

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

**IN THE MATTER OF THE REQUEST)
FOR ZONE PERMITS TO)
ESTABLISH THREE NON-FARM)
DWELLINGS IN THE EXCLUSIVE)
FARM USE AND TIMBER GRAZING)
ZONES AND IN THE GOAL 5)
MORaine PROTECTION AREA VIA)
A MEASURE 49 FINAL ORDER AND)
CIRCUIT COURT JUDGEMENT)** **FINDINGS OF FACT, CONCLUSIONS,
AND DECISION OF THE WALLOWA
COUNTY PLANNING COMMISSION**

RE: Yanke ZP#13-62, 63, and 64, Measure 49 Homesites

The applications were deemed complete enough to consider parcel determinations on December 11, 2013. Property owners within 750 feet and other interested parties were noticed on January 15, 2014. Please see BOC Appeal Findings dated June 2nd, 2014, which remanded the zone permits ZP#13-62, 63, and 64 to the Planning Commission for siting and design review considerations.

The zone permit applications were deemed complete for public hearing on June 2nd, 2014. Property owners within 750 feet and other interested parties with standing were noticed on June 12th, 2014. Notice was published in the Observer on June 13th, 2014. The Commission met for public hearing on June 24th, and for discussion on July 29th, with decision on August, 26th, 2014.

These Findings are for zone permits for three Measure 49 dwellings in the Exclusive Farm Use (EFU) and Timber Grazing (T/G) zones and the Goal 5 Moraine Protection Area per Measure 49 Final Order #E133008 and Circuit Court Judgement, Case #10-07-13380.

The Planning Commission having reviewed the record, the materials introduced in the above-referenced hearings, 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:** Linda L. Yanke, Trustee, Ronald C. Yanke Family Trust
02. **OWNER:** Linda L. Yanke, Trustee, Ronald C. Yanke Family Trust
03. **REPRESENTATIVE:** Rahn Hostetter

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04. **REQUEST:** An application for zone permits to allow three single family dwellings, via a measure 49 final order and circuit court judgement.
05. **LOCATION:** The property description is Township 03S Range 45E tax lot 1500
06. **PARCEL CHARACTERISTICS:** The parcel contains about 40 acres and is zoned Timber Grazing (T/G). The parcel is surrounded by T/G and is access by logging roads from Turner Ln, a county road. The parcel is located within the Goal 5 moraine protection area and has a 3C less restrictive status.
07. **REVIEW CRITERIA:** Article 5, Public Hearing Review, Sections 5.025(01-03) and 5.040(01); Article 32, Road Design, section 32.040(10) and (11); Article 44, Moraine Protection, sections 44.025; 44.030 A & B, 44.035 A, B, C, & D; Measure 49 Final Order, Election # E133008; Circuit Court Judgement, Case # 10-07-13380; Wallowa County Board of Commissioners Decision of 6/02/14, 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:
- 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.

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FINDING 7.1: 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. See discussion 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 imposed Conditions of Approval to ensure the use or development complies with the applicable standards and criteria and is compatible with the zone.

The Commission finds that the conditions comply with all applicable siting standards governing the development of the dwelling, lot or parcel, including but not limited to, the location, design, construction, or size of the dwelling, lot or parcel. And, the conditions imposed are necessary to protect the Goal 5 resources but do not have the effect of prohibiting the dwelling per the Circuit Court decision. There are four Goal 5 resources in the overlay zone that must be protected; Scenic, Geological, Wildlife, and Historic (Cultural).

SECTION 32.040, REVIEW CRITERIA: The following are specifications and standards for construction of new roads and substantial improvements to existing roads.

10. DRIVEWAY AND PRIVATE ROAD STANDARDS:

Some private roads and driveways are exempt from the standards of this article (see section 32.010). Private roads and driveways not exempted from this article shall be 14 ft wide with 3 ft shoulders on either side and shall meet the standards of Table 1, Road Standards.

However, the review authority may allow a lesser width, down to 12 ft, with turnouts or other mitigation to be determined. For example, where a 14 ft width with shoulders is not feasible, a segment of road 12 ft wide without shoulders might be allowed provided that a turnout is provided at either end of the segment or within line of sight, whichever is shorter.

