

WALLOWA COUNTY PLANNING COMMISSION
7:00 pm August 29, 2023
Wallowa County Courthouse
Agenda

1. **Planning Commission Meeting Minutes** from July 25, 2023
2. **CUP#23-04 STEWART** – Submitted by Dera and Larz Stewart, the proposed Conditional Use Permit is a request for a Home-based Occupation in the form of a Bed and Breakfast in a Non-resource Use Bunkhouse. The property in question is described as Township 02 South, Range 45E, Section 29, and Tax Lot 1500 in the Exclusive Farm Use (EFU) zone. It is more commonly known as for 64001 Imnaha Highway, Joseph, Oregon 97846 and consists of approximately 8 acres.
3. **LP#23-04 PEARCE** – Submitted by Bagett, Griffith and Blackman on behalf of Vicky and Parley Pearce, the proposal would split the 4.4-acre parcel into two parcels with the new parcels being 2.34 and 2.09 acres. The subject parcel is described as Township 02 South, Range 45 East, Section 31, Tax Lot 1501 and is zoned Recreation Residential (R-2).
4. **Other Business:**

The next Planning Commission meeting is scheduled for September 26, 2023.

[THIS PAGE INTENTIONALLY LEFT BLANK]

Planning Commission Minutes July 25, 2023

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on July 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):

Kim Tippet (Acting Chair)
Ramona Phillips
Jim Nave (via Zoom)
Rob DeSpain (via Zoom)

STAFF:

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

OTHERS PRESENT:

Dan Larman
Douglas McKinnis

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 July 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 application. Each of the standards must be supported by substantial evidence in the record.

Planning Commission Minutes July 25, 2023

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. June 27, 2023 Minutes

CM Phillips moves to approve the minutes of the June 27, 2023 Planning Commission meeting.

CM Nave seconds the motion.

[CM Phillips – Yes;

CM DeSpain – Yes;

CM Tippet – Yes;

CM Nave – Yes;

Motion Passes 4-0-0]

2. EAVES-BRIMM VAR#23-04 FINDINGS

Planning Commission Minutes July 25, 2023

PD Goebel presents the Findings Report.

CM Phillips moves to approve the Findings Report for VAR#23-04.

CM Nave seconds the motion.

[**CM Phillips** – Yes;

CM DeSpain – Yes;

CM Tippet – Yes;

CM Nave – Yes;

Motion Passes 4-0-0]

3. CLEMENTS CUP#23-02 FINDINGS

PD Goebel presents the Findings Report.

CM Phillips moves to approve the Findings Report for CUP#23-02.

CM Nave seconds the motion.

[**CM Phillips** – Yes;

CM DeSpain – Yes;

CM Tippet – Yes;

CM Nave – Yes;

Motion Passes 4-0-0]

4. CITY OF JOSEPH CUP#23-03 FINDINGS

PD Goebel presents the Findings Report.

CM Phillips moves to approve the Findings Report for CUP#23-03.

CM Nave seconds the motion.

[**CM Phillips** – Yes;

CM DeSpain – Yes;

CM Tippet – Yes;

CM Nave – Yes;

Motion Passes 4-0-0]

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

**Planning Commission Minutes
July 25, 2023**

5. OTHER BUSINESS

None

CM Phillips moves to adjourn the meeting.

CM DeSpain seconds the motion.

[CM Phillips – Yes;

CM DeSpain – Yes;

CM Tippet – Yes;

CM Nave – Yes;

Motion Passes 4-0-0]

Meeting adjourns at 7:22 PM

Jean Jancaitis

Date



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

STAFF REPORT
CUP#23-04
STEWART HBO B&B

APPLICANT: Lars & Dera Stewart
64001 Imnaha Hwy
Joseph, OR 97846

OWNER: Same

REQUEST: To permit a Home-Based Occupation in the form of a Bed and Breakfast, in an existing bunkhouse (accessory structure) for a maximum of (2) people and (1) vehicle. The residence is not on High Value Farmland.

LOCATION: The property description is Township 02S, Range 45E, Section 29, Tax Lot 1500, Ref#2700, Address: 64001 Imnaha Hwy, Joseph, OR 97846.

