communication towers which are not in compliance with the provisions contained in this ordinance.*

01. *The provisions of this ordinance pertaining to towers shall not apply to the following towers and facilities:*
 - A. *Wind generation towers for residential or agricultural use which generate less than 50 kw.*
 - B. *Wind measurement devices less than 200 ft in height. (Temporary Use Permit required)*
01. *Wireless communication antennae located on existing towers, poles or other structures are subject to Administrative Review.*

FINDING 6: The Commission finds that this wireless communications tower is not exempt from the requirements of this ordinance.

02. *New towers not exempt from this ordinance shall be subject to the level of review required by the underlying zone, as shown below. Additionally, any development under the purview of this Article, which may impact a Goal V scenic view or site shall be subject to Public Hearing Review.*

ZONE	WIND TOWER	CELL TOWER	TYPE OF REVIEW
R-1	Prohibited	Conditional Use	Public Hearing Review

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R-2	Prohibited	Conditional Use	Public Hearing Review
CR-2	Prohibited	Prohibited	
M-1	Prohibited	Conditional Use	Public Hearing Review
R/C	Prohibited	Conditional Use	Public Hearing Review
T/C	Conditional Use	Conditional Use	Public Hearing Review
T/G	Conditional Use	Conditional Use	Public Hearing Review
EFU	Conditional Use	Conditional Use	Public Hearing Review

FINDING 6: The Commission finds that this application is within the M-1 zone and is therefore subject to the Public Hearing Process.

SECTION 57.020, APPLICATION CONTENTS:

An application for the placement of wind generation or communication towers shall include the following:

01. Maps showing physical features and land uses of the project area, both before and after construction of the proposed facility. The applicant must include at least one map that is printed on a standard 8 1/2" x 11" page. The applicant must include large maps or color photographs that show:

- A. The project area boundaries.*
- B. The location, height and dimensions of all existing and proposed structures and fencing.*
- C. The location, grades and dimensions of all temporary and permanent on-site roads and access roads.*
- D. State and federal resource lands, Goal V areas, and other protected areas in the vicinity of the project site.*
- E. Map(s) showing Existing topography of the site.*
- F. Water bodies, waterways, wetlands and drainage channels.*
- G. The location of and distance to residences and other noise sensitive properties, public or private airports or airstrips, and other uses or structures relevant to the standards or criteria for the facility.*
- H. For a wind energy facility, copies of all existing wildlife studies applicable to the project site.*
- I. For a wind energy facility, a site map showing all proposed turbine locations and strings.*
- J. For wireless communication facilities, the projected coverage area of the proposed site and the location of any existing wireless communication facilities within a 5 mile radius*
- K. For both wireless communication and wind energy facilities, photosimulations of the proposed structures.*

02. A list of permits, approvals or other actions related to the proposed facility that the applicant has requested or will request from other public agencies and utilities serving the site and a schedule of when the applicant has applied or intends to apply for those actions. In addition:

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- A. The applicant must give written notice of the application to each listed agency and utility and provide a copy of the notice to the county.*
- B. The applicant must include a summary of the permits, authorizations and other actions the applicant has requested or will request from other public agencies or utilities.*
- 03. A plan showing how construction and maintenance vehicles would access the site.*
- 04. A revegetation plan for restoring areas temporarily disturbed during construction.*
- 05. A drainage and erosion control plan for construction and operation.*
- 06. A fire protection plan for construction and operation of the facility.*
- 07. A plan to protect any endangered or threatened plants, archaeological, historical or cultural sites or artifacts found at the site.*
- 08. A plan to mitigate or minimize harm to birds and bats.*
- 09. A decommissioning plan, including a description of how the site could be restored to a useful, non-hazardous condition upon project termination and the estimated cost of site restoration.*
- 10. An economic benefit analysis showing how Wallowa County will benefit from the proposed project both during construction and operational phases.*

FINDING 7: The Commission finds that the application and oral testimony met the required contents identified in the section above.

SECTION 57.025, REVIEW CRITERIA:

- 01. General:*
 - A. No tower shall be permitted within, or a distance equal to or greater than 1.5 times the height of the tower from, any road right-of-way.*
 - B. All towers and associated structures shall be maintained in operational condition. Documentation from the facility owner providing proof that adequate steps are being taken to re-enter the turbine into production is sufficient to determine that a structure meets the operational condition requirement.*
 - C. Illumination other than that required by FAA shall be the minimum necessary and be shielded and downward directed so as to not shine onto neighboring parcels or impact scenic resources.*
 - D. At a minimum, all setbacks and development standards in the underlying zone and applicable overlay zones must be met.*
 - E. Applications must satisfy any applicable criteria of Article 36, Salmon Habitat Restoration.*
 - F. Applications must satisfy any applicable criteria of Article 32, Road Design and Article 33, Parking.*
 - G. Applications must satisfy any applicable criteria of Article 28, Resource Overlay, and Article 44 Wallowa Lake Moraine Goal V Resource Overlay.*
 - H. For all structures that are more than 200 feet above grade or that exceed airport imaginary surfaces as defined in OAR Chapter 738, Division 70, the proposed facility must*

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comply with the air hazard rules of the Oregon Department of Aviation. The applicant shall verify compliance by written approval from the Department of Aviation.

