

**WALLOWA COUNTY PLANNING COMMISSION**  
**7:00 pm February 27, 2024**  
**Wallowa County Courthouse**  
**Agenda**

1. **Planning Commission Meeting Minutes** from January 30, 2024
2. **FINDINGS CUP#23-05 SUTO** – Submitted by John and Billie Suto. The proposed Conditional Use Permit is a request for a Home-based Occupation in the form of a Bed and Breakfast. The property in question is described as Township 02 South, Range 44E, Section 9, and Tax Lot 102 in the Existing Lot (EL-1) zone. It is more commonly known as 81814 Reavis Lane, Enterprise, Oregon 97828 and consists of approximately 5.93 acres.
3. **Other Business:**

**The next Planning Commission meeting is scheduled for March 26, 2024.**

[THIS PAGE INTENTIONALLY LEFT BLANK]

## Planning Commission Minutes January 30, 2024

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on January 30, 2024. This meeting was held via Zoom, a video conferencing application, and in the Thornton Conference Room of the Courthouse. The following people were present:

**COMMISSIONERS (CM):**

Jim Nave (Chair)  
Kim Tippet  
Rob DeSpain  
Chris Bullat  
Todd Turner  
Gay Fregulia (joined at 7:05)  
Ramona Phillips

**STAFF:**

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

**OTHERS PRESENT:**

Sheila Sweeney  
Nick Burks  
Lori Salus  
Greg Kleiner  
Marika Straw  
AJ Savage  
Raider Heck  
Mary LaPointe  
Ned Fairchild  
Nick Lund  
Rowan Cypher  
Angela Bailey  
Melyssa (last  
name  
illegible)  
Tamara Baker  
John Baker  
Yun McFall  
Miles McFall  
Michael Eng  
Erika Polmer  
Elnora (last  
name  
illegible)  
John Larson

Tim Biedron  
Pam Harshfield  
Lisa Collier  
Laura Ledgett  
Scott Lathrop  
Beckijo Wall  
Sweyn Wall  
Teresa Smergut  
Billie Suto  
Marcia Sheehy  
Ingrid Cook  
David Cook  
Frances Buckles  
Timothy Comrie  
Paul Flanders  
Karen Nix  
David Mildrexler  
Daniel McRae  
David Weaver  
John Hillock  
John Suto  
June Jones  
Mike Burns  
Bill Smergut

**PRESENT via ZOOM:**

Ken Dobson  
Carolyn Lochert  
Janet Pulsifer  
Geoff Roose  
Victoria Roose  
Connie Guentert  
Spenser Shadle  
Jackson Riepe  
Amy Harshfield  
Adam Smith  
Kirk Farrelly  
Monica Eng  
Damiana Maxwell  
Milly Hasselblad  
Nora Hawkins  
Anne Robinson  
Casey Smergut  
Lynda Swarts  
Alyssa Cudmore  
Kevin Vandenheuvel  
Devon Sundman  
Hilary Miller  
Christy Stanhope  
Cheri Miller

Mysha Oveson  
Tyler Stucki  
Jessica Stucki  
Bill Henke  
Teresa Henke  
Christy Stanhope  
Ava Skillings  
James Farrelly  
Jonathan  
Plummer  
Angelika Ursula  
Dietrich-  
Garoutte

**Planning Commission Minutes  
January 30, 2024**

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

Good evening, everyone, let me call to order the January 30, 2024 hearing of the Wallowa County Planning Commission. My name is Jim Nave, and I am the Chair of the Planning Commission. 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 who support the Planning Commission and have prepared the materials we will consider.

[Introductions of members and staff]

---

The first order of business is approving the November 28 minutes.

**1. November 28, 2023 Minutes**

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

**CM Bullat** seconds the motion.

**[CM Nave – Yes;**

**CM DeSpain – Yes;**

**CM Tippet – Yes;**

**CM Bullat – Yes;**

**CM Turner – Abstain;**

**CM Phillips – Yes;**

**CM Fregulia – Absent;**

**Motion Passes 5-0-1]**

The minutes are approved.

---

**CM Nave** opens the legislative session.

---

**2. EW TRUST – NAKATO AMD#23-03**

**CM Phillips** makes a motion to approve the Findings Report.

**CM Bullat** seconds the motion.

**[CM Nave – Yes;**

**CM DeSpain – Yes;**

**Planning Commission Minutes  
January 30, 2024**

**CM Tippet** – Yes;  
**CM Bullat** – Yes;  
**CM Turner** – Abstain;  
**CM Phillips** – Yes;  
**CM Fregulia** – Absent;

**Motion Passes 5-0-1]**

The Findings Report is approved; the Planning Commission recommends to the Board of Commissioners that the application be denied.

---

**CM Nave** closes the legislative session and opens the quasi-judicial session.

---

**3. CUP#23-05 SUTO**

**PD Goebel** presents the Staff Report.

**Applicant** presents the application.

**CM Bullat** asks if the seven proposed cars includes their own.

**Applicant Suto** responds that it does.

**CM Bullat** reminds the applicant of the sign ordinance if they choose to post a sign.

**CM DeSpain** request clarification on where they will be staying while there are guests.

**Applicant Suto** responds that they will be staying in whatever room is not rented and that they intend to start with one room to see if they would like to rent another.

**CM Bullat** confirms they will be providing a morning meal.

**CM Nave** requests public testimony.

Hearing none, **CM Nave** closes the testimony portion of the hearing.

---

**PD Goebel** reads the suggested conditions.

**CM Bullat** makes a motion to approve CUP#23-05 with the suggested conditions.

**CM Phillips** seconds the motion.

# **Planning Commission Minutes** **January 30, 2024**

**[CM Nave – Yes;**  
**CM DeSpain – Yes;**  
**CM Tippet – Yes;**  
**CM Bullat – Yes;**  
**CM Turner – Yes;**  
**CM Phillips – Yes;**  
**CM Fregulia – Yes;**

## **Motion Passes 7-0-0]**

The application is approved pending the approval of the Findings Report on March 26, 2024.

---

### **4. APP#23-01 OF ZP#23-13 DOLLAR GENERAL and APP#23-02 OF LLA#23-01 BURNS-DUBY/DOLLAR GENERAL**

Two applications for land located within the Wallowa City Urban Growth Boundary, just outside the city limits, Zone Permit for a Dollar General Store – ZP#23-13 / APP#23-01 and Lot Line Adjustment – file number: LLA#23-01 / APP#23-02

**CM Nave** requests a show of hands for how many people would like to testify.

**CM Nave** continues: In performing this function we have reviewed the application, all public comments on the application, the Director’s decisions, and the appeal filed by a group of neighbors to the site. Tonight, we will take public testimony, and ultimately to determine whether the applications meet or do not meet the applicable approval criteria. It is not our job to be more restrictive or lenient than these approval standards allow, but rather to interpret and apply the approval standards as written. If you have any question about the applicable approval criteria, they are listed and analyzed in the Director’s decisions that are the subject of this hearing and will be explained as part of staff’s report tonight.

In performing our obligations in these matters, we are required to render an impartial decision. This means we cannot have a personal financial stake or bias that would prevent us from making an impartial decision. Before we begin, I will call for the disclosure of bias, ex parte contacts, and conflict of interest from each commissioner. Anyone in the audience will then have the opportunity to question any of us about those disclosures.

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 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 January 30, 2024

Make sure to direct your testimony, claims, or evidence toward the criteria which you believe applies to the application.

Once we issue our written decision, it is final unless appealed to the Board of County Commissioners. To appeal our decision, you must participate either orally or in writing before the record closes. You must raise before us any issue you might wish to preserve for a subsequent appeal to the Board Commissioners or LUBA, the Land Use Board of Appeals. You must also present to us any evidence you might wish the Board Commissioners or LUBA to see. Once we close the record, that will end your ability to raise new issues or present evidence.

If you need additional time to formulate your testimony, you can ask for a continuance of this hearing or that the record be kept open after tonight's hearing. If you want either of these, you must make the request during the course of the hearing before the record closes. Understand that, if you make such a request and we either continue the hearing or keep the record open, the Planning Commission will delay deliberation and a decision until the record is closed and all of the evidence and testimony is in.

Let me describe the order of events for tonight's hearing:

- First, staff will provide a report and overview of the proceedings and a summary of the Director's decisions that approved the two applications. We will address both applications in a consolidated proceeding with a consolidated record, so people don't have to submit two sets of comments or testify twice.
- Second, we will accept testimony from the applicant in support of the applications. We will allow the applicant 10 minutes for their presentation because, the applicant has the burden of proof in every application, at the onset, on appeal and throughout the local process.
- Third, we will accept testimony from anyone else in support of the applications. Public testimony will be limited to 3 minutes per person, but we will accept any amount of written comment.
- Fourth, we will accept neutral testimony or questions from anyone.
- Fifth, we will hear testimony from anyone opposed to the applications; again, testimony will be limited to 3 minutes per person, but you can submit any amount of written comment into the record.
- Last, we will hear the applicant's final rebuttal in support of the applications. As I mentioned, the applicant has the burden of proof, so the applicant gets the last word in this matter.
- After the public testimony, we will check to see if staff has any parting comments based on the testimony that comes in.
- After everyone interested in this matter has had a chance to testify, we will close the record, deliberate and may render a decision tonight; unless, there has been a

## Planning Commission Minutes January 30, 2024

request for a continuance or an open record. As I mentioned, if you need additional time to prepare your testimony, you can ask for a continuance or that the record be kept open, but you must make that request during the public testimony portion of the hearing before we close the record.

