

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 HOME-BASED OCCUPATION
IN THE FORM OF A BED AND
BREAKFAST IN THE EFU ZONE**)
) **FINDINGS OF FACT,**
) **CONCLUSIONS, AND DECISION OF**
) **THE WALLOWA COUNTY**
) **PLANNING COMMISSION**
)

RE: Matthias / Jones HBO CUP#15-02 Bed & Breakfast

The request was deemed to be complete on September 2nd, 2015. It was properly advertised in the Chieftain on September 16th, and noticed to landowners within 750 ft and other interested parties on September 11th, 2015. The request came before the Wallowa County Planning Commission on September 29th, 2015, with Decision on October 27th, 2015. 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 hearing, and being fully advised, makes the following findings of fact and decision.

01. **APPLICANT:** Stewart Jones and Catherine Matthias
02. **OWNER:** Stewart Jones and Catherine Matthias
03. **REQUEST:** To permit a Home-Based Occupation in the form of a bed and breakfast in the Exclusive Farm Use (EFU) zone
04. **LOCATION:** The property description is Township 2 south Range 45 east tax lot 2402
05. **PARCEL CHARACTERISTICS:** The parcel contains about 4.8 acres. The Zoning is Exclusive Farm Use (EFU). Access is via Dobbin Road, a County Road. The parcel is bordered by EFU on all sides.
06. **REVIEW CRITERIA:** Article 5, Public Hearing Review, Sections 5.025(01-03) and 5.040(01); Article 9 (Conditional Use) Section 9.020(01-06); Article 15 (EFU) Section 15.020(08); Article 35 (Home Based Occupation), Sections 35.020, and 35.025; and other applicable zoning ordinances or goals of Wallowa County 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:

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- 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 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 6.1: 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 within the required time frame as indicated above.

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 6.2: The Planning Commission finds that Conditions of Approval are not necessary to ensure the use or development complies with the applicable standards and criteria and is compatible with the zone.

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 6.3: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant, that the proposed use is consistent with the purpose of [and is allowed conditionally in] the zone in which the use proposed.

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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 6.4: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative and testimony supplied by the applicant that the number of customers and type of use will not violate the above criteria.

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 6.5: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative and testimony supplied by the applicant that the number of customers and the type of use proposed will not violate the above criteria. The Commission further finds that Article 36 is not applicable in this case as no habitat is impacted.

SECTION 15.020, BUILDINGS AND ACTIVITIES PERMITTED CONDITIONALLY: In the Exclusive Farm Use Zone, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of Article 9, Public Hearing Review.

08. Home-based occupations as described in Article 35, Home-Based Occupation. Home-based occupations may not be authorized in structures accessory to resource use. A home-based occupation located on high-value farmland may employ only residents of the home.

FINDING 6.6: The Planning Commission finds that a bed and breakfast is a Home Based Occupation and is a Conditional Use in the EFU zone, and that this application has been properly brought before the Planning Commission as part of the Conditional Use process.

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.
 - B. Farm and forest uses.

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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 6.7: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative and testimony supplied by the applicant that as this small business must have customers come to the premises to do business, that this application cannot meet the above criteria and must have a Home Based Occupation permit.

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.

FINDING 6.8:The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant, that the proposed use as a bed and breakfast is exempt from the square footage criteria.

02. PARTICIPATION/EMPLOYEES: A Home-Based Occupation shall employ, on site, no more than three full-time or part-time persons.

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FINDING 6.9:The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant that 2 family members will be the only employees.

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

FINDING 6.10: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant that the proposed use will not impact the exterior of the principal residence. The Commission further finds that this use will 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.

FINDING 6.11: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant that the proposed activity will not generate a greater volume of vehicular traffic than is usual and customary in the zone where the property is located. The Commission further finds that the proposed activity will 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.

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.

FINDING 6.12: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant that the proposed activity will not create vibrations, glare, fumes, odors, or electrical interference. The Commission further finds that the proposed activity will not result in hazardous materials being stored or used on the premise in quantities greater than customary for use typical in the zone. Also, the proposed activity will not result in discharge into the air, water, or ground which presents a potential health or safety hazard to the area.

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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).

FINDING 6.13: The Planning Commission finds, via evidence presented both orally and in writing, including the narrative supplied by the applicant that all business related storage will be enclosed, that the business signage will conform to Article 34, and that adequate parking with regard to Article 33 will be provided.

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

07. CONCLUSION:

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

The Conditional Use Permit # 15-02 to operate a Home-Based Occupation in the form of a bed and breakfast will be valid until the permitted use is discontinued for one full year.

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08. CONDITIONS OF APPROVAL:

No Conditions are required.

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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 satisfies all review criteria and is hereby approved as presented. The vote on the motion is _____ in favor and _____ opposed with _____ abstaining.

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DATE OF ACTION

KEN WICK, CHAIRMAN
WALLOWA COUNTY PLANNING COMMISSION

This decision 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 9th, 2015.

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