

# WALLOWA COUNTY PLANNING COMMISSION

WALLOWA COUNTY COURTHOUSE  
101 S. RIVER STREET, ROOM B-1  
ENTERPRISE, OR 97828

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IN THE MATTER OF THE REQUEST	)	
TO SITE PRIVATE	)	
ACCOMMODATIONS FOR FISHING	)	FINDINGS OF FACT, CONCLUSIONS,
WITHIN THE GRANDE RONDE	)	AND DECISION OF THE WALLOWA
RIVER WILD AND SCENIC	)	COUNTY PLANNING COMMISSION
CORRIDOR IN THE TIMBER	)	
GRAZING (T/G) ZONE.	)	

## RE: Howell Fishing Accommodations CUP#12-01

The request was deemed to be complete on February 8<sup>th</sup>, 2012. It was properly advertised in the Wallowa County Chieftain on February 16<sup>th</sup>, and was noticed to property owners and others on February 14<sup>th</sup>, 2012. A site visit was conducted for CUP#10-03 on April 22<sup>nd</sup>, 2010. Material from CUP#10-03 is included in the record for this application. The request came before the Wallowa County Planning Commission on February 28<sup>th</sup>, 2012 for Public Hearing with Decision on March 27<sup>th</sup>, 2012. The findings are for a conditional use permit to allow private accommodations for fishing within the Grande Ronde River Wild and Scenic Corridor in the Timber Grazing (T/G) zone. The Planning Commission, having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral testimony in the above-referenced hearings, and being fully advised makes the following findings of fact and decision.

01. **APPLICANT:** Dave and Connie Howell  
P O Box 218  
Cove, OR 97824
02. **OWNER:** Dave and Connie Howell
03. **REQUEST:** To allow private accommodations for fishing within the Grande Ronde River Wild and Scenic Corridor in the Timber Grazing (T/G) zone.  
The proposal calls for two cabins with four rooms each.

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## FINDINGS

Howell Fishing Accommodations CUP#12-01  
January 29, 2012  
Page 1 of 10

04. **LOCATION:** The property description is Township 05 north, Range 42 east, tax lot 2400
05. **PARCEL CHARACTERISTICS:** The parcel contains a total of 244 acres and is zoned T/G. It is bordered on the north by the Grande Ronde River and is surrounded by either T/G or Timber Commercial (T/C).
06. **REVIEW CRITERIA:** Article 1, Introductory Provisions, Section 1.020(01); Article 2, [.....] Review Procedures, Section 2.065; Article 5, Public Hearing Review, Sections 5.025(01-03) and 5.040; Article 9, Conditional Use Permit, Sections 9.015 and 9.020; Article 16, Timber/Grazing, Section 16.020(22) including 16.025(05), (06) & (07); Article 25, Flood hazard Area, Section 25.065(01); Article 28, Resource Overlay, Section 28.020(01); Article 36, Salmon Habitat, Sections 36.015 and 020; and any other applicable zoning ordinances or goals of the Wallowa County Land Development Ordinance and/or laws of the State of Oregon.

**SECTION 1.020, SCOPE AND COMPLIANCE:**

01. The provisions of this ordinance set forth standards and criteria regulating the use, division, and improvement of all lands within the un-incorporated area of the County of Wallowa in the state of Oregon. In addition to complying with the provisions of this ordinance; all land use, land division, or land improvement must comply with all other local, state, or federal laws. With regard to federally controlled lands, the county seeks the highest possible degree of intergovernmental coordination and compliance with the management of these public lands consistent with the Wallowa County Comprehensive Land Use Plan.

**FINDING 6.01:** With regard to previous CUP#10-03, the proposed use is located within the Grande Ronde River Wild and Scenic Corridor, and whereas the OPRD is the agency which administers this particular reach of the Wild and Scenic Corridor, and whereas the OPRD Board, on September 22<sup>nd</sup>, 2010, denied Mr. Howell's request, the Planning Commission found that with regard to conforming to state regulations, the criteria have not been met. OPRD notified Mr. Howell of their denial via letter dated October 14<sup>th</sup>, 2010. The ORPD denial gave OPRD one year to purchase Mr. Howell's property and the County's denial includes a one year moratorium on re-submission of the application or a similar application.