I. The applicant has reduced the visual impact of construction and operation of the proposed facility to the extent practical, by methods which may include, but are not limited to, the following:

- a) Minimizing construction on ridgelines, state or federal scenic areas and unique or significant views and vistas listed in the comprehensive plan.*
- b) Building the facility near the edge of contiguous timber areas or using the natural topography to obscure the facility.*
- c) Using non-reflective materials and colors that blend with the background unless otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation; and*
- d) Setting the facility back from the edge of public arterial rights-of-way, state highways, county roads, Type F and Type D streams, viewpoints and other significant visual resources identified in the comprehensive plan and retaining or planting vegetation to obscure views of the facility from those areas.*

K. The proposed site is not within a scenic corridor. Scenic corridors include federal or state scenic byways, scenic highways, scenic areas, scenic waterways and local scenic view corridors listed in the comprehensive plan. A proposed project that is adjacent to a scenic corridor may be approved if the applicant proposes mitigation measures that would protect the resource values of the designated scenic corridor. Such measures may include, but are not limited to, using colors that blend with the background, setting the development back from a right-of-way or stream corridor, using the natural topography to screen the facility and retaining or planting vegetation that would obscure the view of the facility.

L. As part of their application, the applicant has on file fire protection measures for the construction and operation of the proposed facility that are acceptable to the county and other land management agencies adjacent to the facility.

M. Signs are subject to the criteria of Article 34, Signs. Additionally, there may be no more than 2 signs relating to the name and operation of the facility on the site.

N. The applicant must show that the construction and operation of the proposed facility is not likely to cause significant adverse impact to historic and cultural resources identified by the State Historic Preservation Office or identified in the County's Comprehensive Land Use Plan. The applicant must submit for approval as part of their application, a plan to preserve any previously undiscovered archeological, historical or cultural artifacts discovered during construction or operation of the proposed facility in compliance with applicable county, state, and federal law.

[...]

FINDING 8: The Commission finds that the application meets all the criteria identified in SECTION 57.025.

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CITY OF JOSEPH CUP#23-03

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03. *Criteria Specific to Wireless Communication Towers:*

01. *Existing wireless or other appropriate towers within two miles of proposed site must be utilized first. Applicant must supply compelling evidence if antenna cannot use an existing tower.*
02. *New towers may not exceed 180 feet. If applicant requires more height, a Variance application is required.*

FINDING 9: The Commission finds that the applicant evaluated all towers within two miles of the proposed site and provided compelling evidence that alternate towers were not viable for the specifications of this project.

SECTION 57.030, TERMINATION AND DECOMMISSIONING:

The applicant would comply with the following requirements before beginning construction of the proposed facility:

01. *The applicant agrees to submit to the County a written plan for decommissioning the facility and restoring the project site. The applicant must submit the plan for review with the application for the facility. The plan must include removal of aboveground and underground equipment, structures and foundations (to a depth of at least 3 feet). The plan must include a schedule for completion of site restoration work. The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration. For any part of the facility on leased property, the decommissioning plan may incorporate agreements with landowners regarding leaving access roads, fences, gates or buildings in place or regarding restoration of agricultural or forest resource land.*
02. *The facility operator must submit a bond or letter of credit in a form and amount satisfactory to the County, assuring the availability of adequate funds to restore the site to a useful, non-hazardous condition, if the operator fails or is otherwise unable to restore the site.*

FINDING 9: The Commission finds that the applicant has provided an adequate decommissioning plan, and that no bond or letter of credit will be required.

SECTION 57.030, AVOIDANCE OF DUPLICATION:

The applicant may incorporate by reference any information developed or submitted in any other application if the applicant submits a copy or summary of the referenced material, identifies the proceeding in which it was submitted and the outcome of that proceeding and explains the relevance of the information to the approval standards.

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FINDING 10: The Commission finds that additional information is not required.

SECTION 57.035, PERMIT DURATION:

The permit will expire two years from the Date of Decision for the permit unless the applicant has completed substantial construction or development of the permitted facility. The Planning Commission will be the arbitrator of what constitutes substantial construction or development.

FINDING 11: The Commission has excerpted the section above for schedule duration requirements.

PUBLIC COMMENTS:

There was one public comment from the Oregon Department of Aviation (ODAV) citing additional development and review requirements for the ODAV and The Federal Aviation Administration (FAA).

FINDING 12: The Commission finds that the requirements of the ODAV and the FAA apply to this proposal.

CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application with no Conditions of Approval.

The Conditional Use Permit CUP #23-03 to install a wireless communication tower, as specified in the application and documented in the record, is approved.

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 June 27, 2023 verbal vote to approve the application is 5 in favor and 0 opposed with 0 abstaining.

The July 25, 2023 vote to approve the Findings Report is ___ in favor and ___ opposed with ___ abstaining.

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CITY OF JOSEPH CUP#23-03

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July 25, 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 August 10, 2023.

FINDINGS

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July 25, 2023

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