- Our decision, however, is not final until it is reduced to writing and officially issued.

Here are some basic rules for presenting testimony in tonight's hearing:

- Only present testimony in the order I just described, and let the Commission Chair know you want to testify by raising your hand. We will limit testimony to 3 minutes each.
- Begin with your name and mailing address.
- Please limit your testimony to the approval criteria that apply. Remember that only the two applications – the lot line adjustment and the zone permit – are before us and no other aspect of this project. Our decision is similarly limited to these two applications and the criteria that apply to them. If you believe that other or different criteria apply, please identify those and explain why you think they apply.
- Failure to raise an issue accompanied by statements or evidence to allow us or the parties to respond to the issue will preclude an appeal to the Board of County Commissioners or LUBA based on that issue.
- Failure by the applicant to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow us to respond to the issue will preclude an action for damages in circuit court.
- Finally, we will set a 3-minute time limit on all testimony tonight; although, the applicant may have 10 minutes for its primary presentation tonight. However, there is no limitation on written argument that may be submitted.

That is it by way of a procedural introduction for tonight's hearing. If there are any questions about the hearing process, we can answer those now and, if not, we can proceed with the hearing.

Any procedural questions from the applicant or Audience?

**A public participant** asks if there was adequate time for the Planning Commissioners to review the submitted materials.

**CM Nave** asks the other Commissioners if they need more time to review the materials submitted.

**No Commissioner** requests additional time for materials review.

**CM Nave:** We will now consider, An Appeal of the Planning Director's Decision to approve a



**Planning Commission Minutes**  
**January 30, 2024**

Lot Line Adjustment and a Zone Permit for a Dollar General Store.

A quorum of the Planning Commission is present, and I will now ask all Commissioners to disclose any ex-parte contacts, conflicts of interest and bias in this matter.

**CM Phillips** states that she has driven by the location.

**CM Nave** states that has driven by the location.

**CM Tippet** states that she has driven by the location.

**CM DeSpain** states that he has driven by the location.

**CM Bullat** states that he has driven by the location.

**CM Fregulia** states that she has driven by the location.

**CM Turner** states that he has driven by the location and that he also went into the Dollar General in Elgin.

**CM Nave:** Would anyone in the audience like to question any Commissioner on any disclosure, ex parte contact, bias or conflict of interest or otherwise challenge the participation of any member of the Commission?

**A public participant** asks if any of the Planning Commissioners will make a profit from the decision.

**The Commissioners** respond that they have no financial stake in the decision.

**PD Goebel** presents the Staff Report as a PowerPoint (Exhibit A). Anyone may access the Wallowa County website or contact the Planning Department for copies of the full Staff Reports.

**PD Goebel** clarifies that, despite the appellant's assertion, he was not raised by the sister of the seller of subject property. He does not stand to gain anything personally, professionally, or financially from the Dollar General store.

**Mr. Adams**, counsel for the applicant, and Kirk Farrelly, provided testimony. They have no objection to the hearing proceeding de novo. They noted that they have not reviewed the latest written testimony. They agree that the process and criteria used were appropriate. Personal opinions about the Dollar General store chain are irrelevant. They stressed that the proposal is an out-right permitted use and the code contains clear and objective criteria. Many of the appellant's procedural concerns are being cured by this public hearing.

**CM Nave** requests testimony in support of the application.

## **Planning Commission Minutes January 30, 2024**

**CM Turner** asks the applicant whether the stormwater retention pond was sized for the roof and the parking lot.

**Applicant Farrelly** confirms that it was.

**CM Turner** asks the applicant whether a traffic study was submitted for the application.

**Applicant Farrelly** responds that a traffic study was not requested, so one was not submitted.

**Numerous people** testified stating their opposition to the proposal because of their dislike of Dollar General store chain.

**Testimony against the proposal addressing potential planning or building codes criteria included:**

- The City of Wallowa should have requested a traffic study.
- Concern about the school bus stop at the corner of Frontage and Highway 82.
- Request for neighbor notice.
- Request for a public hearing.
- Request for understanding how Goal 1 applies to the situation.
- Asked why the septic field was changed to a septic holding tank and the bathroom reduced to being for employees only.
- Request that the public be notified of any new business coming into the county.
- How to change the law.
- Why county and state environmental rules do not do more to protect Bear Creek.
- How does Oregon Department of Environmental Quality approval for solid waste disposal interact with zoning and building codes approval.
- Every zoning application should go before the Planning Commission and the community should be able to comment.
- Request to leave the record open.

### **Applicant Rebuttal**

- Land use planning does not control the type of retail store that may be approved, as in who owns the store or whether it is a chain or not, etc.; doing so would be discriminatory.
- The Dollar General sign on the property went up Oct. 26, 2023. The 21-day appeal period should have ended Nov. 16, 2023.
- Traffic studies are at the discretion of the City of Wallowa, but the city did not comment.
- This hearing remedies any process complaints for public notice and comment.

## Planning Commission Minutes January 30, 2024

- The claims that the applicant pressured the county for approval of the applications are untrue.
- Stores are not required to have restrooms open to the public.
- The Planning Commission cannot “look past” regulations—this would be illegal. Citizens should work with the city and county to propose changes to amend the code.
- The application met all the criteria and the applicant requests the Planning Commission deny the appeals and approve the applications.

**Appellant’s counsel** objects to having the record remain open because there are no local rules to allow it.

**County’s counsel** asserts that state law applies when there are no local rules. State law requires the record to remain open when it is requested.

**Applicant’s counsel** would like it on the record that they did not request the record be left open and they are not otherwise consenting that the record be left open. They believe the statutory clock should continue to run while the record is left open.

---

**CM Nave** leaves the record open for additional comment. The schedule for comments was updated after the hearing to:

- First segment – February 20, 2024 – any relevant comment, argument or evidence from anyone;
- Second segment – February 27, 2024 – any response (including argument and evidence) to anything submitted during the first segment;
- Third segment – March 5, 2024 – Applicant’s final rebuttal under ORS 197.797(6)(e), no new evidence.

---

**CM Nave** closes the hearing to move on to other business.

---

### 5. OTHER BUSINESS

None.

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

**CM DeSpain** seconds the motion.

[**CM Nave** – Yes;

**CM DeSpain** – Yes;

**Planning Commission Minutes**  
**January 30, 2024**

**CM Tippet – Yes;**  
**CM Bullat – Yes;**  
**CM Turner – Yes;**  
**CM Phillips – Yes;**  
**CM Fregulia – Yes;**

**Motion Passes 7-0-0]**

**Meeting adjourns at 9:10 PM**

---

Jean Jancaitis

---

Date

**Exhibit A.** Staff Report Presentation for APP#23-01/ZP#23-13 and APP#23-02/LLA#23-01

## **AGENDA –PLANNING COMMISSION**

**JANUARY 30, 2024**

### **1) LEGISLATIVE HEARING**



- AMD#23-03 EW Trust Findings (Recommendation of PC to BoC)

### **2) QUASI-JUDICIAL HEARING**

- CUP#23-05 Home Based Occupation / Bed & Breakfast
- APP#23-01 Appeal of Zone Permit ZP#23-13 Dollar General
- APP#23-02 Appeal of Lot Line Adjustment LLA#23-01 Burns-Duby/Dollar General

### **3) OTHER BUSINESS**

1

## **HEARING STRUCTURE QUASI-JUDICIAL**

- PC Chair reads opening statements –
- Planning Director reads STAFF REPORT
- Accept testimony from the applicant (10 mins)
- Accept testimony from anyone else in support (3 mins ea)
- Accept neutral testimony or questions from anyone
- Hear testimony from all opposed (3 mins ea)
- APPLICANT rebuttal
- Check for parting comments from staff.
- PC Chair closes portion of hearing for PC discussion/vote – unless record requested to stay open

2


## **AGENDA –PLANNING COMMISSION**

**JANUARY 30, 2024**

### **1) LEGISLATIVE HEARING**

- AMD#23-03 EW Trust Findings (Recommendation of PC to BoC)

### **2) QUASI-JUDICIAL HEARING**

- 
- CUP#23-05 Home Based Occupation / Bed & Breakfast
  - APP#23-01 Appeal of Zone Permit ZP#23-13 Dollar General
  - APP#23-02 Appeal of Lot Line Adjustment LLA#23-01 Burns-Duby/Dollar General

### **3) OTHER BUSINESS**

3

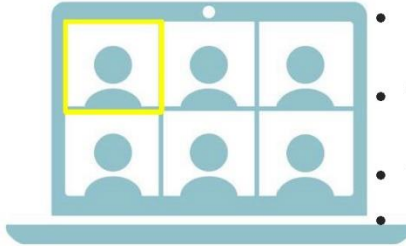
## **PUBLIC COMMENTS at TODAY'S HEARING**



- Be **respectful**. No talking, clapping, or side comments.
- Those present will be asked by the CHAIR if they would like to make a comment. We will go by the order in which you signed in and grouped by whether you are for or against the amendment.
- **Sign in**, or ask and Jean will bring the sign-in sheet to you.
- We want everyone to have a chance to speak, so please limit your comment to **3 minutes**.
- Address all comments **to the Commission**, not the applicant or others present. Do not pose questions to the applicant.
- Time cannot be “donated” to others.

