

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, on July 23, 2020. Kathy Clarich called the meeting to order at 7:30 p.m.

MALHEUR COUNTY COMMISSION MEMBERS PRESENT:

Kathy Clarich
Teresa Ballard
Clark Forsyth
Rob Kindschy
Linda Simmons
Robert Quick
John Faw
Chad Gerulf

PLANNING DEPARTMENT STAFF MEMBERS:

Tatiana Burgess, Planning Management Assistant

OLD BUSINESS:

Kathy Clarich – The first thing on our agenda is the approval of the June 2020 minutes.

Approval of June 2020 minutes:

Clark Forsyth made a motion to accept the June 2020 minutes. John Faw seconded the motion, which was approved by all Commissioners present.

NEW BUSINESS

Applicant: Jacob & Saige May
2092 Westridge Drive
Ontario, Oregon 97914

Representative: Jacob May

Conditional Use Permit for one non-farm dwelling. Planning Department File No. 2020-06-28.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for one non-farm dwelling in exclusive farm use zone for applicants Jacob and Saige May, planning department file no. 2020-06-028.

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1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.
2. All testimony and questions shall be directed to or through the Chair. Testimony in question should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
 - a. There are no abstentions from the members of the County Planning Commission.
4. Do any members of the County Planning Commission have any conflicts to disclose?
 - a. There are no conflicts to disclose by any members of the County Planning Commission.
5. Do any members of the County Planning Commission have any bias to disclose?
 - a. There is no bias from any members of the County Planning Commission.
6. Do any members of the County Planning Commission have any ex parte communication, including any site visits, to disclose?
 - a. Kathy Clarich has made a site visit.
7. Does anyone object to any members of the Malheur County Planning Commission hearing this application?
 - a. John Faw has made a site visit.
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
 - a. There are no challenges.

Land Use Statement for the record: Oregon Land Use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

The Applicable Substantive Criteria upon which the application will be decided are found in Oregon State Laws and Rules as well as local code provisions which are specifically set out in the staff report and include: Malheur County Code 6-6-7: General Criteria to Evaluate Suitability, 6-6-8-1: Specific Conditional Use Criteria Non-Resource Dwelling in EFU, ERU or EFFU Zones, 6-3A-3: Allowance of Certain Uses and OAR 660-033-130(4)(a)(D): Agricultural Lands.

Testimony, arguments and evidence presented must be directed toward these approval criteria or other criteria in State law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties the opportunity to respond to the issue will preclude appeal on that issue.

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements and evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

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The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to Circuit Court.

At this time I will ask the applicants to state their name and address.

Jacob May - Jacob and Saige May.

Kathy Clarich - Thank you. Tatiana would you like to give the staff report?

Preliminary Staff Report: Read by Planning Management Assistant, Tatiana Burgess.

Tatiana Burgess – This is a proposal for a non-farm dwelling conditional use permit. It is for Tax Lot 502 on Map 20S46E03. The applicants are Jacob and Saige May, 2092 Westridge Drive, Ontario, Oregon 97914. Planning Department File No. 2020-06-028. As stated, this is a for a conditional use for a non-farm dwelling on a piece of property of 8.61 acres on exclusive farm use. This is a property southwest of Nyssa. It is a vacant land that has not ever been farmed and has no water rights. All the property surrounding this is being used for farming, at this time.

Some zoning history on this property is that it has gone through a conditional use permit approval previously. In 2013, Froerer Farms applied for two non-farm partitions with two non-farm dwellings on them. While the partitioning process was completed, a partition plat was filed in June of 2013, so the two new parcels were created, only one of them (Tax Lot 501) ended up being developed. The one that is being considered tonight has not been built on, so therefore the permit expired in 2017. It did create a legal parcel in June 2013, as stated. The previous conditional use permit conditions were that it is going to be disqualified from farm use for taxing purposes and the statement for farm use practices is going to be recorded in the deed of the title. All of these conditions have been met and recorded. The disqualification for the farm use was processed in 2013 and that farm statement has been recorded on that partition plat, number 13-06.