PARCEL CHARACTERISTICS: The parcel contains about 8 acres. The Zoning is Exclusive Farm Use (EFU) and access is from Imnaha Hwy, a State Hwy. The parcel borders EFU on all sides. There is one dwelling on the parcel, and multiple accessory structures.

OTHER INFORMATION:

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

PREVIOUS PLANNING DEPARTMENT AND OTHER AGENCY ACTIONS:

ZP#03-19, Approval for a cover over a manufactured home
ZP#23-25, Approval for two non-resource use bunkhouses

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 a bunkhouse as the B&B. The application was submitted *prior* to the 07/19/2023 amendment to Ordinance Article 1 definitions of Bed & Breakfast, and Bunkhouse, so the criteria applied to this application includes the definitions at the time of application (see below for reference). There is a conflict in the code, however:

- The definition of B&B allows the use to occur in an accessory structure, such as a bunkhouse.
- The definition of accessory structure prohibits the use as a rental unit.

The applicant argues that a Bed & Breakfast is not the same as a *rental unit*, and therefore should meet the criteria.

Per Article 1, Section 1.030, "Where conditions imposed by any provision of this ordinance are less restrictive than comparable provisions of this ordinance or any other ordinance, regulation, or law; the

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 1 of 7

more restrictive provision will prevail.” The more *restrictive* provision would be the *prohibition* of rentals in the accessory structure definition versus the *allowance* of accessory structures in the Bed & Breakfast definition. Regarding whether a Bed & Breakfast is a rental, the definition of Bed & Breakfast lists that “...up to five bedrooms may be available for rent. Rooms are rented for less than 30 days.”

Staff’s opinion is that a Bed & Breakfast is a type of rental unit, and therefore prohibited by the definition of accessory structure.

This interpretation of Ordinance has been inconsistently applied in the past, but past land use decisions do not necessarily create precedence, particularly when previous reviews have not considered conflicting definitions.

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

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

[...]

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.*

[...]

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*

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 2 of 7

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.

[...]

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.*
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.*

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 3 of 7

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.

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 4 of 7

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.*

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 5 of 7

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.

If the Planning Commission approves the application:

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.

STAFF REPORT

CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 6 of 7

- A Bed and Breakfast must have someone on-site, overnight, while guests are present to oversee the operation of the rental.
- 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.

