

WALLOWA COUNTY PLANNING COMMISSION
7:00 pm November 25, 2025
Wallowa County Courthouse
Agenda

1. **Planning Commission Meeting Minutes** from October 28, 2025

2. **WC TRANSPORTATION SYSTEMS PLAN TEXT AMMENDMENT AMD#25-02** – An amendment to the County’s comprehensive plan requires a minimum of two public meetings, the first of which is with the Planning Commission. This request to designate the WURA Right-Of-Way from Wallowa to Joseph as “priority grazing area” has been submitted by a private citizen, Alicia Zinni, as an amendment to the text of the Wallowa County Transportation Systems Plan, which is part of the Comprehensive Plan. The Planning Commission will make a recommendation to the Board of Commissioners where the final public meeting will be held. The Board of Commissioners renders the decision in legislative matters.

3. **Other Business and Public Comment**

There will be no December Planning Commission meeting. The January Planning Commission meeting is scheduled for Tuesday the 27th.

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This meeting of the Wallowa County Planning Commission convened at 7:03 p.m. on October 28, 2025. This meeting was held via Zoom, a video conferencing application, and in the **Thorton Conference Room** of the Courthouse. The following people were present:

COMMISSIONERS (CM):

Kim Tippett
Chris Bullat
Jim Nave
Ramona Phillips
Kelsey Juve
Todd Turner

STAFF:

Franz Goebel, Planning Director (PD)
PJ Guajardo, Planning Specialist (PS)

OTHERS PRESENT:

Roger Averbeck
Felicity Fenton
Gail Hammack
Leigh Dawson
Adam Fenton
Wendy Simmons
Jill Ledbetter
Greg Bales
Todd Pederson
Alicia Zinni

Linda Werst
Wayne Werst
Devin Fletcher
Audra Allen
Rahn Hostetter
Darrell Brann
Audrey Osborn
John Osborn
Sheriff Ryan Moody
Commissioner Lisa Collier

PRESENT via ZOOM:

Johnny Paxson
Mary Hawkins
Daniel Kearns

Danyale Clay
Erika Polmar
Mike Ledbetter

[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.]

Public Hearing Procedure

Ladies and Gentlemen, let me call to order the October 28, 2025 hearing of the Wallowa County Planning Commission. My name is Jim Nave, and I am the Chair of the Planning Commission of

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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 who support the Planning Commission and 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. 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.

We have expectations about your behavior while attending Planning Commission meetings.

Persons attending this meeting shall observe the following **rules or procedures, decorum and good conduct:**

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- Any person who makes personal, impertinent or irrelevant remarks or who becomes boisterous while addressing the Commission or attending a Commission meeting or who interferes with the conduct of the meetings in violation of these rules, may be removed from the room, after fair warning, if the Chair so directs. In case the Chair should fail to act, any member of the Commission may obtain the floor and move to require enforcement of these rules. Upon affirmative vote of the majority of the Commission present, or as directed by the Chair, the person or persons shall be removed.
 - Stamping of the feet, whistles, yells and cursing are similarly not permitted.
 - Such person or persons may be barred from further in person audience before the Commission and, in aggravated cases, an appropriate complaint shall be issued by the Chair to prosecute this person or persons.
 - If a meeting is disrupted by members of the audience, the Chair may order that the Commission chamber be cleared and a recess called until order is restored.
 - The Commission may have a Law Enforcement officer present at all regular and special meetings. The officer shall carry out all authorized orders and instructions given by the Chair for the purposes of maintaining order and decorum at the Commission meetings. If the officer determines that the actions of any person who violates the order and decorum of the meeting constitutes a violation of any provision of any law, the officer may cite such person, or place such person under arrest and cause such person to be prosecuted under the provisions of the applicable law, or take other appropriate action. Before the officer is directed to remove any person from a Commission meeting for inappropriate behavior as described in these rules, that person shall be given a warning by the Chair to cease his or her conduct.
1. Does any commission member wish to recuse themselves from any of the proposed procedure, for any personal or financial reasons, 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 Wallowa 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 Nave briefly addresses an incident from the September 30th Planning Commission Meeting, where a member of the audience threatened violence upon other members of the audience. He noted new rules of conduct listed at the beginning of the meeting to help address unacceptable behavior and further steps to take as necessary.

1. September 30, 2025 Minutes

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CM Tippett moves to approve the minutes of the September 30th, 2025 Planning Commission meeting.

CM Bullat seconds the motion.

CM Nave – Yes;
CM Phillips – Yes;
CM Juve – Yes;
CM Tippett – Yes;
CM Bullat – Yes;
CM Turner – Yes;

Motion Passes 6-0-0]

The minutes are approved.

2. Findings: AMD#25-01 TSP Trail Refinement Plan

PD Goebel presents the findings and clarifies for the audience that the vote on the findings reflects whether or not they are accurate to the discussion the Planning Commission held regarding them.

CM Bullat makes a motion that the Planning Commission accepts the findings as they were read.
CM Juve seconds the motion.

CM Nave – Yes;
CM Phillips – Yes;
CM Juve – Yes;
CM Tippett – Yes;
CM Bullat – Yes;
CM Turner – Yes;

Motion Passes 6-0-0]

CM Nave signs the findings.

3. APP#25-02 ANDERSON WOODS, LLC - HOSTETTER

CM Nave returns the Planning Commission to a quasi-judicial hearing.

PD Goebel presents the Staff Report for **APP#25-01**

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CM Nave asks the assembled members of the PC if they would hear the Applicant's appeal de novo or on the record.

CM Bullat motions to hear the appeal on the record.

CM Turner seconds.

CM Nave – Yes;

CM Tippet – Yes;

CM Phillips – Yes;

CM Bullat – Yes;

CM Juve – Yes;

CM Turner – Yes;

Motion Passes 6-0-0

CM Nave and **PD Goebel** clarify that the PC will not accept any public testimony, but the appellant has the right of argument. **PD Goebel** also explains that **County Counsel Daniel Kearns** is also available to answer any questions the Planning Commission might have, including after the appellant's argument portion of the hearing.

CM Nave calls on **County Counsel Kearns** to share any preliminary comments regarding the matter. County Counsel addresses questions regarding the County's authority to inquire into the legal status of the lots listed in the permit application. He first emphasizes that the end-goal for the applicant was to obtain lot-of-record residences. The first requirement for such a residence is that the lot on which it will be sited has to have been legally created. He continues that the burden of proving the legality of the lots falls on the applicant, and that the county has the authority to evaluate whether parcels were lawfully created.

Applicant/Appellant D. Rahn Hostetter introduces himself and suggests that members of the audience wanting to testify on APP#25-02 "...might as well leave."

CM Nave clarifies that the PC ruled that they would hear argument from the applicant, Mr. Hostetter, and include comments submitted during the original application, where there was notice and opportunity to comment.

Applicant Hostetter asks for clarification on whether "the applicants (referring to the assembled members of Anderson Woods, LLC)" will be allowed to speak.

CM Nave responds that no new additional evidence may be entered into the record, nor can any new testimony be heard.

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PD Goebel clarifies that any comments received up until the letter of appeal was submitted are a part of the record, but nothing after.

