

WALLOWA COUNTY PLANNING COMMISSION

WALLOWA COUNTY COURTHOUSE

101 S. RIVER STREET, ROOM B-1

ENTERPRISE, OR 97828

IN THE MATTER OF THE REQUEST)	
FOR A CONDITIONAL USE PERMIT)	
TO ESTABLISH A HOME BASED)	FINDINGS OF FACT, CONCLUSIONS,
OCCUPATION IN THE FORM OF)	AND DECISION OF THE WALLOWA
IRRIGATIONS PARTS SALES IN)	COUNTY PLANNING COMMISSION
THE RURAL RESIDENTIAL (R-1))	
ZONE)	

RE: Gibson CUP#16-03, HBO, Irrigation Parts Sales

The application was deemed complete on March 4th, 2016 and was properly advertised in the Wallowa County Chieftain on March 9th. Adjacent property owners and interested parties were notified on March 8th, 2016. The request came before the Wallowa County Planning Commission for Public Hearing on March 29th, with Decision on April 26th, 2016. The Findings are for a Home Based Occupation in the form of irrigations parts sales in the Rural Residential (R-1) zone. The Planning Commission having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral and written testimony in the above-referenced hearings, and being fully advised, makes the following findings of fact and decision.

- 01. APPLICANT:** Thomas and Amanda Gibson, T and M Irrigation, LLC
84401 Walker Ln.
Joseph, OR 97846
- 02. OWNER:** Amanda Gibson
- 03. REQUEST:** To establish a HBO to sell irrigation parts
- 04. INTENDED LAND USE:** Home Based Occupation
- 05. LOCATION:** The property description is Township 02S, Range 45E, section 20, Tax Lot 2501
- 06. PARCEL CHARACTERISTICS:** The parcel contains 4.53 acres, is zoned R-1 and is located on Walker Ln.
- 07. REVIEW CRITERIA:** Article 5, Public Hearing Review, Sections 5.025(01-03) and 5.040(01)

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Article 9, Conditional Use Permit, Sections 9.015 and 9.020 (01-06);
Article 35, Home Based Occupation, Sections 35.020 and 35.025;
Article 17, Rural Residential, R-1, Sections 17.010 and 17.020(06);
and any other applicable zoning ordinances or goals of the Wallowa County Land
Development Ordinance and/or laws of the State of Oregon.

SECTION 5.025, NOTICE OF PUBLIC HEARING:

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

[.....]

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

[.....]

The 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 7.1: The Planning Commission finds the public hearing was properly noticed to all property owners within 250 feet of the subject property, in the Wallowa County Chieftain, and was posted on the Wallowa County Courthouse Public Notice Board prior to the hearings within the required time frames as indicated above.

SECTION 5.040, REVIEW PROCESS AND DECISION:

01. The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to insure the use or development complies with the applicable standards and criteria.

FINDING 7.2: The Planning Commission has found it not necessary to impose Conditions of Approval.

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

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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 7.3: The Planning Commission finds that the proposed use is allowed conditionally in the R-1 zone, the Commission further finds that the proposed use is consistent with the purpose of the zone in that irrigation parts are used for agricultural use.

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 7.4: The Commission finds that, as proposed, the use will not create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.

The Commission also finds that the proposed kennel would not overburden the public services of water, sewer, storm drainage, electrical service, fire protection, and school.

04. The site is suitable to accommodate the proposed use, such as: topography, soils, and parcel size.
05. The proposed use will not interfere with uses permitted on adjacent parcels.
06. The application satisfies the pertinent criteria of Article 36, Salmon Habitat Restoration.

FINDING 7.5: The Planning Commission finds that the site is suitable for the proposed use, and that the proposed use would not interfere with agriculture uses on adjacent parcels.

The Commission further finds that the use does not require review by the Wallowa County Salmon Habitat Technical Advisory Committee. See Finding 7.10.

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

01. A Home-Based Occupation permit will not be required for:
 - A. Storage of tools used to generate off-premise income.

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B. Farm and forest uses.

C. Activities which have no material negative impacts including:

1. The making of objects in the residence which are sold elsewhere, including but not limited to: arts and crafts, quilting, sewing, or toys, or
2. A mail order business, including but not limited to: selling Avon (or other cosmetics), Fuller Brush, toys, or other items, or
3. A service which is conducted within the residence, including but not limited to: computer programming, data entry, consulting, accounting, and bookkeeping, if
 - a. The business does not have any employees.
 - b. The business does not have a sign.
 - c. Customers do not come to the residence to conduct business.
 - d. The business does not produce noise, dust, odor, or other nuisance that is in excess of that which is usual and customary in the zone where the property is located.

