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Home Occupation Permit (Type III) HOP-20-01

STAFF REPORT

Date Submitted: November 11, 2020
Agenda Date Requested: November 18, 2020
To: John Day Planning Commission
From: Daisy Goebel
John Day Associate City Planner
Subject: Ashley Stevick Home Occupation (Type III Quasi-Judicial)
Location: 410 NW Bridge St. John Day, Oregon
Map: 13S31E23CD Tax Lot: 1800
Type of Action Requested:

[] **Resolution** [] **Ordinance**
[X] **Formal Action** [] **Report Only**

1. BACKGROUND

Ashley Stevick, the owner of 410 NW Bridge St., has applied for a permit to operate a home occupation at this address. The proposed home occupation will consist of a series of outdoor yoga classes taught by Stevick on the property. The property is zoned Residential Limited (RL).

This proposal was found to have met all of the Home Occupation criteria with the exception of standard 5; Vehicles, Parking, and Traffic. This requirement specifies that c) there shall be no more than one (1) client’s or customer’s vehicle at any one time and no more than eight (8) per day at the home occupation site. The nature of the proposed business requires multiple clients to attend classes at one time. Home Occupations exceeding any of the threshold standards may receive approval through a Type III procedure.

2. APPLICABLE CRITERIA

The City of John Day Development Code (the Code) governs the procedure for reviewing Home Occupation Permits. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in Chapter 5-4 of

the Code. The procedure “type” assigned to each application governs the decision-making process for that permit or approval.

An application for a new Home Occupation shall be processed as a Type III procedure, per Section 5-4.1.040 of the Code. The application shall meet submission requirements in Section 5-4.9.020, and the approval criteria contained in Section 5-4.9.020

Staff has reviewed the application pursuant to the Code and the requirements for a conditional use permit. The application was deemed technically complete (ready for review) on July 31st, 2020. Due to the postponement of the September planning commission meeting, a temporary permit was issued via email for Stevick to operate her HOP but no final decision was made. The City must make a final decision, including a final city council decision on any appeal, within 120 days, or by November 28th, 2020

3. PUBLIC NOTIFICATION

The City of John Day mailed public hearing notices to the applicant and property owners within 100-feet of the subject site on October 27, 2020. Notice of the hearing was printed in The Blue Mountain Eagle on October 27th, 2020 in compliance with the city development code requirements for public notification.

4. BURDEN OF PROOF

The applicant has the burden of demonstrating that the proposal meets all applicable Code requirements. The applicant is also responsible for complying with building code requirements and applicable state or federal requirements. It is the Planning Commission’s responsibility to interpret the Code based on findings of fact.

5. PLANNING COMMISSION AND CITY COUNCIL CONSIDERATIONS

The Planning Commission’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type III procedure under section 5-4.1.040.

6. STAFF RECOMMENDATION

Staff recommends that the Planning Commission **approve the request for Home Occupation Permit HOP-20-01**. It is the applicant’s responsibility to demonstrate compliance with the conditions of approval.

7. APPROVAL CRITERIA AND FINDINGS

John Day Development Code Section 5-2.2.100 Special Use Standards (E)- Home Occupations contains the applicable approval criteria for the conditional use permit application. The Planning Commission’s evaluation of the project must focus on the relevant code criteria under Section 5-2.2.100 and applications exceeding the applicable criteria must follow the public hearing procedures for Type III (quasi-judicial) review under Section 5-4.1.040.

The applicable code criteria are provided below in *italics* typeface; staff’s findings follow each code provision in regular typeface. The findings, which are based on information

submitted by the applicant, are preliminary. The plans, exhibits, and narrative submitted by the applicant and used in making the findings are attached to this report and include:

- Application (Exhibit A)
- Public Comments (Exhibit B)
- Map of parking (Exhibit C)

All of the above documents are hereby incorporated and made part of the public record.

The application and staff report findings may be modified based on factual information entered into the public hearing record before the close of the record. Members of the public who have questions about the proposal or who would like to submit oral or written testimony are encouraged to appear at the public hearing or provide written testimony before the close of the hearing. Testimony should respond directly to the following criteria.