## PUBLIC COMMENTS at TODAY'S HEARING

### ZOOM Participants:



- Show your full name on your feed (First & Last) – Please remain muted until called upon.
- Will comment after those here in person (unless prompted otherwise)
- Will go in alphabetical order by your first name.
- Use “raise hand” emoji (if possible to signal you want to comment.
- Please start your statement with your full name and street address.
- Must share your video while commenting unless you lack a camera.

## AGENDA –PLANNING COMMISSION

JANUARY 30, 2024

### 1) LEGISLATIVE HEARING

- AMD#23-03 EW Trust Findings (Recommendation of PC to BoC)

### 2) QUASI-JUDICIAL HEARING

- CUP#23-05 Home Based Occupation / Bed & Breakfast
- ➔ • APP#23-01 Appeal of Zone Permit ZP#23-13 Dollar General
- ➔ • APP#23-02 Appeal of Lot Line Adjustment LLA#23-01 Burns-Duby/Dollar General

### 3) OTHER BUSINESS

## **STAFF REPORT FOR APPEAL APP#23-01/02**

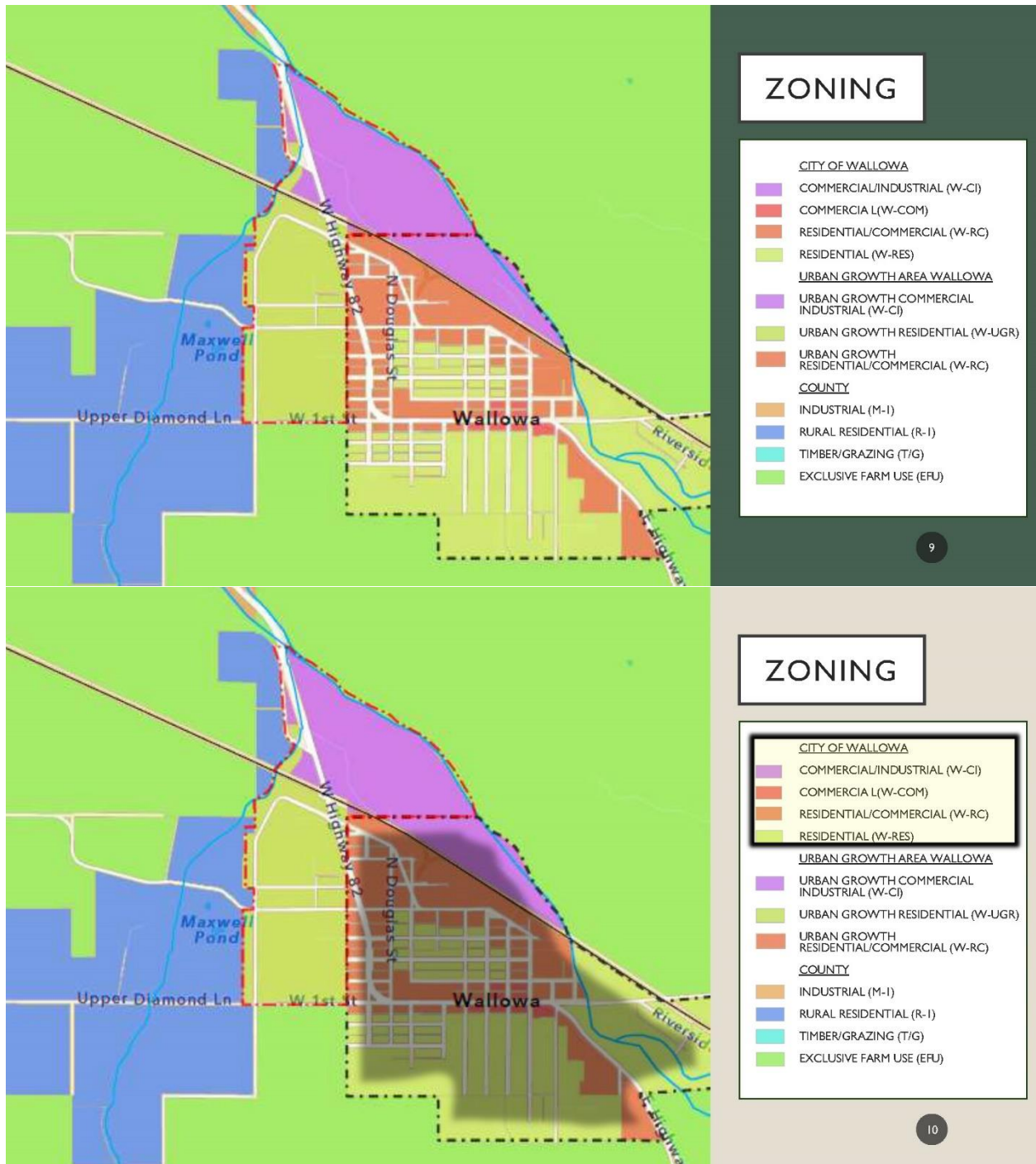
ZONE PERMIT ZP#23-13 DUBY-BURNS &  
DOLLAR GENERAL/LOT LINE ADJUSTMENT  
LLA#23-01

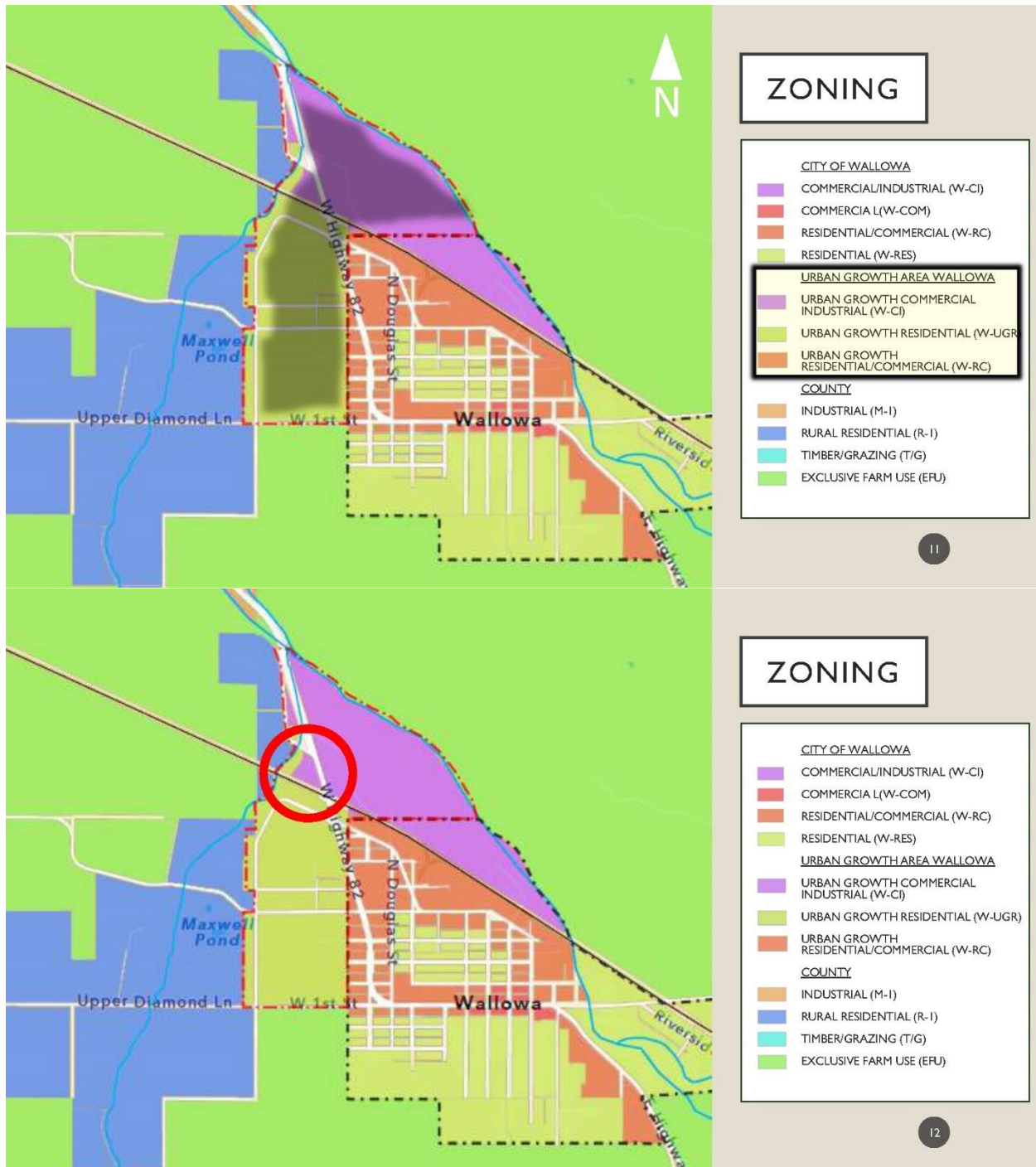
Franz Goebel, Wallowa County Planning Director