Applicant Hostetter asserts that the PC is not giving the applicants a chance to speak, asserting that the assembled members of Anderson Woods, LLC are the applicants for LP#25-02 and should be allowed to provide oral testimony.

PD Goebel responds that **Mr. Hostetter** listed only himself as the applicant in the initial application, and listed himself as representing Anderson Woods, LLC, in the appeal. Since he is arguing his case to the Planning Commission the Applicant is, in fact, being allowed to speak and make his argument on behalf of Anderson Woods, LLC.

Hostetter continues to argue that “normally” the owner of a property is allowed to respond to comments in a quasi-judicial hearing. The Planning Commission does not respond. [None of the members of Anderson Woods, LLC, submitted comments during the initial application, nor have they been listed as members of the LLC in any documents submitted. There was opportunity for Hostetter, or any members of the public, to rebut comments received during the open comment period during the original application.]

Hostetter gives backstory on Anderson Woods, LLC, establishing that the property in question was purchased by and has remained in the family that makes up Anderson Woods, LLC since at least 1952. **Hostetter** frames the matter as a “moral” issue, arguing that the family that has established themselves in the area for 70 years and that governing bodies should take that into account when considering land use decisions.

Hostetter then addresses the Planning Department’s Staff Report, initially agreeing with the Planning Director that ORS.92.017 is the statute that is most pertinent to this hearing. He agrees with the Planning Department’s interpretation of ORS.92.017 that legally distinct parcels created before 1973 remain legally distinct if they had not been partitioned since.

Hostetter then asserts that there is no evidence that the 1986 Partition Application cited in the staff report was ever recorded.

Hostetter produces exhibits pertaining to his argument, and PD Goebel requests clarification on whether said exhibits constitute new evidence. The appellant clarifies that they are legal arguments, and thus permissible. He distributes copies of the case *Weyerhaeuser Real Estate Develop. v. Polk County* to the PC.

Hostetter asserts that the PD erred in citing *Weyerhaeuser Real Estate Develop. v. Polk County* in his decision. Hostetter emphasized that in *Weyerhaeuser v. Polk County* “...a survey map was recorded...” and that in this case, there is no evidence of recording. **Hostetter** argues that, per *Weyerhaeuser*, a survey must be recorded to be legally recognized and vacate the underlying lot lines that make up said partition. He then argues that a change in the language of ORS 192.017 after the *Weyerhaeuser* decision renders the applicability moot.

Hostetter argues, as a second point, that there is no procedure in Wallowa County Ordinance for recognizing discrete parcels. Since there has not been the adoption of any ordinance that establishes such a procedure, the Planning Director does not have the authority to implement a

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separate procedure, and charge a fee, for verifying whether or not parcels are legal units of land.

Appellant Hostetter asks that the Planning Commission approve his appeal before ending his testimony.

CM Phillips motions that the testimonial portion of the hearing be closed.

CM Tippett seconds.

CM Nave – Yes;

CM Tippett – Yes;

CM Phillips – Yes;

CM Bullat – Yes;

CM Juve – Yes;

CM Turner – Yes;

Motion Passes 6-0-0

County Counsel Kearns then takes the opportunity to respond to the appellant's legal arguments. County Counsel points out that the record, and associated comments, have been available to the applicant "all along". Hostetter's appeal letter made no attempt to respond to comments, and made no request that the appeal be heard de novo.

County Counsel expresses that "... the applicant waived the opportunity to respond to those comments to the extent [that] they ever mattered."

Regarding the Weyerhaeuser decision applicability to this appeal before the Planning Commission, Counsel notes that the minor language change of ORS.92.017 after 1985 did not materially change its interpretation, meaning or intent. Counsel asserts that ORS.92.017 still applies. **Counsel** continues that the intent to split the parcel in question into two parcels was always there, evidenced by the application of Verne Anderson in 1986, the approval by that Planning Commission, and subsequent sale of the newly created parcel.

Counsel concludes by asserting that the Planning Director and the Planning Department have express authority in requiring that applicants satisfy the requirement of recognizing that parcels of land that are involved in potential land use decisions having been legally established before processing an application.

CM Tippett makes a motion to deny Appeal #25-02__Anderson Woods, LLC -Hostetter, and uphold the Planning Director's decision.

CM Phillips seconds.

CM Nave – Yes;

CM Tippett – Yes;

CM Phillips – Yes;

CM Bullat – Yes;

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CM Juve – Yes;
CM Turner – Yes;

Motion Passes 6-0-0

APP#25-02 is denied and the PD's decision is upheld.

CM Turner then motions to approve **CM Nave**, the Planning Commission Chair, to sign the findings of APP#25-02 on behalf of the Planning Commission outside of a regular meeting. **CM Bullat** seconds.

CM Nave – Yes;
CM Tippett – Yes;
CM Phillips – Yes;
CM Bullat – Yes;
CM Juve – Yes;
CM Turner – Yes;

Motion Passes 6-0-0

[Staff note: CM Nave signed the findings November 3, 2025]

4. OTHER BUSINESS

PD Goebel informs the Planning Commission of what is on the agenda for November's Planning Commission meeting, **AMD#25-02 TSP-ZINNI**, and raises the issue of **CM Tippett's** term expiring at the end of the calendar year.

Todd Pederson shares thoughts about matters regarding AMD#25-01. [Findings for AMD#25-01 were signed at the previous PC meeting on October 28, 2025]

Pd Goebel informs Mr. Pederson that the matter of AMD#25-01 is now under the purview of the Board of Commissioners, and any comments regarding its review should be addressed to the Board of Commissioners.

There are several questions on the matter of Planning Commissioner Term Limits.

CM Bullat motions to end the meeting
CM Tippett seconds.

CM Nave – Yes;
CM Tippett – Yes;
CM Phillips – Yes;

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**CM Bullat – Yes;
CM Juve – Yes;
CM Turner – Yes;**

Motion Passes 6-0-0

Meeting adjourns at 8:25 PM

PJ Guajardo

Date

DRAFT



WALLOWA COUNTY
Planning Department
101 S River Street #106
Enterprise, Oregon 97828
541-426-7770

BEFORE THE PLANNING COMMISSION
FOR WALLOWA COUNTY, OREGON

In the matter of an appeal of a Director's decision denying a request for verification of legal lot status of four parcels of land in the Timber-Grazing (TG) Zone, in unincorporated Wallowa County, Oregon.

FINAL ORDER
Anderson Woods LLC

APP#25-02
(LP #25-02)

I. Summary:

This Order is the decision of the Wallowa County Planning Commission denying the applicant's appeal and upholding the Director's determination that the four proffered parcels are not legal lots of record under ORS 92.017 and do not qualify for lot of record dwellings under the applicable TG Zoning.

II. Introduction to the Property and Application:

Applicant..... D. Rahn Hostetter, Esq.
P.O. Box 400
203 E. Main Street, Suite 2
Enterprise, OR 97828

Owner..... Anderson Woods LLC
61901 Prairie Creek Road
Joseph, OR 97846

Property..... Legal Description: Tax Lot 8600 (274.23 acres) in Section 24, Township 3 South, Range 45 East of the Willamette Meridian.