In addition:

- A. For private roads and driveways greater than 100 ft. in length, a turning radius of 30 ft. shall be at the terminus of the driveway in the vicinity of the dwelling (this assumes parking in the turn around). “T”, “Y”, or Hammerhead turnarounds may also be used, but they must meet width and load standards, have a minimum connecting radius of 25 ft., and be at least 30 ft. in total length. See attached illustration of alternative turnarounds.
- B. Where required, Turnouts shall be large enough to accommodate emergency equipment (be 12 ft wide and meet load standards, have a minimum taper length of 25 ft., and be at least 100 ft. long, including tapers).

11. **ROAD DESIGN STANDARDS:** Standards are delineated in Table 1, “ROAD STANDARDS.” State highways must meet State and County standards as shown in the adopted TSP.

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FINDING 7.4: The applicant has submitted profiles and maps and has testified that the new access road for sites 2 and 3 will meet Article 32 and 44 criteria. The existing roads used for access will be fully rocked and turnouts will be built in compliance with Article 32.

SECTION 44.020, SCENIC MANAGEMENT PLAN PROCEDURES:

01. Any structure or use must be visually subordinate to the scenic resource. Applications must include information in the form of drawings, a site plan, and narrative that are found by the review authority to provide sufficient detail to demonstrate compliance with this article.

Drawings: The drawings shall portray the general landscape of property and design of all proposed buildings and uses. The complexity of these drawings will depend on the intensity of the proposed development and potential impacts on the scenic integrity as seen from identified viewpoints and viewshed.

Site Plans: The site plan shall identify the specific location of all proposed and existing buildings and uses on the subject property, including setbacks from property lines and key features. The site plan shall be mapped accurately, normally to a scale of one(1) inch equals 50 feet. The site map scale may be adjusted, subject to approval by the review authority, depending on the size of the property, location of uses and intensity of the proposed development. The site plan shall include the topography of the property by mapping general contour lines at not more than two foot intervals. Additional or more detailed information, including a detailed architectural drawing or a series of maps, may be required by the review authority in order to demonstrate compliance with this article. I.e, if the property is sufficiently large, the review authority may request a plot map in addition to the site map, to locate the development within the property.

Narrative: The narrative shall provide a word picture which describes the unique character of the existing scenic landscape into which the structure or use will be introduced.

02. Applicant shall propose appropriate strategies for conforming the structure/use to the landscape (according to the landscape aesthetics handbook). Proposals shall include a narrative, color artist's sketches or photographs, and architectural drawings sufficient to satisfy the review committee and review authority that visual subordination goals will be met.
03. A technical review committee, composed of the Wallowa County Natural Resources Technical Advisory Committee, with the addition of engineers and architects qualified to evaluate visual subordination plans, shall review applications deemed complete by the review authority and provide recommendations for action.

[.....]

FINDING 7.5: The applicant has supplied a narrative, drawings, site plans, maps and artist renderings and has testified with sufficient detail to show that the requirements of this article can be met.

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Additionally, on July 15th, 2014, members of the Planning Commission, and Roland C. Yanke Family Trust representative Bruce Dunn visited the sites. Pictures and notes were taken and are included in these findings by reference.

The development proposals and site plans submitted with the zone permits are preliminary. Final development plans will be reviewed by the Planning Commission for compliance with the conditions of approval. (Condition #13).

SECTION 44.025, REQUIREMENTS AND STRATEGIES FOR ACCOMPLISHING VISUAL SUBORDINATION IN A SCENIC MANAGEMENT PLAN:

Performance Standards: Visual subordination is to be determined by how well the proposed design, siting, construction and operation of the proposed structure or use achieves all of the following standards.

01. Meets at least the minimum level of scenic integrity preservation established for the area;
 - A. Conforms with and emulates, rather than conflicts with, original landscape character and is subordinate rather than dominant;
 - B. Is visually subordinated by the use of color, materials, configuration, line and form, and topography;
 - C. Utilizes low or non-reflective materials, camouflage techniques, and other means to achieve at least the required level of visual subordination. Structures and improvements blend into rather than contrast with surrounding landscapes. Assures that windows and other materials used are low in contrast and reflectivity;
 - D. Existing landforms are retained and structures fit into rather than dominate existing topography;
 - E. Created openings borrow form from the existing natural landscape and utilize appropriate scale, shape, configuration, line, and horizontal or vertical orientation to imitate and blend into the existing landform. Unnatural forms that are too symmetric or uniform are avoided and all structures fit into existing topography.