STAFF REPORT

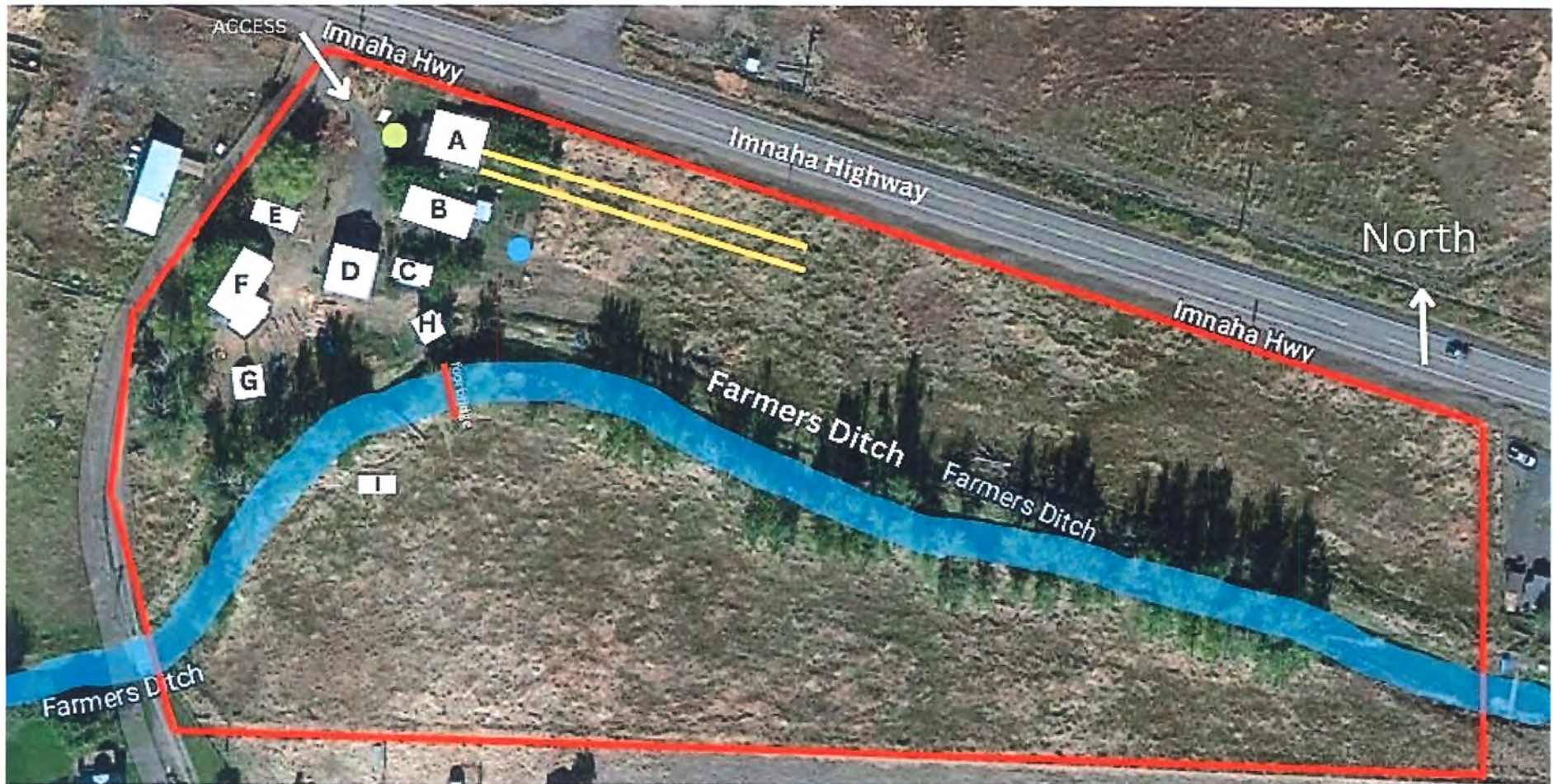
CUP#23-04 STEWART B&B Staff Report

August 29, 2023

Page 7 of 7



approximate
property location



- Property Line
- Septic tank
- Drain Field
(Distance from water source 41')
- Well
(Distance from septic tank = 75')

A - Class 3 Single Family Dwelling
30' x 40'

B - 505 DRC Building

C - Bunkhouse (Bed and Breakfast Permit)
Dimensions: 12x26'
Distance to property line:
N:120' S:291' E:717' W:129'
Distance to Farmers Ditch: 54'
Distance from well: 58'
Distance to septic tank: 83'
Level 1 Primary Fuel Break Area: 30'
Level 1 Secondary Fuel Break Area: 100'

D - 505 DRC Building

E - 505 DRC Building

F - 505 DRC Building

G - 505 DRC Building

H - 505 DRC Building

I - Bunkhouse
Dimensions: 12' x 26'
Distance to property line
N: 259' S: 180' E: 711' W: 120'
Distance to Farmers Ditch: 30'
Distance from well - NA
Distance to septic tank - NA
Level 1 Primary Fuel Break Area - 30'
Level 1 Secondary Fuel Break Area - 100'

Larz and Dera Stewart
64001 Imnaha Highway
Joseph, OR 97846

July 3, 2023

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

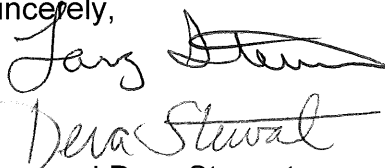
Dear Wallowa County Planning Commission,

I am writing in regards to our Home-Based Occupation application for a bed and breakfast on our property at 64001 Imnaha Highway in Joseph, OR. We would like to utilize our bunkhouse as a bed and breakfast as defined in the Wallowa County Land Development Ordinance Article 1. In addition, bunkhouse falls under the category of an accessory structure for a home-based occupancy as defined in Article 35 (Home-Based Occupation). It will hold a maximum of two guests, with designated on-site parking, breakfast for guests and overnight staff on-site. The bunkhouse is located 70 feet (in direct view) from our single-family dwelling which we reside. The bed and breakfast will meet the criteria of Articles 33, Signs, 34, Parking, and 25, Flood, Wildfire and Natural Hazards.

We would also like to note that Article 1 stipulates that an *accessory structure or use*, "will not be used as a residence or rental unit." The bed and breakfast we are requesting will not be used as a residence or rental unit.