Applicable Laws..... Wallowa County Land Development Ordinance (WCLDO) Article 1 (Introductory Provisions), Article 4 (Administrative Review), Article 7 (Appeals), Article 16 (Timber Grazing), Article 30 (Land Partition), Article 36 (Salmon Habitat Recovery), ORS 92.017 and Chapter 197.

This application seeks to verify the legal lot status of the following four parcels that comprise TL 8600, each of which is illustrated in color on the annotated tax lot map attached hereto:

- 1) N1/2NE 1/4 and SE 1/4NE1/4 (120 acres±). See D/96 on Jody's search and the conveyance associated therewith from the United States of America to Alfred Meek dated August 24, 1891.
2) NW1/4NWSE1/4 (10 acres±). See deed to Vern and Reita Anderson from G.D. Eckley dated January 1952, and deed from Vern and Reita Anderson from Stephen Kahn and Ruth L. Kahn dated January 6, 1955.

- 3) SW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (70 acres±). See H/182 on Jody's search and conveyances set out in paragraph 2 above;
- 4) N $\frac{1}{2}$ NW $\frac{1}{4}$, except tax lot 8601. See E/6 and F/571 on Jody's search and deeds associated therewith from the United States of America to Alfred Meek dated April 18, 1888 and to Wellington C. Allan dated August 24, 1891. See also MP85/17 and deed from Vern Anderson and Reita Anderson to Robert Bales and Barbara Bales dated February 11, 1986.

The applicant's August 6, 2025 narrative also states that "the enclosed [legal lot verification] application references 'Lots of Record' as the project description. That is because my client ultimately seeks approval from the Wallowa County Planning Department for lot of record residences to be located on the first three discrete parcels set out above." Lot of record dwellings are a type of use allowed in the TG Zone, and the first requirement for such dwellings is to demonstrate that the parcels in question were lawfully established and remain legal lots of record. WCLDO 16.015(4).

III. The County's Process and the Director's Decision:

The legal lot verification application, as originally submitted on August 6, 2025, was deemed incomplete because many of the exhibits it referenced were not included and even those provided an incomplete deed record. In response to the County's notice of incompleteness, the applicant submitted the missing exhibits on September 4, 2025, after which the application was deemed complete enough to process.

The County used a Type II process for this request, pursuant to which it mailed notice of the application to owners of property within 750 feet of TL 8600 and invited comment on the proposal. Four public comments were received in response to the notice of application: 3 opposed, citing concern over creating increased density in a resource zone and lack of conformance with ORS and Wallowa County Land Development Ordinance, and one in favor with no elaboration. The Director issued his decision denying the application on September 25, 2025, which is incorporated herein by this reference, concluding in pertinent part:

"Based upon the information submitted, the comments of interested parties and the findings, the review authority finds this application does not satisfy all review criteria and is hereby denied as presented, and that Tax lot 8600 is a single parcel, and historic lot lines have been extinguished and vacated."

The applicant timely appealed the Director's decision on October 1, 2025. The 1-page appeal stated in pertinent part:

"The [Director's] Decision does not comport with Oregon law and misstates or misinterprets the facts contained in Anderson Woods' application and supplemental application. ... The Wallow County Planning Department erred in requiring that Anderson Woods submit an application to 'verify' or 'recognize' units of land and to pay an application fee for such application. There is no ordinance in Wallowa County authorizing or requiring such a procedure or application. The Decision erroneously applies the provisions of ORS 92.017-.192 and, more specifically erroneously applies and interprets ORS 92.017."

WCLDO 7.025 provides that appeals will be heard on the record from below and limited to issues raised in the appeal notice, unless the appeal authority decides to allow new evidence. The appeal notice did not include a request to take any new evidence or that the appeal be heard other than on the record.

IV. Summary of the Appeal Proceeding and the Record:

In response to the applicant's appeal, the County scheduled an October 28, 2025 public hearing before the Planning Commission and mailed notice of the appeal and hearing to owners of property within 750 feet of TL 8600. The County received several comment letters in response to the notice of the appeal, but because the record was closed and the appellant did not request the admission of new evidence, these comments were not included in the record without the Planning Commission expressly allowing them.

Staff issued a written report for the October 28th public hearing, which is incorporated herein by this reference, that addressed the substantive and procedural issues raised the applicant's Notice of Appeal. The Planning Commission convened the public hearing on the applicant's appeal on October 28, 2025 at 7:00 p.m. The Commission Chair recited the procedural warnings prescribed by ORS 197.797 and called for the disclosure of ex parte contacts, conflicts of interest and bias by the Commissioners. No Commissioner had any substantive disclosures, and no one objected to the disclosures or the participation of any Commission member.

The Commission began by addressing the scope of its review. The applicant's Notice of Appeal did not request a full or partial de novo review, nor the opportunity to submit new evidence, and the applicant did not make any such request at the hearing. Given the presumption of an on-the-record review in WCLDO 7.025 and the lack of any request for a different scope of review, the Commission voted to hear the appeal on the record. Consequently, the comment letters received in response to the Notice of appeal hearing were excluded, and no person other than the applicant (Rahn Hostetter) was permitted to present argument. Testimony was limited to argument only, no new evidence and no new issues that were not raised in the September 30, 2025 Notice of Appeal.

Staff was represented by Franz Goebel, Planning Director, and Daniel Kearns, County Land Use Counsel, who presented the Director's decision and explained its legal bases. Rahn Hostetter, provided legal argument as the applicant and submitted a copy of the Court of Appeals opinion *Weyerhaeuser Real Estate Dev. Co. v. Polk County*, 246 Or App 548, 267 P3d 855 (2011) to each Commission member. Mr. Hostetter requested that the members of the owner (Anderson Woods LLC) be allowed to testify in support of the appeal, but that request was denied based on the on-the-record scope of review and the fact that none of these individuals participated below before the Director. At the conclusion of the hearing, the Commission voted unanimously to deny the appeal and uphold the Director's decision.

V. Findings:

Only issues and criteria raised in the course of the application and preserved in the Notice of Appeal, during the hearing and before the close of the record are discussed in this section. All other issues are deemed waived by the appellant/applicant, and no argument regarding these issues can be raised in any subsequent appeal. The Planning Commission adopts the following findings in response to the approval criteria addressed in the Director's decision, the staff report, and the issues raised in the applicant's Notice of Appeal:

Procedural Issues: The Commission relies upon and incorporates herein by this reference the Staff Report for the October 28, 2025 Planning Commission hearing, and also adopts the following findings with regard to many of the same issues:

1. The County lacks the authority to require developers to seek legal lot verification or pay an application fee. The applicant asserted below and maintains on appeal that the County lacks the legal authority to require it to submit an application to verify or recognize the legal lot status of any of the 4 lots it seeks recognition of in this proceeding. The applicant also disputes the County's requirement that an application must be paid for this application. We disagree.