FINDING 7.6: From the narrative, drawings, site plans, maps, and testimony, and from the site visit, the applicant has shown that the location of the proposed dwellings do meet, as close as practical, the level of scenic integrity preservation established for the area. This is achieved by the color and materials to be used for the dwelling and by locating the dwellings in areas that provide for limited visibility. The building sites are visible from some primary view areas. See Finding 7.5.

General Requirements: The following apply in addition to other provisions of this article:

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01. Existing timber or vegetative plantings alone shall not be sufficient to accomplish visual subordination and any plan submitted must show, to the satisfaction of the review authority, that the structure or use would remain visually subordinate even if the timber screen or vegetative cover were removed by fire or other cause. Planted vegetation is to be compatible with existing vegetation. For example, on the bare east side of the East Moraine, trees would not fit in, and should not be planted. In such areas, only topography and other camouflage techniques, rather than vegetative screening, shall be used to make a structure or use visually subordinate. In other areas, existing trees and vegetation may be an important part of a visual subordination plan, but are not sufficient in themselves. In general, vegetation alone should not be depended upon for visual subordination as vegetative screening is inappropriate to consider in long term, broad scale planning (Aesthetics, sec. 4 p. 50).
02. Exterior lighting shall be directed downward and appropriately sited, shielded, or hooded in a manner that prevents lights from being highly visible from sensitive viewing areas (Map G5-2) and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months.
03. New utility service, such as electric, cable TV, and phone lines shall be placed underground unless evidence satisfactory to the review authority is presented that underground placement is not feasible.
04. New utility transmission lines, transportation and communication facilities, docks, floats, and piers and maintenance of existing lines, roads and facilities shall be made visually subordinate to the maximum extent practicable.

FINDING 7.7: Please see Finding 7.6. In addition, the applicant has testified that all new utilities will be located underground and that exterior lighting will be downward directed and shielded and that there will be no lighting on the west side of the buildings. (Condition #10).

SECTION 44.030, DEFINITION OF AREAS AND PROTECTION LEVELS BY AREA:

[.....]

The Wallowa Lake Moraines Goal 5 Overlay is divided into six basic areas with 3 levels of protection. A minimum level of scenic integrity preservation is specified for each of these protection areas. Structures and uses subject to the visually subordinate requirement of this section must meet at least the following levels of retention of scenic integrity:

A. 3A PROTECTION AREA (No Conflicting Uses). Scenic Integrity: Very High (Preservation).

FINDING 7.8: The Commission finds that whereas dwellings would not normally be allowed in the 3A protection area, the Measure 49 Final Order modified by the Circuit Court decision, would allow for the two dwellings proposed within the 3A protection area. These dwellings may be regulated but not prohibited.

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B. 3C PROTECTION AREA -MORE RESTRICTIVE (No conditional uses allowed, permitted uses allowed, with restrictions). Scenic Integrity: High (Retention).

[.....]

FINDING 7.9: Please see Findings 7.6 and 7.7. The applicant has supplied evidence sufficient to show that the Scenic Integrity levels will be met, as much as practicable. As the Commission may regulate but not prohibit these dwellings, the siting and design will of necessity, be a compromise.

SECTION 44.035, PROGRAMS OF PROTECTION BY AREA

A. ENTIRE GOAL V AREA

Protection of Historic, Cultural, and Archaeological Resources

Development proposals for sites involving known or highly probable potential cultural resources including historic or prehistoric sites, buildings, objects, and properties related to American and Native American history, architecture, archaeology and culture, such as settler or Native American artifacts, must include a survey and assessment of the site and resources by authorities judged competent by the review authority, and a management plan, if indicated, responsive to the findings of the assessment, for historic/cultural resource protection.

The Review Authority shall communicate with representatives of the tribes listed at the end of this section with regard to the choice of the assessment authorities.

[.....]

FINDING 7.10: The Planning Department did notify the tribes and the Nez Perce Tribal Executive Council did respond with a letter addressing a variety of concerns.