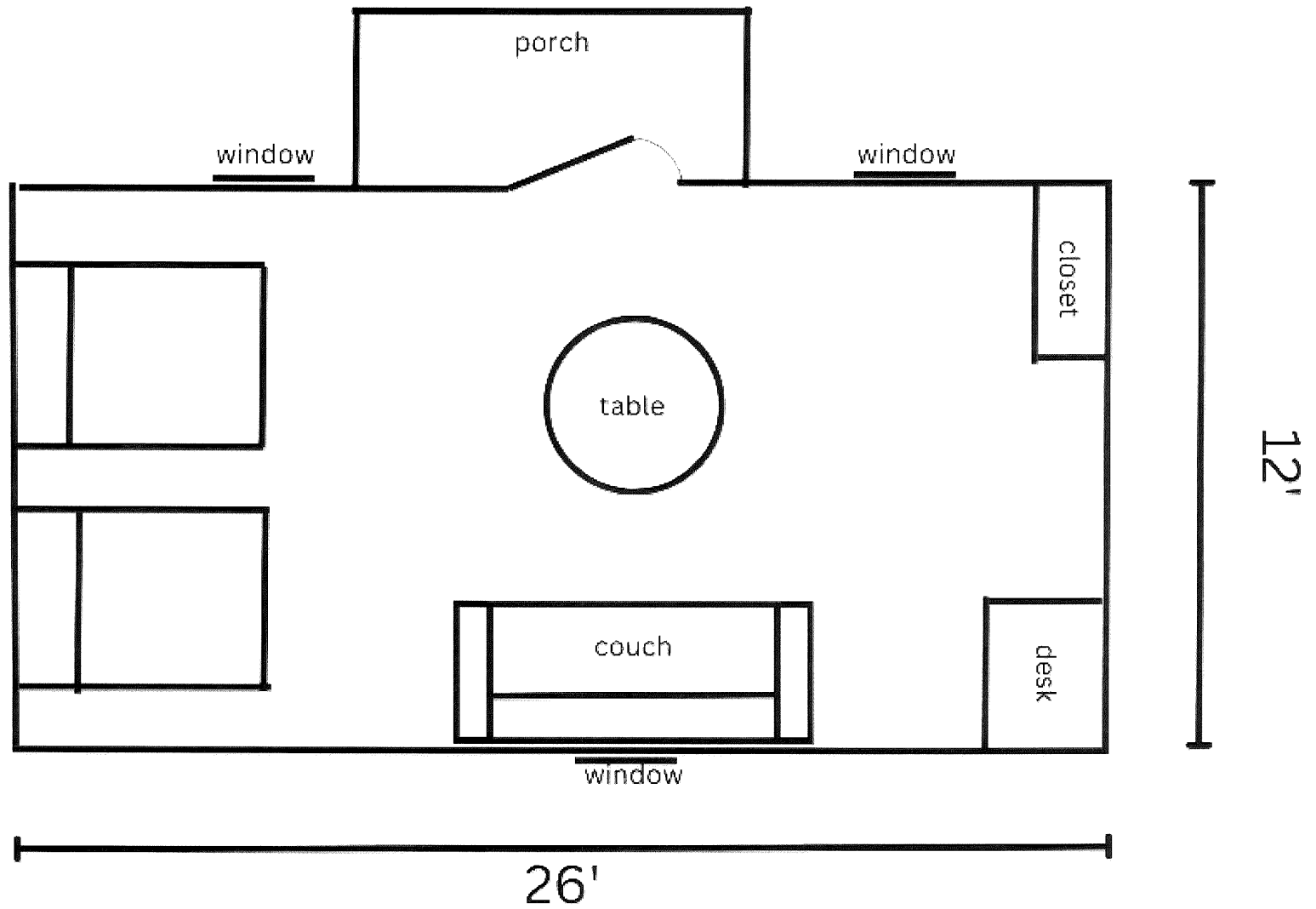
We thank you for your time and consideration.