The underlying documentation makes clear that the applicant's ultimate purpose is to obtain 3 or 4 lot of record dwellings in the applicable TG Zone pursuant to WCLDO 16.015(4). The basis for the present application is that TL 8600 consists of 4 legal lots that were lawfully created and have retained their separate individual legal lot of record identities from the time of creation to present. Under WCLDO 16.015(4)(A) legal lot status is a threshold requirement for a lot of record dwelling, put differently, an applicant for a lot of record dwelling must demonstrate with a preponderance of credible evidence that each parcel offered for a lot of record dwelling (1) was lawfully created and (2) retains that separate individual legal lot status to present.

To assist our inquiry in verifying whether any of these 4 parcels currently has legal lot status, WCLDO 1.065.78 defines "lawfully created lot or parcel,"¹ and ORS 92.017 (Lawfully created units of land; judgments relocating property lines)² provides an over-arching statutory limitation on whether and how a parcel retains its "legal lot" status over time.

We find these code and state law requirements to be relevant to the threshold inquiry into the applicant's lot of record dwelling objectives. We conclude that legal lot status is a threshold issue and that legal lot status must be verified before any lot of record dwellings can be considered for particular parcels under WCLDO 16.015(4)(A). That the County chose to stream-line the process and require a legal lot verification application as a prelude to the broader and subsequent lot of record dwelling application(s) was a benefit to the applicant. In any event, there is no procedural error in pursuing the evaluation of in this order.

The applicant in this case had the option of submitting 4 (or 3) separate individual lot of record dwelling applications and a separate application fee for each, or a consolidated single application, such as this, to facilitate our evaluation of this threshold issue. Either way, the County has clear authority to inquire into the legal lot status of these parcels that

¹ WCLDO 1.065.078. Lawfully Created Lot or Parcel - A lawfully created lot or parcel shall be defined as a separate unit of land created by one of the following:

- A. A parcel of land in a recorded subdivision and legally created under the law in force at the time.
- B. A parcel created by a land partitioning as defined in ORS 92.010.
- C. By deed or land sales contract if there were no applicable planning, zoning, or partitioning ordinances, codes, or regulations.
- D. Does not include a unit of land created solely to establish a separate tax account.

² ORS 92.017 Lawfully created units of land; judgments relocating property lines.

(1) A lawfully created lot or parcel remains a discrete lot or parcel unless the lot or parcel lines are vacated or the lot or parcel is further divided as provided by law.

the applicant asserts were lawfully created and have retained legal lot status to present, as anticipated by ORS 92.017 for that must be determined before following over-arching statutory limitation on the legal lot status of parcels that are proposed for lot of record dwellings. More to the point, the proponent for any such dwellings – the applicant/appellant in this case – has the burden of proof in establishing that the lots it proposes for such dwellings were lawfully created and remain legal lots of record. The applicant in this case cannot bear that burden in the abstract without some sort of land use application, and the County cannot make its determination without a compliant land use process, all of which requires a land use application. The present consolidated application to verify legal lot status of the four parcels the applicant proposes for lot of record dwellings fulfills this statutory and code requirements.

As for the fee, ORS 215.416(1) authorizes the County to charge land use applicants for the actual or average cost of the County's providing the land use decision making service. The closest approximation to a legal lot determination application fee is the minor partition fee, which we find approximates the actual or average cost to the County for providing this service. Consequently, we reject the applicant's objection to the application fee.

2. The individual property owners should be allowed to present testimony at the hearing. For the first time, the applicant requested opportunity for the individual members of Anderson Woods LLC to present oral testimony at the hearing. In this proceeding, the owner is the Anderson Woods LLC, and the applicant is attorney Rahn Hostetter. Only the applicant (Rahn Hostetter) has provided evidence or argument, and only the applicant appealed the Director's decision. None of the individual members of Anderson Woods LLC have previously appeared in this proceeding, and none have standing. Given the Commission's decision to hear this matter on the record, no new evidence and no new parties, especially anyone who lacks standing is allowed to present testimony. Consequently, we denied this request.
3. The applicant should be allowed to rebut adverse comments in the record. At the hearing, the applicant requested the opportunity to rebut adverse comments to the application that are in the record, without specifying what comments he was referring to. Four comments were received in response to the County's notice of application: 3 adverse and one in favor. The applicant had access to the record prior to the Director rendering his decision, and the applicant knew of the existence of those adverse comments. In truth, none of the 3 adverse comments articulated any legal basis for their opposition to this application. Several adverse comments were submitted in response to the County's notice of appeal, but we ruled at the beginning of the hearing that the appeal was strictly on-the-record, and rejected those comments. Consequently, the only adverse comments in the record have been in the record for a long time and the applicant had ample opportunity to review and rebut those comments. Moreover, if the applicant wanted to rebut those comments in this appeal proceeding, the appeal could have requested at least a partial de novo review to do so. Absent any prejudice or a request in the appeal notice to present rebuttal argument, we deny this last-minute request to rebut these adverse comments to the underlying application.

Substantive Issues: In response to the substantive criteria applicable to the legal lot verification in this matter, the Commission relies upon and incorporates herein by this reference the Director's September 25, 2025 decision. In addition, the Commission adopts the following findings in response to substantive issues raised by the appellant at the October 28, 2025 hearing:

1. The *Weyerhaeuser* case is inapplicable because it was based on a previous version of the statute. At the hearing, the applicant asserted that the *Weyerhaeuser* case is inapplicable because it interprets a pre-1986 version of ORS 92.017 and is therefore inapplicable because the statute was subsequently amended. We disagree and conclude that the *Weyerhaeuser* case is applicable and controlling in our decision.

It appears that the *Weyerhaeuser* case was based on the 1983 version of ORS 92.017 and the statute was subsequently amended. At the time (2011), ORS 92.017 provided:

"A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law."

Today, ORS 92.017 provides:

"A lawfully created lot or parcel remains a discrete lot or parcel unless the lot or parcel lines are vacated or the lot or parcel is further divided as provided by law."

We do not regard this minor change in language to be material to our resolution of this application and the applicant does not explain why or how the change results in a different outcome or renders the *Weyerhaeuser* case inapposite. We reject the applicant's general and non-specific objection to the applicability of the *Weyerhaeuser* case based on this difference. Accordingly, we reject this argument and conclude that the Director correctly interpreted ORS 92.017 and applied it to the facts of this case as explained in the *Weyerhaeuser* case.

2. The *Weyerhaeuser* case is inapplicable because the partition at issue in that case was memorialized in a recorded survey and the record of this matter does not reflect that the 1986 partition resulted in a recorded survey. At the hearing, the applicant challenged the applicability of the *Weyerhaeuser* case because the partition in *Weyerhaeuser* was recorded, which made the partition final. At first, the applicant appeared to assert that the 1986 partition of TL 8600 was not recorded, which would have involved the submission of new evidence, but then simply stated that the record did not contain evidence that a survey reflecting the 1986 partition of TL 8600 was recorded. The implication of this argument is that the 1986 2-lot partition of TL 8600 was not finalized. Based on the evidence before us, we disagree.