5-2.2.020E Type I Standards for Home Occupations

1. Appearance of Residence

- a. The home occupation shall be restricted to lawfully-built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.*
- b. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.*
- c. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).*
- d. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.*

Findings: The applicant does not intend to alter the appearance of the residence or display any products or equipment outside the structure.

2. Storage

- a. Outside storage, visible from the public right-of-way or adjacent properties, that exceeds what is customary for a single family residence in the vicinity, is prohibited.*
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.*
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.*

Findings: The applicant does not intend to store products, equipment or other business-related materials outside the residence.

3. Employees

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be no other/not more than one (1) full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term “home occupation site” means the legal lot on which the home occupation is conducted.*
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home occupation site.*

- c. *The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.*

Findings: The applicant does not intend to hire employees for the business at this time.

4. *Advertising and signs*

Signs shall comply with all applicable sign regulations. In no case shall a sign in the Residential District exceed four (4) square feet of surface area on all sides.

Findings: The applicant has not submitted an application to install any signs at this location. Applicant will need to submit a sign permit application if signage is installed in the future.

5. *Vehicle, Parking, and Traffic*

- a. *Off-street parking shall be provided for all commercially licensed vehicles associated with the home occupation. Such parking shall conform to the standards of Chapter 5-3.3.*
- b. *There shall be no more than three (3) commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 9:00 p.m. to 7:00 a.m.*
- c. *There shall be no more than one (1) client's or customer's vehicle at any one time and no more than eight (8) per day at the home occupation site.*

Finding: This proposal exceeds requirement c. More than one vehicle at a time and more than 8 vehicles per day are expected at the site on days when the applicant hosts classes. Due to the nature of this business, this requirement cannot be reasonably met, but the effects can be mitigated if clients park in available street parking spaces around the block. A map of available parking is included as exhibit (C).

6. *There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 9:00 p.m. only, Monday through Friday, subject to subsections 1 and 5, above.*

Finding: Applicant does not intend to host classes before 7am or after 9pm. Weekend classes may be approved at the discretion of the planning commission.

5-4.9.020 Home Occupation Permits

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the standards and criteria in A-C.

A. *Purpose*

The purpose of this Section is to provide standards and procedures for small commercial ventures in Residential Districts that do not otherwise meet the criteria for Home Occupations permitted by right in Section 2.1.100E. Section 5-4.9.020 provides a process for more intense home occupations to be allowed with Site Design Review by the Planning Commission and notice to surrounding property owners. These home occupations may be permitted, with

conditions of approval when appropriate, in order to increase the benefits of people working and living in the same place, while protecting neighboring residents from adverse impacts of home occupation activities. These benefits to the business owner and to the general public include: reduced number of commute-to-work trips, day-time “eyes on the street” at the residence, and a neighborhood-scale version of mixed residential and commercial uses.

B. Approval Process and Criteria

2. The City shall approve, approve with conditions, or deny an application for a Type III home occupation based on all of the following criteria:

a. The proposed use will not be materially detrimental to the stated purposes of applicable Code requirements and to other properties within a radius of 100 feet of the subject property;

b. Impacts to surrounding properties may exist but can be mitigated;

c. Existing physical and natural systems, such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance Section 2.1.100E.

Findings: The benefits this home occupation provides to the community have been found to exceed any adverse impacts to the neighborhood. No public comments were presented in opposition to the proposal.

8. PLANNING COMMISSION MOTION

After hearing the applicant’s presentation and any public testimony, the Planning Commission must allow the applicant an opportunity to rebut any opposing testimony. Then the Commission will close the hearing and deliberate. The following motion is suggested:

“I move to approve the Home Occupation Permit HOP-20-01 based on applicable public testimony along with the findings and subject to the conditions of approval contained in the staff report.”

The staff report may be amended during the course of the hearing.

Respectfully submitted this 11th day of November, 2020.



Daisy Goebel, Associate City Planner
City of John Day

Attachments: Application (Exhibit A)
Public Comments (Exhibit B)
Parking Plan (Exhibit C)