Sincerely,



Larz and Dera Stewart

Bunkhouse Floor Plan



Maximum occupancy 2 people



House Rules

64001 Imnaha Highway, Joseph, OR 97846

Welcome to our Bed and Breakfast in beautiful Wallowa County, Oregon! We want your stay to be as enjoyable and comfortable as possible, so we kindly ask you to familiarize yourself with the following house rules:

1. Check-In and Check-Out Times: Our standard check-in time is 3:00 PM, and check-out time is 11:00 AM. Please let us know in advance if you require early check-in or late check-out, and we will do our best to accommodate your request.
2. No Smoking: Smoking is strictly prohibited inside the bed and breakfast premises. There is a designated outdoor smoking area where you can enjoy your cigarette.
3. No outside fires allowed except for the BBQ.
4. Quiet Hours: Please respect other guests' comfort and observe quiet hours from 8:00 PM to 7:00 AM. Keep noise levels to a minimum during this time.
5. Pet Policy: Pets are welcome but must remain in the fenced yard. Please pick up after them.
6. Damages and Losses: Guests are responsible for any damages or losses caused to the property or its contents during their stay. Any significant damages will be charged to the guest.
7. Parking: Parking is available on-site for guests. Please park in designated areas.
8. Safety and Liability: The bed and breakfast cannot be held responsible for any accidents, injuries, or losses that occur during your stay. Guests are responsible for their personal safety and the security of their belongings.

☒ **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 a bunkhouse with a maximum of 2 guests and one parking space

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). <i>Bed & Breakfast</i>	<input checked="" 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.



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

PLANNING COMMISSION PACKET Page 21 of 29

STAFF REPORT
LP#23-12

APPLICANT:	Parley & Vicky Pearce 615 Abbott Rd Walla Walla, WA 99362
OWNER:	Same
REQUEST:	A minor partition to a parcel zoned R-2. One parcel shall be divided into two parcels.
LOCATION:	Township 02S Range 45E Section 31 TL 1501, ref#9351. Address: 83795 Airport Ln, Joseph, OR
PROPERTY CHARACTERISTICS:	The property is approximately 4.4 acres and is zoned R-2, Recreation Residential. It is accessed via Hurricane Creek Market Rd (Airport Ln), a county road. It is bounded on the west and south by EFU (Exclusive Farm Use), to the north by M-1 Industrial zone, and to the east by M-1 and EFU zones. The Wallowa River, a fish-bearing stream, traverses the northern boundary of the site. The proposed parcels are approximately 2.34 acres and 2.09 acres.
REVIEW CRITERIA:	<ul style="list-style-type: none">• Article 4, Administrative Review• Article 18, Recreational Residential (R-2)• Article 22, Industrial (M-1)• Article 30, Land Partition• Article 36, Salmon Habitat Restoration• and other applicable zoning ordinances or goals of Wallowa County and or laws of the State of Oregon
PREVIOUS LAND USE & PLANNING ACTIONS:	<ul style="list-style-type: none">• ZC#12-02, Zone Change from M-1 Industrial to R-2 Recreation Residential

PLANNING DIRECTOR'S COMMENTS: This application is for a Minor Land Partition to a property that is zoned R-2 (Recreation Residential). The prescriptive review for a minor partition is administrative; notice sent to surrounding properties with a decision by the Planning Director

(PD). The PD has forwarded this application to the Planning Commission (PC) because there is a potential conflict with a previous Planning Commission approval to rezone the subject property. The property was re-zoned from M-1 (Industrial) to R-2 in 2012-2013. A rezone is an amendment (in this case a minor amendment because it is less than 10 acres) to the comprehensive land use plan zoning map. Amendments to the zoning map require notice to the State Department of Land Conservation and Development (DLCD), and after approval at the local level, another notice of adoption. There is no record that a notice of adoption for Zone Change ZC#12-02 was submitted. This last step in the amendment process is where DLCD and other interested parties have the opportunity to appeal or to confirm that all appropriate criteria has been addressed and the amendment is consistent with State Goals. Additionally, an order should have been drafted and signed at the local level, and submitted with the final notice to DLCD. Staff has located meeting minutes from the PC approving the zone change, and an unsigned version of the Findings Report.

This discrepancy is similar to that of a rezone of multiple parcels east of the Joseph State Airport. In that case, the Board of Commissioners (BOC) found that the rezone, because it had not been adequately noticed and acknowledged with DLCD, or with the Oregon Department of Aviation (ODAV), was reversed and the parcels remained M-1 Industrial. A primary difference between the rezone preceding this application and the reversed rezone decision above, is that this parcel is not within an airport overlay zone prohibiting residential development.