## **LAND USE PLANNING OVERVIEW**

- LAND USE PLANNING IMPLEMENTED LATE 70's, EARLY 80's
- HEAVY PUBLIC INVOLVEMENT FOR ALL PROCESSES/DECISIONS
- LAND USE "ZONES" ESTABLISHED FOR STRATEGIC GROWTH/DEVELOPMENT AND RESOURCE PROTECTION
- URBAN GROWTH AREAS (UGAs) ESTABLISHED FOR CITIES -20 YEAR RESERVE FOR FUTURE ANNEXATION (State mandated)
- LEGAL AGREEMENTS ADOPTED BETWEEN COUNTY/CITY FOR MANAGEMENT OF UGAs







CITY OF  
WALLOWA &  
WALLOWA  
COUNTY

URBAN GROWTH  
AGREEMENT  
(WUGBA)

THE CITY OF WALLOWA AND  
WALLOWA COUNTY ENTERED INTO  
A STATE-REQUIRED LEGAL  
AGREEMENT, ADOPTED BY  
ORDINANCE, TO ADMINISTER LAND  
USE IN THE URBAN GROWTH AREA.

THE AGREEMENT IDENTIFIES  
SPECIFIC ZONES, STANDARDS THAT  
APPLY, AND PROCESSES FOR  
REVIEW.

PER THE AGREEMENT, THE CITY  
WAS NOTIFIED WITHIN (3) DAYS OF  
APPLICATION INTAKE.

13

CITY OF WALLOWA URBAN GROWTH BOUNDARY  
AGREEMENT (WUGBA)

WALLOWA COUNTY ORDINANCE NO. 2021-004  
CITY OF WALLOWA ORDINANCE NO. 334-001

A JOINT ORDINANCE PROVIDING FOR AN AGREEMENT BETWEEN THE CITY OF WALLOWA AND THE COUNTY OF WALLOWA PERTAINING TO THE LAND USE DEVELOPMENT REGULATIONS TO BE APPLIED TO THE UNINCORPORATED WITHIN THE CITY OF WALLOWA URBAN GROWTH AREA.

THE COUNTY BOARD OF COMMISSIONERS OF WALLOWA COUNTY AND THE COUNCIL OF THE CITY OF WALLOWA ORIGIN AS FOLLOWS:

ARTICLE I

INTRODUCTORY PROVISIONS

Section 1.010 **Title:** This ordinance shall be known as the Wallowa Urban Growth Boundary Agreement.

Section 1.020 **Purpose:** The purpose of the Ordinance is to a cooperative agreement between the County of Wallowa and the City of Wallowa in the adoption and administration of the City's Urban Growth Boundary and Urban Growth Area. More specifically, this Ordinance shall establish the Urban Growth Boundary for the City of Wallowa and the County, shall provide for use provision development standards to guide growth in unincorporated areas within the Urban Growth Boundary, shall specify the means whereby unincorporated areas within the Urban Growth Boundary may be and the mechanisms for amending this Ordinance; and, shall other administrative provisions deemed necessary.

Section 1.030 **Definitions:** As used in this Ordinance, unless the context shall otherwise require, the singular shall include the masculine shall include the feminine and neuter. The words and phrases shall mean:

**ADVERSELY AFFECTED:** A party's use and enjoyment will be negatively impacted by a land use decision due to identified consequences from the proposed use or development.

**ANNEXATION:** An action commenced by a city through a public hearing, the intent of which is to incorporate additional land into the legal boundaries of the city.

**CITY:** The City of Wallowa, Oregon

RECEIVED

**Section 2.020 Land Use Designations and Zones.** Three Urban Growth Areas are mapped in the City UGB Plan Map and designated and zoned AA-Commercial/Industrial, BB-"Residential" and, CC-"UGB Residential", and the County has adopted these designations and the City zones for administration prior to annexation (per 1983 urban growth management agreement). Upon annexation, the City zones, as described below and set forth in the City UGB Plan Map, shall also apply:

**Area AA:** All unincorporated Urban Growth Boundary Lands to the north of the City limits and formerly the Bate's Mill site, as well as two smaller parcels historically utilized as commercial-industrial sites, are zoned COMMERCIAL-INDUSTRIAL (C-I) as defined in the City of Wallowa Zoning Ordinance.

14





**SITE**

15



**SITE**

16

## CITY OF WALLOWA URBAN GROWTH BOUNDARY AGREEMENT (WUGBA)

**Section 2.030 Use Regulations.** Within the Urban Growth Areas designated Commercial/Industrial, Residential, and UGB Residential, all development shall comply with the City zones as mapped in the UGB Plan Map and with the zone restrictions and land development standards, including those applicable to utilities and roads, which would be applied if the proposed development were situated within the corporate limits of the City and within the designated zone.

THE COUNTY IS REQUIRED TO APPLY THE CITY OF WALLOWA'S STANDARDS AND CRITERIA, NOT THE COUNTY'S CRITERIA.

17

## CITY OF WALLOWA URBAN GROWTH BOUNDARY AGREEMENT (WUGBA)

**Section 3.010 Land Use Actions.** All permit applications made prior to annexation shall be processed as follows:

(2) The application shall be referred by the Director to the City within three (3) working days after a complete application has been filed with the County Planning Department.

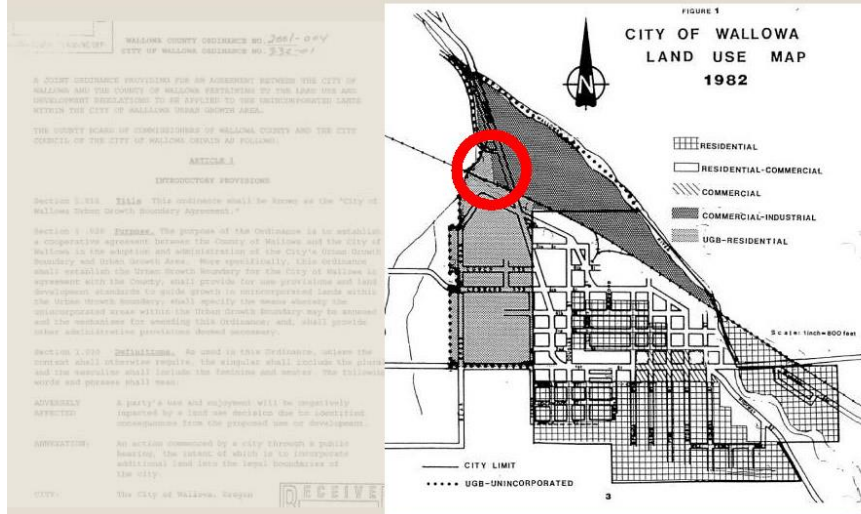
(4) In the event no response or recommendation is received from the City within forty-five (45) days from the date the application is submitted to the City by the County, the County shall conclude the City has no objections and shall proceed to take the necessary review steps as required by the appropriate County ordinance.

THE APPLICATION WAS REFERRED TO THE CITY WITHIN 3 DAYS. THE CITY SUBMITTED NO COMMENTS OR OBJECTIONS.

18



## CITY OF WALLOWA URBAN GROWTH BOUNDARY AGREEMENT (WUGBA)



19

## ROLE OF THE PLANNING DIRECTOR (PD)

### Duties:

- Ensure that applications are complete
- Determine if use is "permitted" or "conditional" (Public Hearing)
- Identify applicable criteria and apply
- **County Ordinance Legal authority allows forwarding to Planning Commission only if unable to provide unbiased review or has conflict of interest**

20

PERMIT PROCESSING/DECISION TYPES

• **LIMITED LAND USE DECISIONS**

- **MINISTERIAL** – Outright Permitted Use - clear and objective standards
- **ADMINISTRATIVE** – Outright Permitted Use – allowed but may impact neighbors (Noticed)
- **QUASI-JUDICIAL / PUBLIC HEARING**– Broader public impact (Noticed), discretion involved with criteria interpretation.