The proposed dwelling is located in a know area of potential cultural resources as shown by Goal 5 Map G5-7, Historical Resource Areas. And an archeological survey will be required before any development. (Condition #4).

Wildlife Habitat

The wildlife habitat resource zone map includes the entire Goal 5 area and is designated as a 3C protection area. With the exception of properties zoned CR-2 and R-2 (as of 01/01/96), all development shall be reviewed by the local office of ODF&W. ODF&W may request the clustering of buildings associated with the development or with buildings on adjacent parcels, to lessen the developmental affect on wildlife.

The programs of protection for those areas designated 3A, 3C more restrictive, 3C less restrictive scenic resource area, or especially sensitive big game habitat, are more rigorous than for those areas outside of those boundaries.

For the areas outside of those boundaries, the following rules apply (Exception--those areas described in 44.030 (C1) and (C2)):

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1. In resource zones there shall be a 100 foot setback for residential use from streams for the purpose of preserving habitat for game birds, fur bearers, fish, and non-game wildlife.

2. There shall be a 100 foot setback for residential use from rookeries and wetland areas identified on the habitat map of the land use plan.

FINDING 7.11: The Planning Department did notify ODF&W and the agency did respond with a letter. The letter addressed the need for the dwelling to be located at least 200 yards from the crest of the moraine and that dwellings be clustered.

The Commission finds that locating the dwellings at sites 2 and 3 at least 200 yards from the crest of the moraine would locate the dwellings on the exposed west face of the east moraine and is therefore not feasible. Additionally, moving the site 1 dwelling off the crest, to the southeast corner of the subject parcel would locate the dwelling in an area where the cut and fill criteria could not be met. The Commission further finds after visiting the dwelling sites, that clustering would increase the visibility of dwellings at sites 2 and 3, and that site 1 is already located as far north as feasible.

The location of the dwellings is a compromise between clustering and visual subordination.

B. 3C PROTECTION -- AREA WILDLIFE HABITAT(more restrictive-East Moraine)

The East Moraine provides habitat for big game animals and a variety of upland game and nongame species. The local office of ODF&W has mapped a portion of the East Moraine as Goal V Deer Habitat. That portion of the Moraine considered Goal V Deer Habitat is defined as follows: The west face of the East Moraine to within 300 feet of Highway 351 and that area within 200 yards (ground distance) east of the crest beginning at the north end of the Moraine in section 5 and continuing south to the Forest Service boundary. This area should be managed to maximize open space. Development within the 3A protection area will be in conflict with the wildlife resource.

Dwellings and other structures should be sited within 300 feet (ground distance) of Highway 351. Proposals to locate dwellings, other structures, or roads (except for maintenance of existing roads) beyond 300 feet ground distance from the highway are subject to special review for adverse impacts (see paragraph d, in sections D and F). The review authority may deny the application upon a finding that the proposed site is not consistent with the intent of this section.

FINDING 7.12: See Finding 7.11.

C. 3A PROTECTION AREA (No Conflicting Uses):

Within that area on the lake side of the East Moraine (the West side of the Eastern Moraine) which has been designated 3A protection status, conflicting uses will not be allowed. Permitted uses will be allowed, with restrictions.

1. No conflicting uses may take place within the 3A protection area. Fencing necessary to continue the traditional land use pattern of the property is permitted.

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2. Projects conducted for the purpose of enhancing, improving, or maintaining the existing character of this area may be exempt from the criteria of Section 44.035(C)(1) if the public-hearing review authority finds the project to be consistent with the protection of this area from conflicting uses.

FINDING 7.13: See Finding 7.8.

D. 3C PROTECTION AREA (more restrictive--No conditional uses allowed, permitted uses with restrictions allowed):

The properties zoned R-2 (as of 01/01/96) on the west side of Wallowa Lake, which have undergone extensive residential development, are excluded from Protection Status within the Natural Resource.

Within those areas on the lake side of the Moraines (the West side of the Eastern Moraine and the East side of the Western Moraine) which have been designated 3C protection status (more restrictive), conflicting uses will be specifically limited to a minimum.

1. Uses may be allowed subject to the requirements of Article 9 Conditional Use Permit, provided that:
 - a. It is a permitted use in the underlying zone.
 - b. The use will be visually subordinate to the retention level and conform to the design standards of structure height, color, and other considerations required by Article 18, Recreation Residential Zone.