For this application, zoning is important as it defines the minimum parcel size:

- In R-2, the minimum parcel size is 2 acres.
- In the M-1, the minimum parcel size is 5 acres (without community water or sewer).

If the determination is that the parcel reverts to M-1, then the minor partition does not meet the criteria. If the determination is that the parcel is R-2 as approved previously with the PC, then the partition can be approved, and meets the minimum parcel size for the R-2 zone.

The PC can take two approaches to this application:

- 1) Affirm that the zone is R-2 as earlier decided by local government and approve the Minor Partition. It would be advisable to complete the last steps that didn't occur during the original zone change:
 - a. Sign an Order codifying the approval of the zone change from M-1 to R-2.
 - b. Notice DLCD of the previous amendment adoption, and upload the signed order.
- 2) Determine that the zone is M-1 and deny the application for a partition, as it does not meet the criteria.

Staff recommends Option 1 above, because this parcel is not adjacent to a runway and does not conflict with ODAV guidelines preventing residential development adjacent to a runway, or the associated public safety risks that incurs. As well, the Planning Department has considered this property to be zoned R-2 Recreational Residential since the zone change in 2013.

ARTICLE 4, ADMINISTRATIVE REVIEW

SECTION 4.010, PURPOSE: *The purpose of this article is to provide the procedural guidelines for reviewing applications for uses and developments which may impact neighboring properties and developments but not to the extent of requiring a public hearing review. The Administrative Review authority has some discretion regarding the applicant's compliance by applicable review standards and criteria, setting forth conditions of approval, and requiring performance guarantees.*

SECTION 4.015, RESPONSIBLE REVIEW AUTHORITY: *Unless specified otherwise, the Planning Director is the review authority for all applications requiring Administrative Review.*

SECTION 4.020, NOTICE OF REVIEW: *ORS 197.763*

01. *Administrative Review requires written notice of review to be given to owners of property lying within:*

[...]

B. *Two hundred and fifty (250) feet of the exterior boundary of the subject property where the subject property is outside an urban growth boundary and not within a farm or forest zone.*

[...]

The review authority will provide the notice to other parties should it be determined by the review authority their interests may be affected by the proposal, or they have other needs for the notice.

02. *Notice of review is to be provided no later than five days following the application date of filing and, at a minimum, contain the following information:*

- A.** *Name of applicant.*
- B.** *Name of property owner.*
- C.** *Property identification.*
- D.** *Nature of request.*
- E.** *Ordinance provisions which govern the review.*
- F.** *Where application can be reviewed.*
- G.** *Where written comment will be received.*
- H.** *Last date written comment will be received.*
- I.** *Last date on which decision is to be rendered.*
- J.** *Rights to notice of final action.*
- K.** *Rights to appeal final action.*

SECTION 4.025, REVIEW PROCESS AND DECISION:

01. *Upon receipt of a filed application, the Administrative Review authority shall review the application for compliance with all applicable standards and criteria. The review authority shall consider all comments received which are pertinent to the application and which address*

applicable review standards and criteria.

02. *The decision of the review authority is to be rendered no sooner than the 16th day nor later than the 45th day following the applicants date of filing.*

03. *The decision of the review authority is to be placed in writing and shall set forth the findings and conclusions used to reach the decision. Each applicable review standard and criterion shall be addressed by the review authority as well as each pertinent comment received during the review process.*

04. *The decision of the review authority shall specify each condition of approval and required performance guarantees imposed on the permit.*

05. *The decision document shall be provided to the applicant and to all parties responding to the notice of review or who request receipt of the decision document. The document shall be mailed or delivered by other means no later than five days following the date of final action.*

SECTION 4.030, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES: The Administrative Review authority may impose such conditions of approval upon a permit as is deemed necessary to ensure the use or development complies with the applicable standards and criteria and as provided for in Article 9, Conditional Use.