This is in Nyssa Rural Fire District. One thing that was not sent out with your packets (I did not receive this letter until earlier this week) we did get a letter from the Fire Chief of Nyssa, Chief Eric Menchaca. According to his letter, he is supportive of this action. The only condition that he is imposing is: 'We are okay with the new home being built on this property so long as the driveway to the home site is a 20' wide all weather road with adequate all weather turn around space at the end. If property is sold before a new home is built, new owner will have to obtain a new letter of approval.' He left his contact information for any further concerns or questions to be addressed.

I think that is all I have.

Kathy Clarich - Thank you very much. Jacob, why don't you tell us what your plans are.

Applicant Testimony

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Jacob May - We had Chief Menchaca out there and we drove that driveway and he kind of told me what he expected. He just said I need crushed gravel on that so that no matter what time of year we can get up there and that was our plan anyway. What we hope to do is build a single dwelling house there for our family. We would like to get that rolling this fall if not sooner. We've gone through the financials and that has been approved so we are just kind of taking it step by step. We just have a single dwelling house, is pretty much where we are going to be at. My business doesn't require that I have anything parked up there or used that's industrial or anything like that so it would just be our house.

Kathy Clarich - Does anybody have any questions for them?

Linda Simmons - On the criteria, it says on number 8 that there are no water rights but on the next page on number 14 it says it has water rights.

Tatiana Burgess - Linda, I think that was a typo on my part. The property does not have any water rights and Jacob could correct me on this. Jacob?

Jacob May - No, it does not have water rights.

Linda Simmons - That was my assumption that we needed to correct it.

Kathy Clarich - Does anybody else have any questions? Jacob, is your road on a ditch bank going in there? I couldn't tell when I was looking at it.

Jacob May - So what it is, is there is a natural drain that runs at the bottom of that property, that Tax Lot 501 and 502. When we broke that off, Lee Long owns 501 and we have the 75' easement down there. So what I did is I went in with a road grader and a blade and did a bunch of work and took from the center and went out from there and the edge of my road is 75' out to the bottom. So we are probably going to have 40' of gravel road going all the way in to my house.

John Faw - Is that a pond that you put there, just off the drive going in?

Jacob May - That is Lee Long's. He's got a little hobby park so he's going to have a little slip n' slide there. So the property line is on the opposite side of that draw to the west. It actually goes about 75' - 100' up that hillside once you go through that draw.

John Faw - Because when I was out there looking, I couldn't tell exactly where that boundary line was going to be, but yeah it looks good.

No Proponent Testimony.

No Opponent Testimony.

Closed to Public Testimony.

Kathy Clarich - What do you guys think? I think it's probably just fine myself.

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Chad Gerulf - It looks very straight forward.

John Faw - It's already been approved once and nothing has changed. It's the right kind, let's make it happen.

Kathy Clarich - It sounds like the road's been put in since it was approved but that's a good thing. Tatiana do you want to read your recommendations?

Tatiana Burgess - One thing that I failed to mention is there is an easement right now off of Heritage Drive to the property. They do have that secured so that is not going to be an issue and I did not mention that earlier.

Kathy Clarich - And the other thing we have is they've got to meet the fire code or request by the fire department?

Tatiana Burgess - Correct. All the other conditions that we would typically associate with this have already been met during the previous approval so right now we can't really ask anything else of them. The title has been updated with the necessary language in it and the farm exemption on the taxes, have been disqualified for the fiscal year of 2013-2014.

Kathy Clarich - So on your proposed conditions of approval are the adequate fire breaks and the approval is valid for 4 years as usual. Do we want to add that on for the fire department since he's already been out there?

Tatiana Burgess - Yes we can.

Kathy Clarich - It might not be a bad thing since he wants it done just so and that way he has to check on it.

John Faw - He's going to have to get a building permit so.

John Faw made a motion to approve the staff report and findings of fact. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Robert Quick made a motion to approve the conditional use permit for one non-farm dwelling. John Faw seconded the motion which was unanimously approved by the Commissioners present.

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There being no further business to come before the Malheur County Planning Commission, the meeting was adjourned.

Respectfully submitted, Kelsey Sullivan.

Minutes approved by:

Name: _____ Date: _____