First, the 1986 partition of TL 8600 divided the 280-acre parent parcel into two lots: a 10-acre parcel now known as TL 8601, which appears to be 5.77 acres, and a 270-acre parcel, now known as TL 8600, which appears to be 274.23 acres. The present application starts with, and therefore acknowledges the validity and finality of, the 1986 partition. The present application states that the four parcels proposed for verification are contained within TL 8600. Significantly, the present application does not start with the original parent parcel from 1986, which was 280 acres. From this, we conclude that the applicant already acknowledged the finality and legal validity of the 1986 2-lot partition, and we reject his new argument that is contrary to this fundamental premise upon which the application is based.

Second, the record of the 1986 partition, as reflected in this record, does not include a recorded survey or final plat confirming the 1986 partition. What is before us is a complete

deed history of TL 8600, from which we conclude that the 1986 partition was finalized simply by the applicant's conveyance and subsequent recordation of the two resulting parcels. The tax assessors tax lot map, which are not "legal lots" is evidence that supports this conclusion by showing the product of the 1986 partition as TLs 8600 and 8601. Deeds in the record of this proceeding show that both of the parcels resulting from the 1986 partition were subsequently conveyed via metes and bounds legal descriptions, which may explain why no final plat or survey may have been recorded. TL 8600 (at 274.23 acres, not 280 acres) and TL 8601 are now in separate ownerships, which confirms the finality of the 1986 partition.

VI. Decision:

Based on the foregoing findings and the documents incorporated by reference herein, the Planning Commission denies the applicant's appeal, upholds the Director's September 25, 2025 decision, and denies the underlying application for legal lot verification. The Planning Commission Chair is expressly authorized to sign this decision and findings that reflects the Commission's decision at the conclusion of the October 28, 2025 hearing.

The October 28, 2025 verbal vote to deny the appeal and uphold the PD decision is 6 in favor and 0 opposed with 0 abstaining.

Date of Decision: November 3, 2025

By: _____


Jim Nave,
Planning Commission Chair

Notice of Appeal Rights

This decision may be appealed by any party with standing to the Board of County Commissioners pursuant to WCLDO 7.020, within 12 days of the date of this decision, accompanied by the correct appeal fee and a statement of the specific grounds for the appeal.



STAFF REPORT
AMD#25-02
TSP AMENDMENT - ZINNI

APPLICANT: Alicia Zinni (signed) with other names listed:
Russell and Ellen Peterson, Joseph
Shelly Steen, Joseph
Mike and Annette Lathrop, Enterprise
Velda Bales, Enterprise
Lela Knuckle, Enterprise
Gina Birkmaier, Enterprise
Gail West, Enterprise
Bob Aschenbrenner, Enterprise

REQUEST: To amend the text of the Wallowa County Transportation Systems Plan (TSP), identifying the area between Wallowa and Joseph as a “Priority Grazing Area”

LOCATION: WURA railway from the city of Joseph to Wallowa.

LAND CHARACTERISTICS: The property is a short-line railroad line owned by WURA (Wallowa Union Railroad Authority), an ORS 190 organization. The width of the right of way varies but is typically 100’ wide, and passes through multiple land-use zones between the City of Joseph and Wallowa. It is approximately 290 acres.

OTHER INFORMATION:
Exhibits in this packet:

- Zinni’s TSP Text change proposal and comments addressing criteria.

PREVIOUS PLANNING DEPARTMENT AND OTHER AGENCY ACTIONS:

- 2001 Wallowa County Transportation Systems Plan (TSP)
- Wallowa Lake Bicycle and Pedestrian Plan (ODOT, WC, OPRD) 2015 – a refinement plan for a bike path between Wallowa Lake State Park and the City of Joseph.
- City of Wallowa proposed amendment to amend the TSP with a refinement plan describing a rail with trail from Wallowa to Minam (unresolved at the time of this staff report).

STAFF COMMENT:
Please read the letter from Ms. Zinni regarding this application. Members of the public have the right to propose changes to the Comprehensive Plan, of which the TSP is a part. This application is for a text amendment to the Wallowa County TSP. It amends the text

of the 2001 TSP to establish a “Priority Grazing Area” between Wallowa and Joseph along the WURA property. A TSP provides an analysis of the existing transportation system, and identifies community needs, aspirations and opportunities for its ongoing improvement.

Staff has concern over the appropriateness of altering a TSP to impose a non-transportation-related use (grazing) and limiting other potential uses for the WURA right of way (ROW). As well, there is no land-use definition, use defined for, or mention of the term *Priority Grazing Area* in Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR), which could lead to confusion regarding the actual meaning, purpose and limitations.

This is the first of two required public meetings for an amendment to the Comprehensive Plan. The last required meeting will be with the Board of Commissioners (BOC), where a decision is rendered on whether or not to adopt the amendment. The Planning Commission can make a recommendation to the BOC on whether or not to adopt this amendment.

Per Article 8.030 (01), Staff has determined that the amendment is legislative, and affects more than “*limited area of the County*” so individual notice is not being sent to adjacent land-owners. Notice will be placed in the East Oregonian (3) consecutive weeks prior to the first hearing on November 25, 2025, and also posted at/on:

- courthouse bulletin boards
- United States Post Office bulletin boards in Joseph, Enterprise, Lostine and Wallowa.
- Wallowa County Facebook page.
- East Oregonian (online media/ news source)
- Elkhorn Media (online media/ news source)

REVIEW CRITERIA:

Article 8, Amendments

Wallowa County Transportation Systems Plan (TSP) BOC Approved 2001

State Goal 12: Transportation

Oregon Administrative rules (OAR) 660-012-Transportation Planning

and other applicable zoning ordinances or goals of Wallowa County Land Development Ordinance and/or laws of the State of Oregon.

REFERENCES:

ARTICLE 8, AMENDMENTS

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

STAFF REPORT

AMD#25-02 TSP ZINNI GRAZING

NOVEMBER 25, 2025 – Planning Commission

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the proposed zone will be regarded as minor amendments to be processed as Quasi-Judicial actions.

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

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

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

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

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

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

[...]

SECTION 8.030, NOTICE OF HEARING:

01. *Notice of public hearing before the Planning Commission for the purpose of*

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considering an amendment brought forth under this article shall be published in a newspaper of general circulation for three consecutive weeks prior to the hearing date.

02. *The notice of public hearing shall be designed to reasonably inform the public of the nature and intent of the proposal and shall, at a minimum, contain the following information:*
 - A. *Date, time, and place of the hearing.*
 - B. *Party initiating the amendment.*
 - C. *General description of the proposed amendment and notification to the public of the hours and place where the amendment can be reviewed in its entirety.*
03. *If the proposed amendment is determined by the Planning Department to affect a limited area of the County, mailed notice of the hearing shall be provided to all owners of property directly affected by the amendment and to all owners of property lying within:*
 - A. *One hundred (100) feet of the exterior boundary of the subject property where the subject property is wholly or in part within an urban growth boundary;*
 - B. *Two hundred and fifty (250) feet of the exterior boundary of the subject property where the subject property is outside an urban growth boundary and not within a farm or forest zone;*
 - C. *Seven hundred and Fifty (750) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.*

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

SECTION 8.035, AMENDMENT REVIEW PROCESS:

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

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- review criterion. The Planning Commission shall place the findings, conclusions, and recommendations in writing and forward the same to the County Court.*
04. *Following receipt of the Planning Commission's recommendation, the County Court shall, within 90 days, hold a second public hearing. Based upon testimony taken at the second hearing together with the Planning Commission's recommendation and testimony from the first hearing, the Court shall adopt findings demonstrating the proposal's compliance or non-compliance with the applicable review criteria. The decision shall be set forth in writing and shall specify findings and conclusions of the Court.*
05. *The County Court may, at its own discretion, hold both of the required hearings.*
- (ii) *Taking necessary steps to implement or update the forestland-urban interface fire protection system in and around the site as described in ORS 477.015 to 477.061; and*
- (iii) *Implementing other fire protection measures authorized by the State Forester.*
- (4) *A county may not amend its comprehensive plan, land use regulations or zoning map under this section to allow a use that would conflict with an administrative rule adopted for the purpose of implementing the Oregon Sage-Grouse Action Plan and Executive Order 15-18. [2019 c.170 §2]*

WALLOWA COUNTY TRANSPORTATION SYSTEMS PLAN (TSP) 2001

CHAPTER 2: GOALS AND OBJECTIVES

The purpose of the TSP is to provide a guide for Wallowa County to meet its transportation goals and objectives. The following goals and objectives were developed from information contained in the county's Comprehensive Plan and public concerns as expressed during public meetings. An overall goal was drawn from the plan, along with more specific goals and objectives. Throughout the planning process, each element of the plan was evaluated against these parameters.

OVERALL TRANSPORTATION GOAL

To provide and encourage a safe, convenient, and economic transportation system.

[...]

Goal 4

Increase the use of alternative modes of transportation (walking, bicycling, and public transportation) through improved access, safety, and service.

[...]

Goal 6

Although the County is no longer served by a branch railroad line, the County recognizes the railroad line and its right of way as an asset to be put to the highest and best use for the entire County

CHAPTER 7 TRANSPORTATION SYSTEM PLAN

[...]

Modal Plan

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In rural areas, it is typical to accommodate pedestrians on roadway shoulders. Many of the shoulders on both county roads and state highways in Wallowa County can not safely accommodate pedestrians...

Multi-use paths are popular in rural areas, especially when they provide a viable alternative to a busy highway. Paths should follow the design standards of the Oregon Pedestrian and Bicycle Plan (1995). No paved separated paths are found in Wallowa County at this time; however, one project has been identified as part of the transportation plan:

A separated path along the Idaho Northern Pacific and Union Pacific Railroad right-of-way has been suggested; however, the feasibility of such a path may be limited [sic] the cost of the right-of-way and path construction, and the concern for access across private land.

OAR Division 12

TRANSPORTATION PLANNING

660-012-0000

Purpose

(1) This division implements Statewide Planning Goal 12 (Transportation) to provide and encourage a safe, convenient, and economic transportation system. This division also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in close coordination with urban and rural development. The purpose of this division is to direct transportation planning in coordination with land use planning to:

(a) Provide for safe transportation for all Oregonians;

(b) Promote the development of transportation systems adequate to serve statewide, regional, and local transportation needs;

(c) Provide a transportation system that serves the mobility and access needs of those who cannot drive and other underserved populations;

(d) Provide for affordable, accessible and convenient transit, pedestrian, and bicycle access and circulation, with improved connectivity to destinations people want to reach, such as education facilities, workplaces, services, shopping, places of worship, parks, open spaces, and community centers;

(e) Reduce pollution from transportation to meet statewide statutory and executive goals to reduce climate pollution;

(f) Recognize and remedy impacts of past practices that have harmed underserved populations, such as redlining, displacement, exclusionary zoning, inaccessible design, and roadway and other public infrastructure siting;

(g) Engage underserved populations in decision-making and prioritize investments serving those communities;

(h) Facilitate the safe flow of freight, goods, and services within regions and throughout the state through a variety of modes including road, air, rail, and marine transportation;

(i) Protect the functions of existing and planned transportation facilities, corridors, and sites;

(j) Provide for the construction and implementation of transportation facilities, improvements, and services necessary to support acknowledged comprehensive plans;

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(k) Identify how transportation facilities are provided on rural lands consistent with the statewide planning goals;

(l) Protect and restore safe passage for fish and wildlife, flood waters, and other natural system functions at roadway crossings of waterbodies and other native habitat corridors;

(m) Require coordination among affected local governments and transportation service providers and consistency between state, regional, and local transportation plans; and

(n) Encourage changes to comprehensive plans to be supported by adequate planned transportation facilities for all modes.

(2) In meeting the purposes described in section (1), coordinated land use and transportation plans should ensure the transportation system supports a pattern of travel and land use in urban areas that will avoid common air pollution, climate pollution, inequity, wasteful spending, and health and livability problems, through measures designed to increase transportation options and make more efficient use of the existing transportation system.

(3) The extent of planning required by this division and the outcome of individual transportation plans will vary depending on community size, needs and circumstances. Generally, larger and faster growing communities and regions will need to prepare more comprehensive and detailed plans, while smaller communities and rural areas will have more general plans. For all communities, the mix of planned transportation facilities and services should be sufficient to promote economic, sustainable, and environmentally sound mobility and accessibility for all Oregonians. Coordinating land use and transportation planning will also complement efforts to meet other state and local objectives, including containing urban development, reducing the cost of public services, protecting farm and forest land, reducing air, water, and noise pollution, conserving energy, and reducing climate pollution.

(a) In all urban areas, coordinated land use and transportation plans are intended to provide safe transportation and to enhance, promote and facilitate safe and convenient pedestrian and bicycle travel by planning a well-connected network of streets, sidewalks, paths, and trails, and supporting improvements for non-driving travel modes.

(b) In urban areas with a population greater than 25,000 persons, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting the provision of transit service and more efficient performance of existing transportation facilities through transportation system management and demand management measures.

(c) Within metropolitan areas, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting changes in the transportation system and land use patterns. A key outcome of this effort is a reduction in dependence on single occupant automobile use, particularly during peak periods. To accomplish this outcome, this division promotes increased planning for non-driving modes and street connectivity and encourages land use patterns throughout urban areas that make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs. The result of applying these portions of the division will vary within metropolitan areas. Some parts of urban areas, such as downtowns, pedestrian districts, transit-oriented developments, climate-friendly areas, areas along priority transit corridors, and other mixed-use, pedestrian-friendly centers, will be highly convenient for a variety of modes, including walking, bicycling and transit,

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while others will be more auto-oriented while still providing safe and convenient access and circulation by other modes. In all instances, infrastructure shall be designed and constructed to deliver safety and convenience for all Oregonians.

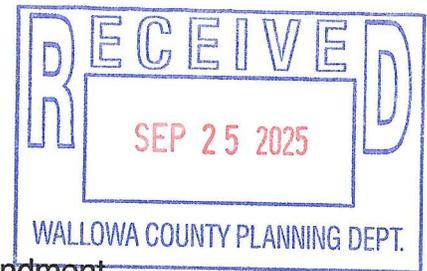
(4) This division sets requirements for coordination among affected levels of government and transportation service providers for preparation, adoption, refinement, implementation, and amendment of transportation system plans. Transportation system plans adopted pursuant to this division fulfill the requirements for public facilities required under ORS 197.712(2)(e), Goal 11 and OAR chapter 660, division 11, as they relate to transportation facilities. The rules in this division are not intended to make local government determinations “land use decisions” under ORS 197.015(10). The rules recognize, however, that under existing statutory and case law, many determinations relating to the adoption and implementation of transportation plans will be land use decisions.