Article 18

RECREATION RESIDENTIAL (R-2)

SECTION 18.010, PURPOSE: The purpose of the Recreation Residential Zone is to provide minimum standards for residential development and recreational uses in areas of Wallowa County that visitors from outside the County are attracted to for natural and man-made amenities. The minimum standards of this Article are intended to:

01. *Stabilize and improve property values.*
02. *Preserve and enhance an area=s attractiveness to visitors and residents of Wallowa County.*
03. *Foster civic pride in natural and man-made amenities.*
04. *Strengthen the economy of Wallowa County.*

SECTION 18.035, PROPERTY DEVELOPMENT STANDARDS:

01. PARCEL SIZE:

For Existing Parcels: Where community water and sewer are available for purchase at the time of permit approval, the minimum parcel size for development on an existing parcel is 7500 square feet. Where either or both community water and sewer are not available or

slope of a lot is greater than 10%, application review for building construction or creation of new lots shall be based on recommendations by a registered licensed engineer or geologist and the ability of the site to accommodate on-site sewage disposal and the use, but in no case shall the lot be smaller than 7,500 square feet.

For New Parcels: Per OAR 660-004-0400, for any lands not included within unincorporated community or Goal 14 exception areas, no new parcel of land under two acres may be created from lands zoned Recreation Residential, R-2.

[Staff note: This parcel is in a Goal 14 exception area.]

Where either or both community **water and sewer are not available** or slope of a lot is greater than 10%, application review for building construction shall be based on recommendations by a registered licensed engineer or geologist and the ability of the site to accommodate on-site sewage disposal and the use, **but in no case shall the lot be smaller than 2 acres.**

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.*

[...]

ARTICLE 30

LAND PARTITION

SECTION 30.010, PURPOSE: *The purpose of the land partitions procedure is to ensure that the division of lands into parcels or subsequent use and development is conducted in an orderly manner and in compliance with this ordinance.*

*SECTION 30.015, REVIEW PROCEDURE: Application for the review or a tentative plan of a partition shall be subject to **Administrative Review** unless specified otherwise by requirements of the zone in which the partition is proposed.*

SECTION 30.020, REVIEW CRITERIA: Application for the review of a tentative plan for a partition may be approved only if the reviewing authority shall find that it satisfies the following criteria.

- 01. The proposed tentative plan is in conformance with all applicable provisions of this ordinance.*
- 02. The proposed partitioning of land does not land lock or prevent access to adjacent properties or prohibit the extension of dedicated streets or roads.*
- 03. The proposed partitioning will not conflict with easements or access within or adjacent to the proposed land partition.*
- 04. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets, or other existing or planned facilities.*
- 05. The proposed partition size meets the minimum lot size of the zone in which it is located.*

SECTION 30.025, PROCESSING: In processing a land partition, the following procedures shall be followed:

- 01. INITIATION: An application for land partition shall be initiated by the owner of the property for which the partition is sought or by the representative of the owner. The authorization of said agent shall be in writing and filed with the application.*
- 02. FILING: An application for a land partition shall be filed on forms provided by the Planning Department and shall set forth in detail all the information requested and include an assessor's map indicating the proposed partition boundaries and any required road improvements.*
- 03. CONDITIONS: The tentative plan for a partition may be approved subject to conditions.*
- 04. SURVEY OF PARCELS: Following the approval of a tentative plan for partition, the partitioner shall cause the parcels created to be accurately surveyed and monumented in accordance with standards established in ORS 209.250, as revised, unless the review authority waives the requirement for a survey requirement for some or all of the parcels created only if it makes one of the following findings.*
 - A. Given the size, number, and proposed use of the parcels created; the requirement for the survey would impose an undue financial burden on the partitioner.*

- B. *An accurate property description, acceptable to the Wallowa County Surveyor, as evidenced by his written statement to this effect, can be provided.*
05. *SUBMISSION OF FINAL MAP: Within six months of the date of approval of a tentative plan, the partitioner shall prepare and submit a final map which conforms with the approved tentative plan.*
06. *EXTENSION OF TIME LIMIT: Prior to the expiration date of the time limit for the submission of a final map, a partitioner may request a time extension. A maximum of one such extension for six months may be granted by the Planning Director upon a written finding that the facts upon which the approval of the tentative plan was based have not changed to an extent sufficient to warrant refiling of the tentative plan and after a finding that no other development approval would be affected. If a final map is not submitted within the time limit, as it may be extended, the partitioner shall file a new application for review of the tentative plan.*
07. *APPROVAL OF COUNTY SURVEYOR: Upon its receipt, the Wallowa County Planning Director shall transmit the final map and other related information to the Wallowa County Surveyor who shall review the final map and information to determine that there has been full compliance with all applicable statutes and provisions that the map is technically correct and in conformance with the approved tentative plan.*
08. *FILING OF FINAL MAP: After obtaining approval of the Wallowa County Surveyor, the partitioner shall file the final map with the Wallowa County Clerk. Approval of the final map shall be null and void if the map is not filed within 30 days after the Wallowa County Surveyor's approval.*
09. *APPEAL: The applicant or any interested deed holder or contract vendee of property within 250 feet of the property affected by decisions pursuant to this section may, within ten days from the date of the decision regarding approval or denial of a tentative plan, appeal the decision pursuant to the provisions of Article 7, Appeals.*