However, the OPRD moratorium for the initial request (CUP#10-03) ran out on April 9<sup>th</sup>, 2011 (one year from the date of Mr. Howell's application to ORPD) with no action to

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**FINDINGS**

purchase. And, the County's moratorium ran out on February 7<sup>th</sup>, 2012 (one year from the date on decision on CUP#10-03). Therefore the applicant may resubmit to the County and regarding the Wild and Scenic rules administered by OPRD, per OAR 736-040-0080 c, "the owners may use their land in conformity with the specific written plan submitted as part of [their application]."

Therefore, the Commission finds that the applicant may resubmit his request and that Wild and Scenic regulations specific to this reach of the Grande Ronde river need not be considered.

**SECTION 2.065, RESUBMITTING DENIED APPLICATIONS:** Except for permits falling under the Ministerial Review provisions, applications which have been denied and for which all appeal periods have expired shall not be resubmitted in the original or modified condition for a period of one year following the date of the denial (in the case of an appeal, the date of the final appeal decision) unless the applicant can demonstrate to the appropriate review authority the application is substantially different from the denied application or that changes in the governing ordinance and/or land use plan provisions warrant reconsideration of the application.

**FINDING 6.02:** See finding 6.01.

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

01. Public Hearing Review requires notice of hearing be given 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 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

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## FINDINGS

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 6.03:** The Planning Commission finds the public hearing was properly noticed to all property owners within 750 feet of the subject property, in a newspaper of general circulation and was posted on the Wallowa County Courthouse Public Notice Board prior to the hearing as stated above. Additionally all parties with standing from CUP#10-03 and other interested parties were noticed.

**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

**FINDING 6.04:** The Planning Commission finds that, with regard to this request, conditions of approval are necessary to insure the use or development complies with the applicable standards and criteria.

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

**SECTION 9.020, REVIEW CRITERIA:** After taking into account location, size, design, and the general nature of the proposed use; the hearing body must determine that the development will comply with all of the following criteria to approve a Conditional Use Permit.

01. The proposed use will be consistent with the purpose of [and is allowed conditionally in] the zone in which the use proposed.
02. The use will not create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.
03. The proposed use will not overburden the public services of water, sewer, storm drainage, electrical service, fire protection, and school.
04. The site is suitable to accommodate the proposed use, such as: topography, soils, and parcel size.
05. The proposed use will not interfere with uses permitted on adjacent parcels.

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**FINDINGS**

06. The application satisfies the pertinent criteria of Article 36, Salmon Habitat Restoration.

**FINDING 6.05:** The Commission finds that the proposed use is subject to the Public Hearing process and that the site could support the proposed use, would not create hazardous conditions, would not overburden public services, or interfere with uses on adjacent parcels.

However, as the site is within the Wild and Scenic Corridor, and, while acknowledging that wild and scenic rules need not be considered, the Commission has imposed conditions to ensure that the proposed use will have minimal impact. Please see Conditions of Approval.

**SECTION 16.020, BUILDING AND ACTIVITIES PERMITTED CONDITIONALLY IN THE TIMBER GRAZING ZONE:** The following uses and activities and accessory buildings and uses are permitted subject to the provisions of Article 9, Conditional Use Permit.

[.....]

22. Private accommodations for fishing occupied on a temporary basis may be allowed subject to Article 9; Article 16; Section 16.025 (5), (6), and (7); and the following requirements:

A. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

B. Only minor incidental and accessory retail sales are permitted; and

C. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

D. Accommodations must be located within one-fourth mile of fish bearing Class I waters; and

E. Other conditions imposed by the review authority.

[.....]

**FINDING 6.06:** The Planning Commission finds that via evidence provided by the applicants that the proposed fishing accommodations do meet the above criteria. That is, there will be two

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## FINDINGS

Howell Fishing Accommodations CUP#12-01

January 29, 2012

Page 5 of 10

cabins with four rooms each, there will be no incidental sales, the cabins are within 1/4 mile of the Grand Ronde River and will only be occupied during fishing seasons authorized by the Oregon Fish and Wildlife Commission.