21

CITY OF WALLOWA ZONING ORDINANCE (WZO)

SECTION 3.5 - COMMERCIAL/INDUSTRIAL ZONE "CI".

- (1) PERMITTED USES. All uses permitted outright in the "C" Zone and accessory uses. Heavy and light industrial uses as defined, which take place solely within an enclosed building.

ARTICLE 3

ordinance.

SECTION 3.4 - COMMERCIAL ZONE "C".

USES. Buildings and structures hereafter erected, structurally altered, enlarged, or moved or land hereafter used in the "C" Commercial Zone shall comply with the following regulations.

- (1) PERMITTED USES.

- (A) Retail trade establishments in which the operation takes place solely within an enclosed building

22

## CITY OF WALLOWA ZONING ORDINANCE (WZO)

- (5) SETBACK REQUIREMENTS. In the Industrial zone, setbacks shall be as follows.
- (A) No front yard setback is required.
  - (B) No buildings shall be constructed or located closer than 5 feet from the rear lot line.
  - (C) Interior side yard setback shall be 5 feet.
  - (D) No building shall be closer to a lot in a residential or agricultural zone than a distance equal to the height of the building or 50 feet, whichever is greater.
- (6) PARKING REGULATIONS.
- (A) Residential Off-street Parking. A minimum of two car spaces shall be provided for each 1,500 square feet or less of the ground floor area of the building, plus one car space for each employee.

THESE ARE CLEAR AND OBJECTIVE STANDARDS

23

APPLICATION ZP#23-13 WAS  
REVIEWED MINISTERIALLY

- 1) CITY OF WALLOWA ZONING ORDINANCE APPLIED (NOT COUNTY CRITERIA)
- 2) COUNTY ARTICLE 3 - MINISTERIAL REVIEW (PROCESS ONLY)
- 3) USE WAS OUTRIGHT & PERMITTED IN THE ZONE
- 4) STANDARDS WERE CLEAR AND OBJECTIVE
- 5) NEAREST NEIGHBOR'S RESIDENCE IS ~350' BEYOND DOLLAR GENERAL SITE – BEYOND A WELL-MARKED BRIDGE AND SIGNIFICANT RIPARIAN SCREENING

**PER THE WUGBA THESE COUNTY CRITERIA DO NOT APPLY:**

- ARTICLE 3 – MINISTERIAL REVIEW (CRITERIA)
  - SECTION 3.020(8) REQUIRING APPLICATION TO SATISFY APPLICABLE CRITERIA OF ARTICLE 36, SALMON RESTORATION PLAN
- ARTICLE 4 – ADMINISTRATIVE REVIEW (PROCESS & CRITERIA)
- ARTICLE 5 PUBLIC HEARING REVIEW (PROCESS & CRITERIA)
- ARTICLE 36 – SALMON HABITAT RESTORATION

**STATE RIPARIAN/WETLAND PROTECTIONS DO APPLY**

- 50' RIPARIAN CORRIDOR (FROM HIGH BANK)
- THERE ARE NO RIPARIAN CORRIDORS OR WETLANDS ON THE DOLLAR GENERAL SITE, THEREFORE NO STATE PROTECTIONS ARE REQUIRED.

24









PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

27



PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

28



PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

29



PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

30





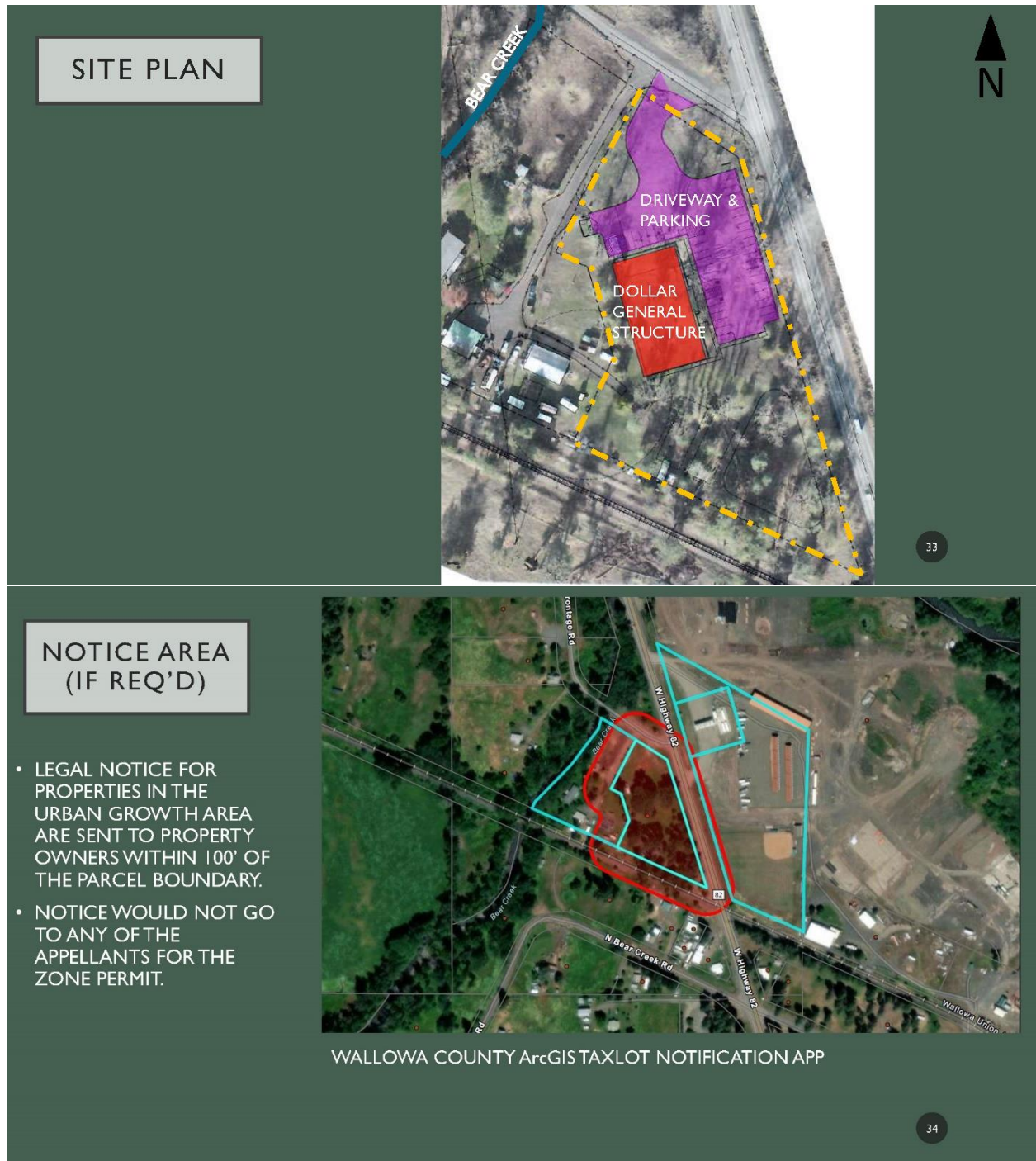
PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

31



PHOTO:  
GOOGLE STREET VIEW LOOKING WEST FROM HWY 82 – SEPT 2023

32





### WHAT IS A LOT LINE ADJUSTMENT (LLA)?

- A LLA IS THE RELOCATION OF A COMMON PROPERTY LINE BETWEEN TWO ABUTTING PROPERTIES
- A LLA DOES NOT APPROVE ANY DEVELOPMENT OR CHANGE ANY ALLOWABLE USES IN A ZONE

BECAUSE THE PROPERTIES ARE IN THE URBAN GROWTH AREA, THE COUNTY MUST USE *WUGBA CRITERIA AND STANDARDS*.

