

## STAFF REPORT

Planning Department File No. 2020-08-019

### CONDITIONAL USE APPLICATION FOR ONE NON-FARM DWELLING

Planning Commission Meeting Date: September 24, 2020

1. **APPLICANT:** Obendorf Malheur Farms LLC  
24034 Batt Corner Rd  
Parma ID 83660
2. **PROPOSED ACTION:** Conditional Use approval for one non-farm dwelling.
3. **PROPERTY IDENTIFICATION:** Tax Lot 202, T22S, R47E, Sec. 31; Assessors Map 22S47E31; Malheur County Reference #20301.
4. **PROPERTY LOCATION AND DIRECTIONS:** Approximately ¼ mile east of the intersection of Lonesome Rd and Naptop Rd in Adrian OR.
5. **ZONING:** Exclusive Farm Use (C-A1).
6. **PARCEL SIZE:** The parcel is 42.44 acres.
7. **PARCEL USE:** Bare lot with a lake on it, being used for recreation.
8. **SURROUNDING USE:** The parcel is entirely surrounded with properties currently being farmed with farm dwellings on them.
9. **ACCESS:** Stateline Rd/ South Side Rd. (Letter Attached)
10. **SANITATION REQUIREMENTS:** A DEQ approved sanitation system would be required.
11. **FIRE PROTECTION:** The parcel is within the Adrian Rural Fire Protection District.
12. **NATURAL HAZARDS:** None.
13. **WATER RIGHTS:** The property has 13.6 water rights attached to it.
14. **SOIL TYPE:** The majority of soils on the property are class III with a small portion of the property covered by class VIII & IV soils.

**15. ZONING HISTORY:** The subject parcel was partitioned off from the parent farm (Tax lot 200, County ref. #11007) through planning action #2008-03-005 for a conditional use permit for 2 non-farm dwellings and 2 non-farm partitions. While the partition was executed through the partition plat #08-06 (recorded instrument #2008-2449), the actual non-farm dwelling was never constructed and the permit expired in 04/2012 without ever being extended. The “Farm Zone Clause” statement, as indicated as the first condition of approval of the CUP #2008-03-005, was recorded in the chain of title through the deed #2010-803. The farm disqualification penalty was paid in 04/2008 and the property has been assessed at the real tax value starting with 2009 tax year.

#### **GENERAL CONDITIONAL USE CRITERIA**

**MCC 6-6-7 - GENERAL CRITERIA TO EVALUATE SUITABILITY:** In considering the suitability of proposed conditional uses, the Planning Commission shall base its decision upon the following criteria:

- A. Comprehensive Plan goals and policies, as applicable.
- B. Specific plan recommendations

**Proposed Finding: MCC 6-6-8-1 regulates the conditional use process for a non-farm dwelling.**

- C. Existing development and viewpoints of property owners in the surrounding area.

**Proposed Finding: Letter notice was sent to adjoining landowners on September 1, 2020 and published in the Argus Observer on September 4, 2020. No comments were received.**

- D. Availability of services and utilities.

**Proposed Finding: The parcel is located within the Adrain Rural Fire Protection District. All services and utilities are available.**

- E. The effect of the proposed use on the stability of the community’s social and economic characteristics.

**Proposed Finding: The proposed dwelling will have no negative effect on the farming/ranching practices that would interfere with the stability of the community’s social and economic characteristics.**

- F. It does not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the Fish and Wildlife Habitat Protection Plan for Malheur County.

**Proposed Finding: The proposed dwelling is not located in an area that contains fish or wildlife deemed critical or sensitive, and will not interfere with**

**traditional fish and wildlife.**

G. General Criteria

1. Increasing setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances.

**Proposed Finding: The proposal is to build a single family dwelling on this parcel. The proposed residence will not overshadow adjoining property, due to the proposed placement of the dwelling, the nearest existing house being at least ¼ mile away. This criterion is met.**

2. Landscaping improvements for the visual benefits of the subject site and for the improved appearance of the neighborhood and County.

**Proposed Finding: The proposed dwelling will not deteriorate the appearance of the neighborhood. This criterion is met.**

3. Location and size of driveway access points and right-of-way widening and improvement for present and future traffic circulation and safety.

**Proposed Finding: The subject parcel has direct access from Stateline Rd. No new access must be obtained, however, a culvert may be required (see attached letter).**

4. Visual screening of outdoor waste and storage areas.

**Proposed Finding: The proposed development is for a dwelling. Outdoor waste storage will be minimal. This criterion is met.**

5. Control and focusing of outdoor lighting to avoid glare being directed beyond property limits.

**Proposed Finding: Control of outdoor lighting will not be necessary.**

6. Special criteria listed below, as applicable:

H. Allowance of Certain Uses: A use allowed under Section 6-3A-3 of this Title shall be approved only where it is found that the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
2. Significantly increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. (Ord. 86, 12-7-1993)

**Proposed Finding: This home will not have any impact to any current use in the area. No activities will conflict with grazing or farming. The proposed non-resource dwelling will not force significant change in accepted farm or forest practices on surrounding lands devoted to farm use, nor significantly increase the cost of accepted farm practices.**

#### **SPECIFIC CONDITIONAL USE CRITERIA**

##### **MMC 6-6-8-1 - NONRESOURCE DWELLINGS IN EFU, ERU OR EFFU ZONES:**

A. The use:

1. Is compatible with farm uses and is consistent with ORS 215.243; and

**Proposed Finding: The granting of this application will not result in loss of natural resources, and the amount of open land used for agriculture use on the neighboring properties will not change. The proposed use will aid to the management of weed control and overall appearance of the property. Therefore, the proposed use is compatible with farm use.**

2. Does not interfere seriously with accepted farming practices on adjacent lands; and

**Proposed Finding: The subject parcel has never been cultivated. Due to the location of the proposed development, no water right acres will be lost and this will not interfere seriously with accepted farming practices on adjacent land.**

3. Does not materially alter the stability of the overall land use pattern of the area; and

**Proposed Finding: The proposed development is for a single family dwelling, to be placed in the north-eastern corner of the subject parcel. Access to the property does not share an existing road used for farming that may be an impediment to sound farming practices.**

**Added by OAR 660-033-130(4)(a)(D) - June 1, 1998:** In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall;

- i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries and the location of the subject parcel within this area, why the selected area is representative

of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

- ii. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm / lot-of-record dwellings that could be approved under subsections (3)(a), (3)(d) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this subparagraph:
  - iii. Determine whether approval of the proposed non-farm / lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
4. Is situated on generally unsuitable land for the production of farm crops or livestock considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of tract.

## **OTHER PROPOSED FINDINGS OF FACT**

The applicant has submitted additional proposed findings of fact in the conditional use application.

## **PROPOSED CONDITIONS OF APPROVAL**

1. Adequate firebreaks shall be constructed and maintained to minimize danger from potential wildfire.
2. The access road to meet Fire Code requirements
3. This approval is valid for four years from the date of this order. Substantial action must be taken within this time period or the approval will lapse.

## **EXHIBITS**

1. Letter from Homedale Highway District
2. Map from Ridgeview Irrigation District