

STAFF REPORT

Planning Department File No. 2019-07-011

**CONDITIONAL USE APPLICATION
FOR
Conditional Use Approval for Placement of 2 New Modular Classrooms**

Planning Commission Meeting Date: August 22, 2019

1. **APPLICANT:** Annex Charter School
402 Annex Rd
Ontario OR 97914
2. **PROPOSED ACTION:** Conditional use approval for placement of 2 new modular classrooms.
3. **PROPERTY IDENTIFICATION:** Tax Lot 1900, T15S, R47E, Sec. 29A; Assessors Map 15S47E29A; Malheur County Reference #16283.
4. **PROPERTY LOCATION AND DIRECTIONS:** The property is located northwest of the intersection of Annex Rd and US Hwy 95 Spur, in Annex, OR.
5. **ZONING:** C-RSC (Rural Service Center).
6. **PARCEL SIZE:** The parcel is 7.38 acres.
7. **PARCEL USE:** School.
8. **SURROUNDING USE:** Exclusive Farm Use, with the exception of the properties to the east, across from Quince Rd: they are all residential (zoned rural service center).
9. **ACCESS:** Via Annex Rd and US Hwy 95.
10. **SANITATION REQUIREMENTS:** No restrooms are proposed in the new classrooms; students will use restroom facilities provided in existing buildings.
11. **FIRE PROTECTION:** No objections were reported by the Weiser Area Rural Fire District or the Oregon Office of State Fire Marshal.
12. **NATURAL HAZARDS:** Parcel is in the 100 year floodplain.
13. **ZONING HISTORY:** In 2018 there was another modular classroom placed on the property.

I. MALHEUR COUNTY CODE 6-3F-5: Public or Private Schools

In all RSC zones the performance standards contained in section 6-3G-4 of this chapter shall apply to all nonresidential and all nonagricultural activities. (Ord. 86, 12-7-1993)

MCC 6-3G-4: PERFORMANCE STANDARDS

Each structure of use permitted or conditionally permitted in a commercial zone shall meet the following performance standards: (Ord. 86, 12-7-1993)

- A. Physical Appearance: With the exception of gasoline pumps, all operations other than pick-ups and deliveries shall be carried on within an enclosed building; provided, that new materials or equipment in operable condition may be stored in the open, such as a sales lot. Normal daily wastes may be stored in containers outside of a building when such containers are not readily visible from beyond the property line. The provisions of this subsection shall not be construed to prohibit the display of merchandise or vehicles for sale or rental, or the storage of automobiles, farm machinery, trailers, manufactured dwellings or similar equipment in operable condition when in association with a permitted use. This required yard areas other than driveway openings shall be landscaped. (Ord. 147, 4-14-2004)

PROPOSED FINDING: The new classrooms are proposed to be temporary until they are able to construct an addition to the existing school. Modular classrooms are used periodically at schools around Malheur County in order to expand the space necessary. In this case, the school is not requesting to expand the number of students. Instead they are reducing the student to teacher ratio. The two structures will not impact the surrounding neighborhood and is in keeping with the majority of the structures in the Annex area.

- B. Hazard: No operation shall be established which fails to meet the state fire and electrical codes and any other applicable state or federal codes related to safety. This provision shall not be construed to prohibit the use of normal heating fuels, and other volatile materials when handled in accordance with applicable codes.

PROPOSED FINDING: All applicable building permits will be required prior to placing the modular on the site. The two structures will meet State Fire Code and the electrical connections will be done by an Oregon state licensed electrician.

- C. Noise: No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

PROPOSED FINDING: The school is not proposing to increase the number of students. Instead, they are reducing the student to teacher ratio of the current students. Noise levels should not increase.

- D. Sewage And Liquid Waste: All operations shall comply with any applicable regulations of the county, state or federal agencies responsible for pollution control. NO wastes of a chemical, organic or radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers.

PROPOSED FINDING: There will no impact, as no new restrooms are proposed and no additional students are proposed.

- E. Smoke, Particulate Matter And Gases: No use shall be established which fails to meet the air quality regulations of the Oregon department of environmental quality pertaining to emissions of smoke, particulate matter, fugitive dust, gases and other air contaminants.

PROPOSED FINDING: Air quality should not be impacted other than dust which may be generated during the installation of the modular classrooms.

- F. Odor: The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odor. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious.

PROPOSED FINDING: No objectionable odor will be created by the installation of these buildings.

- G. Vibration: All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line.

PROPOSED FINDING: Vibration will not be created by the installation of these buildings.

- H. Glare And Heat: Any glare producing operations, such as welding arcs, shall be shielded so that they are not visible from the property line. Surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line.

PROPOSED FINDING: Neither glare nor heat producing operations will exist from or at the placement of the two buildings.

- I. Dust: All surfaces used in the operation of the use shall be graveled or paved with a dust free surface. Gravel surfaces shall be watered down when conditions of use or weather cause dust to travel toward structures on adjacent properties.

PROPOSED FINDING: The existing areas of placement are graveled and any dust generated from moving the buildings into place will be watered down to minimize dust impact.

- J. Interpretation: Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments. Until such evidence or engineering data is supplied and proves to be convincing, the judgment of the planning director shall be the determining factor. (Ord. 86, 12-7-1993)

PROPOSED FINDING: The applicants have stated that they have a clear understanding of the standard requirements and adherence.

PROPOSED CONDITIONS OF APPROVAL

1. The conditional use permit granted by the County is valid for a period of two years from the date the permit becomes effective, which is 10 days after the notice of decision is sent provided there is no appeal.
2. A Floodplain Development permit from Malheur County Planning and Zoning will be required prior to the Building Permit approvals.
3. A building permit application must be submitted, reviewed, and issued prior to placement of the modular on the site. The building permit will need to include a site plan showing the buildings at least 20 feet away from the existing school.
4. The buildings will require an accessible route to each of the building including an accessible ramp to each of the buildings.
5. The buildings shall have state modular tag for an “E” (educational) occupancy on the building.
6. Construction plans shall be provided for the setup/anchoring of the modular.
7. Construction plans shall be submitted for the construction of the required ramp and stairs.
8. No occupancy of the building is allowed prior to issuance of the Certificate of Occupancy.

EXHIBITS

1. Letter from State Fire Marshal
2. Letter from Weiser Area Rural Fire District
3. Letter from Malheur County Road Supervisor
4. Letter from Malheur District Improvement Company