FINDING 7.6: the Commission finds that the proposed use does require a Home based Occupation Permit as the business will require that customers come to the shop building to purchase irrigation parts. And the business will have a sign.

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.
03. **COMPATIBILITY OF ACTIVITY:** The residence, accessory buildings, or any new structures or reconstruction approved for use by the Home-Based Occupation shall conform

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to the area and shall not be non-conforming in terms of color, materials, design, construction, lighting, landscaping or the lack of landscaping. Also, the proposed use shall not unreasonably interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

04. **TRAFFIC GENERATION:** The permitted activity should not generate a greater volume of vehicular traffic than is usual and customary in the zone where the property is located.
05. **NOISE:** The permitted activity shall not generate any noise that is in excess of that which is usual and customary in the zone where this property is located.
06. **EQUIPMENT/RESTRICTIONS:** Any equipment used in the activity and processes shall not create vibrations, glare, fumes, odors, or electrical interference that is detectable to normal sensory perception at the property lines.

FINDING 7.7: The Commission finds that the proposed business will not occupy a space greater than that allowed, does not employ more than the allowed employees, and will not generate more than normal traffic for the neighborhood were the business is located.

07. **HAZARDS:** Within a residence; no equipment, process, or materials shall be used which will change the fire-rating or structure separation, fire wall, or ventilation requirements of the building shall be permitted. Attached garages shall not be considered part of the residence for the purpose of this ordinance. Accessory buildings, attached garages, or new structures permitted with the use shall meet all structural and life safety requirements for the use and activity. No hazardous materials shall be stored or used on the premise in quantities greater than customary for residential use unless specified and approved at the time of application. No Home-Based Occupation shall be permitted which presents a potential health or safety hazard to the area from discharges into the air, water, or ground; from surface run-off; or from increased need for vector control.
08. **STORAGE AND USE OF YARD:** All storage of materials and equipment associated with the Home-Based Occupation shall be enclosed unless specified and approved at the time of the application.
09. **SIGNS:** Signs shall conform to the provisions of Article 34, Signs.
10. **PARKING:** Parking shall be off-street and conform to the provisions of Article 33, Parking, Section 33.015(03).

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

FINDING 7.8: The Commission finds that, as proposed, the business will use only enclosed storage, will have a sign which conforms to Article 34, and will have off street parking which conforms to Article 33.

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SECTION 17.010, PURPOSE: The purpose of the Rural Residential Zone is to provide areas suitable for small acreage parcels and to maintain a buffer between urban and farm or forest uses.

SECTION 17.020, BUILDINGS AND ACTIVITIES PERMITTED CONDITIONALLY IN A RURAL RESIDENTIAL ZONE: The following uses and their accessory uses are permitted, subject to the provisions of Article 9, Conditional Use Permit.

[.....]

06. Home-based occupation.

[.....]

FINDING 7.9: The Planning Commission finds that the proposed home based occupation to sell irrigation parts is a conditional use in the EFU zone and has been correctly reviewed at a public hearing.

SECTION 36.020, DEVELOPMENT PLANS: Development plans shall be required as provided for in this ordinance [.....]:

FINDING 7.10 : The Commission finds that the Technical Advisory Committee does not need to review this application as no fish bearing waters are impacted.

07. CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application.

The Conditional Use Permit # 16-03 to permit irrigation parts sales, will be valid unless the approved use is discontinued for one year.

08. CONDITIONS OF APPROVAL:

The Planning Commission finds that no Conditions of Approval are necessary.

09. DECISION:

Based upon the information submitted the comments of interested parties and the findings, the review authority finds this application does satisfy all review criteria and is hereby approved as presented. The vote on the motion is _____ in favor and _____ opposed with _____ abstaining.

April 26th, 2016
DATE OF ACTION


RAMONA PHILLIPS, CHAIRMAN
WALLOWA COUNTY PLANNING COMMISSION

The decision on the Conditional Use Permit may be appealed to the Wallowa County Board of Commissioners pursuant to Article 7, Appeal. The provisions of Notice of Intent to Appeal accompanied by the appeal fee must be received by the Wallowa County Planning Department by 5:00 p.m. May 9th, 2016. Appeals, if any, will be heard in a public hearing held by the Wallowa County Board of Commissioners.