ARTICLE 36, SALMON HABITAT RESTORATION

SECTION 36.010, PURPOSE: *The purpose of this article is to create a system for plans on lands within Wallowa County that will restore and maintain habitat for Chinook salmon and, potentially, other salmonoid fish. The goals for salmon recovery are to provide spawning, rearing, and migration habitat within Wallowa County to assist in the recovery of Snake River salmonoids. Wallowa County recognizes that suitable in-stream habitat for salmon is dependent upon conditions throughout the watershed from the stream itself to the crests of ridges. For example, adequate crown density in forests contributes to the buildup of snowpack and the slower snowmelt needed to maintain streamflows beyond the spring runoff. Without healthy vegetation, soils can erode and fine sediment can flow into streams to suffocate fish eggs and*

small fry. Wallowa County finds that the salmonoid ecosystem includes the entire watershed not just the in-stream habitat.

SECTION 36.015, MANAGEMENT PLANS: *Management plans shall be required prior to approval of watershed, streambank, and in-stream project applications. Plans shall conform to the requirements as provided by the Planning Department for this purpose.*

SECTION 36.020, DEVELOPMENT PLANS: *Development plans shall be required as provided for in this ordinance and shall include consideration of the following:*

- 01. Provisions for protection of water quantity including:*
 - A. Roads shall be maintained and designed to avoid quick runoff and improve infiltration.*
 - B. Roads shall be relocated outside riparian areas and placed on less compactable soils.*
 - C. Healthy riparian plant communities shall be developed and/or maintained.*
 - D. In forested areas, protect the shaded snowpack (tree spacing)*

IF APPROVED, STAFF RECOMMENDED CONDITIONS:

- Any future development (land use permits) will require a Salmon Restoration Management Plan per Article 36, Section 36.015, MANAGEMENT PLANS, and a Development Plan per Section 36.020, DEVELOPMENT PLANS.*
- Salmon Habitat and Development Plans shall be reviewed by the NRAC Technical Committee, and incorporate NRAC recommendations, prior to approval of any development land-use permits.*
- No temporary use activities can occur within a 50' riparian setback from the highwater line of the Wallowa River.*
- No vegetation removal shall occur within the 50' riparian setback from the high-water line, without a proposal that has been reviewed by the NRAC Technical Committee.*

CONCLUSION(S):

To be developed at the hearing.

TENTATIVE PLAN PRELIMINARY PARTITION PLAT

A Partition of Parcel 2 of Minor Partition Plat Number 2011-6622
Situating in the Northwest 1/4 of the Northeast 1/4 of Section 31 and in the Southwest 1/4 of the Southeast 1/4 of Section 30,
Township 2 South, Range 45 East of Willamette Meridian, Wallowa County, Oregon
Tax Lot 1501, Map 2S 45 31

BASIS OF BEARING

Solar observations taken at a point 780 feet North of the
Southwest corner of Section 29, Township 2 South,
Range 45 East of the Willamette Meridian.

SCALE: 1"=100'

LEGEND

- Found 2 1/2" aluminum monument set by MP 92-21070
- Found 2 1/2" aluminum monument as per Wallowa County monumentation records
- Found 5/8" iron pin with plastic cap marked "BGB SURVEY MARKER" set by Minor Partition Plat Number 2011-66222
- 5/8"x30" iron pin with plastic cap marked "BGB SURVEY MARKER" set by Survey CS 2022-011
- × × × Existing fence line
- Centerline
- Edge of Wallowa River
- Contour Line (1 ft. interval)
Vertical Datum NGVD-29