FINDING 7.14: Please see Findings 7.6, 7.7 and 7.9.

- c. Cuts or fills shall not significantly alter the essential integrity of the geologic formation of a moraine or visual character of the area when construction is complete. All topography external to buildings shall be returned to within two feet of pre-existing conditions unless visual subordination and geologic integrity and appearance is determined by the review authority to be enhanced by not meeting a two-foot standard. Cuts and fills of more than two feet shall be rounded on top above the road and filled below so as to make the terrain appear more natural and reseeded. Prior to construction permit approval and subsequent to construction, the applicant shall submit topographic site surveys on two foot intervals as proof of compliance.

FINDING 7.15: Cuts and fills should be minimal as mostly existing roads will be utilized for access and the proposed access road for sites two and three does not transect any significant slope. Site 1 uses existing roads for access. Also the dwelling sites are virtually flat.

- d. The minimum lot size for newly created parcels and for new dwellings on existing or new parcels shall be that of the underlying zone. Legally established parcels of less than 160 acres in resource zones may be eligible for a dwelling provided that, in addition to all other criteria of this article, the following criteria are also met:

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I. The parcel would have qualified for a dwelling either as a lot of record or under the template or multi-tract test prior to the adoption of this article.

FINDING 7.16: Whereas this use is not a permitted use in the 3A protection area, the Measure 49 Final Order and the Circuit Court decision allows for two dwellings in the 3A area and one in the 3C More Restrictive area.

ii. The dwelling and related structures can be made visually subordinate to the retention level.

FINDING 7.17: Please see Findings 7.6, 7.7 and 7.9.

iii. Within the East Moraine Goal V Deer Habitat Area, the applicant has submitted a plan to mitigate or prevent adverse impact on existing wildlife habitat due to loss of open space and increased human activity, which has been prepared in consultation with the Wallowa County office of the Oregon Department of Fish and Wildlife or other competent local review authority. The plan shall be deemed by the review authority to properly mitigate or prevent loss of wildlife habitat if through enhancement of feed availability, removal of livestock, and other measures, the carrying capacity of the property which is the subject of the application will not be reduced.

Comment by ODFW or other competent authority that a plan is not satisfactory may be sufficient cause for rejection of the proposed use if the review authority determines the adverse impacts cannot be adequately mitigated.

FINDING 7.18: Please see Finding 7.11.

e. The review authority may require specific siting standards, including but not limited to, a requirement that approved structures must be located within 200 feet of any other similar structures which are either existing or proposed on that same parcel.

f. Evidence is provided by the applicant that the site on which any development or use proposed is suitable to physically sustain the use. This evidence shall be in the form of a structural design and geological soils report supporting the development submitted and signed by a licensed geological engineer. This requirement may be waived by the review authority when the natural grade of the immediate area where development will be sited and other areas directly affected by the development are less than 20%.

FINDING 7.19: As the slope of the dwelling sites is less than 20%, the Planning Commission has waived this requirement.

g. Evidence is supplied by the applicant which shows that the proposed development is not located in an area containing a Federal or State sensitive, endangered or threatened listed plant species. If the development is located in a resource zone, and no Federal or State monies are involved or permits required, the owner must develop an inventory of State listed plant species present, and participate in applicable State and local programs to mitigate the impact of the

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development on the listed species. If Federal or State monies are involved or permits required, the development must also conform to applicable Federal and State regulations.

FINDING 7.20: The applicant has supplied maps showing that the proposed building sites are not within an area containing a Federal or State sensitive, endangered or threatened listed plant species as shown on Goal 5 Map G5-5, Natural Area, Silene Spaulding II.

h. No development will be allowed on the Crest of the Moraines. In addition, any development must be below the skyline as seen from the sensitive view areas (Map G5-2). Therefore, the highest point of any use or structure including, but not limited to, an antenna, satellite dish, and/or chimney shall be at least 20 vertical feet below the line of sight to the skyline from all points in the sensitive view areas. These measurements shall be performed by a licensed surveyor or engineer at the applicant's expense and shall be measured from the edge of the traveled way (in the case of a road) or viewing area nearest the proposed structure from a viewer height of 5 feet above the surface through the proposed structure normal to the moraine skyline. Compliance may be demonstrated by engineered or computer assisted drawings but in the case of a dispute, a performance test utilizing a physical representation of the height of the structure may be required.