Regarding 16.025 (5), (6), and (7), the applicant has provided a letter from State Forestry stating that stocking standards are not applicable in this case. Fire safety standards are met through the Conditions of Approval, and the location of the cabins, on a bluff above the river, is in open space and will require minimum tree removal. Also the water source is a spring which both originates and ends on the applicants property.

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

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

**FINDING 6.07:** The Commission finds that a management and development plan is not necessary as this application will not have an impact on the riparian area and is not an in-stream or watershed related operation. Additionally, the cabins will be located about 450 ft from the river on a bluff above the river. The water source will be a spring located about 300 ft above the cabins, which both originates and ends on the applicant's property. Sewage and grey water will be disposed of through a DEQ approved septic system.

**SECTION 25.065, SPECIFIC FLOOD HAZARD STANDARDS:** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 25.050, flood hazard area or Section 25.055, use of other base flood data, the following provisions are required:

**FINDING 6.08:** As the approved location for the cabins is site "B", the cabins will not be located within the 100 year flood zone.

**SECTION 28.020, PROTECTION STANDARDS:** The following standards shall apply to all applications authorized under this ordinance.

**FINDING 6.09:** As the approved location for the cabins is site "B", the cabins will not be located close to the riparian area. Site "B" is located on a bluff above the river and about 450 feet from the river bank.

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## FINDINGS

## 07. CONCLUSION:

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

The Conditional Use Permit #12-01 to allow private accommodations for fishing in the Grande Ronde River Wild and Scenic Corridor within the Timber Grazing (T/G) zone is approved and will remain in effect until the use is discontinued for one calendar year.

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## FINDINGS

Howell Fishing Accommodations CUP#12-01

January 29, 2012

Page 7 of 10

## 08. CONDITIONS OF APPROVAL:

The Planning Commission finds that all of the following conditions are able to be met as imposed since the applicant is willing and the Commission finds reasonable evidence to support the conclusion that each is feasible.

1. Sewer and grey water will be treated and disposed of through a DEQ approved septic system.
2. Proposed cabins must meet Building Codes requirements.
3. All lighting will be shielded and downward directed so as not to cause direct light to be cast on neighboring properties or towards the Grande Ronde River.
5. The cabins will meet the design standards of Article 18, Section 18.030 (Design Review).
6. Generator(s) must be shielded so as not to be heard or seen from the Grande Ronde River.
7. All garbage must be removed from the site and properly disposed of.
8. Trailers currently present must be removed and there shall be no trailers allowed for commercial use in the area.
9. Per OPRD request, the applicant shall plant Ponderosa pine trees to aid in future screening of the cabins from river view.
10. The proposed cabins must meet the following fire standards:

**ROOFS:** Shall be fire retardant, Class A or B as defined in the Uniform Building Code of the State of Oregon.

**SPARK ARRESTER:** Appropriate fire spark arresters must be provided on all chimneys. Emissions must comply with clean air regulations. All eave and roof vents and openings shall be screened.

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## FINDINGS



**FUEL BREAK:** A fuel break of no less than 30 feet shall be created and maintained around all structures. A secondary fuel break shall be constructed and maintained in accordance with Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads (Oregon Department of Forestry, March 1, 1991). All wild vegetation touching structures shall be removed and trees shall be limbed up 10 feet above the ground.

**FIRE PROTECTION:** The applicant shall provide evidence for a means for protecting the cabins and surrounding area from fire hazards. (The applicant has agreed to station a fire truck on site during periods of occupation and to place a pump near the river for emergency use.) Road accesses shall be provided to within 15 feet of the water's edge for fire-fighting pump units.

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## FINDINGS

Howell Fishing Accommodations CUP#12-01

January 29, 2012

Page 9 of 10

**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.

March 27<sup>th</sup>, 2012

**DATE OF ACTION**

\_\_\_\_\_  
**KEN WICK, 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. April 9<sup>th</sup>, 2012. Appeals, if any, will be heard in a public hearing held by the Wallowa County Board of Commissioners.

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**FINDINGS**

Howell Fishing Accommodations CUP#12-01

January 29, 2012

Page 10 of 10