

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.

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 7.01: The Board of Commissioners noticed the de novo appeal hearing to all individuals with standing in accordance with 7.035, and in a local 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. See Finding 7.04 regarding de novo decision.

SECTION 5.035, 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 7.02: As the Board of Commissioners has denied this appeal (see Finding 7.06), the Conditions of Approval for ZP# 04-64 remain in effect, specifically, condition #4 which states, "Due to the sub standard size of the subject parcel, short term rentals (those less than 30 days) are prohibited."

SECTION 7.020, INITIATION OF APPEAL: A decision of a review authority pursuant to this ordinance may be appealed by a party with standing to appeal and within the prescribed time limits. The filing of an appeal shall be accompanied by the fee prescribed by resolution of the Wallowa County Court. The appeal document which is filed shall list at least the following information.

- 01. An identification of the decision sought to be reviewed including the date of the decision.

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02. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.
03. The specific grounds for appeal as they relate to relevant review criteria.

FINDING 7.03: The Board of Commissions finds that this appeal has been properly initiated by parties with standing (Carlos and Teri Barker). The appeal documents, which are part of the record, did contain the above required information.

SECTION 7.025, SCOPE OF REVIEW ON APPEAL: The scope of review on appeal shall be restricted to the record made on the decision being appealed, unless the appeal authority issues an order stating the scope to be one of the following:

01. Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
02. A De Novo hearing on the merits with new evidence allowed.

FINDING 7.04: The Board of Commissioners decided to conduct a De Novo hearing as the original decision was made ministerially, without benefit of testimony from affected parties.

SECTION 7.035, NOTICE OF APPEAL HEARING: Notice of the hearing held by an appeal authority to consider an appeal shall be mailed at least ten days prior to the hearing to the appellant and all persons who have standing in the proceeding of the issue on appeal.

FINDING 7.05: See Finding 7.1.

SECTION 7.045, APPEAL AUTHORITY DECISION:

01. Upon review; the appeal authority may by order affirm, reverse, modify, or remand in whole or part a determination or requirement of the decision that is under review. When the appeal authority renders a decision that reverses a decision of the hearing body, the appeal authority, in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order.

When the appeal authority elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

FINDING 7.06: The Board of Commissioners finds that for the following reasons, the decision of denial is upheld, and this appeal is denied:

1. The appellants submitted evidence showing several dwellings were allowed on

substandard parcels, in this area, without a condition prohibiting short term rentals. As most of these dwellings were permitted in the 1990's, when short term rentals were less of an issue, and as each decision stands on its own merit, the presence of other dwellings permitted on sub-standard size parcels is found to be not relevant to this appeal.

2. The condition prohibiting short term rentals was part of the zone permit (ZP# 04-64) allowing the SFD on a sub-standard parcel. The time for appeal of this zone permit is long past and the condition is in place to mitigate the impact of the permitted dwelling (see Findings for ZP# 04-64). Therefore it would be improper to not adhere to the condition and allow short term rentals on this property.

3. Testimony was given that about half the dwellings on River Rd are short term rentals and that this has irrevocably changed the nature of the area. The prohibition on short term rentals on this property not only mitigates the impact of the dwelling, but also eliminates a source of future additional impacts on the neighborhood.

07. CONCLUSION:

As shown above, the merits of this appeal have not been shown, and, therefore, the Board of Commissioners denies the Barker Appeal and upholds the decision denying the short term rental application, ZP# 12-37.

The decision on this appeal may be appealed to the Oregon Land Use Board of Appeals (LUBA) pursuant to the provisions of ORS Chapter 197.830. A notice of intent to appeal and fee must be received by that office within 21 days of the date of this decision and can be sent to the following address: Land Use Board of Appeals, Public Utility District Building, 550 Capitol NE, Salem, OR 97310.