PLANNING COMMISSION RECOMMENDATION (TO THE BOARD OF COMMISSIONERS):

To be developed at the hearing. The PC can vote to recommend to the Board of Commissioners whether or not to adopt the amendment. If the decision is to recommend that the amendment be denied, provide criteria not met by the proposed amendment.

September 25, 2025

Franz Goebel
 Wallowa County Planning Director
 101 S. River Street, Room 105
 Enterprise, OR 97828



Re: Proposed Wallowa County Transportation System Plan Amendment

The undersigned landowners, represented by Alicia Zinni, are initiating an amendment to the Wallowa County Transportation System Plan. Our amendment to the 6/4/2001 version of the plan proposes to delete this paragraph from page 7-21:

Efforts should be made to retain the right-of-way for utilities and as a possible recreational trail. The Transportation Planning Rule requires that jurisdictions protect right-of-ways for future operation of transportation corridors. A compromise might be to build a trail from Elgin, through the Minam Canyon to the vicinity of the town of Wallowa. The remainder of the right of way could be leased back to adjacent landowners, with utility easements intact.

And replace it with the following paragraph:

2025 Amendment: The railway is owned and managed by the Wallowa Union Railroad Authority (WURA), a joint ORS 190 partnership of Union and Wallowa counties. The WURA is charged with protecting the railway for future rail operations. A priority grazing area (see attached Railroad Priority Grazing Area Plan) is designated for the Wallowa to Joseph segment. The railway segment from Wallowa to Joseph will not be used for public trail or rail-with-trail systems. All grazing activities along the rail will be conducted in a manner that protects options for future rail operations and retains utility rights-of-way.

The areas to be directly affected consist of the Wallowa Union Railroad between the southern boundary of the City of Wallowa and the railway terminus at the City of Joseph (See attached map).

This amendment is applicable with the review criteria of Section 8.025 of Wallowa County's Article 8 Comprehensive Management Plan as follows:

A. The amendment conforms with statewide planning goals and guidelines and other applicable state laws as follows.

Statewide Planning Goals Compliance

Regarding Goal 1 (Citizen Involvement), we presented the Grazing Priority Grazing Area Plan to the underlying landowner (the WURA board) at their September 22, 2025 meeting. The board decided to take the proposal under advisement and review it at an upcoming work session. The Wallowa to Minam rail-with-trail proponents also

September 25, 2025

presented their Refinement Plan at the September 22 meeting. They were also told that the board would not make a decision on their proposal until after the work session. While the board decision is pending, we are submitting our amendment to the planning office now because the planning office has already accepted the proposed rail-with-trail amendment application and has completed two public hearings.

We assume that by paying our application fee, the planning office will complete required public noticing steps and Goal 1 will be fully satisfied.

Goal 12 (Transportation) is met because our amendment preserves the county's goal to be *served by a branch line operated by the Union Pacific Railroad*. Our amendment further complies with the Wallowa County Transportation System Plan and is consistent with OAR 660-012-0000 as described below.

Wallowa County Transportation System Plan Compliance

(1) Our amendment simply formalizes the suggested compromise on Page 7-21 of the 2001 TSP that a rail-with-trail system be considered for the Minam to Wallowa portion of the railway and that the remainder *be leased back to adjacent landowners*.

(2) The proposed amendment meets the TSP statement to *recognize the railroad line and its right of way as an asset to be put to the highest and best use for the entire County*. Much of the railway between Wallowa and Joseph is adjoined by farms and ranches zoned as Exclusive Farm Use. These operations are currently threatened by recent state and federal efforts to limit irrigation water, constrain public land grazing, require conversion to green energy, increase taxes, increase labor costs, and allow unmanaged wolf populations. While beef prices are increasing, ranchers realize little of it as international meatpacking conglomerates hoard the profits. Protection of Wallowa County's agriculture industry is the highest and best use of the Wallowa to Joseph segment, while leaving the segment from Minam to Wallowa available for a future public rail-with-trail.

(3) Chapter 7 of the TSP states, *no paved separated paths are found in Wallowa County at this time; however, one project has been identified as part of the transportation plan: A separated path along the Idaho Northern Pacific and Union Pacific Railroad right-of-way has been suggested; however, the feasibility of such a path may be limited the cost of the right-of-way and path construction, and the concern for access across private land*.

In 2013, ODOT completed a \$4 million shoulder-widening project on Hurricane Creek Road, the last link in completing a continuous system of county roads for bicyclists to travel from Wallowa to Joseph via Sherrod Road, Allen Canyon Loop, Evans Loop, Wade Gulch Road, and Golf Course Road. Except for Hurricane Creek Road with its now-widened shoulders, these roads carry low-volumes of traffic traveling at low speeds due to gravel surfacing. Designating the Wallowa to Joseph segment of the railway for

September 25, 2025

priority grazing purposes does not preclude safe bicycle travel between Wallowa and Joseph. Opportunities for a rail-with-trail would still be available between Minam and Wallowa and would be consistent with Chapter 7 of the TSP.

State Administrative Rule Compliance

Our amendment is responsive to OAR 6600-012 particularly with respect to the following subsections:

(g) Engage underserved populations in decision-making and prioritize investments serving those communities;

The City of Wallowa has struggled to overcome the economic effects of mill closures and a recent severe weather event, making it eligible for consideration as an underserved community. Our amendment would still allow for rail-with-trail development from Wallowa to Minam, but closes opportunities for developing a competing trail in the upper Wallowa Valley. Wallowa Lake is a well-known tourist destination that has been difficult for the City of Wallowa to compete with. Offering a public trail on the railway solely between Wallowa and Minam would become a unique recreation opportunity that may divert more tourism and economic benefits to the City of Wallowa.

(h) Facilitate the safe flow of freight, goods, and services within regions and throughout the state through a variety of modes including road, air, rail, and marine transportation;

Grazing leases would be offered under the conditions listed in the Railroad Priority Grazing Area Plan Attachment A. These conditions would preserve all future options for transporting freight, goods, and services on the rail.

(n) Encourage changes to comprehensive plans to be supported by adequate planned transportation facilities for all modes.

Grazing leases between Wallowa and Joseph would not compromise modes of transportation because bicycle and walking opportunities abound on the county's road system between these towns.

State Statute Compliance

Our amendment meets ORS 215.296 (Standards for approval of certain uses in exclusive farm use zones) because it supports continued operation of farms in EFU areas along the railway. Designating a public trail along the Wallowa to Joseph segment would be inconsistent with ORS 215.296(1) because it would both force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and significantly increase the cost of accepted farm or forest

September 25, 2025

practices on surrounding lands devoted to farm or forest use. Designating this area for grazing leases, however, is consistent with ORS 215.296.