#### WHAT APPLIES?

- **MINIMUM LOT SIZES IN THE WZO ZONE**
- ANY OTHER CITY CRITERIA IN THE WZO
- COUNTY PROCESSES (NOT CRITERIA) APPLY

#### WHAT **DOES NOT** APPLY?

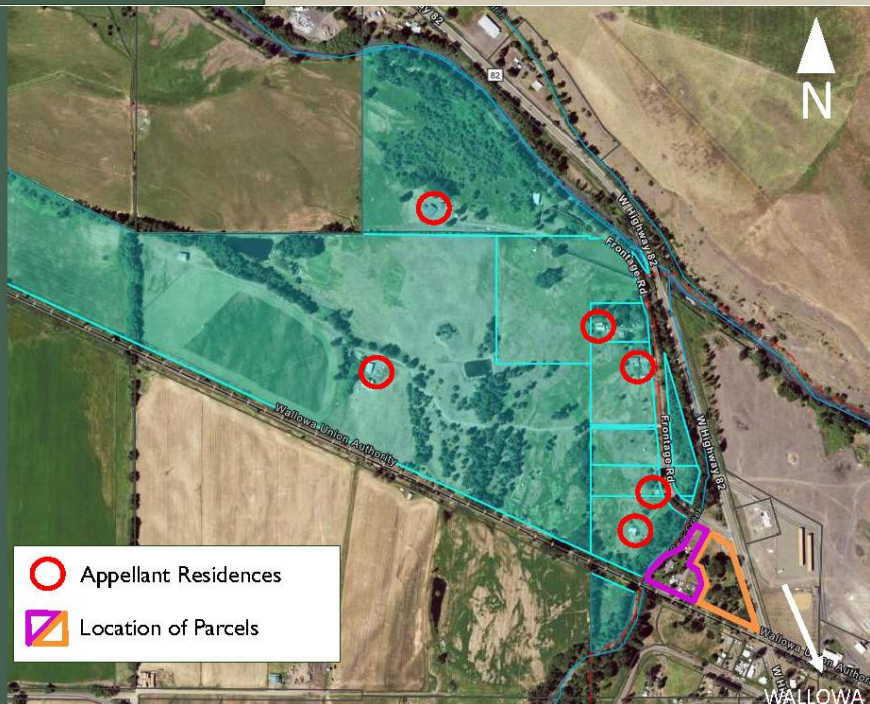
- MINIMUM LOT SIZES IDENTIFIED IN WCLDO
- THE WCLDO SALMON PLAN

35

### VICINITY MAP LLA#23-01

#### APPELLANTS:

- RESIDENCES RANGE FROM 350' TO OVER 2000' FEET FROM DOLLAR GENERAL



APPLICATION LLA#23-01 WAS  
 REVIEWED MINISTERIALLY

- 1) CITY OF WALLOWA ZONING ORDINANCE STANDARDS AND CRITERIA APPLIED (NOT COUNTY ORDINANCE CRITERIA)
- 2) COUNTY ARTICLE 3 - MINISTERIAL REVIEW (PROCESS ONLY)
- 3) ARTICLE 39 – LOT LINE ADJUSTMENT (PROCESS ONLY, NOT CRITERIA)
- 4) NEAREST NEIGHBOR'S RESIDENCE IS ~350' BEYOND DOLLAR GENERAL SITE – BEYOND A WELL-MARKED BRIDGE AND SIGNIFICANT RIPARIAN SCREENING

**PER THE WUGBA THESE COUNTY CRITERIA DO NOT APPLY:**

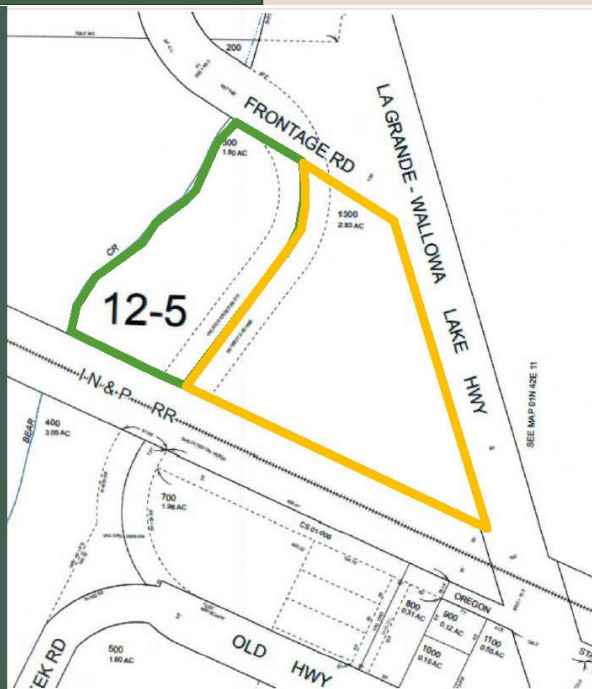
- ARTICLE 3 – MINISTERIAL REVIEW (CRITERIA)
  - SECTION 3.020(8) REQUIRING APPLICATION TO SATISFY APPLICABLE CRITERIA OF ARTICLE 36, SALMON RESTORATION PLAN
- ARTICLE 4 – ADMINISTRATIVE REVIEW (PROCESS & CRITERIA)
- ARTICLE 5 - PUBLIC HEARING REVIEW (PROCESS & CRITERIA)
- ARTICLE 39 – LOT LINE ADJUSTMENT (CRITERIA)
- ARTICLE 36 – SALMON HABITAT RESTORATION

**STATE RIPARIAN/WETLAND PROTECTIONS ARE NOT TRIGGERED**

- BECAUSE THERE IS NO DEVELOPMENT APPROVED, NO PROTECTION REVIEW IS REQUIRED AT STATE LEVEL.

37

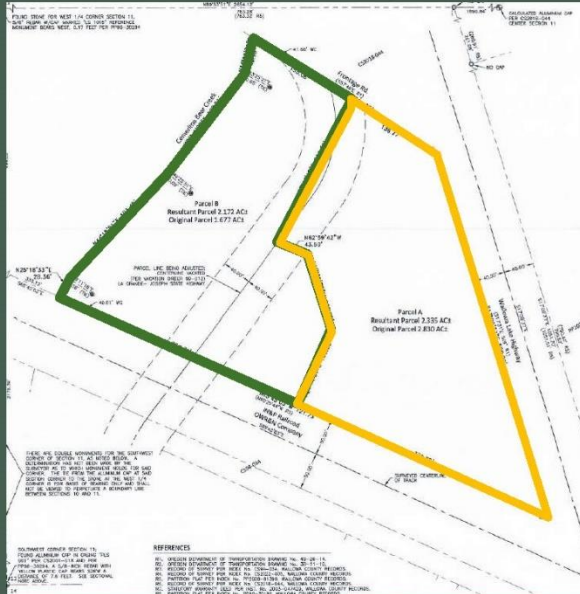
PARCELS  
 BEFORE  
 LLA



WALLOWA

38

**PARCELS  
AFTER  
LLA**



WALLOWA

39

**ZONING  
BEFORE & AFTER  
NO CHANGE**

- A SINGLE PARCEL CAN HAVE MORE THAN ONE ZONE – AS IS THIS CASE AFTER THE LLA
- THERE IS **NO CHANGE** TO THE COUNTY COMPREHENSIVE PLAN, OR THE WUGBA SO THERE IS NO “AMENDMENT TO THE COMPREHENSIVE PLAN”



**URBAN GROWTH AREA  
WALLOWA**

- URBAN GROWTH COMMERCIAL INDUSTRIAL (W-CI)
- URBAN GROWTH RESIDENTIAL (W-UGR)

WALLOWA

40



## Planning Commission Minutes January 30, 2024

### THE APPEALS ASSERT:

- ZONE PERMIT AND LOT LINE ADJUSTMENT APPLICATIONS ARE SUBJECT TO DISCRETIONARY APPROVAL SO IT REQUIRES PUBLIC HEARING.
- OR, AT LEAST TRIGGERS ADMINISTRATIVE REVIEW AND NOTICE.
- THAT DEVELOPMENT HAD POTENTIAL TO AFFECT APPELLANTS BY:
  1. INCREASED TRAFFIC
  2. DECREASED SAFETY
  3. POTENTIAL TO HARM FISHING AND OTHER RECREATION.
  3. INCREASE IN LIGHT AND NOISE POLLUTION
  4. VISUAL QUALITY
  5. ECONOMIC DAMAGE TO OTHER BUSINESSES

41

### THE APPEAL APP#23-01 ASSERTS:

- ACKNOWLEDGES THAT USE MAY BE “GENERALLY CONSISTENT WITH THE CITY OF WALLOWA ORDINANCE 330-01...” [should read 3.4(1)(A) and 3.5(1)]
- WCLDO ARTICLE 5/12 REQUIRES A PUBLIC HEARING REVIEW PROCESS.
- ROAD CONSTRUCTION IN CONJUNCTION WITH THE PROPOSED USE.
- REQUIRE A PUBLIC REVIEW PROCESS BECAUSE:
  - EXCAVATION/FILL.
  - PARKING/DRIVEWAY WITHIN 300' OF BEAR CREEK.
  - THE COMPLEXITY OF THE PROJECT
- CONFLICT OF INTEREST WITH DEVELOPER SURVEYOR
- ERRORS ON APPLICATION

42

## Planning Commission Minutes January 30, 2024

### THE APPEAL APP#23-01 ASSERTS:

- WCLDO ARTICLE 36 – SALMON HABITAT RESTORATION REQUIRES MANAGEMENT PLANS PRIOR TO APPROVAL.
- IS IN CONFLICT WITH GOAL I – CITIZEN INVOLVMENT
- THAT THE APPEAL BE HEAD “DE NOVO” TO ENSURE THAT COUNTY AND CITY REQUIREMENTS ARE MET.
- COMMERCIAL USE ON RESIDENTIAL ZONING AFTER LLA

43

### WALLOWA COUNTY PLANNING COMMISSION

The Commission shall address and decide these (5) questions for both appeals

#### THEN DECIDE

Shall the Appeals be:

- Denied (upholding PD decision)  
or
- Approved (overturning PD decision)  
or
- Remanded to PD with direction

### APPEAL EVALUATION

1. Will the appeal be heard on the record, or de novo?
2. Do the appellants have standing to appeal?
  - (a) they filed within 21 days of when a reasonable person should have known that a permit was issued AND
  - (b) are adversely affected by the decision
3. Was the appropriate process used to review the zone permit?
4. Were the appropriate criteria used to make the decision?
5. Does the application meet the applicable criteria as contested by the appellants?

