

# WALLOWA COUNTY PLANNING COMMISSION

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

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

## RE: Howell Fishing Accommodations CUP#10-03

The request was deemed to be complete on April 22<sup>nd</sup>, 2010. It was properly advertised in the Wallowa County Chieftain on June 27<sup>th</sup>, July 15<sup>th</sup> and August 19<sup>th</sup>, and was noticed to property owners and others on March 15<sup>th</sup>, 2010. A site visit was conducted on April 22<sup>nd</sup>. The request initially came before the Wallowa County Planning Commission on March 30<sup>th</sup> for Public Hearing and was continued through September 28<sup>th</sup> to allow for more information and for OPRD to rule on the application. On July 23<sup>rd</sup>, Mr. Howell waived his 150 day rights. On September 22<sup>nd</sup>, the OPRD Board denied the application. And, the request finally came before the Planning Commission for Decision on October 26<sup>th</sup>, 2010. The findings are for a conditional use permit to allow private accommodations for fishing in the Grande Ronde River Wild and Scenic Corridor within 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 in the Grande Ronde River Wild and Scenic Corridor within the Timber Grazing (T/G) zone.

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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 5, Public Hearing Review, Sections 5.025 (01-03) and 5.040(01) Article 9, Conditional Use, Sections 9.015 and 9.020(01-06); Article 16, Timber/Grazing, Section 16.020(21); Article 36, Salomon Habitat Recovery, Sections 36.015 and 36.020, Grande Ronde River Wild and Scenic Management Plan, and other applicable zoning ordinances or goals of Wallowa County 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:** Whereas 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 finds 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.

**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

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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 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 6.02:** 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.

**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 6.03:** The Planning Commission finds that, with regard to this request, no conditions of approval are necessary as the application is denied.

**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

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

**FINDING 6.04:** 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, the proposed use would interfere with some uses on adjacent parcels, within the context of wild and scenic expectations, i.e., solitude and lack of development.

**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

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- E. Other conditions imposed by the review authority.  
[.....]

**FINDING 6.05:** The Planning Commission finds that via evidence provided by the applicants that the proposed fishing accommodations do meet the above criteria.

**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 6.06:** The Commission finds that a management plan is not necessary as this application is denied.

**07. CONCLUSION:**

All applicable criteria have not been met, and the Planning Commission denies this application.

The Conditional Use Permit # 10-03 to allow private accommodations for fishing in the Grande Ronde River Wild and Scenic Corridor within the Timber Grazing (T/G) zone is denied.

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**08. CONDITIONS OF APPROVAL:**

The Commission finds that no conditions of approval are necessary.

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**09. DECISION:**

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. The vote on the motion is \_\_\_\_\_ in favor and \_\_\_\_\_ opposed with \_\_\_\_\_ abstaining.

October 26<sup>th</sup>, 2010

**DATE OF ACTION**

\_\_\_\_\_  
**GENE KOZOWSKI, 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. November 8<sup>th</sup>, 2010 Appeals, if any, will be heard in a public hearing held by the Wallowa County Board of Commissioners.

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