Opening rail lines to the public has resulted in numerous lawsuits from adjoining farmers and ranchers throughout the United States. One estimate showed at least \$1 billion in damages have been awarded to adjoining farmers and ranchers for takings, including the severance damages resulting from loss of privacy, increased trespass risk, noise, and reduced marketability. While the legal path is difficult for most landowners due to cost, the evidence is clear that farmers and ranchers experience losses when the public is invited into the middle of their operations.

B. The amendment conforms with all other elements of the land use plan and land use plan map.

See the previous section A for how the amendment conforms to the Wallowa County Transportation System Plan.

The amendment also conforms with Article 36 (Salmon Habitat Restoration) of the land use plan because it requires no stream bank or in-stream activities. On pages 53 and 54 of the Wallowa County Natural Resource Management Plan, it notes that the Middle Wallowa and Upper Wallowa watersheds are known for knapweed infestations and emphasizes the need to work with landowners for weed control. Devoting the railway between Wallowa and Joseph to grazing and cross-fencing between ownerships, allows landowners to better control knapweed infestations that can spread from people and animals traveling along the railway.

C. The amendment is in the public interest and serves the purpose and intent of the local planning process.

The amendment simply formalizes a long-held piece of the Wallowa County TSP that suggested a reasonable compromise between trail advocates and adjoining landowners who are concerned about their farming and grazing operations. By specifying a priority grazing area up the line from Wallowa and leaving the potential for a rail-with-trail between Minam and Wallowa, the public interest is served and the intent of the local planning process is realized.

Please direct any questions to Alicia Zinni at 541-263-2629 or at azinni@eoni.com.

Thank you for your consideration.

Alicia Zinni 9/25/25

Alicia Zinni, 84307 Walker Lane, Joseph, OR 97846

Russell and Ellen Peterson, Joseph

September 25, 2025

Shelly Steen, Joseph

Mike and Annette Lathrop, Enterprise

Velda Bales, Enterprise

Lela Knuckle, Enterprise

Gina Birkmaier, Enterprise

Gail West, Enterprise

Bob Aschenbrenner, Enterprise

September 25, 2025

Railroad Priority Grazing Area Plan

This plan formalizes livestock grazing of the WURA railroad right-of-way by adjoining landowners that has already been occurring. Between the southern city limits of Wallowa and the railway terminus at Joseph, the rail segment is designated a Railroad Priority Grazing Area. Within this area, adjoining landowners may lease the railway fronting their property for livestock grazing.

This plan requires coordination and protection of existing authorized uses of the railway, but also excludes future use of the railway as a public trail.

Livestock grazing leases may assist WURA in railroad management:

- Reduces wildfire risk
- Allows cross fencing between landowners that may deter unauthorized trespass
- Reduces the spread of some noxious weeds species.
- Motivates landowners to maintain railroad right-of-way fencing
- Preserves the rail for future use as a railroad
- Generates revenue from grazing leases

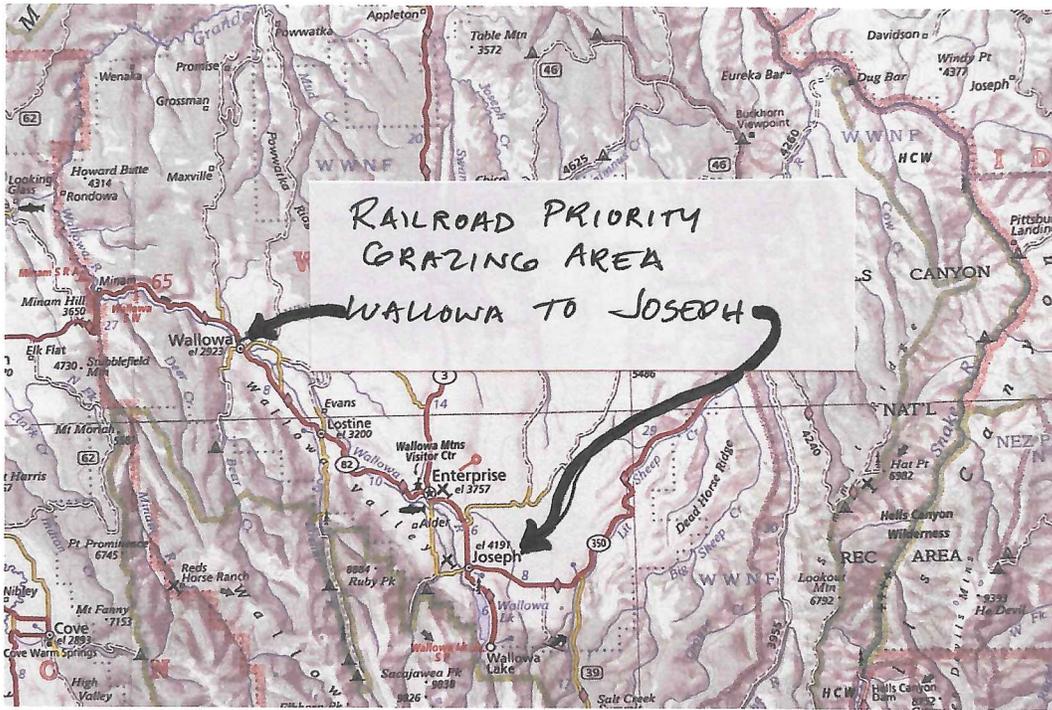
Grazing leases in the Railroad Priority Grazing Area will be issued for a 10-year period to adjoining landowners under the conditions listed in Attachment A.

September 25, 2025

Attachment A - Grazing Lease Conditions

1. Landowners installing fencing across the railroad tracks will ensure a gate or panel is installed that can be opened by authorized WURA permit holders, rail maintenance, and weed treatment personnel. The gate will give clearance for maintenance equipment - generally 6 feet on each side of the rail center line.
2. WURA will provide a common Master Lock number that each landowner will use if they wish to chain and lock the gate. Keys for that lock will be provided to WURA maintenance personnel, weed treatment personnel, and authorized permit holders.
3. The Railrider operator will coordinate with grazing leaseholders to announce the opening and closing dates of the Railrider operating season. If the Railrider operator expects a down period of over two weeks during the operating season, the operator will notify grazing leaseholders of the upcoming window of opportunity for grazing. If that window is offered, landowners will be responsible for removing livestock from the railroad ownership and opening gates so that Railrider operations may resume.
4. If the railroad splits ownership between two landowners, WURA will issue a grazing lease on a first come first served basis. Upon expiration of the original lease, the second landowner will be given first right of refusal for a grazing lease. If the second landowner declines, the lease may then be reissued to the first landowner.
5. If a landowner elects not to secure a grazing lease, they may not graze livestock within the railroad ownership, but they may fence across the railroad so long as they follow the conditions related to gates and locks and coordination with the Railrider operator.
6. Grazing is primarily for reducing fire risk. Landowners are expected to manage forage health in the same or better condition of the adjoining ownership.
7. Landowners may elect to secure a grazing lease and sublet grazing to another livestock operator, but the landowner is ultimately responsible for meeting the conditions in the grazing lease.
8. Grazing fees will be assessed at the annual rate of \$90 per lineal mile of railroad track grazed by the adjoining owner.

September 25, 2025



Map of Railroad Priority Grazing Area