## Planning Commission Minutes January 30, 2024

<p><b>APPEAL EVALUATION</b></p> <p>1. Will the appeal be heard on the record, or de novo?</p> <p>2. Do the appellants have standing to appeal?</p> <p>(a) they filed within 21 days of when a reasonable person should have known that a permit was issued <u>AND</u></p> <p>(b) are adversely affected by the decision</p> <p>3. Was the appropriate process used to review the zone permit?</p> <p>4. Were the appropriate criteria used to make the decision?</p> <p>5. Does the application meet the applicable criteria as contested by the appellants?</p>	<p>Per Appellants' request, Staff recommends being heard</p> <p>DE NOVO</p> <p>To ensure that all relevant facts and legal authorities are entered into the record.</p>
<p><b>APPEAL EVALUATION</b></p> <p>1. Will the appeal be heard on the record, or de novo?</p> <p>2. Do the appellants have standing to appeal?</p> <p>(a) they filed within 21 days of when a reasonable person should have known that a permit was issued <u>AND</u></p> <p>(b) are adversely affected by the decision</p> <p>3. Was the appropriate process used to review the zone permit?</p> <p>4. Were the appropriate criteria used to make the decision?</p> <p>5. Does the application meet the applicable criteria as contested by the appellants?</p>	<p>Appellants must demonstrate that they</p> <p>a) had <u>no reason to know of the development</u> and</p> <p>b) that they are, in fact, adversely affected by virtue of the decision.</p> <p>The appellants must have filed their appeal within <u>21 days</u> of when they should have reasonably known that a permit was issued.</p> <p>Significant Site development activity prior to that indicated that a permit had been issued. If the Commission agrees, the appeal is untimely and the Appellants do not have standing.</p>



## Planning Commission Minutes January 30, 2024

2019	Property Listed for Sale
2020-October	Large "For Sale – Commercial Industrial" Sign installed
2022-October 17	Property went under contract with Dollar General
2022-November 10	KM Engineering Crew completed Lot Line Adjustment Survey & Monumented w/ 5/8" x 24" high rebar with green plastic caps.
2022-December	Large Excavator/Geotech field work - Test Pits
2023-March	Excavator Dug Multiple Test Pits for Septic
2023-March 6	Lot Line Adjustment approved
2023-March 20	Notice Sent to City of Wallowa
2023-April	DEQ on site inspecting Septic
2023-April	Zone Permit Issued
2023-Early June	Well Drilled – Well drilling Rig
2023-October 17	Ownership conveyed to Dollar General
2023-October 26	Commercial Structural Building Permit Issued
2023-October 26	Heavy Equipment -Site excavation for septic and foundations
2023-November 1	Record Request of Zone Permit requested by Sweyn Wall
2023-November 13	Appeal Zone Permit letter hand-delivered to Planning Department
2023-November 13	Record Request of Lot Line Adjustment requested by Sweyn Wall
2023-November 20	Appeal Lot Line Adjustment letter hand-delivered to Planning Department



SIGN IDENTIFYING SITE  
AS COMMERCIAL  
INDUSTRIAL SINCE 2020

CLEAR VIEW OF ALL  
CONSTRUCTION  
ACTIVITIES FROM  
FRONTAGE RD

GOOGLE STREET VIEW LOOKING SOUTH FROM FRONTAGE RD

## Planning Commission Minutes January 30, 2024

APPEAL EVALUATION	
1. Will the appeal be heard on the record, or de novo?	<b>The Appellants must prove that they are “adversely affected” not merely dissatisfied with the decision.</b>
2. Do the appellants have standing to appeal?	<i>Under ORS 197.830(3), ...A party is adversely affected by such a decision only when the allowed land use impinges upon that party's property or personal interests.</i>
(a) they filed within 21 days of when a reasonable person should have known that a permit was issued <u>AND</u>	LUBA Case A160178 -Devin Oil Co. (Devin Oil):
(b) are adversely affected by the decision	appealed a Land Use Board of Appeals (LUBA) dismissal of Devin Oil's appeal for lack of standing. “...mere dissatisfaction with a land use decision does not qualify as an adverse effect under ORS 197.830(3).”
3. Was the appropriate process used to review the zone permit?	The Court found that Devin Oil did not show that it was adversely affected by Morrow County's decision, and therefore lacked standing to appeal the decision to LUBA.
4. Were the appropriate criteria used to make the decision?	
5. Does the application meet the applicable criteria as contested by the appellants?	
APPEAL EVALUATION	
1. Will the appeal be heard on the record, or de novo?	<b>THE CRITERIA DEFINED IN THE WALLOWA ZONING ORDINANCE (WZO) AND PROCESSES DEFINED IN THE WALLOWA COUNTY LAND DEVELOPMENT ORDINANCE (WCLDO).</b>
2. Do the appellants have standing to appeal?	<b>THIS IS A LIMITED LAND USE DECISION:</b>
(a) they did not reasonably know that a permit was issued <u>AND</u>	<b>OUTRIGHT PERMITTED USE WITH CLEAR AND OBJECTIVE STANDARDS, SO MINISTERIAL DECISION IS APPROPRIATE.</b>
(b) are adversely affected by the decision	
3. Was the appropriate process used to review the zone permit?	<b>FOR ARGUMENT REGARDING ADMINISTRATIVE REVIEW/NOTICE:</b>
4. Were the appropriate criteria used to make the decision?	<b>THE APPELLANTS ARE OUTSIDE OF THE NOTICE AREA OF 100' FROM PROPERTY BOUNDARY.</b>
5. Does the application meet the applicable criteria as contested by the appellants?	

## Planning Commission Minutes January 30, 2024

APPEAL EVALUATION	
1. Will the appeal be heard on the record, or de novo?	THERE IS NO LEGAL AUTHORITY FOR USING COUNTY CRITERIA
2. Do the appellants have standing to appeal? (a) they did not reasonably know that a permit was issued <u>AND</u> (b) are adversely affected by the decision	THAT INCLUDES CRITERIA IN ARTICLES 3,4,5, 12 AND 36, AND ANY PROCESS TRIGGERS THAT REFER TO ADDITIONAL WCLDO CRITERIA.
3. Was the appropriate process used to review the zone permit?	LIMITED LAND USE DECISIONS ARE EXCLUDED IN ORS FROM A MANDATORY PUBLIC MEETING.
4. Were the appropriate criteria used to make the decision?	
5. Does the application meet the applicable criteria as contested by the appellants?	
APPEAL EVALUATION	
1. Will the appeal be heard on the record, or de novo?	APPLICABLE CRITERIA ARE DEFINED IN THE WZO.
2. Do the appellants have standing to appeal? (a) they did not reasonably know that a permit was issued <u>AND</u> (b) are adversely affected by the decision	GOAL 1, CITIZEN INVOLVEMENT OCCURRED WHEN ZONING AND PERMITTED USES WERE ESTABLISHED: <ul style="list-style-type: none"> <li>• TO CREATE ORDERED GROWTH</li> <li>• TO PROTECT PROPERTY RIGHTS.</li> <li>• TO REFLECT COMMUNITY'S VALUES</li> </ul>
3. Was the appropriate process used to review the zone permit?	THERE HAVE BEEN NO CITIZEN-DRIVEN AMENDMENTS TO CHANGE THE TYPES OF USES PERMITTED, OR THE PROCESSES REQUIRED TO PERMIT THOSE USES.
4. Were the appropriate criteria used to make the decision?	
5. Does the application meet the applicable criteria as contested by the appellants?	



PLANNING COMMISSION PACKET FOR FEBRUARY 27, 2024 Page 39 of 48

## Planning Commission Minutes

### January 30, 2024

THE APPELANTS HAVE NOT  
CONTESTED THAT  
APPLICATION DOES NOT  
MEET WZO CRITERIA.