A structure or use whose highest point is 60 vertical feet below the crest line of the nearest moraine, measured in a circumference from the highest point of the structure to the crest line of the moraine, shall be considered to have met the requirements of this section.

The applicant may propose and the review authority may approve an alternative plan to protect the scenic resource, skyline, and crest.

FINDING 7.21: Whereas this use is not a permitted use in the 3A protection area, the Measure 49 Final Order and the Circuit Court decision allows for two dwellings in the 3A area and one in the 3C More Restrictive area. Further, the parcels selected by the Roland C. Yanke Family Trust for sites two and three, allows for only development on the crest or the exposed west face of the east moraine. The parcel on which site one is located, would allow for development on the east face of the east moraine, however that location is too steep to meet cut and fill requirements. Please see Findings 7.2, 7.6, 7.7, 7.8 and 7.9.

I. Excavation for roads shall be subject to the provisions of Article 36 (Salmon Habitat Preservation) and Article 32, (Road Design), shall follow the terrain, shall be visually subordinate to the landscape as viewed from sensitive view areas (Map G5-2), and shall not have cuts or fills that exceed two feet.

However, if less impact may occur by using methods that would violate the above stated cut and fill requirements, the applicant, may propose and the Wallowa County Natural Resources Technical Advisory Committee may recommend other standards which may be approved if visual subordination and geologic integrity and appearance is determined by the review authority to be enhanced by not meeting a two-foot standard.

Prior to construction of a road, a road design which includes quantified grade measurements and an erosion control plan addressing all ground disturbance activities must be reviewed and recommended to the review authority by the Wallowa County Natural Resources Technical

Advisory Committee and may be submitted to the public hearing review process at the sole discretion of the Planning Director.

Roads constructed for the purpose of forest practices must comply with the provisions of the State Forest Practices Act (May 1998). Upon notification from the Oregon Department of Forestry, Wallowa County intends to contact the owner and/or individual forest manager for the purpose of informing the land owner about the county's desire to maintain the scenic and geologic integrity of the Moraines. Under the county's scenic management program, the county is willing to work with individual land owners or forest managers to prepare a voluntary plan that achieves a mutually beneficial result.

FINDING 7.22 : See Finding 7.4.

j. Vegetation for landscaping shall correspond with the surrounding flora and shall only consist of species native to the immediate area or non-native species substantially similar to existing vegetation. Parking, gardens, orchards and other development in conflict with the original landscape shall be visually subordinate if visible from sensitive view areas (Map G5-2).

k. The review authority may require provisions of Article 40, Performance Guarantee, to be satisfied in order to insure compliance with the provisions set forth herein.

FINDING 7.23: The applicant has testified that only native vegetation will be used for landscaping. Additionally, the Planning Commission does not require a Performance Guarantee.

l. Wildlife Habitat--3C Protection Area (less restrictive). Dwellings or other structures may not be sited within 200 yards (ground distance) east of the crest of the East Moraine, unless the development meets the criteria of section d above. Development beyond the 200 yard boundary should be clustered per ODF&W request to maximize available open space as mitigation of adverse effect on wildlife habitat.

FINDING 7.24: Please see Finding 7.11.

m. The review authority may consider a development of clustered dwellings provided that all other applicable requirements of this article are met, the average density of dwellings within the development is no more than one per 160 acres, and the resulting open space within the development is preserved by a conservation easement. The conservation easement shall be recorded with the county clerk.

FINDING 7.25: Please see Finding 7.11.

08. CONCLUSION:

All applicable criteria have been met, and the Planning Commission approves this application subject to the Conditions of Approval. Failure to meet these conditions in a timely manner may result in the revocation of this permit by the review authority.

The Zone Permits #13-62, 63, and 64 for single family dwellings will expire four years from the Date of Decision for this permit.