#### WZO ARTICLE 3.5 COMMERCIAL INDUSTRIAL

- (4) HEIGHT. Buildings, structures, or portions thereto shall not be erected to exceed a height of 2-1/2 stories or 35 feet, whichever is less, exclusive of basement.
- (5) SETBACK REQUIREMENTS. In the Industrial zone, setbacks shall be as follows.
  - (A) No front yard setback is required.
  - (B) No buildings shall be constructed or located closer than 5 feet from the rear lot line.
  - (C) Interior side yard setback shall be 5 feet.
  - (D) No building shall be closer to a lot in a residential or agricultural zone than a distance equal to the height of the building or 50 feet, whichever is greater.
- (6) PARKING REGULATIONS.
  - (A) Residential Off-street Parking. A minimum of two car spaces shall be provided for each 1,500 square feet or less of the ground floor area of the building, plus one car space for each employee.
  - (B) Bicycle Parking. Bicycle parking shall be provided as per Section 4.12 of this ordinance.

APPLICATION MEETS WZO  
MINIMUM LOT SIZES FOR  
EXISTING LOTS.

#### WZO ARTICLE 3.2 URBAN GROWTH BOUNDARY – RESIDENTIAL (UGB-R) ZONE

##### SECTION 3.1(4)(D)

NO MINIMUM LOT SIZE IS  
DESCRIBED IN THE "CI" ZONE.

- (E) The minimum lot size for all lots existing at the time this Ordinance becomes effective shall be as prescribed in Section 3.1(4)(D). In addition to the minimum lot size requirements in the UGB-R zone, each lot shall:
  - (1) Have a minimum lot depth of 80 feet.
  - (2) Have a minimum lot width at the front building line of 40 feet for existing lots and 50 feet for new lots.

- (D) Lot Area. Every lot in a new subdivision shall have a minimum average width of not less than 50 feet and an area of not less than 5,000 square feet.

Duplexes	10,000 square feet
Triplexes	12,000 square feet
Fourplexes	14,000 square feet
Sixplexes	16,000 square feet
10 units	25,000 square feet
20 units	45,000 square feet

## Planning Commission Minutes January 30, 2024

Question 1	Question 2	Question 3	Question 4	Question 5
Will the appeals be heard on the record, or de novo?	Do the appellants have standing to appeal?	Was the appropriate process used to review the zone permit/LLA?	Were the appropriate criteria used to make the decisionS?	Do the applications meet the applicable criteria as contested by the appellants?
STAFF RECOMMENDATION				
De novo	Appeal “not timely” nor are appellants “adversely affected”	The appropriate process used	The appropriate criteria were used	The application meets the applicable criteria

THANK YOU FOR YOUR  
PARTICIPATION IN THIS PUBLIC  
MEETING!

Franz Goebel, Planning Director  
plandir@co.wallowa.or.us





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

**FINDINGS**  
**CUP#23-05**  
**SUTO HBO B&B**

**IN THE MATTER OF THE REQUEST  
FOR A HOME-BASED OCCUPATION  
IN THE FORM OF A BED AND BREAKFAST IN THE  
EXCLUSIVE FARM USE (EFU) ZONE**

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

**RE: SUTO HBO B&B CUP#23-05**

The request was deemed to be complete on November 9, 2023. It was properly advertised in the Chieftain on January 17, 2024, and noticed to landowners within 500 ft and other interested parties on November 13, 2023. The request came before the Wallowa County Planning Commission on January 30, 2024, with a decision on February 27, 2024. 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:** John and Billie Suto  
81814 Reavis Lane  
Enterprise, OR 97828

**OWNER:** Same

**REQUEST:** To permit a Home-Based Occupation in the form of a Bed and Breakfast for a maximum of (6) people and (7) vehicles. The residence is not on High Value Farmland.

**LOCATION:** The property description is Township 02S, Range 44E, Section 09, Tax Lot 102, Ref#7769, Address: 81814 Reavis Lane, Enterprise, OR 97828.

**PARCEL CHARACTERISTICS:** The parcel contains about six acres. The Zoning is Existing Lot 1 (EL-1) and access is from Reavis Lane, a county road. The parcel borders Exclusive Farm Use to the north and east and EL-1 to the west and south. There is one dwelling on the parcel, and multiple accessory structures.

**FINDINGS**

CUP#23-05 SUTO B&B Findings Report  
February 27, 2024  
Page 1 of 8

**PREVIOUS PLANNING DEPARTMENT AND OTHER AGENCY ACTIONS:**

ZP#98-91, Approval for barn

ZP#99-03, Approval for a single-family dwelling

**REVIEW CRITERIA:**

Article 1, General Provisions

Article 5, Public Hearing Review

Article 9, Conditional Use

Article 35, Home Based Occupation

Article 36, Salmon Habitat Recovery

Article 42. Existing Lot (EL-1)

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.*

[...]

**021. BED AND BREAKFAST – (B&B)** *An accessory use within a single-family dwelling. Up to three bedrooms may be available for rent. Rooms are rented for less than 30 days. The B&B resident applicant must reside in the house and be in the house overnight while guests are present. Breakfast is required; however, breakfast is defined by the resident applicant. Other meals are optional. B&Bs must meet the criteria of Articles 33, Signs, 34, Parking, and 25, Flood, Wildfire and Natural Hazards.*

*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. A CUP approving a B&B does not transfer with the conveyance of the property.*

**FINDINGS**

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 2 of 8

[...]

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 B&B and a Home Based Occupation. The homeowners will be in the house overnight, staying in the unrented bedroom, while guests are present.

#### ARTICLE 5, PUBLIC HEARING REVIEW

##### SECTION 5.025, NOTICE OF PUBLIC HEARING:

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

[...]

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

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

02. Notice of public hearing shall be placed in a newspaper of general circulation no later than 10 days prior to the hearing date nor greater than twenty 20 days prior to the hearing date.

03. Notice of public hearing shall be posted on the Wallowa County Courthouse Public Notice Board no later than 10 days nor greater than 20 days prior to the hearing date.

**FINDING 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 500 feet of the subject property as detailed above.

##### 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.

---

#### FINDINGS

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 3 of 8

**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 9.020, 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 Bed and Breakfast is allowed conditionally in the EL-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 5:** The Planning Commission finds that this Bed and Breakfast 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 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 7:** The Commission finds that an HBO for a B&B, in this application, is accessory to the primary residential use and is in compliance with the applicable requirements of this ordinance.

---

**FINDINGS**

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 4 of 8

**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 8:** The Commission finds that Bed and Breakfasts are excluded from the square footage criteria and no more than three employees will be used on site, 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.*
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 9:** The Commission finds that as proposed the Bed and Breakfast 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 more noise than 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*

---

## FINDINGS

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 5 of 8

*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 10:** 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).*

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

**FINDING 11:** 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. The property has ample space for parking and no storage or special equipment, outside the normal household supplies, are proposed.

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

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

**FINDING 12:** As this proposal does not impact any fish bearing waterways or habitat, the Commission finds that a management plan is not necessary.

#### **ARTICLE 42, EXISTING LOT (EL-1)**

**SECTION 42.010, PURPOSE:** *The purpose of the Existing Lot Zone is to allow the establishment of non-farm, non-forest residential use in areas predominantly comprised of lots or parcels of insufficient size required for farm or forest use and/or where further creation of additional lots or parcels could potentially increase the need for public services, such as; road maintenance, school bus service, or law enforcement.*

**SECTION 42.015, PERMITTED USES:** *In the Existing Lot Zone, the following uses and activities and their accessory buildings are permitted subject to Ministerial Review of compliance with general provisions set forth by this ordinance:*

- 01 *Single-family residences.*
- 02. *Accessory structures customarily provided in conjunction with a residence.*

---

#### **FINDINGS**

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 6 of 8



03. *Utility and communication facilities necessary for local service and excluding any facilities for generating power for public use.*
04. *Farm and forest uses.*
05. *Temporary uses subject to Article 13, Temporary Use Permit.*

**SECTION 42.020, CONDITIONAL USES PERMITTED:** *The following uses may be established in the Existing Lot Zone subject to Public Hearing Review for compliance with requirements of Article 9, Conditional Use Permit, and other provisions of this ordinance:*

*01. Home-based occupations.*

[...]

**FINDING 13:** The Planning Commission finds that a Bed and Breakfast is a Home-based Occupation and is a Conditional Use in the EL-1 zone, and that this application has been properly brought before the Planning Commission as part of the Conditional Use process.

**PUBLIC COMMENTS:**

There were no public comments.

**CONCLUSIONS:**

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 #23-05 to operate a Home-based Occupation in the form of a Bed and Breakfast [for a maximum of six (6) guests, in two (2) rooms with the owners staying in the third, and seven (7) vehicles] has met all criteria and will be valid until the permitted use is discontinued for one full year, or failure to meet the approval conditions require the permit to be revoked.

**CONDITIONS OF APPROVAL:**

- CUP terminates with the transfer or conveyance of the property.
- A Bed and Breakfast must provide a morning meal. The type of meal will be determined by the applicant.
- Because the parcel is 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.

---

**FINDINGS**

CUP#23-05 SUTO B&B Findings Report

February 27, 2024

Page 7 of 8