The expiration date may be extended if:

The applicant submits a written request to the Wallowa County Planning Department for a two-year extension prior to the expiration date of the permit; or

The permit is “perfected” by initiation of the approved use as evidenced by, in the case of new construction, completion of any two of the four substantial development actions:

- A. A domestic water well (or connection to a permanent water system).
- B. A septic system (or connection to a permanent sewer system).
- C. Establishment of electric power to the residential site (or permanent alternative electric generations system adequate for the proposed use).
- D. Construction of the foundation of the principal residence.

Validation of completion of substantial development action shall be accomplished by delivery of written evidence acceptable to the Wallowa County Planning Department that the approved action has been initiated and a finding by the department that the permit has been exercised and perfected.

09. 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.

To mitigate degradation of the Goal 5 resources, the following Conditions of Approval are required:

1. Any access roads must meet the criteria of Article 32, Road Design and Article 44, Goal V Resource Protection Zone.
2. The dwelling located at site 1 is limited to 25 ft in height, including chimneys. Dwellings at sites 2 and 3 are limited to 23 ft in height. Within the height limit, satellite TV dishes and small wi-fi antennas are allowed.
3. The dwelling located at site 1 may be no more than 6000 sq ft of living space and may have an attached double car garage with an additional bay for a boat, storage, etc. Dwellings located at sites 2 and 3 may be no more than 6000 sq ft of living space and may have an attached double car garage. There will be no outbuildings located at sites 2 and 3. There will be no outside storage of boats, trailer RV's, etc at sites 2 and 3.

A substantial portion of all three dwellings will be oriented to the east and dwellings will have a minimum roof pitch of 4/12.

4. Per Article 44, section 44.035, Protection of Historic, Cultural, and Archeological Resources, dwelling sites will be subject to a survey and assessment of the site and resources by authorities judged competent by the review authority, and a management plan, if indicated, responsive to the findings of the assessment, for historic/cultural resource protection.
5. Only dark colors and natural materials such as wood or stone shall be used for the exterior of the dwellings. Colors shall be selected from the design review color chart available at the planning department.
6. If reasonably practical, the dwellings will share a single water supply to minimize disruption of the geology of the moraine. Water may be supplied by a well, springs, or delivered to cisterns by a tanker truck.
7. Per DEQ approval, septic systems shall be located on the subject parcels as far east as practical.
8. Development plans shall include a plan for noxious weed control.
9. The design for the dwellings shall utilize low or non-reflective materials, camouflage techniques, and other means to achieve the required level of visual subordination.

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Structures and improvements shall blend into rather than contrast with surrounding landscapes. Existing landforms shall be retained and structures fit into rather than dominate existing topography. Unnatural forms that are too symmetric or uniform are avoided and all structures fit into existing topography.

10. No exterior lighting shall be permitted on the west side of the dwellings, otherwise exterior lighting shall be directed downward and appropriately sited, shielded, or hooded in a manner that prevents lights from being highly visible from sensitive viewing areas (Map G5-2) and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

11. New utility service, such as electric, and phone lines shall be placed underground unless evidence satisfactory to the review authority is presented that underground placement is not feasible. To minimize ground disturbance, where possible, utilities shall be located concurrent with access roads.

12. Vegetation for landscaping shall correspond with the surrounding flora and shall only consist of species native to the immediate area or non-native species substantially similar to existing vegetation. Parking, gardens, orchards and other development in conflict with the original landscape shall be visually subordinate if visible from sensitive view areas (Map G5-2).

13. The development proposals and site plans submitted with the zone permits are preliminary. Final development plans will be reviewed by the Planning Commission for compliance with these conditions.

12. The proposed dwellings 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.

WATER: Standpipes for fire protection should be located at least 50 feet from the building they are intended to protect. (Frost free faucets installed before any pressure reduction valve recommended).

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: All structures must be protected by a fire protection contract with a provider approved by the review authority. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the Planning Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the Planning Director shall require that the applicant provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage, or other methods that are reasonable given the site conditions. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. If necessary, road accesses shall be provided to within 15 feet of the water's edge for fire-fighting pump units. The road access shall accommodate turn-around ability for fire-fighting equipment consistent with Article 32 (Road Standards). Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

FINDINGS

Yanke ZP#13-62, 63, and 64, Measure 49 Homesites

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10. 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.

August 26th, 2014
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. September 8th, 2014. Appeals, if any, will be heard in a public hearing held by the Wallowa County Board of Commissioners.